



**An Act to provide for the selection of Jurors by the Municipal Councils in Lower Canada.**

**W**HEREAS the Acts regulating the summoning of Jurors in Lower Canada have been found to operate unfavorably, and it is desirable to apply the principle of selection by the Municipal Councils to the appointment of Jurors: Therefore Her Majesty, &c., enacts as follows:

Preamble.

5 I. It shall be the duty of the Council of each City, County, or incorporated Town throughout Lower Canada, in the month of July next, to prepare two lists of such inhabitants of each parish, township, or ward within their jurisdiction as they shall think well qualified to serve as Grand and Petty Jurors and Jurors in Civil Cases, being persons of good moral character and sound judgment, possessed of the property qualification hereinafter named, and free from all legal exceptions.

Municipal Councils to make lists of Jurors.

15 II. The Grand Jury List shall contain the names of such members or ex-members of either of the Legislative Bodies, Field Officers of Militia, Justices of the Peace, Physicians or Surgeons, Notaries Public, Wardens, Mayors, and Councillors of every City, incorporated Town, or County Council, which the Council making such list may think fit and proper to inscribe thereon, and of such other persons as the said Council shall select to serve as Grand Jurors, but no person shall be selected as a Grand Juror who is not possessed of property included in the Valuation Roll of the City, Town, County or Subdivisions thereof, of the estimated value of not less than £ ; and the said names contained in the said list shall be numerically as near as may be not less than nor more than for and out of every hundred inhabitants of each Parish, Township, or Ward, whose names are inscribed on the Valuation Roll thereof.

Grand Jury List.

Property qualification.

Number of Names.

25 III. The Petty Jury List shall contain the names of all such persons as the Councils may think fit and proper to select to serve as Petty Jurymen, but none of the official or professional persons indicated in the next preceding section shall be inscribed thereon; nor shall any person be placed on the List of Petty Jurors who is not possessed of property included in the Valuation Roll of the City, Town, County or Subdivision thereof, of the estimated value of not less than £ ; and the names contained in the said list shall be numerically as near as may be not less than nor more than for and out of every hundred inhabitants of each Parish, Township, or Ward, whose names are inscribed on the Valuation Roll thereof.

Petty Jury list.

Property qualification.

Number of Names.

IV. In the month of July of every year the said lists shall be revised by the Councils and such additions made thereto as may be necessary to fill up vacancies therein, and the Councils may remove or add any names to the same; Provided always, that there shall be maintained the same

Annual revision of lists.

numerical proportion of the names thereon to the population of each Parish, Township, or Ward, whose names shall then be found on the Valuation Roll.

