

CHAPTER 202

Jury Act

- Title.** 1. This Act may be cited as the *Jury Act*. R.S. 1948, c. 167, s. 1.
- Interpre-
tation.** 2. In this Act, unless the context otherwise requires,
 “county” means a county as established under the *Counties
 Definition Act*;
 “Judge” means a Judge of the Supreme Court;
 “person” includes females as well as males;
 “Registrar” means the District Registrar of the Supreme Court,
 and includes a Deputy or Acting Registrar;
 “Sheriff” means any person for the time being lawfully holding
 the office of Sheriff, or lawfully performing the duties of Sheriff
 by way of delegation, substitution, temporary appointment, or
 otherwise;
 “Supreme Court sittings” or “sittings” means a sitting of the
 Supreme Court for the trial of civil or criminal cases;
 “year” means the twelve months commencing on the first day of
 July. R.S. 1948, c. 167, s. 2.
- Division of
Act into
parts.** 3. This Act is divided into four parts, as follows:—
- | PART | SECTION |
|--|---------|
| I.—Jurors | 4–7 |
| II.—Juries for Criminal Trials..... | 8–46 |
| III.—Juries for Civil Trials in Supreme Court..... | 47–66 |
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- R.S. 1948, c. 167, s. 3.

PART I

JURORS

- Qualification
of jurors.** 4. Unless exempt under or disqualified by the provisions in that
 behalf herein contained, every person who is lawfully registered as a
 voter at elections for members of the Legislative Assembly is qualified
 and liable to serve as a juror in all Courts of civil or criminal jurisdiction
 holding sittings within the county in which the person resides. R.S.
 1948, c. 167, s. 4.
- Jurors liable
to serve al-
though name
removed from
voters list.** 5. If any person removes his name from the list of voters he is, if
 he continues to reside in the same electoral district, still liable to serve
 as a juror in the county in which he resides, and his name, if upon the
 jury list, shall not be removed. R.S. 1948, c. 167, s. 5.

Persons dis-
qualified from
jury service.

6. Every person coming within any of the classes following is absolutely disqualified for service as a juror, that is to say,

- (a) persons infirm, decrepit, or afflicted with blindness, deafness, or other physical infirmity incompatible with the discharge of the duties of a juror;
- (b) persons not in possession of natural faculties;
- (c) persons convicted of indictable offences, unless they have obtained a free pardon;
- (d) aliens. R.S. 1948, c. 167, s. 6.

Persons
exempt from
jury service.

7. The following persons are exempt from being returned and from serving as jurors, and their names shall not be entered in any list to be selected and prepared as hereinafter mentioned:—

- (a) Persons sixty-five years of age or upwards:
- (b) Members of the Privy Council or Parliament of Canada, or of the Executive Council or Legislative Assembly of the Province:
- (c) Officers and other persons in the service of the Governor-General or the Lieutenant-Governor:
- (d) Officers, clerks, and servants of the Federal or Provincial Governments in any department of the Civil Service, military or police services:
- (e) Clerks and servants of the Senate and House of Commons and the Legislative Assembly, or of the public departments of Canada or of the Province:
- (f) The warden, officers, and servants of any penitentiary:
- (g) Judges of the Court of Appeal, Supreme and County Courts, Stipendiary and Police Magistrates, and Justices of the Peace:
- (h) Sheriffs and their deputies, Coroners, gaolers, and keepers of any prison, gaol, or lockup:
- (i) The clergy of all denominations:
- (j) Barristers, solicitors, law students, and articled clerks actually engaged in the pursuit, practice, or study of the legal profession:
- (k) Physicians, surgeons, registered Christian Science practitioners, dentists, and apothecaries qualified to practise and in actual practice:
- (l) Officers of Her Majesty's Army, Navy, or Air Force on full pay:
- (m) Pilots and seamen engaged in the pursuit of their calling:
- (n) The Mayor, Reeve, Clerk, Collector, and Assessor of any municipality:
- (o) Professors, masters, and teachers of every university, college, collegiate institute, high school, or other school or seminary of learning actually engaged in performing the duties of such appointment:

- (p) Officers and servants of every such university, college, school, or seminary of learning actually exercising the duties of such employment:
- (q) Editors, reporters, and printers of any public newspaper or journal actually engaged in such employment or occupation:
- (r) Persons actually employed in the management and working of any railway or air line or in the running of railway trains or the operation of aircraft, and persons holding certificates under the *Coal Mines Regulation Act* as managers of coal mines and actually engaged in such occupation:
- (s) Telegraph operators in actual employment as such:
- (t) Persons exempt by virtue of any Act of the Parliament of Canada or of the Legislative Assembly, subject to compliance with the provisions of such Act:
- (u) Members of the Active Militia during the term for which they are enlisted and enrolled:
- (v) Members of any fire department during the term for which they are exclusively engaged in the service of such department:
- (w) Police officers appointed by any municipality:
- (x) Managers, cashiers, and clerks in actual employment in chartered banks. R.S. 1948, c. 167, s. 7; 1953, c. 22, s. 2.

PART II

JURIES FOR CRIMINAL TRIALS

Interpretation
for purposes
of Part II.

- 8.** In this Part, unless the context otherwise requires,
- “Judge” includes a Judge of any Court of Oyer and Terminer and General Gaol Delivery;
 - “Supreme Court” includes every Court of Oyer and Terminer and General Gaol Delivery;
 - “Supreme Court sitting” or “sittings” includes a sitting of any Court of Oyer and Terminer and General Gaol Delivery.
- R.S. 1948, c. 167, s. 8.

Jurisdiction
of Sheriff.

- 9.** A Sheriff whose jurisdiction extends over a portion only of a county has, for the purposes of this Part, jurisdiction over the whole county. R.S. 1948, c. 167, s. 9.

Selectors
of Jurors.

- 10.** In each county there shall be Selectors of Jurors whose duty it shall be to select from the last lists of voters as printed or reproduced pursuant to section 29 of the *Provincial Elections Act* for electoral districts or portions of electoral districts embraced in the county the requisite number of persons resident in the county to serve as jurors for the next succeeding year. R.S. 1948, c. 167, s. 10.

