

NEW ZEALAND.

ANNO VICESIMO SEXTO

VICTORIÆ REGINÆ.

No.

ANALYSIS:

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| <p>Title.</p> <ol style="list-style-type: none">1. Short Title.2. Commencement of Act.3. Ordinances Acts and part of Act repealed.4. Not to extend to Coroner's Juries.5. Jury Districts to be established.6. Governor to appoint same.7. Qualification of Jurors.8. Definition of term "Aboriginal Native."9. Disqualification of Jurors.10. Exemptions.11. Governor to appoint Jury Returning Officers.12. Duty of Returning Officer.13. Jury Lists to be prepared.14. Copies to be posted.15. Notice of meeting to correct Lists.16. Notice to be published in newspaper.17. Meeting of Justices to correct List.18. Persons who prepared the Lists to attend meeting.19. Persons not qualified or exempt to be struck out of List.20. Lunatics and others to be struck out;21. Omissions and errors to be corrected.22. Meetings may be adjourned.23. Two Justices to form a quorum.24. Transmission of corrected Jury Lists.25. List to be used at next sitting of Court.26. If no Jury List that for preceding year to be used.27. Provision for List for a Court appointed at any place not being a Jury District.28. Separate List for each District.29. Detail of Summoning Jury.30. Summonses substituted for certain Writs.31. Petit Jury Lists to be handed to person indicted.32. Special Jury to be chosen.33. Special Jury List to be numbered, &c.34. If less than thirty-six deficiency to be supplied.35. When no current List that for preceding year to be used.36. Court may order special Jury. | <ol style="list-style-type: none">37. Party applying for special Jury to pay expenses.38. Mode of striking special Jury.39. Copy of Panel, &c., to be sent to Registrar.40. Six peremptory challenges.41. What other challenges allowed.42. Mode of drawing for Jury.
Same Jury may try further issues.43. Procedure if Juror become ill.44. Talesmen.45. Calling and swearing-in Jury.46. Penalty on non-attending Jurors.47. Aliens to have mixed Jury.48. Aborigines not deemed Aliens.49. Payment of Jurors.50. Writ of View not necessary but order substituted for it.51. Party applying to deposit £20 for expenses.52. Viewers to be called first on Jury.53. Costs of Inspection to be borne by party requiring unless Judge certifies.54. Affirmation by Jurors.55. Jurisdiction of Grand Jury.56. Natives or Half-castes may be Jurors in certain cases.57. Transmission, &c., of Native Jury List.58. Aboriginal Natives may demand Native Jury.59. Number of Native Jurors on panel.60. In what cases a mixed Jury shall be impaneled.61. Power to Governor to rescind, &c., provisions as to Native Jurors.62. Indemnity to Sheriff and other officers.63. Penalty on Sheriff and other officers.64. Penalty on officers transgressing.65. Penalty on persons not truly answering questions put.66. Writ of attain abolished.67. Embracery.68. Supreme Court Rules as to Juries to continue in force except as altered.69. Governor to make Rules for purposes herein specified.70. Rules, &c., to be published. |
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A BILL INTITLED

An Act for Regulating Juries.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows

