

1980

c 226 Juries Act

Ontario

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CHAPTER 226

Juries Act

1. In this Act,

Interpretation

- (a) "county" includes a district;
- (b) "county court" includes a district court;
- (c) "Director of Assessment" means the Executive Director of the Assessment Division of the Ministry of Revenue;
- (d) "regulations" means the regulations made under this Act. 1974, c. 63, s. 1.

ELIGIBILITY

2. Subject to sections 3 and 4, every person who,

Eligible jurors

- (a) resides in Ontario;
- (b) is a Canadian citizen; and
- (c) in the year preceding the year for which the jury is selected had attained the age of eighteen years or more,

is eligible and liable to serve as a juror on juries in the Supreme Court and in all courts of civil or criminal jurisdiction in the county in which he resides. 1974, c. 63, s. 2; 1980, c. 64, s. 1.

3.—(1) The following persons are ineligible to serve as jurors:

Ineligible occupations

- 1. Every member of the Privy Council of Canada or the Executive Council of Ontario.
- 2. Every member of the Senate, the House of Commons of Canada or the Assembly.
- 3. Every judge and every justice of the peace.

4. Every barrister and solicitor and every student-at-law.
5. Every legally qualified medical practitioner and veterinary surgeon who is actively engaged in practice and every coroner.
6. Every person engaged in the enforcement of law including, without restricting the generality of the foregoing, sheriffs, wardens of any penitentiary, superintendents, jailers or keepers of prisons, correctional institutions or lockups, sheriff's officers and constables, police officers and constables, and officers of a court of justice.
7. The husband or wife of each person mentioned in paragraph 3, 4 or 6. 1974, c. 63, s. 3 (1); 1980, c. 64, s. 2.

Connection
with court
action at
same sittings

(2) Every person who is under subpoena or is likely to be called as a witness in a civil or criminal proceeding or has an interest in an action is ineligible to serve as a juror at any sittings of a court at which such proceeding or action might be tried.

Previous
service

(3) Every person who, at any time within three years preceding the year for which the jury roll is prepared, has received fees for service after selection from the roll prepared under this Act or any predecessor thereof is ineligible to serve as a juror in that year. 1974, c. 63, s. 3 (2, 3).

Ineligibility
for personal
reasons

4.—(1) A person is ineligible to serve as a juror who,

- (a) has a physical or mental disability that would seriously impair his ability to discharge the duties of a juror; or
- (b) has been convicted of an indictable offence, unless he has subsequently been granted a pardon. 1974, c. 63, s. 4; 1980, c. 64, s. 3 (1).

Ineligibility
for blindness
or age

(2) Every person is ineligible to serve as a juror, who,

- (a) in the year preceding the year for which the jury is selected had attained the age of sixty-nine years or more; or
- (b) is blind,

and has indicated on his return to the jury service notice that he does not wish to serve as a juror. 1980, c. 64, s. 3 (2).

PREPARATION OF JURY ROLLS

5.—(1) The sheriff of a county shall on or before the 15th day of September in each year determine for the ensuing year for the county, ^{Number of jurors on roll}

- (a) the number of jurors that will be required for each sittings of,
 - (i) the Supreme Court,
 - (ii) the court of general sessions of the peace in the county, and
 - (iii) the county court in the county;
- (b) the number of persons that will be required for selection from the jury roll for the purposes of any other Act; and
- (c) the aggregate number of persons that will be so required.

(2) In a provisional judicial district, after the sheriff has determined the number of persons that will be required for service during the ensuing year, he shall fix the total number of persons that shall be selected from municipalities, and the total number that shall be selected from territory without municipal organization. ^{Number of jurors in districts}

(3) The sheriff shall forthwith upon making his determination under subsection (1) certify and transmit, ^{Transmission of resolutions}

- (a) to the Director of Assessment,
 - (i) a copy of the determination declaring the aggregate number of persons required for the jury roll in the county in the ensuing year, and
 - (ii) a statement of the numbers of jury service notices to be mailed to persons in the county;
- (b) to the office of the Registrar of the Supreme Court, a copy of the determination for the number of jurors under subclause (1) (a) (i); and
- (c) to the clerk of the county court in the county, copies of the determinations for the number of jurors under subclauses (1) (a) (ii) and (iii). 1974, c. 63, s. 5.

Jury service notices

6.—(1) The Director of Assessment shall in each year on or before the 31st day of October cause a jury service notice, together with a return to the jury service notice in the form prescribed by the regulations and a prepaid return envelope addressed to the sheriff of the county, to be mailed by first class mail to the number of persons in each county specified by the sheriff in his statement, and selected in the manner provided for in this section. 1974, c. 63, s. 6 (1).

