



ANNO SECUNDO
GULIELMI IV. REGIS.
NO. III.

An act for Regulating the Constitution of Juries ; and the Office of Sheriff.

(*March 2nd, 1832.*)

WHEREAS it is necessary to determine the number, Qualification, and mode of assembling of Jurymen for the trial of Civil and Criminal causes within the said Colony ; and to provide for the due execution of the Office of Sheriff : Be it therefore, enacted by his Excellency the Governor of Western Australia and its dependencies, with the advice of the Legislative Council, that every Jury for the trial of any issue in any Civil Court of the said Colony, and every Petty Jury for the trial of any issue in any Criminal Court of the said Colony, shall consist of twelve Persons, and that every Grand Jury in any such Criminal Court, shall consist of any number of Persons not less than thirteen, and not exceeding twenty-four, and that all such Juries shall be subject to the same rules and forms to which Juries for similar purposes are subject in His Majesty's Courts of Record in Westminster Hall or in Courts of Quarter Session of the Peace in England so far as such Rules and Forms may not be altered by this Act.

Number of Petty Jury to be twelve.

Grand Jury not less than thirteen, and not more than twenty-four.

II. AND be it further enacted, that every man (except as hereinafter excepted) between the ages of twenty one years, and sixty years, resident within the said Colony or its dependencies, who shall have therein either in his own name, or in trust for him, any real estate of at least Fifty Pounds in value, or a clear personal estate of at least One Hundred Pounds in value, shall be qualified and liable to serve on Juries for the Trial of all Issues joined in the Civil or Criminal Courts of the said Colony.

Qualifications of Jurymen.

III. PROVIDED always and be it enacted, that the following shall be exempt from serving on any Jury (except with their own consent) that is to say ; All Judges or Commissioners of any Civil Court within the said colony, the Chairman of the Court of Quarter Sessions

Exemptions from service on Juries.

of the Peace, and all ministerial Officers of the said Courts respectively; All Members of the Legislative Council, all Persons holding Office under the Government of the said colony, all Clergymen in holy orders, Priests of the Roman Catholic Faith, and Protestant Dissenting Ministers, all Barristers, Solicitors, Attornies, and Proctors duly admitted and actually practising in the Courts of the said colony, all Constables, Gaolers, and Keepers of Houses of Correction, Physicians, Surgeons, and Apothecaries in actual practice; Officers in His Majesty's Army and Navy in full pay, Licensed Pilots, and Masters of Vessels actually employed in the service of the Crown, Sheriffs Officers, Constables, and other Peace Officers, and Parish Clerks. Provided also, that no alien, no person attainted of treason or felony, or convicted of any crime that is infamous (unless they shall have obtained a free pardon for the same) shall be qualified to serve on any Jury. Provided further, that no Justice of the Peace for the said colony shall be summoned or impannelled as a Juror to serve at any Session of the Peace within the said colony.

Disqualifications.

Magistrate of each District yearly to make out lists of all persons liable to serve.

IV. AND be it further enacted, that the Magistrates of the said colony shall on the second Monday of March in the present Year, and on the first Monday of January in each succeeding year, affix or cause to be affixed to the principal door of the Court Houses, and to the principal door of the Churches within their respective districts, a copy of a list (to be by them previously prepared,) of all men of good fame and repute in their said respective districts liable to serve on Juries according to the foregoing enactments, and setting forth the titles, residencies, and qualifications of such Persons, and shall subjoin to each list so to be affixed as aforesaid, a notice under the signature of the Magistrates making the same, that all objection to the said list will be heard by the district Magistrates, at the Special Petty Sessions to be appointed as hereinafter mentioned, provided always that the said Magistrates shall keep the Originals of the said lists or copies of the same, to which the inhabitants of their respective districts shall have access at all reasonable hours within fourteen days after the date of such notice, without fee, in order that due notice may be given, of names improperly omitted or inserted.

With a notice that objections will be heard at a special Session.

Special Session for hearing objections and settling said lists.