I. The Short Title of this Act shall be "The Jury Act 1862." Short Title.

- Commencement of Act. II. This Act shall come into operation in each Province of the Colony on and from a day to be fixed by the Governor in Council whereof notice shall be published in the *Government Gazette* of the Colony and also of the Province to which it relates.
- Ordinances Acts and part of Act repealed. III. The several Ordinances Acts and part of Act specified in the Schedule hereunto annexed are hereby repealed Provided that the Jury Lists now in existence shall be valid and shall continue in force until new Jury Lists under this Act shall come into operation.
- Not to extend to Coroner's Juries. IV. Nothing in this Act contained shall extend to Juries on Coroners' Inquests except as hereinafter specially provided.
- Jury Districts to be established. V. Districts shall be established within the Colony for the purposes of this Act to be called Jury Districts and such Districts may or may not be coterminous with Sheriffs' Districts.
- Governor to appoint same. VI. The Governor shall from time to time by Proclamation appoint such Districts and the same or any of them as occasion may require may abolish and proclaim others in lieu thereof.
- Qualification of Jurors. VII. Every man except as hereinafter excepted between the ages of twenty-one and sixty years resident within the Colony shall be qualified and liable to serve on Juries for the Trial of all issues Civil or Criminal within the Colony Provided that no person shall be obliged to travel for such purpose any greater distance than twenty miles from his usual place of abode.
- Definition of term "Aboriginal Native." VIII. The term Aboriginal Native shall include all persons of the Native or Maori race all Polynesian Melanesian and Australasian Natives and all persons one of whose parents was a Native of such races.
- Disqualification of Jurors. IX. No Aboriginal Native except as hereinafter provided no man not being a natural born or naturalized subject of the Queen and no man who shall have been convicted of treason or felony or any crime that is infamous unless he shall have obtained a free pardon thereof or who is under outlawry shall be qualified to be enrolled on the List of Jurors under this Act Provided that any Aboriginal Native who shall be approved of by the Governor by writing under his hand as a person capable of discharging the duties of an ordinary Juror shall be qualified to have his name enrolled in the List of Native Jurors for the District in which he shall reside and his name shall be enrolled and he shall be liable to act accordingly.
- Exemptions. X. All members of the Executive Council of the Colony Members of the General Assembly Judges of Courts whether of Record or otherwise Officers and Servants of such Courts actually exercising the duties of their office Sheriffs Stipen-

diary Magistrates Superintendents of Provinces Ministers of Religion of whatsoever Denomination Schoolmasters Barristers Solicitors actually practising Coroners Gaolers Physicians and Surgeons in actual practice Officers in the Army and Navy on full pay Masters of Vessels actually trading Licensed Pilots Officers of Customs and Police Bailiffs and Constables Household Officers and Servants of the Governor Postmasters and Inspectors of Schools are hereby exempt from serving on Juries.

XI. The Governor shall from time to time by Warrant under his hand appoint persons being Sheriffs or Justices of the Peace to frame and make returns of Jury Lists under this Act for the respective Jury Districts in the Colony and such persons are herein referred to as the Jury Returning Officers and shall hold office during the pleasure of the Governor.

Governor to appoint Jury Returning Officers.

XII. Every Jury Returning Officer within his District shall in the first week in the month of December in every year issue his Warrant or several Warrants to some person or persons resident in the District authorizing and requiring such person or persons to prepare Jury Lists in accordance with the provisions of this Act.

Duty of Returning Officers.

XIII. Every person named in such Warrant shall as soon as can be after the receipt of such Warrant prepare a List of persons within his District qualified and liable to serve on Juries with the Christian and Surname written at full length and the place of abode and calling or business of every such person.

Jury Lists to be prepared.

XIV. The Lists so prepared shall some time before the day of then following be returned to the Jury Returning Officer who shall cause the same or a copy thereof arranged alphabetically to be affixed for ten days at least before the sitting of Justices hereinafter provided for correcting the same upon or near the principal outer door of some Police Office or Building in which a Resident Magistrate's Court or Petty Sessions Court is usually held or in some other public place in the District.

Copies to be posted.

XV. To every List so affixed there shall be subjoined a notice specifying the time and place of meeting for settling such Lists and that objections will be heard then and there.

Notice of meeting to correct Lists.

XVI. The Jury Returning Officer shall cause such notice to be inserted twice in some newspaper circulated in the District or shall adopt such other mode of giving publicity to the same as he shall think proper.

Notice to be published in newspaper.

XVII. The Jury Returning Officer shall on the day of in every year or as soon thereafter as may be call a special meeting of the Justices of the Peace residing within his District for the purpose of correcting such List.

Meeting of Justices to correct Lists.

Persons who prepared the Lists to attend meeting.

XVIII. The persons by whom the Lists were prepared shall attend at such meeting and shall if required answer upon Oath such questions touching the said Lists as shall be put to them or any of them by the said Justices.

Persons not qualified or exempt to be struck out of List.

XIX. If in any way it shall come to the knowledge of the Justices at such meeting that the name of any man not qualified to serve or exempt from serving as aforesaid is inserted in such List the Justices may strike his name out of such List.

Lunatics and others to be struck out.

XX. They shall strike thereout the names of persons disabled by lunacy or imbecility of mind, or by deafness blindness or other permanent infirmity of body from service on Jurics.

Omissions and errors to be corrected.

