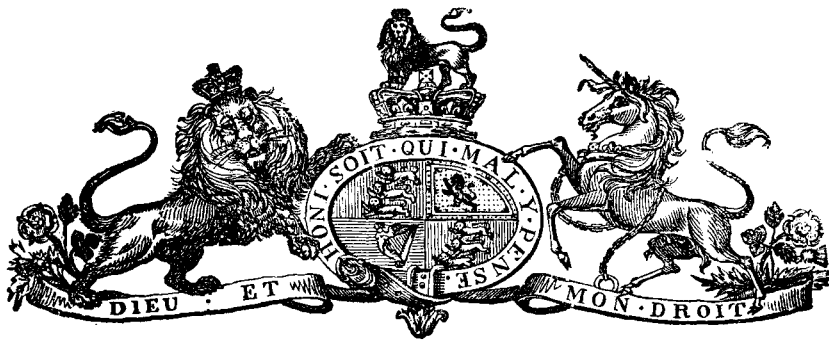


T A S M A N I A



1899.

ANNO SEXAGESIMO-TERTIO

VICTORIÆ REGINÆ,

No. 32.

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AN ACT to consolidate and amend the Law A.D. 1899.
relating to Jurors and Juries.
[22 December, 1899.]

WHEREAS it has become desirable and expedient to amend and PREAMBLE.
consolidate the Laws relating to Jurors and Juries :

Be it therefore enacted by His Excellency the Governor of *Tasmania*,
by and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows :—

Preliminary.

1 This Act may be cited as “The Jury Act, 1899.”

Short title.

2 This Act shall commence and take effect on and after the First
day of *January*, 1900.

Commencement
of Act.

3 In this Act—

Interpretation.

“Addition,” used in reference to any Juror, shall mean the
description as to profession, occupation, office, rank, degree,
and station of such person.

“Clerk of the Court” includes the Associate to the Judges of the
Supreme Court :

“Court” means the Supreme Court of *Tasmania* or a Judge of
the Supreme Court when sitting alone, or in respect of the
trial of any criminal issue before a Court of General Sessions,
a Recorder :

Jurors and Juries.

A.D. 1899.

“Court of General Sessions” means a Court of General Sessions of the Peace held before a Recorder of the Colony of *Tasmania* :

“Police District” shall mean any District proclaimed under Section Five of *The Police Act*, 1865, or any Rural Municipality.

“Sheriff” includes a Deputy Sheriff.

Qualification of Jurors.

Qualification of Jurors.

4 Every man between the ages of Twenty-one years and Sixty years residing in *Tasmania* who—

Is possessed within *Tasmania* in his own name or in trust for him of a clear yearly income of not less than Twenty Pounds sterling money arising out of real or personal estate, or both ; or Is possessed as aforesaid of a clear, real, or personal, or real and personal estate of the value of not less than Five hundred Pounds sterling money ; or

Occupies any land or any house, warehouse, counting-house, office, shop, or other building of the assessed annual value of not less than Twenty Pounds ; or

Is in the receipt of an annual salary of not less than One hundred Pounds per annum—

shall be qualified and liable to serve on Juries for the trial of all issues, civil and criminal, and for the assessment of damages in the Supreme Court ; for the trial of all criminal issues joined in any Court of General Sessions ; and for the trial of issues and assessment of damages in actions in any Court of Requests.

Aliens to be qualified after Ten years' domicile, but not otherwise.

5 Aliens who have been domiciled in *Tasmania* for Ten years or upwards, if in other respects duly qualified, shall be qualified, and shall be liable to serve on Juries under this Act as if they had been natural-born subjects of the Queen ; but, save as aforesaid, no man not being a natural-born subject of the Queen shall be qualified to serve on Juries under this Act.

Disqualification of Jurors.

6 No man attainted of any treason or felony, or convicted of any crime that is infamous, unless he has obtained a free pardon thereof, and no man who has been twice convicted in any part of the British Dominions of any treason, felony, or infamous crime, shall be qualified to serve on any Jury under this Act.

Exemption of Jurors.

7 The persons described in Schedule (1.) hereto shall be exempt from serving as Jurors.

Jury Districts.

8 There shall be a Jury District for each of the Cities of *Hobart* and of *Launceston* respectively, and the Governor in Council may from time to time proclaim such other Jury Districts as may be deemed necessary.

Jury Districts for *Hobart* and *Launceston*.

9 The Jury District for each of the Cities of *Hobart* and *Launceston* shall comprise all places within a radius of Twenty-five miles of the Civil Court at *Hobart* and of the Court House, *Launceston*, respectively ; and the Governor in Council may from time to time define or alter the radius or boundary of or abolish any Jury District.

See Int.

Jurors and Juries.

10 The Clerk of the Peace at *Hobart* shall, within the First week in *June* in every year, issue to each Superintendent of Police of every Police District within or partly within the several Jury Districts, a precept in the form in Schedule (2.), or to the like effect, which shall have endorsed thereon the exemptions specified in Schedule (1.), requiring him to make out, before the First day of *August* then next ensuing, a true List of all men within each Police District, or portion of Police District as the case may be, qualified and liable to serve on Juries according to this Act, and shall at the same time furnish him with the form of Jury List in Schedule (3.)

A.D. 1899.

—
Clerk of the Peace at *Hobart* to issue precepts to Superintendents of Police to compile Jury Lists.

11 The Superintendent of Police of every such Police District shall forthwith after the receipt of the said precept prepare and make out, in alphabetical order with reference to the surname, a true List of all the men residing within such District or portion thereof as aforesaid who are qualified and liable to serve as Jurors under the provisions of this Act, the true surname and christian name correctly and legibly written at full length, the true residence, degree, calling, or business, and the nature of the qualification of every such man and the distance of his residence from the said Court House at *Hobart* or *Launceston* respectively, or from such Court House as may be named by the Governor in Council when proclaiming any other Jury District under Section Eight of this Act, in the proper column of the said form of return.