- Names of Jurors to be entered on lists. V. In making and revising the said lists, the Councils shall cause the christian and surname and addition of each Jurymen to be inserted at 5 full length, with the name of the Parish, Township, or Ward for which he is selected and in which he resides, and shall cause the said lists, duly certified by the Warden, Mayor and Secretary-Treasurer, to be transmitted to the Sheriff of the District within which the Parish, Township, or Ward for which the Jurymen have been selected is situate, before the first day of 10 August in each year: Provided that in the Districts of the Councils shall select one half of the Jurors speaking the English, and half of the Jurors speaking the French Language.
- Mayor or Warden &c., to make the lists in default of the Councils. Their responsibility. VI. If any Council shall neglect to fulfil the duties imposed upon them by the foregoing sections of this Act within the time hereinbefore limited, it 15 shall then become the duty of the Mayor or Warden, and Secretary-Treasurer forthwith to prepare or revise the said lists and to transmit the same to the Sheriff without loss of time; and the said Mayor, Warden, and Secretary-Treasurer shall, in reference to the duties hereby imposed on them, be held to be officers of and responsible to the Court of Queen's Bench, and liable to 20 the same compulsion or punishment for neglect, omission or misfeasance as any other officer of the said Court would be.
- Sheriff to complain to the Court if the lists are not sent to him. Duty of the Court. VII. It shall be the duty of the Sheriff of each District to report to any Judge of the Court Queen's Bench at the expiration of the time by this Act prescribed for preparing, revising, and forwarding the said lists, either in 25 term or vacation, the Councils that may have failed to perform the duty assigned to them by this Act, and to pray that the Mayor or Warden, and Secretary thereof may be ordered to appear and shew cause in vacation or in term, why he or they have not fulfilled the same, and if such cause be not shewn to the satisfaction of such Judge, he shall condemn the said 30 Mayor or Warden, or Secretary-Treasurer, or both, to such fine and costs as he may deem expedient and proper, and shall make such other order or orders as in his opinion may conduce to the completion of the said lists.
- Certain persons shall not be Jurors. VIII. The following persons shall be incapable of being selected as 35 Jurors. 1st.—Practising Lawyers. 2nd.—Clergymen of any denomination. 3rd.—Judges, Prothonotaries, Clerks, Bailiffs, Constables, Oriers, and Tipstaffs. 4th.—Aliens. 5th.—Persons convicted of felony, or condemned to any disgraceful punishment. 6th.—Persons over sixty years of age.
- Certain persons exempt from serving. IX. The following shall be exempt from serving as Jurors without their 40 own consent, but must apply either to the Council naming them or to any Judge, to have their names excluded or removed from the list: 1st. Physicians or Surgeons engaged in practice. 2nd. Members of the Legislature during the session thereof. 3rd. Masters of Steamboats, Engineers and Conductors of Railroad Trains. 4th. School Masters engaged in teaching. 45
- Jury rolls to be made from the lists. X. It shall be the duty of the Sheriff on receiving the said lists from the Councils within his District, to arrange all the names contained in the lists of Grand Jurors in Alphabetic order of surnames on the Grand Jury Roll, and in like manner those on the lists of Petty Jurors on the Roll of Petty Jurors, and after having had the same duly certified as the correct original 50

Roll of Grand or Petty Jurors by a Judge of the Court of Queen's Bench, to file the same in his office; and until the Jury Rolls to be prepared under this Act shall be so filed in any District, the Sheriff thereof shall continue to summon the Juries under the Acts hereby repealed in part, but as soon as the Rolls under this Act shall be complete in any District they shall be used to the exclusion of the old Rolls.

Old rolls may be used until new ones are ready.

- XI. In summoning a Grand Jury for any term of the Court of Queen's Bench, or any Superior Criminal Court, the Sheriff shall take twenty-four names from the Grand Jury Roll commencing with the first Surname on the Grand Jury Roll, which begins with the Letter A, then the first surname which begins with B, and so on; to Z:—then recommencing with the Letter A, he shall take the second surname under each of the said initial Letters respectively, until a sufficient number of Jurors shall be obtained. When the whole Roll shall be exhausted, the Sheriff shall begin again at the first name thereon and go again through it in the same manner. When the Sheriff shall strike a Jury from the Roll he shall put a distinctive mark opposite each name taken, and shall insert the date opposite the last name taken for a Jury at that date.

Order in which Grand Jurors shall be taken for Superior Criminal Courts.

- XII. The Petty Jury Roll shall be used for the summoning of Petty Jurors for all the Criminal Courts and of Grand and Petty Jurors for the Quarter Sessions, indiscriminately; and in summoning Grand and Petty Jurors for the Sessions, or Petty Jurors for the other Criminal Courts, the Sheriff shall take the requisite number of names from the Petty Jury Roll, marking the name of the last summoned person, and for the next Grand or Petty Jury he shall begin with the next in succession on the Petty Jury Roll, and thus shall go through the same and again begin at the head thereof in the manner above provided respecting the Grand Jury Roll, and shall return them on the Panel in the same order in which he takes them from the Roll.

Summoning of Petty Jurors and Grand Jurors for Quarter Sessions.

- XIII. The Sheriffs shall summon a panel of sixty Jurors to serve as Petty Jurors for each term of each Superior Criminal Court, and of seventy-two Jurors for each Quarter Sessions, of whom the first twenty-four in their order on the Roll shall serve as the Grand Jury of such Sessions. Provided that any Judge of the Court of Queen's Bench may, by an order in writing, at any time require the Sheriff to summon the same, or any greater or lesser number of Petty Jurors for the first or for any subsequent day of any Criminal Court or Courts in general in any District; and any Chairman of any Court of Quarter Sessions may make a like order or orders respecting the Court over which he presides.