XXI. They shall insert in such List the name of any person erroneously omitted therefrom and shall reform any errors or omissions in such List in respect to the name place of abode title quality calling or business of any person included therein and all other errors and omissions which shall appear to them in such Lists. Provided that no person's name if omitted shall be inserted in such List nor shall any error or omission in the description of any person in such List be reformed by the Justices unless upon the application of such persons respectively or unless such persons respectively shall have had notice that an application for such purpose would be made to the Justices at such special meeting or unless the Justices at such special meeting or any two of them shall cause to be given to such persons respectively notice requiring them to shew cause at some adjournment of such special meeting to be holden within seven days thereafter why their names should not be inserted in such List or why any error or omission in the description of such persons in such List should not be reformed.

Meetings may be adjourned.

XXII. Such meetings of Justices may from time to time be adjourned.

Two Justices to form a quorum.

XXIII. At such meetings or adjournments any Resident Magistrate or any two Justices of the Peace shall be a quorum.

Transmission of corrected Jury List.

XXIV. The corrected Jury List shall be delivered to the Jury Returning Officer and shall be by him transmitted to the Sheriff of the District who shall retain it and copies thereof shall be also transmitted to the Judges or Clerks of any Inferior Courts within the District in which there may be Trials by Jury.

List to be used at next sitting of Court.

XXV. The List so transmitted shall be brought into use at the first subsequent sitting of any Court for which a Jury List shall be needed and shall continue to be used one year.

If no Jury List, that for preceding year to be used.

XXVI. Provided that if at any time it shall be found that no Jury List shall have been made for the current year for any Jury District the Jury List for the year preceding shall be taken and be deemed to be the proper Jury List.

XXVII. In case any Court wherein there shall be Trial by Jury shall be appointed to be holden at any place not within a Jury District already appointed or within a District for which a Jury List shall not have been framed under this Act the Governor may from time to time by warrant under his hand appoint persons who shall within such time as shall be limited in that behalf in such warrant for that occasion only do and perform within such District as shall be therein specified and which shall for that purpose be deemed to be a Jury District under this Act all such acts matters and things in and towards preparing correcting allowing sending and delivering the lists of persons qualified and liable to serve as aforesaid for such District as are herein before required to be ordinarily done in Jury Districts under this Act and such last mentioned Jury Lists shall be brought into use and the persons whose names shall be therein set down shall be liable to serve immediately after the same shall have been delivered to the Sheriff or other proper officer and the said last mentioned Lists shall be used until new Lists shall have been prepared under the provisions hereinbefore contained.

Provision for List for a Court appointed at any place not being a Jury District.

XXVIII. If there shall be at any time more than one Jury District in the same Bailiwick the Sheriff shall keep the lists of men qualified and liable to serve as aforesaid within one Jury District separate and apart from the lists of men qualified and liable to serve as aforesaid within any other Jury District.

Separate list for each District.

XXIX. When it shall be requisite to summon a Jury other than a special or grand Jury the Sheriff or other proper Officer shall summon the persons whose names shall appear on the Jury list in the order in which they shall be placed and at the commencement of every year he shall begin with the names in the new list next after the names of the persons who were last summoned in the proceeding year : Provided always that the said Sheriff or other Officer as aforesaid shall not summon on the same panel more than one individual of the same family residing together if a representation in writing shall be made to the Sheriff or Officer that the business or affairs of the said individuals would be injured by their simultaneous absence therefrom and provided that the person so excused for the time being shall be summoned and be required to attend at the next occasion for which a Jury shall be necessary : And provided also that the names of persons unsummoned next following in the said Jury list shall be summoned on the said Panel if there shall be sufficient time so to do so that the Panel shall contain its requisite number.

Detail of summoning Jury.

XXX. The several Writs of Venire Facias Juratores Distringas Juratores or Habeas Corpora Juratorum and the entry Jurata ponitur in respectu shall not be necessary or used but the Sheriff or other Officer shall before the sitting of any Court within the District wherein a Jury shall be necessary issue the necessary summonses. If the said summonses shall be for any sitting of the Supreme Court for the trial of common Jury cases the said Sheriff shall require the attendance thereat of thirty-six good and lawful men qualified and liable to serve as afore-

Summons substituted for certain Writs.

