

INQUIRIES, OFFICIAL.*See EVIDENCE.***JURIES.**

20 Geo. V.
No. 19.
THE JURY
ACT OF 1929.

**An Act to Consolidate and Amend the Law relating
to Juries.**

[ASSENTED TO 17TH DECEMBER, 1929.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I.—
PRELIMINARY.

Short title
and com-
mencement
of Act.

PART I.—PRELIMINARY.

1. This Act may be cited as "*The Jury Act of 1929*," and shall, save as is hereinafter provided, commence and take effect on a date to be proclaimed by the Governor in Council by Proclamation published in the *Gazette*.

Parts of Act.

2. This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY;

PART II.—QUALIFICATION AND EXEMPTION;

PART III.—JURY DISTRICTS;

PART IV.—JURY BOOKS OR LISTS;

PART V.—NUMBER AND FEES OF JURORS;

PART VI.—PRECEPTS AND PANELS;

PART VII.—FORMATION OF JURIES;

PART VIII.—GENERAL PROVISIONS.

Interpreta-
tion.

3. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say,—

Civil trial.

"Civil trial"—A trial before a Court sitting in the exercise of any jurisdiction other than its criminal jurisdiction;

Court.

"Court"—The Supreme Court or a Judge thereof: the term also, when necessary, includes a Circuit Court;

1929.

*Jury Act.*PART I.—
PRELIMINARY.

- “ Court town ”—A city or town at which a Court is for the time being appointed to be held ; Court town.
- “ Criminal trial ”—A trial before a Court, sitting in the exercise of its criminal jurisdiction, of any issue joined upon an indictment ; Criminal trial.
- “ Crown Law Officer ”—The Attorney-General, or Solicitor-General, or Minister of Justice ; Crown Law Officer.
- “ Householder ”—A person who (or whose wife or husband, as the case may be) is a householder or occupier of a dwelling-house : the term also includes the sons and daughters residing with such householder, also a person or persons who has or have occupied residential quarters, flat, or room continuously for a period of not less than six months immediately prior to any compilation of the jury list ; Householder.
- “ Indictment ”—A written charge preferred against a person accused of a crime or misdemeanour in order to his trial before a Court ; Indictment.
- “ Judge ”—A Judge of the Supreme Court ; Judge.
- “ Jury district ”—A jury district constituted under this Act ; Jury district.
- “ Jury list ” or “ Jury book ” or “ List ”—A list of persons qualified and liable to serve on juries, prepared under this Act ; Jury list or Jury book or List.
- “ Police officer ”—An officer or member of the police force of Queensland ; Police officer.
- “ Prescribed ”—Prescribed by this Act ; Prescribed.
- “ Registrar ”—A registrar or deputy registrar of the Supreme Court ; Registrar.
- “ Rules of Court ”—Rules of Court made under the authority of this Act ; Rules of Court.
- “ Sheriff ”—The sheriff, under sheriff, or deputy sheriff, or other officer for the time being required to perform or performing any of the duties of the sheriff under this Act : the term includes any person performing any of the duties of a sheriff in the event of such sheriff being a party to a cause ; Sheriff.
- “ This Act ”—This Act and any Proclamation, Orders in Council, or Rules of Court made thereunder ; This Act.

Trial.

“Trial”—Any trial, issue, inquiry, or other proceeding, whether civil or criminal, for which a jury may lawfully be required.

Repeal of
certain
enactments.
[Schedule I.]

4. The Acts mentioned in the First Schedule to this Act are repealed to the extent in such Schedule indicated :

Savings.

Provided that, subject to this Act—

- (a) All districts, offices, appointments, Orders in Council, rules, lists, books, orders, and generally all acts of authority which originated under any of the said Acts, and are subsisting or in force at the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the analogous provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated ;
- (b) Subject as hereinafter provided, all matters and proceedings commenced under any of the said Acts and pending or in progress at the commencement of this Act, may be continued, completed, and enforced under this Act :

Provided that where a trial with a jury has actually commenced before the commencement of this Act and is in progress at such commencement, such jury trial shall be had and continued under the repealed Acts.

General
duties of
sheriff.

5. (1.) Subject to this Act, for the jury district of Brisbane the sheriff of Queensland or, subject to his directions, the under sheriff, for the jury district of Townsville the Northern sheriff appointed under **“ The Supreme Court Act of 1895,”* and for the jury district of Rockhampton the Central sheriff appointed under the said Act, shall exercise and perform all the powers and duties by this Act conferred and imposed upon the sheriff.

(2.) For the purposes of this Act, the Governor in Council may from time to time appoint for any other jury district an officer, to be called deputy sheriff, who shall exercise and perform all the powers and duties by this Act conferred and imposed upon the sheriff.

* 59 Vic. No. 21, *supra*, page 3454.

1929.

*Jury Act.*PART II.—
QUALIFICATION
AND
EXEMPTION.

PART II.—QUALIFICATION AND EXEMPTION.

6. Except as hereinafter otherwise provided—

Qualifica-
tion.

- (i.) Every male person between the ages of twenty-one years and sixty years, who is of good fame and character and who resides within Queensland, and who is a householder, and who is enrolled on the respective annual electoral rolls for the time being as an elector under the laws relating to the election of members of the Legislative Assembly; and
- (ii.) Any female person between the ages of twenty-one years and sixty years, being a householder who is of good fame and character and who resides within Queensland who is so enrolled and who notifies in writing, addressed to the Principal Electoral Officer or the electoral registrar for the electoral district for which she is so enrolled, or other prescribed officer, that she desires to serve as a juror;

shall (subject to the exceptions set forth in this Act) be qualified and liable to serve on all juries that may be empanelled for any trial or inquiry within the jury district within which such persons are shown by the said respective annual electoral rolls to reside.