Lists to be prepared by Superintendents of Police.

12 Before the Seventh day of *August* in each year, every Superintendent of Police shall transmit the List or Lists, as the case may be, prepared by him as hereinbefore directed to the Sheriff, who shall forthwith examine it or them; and, whenever required, any Superintendent of Police shall attend the Sheriff and afford him full information on the subject of such List or Lists; and the Sheriff may add the names of any men qualified and liable to serve as Jurors, and may correct errors or omissions of names, residence, degree, calling, or business, but shall not remove a name, and shall, within Twenty-one days after receipt, sign and return it or them, whether amended or not, to such Superintendent of Police.

Sheriff to examine, amend, and return List.

13 Every Superintendent of Police is hereby authorised to appoint constables or other persons as collectors, to assist him in collecting the names of men residing within his District qualified as Jurors according to this Act; and every Superintendent of Police and collector is hereby authorised, for the purpose of ascertaining whether any man is qualified or not as a Juror according to this Act, or of ascertaining any other of the particulars required to be inserted as aforesaid in such Jury List, to put such questions either to the man himself or any other person as he may deem necessary; and every person is hereby required to answer all such questions truly; and any person refusing to answer or knowingly making an untrue answer to any such question, shall for every such offence upon conviction forfeit a penalty not exceeding Ten Pounds.

Superintendents of Police to appoint Collectors, and authorised to ask questions respecting qualification.

Penalty for refusing to answer questions.

14 For his assistance in completing the said Lists, pursuant to the intent of this Act, the Superintendent of Police of each Police District shall, upon request made to any person having the custody of any Valuation or Assessment Roll, have free liberty to inspect the same,

Superintendents of Police to have liberty to inspect Valuation and Assessment Rolls,

Jurors and Juries.

A.D. 1899.

and to take therefrom the names of such men qualified to serve on Juries dwelling within their respective Districts, and such other information as may appear to them to be necessary or useful; and every Court of Petty Sessions shall, upon the like request to any person having the custody of any such Valuation or Assessment Roll, have the like free liberty to inspect and make extracts from the same, for the purpose of assisting them in the correction and completion of the Jury Lists within their respective Districts.

Lists to be published by Superintendents of Police.

15 Every Superintendent of Police, after having made out, according to this Act, a List or Lists of every man qualified and liable to serve on Juries as aforesaid, shall within the First week of the month of *September* fix a true copy of the List for each respective Police District within a Jury District under the control of such Superintendent upon the principal door of every Court House, Police Office, and Post Office in his District, having first subjoined to every such copy a notice subscribed with his name, and stating that all objections to the List will be heard by the Justices of the Peace in Special Petty Sessions in such District on the First *Tuesday* in the month of *October* then next; and shall likewise keep the original List, or a true copy thereof, to be inspected by the inhabitants of such District, at any reasonable time within the month of *September*, without fee, to the end that due notice may be given of any names improperly inserted in or omitted from the said List.

Clerks of the Peace, &c. to summon Justices to attend Special Petty Sessions for correcting and allowing Jury Lists.

16 The Clerks of the Peace and the Deputy Clerks of the Peace of every Police District comprising a Jury District shall respectively, before the Twentieth day of *September* in every year, cause all the Justices resident within each Police District as aforesaid respectively to be summoned to attend a Special Petty Sessions on the First *Tuesday* in the month of *October* then next, at the usual place of meeting of Justices for the purpose of holding Petty Sessions for such District, for the purpose of correcting and allowing the Jury List for such District; and the Clerk or Deputy Clerk of the Peace in each District shall attend such Special Petty Sessions, and shall make an entry in writing of the name of every Justice of the Peace residing in the District and so summoned as aforesaid, distinguishing those that attended and those that were absent at the correction and allowance of the said List as aforesaid, and shall retain such entry amongst the records of his office.

Justices to hold Special Petty Sessions, and correct and allow Jury Lists.

17 The Justices resident in each of the said Police Districts shall attend at the place and time aforesaid and hold a Special Petty Sessions accordingly; and the Superintendent of Police of every such District shall then and there produce the List of men qualified and liable to serve on Juries as aforesaid, prepared and made out by him as hereinbefore directed, and thereupon the Justices present shall examine the said List, and shall strike out therefrom the names of all persons not liable to serve, or disqualified from serving upon such Juries, and also the names of those who are disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body; and also the names of all men of bad fame or repute; and it shall be lawful for such Justices to insert in such List all names improperly omitted, and to correct all errors and inaccuracies therein; and if the said Justices shall be divided in opinion upon any question as to the striking

Jurors and Juries.

out or adding of any name, the decision thereof shall be determined by the majority of the Justices attending such Sessions ; and the Justices attending such Sessions shall sit *de die in diem* until the said lists shall be corrected and allowed ; and when every such List shall be duly corrected at such Sessions it shall be allowed by the Justices present, or Two of them, who shall sign the same, with their allowance thereof ; and the Clerk or Deputy Clerk of the Peace at each such Special Petty Sessions shall receive the List so allowed, and forthwith transmit the same to the Sheriff : Provided that every such List shall be finally settled and transmitted to the Sheriff before the end of the month of *October* in every year.

A.D. 1899.

18 If in any year the Jury List of any District is omitted to be made out, or if in any year the Jury List for any District is not corrected or allowed as aforesaid, from any cause, within or at the time aforesaid, then the Jury List for such District for the preceding year shall be the Jury List for such District until a new List is made out in the succeeding year.

If List omitted to be made out, &c., preceding List continued.

Preparation of Jury Books.

19 The Sheriff shall keep the Lists so transmitted to him among the records of his office ; and shall forthwith, after the receipt of such Lists, cause them to be fairly and truly copied into a book for each Jury District to be provided by him for that purpose, containing proper columns for inserting the several particulars contained in such Lists ; and such book shall be called "The Jury Book for the year" (*inserting the calendar year and the Jury District for which the book is to be in use*) ; and the said Jury Books shall be completed before the end of the month of *December* in every year, and shall be brought into use on the First day of the ensuing month of *January*, and shall be used for One year then next following.