185

said. The summons of every man to serve on Jurics not being Special Jurics shall be personally served upon or left at the usual place of abode of the person summoned five clear days at least before the day appointed for the sitting of the Court and the summons of every man to serve on Special Jurics in the said Supreme Court shall be made by the Sheriff in the like manner three clear days at least before the day on which the Special Juror is to attend: Provided that no man shall be summoned on any Jury whose place of abode shall be distant more than Twenty miles from the place at which the Court shall be holden.

Petit Jury List to be handed to person indicted.

XXXI. When any person is presented or indicted for high treason or misprison of treason in any Court whatsoever a list of the Petit Jury with the Christian and Surname written at full length and with the true place of abode title quality calling or business of every such Juror shall be given to the party so presented or indicted ten days before the arraignment and in the presence of two or more creditable witnesses.

Special Jury to be chosen.

XXXII. The Sheriff of every District shall immediately after the delivery to him of the Jury list of any Jury District thereof select thereout to be special Jurors the names of all persons who shall be described therein as Esquires or persons of higher degree Gentlemen Bankers Merchants Accountants Civil Engineers and Architects and shall cause the names of all such persons to be fairly copied out in alphabetical order together with their respective places of abode and additions in a separate list to be subjoined to his copy of the Jury list and which separate list shall be called the Special Jury list for the () Jury District for the year.

Special Jury List to be numbered, &c.

XXXIII. The Sheriff shall also prefix to every name in the said list its proper number beginning the numbers from the first name and continuing them in a regular arithmetical series down to the last name and shall cause the said several numbers to be written upon distinct pieces of parchment or card being all as near as may be of equal size and after all the said numbers shall have been so written shall put the same together in a separate drawer or box and shall there safely keep the same to be used for the purpose hereinafter mentioned.

If less than thirty-six deficiency to be supplied.

XXXIV. Provided that if such list of Special Jurors shall contain less than thirty-six names the Sheriff shall complete that number from the other persons of greatest repute and substance in the Jury list for the said District.

When no current List that for preceding year to be used.

XXXV. Provided also that if no Jury list shall have been made for the current year the Special Jury list for the year preceding shall be deemed and be taken to be the Special Jury list for the year so unprovided for.

Court may order special Jury.

XXXVI. In all cases of Trial by Jury whether Civil or Criminal before the Supreme Court, the Court may on appli-

cation on behalf of Her Majesty or of any Plaintiff Defendant or person against whom any indictment shall be found or information filed or without any such application if it shall be so ordered by any Rule to be made on that behalf and subject to such terms as the Court shall impose and to such Rules as shall be made in that behalf order that the Trial shall be by Special Jury.

XXXVII. Subject to any Rules which may be made in that behalf the party who shall apply for a Special Jury shall pay the expenses occasioned thereby and shall not have any further allowance for the same on taxation of costs than he would have been entitled to in case the cause had been tried by a Common Jury unless the Judge before whom it is tried shall immediately after the finding of the verdict or in case of a non-suit immediately after such non-suit certify under his hand on the back of the Record that the same was a cause proper to be tried by a Special Jury.

Party applying for special Jury to pay expenses.

XXXVIII. Whenever the Supreme Court or a Judge thereof as aforesaid shall order a Special Jury to be struck before the proper Officer of such Court such Officer shall appoint a time and place for the nomination of such Special Jury and a copy of the Rule of Court and of such Officers appointment shall be served on the Sheriff of the District in which the Trial is to be had and also on all the parties who have usually been served with the same respectively in the accustomed manner and the said Officer at the time and place appointed being attended by such Sheriff or his Agent either of whom is hereby required to bring with him the Jurors list and the Special Jurors list of the Jury District within which the Trial is to be holden and all the numbers so written on distinct pieces of parchment or card as aforesaid shall in the presence of all the parties in any of the cases aforesaid and of their Attorneys or Solicitors (if they respectively choose to attend or if the said parties or their Attorneys or all or any of them do not attend then in their absence) put all the said numbers into a box to be by him provided for that purpose and after having shaken them together shall draw out of the said box thirty-six of the said numbers one after another and shall as each number is drawn refer to the corresponding number in the Special Juror list and read aloud the name designated by such number and if at the time of so reading any name either party or his Attorney shall object that the man whose name shall have been so referred to is any manner incapacitated from serving on the said Jury and shall also then and there prove the same to the satisfaction of such Officer such name shall be set aside and the said Officer shall instead thereof draw out of the said box another number and shall in like manner refer to the corresponding number in the said list and read aloud the name designated thereby which name may be in like manner set aside and other numbers and names shall in every such case be resorted to according to the mode of proceeding hereinbefore described for the purpose of supplying names in the places of those set aside until the whole number of thirty-six names not liable to be set aside shall be