Every person whose name is included in the jurors book or list as a juror shall be liable to serve as such, notwithstanding that he or she may have been entitled by reason of some disqualification or exemption to claim that he or she ought not to be included in such book or list as a juror:

Provided that nothing in the foregoing provisions shall affect the right of any person to be excused from attendance as a juror on the ground of illness, or, if a woman, for medical reasons.

7. The undermentioned persons are not qualified to serve on any jury in any court or on any occasion—

Disqualifica-
tion.

- (a) Anyone who is not a natural-born or a naturalised subject of His Majesty;
- (b) Anyone who has been convicted of any crime or misdemeanour, unless he has received a free pardon;
- (c) Anyone who is an undischarged insolvent or bankrupt;

- (d) Anyone who is not able to read and write the English language ;
- (e) Anyone who is of bad fame or repute.

Exemption.

8. The undermentioned persons are exempt from serving on any jury, and their names shall not be inserted in any jury list, and they shall not be summoned as jurors :—

- (i.) Members of the Executive Council ;
- (ii.) Members of Parliament ;
- (iii.) Judges ; members of the Land Court ;
- (iv.) Ministers of religion ; officers of the Salvation Army who are lawfully authorised to celebrate marriages ;
- (v.) Barristers-at-law, solicitors, and conveyancers, all being in actual practice, and their clerks ;
- (vi.) Officers of His Majesty's navy or army or of the defence force of Australia on full pay ;
- (vii.) Medical practitioners, dentists, and pharmaceutical chemists, all being duly registered and in actual practice ;
- (viii.) University professors and lecturers and the Registrar of the University, inspectors of schools and schoolmasters actually employed as such ;
- (ix.) Managers and other officers of banks ;
- (x.) Salaried officers of hospitals and asylums ;
- (xi.) Masters and crews of vessels actually trading, and pilots duly licensed ;
- (xii.) Mining managers and engine-drivers, all being actually employed as such ;
- (xiii.) Persons holding any office or employment in or under any department of the public service of Queensland or the Commonwealth, officers of Parliament, household officers and servants of the Governor ;
- (xiv.) Members and clerks of Local Authorities ;
- (xv.) Commercial travellers actually employed as such, and journalists *bona fide* actually employed in court reporting ;

1929.

Jury Act.

PART II.—
QUALIFICATION
AND
EXEMPTION.

- (xvi.) Persons who are blind, deaf, or dumb, or are of unsound mind or are otherwise incapacitated by disease or infirmity ;
- (xvii.) Women who for medical reasons are unfit to attend as jurors.

9. The fact that a disqualified or exempted person has served as a juror in any trial shall not be a ground for questioning the verdict.

Disqualified person serving as juror not ground for questioning verdict.

10. (1.) The Court before which any person is summoned as a juror may, upon application, order that he or she shall be excused from attendance on any day on which it appears that he or she has to perform any duty requiring his or her personal attendance as candidate, returning officer, presiding officer, poll clerk, or scrutineer at any election of a member of Parliament of the State or of the Commonwealth, or at any election or poll in connection with any Local Authority, Water Authority, or Harbour Board.

Court may excuse juror.

(2.) If any person who has been summoned by the sheriff or his deputy to attend as a juror shows in writing to the satisfaction of the sheriff or his deputy, as the case may be, that there is good reason why he or she should be excused from attending on that jury, it shall be lawful for the sheriff or his deputy, as the case may be, to excuse that person from so attending.

Power of sheriff to excuse juror.

Moreover the sheriff or his deputy, as the case may be, shall excuse from attendance as a juror every female person who applies to be exempted from service on a jury by reason of the nature of the evidence to be given or of the issues to be tried :

Provided that—

- (a) The sheriff or his deputy, as the case may be, shall produce to the Court or Judge all applications received by him from persons asking to be excused from attendance on any jury summoned for any trial or inquiry before that Court or Judge and any correspondence relating to such applications, and shall, where he has complied with any such application, state to the Court or Judge his reasons for so doing ; and

(b) Nothing in this section shall affect the power of a Court or Judge to excuse any person from attending on a jury.

Fire brigade members to be excused on production of certificate.

(3.) If any member of any fire brigade summoned as a juror claims to be excused from attending and serving as a juror by reason of his being an active member of such brigade, and produces to the Court before which he has been summoned a certificate, under the hand of the superintendent or other principal officer of such brigade, that such person is an active member of and has regularly attended the meetings of such brigade for practice or drill for a period of not less than twelve months before the sittings of the Court, and has otherwise observed the rules or regulations of such brigade in respect to attendance at practice or drill and at fires, the Court shall thereupon excuse such person from further attendance during that sittings of the Court.

Every person authorised by this subsection to grant a certificate of exemption who knowingly gives one containing any false statement of fact shall be liable, on summary conviction, to a penalty not exceeding twenty pounds and not less than five pounds.

Every person who claims exemption under this subsection by means of a certificate which he knows to be false or to contain any false statement of fact shall be liable, on summary conviction, to a penalty not exceeding fifty pounds and not less than ten pounds.

Ambulance brigade members.

(4.) The provisions of the above subsection three shall, *mutatis mutandis*, apply in respect of any member of any ambulance brigade duly established under and pursuant to **The Hospitals Acts, 1923 to 1928.**

General power.

(5.) And, generally, the Court before which any person is summoned as a juror may, upon application made in open court or in chambers, in its discretion discharge such person from further attendance at such Court, or excuse him from attendance for any period during the sittings of such Court.