V. AND be it further enacted, that on the third Monday of March in the present year, and on the first Monday of February in each succeeding year, the Magistrates of the said colony shall hold a Special Petty Session in their respective districts, at which the lists so prepared as aforesaid shall be produced, and thereupon the Justices so assembled shall strike out of such lists, the names of all persons not liable to serve, or disqualified from serving as Jurors; and also of such as are disabled by lunacy or imbecility of mind, deafness, blindness, or other permanent infirmity, and shall insert all names improperly omitted, and correct all errors and mistakes in such lists: and that the said Justices, shall within two days after the meeting of such Petty Session, cause notice in writing to be given to the Parties who may be affected by any such omissions, Insertions, or corrections, and require them respec-

tively, on a certain day, to show cause, if any that they may have against the same, and the said Justices shall fix a day, not being more than six days, after such notice for hearing the said parties, and finally settling the said lists.

VI. AND be it further enacted, that as soon as the said lists shall be settled as aforesaid, the same shall immediately be transmitted by the said Justices to the Sheriff of the said colony (to be appointed as hereinafter mentioned) with a certificate subjoined, that the same are correct, to the best of the knowledge and belief of the said Justices, or of the major part of them, and the Sheriff upon receiving such lists, shall within ten days after the receipt thereof, in each and every year, cause the same to be transcribed fairly, and in Alphabetical order of surnames, in a book to be kept in his Office for that purpose and to be styled "The Jurors Book," and that such Jurors Book shall be and continue in force, as to the present year; from the first day of April now next, until the twenty-eight of February, One Thousand Eight Hundred and Thirty Three; and from thenceforth, such Jurors Book shall be and continue in force from the first day of March, in each and every year, until the first day of March, in the then next ensuing Year.

Said lists to be transmitted to the Sheriff with a certificate of their correctness.

And to be transcribed by the Sheriff into Jurors Book.

Such Jurors Book to be in force for a Year.

VII. AND be it further enacted, that two correct and faithful copies of the said Jurors Book, shall as soon as conveniently may be, be made by the said Sheriff, in each and every year, one of which said copies shall be by him delivered to the Registrar Clerk of the Civil Court of the said colony, and the other thereof to the Clerk of the Peace for the said colony.

Sheriff to deliver Copies to the Registrar Clerk, and Clerk of the Peace.

VIII. AND be it further enacted, that the Sheriff when required to summon a Jury by any such precept as is hereinafter mentioned, shall summon all persons whose names shall be transcribed in such Jurors book, according to the order in which such names shall be in the said book successively placed, until every such person shall have been summoned in his turn; and at the commencement of each year, the Sheriff shall begin with the names in the new Book, next after the names of the person in the old Book, who were last summoned in the preceding year.

Sheriff to summon all Juries in Alphabetical Order of surnames.

IX. AND be it further enacted, that in cases in which a Jury shall be requisite, for the trial of any Issues in the said Civil Court, it shall be lawful for the Commissioner of the said Court to issue a Precept or Warrant, in the nature of a Venire Facias (the form of which shall be settled by the said Commissioner) directing the Sheriff to summon a certain number of Jurors, not exceeding Twenty-Four, at the discretion of the said Court, and that such Precept or Warrant shall be issued to the Sheriff, at least forty-eight hours before the attendance of such Jurors can, by the Rules and Orders of the said Court be required, and that the said Jurors shall be summoned by the said Sheriff, or his proper Officer, in accordance with such of the said Rules and Orders, as relate to the requisite interval between the service and return of the summons, and to the form and mode of service thereof.

Jurors for Civil Court summoned by Commissioners Precept.

Jurors for Court of Quarter Sessions summoned by Chairman and one other Justice.