Jury lists and
Selectors for
respective
sittings.

11. (1) The number of persons to be selected for the respective jury lists and the competent Selectors of Jurors shall be as follows:—

- (a) For the sittings at Victoria, in the County of Victoria: To serve as jurors, three hundred; and the Selectors shall be the Registrar, the Provincial Assessor at Victoria, and the Sheriff for the county:
- (b) For the sittings at Nanaimo, in the County of Nanaimo: To serve as jurors, one hundred and fifty; and the Selectors shall be the Registrar, the Government Agent, and the Sheriff for the county:
- (c) For the sittings at Vancouver, in the County of Vancouver: To serve as jurors, one thousand two hundred; and the Selectors shall be the Registrar, the Government Agent, and the Sheriff for the county:
- (d) For the sittings at New Westminster, in the County of Westminster: To serve as jurors, two hundred and seventy-five; and the Selectors shall be the Registrar, the Government Agent, and the Sheriff for the county:
- (e) For the sittings at Prince Rupert, in the County of Prince Rupert: To serve as jurors, one hundred and fifty; and the Selectors shall be the Registrar, the Government Agent, and the Sheriff for the county:
- (f) For the County of Cariboo:—
 - (i) For the sittings at Clinton: To serve as jurors, one hundred and twelve; and the Selectors shall be the Government Agent at Clinton and the Provincial Assessor at Ashcroft:
 - (ii) For the sittings at Prince George: To serve as jurors, one hundred and twelve; and the Selectors shall be the Government Agent, the Provincial Assessor, and the Sheriff at Prince George:
- (g) For the County of Kootenay:—
 - (i) For the sittings at Revelstoke: To serve as jurors, one hundred and fifty; and the Selectors shall be the Registrar, the Provincial Assessor, and the Sheriff at Revelstoke:
 - (ii) For the sittings at Nelson: To serve as jurors, one hundred and fifty; and the Selectors shall be the Registrar, the Government Agent, and the Sheriff at Nelson:
 - (iii) For the sittings at Fernie: To serve as jurors, one hundred and fifty; and the Selectors shall be the Government Agent and the Deputy District Registrar of the Supreme Court at Fernie:
 - (iv) For the sittings at Cranbrook: To serve as jurors, one hundred and fifty; and the Selectors shall be the Government Agent, the Provincial Assessor, and the Deputy District Registrar of the Supreme Court at Cranbrook:

(h) For the County of Yale:—

(i) For the sittings at Kamloops: To serve as jurors, two hundred; and the Selectors shall be the Registrar at Kamloops, the Provincial Assessor, and the Sheriff at Kamloops:

(ii) For the sittings at Vernon: To serve as jurors, one hundred and twelve; and the Selectors shall be the Registrar at Vernon, the Provincial Assessor for the Kettle River Assessment District, and the Deputy Sheriff at Vernon.

(2) Notwithstanding anything contained in this section, the Lieutenant-Governor in Council may appoint Selectors of Jurors other than those above mentioned, and to direct that sittings be held at any city or place in a county other than the city designated in this section as the city or place in which such sittings are to be held. R.S. 1948, c. 167, s. 11; 1955, c. 38, s. 2.

Statutory
declaration
to be made by
Selectors.

12. (1) Every Selector of Jurors shall, before entering upon the duties of his office, make a statutory declaration in the form following:—

CANADA:
PROVINCE OF BRITISH COLUMBIA. }
To Wit:

I, A. B., do solemnly declare that I will faithfully, truly, and impartially, without fear, favour, or affection, and to the best of my knowledge and ability, perform the duties of a Selector of Jurors, under and pursuant to the provisions of the *Jury Act*; and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Declared before me at this }
day of , 19 . }

(2) Such declaration, when completed, shall be filed in a district registry of the Supreme Court in the county. R.S. 1948, c. 167, s. 12.

Registrars of
Voters to sup-
ply Selectors
with lists of
voters.

13. It is the duty of the several Registrars of Voters to supply the Selectors of Jurors with copies of the last lists of voters as printed or reproduced pursuant to section 29 of the *Provincial Elections Act* for electoral districts or portions of electoral districts embraced in the county in which the Selectors have been appointed. R.S. 1948, c. 167, s. 13.

If lists of
voters
cancelled.

14. If at any time the lists of voters are cancelled or any list of voters is cancelled for the purpose of preparing new lists or a new list under the provisions of the *Provincial Elections Act*, it shall be lawful for the Selectors, or for the Sheriff in the cases hereinafter mentioned, to select a list of persons to serve as jurors from the last lists or list of voters as printed or reproduced pursuant to section 29 of the *Provincial Elections Act*, notwithstanding the cancellation of such lists or list. R.S. 1948, c. 167, s. 14.

Meeting of
Selectors to
select prelim-
inary list.

15. (1) The Selectors shall meet and hold sittings annually at the proper district registry of the Supreme Court in the county, commencing on the first Monday in May, or, if that day is a holiday, on the next juridical day following, for the purpose of selecting a preliminary list of persons liable to serve as jurors, and the number to be included in such list shall be in the discretion of the Selectors.

(2) Such sittings may be adjourned from time to time as may be necessary. R.S. 1948, c. 167, s. 15.

Notices to
women before
placing names
on jury list.

16. The Sheriff shall forthwith after the completion of the preliminary list notify each woman whose name has been placed on the list, by registered letter addressed to her last-known address, that her name has been placed on a preliminary list of jurors for the ensuing year, and that unless she notifies the Sheriff within fifteen days from the date of the notice of her unwillingness to serve as a juror, she will be liable to have her name placed on the jury list for the said year. R.S. 1948, c. 167, s. 16.

Meeting of
Selectors to
prepare jury
list.