Mode of striking Special Jury.

completed and if in any case it shall so happen that the whole number of thirty-six names cannot be obtained from the Special Jurors list in such case the said Officer shall fairly and indifferently complete that number out of the persons of the greatest repute and substance in the Jury list. The parties or their Attorneys shall then alternately strike out one name from the said list of thirty-six names until the number be reduced to eighteen which number shall form a Panel.

Copy of Panel, &c.,
to be sent to Registrar.

XXXIX. Upon or before the day for which Jurors shall have been summoned the Sheriff or other proper Officer shall deliver to the Registrar or Clerk (as the case may be) a Panel containing the names places of abode and additions of the persons so summoned and shall also furnish to the same Officer the names of the said Jurors written on separate pieces of card which shall be all of equal size and shape and shall be in open Court deposited by the said Registrar or Clerk (as the case may be) in a box to be provided for that purpose and kept there until used as hereinafter mentioned.

Six peremptory challenges.

XL. Every person who shall be put upon his trial either for felony or misdemeanour shall be allowed six peremptory challenges and no more.

What other challenges allowed.

XLI. Such other challenges shall be allowed and in such manner as are or may be allowed by the Law of England in force for the time being.

Mode of drawing for Jury.

XLII. When any Issue joined on any Indictment presentment or information or in any Civil Action or directed to be tried by any Judge shall be brought on to be tried in any Court the proper Officer thereof shall in open Court draw out of the said box twelve of the said Cards one after another and if any of the men whose names shall be so drawn shall not appear or shall be challenged and set aside then such further number until the number of Jurors to be sworn be drawn who shall appear and (after all just causes of challenge allowed) shall remain as fair and indifferent and the said twelve men so first drawn and appearing and being approved as indifferent shall be the Jury to try the said Issue and their names shall 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 by consent of the parties or by leave of the Court be discharged and then the same names shall be returned to the box there to be kept with the other names remaining at that time undrawn and so *toties quoties* as long as any Issue remains to be tried Provided always that if any such Issue shall be brought on to be tried before the Jury impanelled to try any other Issue shall have brought in their verdict or have been discharged it shall be lawful for the Court to order twelve of the residue of the said cards not containing the names of any of the Jurors who shall not have so brought in their verdict or been discharged to be drawn in such manner as is hereinbefore provided for the trial of the Issue which shall be so brought on to be tried. Provided also that there where no objection shall be made on be-

The same Jury may try further issues.

half of the Queen or any other party it shall be lawful for the Court to try any Issue with the same Jury that shall have previously tried or been drawn to try any other issue without their names being returned to the box and redrawn or to order the name or names of any man or men on such Jury to whom both parties may consent to withdraw or who may be justly challenged or excused by the Court to be set aside and another or other name or names to be drawn from the box and to try the Issue with the residue of such original Jury and with such man or men whose name or names shall be so drawn and who shall appear and be approved as indifferent and so *toties quoties* as long as any Issue remains to be tried. The same form and manner of proceeding shall and may be observed and adopted in every Inquiry of Damages in Civil Actions.

XLIII. If during the Trial a Juror be taken ill or become incapable of continuing to perform his duty the Judge may discharge the Jury and direct another to be called.

Procedure if Juror become ill.

XLIV. Whenever from any cause whatever there shall be a deficiency of Jurors upon the Trial of any Issue in any Court in the Colony it shall be lawful for the Court to put upon the Jury so many good and lawful men of bystanders qualified and liable as aforesaid as shall be sufficient to make up the full number thereof.

Talesmen.

