

WESTERN AUSTRALIA

ANNO QUADRAGESIMO QUARTO

VICTORIÆ REGINÆ

No. 7

An Act to amend 'The Jury Act, 1871.'

[Assented to 6th September, 1880.]

35 Vic., No. 8

WHEREAS it is expedient to amend 'The Jury Act, 1871,' in manner hereinafter set forth: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with

Jury Act—Amendment

the advice and consent of the Legislative Council thereof, as follows:—

1. [*Repealed by 44 Vic., No. 16.*]

Radius of
twenty-five miles
extended as to
Perth

2. Section eighteen of the said Act is hereby repealed, and in lieu thereof be it enacted that upon any criminal trial both the prosecutor and the prisoner may challenge six jurors and no more without cause assigned; but when two or more prisoners are jointly indicted they shall not sever in such peremptory challenge. Provided that nothing herein contained shall interfere with the right of challenge for cause shown as established by law or usage.

Repeal of sec. 18
of 35 Vic., No. 3

Challenges on
trials

3. Whenever a Special Jury shall have been awarded for the trial of any issue, it shall be lawful for the parties to agree that such Jury shall consist of a less number than twelve, but not less than four; and if it be agreed that the Jury shall consist of a number less than twelve, the list mentioned in the 28th Section of the said Act shall be reduced by the parties or their attorneys, in the manner thereby prescribed, to two names more than the number agreed on as the number of which such Jury shall consist; and thereupon the like proceedings for summoning the said Special Jury, and their attendance and the drawing their names at the trial, shall be had, as are by the 29th Section of the said Act prescribed for a full jury of twelve.

Special Jury of
less number
than twelve

4. Section 14 of the said Act shall be read with the words following at the end thereof:—'And the said Sheriff shall prefix to every name in such jurors' book its proper number, beginning with 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 paper or parchment, being all as nearly as may be of equal size, and shall safely keep the same.'

Amendment of
clause 14 of
35 Vic., No. 3

5. Whenever the trial of any issue in a civil cause is to be had before a Common Jury, it shall be lawful for the parties to agree that such Jury shall consist of a less number than twelve, but not less than four; and the master or other proper officer of the Court shall appoint a time and place for the striking of every Common Jury; and the said officer at the time and place so appointed, being attended by the Sheriff, who is hereby required to bring with him the jurors' book and the numbers prefixed to the names of forty jurors whose turn it may be to be empannelled and summoned, such numbers being so written out as aforesaid, shall, in the presence of the parties to the issue, or their attorneys, put the said forty numbers into a box to be by him provided for that purpose, and after they shall have been shaken together each party or his attorney shall draw alternately out of the box ten of the said numbers, one after the other, and the master or other officer shall, as each number is drawn, refer to the corresponding number in the jurors' book, and read aloud the name designated by such number, and when such twenty numbers have been so drawn and announced, the said Sheriff shall prepare two lists of those names with the numbers as they are written in the jurors' book, and shall deliver one list to the plaintiff and another to the defendant or their respective attorneys; and the twenty names contained in the lists so delivered shall be thereupon reduced, in the manner prescribed in the case of a

Common Jury of
number not less
than four

Striking
Common Jury

Jury Act—Amendment

Special Jury by the twenty-eighth section of the said Act, to two names more than the number agreed on as the number of which such Jury shall consist; and thereupon the like proceedings for summoning the said Jury, and their attendance and the drawing their names at the trial, shall be had as are by the twenty-ninth section of the said Act prescribed for a Special Jury of twelve.

Proceedings on
a view

6. The Supreme Court or any Judge thereof may, on the application of either the plaintiff or defendant in any pending action, grant a rule or order before the trial that any two or more of the jury not exceeding six shall, at the expense in all things in the first instance of the party applying, have a view of the place in question; but the expenses of such view and of such rule or order shall be costs in the cause. And such viewers shall be nominated by the parties or their respective attorneys, or (in case they cannot agree) by the Sheriff; and shall be shown the place by a person, or by two persons, to be nominated as aforesaid for such purpose. And the names of the viewers shall be returned by the Sheriff; and they shall be the first of the panel who shall be called and sworn as jurors to try the issue, and shall not be challenged except for cause shown.

Assimilation
of Acts

7. This Act and the said recited Act shall be read together as one Act.

Short title

8. This Act may be cited as 'The Jury Act (Amendment), 1880.'

WILLIAM C. F. ROBINSON,
GOVERNOR.