PART III.—
JURY
DISTRICTS.

PART III.—JURY DISTRICTS.

Jury districts.

11. For every court town there shall be a jury district, which shall include all places within a radius of five miles from the court house of such court town :

* 14 Geo. V. No. 44 and 19 Geo. V. No. 23, *supra*, pages 10537 and 12167.

1929.

Jury Act.

PART III.—
JURY
DISTRICTS.

Provided that the jury district in the case of Brisbane shall include all places within a radius of ten miles from the court house of such city ; in the case of Cairns shall include all places within a radius of ten miles from the court house of such city :

Provided that the provisions of this section may from time to time be amended by Order in Council promulgating rules of court under this Act.

PART IV.—JURY BOOKS OR LISTS.

PART IV.—
JURY BOOKS
OR LISTS.

12. Subject to the provisions of this Act, the sheriff or deputy sheriff, as the case may be, shall in each year, out of the annual electoral roll or rolls containing the names of persons qualified to act as jurors residing in each jury district, make a common jury book or list and a special jury book or list for such district.

Compilation
of common
and special
jury books
or lists.

Such sheriff shall, subject to paragraph (b) hereunder—

- (a) Prefix to the common jury book or list the name of the court town of the jury district for which such book or list is required to be prepared, and to the name of every such person qualified and liable to serve on all juries (other than special juries) that may be empanelled for any trial or inquiry within the said district shall also prefix its proper number, beginning with the numbers from the first-named of the persons so qualified and liable and continuing them in a regular arithmetical series down to the last-named of such persons so qualified and liable ;
- (b) Prefix to the special jury book or list the name of such court town, and enter therein, in consecutive arithmetical order and numbered in regular arithmetical rotation beginning with the number 1, the names, places of abode, and occupations or descriptions of all persons who are described in such rolls as aforesaid as accountants, architects, auctioneers and commission agents, auditors, brokers, civil engineers, Crown lessees, directors of companies (if not exempted), farmers (being not farm employees), garage proprietors, indent agents, insurance agents, mechanical or mining

engineers (if not exempted), mercantile managers, merchants, station managers, storekeepers, and warehousemen.

Such sheriff or deputy sheriff, as the case may be, shall cause the said several numbers to be written upon distinct pieces of parchment being all as nearly as may be of equal size and shape and having thereon respectively the name of the said court town; so that each parchment shall be marked with a number according to the number assigned to each juror in the respective jury books or lists.

The sheriff or deputy sheriff shall place in the box labelled "Common Jurors in Use" all parchments to be used for the common jurors and bearing the numbers assigned respectively to those jurors in the common jury book or list, and in the box labelled "Special Jurors in Use" all the parchments to be used for the special jurors and bearing the numbers assigned respectively to those jurors in the special jury book or list.

He shall lock and seal such boxes, and keep the keys so that no person shall have access thereto except as hereinafter provided.

All persons whose names are entered in such books or lists shall be the common and special jurors respectively for such district, and shall, from the first day of June next after the completion of such respective books or lists until another common or special jury book or list has been duly completed, be liable to serve on such juries respectively.

Duty of
Principal
Electoral
Officer.

13. The Principal Electoral Officer shall, as soon as possible after the completion of every annual electoral roll containing the names of persons whom he believes to be qualified and liable to serve as jurors, forward a copy thereof to the sheriff, and shall indicate thereon the names of such persons.

He shall also give to such sheriff such other information as the latter may require relating to the liability and qualification of persons to serve as jurors.

Duty of
police.

14. It shall be the duty of officers of the police force to render every assistance in the compilation of the jury lists and to undertake any inquiries that the

1929.

*Jury Act.*PART IV.—
JURY BOOKS
OR LISTS.

sheriff or the Principal Electoral Officer or other authorised officer may require in the administration of this Act.

15. Subject to this Act no person shall be exempted from serving on any common jury by reason of the fact that his or her name appears in any special jury book or list: Special jurors not exempt from common juries.

Provided that no person shall be called on to serve upon both a special and common jury in any one year.

16. The sheriff or deputy sheriff, as the case may be, shall procure and keep in his office, for every court town within his bailiwick, four substantial boxes of a circular or octagonal shape with flat ends and an axle on each of such ends, and shall cause the same boxes respectively to be provided with lids and apertures of one-half of the length of such boxes respectively and equidistant from each end thereof and of sufficient width to admit the hand, and shall cause two of the said boxes to be painted white and two of the said boxes to be painted black, and on one of the said boxes painted white shall cause to be legibly painted in black letters the name of the court town for which such box shall be intended, with the words "Special Jurors in Use," and on the other of the said boxes painted white shall cause to be legibly painted in black letters the name of the same court town with the words "Special Jurors in Reserve," and on one of the said boxes painted black shall cause to be legibly painted in white letters the name of the same court town with the words "Common Jurors in Use," and on the other of the said boxes painted black shall cause to be legibly painted in white letters the name of the same court town with the words "Common Jurors in Reserve"; and such sheriff or deputy sheriff, as the case may be, shall cause all the said boxes to be placed horizontally on strong wooden frames so that the same can be easily made to revolve on their said axles in the manner and for the purposes hereinafter mentioned. Sheriff to provide boxes for parchments.

Such sheriff or deputy sheriff, as the case may be, shall cause such boxes to be at all times securely locked, and shall keep the keys thereof in safe custody so that no person may have access to the contents of such boxes or any of them except as hereinafter provided.

PART V.—NUMBER AND FEES OF JURORS.