Lists to be copied into Jury Books for each Jury District.

Jury Books to be completed before the end of *December*.

The respective Jury Books for each Jury District shall contain the names of all persons qualified and liable to serve on Juries who are resident within such Jury District ; and in respect of all Courts and proceedings to be held and taken at each respective Court House each respective Jury Book shall be deemed to be the Jury Book for the year.

Preparation of Special Jury Lists.

20 The Judges of the Supreme Court shall, after the completion of the said Jury Books, yearly select therefrom the names of a sufficient number of such persons as the Judges deem qualified to be Special Jurors ; and the Judges shall cause the names so selected to be fairly copied out, in alphabetical order, together with the places of abode and additions of such persons, in separate Lists, to be called "Special Jury Lists ;" and such Special Jury Lists shall be subjoined to the Jury Books for the respective Jury Districts.

Judges of Supreme Court annually to make out Special Jury Lists.

21 In the formation of such Special Jury Lists the Judges are hereby empowered to take the assistance of, and make inquiry from, such persons and in such manner as they think proper in regard to the character, education, and intelligence of any man whose name is in any Jury Book.

Judges may take assistance as they think proper.

Jurors and Juries.

A.D. 1899.

When Special Jury List to be brought into use.

22 The Judges shall cause the Special Jury Lists to be made and completed in accordance with the provisions of this Act on or before the First day of *February* in every year, and every such Special Jury List shall continue in force for one year from the time fixed for its completion; and until Special Jury Lists are made out for any year, the Special Jury Lists of the preceding year shall continue to be used.

Sheriff to mark off names of certain Jurors.

23 The Sheriff shall, in each Special Jury List, mark off the names of those Jurors who are resident within a radius of Three miles of the Court House at *Hobart* or *Launceston* respectively, or of any Court House named by the Governor in Council when proclaiming a Jury District under Section Eight of this Act, and shall furnish the respective Registrars of the Courts sitting at such Court Houses under the provisions of "The Local Courts Act, 1896," a List of the Jurors marked off as resident within such radius as aforesaid.

Jury Lists and Books for New Jury Districts.

Jury Lists and Books for new Jury Districts.

24 On any place being newly proclaimed under Section Eight of this Act to be a Town for the sitting of the Supreme Court for the trial of civil or of criminal issues, or for the assessment of damages, all Clerks and Deputy Clerks of the Peace, Superintendents of Police, Sheriffs, and Courts of Petty Sessions within the Jury District of such Town shall, in manner herein provided, and at and within the times and intervals to be prescribed by the Governor in Council with respect to such Jury District, do all acts and things herein required to be by any Clerk or Deputy Clerk of the Peace, Superintendent of Police, Sheriff, or Court of Petty Sessions done with respect to a Jury District; and all the persons whose names are set down in any Jury Book made out under this Section shall be liable to serve as Jurors immediately after such books have been so made out; and the said books shall be used until new books have been completed under the provisions hereinbefore contained.

Preparation of Jury Cards.

Jurors' names, &c. to be written on pieces of card and placed in boxes.

25 The Sheriff shall in every year after the completion of the Jury Books and Special Jury Lists cause the name, addition, and place of abode of every Juror in each Jury Book to be written on pieces of card of an equal size and placed in different boxes, and shall also cause the name, addition, and place of abode of every Juror in each Special Jury List to be written on other pieces of card of an equal size and placed in separate boxes; and such cards shall only be drawn from such boxes respectively in obedience to any precept to be issued as hereinafter provided.

Issue of Jury Precept.

Issue of precept for summoning Special Jurors.

26 Whenever Jurors are required for the trial of civil issues, or for the assessment of damages in the Supreme Court, it shall be lawful for any Judge of the said Court to issue a precept under his hand and seal in the form in the Schedule (4.) directed to the Sheriff requiring him to summon such Jurors; but such precept shall not at any one time require the Sheriff to summon more than Thirty nor less than Fifteen Jurors; and shall specify the time when and the place where the attendance of such Jurors is required; and shall be issued and delivered to

Jurors and Juries.

the Sheriff Fourteen clear days before the time so specified for such attendance. A.D. 1899.

Nothing in this Act contained shall exempt any Special Juror from his liability to serve on Criminal Juries in the usual course. Special Jurors not exempt from other Juries.

27 Whenever Jurors are required for the trial of criminal issues in the Supreme Court, or in any Court of General Sessions, it shall be lawful for any Judge of the Supreme Court, and for any Recorder, and they are hereby respectively required, from time to time, and as often as occasion may require, to issue a precept under their hands and seals in the form in the Schedule (5.) directed to the Sheriff, requiring him to summon such Jurors; but such precept shall not at any one time require the Sheriff to summon more than Fifty-two nor less than Thirty Jurors; and shall specify the time when and the place where the attendance of such Jurors is required; and shall be issued and delivered to the Sheriff Fourteen clear days before the time so specified for such attendance. Common Jury precept how issued.

28 Upon the receipt of any precept for the return of Jurors for the trial of either civil or criminal issues the Sheriff, if such precept requires Jurors to be summoned whose names are in any Jury Book shall draw indifferently from the box containing the names of such Jurors cards equal to the number of Jurors required by such precept to be summoned, or if such precept shall require Jurors to be summoned whose names are upon any Special Jury List the Sheriff shall draw indifferently from the box containing the names of such Jurors cards equal to the number of Jurors required by such precept to be summoned, and the persons whose names appear on the cards so drawn shall be summoned as Jurors in obedience to such precept. Upon receipt of precept Sheriff to draw cards from Jury boxes.

The cards so drawn shall be kept apart from all others until the persons named thereon have served as Jurors at the Court for which they shall be summoned, and such cards shall thereafter be deposited in a separate box, and no cards shall be taken from such last-mentioned box until all the cards have been drawn from the box whence such cards were first drawn.