XLV. The proper Officer of the Court on delivery to him of the Panel shall in open Court call aloud the names of the Jurors on the said Panel one after another and such of the said Jurors as shall then or at any time thereafter answer to their names may be sworn in open Court, and being once sworn shall not need to be re-sworn in each Trial or Inquiry unless either party or they that sue for the Queen or the person arraigned shall so require and the said Officer shall as and when each Juror is so sworn make a minute thereof in the said Panel and no person shall by means of the premises be deprived of his right of challenge but shall and may notwithstanding the said swearing exercise the said right at any time before the commencement of the trial or Inquiry.

Calling and swearing-in Jury.

XLVI. If any person duly summoned as a Juror Viewer or Inspector in any Court or before any Sheriff or Coroner shall not attend in pursuance of such Summons or being thrice called shall not answer to his name or if any such person or any talesman after being called shall be present but not appear or after appearance shall withdraw without leave the Court Sheriff or Coroner shall set such fine not exceeding Ten Pounds upon every such person as shall be fixed by the Court subject to any Rules which may be made in that behalf unless some reasonable excuse shall be proved by Oath or Affidavit.

Penalty on non-attending Jurors.

XLVII. On the prayer of any Alien indicted or presented of any Felony, the Sheriff or proper Officer shall by command of the Court return for one-half of the Jury a competent number of Aliens, if so many there be in the District where the Trial is to be had, and if not, then so many Aliens as shall be found in the same District if any and every such Alien may be challenged as other Jurors.

Aliens to have mixed Jury.

Aboriginals not deemed aliens.

XLVIII. Provided that aboriginal Natives shall not be deemed Aliens but may demand a mixed Jury as hereinafter provided.

Payment of Jurors.

XLIX. Every Juror except Grand Jurors who shall be summoned in any Civil Action and shall attend in pursuance of this Act and be sworn on any Jury shall be entitled to receive from and be paid by the parties in the cause according to Rules to be made in that behalf for every day of such attendance the sums following, that is to say—every Special Juror the sum of One Pound and every Common Juror the sum of Ten Shillings and every Talesman who shall have served on any Jury in pursuance of this Act shall be entitled to receive the same sum for such attendance as if he had been originally written on the Panel and no Juror who shall serve upon any Jury shall be allowed to take for serving upon any such Jury more than the sums aforesaid except in cases wherein a View or Inspection is directed and shall be had by such Juror.

Writ of view not necessary but Order substituted for it.

L. A Writ of View shall not be necessary or used but in any case either Civil or Criminal or on any Penal Act depending in any Court it shall be lawful for either party when the View is to be had by a Common or Special Jury to obtain a Rule or Order of such Court containing the usual terms and commanding the Sheriff or proper Officer to have three or more of the Jurors who shall be consented to by the parties or nominated by the Sheriff or proper Officer in case the parties cannot agree at the place of inspection some convenient time before the Trial, and the place or property to be inspected shall then be shown to them by two person to be named in the Rule or Order.

Party applying to deposit £20 for expenses.

LI. The party applying for the Rule or Order shall deposit in the hands of the Sheriff or proper Officer for payment of expenses the sum of Twenty Pounds. If that sum be more than sufficient to pay such expenses the surplus shall be returned to the party or his Solicitor and if such sum be not sufficient the deficiency shall forthwith be made up by the party or his Solicitor.

Viewers to be called first on Jury.

LII. At the trial the Jurors who have inspected the place or property are to be called first and as many of them as appear shall form part of the Jury. But if none answer the cause shall proceed in their absence. If no inspection be had or if less than the number of Jurors mentioned in the Rule or Order attend on the inspection the Trial shall nevertheless proceed without any objection being allowed on that account.

Costs of Inspection to be borne by party requiring unless Judge certifies.

LIII. The costs of Inspection and of all proceedings connected therewith shall be borne by the party requiring the same unless the Judge shall certify immediately after the verdict on the back of the Record that the cause was one in which it was proper that an Inspection should be had. If the Judge so certify then the costs shall be costs in the cause.

Affirmation by Jurors.

LIV. If any person called as a Juror shall refuse or be unwilling from alleged conscientious motives or scruples to

be sworn it shall be lawful for the Court upon being satisfied of the sincerity of such objections to permit such person instead of being sworn to make his solemn affirmation or declaration in such form as shall be prescribed in any Rules for the purpose to be made as hereinafter provided which solemn affirmation or declaration shall be of the same force and effect as if such person had taken an oath in the usual form.