Number of
jurors in
criminal
cases.

17. Subject to this Act and to section six hundred and twenty-eight of **The Criminal Code* relating to the discharge of a juror upon a criminal trial and the trial proceeding with the remaining jurors, every criminal trial shall be had before a common jury of twelve persons.

Number of
jurors in
civil cases.

18. Subject to this Act, every civil trial had before a jury shall be had before a special jury of four persons.

Special jury
in criminal
trial.

19. Upon a criminal trial in the Court, whether an indictment has been presented or not, the Court, upon application on behalf of the Crown or by or on behalf of any accused person, may order that the trial shall be had before a special jury of twelve persons, and in that case a jury precept shall be issued accordingly :

Provided that such application shall be made not less than fourteen days before the day fixed for the commencement of the sittings of the Court at which the trial is to be had, and that in the case of such application by an accused person notice of the intention to make it shall be served upon a Crown Law Officer at least four clear days before the time of making it.

Fee for jury
in civil
cases.

20. Save as is otherwise provided by Rules of Court, in every civil trial in which a jury is required by the plaintiff or the Court there shall be paid by the plaintiff to the registrar of the Court in which the trial is pending the sum of four pounds and four shillings before the trial is commenced or proceeded with, or if the defendant files a notice under Order 39, Rule 4, of Rules of Court that he requires a jury, then the defendant shall pay the said sum of four pounds and four shillings to the said registrar on filing such notice.

In any case where the amount required has been duly paid and no trial is eventually had, the amount shall on demand be returned to the party who paid the same.

Compensa-
tion to
jurors.

21. Every juror duly summoned who attends the Court shall, for every day during which he or she is required to attend and actually attends the Court (whether he or she actually serves upon a jury or not), be entitled, and every talesman whose name has been added

* 63 Vic. No. 9, Schedule I., *supra*, page 344.

1929.

Jury Act.

PART V.—
NUMBER AND
FEES OF
JURORS.

to the panel shall be entitled, to receive such compensation for such attendance and for travelling expenses as may from time to time be prescribed by Rules of Court :

Until otherwise provided by Rules of Court made in that behalf, the scale of fees appearing in the Fourth Schedule shall be the scale of fees so payable to jurors. [Schedule IV.]

PART VI.—PRECEPTS AND PANELS.

PART VI.—
PRECEPTS
AND PANELS.

22. (1.) It shall be lawful for the Court to issue a jury precept in the form of the Second Schedule to this Act or to the like effect, or as may be prescribed. [Precept. II.]

(2.) The precept shall be delivered by the registrar or associate, as the case may be, to the sheriff or deputy sheriff, a sufficient number of days, being not less than twenty-one days, before the same is returnable.

(3.) If common jurors are required for a criminal trial to be held at Brisbane, Rockhampton, or Townsville, such precept shall require such sheriff to summon not less than forty-eight persons ; and in case the jurors are thereby required for a criminal trial to be held at any other Court shall require him to summon not less than forty-eight persons.

(4.) If special jurors are required, it shall require such sheriff to summon not less than four times the number of persons to be empanelled :

Provided that when a special jury of twelve persons is required for a criminal trial, the precept shall be intituled accordingly.

23. The sheriff or his deputy, as the case may be, shall not give notice of the day or time on or at which he will proceed to draw the names of persons to be summoned as jurors, but shall draw such names in the presence of a registrar or a deputy registrar of the Supreme Court (or where the sheriff is also the registrar or a deputy registrar of the Court then in the presence of some other officer of the Supreme Court or of the Magistrates Court), and shall, not more than two days before the precept is returnable, cause the panel to be published in some conspicuous place in the court house where the trial or inquiry is to be held, and cause a copy of the panel to be delivered to the clerk of petty sessions. [Sheriff not to give notice of day of drawing of names.]

Selection of
jurors to be
summoned.

24. Upon receipt of a precept, the sheriff shall, in the presence of a registrar or deputy registrar of the Supreme Court (or where the sheriff is also the registrar or a deputy registrar of the Supreme Court, then in the presence of some other officer of the Supreme Court or of the Magistrates Court), proceed to draw the names of persons to serve as jurors at the Court for which such precept shall have been issued. For such purpose he shall—

- (i.) Cause the box marked with the words “Common Jurors in Use,” or the words “Special Jurors in Use,” as the case may be, to be turned for a convenient time ;
- (ii.) Draw out of the box as many parchments as are equal to the number of jurors prescribed to be summoned, one after another ;
- (iii.) In every case draw out of the box in the case of a common jury a sufficient number of additional parchments, and in every case of a special jury a sufficient number of additional parchments one after another, and keep the parchments which have been so drawn out to be used for any purpose of emergency as hereinafter provided, until after the precept is returnable ;
- (iv.) As each parchment is drawn, refer to the corresponding number in the jury book, and read aloud the name designated by such number ;
- (v.) Write the number and name with the place of abode and occupation or description on a panel to be signed by him and sealed with his seal of office ; and
- (vi.) Keep all the parchments which have been so drawn out until after the precept is returnable.

Sheriff to
summon the
jurors.

25. (1.) In every case as soon as the panel has been completed, such sheriff shall issue a summons to every juror, whose name is on the panel, in the form of the Third Schedule to this Act or to the like effect.

[Schedule
III.]

The summons shall be served on every such juror by delivering the same to him or to her, or by leaving the same at his or her usual or last known place of abode, at least eight clear days before his or her attendance is required :

1929.

*Jury Act.*PART VI.—
PRECEPTS
AND PANELS.