In case any of the persons whose names are drawn are dead or absent from the Colony, or incapable of serving, or exempt from serving as Jurors, the Sheriff may draw other cards and summon the persons whose names appear on such other cards, and the cards first drawn shall be returned to the box whence they were drawn if such persons are temporarily absent from the Colony, or temporarily incapable of serving or excused from serving as Jurors, otherwise such cards shall be destroyed.

In case no issue shall be set down for trial or tried at the Court to which such Jurors shall be summoned, the cards containing the names of the Jurors summoned to such Court shall be returned to the box whence they were drawn.

If at any time there shall happen to be no Jury Book or Books, or no Special Jury List or Lists in existence for the current year, it shall be lawful to summon Jurors whose names are contained in the Jury Book or Books or Special Jury List or Lists respectively, as the case may be, for the year preceding.

29 The Sheriff shall, after the cards have been drawn as aforesaid, issue a summons in writing to the several Jurors so required to be Jury how summoned.

Jurors and Juries.

A.D. 1899.

summoned, signed by himself or his deputy, in the form in the Schedule (6); and such summons shall be delivered to every such Juror, or shall be left at his usual place of abode, at least Four clear days before the time specified for his attendance.

Panel to be kept in Sheriff's office.

30 A copy of every panel shall be made by the Sheriff Two days before the precept is returnable, and a copy shall be delivered to any person on payment of the sum of Two Shillings and Sixpence.

Justices exempt from serving at Sessions as Jurors.

31 No Justice of the Peace shall be summoned or impanelled as a Juror to serve at any Court of General Sessions of the District in which he resides.

Sheriff's return to precept.

32 Upon the day and at the place named in every precept for the appearance of the Jurors thereby required to be summoned the Sheriff shall return the said precept into the Court holden at such place, and shall annex to the said precept a panel containing the names of the persons so summoned by him in pursuance of the said precept, and shall also therewith furnish to the Clerk of the Court the cards drawn by him as aforesaid.

Jury may be sworn once and not re-sworn.

33 Such of the Jurors named in the panel as shall at the opening of the Court or at any time thereafter answer to their names may thereupon be sworn in open Court in such one of the forms in the Schedule (7.) as may be applicable to the case; and being once sworn shall not need to be re-sworn in each trial or inquiry, unless either party or they that prosecute for the Crown or the person arraigned shall so require; and when each Juror is so sworn a minute shall be made of the fact.

Jurors may in certain cases make a declaration instead of taking an oath.

34 Every person called as a Juror who shall be unwilling to be sworn shall be permitted, without being required to state the ground of his objection, to make the promise and declaration contained in the form in the Schedule (8.), which promise and declaration shall be of the same force and effect, and if untrue shall entail all the same consequences as if such Juror had taken an oath in the usual form.

Where the Jury precept is not directed to the Sheriff.

35 Where any precept for the return of Jurors shall be directed to any Coroner or other person than the Sheriff, such Coroner or person shall have free access to the said Jury Books, Special Jury Lists, and cards, and shall in respect of such precept and the several men summoned as Jurors in pursuance thereof, and all other matters in relation thereto respectively, be subject to the same liabilities, and be invested with the same powers, as the Sheriff would have been subject to or invested with by virtue of this Act or otherwise in case the same precept had been directed to the Sheriff.

Verdict not to be avoided by error in summoning Jury, &c.

36 No verdict shall be in any way affected by reason of any of the Jury having been erroneously summoned or otherwise than herein in that behalf is provided; nor by reason of any error, omission, or informality in or with respect to any such Jury Lists, Jury Books, Special Jury Lists, precepts, cards, or panels as aforesaid.

Power reserved to Courts of issuing precepts and making orders, &c. as heretofore.

37 The Supreme Court and every Court of General Sessions shall respectively have and exercise the same power and authority as the High Court of Justice and Courts of Sessions of the Peace in *England*

Jurors and Juries.

respectively have and exercise 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 either of such Courts respectively, or for the amending or enlarging any panel of Jurors returned for the trial of any such issue; and the return to every such writ, precept, award, or order, shall be made in the manner used and accustomed in such Courts respectively in *England*, save that the Jurors shall be qualified according to this Act.

A.D. 1899.

Trial of Issues.

38 All civil issues joined in the Supreme Court and triable by a Jury shall be tried, and all damages recoverable in actions in the said Court to be assessed by a Jury shall be assessed, by a Jury consisting of Seven persons whose names are on any Special Jury List in use for the time being.

Civil actions triable by a Jury of Seven Special Jurors.

39 All criminal issues joined in the Supreme Court or in any Court of General Sessions shall be tried by a Jury consisting of Twelve men qualified as Jurors according to this Act.

Criminal issues to be tried by a Jury of Twelve.

40 The Supreme Court, or any Judge thereof, is hereby empowered, on motion or application made on behalf of the Crown, or by any prosecutor or defendant in any criminal case, excepting treason or felony, depending in the said Court, to order that any such case shall be tried by a Jury consisting of persons whose names are on any Special Jury List; and in case any such order is made, the case shall be tried at such Civil Sittings as the Court or a Judge may direct, by a Jury of Twelve men to be impanelled from among the Special Jurors in the Special Jury panel returned for the trial of civil issues at such Civil Sittings.

Court or Judge may award Special Jury in criminal cases except treason and felony.

41 At the opening of the Court at any sitting for the trial of civil issues, the Clerk of the Court shall put together in a box provided for that purpose the pieces of card furnished by the Sheriff, as hereinbefore directed; and upon any civil issue being called on to be tried, the Clerk of the Court shall in open Court, from the said box draw out such cards one after another until Seven Jurors appear, or, where a view has been had, so many as together with the viewers appearing are sufficient to make up the number of Seven, and after all causes of challenge allowed, remain indifferent and approved of; and the said Seven men shall be the Jury to try the issue, and shall be impanelled accordingly.