X. AND be it further enacted, that all Grand and Petty Jurors, for the trial of any Issues in the Court of Quarter Sessions of the Peace for the said colony, shall be summoned by virtue of a Precept under the hands of two Justices, (one of whom to be the Chairman of the said Court of Session) directed to the said Sheriff, and in the form (No. 2.) in the Schedule, hereunto subjoined, and upon receipt of this Precept, the said Sheriff shall summon and return, not less than thirteen, nor more than twenty-four persons, to serve as Grand Jurors, and not less than eighteen, nor more than twenty-four persons, to serve as Petty Jurors, on the trial of such last mentioned Issues, and that the Summons for any such Grand or Petty Jurors, shall be in the form (No. 3.) in the said Schedule, and shall be served, by leaving the same at the usual place of abode of the party to be summoned, at least three days before the attendance shall be required.

Juror not appearing to be fined not exceeding £10.

XI. AND be it further enacted, that if any person so summoned as a Juror as aforesaid, for the trial of any Issue, either in the said Civil Court, or in the said Court of Quarter Sessions of the Peace, every such person (upon proof of his being duly summoned) shall forfeit and pay to His Majesty's use, any sum not exceeding Ten Pounds, at the discretion of any Judge, Commissioner, or Chairman of the said Courts respectively, to be levied by attachment, by order of the said Courts.

Mode of drawing a Jury from the panel.

XII. AND be it further enacted, that at the sitting of the said Courts respectively for the trial of any such Issues as aforesaid, the name of each Juror summoned, shall be written on a separate piece of card or paper and put into a box, and when any such Issue shall be called on to be tried, the Registrar Clerk, Clerk of the Peace, or other proper Officer of the said Courts respectively, shall in open Court draw therefrom until twelve men appear who are not objected to or challenged; and after the trial such names shall be returned to the box to be kept with the other undrawn names, and a fresh drawing shall take place for each fresh Issue during the then Session of the said Courts respectively.

If a deficiency of Jurors Court may order a "tales."

XIII. AND be it further enacted, that if on a cause being called in either of the said Courts, there shall be a deficiency of Jurors, it shall be competent to such Court to command the Sheriff or his Deputy forthwith to summon as many good and lawful men of the bystanders (qualified and liable as aforesaid) as shall be sufficient to make up a full Jury for the trial of any such cause as aforesaid.

Allowances regulated by order of Court.

XIV. AND be it further enacted, that every Juror who shall attend either of the said Courts, in pursuance of any summons as aforesaid, shall be entitled to receive for each day during his attendance at such Court, such compensation for his loss of time and expenses, as the said Courts respectively shall from time to time order and allow: such compensation to be paid by the Registrar Clerk, Clerk of the Peace, or other proper Officer as the case may be.

Court may order a Jury of view on a deposit of reasonable sum.

XV. AND be it further enacted, that it shall be lawful for the said Civil Court, to grant a Rule where it shall appear expedient, that

the Jury should have a view of any place in dispute, and to order some reasonable sum, at the discretion of the said Court, to be deposited in the hands of the Registrar Clerk, by the party applying for such view, for defraying the expenses thereof, and such sum shall be paid over to the Jurors, who shall have had such views, and shall be taxed or allowed by such Registrar Clerk, or other proper Officer of the said Court, in like manner as other costs, and that two or more Jurors, mutually agreed on by the same parties to the suit, shall be shown the place in question, by two persons to be appointed by the said Court; provided that such viewers shall be first sworn to try the issue.

XVI. AND be it further enacted, that if any cause depending in the said Civil Court, either of the said Parties thereto, shall apply to the Court to have such Trial before a Special Jury, the said Court shall forthwith issue its Precept, for summoning a Special Jury for the trial of such causes.

Court may order a Special Jury when applied for.

XVII. AND be it further enacted, that whenever any such Special Jury shall be awarded as aforesaid the Registrar Clerk of the said Civil Court, shall appoint a time and place, for the purpose of striking such Jury, of which due notice shall be given to the Parties to the suit, and to the said Sheriff; and at the time and place appointed, the said Sheriff, in the presence of the Parties, and of the said Registrar Clerk, shall select from the Jurors Book, for the current Year, any number of names not less than eighteen, nor more than twenty-four, of persons of the greatest repute and substance, which said names shall then be singly written down by the said Registrar Clerk, on separate pieces of paper of equal size, and placed in a Box, out of which each of the said parties to the suit, shall draw alternately, one name at a time, until twelve names are drawn, and the twelve persons whose names shall be thus drawn, shall forthwith be summoned by the Sheriff, in the same manner as is hereinbefore directed for the summoning of Petty Jurors.