Provided that every such summons issued in respect of a Court to be held in Brisbane, Rockhampton, or Townsville shall be so delivered or left at least four clear days before the attendance of such juror is required.

(2.) If at any time before the precept is returnable it is ascertained by such sheriff, whether of his own knowledge or by such information as he deems satisfactory, that any jurors to whom a summons has been issued cannot be served or cannot by reason of illness attend at the Court, such sheriff shall in such emergency excuse such jurors from attendance, and shall choose in rotation from the jurors whose names correspond with the numbers on the additional parchments drawn out by him as aforesaid such jurors as are required to complete the panel and shall place their names on the panel in substitution for the names of the jurors excused; and such jurors shall be summoned accordingly in the place of the jurors excused, and shall be bound to attend pursuant to summons notwithstanding that the summons was not served within the time hereinbefore prescribed.

When sheriff
may excuse
juror.

(3.) If a juror cannot be served, or cannot by reason of illness attend, or does not attend pursuant to summons, such sheriff shall upon ascertaining the fact forthwith return to the box from which he drew the same the parchment bearing the number corresponding to the name of such juror.

Disposal of
parchments
drawn.

He shall put the residue of the said parchments or, if all the jurors attend pursuant to summons, the whole of the said parchments, together with the additional parchments drawn as aforesaid, into the box marked "Common Jurors in Reserve" or "Special Jurors in Reserve," as the case may be, there to remain until the remaining parchments in the box marked "Common Jurors in Use" or "Special Jurors in Use," as the case may be, have been drawn out, or until the parchments are required to be used afresh in connection with a new jury book or list.

26. If the prescribed number of special jurors cannot be obtained from the special jury book or list, names from the common jury book or list sufficient to make up the prescribed number shall be taken in the same manner as is hereinbefore prescribed, and the said last-mentioned names shall for the time being be deemed to be those of special jurors, but for the purposes of the last preceding

Procedure if
special jury
book
exhausted.

section the parchments relating to such common jurors shall be restored to the box marked with the words "Common Jurors in Use," or put into the box marked with the words "Common Jurors in Reserve," as the case may require.

Jury book
destroyed,
&c.

27. Notwithstanding anything to the contrary in this Act, if at any time there is no jury book or list in existence for the current year, or such book or list has been destroyed or lost or has become unfit for use, the names of jurors may be taken from the jury book or list for the last preceding year for which a book or list has been kept until a jury book or list has been completed afresh under this Act.

Sheriff not
liable for
error.

28. The sheriff shall not be liable for placing upon any panel and returning the name of any person named in a jury book or list who is not qualified or liable to serve on juries.

Oral precepts
and
amending
panel.

29. The Supreme Court and all Circuit Courts shall respectively have and exercise the same power and authority as they have heretofore had or exercised in making any award or order orally or otherwise for the return of a jury for the trial of any issue before any of such Courts respectively or for the amending or enlarging any such panel, and the return to every such award or order shall be made in the manner heretofore used and accustomed in such Courts, respectively, save and except that the jurors so returned shall be qualified according to *"*The Jury Act of 1929.*"

Notice where
jury not
required to
attend.

30. If, between the date of the issue of the summonses to jurors and the date on which the Court is appointed to be held, it is ascertained that the attendance of the jurors summoned will not be required at that Court, the sheriff for the jury district shall, so far as is practicable, cause notice in writing of that fact to be delivered to every such juror or left at his or her usual or last known place of abode, and thereupon such juror shall not be required to attend such Court.

PART VII.—FORMATION OF JURIES.

Sheriff to
return
precept and
panel with
cards.

31. Upon the day and at the place named in the precept for the appearance of the jurors, the sheriff for the jury district shall in open court deliver the precept, with the panel annexed, to the proper officer of the Court,

1929.

*Jury Act.*PART VII.—
FORMATION
OF JURIES.

and shall furnish to him the names of the jurors with their respective places of abode and occupations or descriptions written on separate cards being all of equal size and shape.

Such officer shall thereupon from such cards call aloud the names of the jurors one after another, and the jurors present shall answer to their names.

Such officer shall then, in open court, put such cards in a box provided for that purpose, and there keep the same to be used as hereinafter mentioned.

32. (1.) When any trial or any issue joined on any indictment or in any civil action or other civil proceeding shall be brought on to be tried in any Court the proper officer shall mix the cards within the box, and shall then, according to the practice of the Court, proceed to draw cards, one after another, out of the box and call aloud the name on each card until the full number of jurors appears and remains approved as indifferent :

Provided that he shall proceed as aforesaid until all the cards in the box have been drawn out unless the full number of jurors has been sooner approved. The cards bearing the names of such jurors as have then been approved shall be set apart by themselves. The cards bearing the names of all the remaining jurors shall as they are drawn out be set aside. If, when all the cards have been so drawn out, the full number of jurors has not been approved, such number or the remaining jurors, as the case may require, shall be obtained in manner following :—The officer shall return to the box all the cards bearing the names of all the remaining jurors which have been set aside as aforesaid, and shall mix the cards within the box, and shall then proceed to draw cards one after another out of the box and call aloud the name on each, and the respective parties may exercise the right of challenge of jurors hereinafter mentioned, until the full number of jurors remain approved as aforesaid :

Provided further that nothing in this Act shall in a criminal trial deprive the Court of the power, upon application on behalf of the Crown, to order any juror to stand by.

(2.) In every case the four persons or twelve persons, as the case may be, first appearing and approved, shall be the jury for the trial.

(3.) The cards bearing their names shall be kept apart by themselves until the verdict has been given and has been recorded, or until the jury shall by consent of the parties or by leave of the Court be discharged.