Mode of impanelling Jury in civil cases.

42 In case a sufficient number of the Jurors named in such cards are not in attendance, the full number of Jurors so directed to be drawn shall be completed by appointment of the Sheriff from among the bystanders, being men whose names are contained in the Special Jury List as Special Jurors, if a sufficient number of such men can be found who, after all causes of challenge allowed, remain indifferent; and the Court shall proceed to the trial of the issue with those Jurors who were before impanelled, together with the Jurors so appointed from among the bystanders, as if all the said Jurors had been returned in the Jury Panel.

In case panel exhausted, Jury may be completed from among bystanders.

43 The foregoing provisions shall equally apply to cases where damages are to be assessed only.

Assessment of damages.

Jurors and Juries.

A.D. 1899.

Jury how chosen
in criminal trials.

44 At the opening of the Supreme Court, or any Court of General Sessions, for the trial of criminal issues, the Clerk of the Court shall, in open Court, put the pieces of card furnished by the Sheriff as before mentioned into a box provided for that purpose; and upon calling any criminal issue on for trial the Clerk of the Court shall from the said box draw out such cards, one after the other, until Twelve men shall appear without just cause of challenge, which said men shall be the Jury to try such issue; and in case the whole number of the said cards shall be exhausted by challenge or otherwise before Twelve men are impanelled, it shall be lawful for either the Crown or the prisoner to pray a *tales*; whereupon the Court may command the Sheriff forthwith to appoint as many good and lawful men of the bystanders, being qualified and liable to serve as Jurors, as may be sufficient to make up Twelve men for the trial of the said issue.

Tales allowed.Trying different
issues by the same
Jury.

45 Where no objection is made on behalf of any plaintiff or defendant, or on behalf of the Crown, or any other party, it shall be lawful for the Court to try any civil or criminal issue with the same Jury that shall have previously tried, or been drawn to try, any other such issue, without their names being returned to the box and redrawn, or to order the name of any man on 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 to be drawn from the box, and to try such issue with the residue of such original Jury, and with any man whose name shall be so drawn, and who shall appear and be approved as indifferent, and so *toties quoties*, as long as any such issue remains to be tried by such Jurors.

Names of Jurors
to be kept apart
until verdict.

46 The pieces of card containing the names of the Jurors impanelled as aforesaid shall in every case be kept apart by themselves until such Jury shall have given in their verdict and the same shall have been recorded, or until such Jury shall be discharged; and then the cards containing their names shall be returned to the box whence they were drawn, to be kept with the others remaining undrawn, and so *toties quoties*, as long as any issue remains to be tried by the Jurors returned in the Jury Panel.

In legal proceed-
ings not necessary
to state that
Jurors had made
a promise and
declaration.

47 Whenever, in any legal proceedings, it shall be necessary or usual to state or allege that Jurors have been sworn, it shall not be necessary to specify that any particular Juror has made a promise and declaration instead of an oath, but it shall be sufficient to state or allege that the Jurors have been "sworn."

Cases of difference
of opinion in Jury
provided for.

48 In civil cases, where the Jury has remained Three hours or upwards in deliberation, if all of them do not agree as to the verdict to be given or damages to be assessed, the decision of Five of them shall be taken and entered as the verdict or assessment of all; and if, after having remained in the whole Four hours or upwards in deliberation, Five of the Jurors do not concur in the verdict or assessment, the Jurors shall be discharged, and the cause may without any new process be again set down for trial or assessment, as the case may be, either at the same or any subsequent sittings, as the Court thinks fit to order. On the trial of any criminal issue where the Jury shall have remained Six hours or upwards in deliberation, if they shall not agree as to their verdict the Jurors shall be discharged.

Jurors and Juries.

49 Where the Jury, on the trial of any criminal issue, shall be discharged by the Court without giving any verdict the prisoner or defendant may lawfully be tried upon the same information by another Jury, either at the same or at a subsequent sittings, as the Court may think fit to order, and the prisoner or defendant may be remanded for trial at such subsequent sittings; or if the Attorney-General or Solicitor-General, or other officer duly appointed to prosecute offences, shall, in any such case, think fit to enter a *nolle prosequi* upon such information, the prisoner or defendant may lawfully be tried and convicted upon any information which may afterwards be filed against such prisoner or defendant for the same offence in the same or any other Court of competent jurisdiction.

A.D. 1899.

In criminal cases where Jury discharged, prisoner may be afterwards tried on the same or fresh information.

50 In every case of trial by Jury, whether in civil or criminal cases, or of assessment of damages, where no other mode of proceeding is by this Act specially provided, the Jurors and Jury, and every trial or assessment by them, shall, as far as may be practicable, be subject to the same rules and manner of proceeding as would in *England* be observed if a civil case on the trial at *Nisi Prius* of an action at law in the High Court of Justice, or, if a criminal case, on the trial of an indictment before Justices of Gaol delivery, or before a Court of General Sessions of the Peace, as the trial may happen to be before the Supreme Court, or before any Court of General Sessions in this Colony.

General rule applicable to trial by Jury.

51 If any man having been duly summoned to attend on any Jury shall not attend in pursuance of such summons, or, being thrice 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 any Court, such Court shall impose such fine, to be paid to the use of Her Majesty, not exceeding Twenty Pounds, upon every such man or talesman so making default, as such Court shall think fit, unless good cause for such defaulter's absence be made to appear to the satisfaction of such Court: Provided that it shall be lawful at any time for any Court to exempt from attendance, either during the Session or for any less period, any man summoned as a Juror who may to the satisfaction of such Court show sufficient grounds for such exemption.

Liability of Jurors making default.