Mode of Striking a Special Jury.

XVIII. AND be it further enacted, that the said Sheriff shall receive a Fee of One Guinea, for his attendance to strike any such Special Jury as aforesaid, and that the said Registrar Clerk shall receive the like fee, for his attendance on the same occasion, and for making out Notices of Appointments as aforesaid. And that the person applying for such Special Jury, shall pay all Fees for striking the same, at the time when the name shall be struck, and shall also bear all expenses occasioned by the Trial of the Cause by such Special Jury, and shall not, on taxation of costs, be allowed the additional expenses thereof, above the expenses of a common Jury, unless the Commissioner of the said Court, shall immediately after the trial, certify under his hand, that the same was the cause proper to be tried by a Special Jury.

Fee to Sheriff and Registrar Clerk striking Special Jury.

Party applying for Special Jury to pay all attendant Fees.

Not allowed the extra expense unless Commissioner shall certify.

XIX. AND be it further enacted, that every such Special Juror as aforesaid, shall be entitled, for the trial of each and every Issue to the sum of Ten Shillings, besides his actual disbursements, on account, of travelling or other expenses. And that every Special Juror

Special Jurors to receive 10s. a day besides disbursements.

Special Jurors making default to forfeit not exceeding £20.

making default, by not appearing when duly summoned, or otherwise, shall be fined in any sum not exceeding Twenty Pounds, to the King's use, at the discretion of the said Civil Court, to be levied, by attachment by order of the said Court.

Penalty on Sheriff misbehaving.

XX. And be it further enacted, that if any Sheriff, or other Minister or Officer, shall wilfully insert or omit, in the Juror's Book, the name of any man which OUGHT not to be so inserted or omitted, according to the List of Jurors, so to be made out by the Magistrates of the said colony as aforesaid, or shall fail to deliver correct copies of the Juror's Book, to the said Registrar Clerk, and Clerk of the Peace respectively, as hereinbefore directed, or shall otherwise fail well and truly to do and perform, all and every the Acts, Matters, and Things, hereby required to be by him performed, such Sheriff, or other Minister or Officer, shall be fined at the discretion of the said Courts.

Magistrates or Clerks misbehaving to forfeit £20.

XXI. AND be it further enacted that any Magistrate, Clerk of Petty Sessions, or other Ministerial Officer, who shall wilfully neglect or refuse the Duties hereby enjoined in manner herein prescribed, or shall abuse the Authority hereby reposed in them respectively, shall forfeit for every such Offence the sum of Fifty Pounds, one half to the King, the other to the Person suing for the same in the said Civil Court.

Influencing Jurors, or Juror guilty of corruption.

XXII. AND be it further enacted, that any Person, guilty of the offence of corruptly influencing or attempting to influence any such Jurors as aforesaid, and Juror consenting thereto, may be punished with Fine and Imprisonment on conviction by indictment at the Quarter Sessions of the Peace.

Power to the Governor to appoint Sheriff yearly.

XXIII. AND be it further enacted, that it shall be lawful for His Excellency the Governor of the said colony on the Fifth day of March in each Year, by Warrant under his hand and seal to nominate and appoint some fit and proper Person to be Sheriff of the said colony and its Dependencies for the Year thence ensuing, who, as soon as conveniently may be after his appointment shall take the Oath of Allegiance and an Oath faithfully to execute the duties of his Office, before the said Governor and that it shall be lawful for the said Governor if it shall appear to him expedient, to reappoint the same Person to be Sheriff. And in case the Sheriff shall die or resign his Office or depart from the said colony before the expiration of his year of Office, it shall be lawful for the said Governor, to appoint and swear in like manner as aforesaid, some other Person to be and act as Sheriff for the remainder of the year, and every Sheriff of the said colony shall be removable from his said Office, before the expiration of his year of Service, on account of misconduct, by the warrant under Seal of the said Governor appointing a new Sheriff.