17. (1) The Selectors shall meet again at the said district registry of the Supreme Court on the first Monday in June, or, if that day is a holiday, on the next juridical day following, for the purpose of preparing the jury list for the ensuing year, and of performing the duties required by them under this Act. In preparing the jury list the names shall be selected from the preliminary list prepared under section 15; but no name of any woman who has notified the Sheriff of her unwillingness to serve as a juror in accordance with section 16 shall be placed on the jury list.

(2) Such sittings may be adjourned from time to time, as may be necessary for the completion of the duties of the Selectors. R.S. 1948, c. 167, s. 17.

Remuneration
of Selectors.

18. The Selectors, except such of them as are salaried officials of the Government are entitled to remuneration at the rate of five dollars per day for each day's attendance whilst engaged in the performance of their duties. R.S. 1948, c. 167, s. 18.

Completion
and certifica-
tion of jury
list.

19. So soon as a jury list has been so prepared and the names of the selected jurors have been entered in a proper book, the Selectors who have prepared the list shall certify, under their hands, at the foot of the list, the date of the selection and that the names of the jurors in the list were duly selected, and the jury list so certified shall be the list for Supreme Court sittings for the next succeeding year. R.S. 1948, c. 167, s. 19.

Deposit of
jury list in
office of
Registrar.

20. The book with the jury list so certified shall be deposited with the Registrar at the place at which the sittings for which the jury list has been prepared are to be held, to be kept on file in his office. R.S. 1948, c. 167, s. 20.

Deposit of copies with Provincial Secretary and Sheriff, and use of duplicate list where original is lost.

21. Such Registrar shall, on or before the first day of August in each year, forward copies of the jury list prepared by the Selectors, and certified as aforesaid, and certified by the Registrar to be a true copy of the original, to the office of the Provincial Secretary, to be deposited there, and to the proper Sheriff for the county; and in the event of the loss or destruction by fire or other accident of any jury list, a duplicate of such list shall be made from the copy so deposited in the office of the Provincial Secretary, and, being certified by the Provincial Secretary or his deputy to be truly copied from the copy deposited in his office, shall, upon such loss or destruction being established upon oath or affirmation before two or more Justices of the Peace, be received by the said Registrar, kept on file in his office, and used on all occasions and for all purposes as the original so lost or destroyed. R.S. 1948, c. 167, s. 21.

Special sittings of Selectors where default made in completion of list.

22. (1) In case, from any cause, the selection of jurors or any preliminary list or jury list is not made, prepared, or completed, as the case may be, in accordance with the true intent and meaning of this Act, the Lieutenant-Governor may, at any time which is deemed expedient, by Order in Council, which shall be published in the Gazette, fix a day, not earlier than fourteen days from the said publication, and also a place for holding a special sittings of the Selectors of Jurors for the purposes of making, preparing, or completing, as the case may be, the selection of jurors, and any preliminary list or jury list for such period as is specified in the Order.

(2) Thereupon it is the duty of the Selectors to meet at the time and place so fixed and perform the duties required of them by the Order.

(3) Notwithstanding any provision to the contrary, the jury list prepared, selected, or made up by the Selectors, under the Order, shall be the jury list for the period specified in the Order, and shall have the same force and effect as if the same had been made, prepared, and completed at the time and place and in manner prescribed by this Act, and the provisions of this Act shall, as nearly as may be, extend and apply to the meeting of the Selectors and to the preparation and selection of the jury list which may be authorized or required by the Order.

(4) A correct copy of the jury list prepared under the Order, and certified by the Selectors in manner hereinbefore prescribed, shall forthwith, after the completion thereof, be made by the Registrar and deposited in the office of the Provincial Secretary, and shall be regarded as having been deposited by him under section 21. R.S. 1948, c. 167, s. 22.

Precepts.

23. (1) The Attorney-General may issue and transmit to the several Sheriffs, or other proper officers, precepts for the return of a competent number of jurors for the trial of such matters of fact in criminal cases as it may be competent to jurors to try.

Jury panel.

(2) The precepts or orders to Sheriffs or other officers as aforesaid for the sittings of Courts of Oyer and Terminer and General Gaol Delivery shall command the return of not less than twenty-four and not more than forty-eight jurors, unless by the precept the return of any greater number is required and ordered.

Additions to panel.

(3) At any time or times before the sittings of any Court of Oyer and Terminer and General Gaol Delivery any Judge of the Supreme Court, and at any time or times during the sittings the presiding Judge, may, if it appears expedient to him, direct the Sheriff or other proper officer to return any additional number of jurors to such sittings, and thereupon the Sheriff or other proper officer and the Registrar shall proceed forthwith to draft such additional number of jurors, and shall add their names to the panel, and the Sheriff shall forthwith proceed to summon them. R.S. 1948, c. 167, s. 23.

What the precept shall express.

24. Every precept issued for the return of jurors for Supreme Court sittings shall direct the Sheriff or other officer to whom the same is directed "to return a competent number of good and lawful persons of the County of _____, qualified according to law." R.S. 1948, c. 167, s. 24.

Juror exempt from further service for two years.

25. Save as hereinafter mentioned, no person shall be compellable to serve on a jury at any Court of Oyer and Terminer and General Gaol Delivery for two years next after his having duly served on some panel duly returned under the provisions of this Act. R.S. 1948, c. 167, s. 25.

Duty of Sheriffs to draft panels of jurors.

26. Every Sheriff to whom any precept for the return of jurors is directed shall to the precept return a panel of names of the jurors contained in the proper jury list for the year, whose names shall, except as hereinafter mentioned, be drafted from such list in the manner hereinafter mentioned. R.S. 1948, c. 167, s. 26.

Notice and attendance for drafting of panel.

27. Upon any Sheriff being called upon to return a panel of jurors, he shall give public written notice in his office and also on the door of the proper Court-house of the county, or if there is no Court-house, then in some other public place, of the day, hour, and place at which he will attend to draft the panel of jurors from the jury list; and at such time and place he shall proceed publicly to draft the panel, by ballot, from the jury list, in the presence of the Registrar and two Justices of the Peace, who, upon reasonable notice from the Sheriff, are hereby required to attend, and in the presence of any other person or persons who may desire to attend, and for such services the said Justices shall each receive the sum of five dollars. R.S. 1948, c. 168, s. 27.