Any fine imposed by a Court as aforesaid shall, upon a certificate of such fine having been imposed, signed by the proper officer of such Court, and directed and delivered to the Sheriff, be levied in a summary manner by distress and sale of the goods and chattels of the person on whom such fine is imposed, and the surplus money (if any) remaining after payment of such fine shall be thereafter rendered to him by the Sheriff, first deducting therefrom the reasonable charges of such distress and sale; and such certificate shall in all cases, unless such Court otherwise orders, be made out and delivered to the Sheriff within Fourteen days next after such fine is imposed.

Challenges.

52 Challenge to the array and to the polls of Jurors may be made, and shall be allowed in every Court 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 are established, used, and practised in like cases in the High Court of Justice in *England*.

Challenge to the array and polls of Jurors.

Jurors and Juries.

A.D. 1899.

Challenge in
civil cases.Challenge in
criminal cases.Challenge in
criminal cases.Want of qualifi-
cation a cause of
challenge, but not
to affect verdict.Proviso for cases
of change of
venue, &c.View how granted
in civil cases.

53 On the trial of civil issues each party shall be entitled to challenge peremptorily Four Jurors.

54 Every person arraigned for any treason or any felony or misdemeanour shall be entitled to challenge peremptorily Six Jurors.

55 Nothing hereinbefore contained shall affect, or be construed to affect, the power of any Court to order any Juror to stand aside until the panel shall be gone through, at the prayer of those prosecuting for the Crown, as has been heretofore accustomed.

56 The want of qualification according to this Act shall in every case be a good cause of challenge, and the Juror shall be discharged upon such challenge if the Court shall be satisfied of the fact; but no objection to any Juror shall be allowed, nor shall any want of qualification be inquired into after the verdict.

Change of Venue.

57 In every case in which, if the same occurred in *England*, an order would or might, by the course and practice of the High Court of Justice, be made in that Court for the change of the venue, or for the trial being had in some other county than that wherein the venue is laid, and in every case in which for any other reason it appears to be conducive to the ends of Justice, it shall be lawful for the Supreme Court, or a Judge thereof, to direct, not only at what place the trial of any issue or assessment of any damages shall be had, but also from what Jury Book or Special Jury List the Jurors shall, in any such case, be returned; and the said Court, or any Judge thereof, may, in any such case, give all such further directions in that behalf, from time to time, as shall be just and reasonable or as the circumstances of the case may require.

View.

58 Whenever it appears expedient to any Judge of the Supreme Court, in any cause depending in the said Court, that some of the Jury should have a view of any place in dispute in the cause, it shall be lawful for such Judge to order such view, by Two or more Jurors, upon payment by the party applying for the same of such sum as to such Judge may seem reasonable; and such sum shall be paid over to such Jurors as shall have such view, and shall be taxed and allowed as costs in the cause.

The Jurors who shall have such view shall be mutually chosen by the parties out of the Jurors summoned to attend the Court at which the cause is intended to be tried, or in case the parties cannot agree such Jurors shall be nominated by the Sheriff out of such Jurors, and the Jurors so chosen or nominated shall be shown the place by Two persons appointed by such Judge, and when the cause is called on for trial the Jurors who shall have had such view, together with so many of the other Jurors summoned to attend such Court as may be necessary to make up the full number of Jurors required, shall form the Jury to try the cause.

Jurors and Juries.

59 If any Juror who shall have had a view of any place in dispute, in any cause according to the provisions hereinbefore contained, shall make default when the cause in which he was appointed a viewer shall be called on for trial, the Court, unless reasonable cause be shown, shall set upon such viewer a fine to be paid to the use of Her Majesty of not less than Ten Pounds, over and above the fine to which he shall be liable under the provisions herein contained, for non-attendance as a Juror.

A.D. 1899.

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Liability of viewers.

60 Whenever it shall appear expedient to the Court, upon the trial of any criminal issue, that the jury or some of them should have a view of any place in evidence upon such trial, it shall be lawful for the Court to order that the jury or some of them shall, in the custody of the Sheriff, be shown the place by Two persons appointed by the Court.

View in criminal cases.

Compensation to Jurors.

61 Every special juror summoned in pursuance of any special jury precept, who attends the Supreme Court, shall, for every day during his attendance upon such Court, whether he has actually served upon a Jury or not, be entitled to receive as compensation for such attendance such sum as may be allowed by the Court, not exceeding the amount mentioned in the Schedule (9.), to be paid to him in the same manner as witnesses for the Crown in criminal prosecutions are paid their expenses; and every talesman serving with such Jurors shall be entitled to the same compensation as a Juror; and such compensation shall be charged upon and payable out of the Consolidated Revenue Fund.

Allowance to Special Jurors.

62 In every action at law there shall be paid by the plaintiff into the hands of the clerk or other officer of the Court on setting down the cause for trial or assessment, in every case where the sum sought to be recovered in the action and indorsed on the writ of summons does not exceed Fifty Pounds, the sum of Two Pounds, and in every other case the sum of Five Pounds; which sums shall be allowed as costs in the cause; and such sums shall be paid by the said clerk or other officer to the Treasurer, and shall form part of the Consolidated Revenue Fund.

Contribution towards such allowance in civil causes.

63 Every Juror summoned to attend at any Session of Oyer and Terminer and General Gaol Delivery of the Supreme Court, or any Court of General Sessions, shall for every day during his attendance on the Court, whether he shall have actually served upon a Jury or not, be entitled to receive for such attendance the sum of Five Shillings; and if his place of residence is above Three miles distant from the place of trial, he shall be entitled to receive an additional sum of Sixpence for every mile of such distance coming, and the like sum for returning; and such sums shall be paid in the like manner as witnesses for the Crown in criminal cases are now paid their expenses, and shall be charged upon and payable out of the Consolidated Revenue Fund.

Payment of Jurors in criminal cases.

64 In estimating the amount to be paid to any Juror for his travelling expenses the distance from such Juror's residence to the place of trial shall be reckoned by the nearest practicable road.

How travelling expenses to be reckoned.

Jurors and Juries.

A.D. 1899.

*Offences.*Liabilities of
clerks and
constables.