Then the same cards shall be returned to the box, there to be kept with the other cards remaining at that time undrawn, and so *toties quoties* as long as any trial or issue remains to be tried :

Provided always that if any issue or issues shall be brought on to be tried before the jury in any other issue or issues shall have brought in their verdict or verdicts or been discharged, it shall be lawful for the Court to order four or twelve (as the case may be) 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 verdicts, or been discharged, to be drawn in such manner as aforesaid for the trial of the issue or issues which shall be so brought on to be tried :

Provided also that where no objection shall be made on behalf of the King 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, to order the names of any men or women on such jury whom both parties may consent to withdraw or who may be justly challenged or excused by the Court to be set aside and other names to be drawn from the box, and to try the issue with the residue of such original jury and with such men or women whose 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, and the same form and manner of proceeding shall and may be observed and adopted in every inquiry of damages in civil matters.

Provisions of
Criminal
Code as to
challenge,
&c.

33. The law in the case of criminal trials respecting notice to an accused person of his right of challenge, and challenge to the array and to individual jurors for cause, and the time for challenging, and the ascertainment of facts as to challenge, and the swearing of the jury and informing them of the charge, and the discharge or incapacity of a juror, and the separation and confinement of the jury, and view by the jury, and special and

1929.

*Jury Act.*PART VII.—
FORMATION
OF JURIES.

general verdicts, and the discharge of the jury, is set forth in **The Criminal Code.**

34. In a civil trial, if either party desires to object to the whole panel of jurors he must do so before any juror is sworn for the trial. Challenge to array.

35. (1.) In all civil trials each of the parties who appears in person or appears by a separate counsel or solicitor shall be admitted to challenge peremptorily a number equal to one-half of the jury. Peremptory challenges.

(2.) Every person arraigned for any treason shall be admitted to challenge peremptorily to the number of twenty-three.

(3.) Every person arraigned for wilful murder or murder shall be admitted to challenge peremptorily to the number of eighteen.

Every person arraigned for any other crime or for misdemeanour shall be admitted to challenge peremptorily to the number of twelve.

(4.) Every peremptory challenge above the number herein mentioned shall be void, and the trial shall proceed as if no such challenge had been made.

(5.) Where there are several defendants in any civil action or other civil proceeding who have not pleaded by the same counsel or solicitor, and where several persons charged with the same offence shall be put upon trial together, and such defendants or persons shall not consent to join in their challenges, the proper officer of the Court shall in every such case draw out of the said box a sufficient number of such cards to permit such of several defendants as shall not have pleaded by the same counsel or solicitor, or as shall not have pleaded at all, and each of such persons, to exercise his right of peremptory challenge to the numbers aforesaid respectively as and for each of such several defendants or persons.

36. In a civil trial any party may object to a particular juror on either of the following grounds, that is to say,— Challenges to individual jurors for cause.

- (i.) That the juror is not qualified by law to act as a juror ;
- (ii.) That the juror is not indifferent as between the parties.

* 63 Vic. No. 9, Schedule I., *supra*, page 344.

Such objections are in addition to any peremptory challenges to which parties are by law entitled.

Time for
challenging.

37. In a civil trial an objection to a juror, either by way of peremptory challenge or by way of challenge for cause, may be made at any time before the officer has begun to recite the words of the oath to the juror, but not afterwards.

Ascertain-
ment of fact
as to
challenge.

38. In a civil trial, if at any time it becomes necessary to ascertain the truth of any matter alleged as cause for challenge, the fact shall be tried by the jurors already sworn, if more than one, or, if one juror only has been sworn, by such juror together with some indifferent person chosen by the Court from the panel, or, if no juror has been sworn, by two indifferent persons chosen by the Court from such panel. The persons so appointed are to be sworn to try the cause for challenge, and their decision on the fact is final and conclusive.

If the persons so appointed cannot agree, the Court may discharge them from giving a decision, and may appoint two other persons to try the fact, to be chosen as in the case when no juror has been sworn.

Discharge of
juror by
Court.

39. In a civil trial, if after a juror has been sworn it appears to the Court from his or her own statement that he or she is not indifferent as between the parties, or that for any other good cause he or she ought not to be allowed or required to act as a juror on the trial, the Court may, without discharging the whole of the jury, discharge that particular juror and direct another juror to be sworn in his or her place, and the trial shall begin *de novo*.

Either party
may pray a
tales.

40. If a trial is likely to be delayed for want of jurors, the Court upon application on behalf of the Crown or by or on behalf of any party shall direct the sheriff for the jury district to name so many men of the jury district duly qualified as common or special jurors, as the case may be, then present or who can be found as will make up a full jury; and such sheriff shall add the names of such men to the panel, and thereupon they shall upon notice to them be liable to serve, and shall be subject to challenge as other jurors.

Minute of
swearing-in
panel.

41. The proper officer shall, as and when each juror is sworn, make a minute thereof in the panel.

1929.

Jury Act.

PART VII.—
FORMATION
OF JURIES.

42. When in a civil trial a jury have remained six hours in deliberation and do not unanimously agree as to the verdict to be given, the Court may discharge the jury, and may direct that a fresh jury be sworn during the same sittings of the Court, or may adjourn the trial :

Discharge of jury in civil cases.

Provided that in any civil trial the parties may consent that if a jury has remained six hours in deliberation the Court shall take the verdict of three-fourths of the jury after they have so deliberated for six hours.

43. In every trial, civil or criminal, or in any inquiry, the Court may order any view or inspection to be made by the jury at any time after the jury has been empanelled and before the verdict is given.