Number of Jurors to be summoned.

Proviso.

- XIV. The Councils of the several Cities, Counties, and incorporated Towns, may and shall make such By-laws and Rules for the payment of all Grand and Petty Jurors, whose names shall have been returned by them respectively to the Sheriff, and may lay, assess and levy such sums of money, rates, or taxes, upon the inhabitants in their respective jurisdiction, as they may think proper and sufficient for that purpose; Provided always, that such rate or assessment shall be wholly distinct from and in addition to any other rates or assessment now authorized by Law; And provided also, that no greater allowance to each Juror shall be made than per mile going and returning from and for each day of necessary absence from to his residence, and home in attending Court.

Municipal Councils may provide for payment of Jurors.

Proviso.

Proviso: pay limited.

- Mode of sum-  
moning Jur-  
ors. XV. Jurors in criminal matters shall be served at least ten days before  
that on which they are enjoined to attend, by leaving a copy of the sum-  
mons, certified by the Sheriff or Deputy Sheriff, with them personally, or  
at their domicile with some grown person belonging thereto.
- Formation of  
trial Juries. XVI. The first twelve Petty Jurors who, being summoned and called 5  
in the order they stand on the Panel, shall answer to their names, and not  
be legally challenged, shall form the first trial Jury; and the next twelve  
Jurors, summoned and called in the same order, and answering, and not  
being legally challenged, shall form the next Jury, and so on through  
the whole number summoned; and then beginning again at the first Juror 10  
in his order on the Panel; those who may be then engaged in trying any  
case being omitted; Provided always, that if the prosecuting officer and  
party accused, both consent, all the Jurors speaking only the English, or  
all the Jurors speaking only the French language may, in any trial, be  
passed over as if their names were not on the Panel. 15
- Proviso: as to  
language.
- If the party  
arraigned de-  
mands half the  
Jurors to be  
skilled in the  
language of  
his defence. XVII. Any party who, on arraignment, demands a Jury composed for  
the one half of persons skilled in the language of his defence, (if either  
English or French) shall be entitled to take as part of the trial Jury the  
first six of the Jurors on the Panel, who appearing and not being lawfully  
challenged, are found by the Court to be so skilled; and if such skilled 20  
persons cannot be found among those summoned, another day shall be  
fixed for trial, and the Sheriff shall summon such additional number of  
Jurors so skilled as the Court may order, taken from those next in succes-  
sion in the above order on the Roll of Petty Jurors.
- Peremptory  
challenges. XVIII. In all cases for treason or capital felony the Crown and the 25  
accused may each challenge twenty Jurors peremptorily; and in trials for  
felonies not capital, the Crown and the accused shall be limited to ten  
peremptory challenges each; and in all challenges for cause, the Court on  
legal proof of the facts, shall decide upon the sufficiency of the cause or  
ground of challenge, without the intervention of Triers or Jurors. 30
- Decision on  
challenges for  
cause.
- Juries in Civil Cases.*
- Drawing Jur-  
ors. XIX. The names of all Jurors in civil matters shall be drawn from the  
Grand and Petty Jury Rolls in the following manner:—Upon service on the  
Sheriff of any order of any Civil Court within his jurisdiction ordering him  
to summon a Jury, the Sheriff shall, in the presence of any Judge of any 35  
Civil Court, and in the presence of the Attorneys, or of the parties Plaintiff  
and Defendant, or of their Agents, or in their absence after due notice,  
place in a box prepared for the purpose, pieces of card of the same size  
and shape, on each of which shall be inscribed the name of each one of  
the several Grand and Petty Jurors, who appear by the said Rolls to reside 40  
in the Circuit within the limits whereof the said Jury trial is ordered to be  
had, and shall then draw therefrom forty-eight names, and inscribe them  
in the order of drawing on a list, from which each of the parties shall  
then strike twelve names; the remaining twenty-four persons shall be sum-  
moned by the Sheriff at least four days before the trial, and the first twelve 45  
thereof who answer to their names shall be the Jury sworn to hear and  
determine the matter at issue.
- Jurors to be  
summoned.
- Jurors for the  
trial.
- Jurors in com-  
mercial cases. XX. In suits respecting commercial matters between merchants, traders,  
or trading corporations, or in which merchants, traders, or trading corpor-  
ations are a party, the Court may order, on the demand of either party, 50

that one half, or by consent of both parties, that the whole of the Jury sworn, be composed of merchants and traders; and in any civil suit, the Court may order on demand of either party, that one half of the Jurors sworn shall be persons speaking the English, and one half persons speaking the French language, or by the consent of both parties, that the whole of the Jury sworn be composed exclusively of persons speaking the English or of persons speaking the French language.