Length of notice.

28. If the Sheriff has sufficient time, he shall give every such notice at least eight days before drafting the panel; and if there is not sufficient time for that purpose, he shall give the notice as soon after his receipt of the precept as conveniently may be. R.S. 1948, c. 168, s. 28.

The drafting, if not completed, may be resumed.

29. If the drafting or completing of a panel at the time appointed is prevented by unavoidable accident, the same may be had or completed at any other time, in the presence of the Registrar and two Justices of the Peace, upon a similar notice being first given of such time. R.S. 1948, c. 167, s. 29.

Preparation of title of panel and insertion of number of jurors to be therein returned.

30. In proceeding to draft a panel of jurors from the jury list, the Sheriff to whom the return of the panel belongs shall, in the first place, prepare a proper title or heading for the panel of jurors to be returned, to which he shall fix an appropriate number, according as such panel by the jury list appears to be the first, second, third, or subsequent panel drafted from that list; and the title or heading shall set forth the number of jurors to be returned, in words, at length, or (where the Sheriff has a discretion as to the number) the number that in the exercise of such discretion he has determined to return, and the number, when discretionary, shall not be altered after the same has been so inserted in the title or heading. R.S. 1948, c. 167 s. 30.

Numbers and ballots.

31. In the second place, the Sheriff shall append to the title or heading a list of numbers from one forward to the number required, and shall prepare a set of ballots or pieces of parchment, card, or paper, of uniform and convenient size, such set containing the same number of ballots as there are numbers on the jury list from which the panel is to be drafted, allowing one number to each ballot, which number shall be written or printed on the same, and shall provide a proper ballot-box, and he shall then proceed to draft the panel of jurors in the manner hereinafter mentioned. R.S. 1948, c. 167, s. 31.

Manner of drafting panel.

32. The manner of drafting the panel shall be as follows, that is to say,

- (a) the Sheriff shall place the ballots promiscuously in the ballot-box, and shall cause the box to be shaken so as to mix the ballots sufficiently, and he shall then openly draw from the box, indiscriminately, one of the ballots, and declare openly the number of the ballot, whereupon one of the Justices of the Peace present at the drawing shall immediately declare aloud the name of the person to which that number is appended in the jury list from which the panel is drafted;
- (b) and thereupon, if such person is exempt from being drafted or serving upon the panel, the Sheriff shall publicly announce the same, and the name of the person so drafted shall not be inserted in the panel, except in the event of there not being a sufficient number of jurors to complete the panel;
- (c) if upon examination of the jury list no cause appears for omitting the name of such person from the panel then being drafted, the name and addition of the person whose name has

been so drafted shall be thereupon written down on a sheet of paper provided for that purpose;

- (d) the Sheriff shall then proceed in like manner to draft and dispose of other numbers from the ballot-box, until the necessary number for the panel to be so drafted has been completed;
- (e) the names so drafted, with the places of residence and additions of the parties arranged alphabetically, shall then by the Sheriff be transcribed on another sheet of paper, with reference to the number of each such name respectively on the jury list; and each such name shall by the Sheriff be thereupon marked upon the jury list, with a reference to the number which belongs to such name in the panel;
- (f) the panel so alphabetically arranged and numbered, with a short statement of the precept under authority of which the panel has been drafted, the date and place of the drafting, and the names of the Sheriff and the Justices of the Peace present at the drafting, shall then be fairly entered in the book containing the jury list from which the panel is drafted, and attested by the signatures of the Sheriff and of the Registrar and the said Justices, or at least three of such parties. R.S. 1948, c. 167, s. 32.

Return of
precept with
panel
annexed.

33. The Sheriff shall, upon his return of the precept under authority of which the panel has been drafted, annex a panel to the precept, containing the names, together with the places of abode and additions, of the persons so drafted upon the panel, and shall transmit one copy thereof to the office of the proper Registrar in the county. R.S. 1948, c. 167, s. 33.

Selection of
jurors from
voters list
where jury list
expired or
insufficient.

34. (1) If there is no jury list or certified copy thereof in existence for the year, the Sheriff may return to any such precept a panel of jurors selected by him from the proper last list or lists of voters as printed or reproduced pursuant to section 29 of the *Provincial Elections Act*.

(2) If there are no jurors, or not a sufficient number of jurors upon any jury list from which a panel is required to be drafted, liable to be drafted and to serve upon that panel, the Sheriff may return to the precept a panel of jurors selected by him, or the residue of whom respectively have been selected by him, from the proper last revised list or lists of voters. R.S. 1948, c. 167, s. 34.

Power of
Lieut.-
Governor in
Council to
direct drafting
of panel in
certain cases.

35. Notwithstanding anything in this Act contained, where Supreme Court sittings are held or are directed to be held at any place in the Province other than Victoria, Vancouver, New Westminster, Kamloops, and Nelson, the Lieutenant-Governor in Council may order that the provisions in this Act respecting the appointment of Selectors of Jurors, the meetings of Selectors, the selection and distribution of jurors, and

the drafting of panels from jury lists shall not apply to that place; and by the same or any subsequent order he may direct that two persons to be named in the order shall select and draft in an informal manner from the proper list or lists of voters a competent number of persons, whether qualified or not, to serve as jurors at any Supreme Court sittings to be held at that place. R.S. 1948, c. 167, s. 35.

Summoning
of jurors.

36. The Sheriff shall summon, or cause to be summoned, jurors drafted to serve on a jury four days at least before the day on which the juror is required to attend, by delivering to him, or in case of his absence from his usual place of abode or place of business by leaving with some grown person there residing or employed, or in any case by mailing by registered post addressed to the last-known address of the juror, a note in writing, under the hand of the Sheriff, containing the substance of such summons; but where the Sheriff is directed to draft and summon additional jurors under the provisions of this Act, such four days' service is not necessary. R.S. 1948, c. 167, s. 36.

Powers of
Judge to order
summoning
of additional
jurors.