View.

44. In any trial, jurors, at any time after having been sworn and before giving their verdict, are when out of court to be provided by the sheriff with necessary fire and lights and with such reasonable refreshment, if any, as the Court may allow.

Jurors to be allowed refreshment.

45. It shall not be lawful either for the King or anyone on his behalf or for any party, in any case whatsoever, to commence or prosecute any writ of attaint against any juror for the verdict by him or her given or against the party who shall have judgment upon such verdict ; and no inquest shall be taken to inquire of the concealments of other inquests, but all such attaints and inquests shall henceforth cease and become void and be utterly abolished, any law, statute, or usage to the contrary notwithstanding.

Writ of attaint abolished.

46. In every case whatsoever of trial or assessment by jury, when no other mode of proceeding is specially provided, the jurors and jury and every trial or assessment by them shall, as far as may be practicable, be subject to the same rules and manner of proceeding as would be observed in the High Court of Justice in England on the like trial or assessment.

Application of Rules of High Court of Justice in England.

PART VIII.—GENERAL PROVISIONS.

PART VIII.—
GENERAL
PROVISIONS.

47. A Court may, in a summary way, impose such fine as the Court thinks fit—

Non-attendance, personation, &c.

(i.) Upon any person who, having been duly summoned to attend as a juror in such Court,

does not attend pursuant to summons, or having been thrice called does not answer to his or her name; or

- (ii.) Upon any talesman who, upon notice to him and upon being called, does not appear or wilfully withdraws himself from the presence of the Court; or
- (iii.) Upon any person who personates or attempts to personate any juror whose name is on a jury panel for the purpose of sitting as such juror; or
- (iv.) Upon any juror who receives or takes from any person whomsoever any sum whatever beyond the scale prescribed under pretence of fees or remuneration for attending a trial.

But if a fine has been imposed upon a person for non-attendance as a juror the fine shall not be enforced if at any time within twenty-one days after the imposition thereof he or she satisfies the Court or the Judge who presided at the trial that he or she was unable to attend through illness or other sufficient cause.

Offences by
sheriff, &c.

48. The Supreme Court may, in a summary way, impose such fine as such Court thinks fit upon any sheriff, associate, registrar, clerk, or other officer who, without lawful excuse (the proof of which shall lie upon him)—

- (i.) Wilfully causes any erroneous alteration, omission, or insertion, or any misdescription in, or falsely certifies to the correctness of, any jury list, jury book, panel, parchment, or card; or
- (ii.) Subtracts, destroys, or permits any person to have access to any such list, book, panel, parchment, or card; or
- (iii.) Fails to do or to permit the doing of any act, matter, or thing in the manner or at or within the time prescribed; or
- (iv.) Save as by this Act is provided, summons any juror less than the prescribed clear days before the day on which he is to attend; or

1929.

Jury Act.

PART VIII.—
GENERAL
PROVISIONS.

- (v.) Wilfully records the appearance of any person summoned and returned to serve as a juror who did not really appear ; or
- (vi.) Directly or indirectly takes or receives any money or reward or any promise of or contract for money or reward for excusing, or under the pretence of excusing, any person from being summoned to serve or from serving as a juror.

49. Any person—

Refusing
answer or
inspection.

- (i.) To whom any question may be lawfully put by a sheriff or police officer, court of petty sessions, or justice of the peace, by virtue of this Act who refuses to answer or does not truly answer such question ; or
- (ii.) Who, having the custody of any rate book, valuation return, or document, upon due request made, refuses to allow a sheriff, police officer, or court of petty sessions to inspect such rate book, return, or document and make extracts therefrom ;

shall be liable on summary conviction to a penalty not exceeding ten pounds.

50. Any person who removes, mutilates, or defaces any notice, list, or document affixed or kept in pursuance of this Act shall be liable, on summary conviction, to a penalty not exceeding five pounds.

Defacing
notices, &c.

51. The Governor in Council, with the concurrence of a majority of the Judges of the Supreme Court, may from time to time by Order in Council make Rules of Court providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act, and whether in amendment to or modification of or addition to this Act, and where there may be in this Act no provision or no sufficient provision in respect of any matter or thing adequate, necessary, or expedient to give effect to this Act, providing for and supplying such omission or insufficiency.

Rules of
Court.

Rules may
be made.

Without limiting the generality of the foregoing power to make rules, rules may be made—

- (i.) Relating to jury districts, jury lists and the preparation thereof, qualification of jurors, formation of panels, precepts, summonses, view and inspection, formation of juries, discharge of juries, challenges, penalties, fees for jury trials, remuneration of jurors ;
- (ii.) Directing the use of the respective annual electoral rolls for the time being, with such modifications as may be deemed necessary, for the use in the compilation of jury lists or jury books, and that claims for enrolment of electors shall contain such particulars as may be required for this purpose ;
- (iii.) Otherwise amending the provisions of this Act to such extent as may be necessary or convenient.

Any such rules may be made at any time after the passing of this Act.

The provisions of **“The Supreme Court Act of 1921”* and †*“The Supreme Court Acts Amendment (Rules Ratification) Act of 1928”* shall apply and extend in respect of such Rules of Court.

Every such Rule of Court shall be laid before the Legislative Assembly within forty days after the making thereof, if the Legislative Assembly is then sitting, or, if the Legislative Assembly is not then sitting, within forty days after the commencement of the next ensuing session.

If the Legislative Assembly, by resolution passed within one month after such Rule has been so laid before it, resolves that the whole or any part of such Rule ought not to continue in force, the same shall, after the date of such resolution, cease to be of any force, without prejudice nevertheless to the making of any other Rule in its place or to anything done in pursuance of such Rule before the date of such resolution.