XXI. The Sheriff when ordered to summon a Jury composed for the one half of merchants and traders, shall draw from the box forty-eight names, and if they do not consist for the one half of merchants and traders, he shall continue drawing therefrom until the names of twenty-four merchants and traders shall have been added to the twenty-four first drawn; of these names of merchants or traders each party shall strike six, and also of the first drawn twenty-four other names each party shall strike six; the remaining twenty-four shall be summoned by the Sheriff, and at the trial the first six Jurors being merchants or traders and the first six other Jurors, called in order and appearing, shall form the trial Jury.

XXII. When the Sheriff is ordered to summon a Jury *de medietate lingue* of French and English, he shall draw from the box the first twenty-four names of persons speaking the English language and twenty-four of persons speaking the French language, and, passing over such as may be supernumerary in either case, he shall inscribe them on the list. Each party shall be allowed to strike six from those speaking French and six from those speaking English, and the Sheriff shall summon the remainder, and at the trial, the first drawn six persons speaking the French and the first drawn six speaking the English language shall form the trial Jury.

XXIII. When the Sheriff is ordered to summon a whole Jury of merchants or traders, or of persons speaking all the same language, he shall continue to draw, rejecting the unqualified supernumeraries, until the list contains forty-eight names of persons, all being merchants or traders, or all speaking the required language, as the case may be.

XXIV. If the Jurors summoned do not appear at any civil trial in numbers so that twelve fit and qualified Jurors can be sworn in, the Court or presiding Judge may, with the consent of the parties, but not otherwise, order the Sheriff to take from those present as many fit and qualified persons as may be required to complete the number.

XXV. Every Juror before giving a verdict shall be entitled to receive shillings for his services as such Juror.

XXVI. Aliens shall be Jurors only when a Jury *de medietate lingue* other than French and English shall be allowed.

XXVII. All civil suits, in which by Law Jury trials can be had and shall be demanded, shall be tried by Juries selected as in this Act provided for civil cases, and such Juries shall be held and considered as special Juries.

XXVIII. Every Sheriff, Deputy Sheriff, or Sheriff's Officer, Mayor or Acting Mayor, Warden or Acting Warden, or Secretary-Treasurer of any City, County or incorporated Town in Lower Canada, who shall wilfully or negligently offend against any of the provisions of this Act, shall incur a penalty of not less than pounds nor more than pounds, Act.

which penalty may be imposed by the Court of which he is or is by this Act declared to be an Officer, or by any Judge to whom complaint of such omission or neglect shall be made by any person, or may be sued for and recovered by any party for his own benefit, before any Court having civil jurisdiction to the amount of the penalty: and a like penalty 5 for every day any such officer shall continue to neglect performing any duty by this Act imposed—such penalty to be recoverable in the same manner.

Penalty on Jurors summoned and neglecting to serve.

XXIX. Every person summoned to serve as a Juror who shall refuse or neglect so to serve, shall incur a penalty not exceeding *five* pounds, and if 10 upon a rule to shew cause why such penalty should not be levied, no lawful or reasonable excuse be assigned for such neglect or omission, such penalty shall, by an order of Court to the Sheriff, be levied with costs on the goods and chattels of the offending party; who may in default of payment, be imprisoned for not more than fifteen days: which penalty or punishment may be mitigated by the Court on good cause being shewn. 15

Short title of Act.

XXX. This Act may be cited and referred to in any pleading indictment or other proceeding as "*The Lower Canada Jury Act.*"





No. 122.

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2nd Session, 5th Parliament, 19 Victoria, 1856.

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**BILL.**

An Act to provide for the selection of Jurors  
by the Municipal Councils in Lower  
Canada.

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MR. FELTON.

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