65 Every Clerk or Deputy Clerk of the Peace, or Superintendent of Police, who shall wilfully neglect or refuse to execute any of the duties by this Act prescribed and appointed to be executed by him, shall for every such neglect or refusal forfeit a penalty not exceeding Fifty Pounds.

Liability of
Sheriff.

66 If the Sheriff or any deputy shall wilfully fail well and faithfully to do and perform all or any of the acts, matters, and things by this Act required to be by him performed, he shall for every such breach of duty forfeit to the use of Her Majesty such fine, not exceeding One hundred Pounds, as the Supreme Court shall think fit to impose, and the said Court is hereby empowered to impose such fine in a summary way.

Punishment for
embracery.

67 Any person who shall corruptly influence or attempt to influence any Juror, and every Juror consenting thereto, shall be guilty of a misdemeanour, and shall, upon conviction thereof in any Court of competent jurisdiction, be liable to fine or imprisonment, or both, at the discretion of such Court.

Recovery of fines
imposed by Court.

68 All fines imposed under this Act by the Supreme Court, or by any Judge thereof, or any Recorder, other than fines imposed under Section Fifty-one, shall be levied in the same manner as any other fines imposed by the same Courts respectively.

*Miscellaneous.*Act not to affect
37 Vict. No. 13.

69 Nothing in this Act contained shall in any way affect *The Coroners Act, 1873.*

Offences to be
dealt with sum-
marily.

70 All offences against this Act, and all penalties imposed or made payable by this Act, shall, where no other mode of proceeding or recovery is provided by this Act, be heard, determined, and recovered in a summary way by and before any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*, and any person who thinks himself aggrieved by any penalty imposed under this Act which is recoverable in a summary manner may appeal against the same in the mode prescribed by *The Appeals Regulation Act.*

Repeal.

71 The Acts set forth in the Schedule (10.) are to the extent therein specified hereby repealed, but such repeal shall not affect any matter or thing theretofore lawfully done thereunder which shall be valid notwithstanding such repeal, nor shall such repeal affect any offence committed before the commencement of this Act, but such offence may be dealt with in all respects as if this Act had not been passed; and all Jury Lists and books in force under any Act hereby repealed are hereby continued and declared to be valid for the purposes of this Act until other Jury Lists and books shall have been prepared under this Act.

Jury Lists
continued.

Jurors and Juries.

SCHEDULE.

A.D. 1899.

(1.)

PERSONS EXEMPT FROM SERVING AS JURORS.

Army—Officers on full pay.
 Banks—Managers and Tellers of.
 Barristers, Attorneys, Solicitors, and Proctors, if actually practising.
 Barristers', Attorneys', Solicitors' and Proctors' Clerks.
 Blind persons.
 Clergymen and Ministers of any religious denomination whose place of meeting is duly registered, provided they follow no secular occupation except that of a Schoolmaster.
 Coroners.
 Corporations (Municipal)—Mayors and Town Clerks of.
 Courts of Justice—Judges, including Recorders, Commissioners of Courts of Requests and of Bankruptcy, Stipendiary Magistrates, and Chairmen of Courts of General Sessions.
 Deaf persons.
 Defence Force of Tasmania—Officers of.
 Dentists duly registered.
 Dumb persons.
 Executive Councillors.
 Government—Persons in the paid and active service of the.
 Governor—Officers and servants of household of.
 Lunatic persons.
 Masters of vessels actually trading.
 Medical Practitioners, legally qualified, if actually practising.
 Navy—Officers on full pay of the.
 Newspapers—Editors, Publishers, and Reporters of.
 Parliament—Members and officers of both Houses.
 Pharmaceutical Chemists.
 Pilots—Licensed.
 Rural Municipalities—Wardens and Council Clerks of.
 Schools—Masters and Teachers of.
 Town Boards—Chairmen and Secretaries of.

2.)

PRECEPT FOR RETURNING JURY LISTS.

TASMANIA {
(TO WIT). }

District of } To A.B.,
 } Superintendent of Police of the District of

YOU are hereby required to make out, before the First day of August next, a true list in writing, in the form hereunto annexed, containing the names of all men between the ages of Twenty-one and Sixty, residing within your district, qualified to serve on juries; that is to say,—of every such man who has within *Tasmania* in his own name or in trust for him a clear yearly income of not less than Twenty Pounds sterling money arising out of lands, rents, houses, or other real estate, or out of personal estate, or out of both such kinds of estate; or who has a clear estate in land, houses, or other real property, or a clear personal estate or a clear estate consisting of both such kinds of property, of the value of not less than Five hundred Pounds sterling money, and of every such man who occupies any land or any house, warehouse, counting-house, shop or other premises of the assessed annual value of not less than Twenty Pounds, and of every such man who is in the receipt of a salary of not less than One hundred Pounds a year; and you are required to make out the said list in alphabetical order with reference to the surname, and to write the surname and christian name or names of every man correctly and legibly at full length (putting the surname before the christian name or names), and the true place of his residence, and the distance of such residence from the Civil Court House at *Hobart* or Court House, [here insert the

Jurors and Juries.

A.D 1899.

name of Jury District] ; also the title, quality, calling, or business of every such man, and the nature of his qualification, in the proper columns of the forms, hereunto annexed, according to the directions given in such columns for your guidance.

And, if you have not a sufficient number of forms, you must apply to me for more ; and, in order to assist you in making out the list, you are to refer to any Valuation or Assessment Roll in or for your District ; and you may, if you think proper, apply to any person who has the custody of any such valuation or Assessment Roll and take from thence the names of men so qualified : And in making out such list you are to omit the names of those included in Exemptions endorsed hereon.

You are not to insert in such list the name of any man who is not a natural-born subject of the Queen, unless he has been domiciled for Ten years or upwards in *Tasmania* ; nor the name of any man who has been attainted of any treason or felony, or convicted of any crime that is infamous, unless he has obtained a free pardon thereof ; nor the name of any man who has been twice convicted in any part of the British Dominions of any treason, felony, or infamous crime.