LV. The Jurisdiction of every Grand Jury shall extend throughout the Colony. Jurisdiction of Grand Jury.

LVI. Subject to such Rules as shall be made in that behalf any male aboriginal native between the ages of twenty one and sixty years whose capability shall be certified in such manner as shall be appointed by regulations which may be from time to time issued in that behalf by the Governor in Council shall be held duly qualified and liable to serve as a Juror in the Trial within the Colony of issues in the cases hereinafter mentioned in which the person or property of any Aboriginal Native may be affected and such persons are herein referred to as Native Jurors and Juries constituted under the provisions of this Act and composed of Native Jurors are herein referred to as Native Juries. Natives or Half-castes may be Jurors in certain cases.

LVII. The lists of Native Jurors shall be forwarded from time to time as they are formed to the Sheriff of the District who shall annex the same to or file the same with the Jury List in force there. Transmission &c., of Native Jury List.

LVIII. Subject to any rules to be made in that behalf any Aboriginal Native against whom an indictment shall be found or an information filed in any Court and in any civil case in which both parties shall be Aboriginal Natives either party in such case may demand a Native Jury and upon such demand being made by or on behalf of any such Aboriginal Native the case shall be tried by a Native Jury. Aboriginal Natives may demand Native Jury.

LIX. The number of Native Jurors upon the trial of every issue civil or criminal triable by Jury in any Court shall be twelve Provided that it shall be lawful for the Governor by Order in Council to reduce such number to any number not less than five. If there shall be a full number of Native Jurors present the Native Jury shall be composed wholly of Native Jurors but if a sufficient number be not present as many shall be empannelled as are present and the proper number completed from ordinary Jurymen or bystanders to be appointed in the discretion of the Court. And provided that in every case in which there shall not be at least half the requisite number of Native Jurors present the trial may at the instance of the party so demanding a Native Jury be adjourned from time to time as to the Court may seem fit until the full number of Native Jurors shall attend the costs of such adjournment if in a civil action to be costs in the cause and the Court shall have power to make such order as to summoning and enforcing the attendance of Native Jurors as to it shall seem fit. Number of Native Jurors on Panel.

In what cases a mixed Jury shall be impaneled.

LX. In any Civil Case in which one of the Parties only shall be an Aboriginal Native such Aboriginal Native may demand a mixed Jury and in such case the Jury shall consist of an equal number of Native Jurors and of ordinary Jurymen and if there shall not be a sufficient number of Native Jurors present such mixed Jury may be completed from ordinary Jurymen or bystanders or upon the demand of the Aboriginal Native Party the Trial shall be adjourned from time to time as to the Court may seem fit until the full number of Native Jurors shall attend the costs of such adjournment if in a civil action to be costs in the cause and the Court shall have power to make such order as to summoning and enforcing the attendance of Native Jurors as to it shall seem fit.

Power to Governor to rescind &c. provisions as to Native Jurors.

LXI. The Governor in Council may rescind suspend or alter all or any of the provisions contained in this Act relating to Native Juries and mixed Juries and may by any Rules to be made in manner hereinafter mentioned make new and other provisions in that behalf and also in relation to the selection nomination and summoning of Native Jurors and the formation of Native and mixed Jury panels and he may by any such Order in Council direct and declare that in criminal cases in which the party accused shall be an Aboriginal Native and in civil cases in which both parties shall be Aboriginal Natives the Trial shall be without Jury and he may by the same or any other Order in Council appoint such other mode for determining questions of fact as to him shall seem fit. Provided that every such Order shall be recommended or approved of by some Judge of the Supreme Court and shall thereafter be published in the *Government Gazette* whereupon such Order shall have the force of Law: And provided that any such Order in Council may be made either generally applicable to the Colony and to all Courts and Trials of Issues in the Colony or to any particular District or Court or to any particular issue.

Indemnity to Sheriff and other officers.

LXII. Every Sheriff and other Officer shall be and is hereby indemnified for empannelling and returning any person named in the Jury List although he may not be qualified or liable to serve on Juries.

Penalty on Sheriff and other officers.