37. In case the Sheriff is unable to summon any or all of the persons drafted to serve on a jury, or in case any of the persons fail to attend at the time they are summoned to attend, he shall report the fact, if before the opening of the sittings of the Court, to any Judge of the Supreme Court, or, if after the opening of the sittings, to the presiding Judge; and the Judge may, upon request made on behalf of the Crown, order the Sheriff to summon such number of persons, whether qualified jurors or not, as will be necessary to make up the number of persons drafted to serve on the jury, and such persons may, if necessary, be summoned by word of mouth, and such service on such persons may be made at any time. The names of the persons so summoned shall be added to the list of jurors drafted as aforesaid. R.S. 1948, c. 167, s. 37.

Sheriff indem-
nified for
returning
unqualified
persons
named in the
list of jurors.

38. Every Sheriff to whom the return of jurors is by this Act committed is hereby indemnified for empanelling and returning any person as a juror named in or taken from the list of jurors for the year in which he has been summoned, although the person may not have been qualified or liable to serve as such juror for that year. R.S. 1948, c. 167, s. 38.

Fees of jurors.

39. Every juror actually attending any Court of Oyer and Terminer and General Goal Delivery is entitled to receive, in manner hereinafter provided, the sum of eight dollars a day for every day of absence from his place of residence which attendance upon the Court actually entails upon him, and necessary reasonable travelling expenses in lieu of mileage; and such travelling expenses shall be ascertained by the Sheriff who summoned the juror, or by the declaration of the juror himself; but every juror who makes a false declaration respecting such travelling expenses shall forfeit his right to receive any payment for travelling

to or attending the Court as a juror. R.S. 1948, c. 167, s. 39; 1950, c. 34, s. 2; 1960, c. 24, s. 2.

Sheriff to
make a pay-
list for jurors.

40. Every Sheriff or his deputy shall make a pay-list for the jurors summoned to attend any such Court, in the form prescribed by the Lieutenant-Governor in Council, and shall attend or cause some officer to attend at the opening of the Court on the morning of every day on which the Court sits, and upon the names of the jurors being called over shall check and mark the word "present" or "absent," as the case may be, in the proper column of the list opposite the name of each juror, and on the last day of the sitting of the Court shall certify and return the pay-list to the Registrar, if any; but, if none, to the Government Agent for the district where the Court is held. R.S. 1948, c. 167, s. 40.

Registrar or
Government
Agent to pay
jurors.

41. The pay-list checked and certified as aforesaid is sufficient authority for the Registrar or Government Agent, as the case may be, to pay to each juror the sum to which he appears entitled as certified by the list, and the Registrar or Government Agent, as the case may be, shall forthwith pay each juror the sum so appearing to be due to him on the list. R.S. 1948, c. 167, s. 41.

List of jurors
to be called
over daily
when Court
opens.

42. The Registrar or Clerk of the Court, as the case may be, shall at the opening of the Court on each day, and before any other business is proceeded with, call over the names of the jurors so that the Sheriff or his officer may check off those who are present or absent. R.S. 1948, c. 167, s. 42.

Jurors not
attending to
be fined.

43. A juror not appearing when called is not entitled to any pay for the day on which he makes default, and every juror for each default he makes during the day is liable to such a fine as to the Court seems meet. R.S. 1948, c. 167, s. 43.

Power of
Judge to
excuse jurors.

44. At any time or times before the sittings of any Court of Oyer and Terminer and General Gaol Delivery any Judge or local Judge of the Supreme Court, and at any time or times during the sittings the presiding Judge, upon cause shown, may in his discretion excuse from attendance upon the Court any juror who has been summoned to attend or to serve on the jury. R.S. 1948, c. 167, s. 44.

Fees allowed.

45. No juror is entitled to any fee or allowance other than is provided by or under this Act. R.S. 1948, c. 167, s. 45.

Rules and
regulations.

46. The Lieutenant-Governor in Council may from time to time make rules and regulations for the purpose of carrying into effect the intent and meaning of this Part, and may make and adopt any provisions which may appear to be necessary for removing or remedying any ambiguity in or impediment arising under this Part; and all such rules, regulations, and provisions shall be published in the Gazette, and have the force of law. R.S. 1948, c. 167, s. 46.

PART III

JURIES FOR CIVIL TRIALS IN THE SUPREME COURT

Nothing to
affect right of
trial by jury.

47. Nothing herein, or in any Act, or in any Rules of Court shall take away or prejudice the right of any party to any action to have the issues for trial by jury submitted and left by the Judge to the jury before whom the same comes for trial, with a proper and complete direction to the jury upon the law and as to the evidence applicable to the issues. R.S. 1948, c. 167, s. 47.

Change of
venue in jury
trials.

48. The Supreme Court or a Judge thereof may, subject to Rules of Court, order the trial by jury of any action to be had in any county other than that in which the action is pending; and if such order is made, the record in the case and the order for the trial shall be sent by the Registrar having charge thereof to the registry of the county where the trial is ordered to be had; and thereupon all proceedings to trial and verdict shall be had in the last-mentioned county as if the cause were pending there; and the verdict shall then be returned with the record to the registry from which it was sent, for judgment and all subsequent proceedings. R.S. 1948, c. 167, s. 48.

Number of
jurors in civil
cases.

49. There shall be empanelled on the trial of any civil action or cause triable in the Supreme Court or by a jury eight jurors and no more. R.S. 1948, c. 167, s. 49.

Peremptory
challenges.

50. On the trial by jury of any action or cause or issue of fact, and upon every assessment or inquiry of damages, each party, the plaintiff or plaintiffs on one side and the defendant or defendants on the other, may on each side challenge peremptorily, without assigning any cause, any four of the jurors drawn to serve on the trial of the action, cause, or issue, or on the assessment or inquiry of damages. R.S. 1948, c. 167, s. 50.

Verdict of
three-fourths
of jurors to
be received in
certain cases.