But subject as aforesaid, every such Rule of Court purporting to be made in pursuance of this Act shall, after publication in the *Gazette*, be deemed to have been duly made and to have been within the powers of this Act.

* 12 Geo. V. No. 15, *supra*, page 9787.

† 19 Geo. V. No. 3, *supra*, page 12221.

1929. *Jury Act.*

SCHEDULE I.

[Section 4.]

Year and Number of Act.	Short Title.	Extent of Repeal.
*31 Vic. No. 34 ..	" <i>The Jury Act of 1867</i> "	The whole Act.
†48 Vic. No. 24 ..	" <i>The Jury Act of 1884</i> "	The whole Act.
‡14 Geo. V. No. 19	" <i>The Jury Act Amendment Act of 1923</i> "	The whole Act and Rules of Court made thereunder.

SCHEDULE II.

[Section 22.]

"THE JURY ACT OF 1929."
Jury Precept.

[R. v. A.B.]

{ To be inserted if
special jury of
twelve men is
required.

To the Sheriff of Queensland or his deputy.

Pursuant to the abovementioned Act, you are required to cause to come before the [*insert the style of the Court*], to be held at the court house at _____, on [*Monday*], the _____ day of _____, 19____ persons of the jury district aforesaid, as common [*or special*] jurors to make a jury for all such matters as shall be then and there required of them [*or for the trial of the abovementioned cause*], and to produce this precept with a panel annexed thereto containing the names of those jurors as by law is required of you.

Dated this _____ day of _____, 19____.
By the Court,
A.B., Registrar [*or Associate*].

SCHEDULE III.

[Section 25.]

"THE JURY ACT OF 1929."
Summons to Juror.

Jury District of _____
In the _____ Court at _____
To M _____

In obedience to a jury precept directed to me, I hereby require you to appear and serve as a juror at the criminal [*or civil*] sittings of the above Court at _____, on [*Monday*], the _____ day of _____, at _____ o'clock in the _____ noon of that day, and, subject to the abovementioned Act, you are to attend the said Court from day to day until you are discharged by the said Court.

Given under my hand this _____ day of _____ 19____.
Sheriff.

* *Supra*, page 1110.

† *Supra*, page 1130.

‡ 14 Geo. V. No. 19, *supra*, page 10582, and Rules, *supra*, pages 11230 and 11538.

[Section 21.]

SCHEDULE IV.

SCALE OF FEES.

There shall be paid to every juror attending the Supreme Court or any Circuit Court in its Criminal and Civil jurisdiction under jury precepts the following rates in respect of attendance :—

	Common jurors.		Special jurors.	
	s.	d.	£	s. d.
(a) For each day's actual attendance at a Court held within the Northern District, as defined by * <i>"The Supreme Court Act of 1895,"</i> and for each day necessarily absent from home in travelling to and from such Court ..	15	10	1	3 0
(b) For each day's actual attendance at a Court held within the Central District, as defined by * <i>"The Supreme Court Act of 1895,"</i> and for each day necessarily absent from home in travelling to and from such Court ..	15	0	1	2 0
(c) For each day's actual attendance at a Court held within that part of the State not included in the said Northern and Central Districts, and for each day necessarily absent from home in travelling to and from such Court	14	2	1	1 0
(d) Every juror who may be necessarily detained, or who may be prevented from proceeding on his journey to the Court or to his place of abode either before or after attending the Court, may for each day of such detention be allowed the sum he is entitled to receive for attendance at Court.				
(e) When jurors attend the Court on a Friday and are required to attend again on the following Monday they shall be allowed payment for the intervening Saturday; and when the Court business concludes on a Friday they shall be allowed payment for the Saturday of that week; and they shall also be paid for Court holidays which occur during their period of service; but the payments for Saturdays upon which the Court does not sit and for Court holidays are contingent upon their salaries or wages being stopped for any of those days:				

* 59 Vic. No. 21, *supra*, page 3454.

20 GEO. V. No. 32, 1929. *Justices Acts Amendment Act.*

Provided that where the jury shall have sat on the same trial for more than three days, it shall be lawful for the presiding Judge to direct—

- (a) That each common juror empanelled on a criminal trial shall be paid a further sum of twenty-five shillings in respect of the fourth and every subsequent day ;
- (b) That on each of such fourth and succeeding days when the trial is in respect of any civil action or proceeding, each party shall pay to the sheriff daily towards a further sum of thirty-five shillings to be allowed to each special juror, such portion of such further sum as may be directed by the Judge, the same to be allowed eventually as costs in the cause.

JUSTICES.

An Act to Amend "The Justices Acts, 1886 to 1924," in a certain particular.

20 Geo. V.
No. 32.
THE
JUSTICES
ACTS
AMENDMENT
ACT OF 1929.

[ASSENTED TO 23RD DECEMBER, 1929.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Justices Acts Amendment Act of 1929*," and shall be read as one with *"*The Justices Acts, 1886 to 1924*," herein referred to as the Principal Act. The Principal Act and this Act may collectively be cited as "*The Justices Acts, 1886 to 1929*." Short title and construction of Act.

2. The Principal Act is amended as follows:—

Section one hundred and eleven is repealed and a new section is inserted in lieu thereof:— Amendment of s. 111.

"[111.] When any person has been charged before justices with an indictable offence and has been committed for trial, the deposition of any person taken before the justices may, if the conditions hereinafter set out are satisfied, without further proof be read as Depositions of persons dead, absent, &c.

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 and 11030.