LXIII. If any Sheriff or other Officer of any Court shall wilfully empannel and return any person to serve on any Jury such persons name not being inserted in the Jury List for the current year or if there shall be no Jury List in existence for the current year then in the Jury List for the preceeding year or if any Registrar Clerk or other Officer of any Court shall wilfully record the appearance of any person so summoned and returned who did not really appear in every such case the Court shall and may upon examination in a summary way set such fine upon such Sheriff Registrar Clerk or other Officer offending as the Court shall think meet.

Penalty on officers transgressing.

LXIV. Every Officer and person who shall in the execution of any matter under this Act or in relation thereto wilfully do or omit to do anything contrary to the duties imposed on him by this Act or any Rules made in pursuance thereof shall be liable to a penalty not exceeding One Hundred Pounds to be recovered in a summary way by any person who shall sue for the same.

LXV. If any person to whom any lawful question may be put by any person employed under this Act in forming Jury Lists relating to the said Lists or to the Christian or Surname place of abode title quality calling or business of any such person shall not truly answer such question such person shall for every such offence forfeit a sum not exceeding *Fifty Pounds* nor less than *Five Pounds*.

Penalty on persons not truly answering questions put.

LVI. It shall not be lawful either for the Queen or any one on Her behalf or for any party or parties in any case whatsoever to commence or prosecute any Writ of Attaint against any Juror for the verdict by him given or against the party or parties who shall have Judgment upon such verdict and no inquest shall be taken to enquire of the concealments of other inquests but all such attainments and inquests shall henceforth cease become void and be utterly abolished any Law Statute or Usage to the contrary notwithstanding.

Writ of attaint abolished.

LXVII. Notwithstanding anything hereinbefore contained every person who shall be guilty of the offence of embracery and every Juror who shall wilfully or corruptly consent thereto may be respectively proceeded against and be punished by fine and imprisonment in like manner as every such person and Juror might have been before the passing of this Act.

Embracery.

LXVIII. All Rules of the Supreme Court now in force relating to Juries except as altered by this Act shall continue in force until the same shall be rescinded or altered by other Rules to be made in that behalf.

Supreme Court Rules as to Juries to continue in force except as altered.

LXIX. The Governor in Council on the recommendation or with the approval of some Judge of the Supreme Court may from time to time frame and establish Rules for the following purposes that is to say—

Governor to make Rules for purposes herein specified.

For forming revising keeping and transmitting the Jury Lists and designating the persons therein.

For arranging the Lists summoning Jurors nominating and selecting Juries on trials determining the order in which they shall attend empannelling swearing taking of verdicts and discharging of Jurors regulating Views and Inspections; fining of Jurors for non-attendance, and payment of Jurors.

For regulating the attendance of Native Jurors and the public access to Jury Lists

And generally for regulating all proceedings whatever in relation to Juries and to Trial by Jury under this Act.

And may by any such Rules impose penalties for breach thereof not exceeding One Hundred Pounds for any offence to be recovered summarily or otherwise as shall be provided by such Rules. And he may frame and establish forms of proceedings under this Act and may settle Tables of Fees.

And he may from time to time rescind and alter any such Rules, Forms and Tables of Fees and make and establish other new Rules Forms and Tables of Fees in lieu thereof. Provided that the selection of Juries for the Trial of issues Civil or Criminal shall be by Ballot. Provided also that no person who shall have been summoned and attended as a Juryman shall be again summoned or shall be bound to attend as a Juryman until the other Jurymen on the List shall have been summoned or shall have attended.

Rules &c., to be published.

LXIX. All such Rules Forms and Tables of Fees and all rescindings and alterations thereof shall be published in the *Government Gazette* of the Colony.

SCHEDULE REFERRED TO IN THE FOREGOING ACT.

Ordinances Acts and part of Act Repealed.

Session and Number.	By what Legislature passed.	Title.	Extent of Repeal.
II No. 3 -	Governor and Legislative Council.	An Ordinance to regulate the constitution of Juries.	The whole.
III No. 2 -	Governor and Legislative Council.	An Ordinance to make temporary provision for the constitution of Juries.	The whole.
1860 No. 34 -	General Assembly.	Militia Act Amendment Act, 1860.	Section 13.
1861 No. 9 -	General Assembly.	The Jury Ordinance Amendment Act, 1861.	The whole.