51. (1) On the trial of any action or cause or issue of fact, or on the execution of any writ of assessment or inquiry of damages, it is lawful to receive the verdict of three-fourths, or of any proportion equal to or greater than three-fourths, of the jury empanelled to try the action or cause or issue of fact, or on the execution of any such assessment or inquiry of damages, after the expiration of three hours from the time when the jury retired to consider their verdict, in case at the end of such three hours they are not in all respects unanimous. R.S. 1948, c. 167, s. 51.

Verdict
binding as if
unanimous.

(2) Such verdict is as binding in all respects and has the same operation and effect as if it had been the unanimous verdict of the jury.

(3) Nothing in this section shall be deemed to apply to any prosecution, suit, or other proceeding in respect of any offence, or

for the recovery of any penalties or forfeitures, by or on behalf of the Crown. R.S. 1948, c. 167, s. 52.

Trial of civil cause by jury may be ordered by a Judge at the time.

52. Notwithstanding anything herein contained, a party to any civil action, assessment of damages, or inquiry, the trial by jury of which may lawfully be had, may have it tried at any time upon obtaining an order of a Judge directing the time of trial and ordering the summoning of a jury. R.S. 1948, c. 167, s. 53.

Manner and cost of drawing and summoning jury.

53. (1) The number of jurors to be summoned by the Sheriff shall be eighteen, and they shall be drawn by ballot by the Sheriff, in the presence of the parties or their solicitors, from the jury list for the current year, unless the trial is to be by a special jury.

(2) The party obtaining the jury shall deposit with the Sheriff a sufficient sum, to cover the cost of drawing and summoning a jury, and the jury fees for the first day at the rate of eight dollars a day for each juror summoned and necessary reasonable travelling expenses in lieu of mileage, and if the cause lasts longer than one day shall deposit with the Sheriff on the morning of each successive day of trial a sufficient sum to pay the fees for that day of the trial jurors. R.S. 1948, c. 167, s. 54; 1950, c. 34, s. 3; 1960, c. 24, s. 3.

Power of Judge to order summoning of additional jurors in certain cases.

54. (1) In case the Sheriff is unable to summon any or all of the persons drafted from the jury list, or in case any of the persons fail to attend at the time they are summoned to attend, he shall report the fact to a Judge of the Supreme Court, who may order the Sheriff, or other proper official, to summon as jurors such number of persons, whether qualified or not, as the Court deems necessary and directs, as will be necessary to make eighteen persons, and such persons may, if necessary, be summoned by word of mouth, and such service on such persons may be made at any time.

(2) The names of the persons so summoned shall be added to the said jury list. R.S. 1948, c. 167, s. 55.

Special jury.

55. (1) Her Majesty, or any relator or plaintiff, and any defendant, in any cause whatever triable by a jury may have the issue joined tried by a special jury.

(2) The Supreme Court or a Judge thereof may at any time order that any such cause shall be tried by a special jury, upon such terms as it or he thinks fit. R.S. 1948, c. 167, s. 56.

Special jury lists.

56. (1) The Selectors of Jurors referred to in section 11 shall also be the Selectors of a special jury list for the following places respectively:—

(a) For the sittings at Victoria, in the County of Victoria: To serve as special jurors, ninety-six:

- (b) For the sittings at Nanaimo, in the County of Nanaimo: To serve as special jurors, seventy-two:
- (c) For the sittings at Vancouver, in the County of Vancouver: To serve as special jurors, one hundred and ninety-two:
- (d) For the sittings at New Westminster, in the County of Westminster: To serve as special jurors, one hundred and twenty:
- (e) For the sittings at Prince Rupert, in the County of Prince Rupert: To serve as special jurors, seventy-two:
- (f) For the sittings at Clinton, in the County of Cariboo: To serve as special jurors, forty-eight:
- (g) For the sittings at Prince George, in the County of Cariboo: To serve as special jurors, forty-eight:
- (h) For the sittings at Revelstoke, in the County of Kootenay: To serve as special jurors, seventy-two:
- (i) For the sittings at Nelson, in the County of Kootenay: To serve as special jurors, seventy-two:
- (j) For the sittings at Fernie, in the County of Kootenay: To serve as special jurors, seventy-two:
- (k) For the sittings at Cranbrook, in the County of Kootenay: To serve as special jurors, seventy-two:
- (l) For the sittings at Kamloops, in the County of Yale: To serve as special jurors, ninety-six:
- (m) For the sittings at Vernon, in the County of Yale: To serve as special jurors, seventy-two.

(2) The special jury list shall be selected from the last list of voters as printed or reproduced pursuant to section 29 of the *Provincial Elections Act* in the same manner and at the same time as the jury lists selected under section 11. R.S. 1948, c. 167, s. 57.

Notice and
appointment
for striking
special jury.

57. In every cause the party desiring a special jury to be struck shall, eight days before the first day of the Assize, or if the cause is not to be tried at the Assizes, then eight days before the day fixed for the trial, serve the opposite party and the Sheriff with a notice in writing that a special jury is required; and every Sheriff, upon receipt of the notice, or upon service upon him of an order from the Court or Judge, shall, by a memorandum in writing, appoint some convenient day and hour for striking the special jury, the day and hour fixed being sufficiently distant to enable the party requiring the jury to give the necessary notice to the opposite party. R.S. 1948, c. 167, s. 58.

Qualifications
of special
jurors.

58. (1) Every special jury to be struck under the authority of this Act shall, except as hereinafter provided, consist solely of persons whose names appear on the list of special jurors current during the year in which the special jury is required.

Striking
special jury.