And when you have made out such list, you are required within the first week of the month of *September* next to fix a true copy of such list upon the principal doors of every Court House, Police Office, and Post Office in your District, and also to subjoin to every such copy, and subscribe with your name, a Notice to the following effect, inserting the hour and place of holding the Sessions, of which you shall be previously informed :—“ Take notice, that all objections to the foregoing list will be heard by the Justices of the Peace in Special Petty Sessions at _____ on the First *Tuesday* in *October* next, at the hour of _____ at _____ ;” and you shall likewise keep the original list, or a true copy thereof, to be inspected by the inhabitants of your District at any reasonable time within the month of *September* without fee, to the end that due notice may be given of any names improperly inserted in or omitted from the said list ; and you are also further required to produce the said list at such Petty Sessions, and there to answer on oath such questions as shall be put to you by the Justices of the Peace there present touching the said list ; and these several matters you are in no wise to omit upon the peril that may ensue.

Given under my hand at Hobart, the _____ day of _____ 18 .

(Signed) *C.D.*, Clerk of the Peace at *Hobart*.

(3.)

FORM OF JURY LIST.

LIST of all Men within the District of _____ qualified and liable to serve on Juries.

<i>Surname and Christian Name.</i>	<i>Place of Residence.</i>	<i>Distance of Residence from the Court House at</i>	<i>Title, Quality, Calling, or Business.</i>	<i>Nature of Qualification.</i>
<i>Insert the Surname and Christian Name or Names of every Man at full length ; in the Surname first, in Alphabetical Order ; thus—</i>	<i>Insert the Place of Residence, and in Towns add the Name of the Street.</i>	<i>Insert the distance in figures ; thus—</i>		<i>The Nature of the Qualification may be stated thus :—</i> Annual income from real (or personal) (or real and personal) estate £20 ; or Clear real (or personal) estate £500 ; or Clear real and personal estate £500 ; or House £20 ; or Salary £100 (as the case may be).
Adams, John		14		

Jurors and Juries.

(4.)

A.D. 1899.

FORM OF SPECIAL JURY PRECEPT.

To the Sheriff of *Tasmania* or his Deputy.

GREETING :

You are hereby commanded that you cause to come before the Supreme Court of *Tasmania*, at the Court House at [*Hobart*], on [*Wednesday*] the [*Twelfth*] day of [*May*] now [*next*], at [*eleven*] o'clock in the [*fore*] noon, [*Twenty-one*] good and lawful men whose names are on the *Hobart* Special Jury List [*or as the case may be*], to make a jury for the trial of all such issues and matters as may then be required to be tried by a Special Jury. And that you have then there the names of those jurors, and also this Precept.

Given under my hand and seal at [*Hobart*] this [*Twenty-sixth*] day of *April*,
18].

F.S. (L.S.)

(5.)

FORM OF COMMON JURY PRECEPT.

To the Sheriff of *Tasmania* or his Deputy.

GREETING :

You are hereby commanded that you cause to come before [*here insert the style of the Court ; thus, "The Supreme Court of Tasmania," or "a Court of General Sessions of the Peace"*] to be holden at the Court House at _____, on [*here insert the day of the week*] the _____ day of _____ now next [*or instant*], _____ good and lawful men duly qualified as jurors according to "The Jury Act, 1899," to make a jury for the trial of all such issues of fact or other matters as shall be then required to be tried by a jury. And that you have then there the names of those jurors as by the said Act is required of you, and also this writ.

Given under my hand and seal at
this _____ day of _____ 18

(L.S.)

(6.)

FORM OF SUMMONS.

To _____ [*naming the Juror*]

You are hereby summoned to appear as a juror in the Supreme Court of *Tasmania* [*or in the Court of General Sessions of the Peace, as the case may be*] to be holden at _____ on _____ the _____ day of _____ next [*or instant*] at _____ o'clock in the _____ noon, and so from day to day until you shall be by the said Court discharged from further attendance. And you are requested to take notice that your non-attendance in obedience hereto will subject you to a fine of Twenty Pounds.

Dated this _____ day of _____ 18

[*Signature of the Sheriff or his Deputy.*]

(7.)

"You and each of you shall well and truly try and true deliverance make between our Sovereign Lady the Queen and all persons whom you or any of you shall have in charge, and a true verdict give according to the evidence. So help you God."

"You and each of you shall well and truly try the issues and assess the damages in all causes that may be brought before you or any of you for trial or inquiry, and a true verdict give according to the evidence. So help you God."

Jurors and Juries.

A.D. 1899.

(8.)

I SOLEMNLY promise and declare that I will well and truly try and true deliverance make between our Sovereign Lady the Queen and all persons whom I shall have in charge, and a true verdict give according to the evidence. So help me GOD.

I SOLEMNLY promise and declare that I will well and truly try the issues and assess the damages in all causes that may be brought before me for trial or inquiry, and a true verdict give according to the evidence. So help me GOD.

(9.)

COMPENSATION TO SPECIAL JURORS.

	<i>s.</i>	<i>d.</i>
Special Jurors summoned under a Special Jury Precept, if residing within Three miles of the Court, per diem	5	0
The same if residing more than Three miles from the Court, per diem.....	10	0
And for every mile of distance between any such juror's residence and the Court, if such distance exceeds Three miles	1	0
	<i>i.e., 6d. each way.</i>	

(10.)

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
18 Vict. No. 11.	"The Jury Act."	The whole.
19 Vict. No. 7.	<i>An Act to amend a Clerical Error in "The Jury Act."</i>	The whole.
20 Vict. No. 28.	An Act to amend the Jury Act.	The whole.
21 Vict. No. 45.	<i>The Special Jury Act.</i>	The whole.
28 Vict. No. 11.	<i>The Jury Act Amendment Act, 1864.</i>	The whole.
31 Vict. No. 13.	"The Jury Act Amendment Act, 1867."	The whole.