And to reappoint the same person if expedient.

To appoint a substitute in case of Sheriff dying.

Sheriff removable for misconduct.

Sheriff in person or by deputy to execute process.

XXIV. AND be it further enacted, that the Sheriff of the said colony for the time being, shall by himself or his sufficient Deputies to be by him appointed, and duly authorised under his Hand and Seal, and for whom he shall be responsible during his continuance in Office,

To be responsible for deputies.

No. 3,

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A. D. 1832.

execute all the Sentences, Decrees, Judgments, Writs, Summonses, Rules, Orders, Warrants, Commands, and Process, to him directed of the Civil and Criminal Courts of the said colony, and shall make a due return of the same, together with the manner of the execution thereof, to the said Courts, and shall receive and detain in prison, all such persons as shall be committed to the custody of such Sheriff, by any Court or Judge of the said colony.

XXV. AND be it further enacted, whenever any Court of the said colony shall award any Process against the said Sheriff, or award any process in any Cause, Matter, or Thing, in which the said Sheriff cannot act on account of his being related to the parties, or any of them, or by reason of any good cause of challenge, which would be allowed against any Sheriff in England, in every such case it shall be lawful for the Court awarding any such Process, to name and appoint some other fit person to execute and return the same, to whom the same shall be directed.

If Sheriff incompetent to act
Courts to award process to
some other person.

JAMES STIRLING,

GOVERNOR AND COMMANDER-IN-CHIEF.

Passed the Legislative Council
This 2nd day of March, 1832,
J. M. CURRIE,
Clerk to the Council.

SCHEDULES REFERRED TO IN THE ABOVE ACT.

No. I.

(FORM OF JURY LIST AND NOTICE SUBJOINED.)

LIST OF ALL MEN WITHIN THE PERTH DISTRICT LIABLE TO SERVE
ON JURIES.

District or place of Residence.	Christian and Surname at full length.	Title Calling or Business.	Nature of Qualification.
Perth.	A (Surname) B	Esquire	House and Land
Swan River, between Perth, and Guildford.	C (Surname) D	Yeoman	Ditto
Between Perth and North Fremantle.	E (Surname) F	Yeoman	Personal Estate

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No. 3.

(Signed) G. H. } Magistrates for the District
K. L. } of Perth.

Take notice that all objections to the foregoing list will be heard by the district
Justices in Petty Sessions on Day of next, at the hour of
in the noon, at Perth.

Dated the Day of

G. H.

K. L.

Schedule No. 2.

FORM OF PRECEPI FOR SUMMONING A GRAND AND PETTY JURY
FOR THE QUARTER SESSIONS.

Colony of Western Australia, to wit. We A. B. and C. D.
Esquires, two of the Justices of our Sovereign Lord the King, assigned to keep the Peace
in the said Colony, and also to hear and determine divers Felonies, Trespasses, and other
Misdemeanors committed therein, to the Sheriff of the said Colony, greeting. We com-
mand you, that you cause to come before us, or others our fellow Justices, on the
day of next, at the hour of in the forenoon
of the same day, Thirty-six good and lawful men of the Colony aforesaid, then and there
to enquire. present, do, and perform, all and singular, such things which, on the behalf of
our said Sovereign Lord the King, shall be enjoined to them, and have you then there, as
well the names of the Jurors, as this Precept.

Given under our hands
and Seals at in the
said Colony, this Day
of

Schedule No. 3.

FORM OF SUMMONS FOR GRAND AND PETTY JURYMEN.

Mr. A. B.

You are hereby summoned to appear as a (Grand) or (Petty)
Juror at the Court of Quarter Sessions of the Peace, to be held at Fremantle, on
day of next, and there to attend from day to day until you shall be
discharged by the said Court.

(Signed) C. D.

Sheriff.