(2) Every special jury shall be struck in the following manner, that is to say,

- (a) the Sheriff shall provide a set of paper ballots, of uniform and convenient size, containing the same number of ballots as there are numbers on the list of special jurors from which the special jury is to be struck, and the whole of the numbers of the list of special jurors shall be written or printed upon the ballots respectively, allowing one number to each ballot, and shall provide a proper ballot-box;
- (b) at the time and place appointed for that purpose, in the presence of the parties in the case, their solicitors or agents if they attend, or if none of the parties, their solicitors or agents, attend, then upon an affidavit of the service of the notice of striking the special jury, the Sheriff shall put all ballots in the ballot-box, and after having caused the box to be shaken so as sufficiently to mix the ballots, he shall draw out of the box forty-four of the numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the list of jurors to which the ballot belongs, and read aloud the name to which such number is appended in the list;
- (c) if at the time of so reading any name either party, the plaintiff or plaintiffs on the one side and the defendant or defendants on the other, or his or their solicitor or agent, objects that the juror whose name has been so drawn is in any manner incapacitated from serving on the said jury, and also then and there proves the objection to the satisfaction of the Sheriff, the name shall be set aside, and the Sheriff shall instead thereof draw out of the ballot-box another number, and shall in like manner refer to the corresponding number in the list of special jurors to which the ballot belongs, and read aloud the name to which such number is appended in the list, and such name may be in like manner set aside, and other numbers and names be drawn 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 forty-four names not liable to be set aside is completed;
- (d) if in any case it happens that the whole number of forty-four names cannot be obtained from the list of special jurors, the Sheriff shall in like manner from the last preceding list of special jurors ballot, in addition to those already taken from the first-mentioned current list of special jurors, the number of names required to make up the full number of forty-four names;
- (e) the Sheriff shall thereupon make out a list of the forty-four names, together with the respective places of abode and additions of the persons named, from which list, after a

reasonable time allowed in the discretion of the Sheriff for inquiry and consideration respecting the same, each party, his solicitor or agent, shall strike out thirteen names, such names being so struck out by the parties one by one alternately, the party requiring the special jury commencing;

- (f) the Sheriff shall return to the Registrar, with the order or notice requiring such jury served on him, the eighteen persons whose names remain on the list, and shall directly after such striking summon the said persons, or as many of them as he can find, to appear on the day appointed for the trial of the cause. In case the Sheriff is unable to summon any or all of said persons, he shall report the fact to a Judge of the Supreme Court, who may order the Sheriff to summon such number of persons, whether qualified jurors or not, as will be necessary to make eighteen persons; and such persons may, if necessary, be summoned by word of mouth, and service on such persons may be made at any time. The names of the persons so summoned shall be added to the said list;
- (g) from such eighteen persons, or so many of them as appear in obedience to the summons, a special jury for the trial of the cause shall be taken, in the manner heretofore accustomed, but neither party is entitled to a peremptory challenge at the polls of more than four. In case any number of the said persons so summoned by the Sheriff, not less than sixteen, appear in answer to the summons, that number shall be deemed sufficient from which to select trial juries. R.S. 1948, c. 167, s. 59.

How to proceed if either party fails to attend.

59. If any of the parties in the cause neglect to attend in person, or by solicitor or agent, at the striking of the special jury, the Sheriff, upon production of the affidavit of service of the notice as aforesaid, and after waiting half an hour for the absent party, shall, if requested by the other party, his solicitor or agent, proceed to strike the special jury; and in the case of the continued absence of such first-mentioned party, the Sheriff shall, on his behalf, strike out of the said list the names to be by such party struck out of the list as aforesaid. R.S. 1948, c. 167, s. 60.

Parties requiring special jury to deposit certain expenses of jurors with Sheriff.

60. Immediately after the striking the party requiring the special jury shall deposit with the Sheriff or other officer the Sheriff's fees for summoning the special jury, together with a reasonable sum to cover the extra expense to which the Sheriff may be put for service of those jurors who reside upwards of a mile from the Sheriff's office, such sum to be agreed upon between the parties and the Sheriff, or, in the event of difference, to be fixed by the Registrar. There shall also be then deposited with the Sheriff the amounts following, namely:—

- (a) Eighty dollars for payment to the jurors summoned, other than those selected to try the case, at the rate of eight dollars a day for every day of absence from his place of residence which attendance upon the Court actually entails upon each juror, and, in addition, a sum sufficient for necessary travelling expenses in lieu of mileage:
 - (b) Sixty-four dollars for payment of eight dollars each, to be made to those jurymen who try the case; and if the trial lasts more than one day, then upon the opening of the Court, upon each day of the trial, the further sum of sixty-four dollars for a further payment, and, in addition, a sum sufficient for necessary travelling expenses in lieu of mileage.
- R.S. 1948, c. 167, s. 61; 1950, c. 34, s. 4; 1960, c. 24, s. 4.

Return of
same special
jury for sev-
eral causes.

61. Nothing herein contained shall prevent the same special jury, however nominated, from being summoned and returned to try any number of causes, provided the parties respectively or their solicitors signify in writing to the Sheriff or other officer to whom the return of juries in such cases belongs their assent to the nomination and return of such special jury for the trial of their respective causes. But if a juror has served upon one or more special juries at the same Supreme Court sittings, the Court or Judge may upon his application discharge him from serving upon any other special jury during the same sittings. R.S. 1948, c. 167, s. 62.

Payment of
fees and
expenses
occasioned by
special jury.

62. The party requiring a special jury in any cause shall pay the fees for striking the special jury, the fees and travelling expenses as aforesaid to the jurors summoned, and the fees of the jurors empanelled, and all the expenses occasioned on the trial of the cause by the special jury, and shall not have any further or other allowance for the same upon taxation of costs than if the cause had been tried by a common jury, unless the Judge who tried the cause certifies under his hand, in open Court, immediately after the verdict, or afterwards upon a summons at Chambers, that the same was a cause proper to be tried by a special jury. R.S. 1948, c. 167, s. 63.

Costs where
special jury
has been sum-
moned but the
cause has not
been tried.

63. If for any reason any cause in which a special jury has been summoned is not tried, the party who required the special jury shall not have any further or other allowance for the same upon taxation of costs than if such jury had not been summoned, unless a Judge upon cause shown certifies under his hand that the same was a cause in which it was reasonable that a special jury should be summoned. R.S. 1948, c. 167, s. 64.

Summoning
of special
jurors.

64. The Sheriff shall summon or cause to be summoned jurors drafted to serve on a special jury three days at least before the day on which the juror is required to attend. R.S. 1948, c. 167, s. 65.

Time and
place of trial.

65. Special jury causes may be tried at any time or place by order of a Judge. R.S. 1948, c. 167, s. 66.

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

66. No omission to observe the directions in this Act contained, or any of them, as respects the qualification, selection, balloting, and distribution of jurors, the selecting of jury lists, the entry of such list in the proper books, the drafting panels from the jury lists, or the striking of special juries, is a ground of impeaching the verdict or judgment rendered in any civil cause. R.S. 1948, c. 167, s. 67.

PART IV

MISCELLANEOUS

Records of
attendance,
service, and
default of
jurors.

67. Immediately after the completion of any Supreme Court sittings, the Sheriff shall, on the jury list from which the panel of jurors returned upon the precept to the sittings was drafted, opposite the names of the jurors respectively, note the non-attendance or default of all the jurors in such panel who have not duly attended and served upon such panel until discharged by the Court; and the Registrar shall, on the current list of jurors, opposite the names of the jurors respectively and in the proper column therefor provided, note the due attendance and service upon such panel, until discharged by the Court, of all jurors who so duly attended and served. R.S. 1948, c. 167, s. 68.

Certificate of
attendance.

68. Every juror who has attended and served upon any such panel as last aforesaid shall (upon application by him made to the Sheriff before he departs from the place of trial) receive a certificate testifying his attendance and service, and the Sheriff shall give such certificate upon demand. R.S. 1948, c. 167, s. 69.

Payment of
jury fees in
civil cases.

69. The fees to jurors in civil causes shall be paid out of the sums deposited from time to time with the Sheriff for jury fees under Part III. R.S. 1948, c. 167, s. 70.

Form of
affirmation
for certain
persons.

70. Any Quaker or other person allowed by law to affirm, instead of swearing, in civil causes, or solemnly declaring that the taking of any oath is, according to his religious belief, unlawful, who is summoned as a juror in any Court, shall, instead of being sworn in the usual form, be permitted to make a solemn affirmation, beginning with the words following: "I, A. B., do solemnly, sincerely, and truly affirm," and then may serve as a juror as if he had been sworn, and his declaration or affirmation shall have the same effect as an oath to the like effect; and in any record or proceeding relating to the case, it may be stated that the jurors were sworn or affirmed; and in any indictment the words "upon their oath present" shall be understood to include the affirmation of any juror affirming instead of swearing. R.S. 1948, c. 167, s. 71.

Power of Court to impose penalty for false return or record of attendance of juror.

71. If any Sheriff or other officer as aforesaid wilfully empanels and returns any person to serve on a jury in any of the Courts aforesaid whose name has not been duly drawn upon the panel in the manner prescribed by this Act, or if any Registrar or Clerk or other officer of any of the Courts aforesaid wilfully records the appearance of any man so summoned and returned who has not really appeared, the Court shall, in every such case, upon examination in a summary way, inflict upon the Sheriff, Registrar, Clerk, or other officer contravening the provisions of this Act such penalty as the Court thinks meet. R.S. 1948, c. 167, s. 72.

Taking of bribe to excuse juror and summoning of juror without warrant prohibited.

72. No Sheriff, Deputy Sheriff, Coroner, or bailiff, or other officer or person whatsoever, shall directly or indirectly take or receive any money or other reward, or promise of money or reward, to excuse any person from serving or being summoned to serve on juries, or under any such colour or pretence; and no bailiff or other officer appointed by any Sheriff, Deputy Sheriff, or Coroner to summon juries shall summon or pretend to summon any person to serve thereon other than those whose names are specified in a warrant or mandate signed by the Sheriff, Deputy Sheriff, or Coroner, and directed to such bailiff or other officer. R.S. 1948, c. 167, s. 73.

Power of Judge to impose penalty for certain offences.

73. If any Sheriff, Deputy Sheriff, Coroner, bailiff, or other officer wilfully transgresses in any of the cases aforesaid, or summons any of the jurors, not being a special juror, less than four days before the day on which he is required to attend, or summons any special juror less than three days before the day on which he is to attend, except in the cases hereinbefore excepted, any Judge of Assize, or any Judge of the Supreme Court may, on examination and proof of any such infraction of this section, in a summary way, impose such penalty upon the person so transgressing as the Judge thinks meet. R.S. 1948, c. 167, s. 74.

Penalty in other cases.

74. In all the following cases

- (a) if any Sheriff or Deputy Sheriff makes or causes to be made any alteration whatever in any of the jury lists or panels, or in the certified copies thereof in their official custody respectively, except in compliance with the directions contained in this Act, or neglects or refuses to prepare the ballots necessary for drafting the panels, striking special juries, or neglects or omits to perform any other duty required of him by this Act, or wilfully does anything inconsistent with the provisions of this Act; or
- (b) if any Registrar or Government Agent makes any alteration whatever in the lists or panels in any jurors' book, or in any copy thereof deposited in his office, or wilfully certifies as true any copy of any jurors' book, list, or panel therein, that is not a true copy thereof; or

- (c) if any Selector of Jurors for any district wilfully selects, as qualified and liable to serve as a juror, any person who, according to the provisions of this Act, ought not to be so selected, or takes any money or other reward for so selecting or omitting to select any person, or wilfully inserts in any jurors' book or list a wrong description of the name, place of abode, or addition of anyone so selected, or neglects or omits to make or complete his selection, jurors' book, or list, and to deposit the same in the proper office,

every such person so transgressing is, for every such contravention of this Act, liable, on summary conviction, to a penalty not less than twenty-five dollars and not exceeding fifty dollars. R.S. 1948, c. 167, s. 75.

Effect of this
Act on author-
ity of Court
or Judge.

75. Nothing in this Act shall alter, abridge, or affect any power or authority which any Court or Judge had immediately before the first day of July, 1913, or any practice or form in regard to trials by jury, jury process, juries, or jurors, except in cases where such power or authority is expressly altered by or is inconsistent with the provisions of this Act. R.S. 1948, c. 167, s. 76.

Forms.

76. The Lieutenant-Governor in Council may prescribe the forms to be used under this Act. R.S. 1948, c. 167, s. 77.