Selection of persons notified

(2) The persons to whom jury service notices are mailed under this section shall be selected by the Director of Assessment at random from persons who, from information obtained at the most recent census of the inhabitants of the county under section 14 of the *Assessment Act*,

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- (a) at the time of the census, resided in the county and were Canadian citizens; and
- (b) in the year preceding the year for which the jury is selected, are of or will attain the age of eighteen years or more,

and the number of persons selected from each municipality in the county shall bear approximately the same proportion to the total number selected for the county as the total number of persons eligible for selection in the municipality bears to the total number eligible for selection in the county, as determined by such census. 1974, c. 63, s. 6 (2); 1980, c. 64, s. 4.

Application of subs. (2) to municipalities in districts

(3) In a provisional judicial district for the purposes of subsection (2), all the municipalities in the district shall together be treated in the same manner as a county from which the number of jurors required is the number fixed under subsection 5 (2) to be selected from municipalities.

Address for mailing

(4) The jury service notice to a person under this section shall be mailed to him at the address shown for him in the most recent census of the inhabitants of the county under section 14 of the *Assessment Act*.

Return to jury service notice

(5) Every person to whom a jury service notice is mailed in accordance with this section shall accurately and truthfully complete the return and shall mail it to the sheriff of the county within five days after receipt thereof.

When service deemed made

(6) For the purposes of subsection (5), the notice shall be deemed to have been received on the third day after the day of mailing unless the person to whom the notice is mailed

establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control did not receive the notice or order, or did not receive the notice or order until a later date.

(7) The Director of Assessment shall furnish to the sheriff of the county a list of persons in the county arranged alphabetically to whom jury service notices were mailed under this section forthwith after such mailing and the list received by the sheriff purporting to be certified by the Director of Assessment is, without proof of the office or signature of the Director of Assessment, receivable in evidence in any action or proceeding as *prima facie* proof of the mailing of jury service notices to the persons shown on the list. List of notices given

(8) In the selecting of persons for entry in the jury roll in a county or district in which an Indian reserve is situate, the sheriff shall select names of eligible persons inhabiting the reserve in the same manner as if the reserve were a municipality and, for the purpose, the sheriff may obtain the names of inhabitants of the reserve from any record available. Indian reserves
1974, c. 63, s. 6 (3-8).

7. The sheriff shall in each year prepare a roll called the jury roll in the form prescribed by the regulations. Sheriff to prepare jury roll
1974, c. 63, s. 7.

8.—(1) The sheriff shall open the returns to jury service notices received by him and shall cause the name, address, age and occupation of each person making such a return, who is shown by the return to be eligible for jury service, to be entered in the jury roll alphabetically arranged and numbered consecutively. Entry of names in jury roll
1974, c. 63, s. 8 (1).

(2) Where the county or Supreme Court is designated in a county or district under section 130 of the *Judicature Act*, the jury roll prepared under subsection (1) shall be divided into two parts English and bilingual jury rolls and, R.S.O. 1980, c. 223

- (a) in one part the sheriff shall include those persons who appear, by the returns to jury service notices, to speak, read and understand the English language; and
- (b) in the other part the sheriff shall include those persons who appear, by the returns to jury service notices, to speak, read and understand both the English and the French languages. 1978, c. 27, s. 1.

Omission
of names

(3) The sheriff may, with the written approval of the local judge of the High Court, omit the name from the roll where it appears such person will be unable to attend for jury duty.

Supple-
mentary
names

(4) The sheriff may request the Director of Assessment to mail such number of additional jury service notices and forms of returns to jury service notice as in the opinion of the sheriff are required.

Supplying
of supple-
mentary
names

(5) Upon receipt of a request from the sheriff under subsection (4), the Director of Assessment shall forthwith carry out such request and for such purpose section 6 applies with necessary modifications with respect to the additional jury service notices requested by the sheriff to be mailed.

Selection
from
unorganized
territory

(6) In a provisional judicial district, the sheriff shall select names of eligible persons who reside in the district outside territory with municipal organization in the numbers fixed under subsection 5 (2) and for the purpose may have recourse to the latest polling list prepared and certified for such territory, and to any assessment or collector's roll prepared for school purposes and may obtain names from any other record available. 1974, c. 63, s. 8 (2-5).

Certification
of roll

9. As soon as he has completed the jury roll but not later than the 31st day of December in each year, the sheriff shall certify the roll to be the proper roll prepared as the law directs and shall deliver notice of the certification to the local judge of the High Court, but the judge may extend the time for certification for such reasons as he considers sufficient. 1974, c. 63, s. 9; 1975, c. 25, s. 1.

Extension
of times

10. The Chief Justice of the High Court may, upon the request of the sheriff of a county, extend any times prescribed by this Act in connection with the preparation of the jury roll for the county to such date as he considers appropriate and may authorize the continued use of the latest jury roll until the dates so fixed. 1974, c. 63, s. 10.

Additions to
roll by
sheriff

11.—(1) Where there are no persons or not a sufficient number of persons on the proper jury roll, or where there is no jury roll for the year in existence, the sheriff may supply names of eligible jurors from the jury roll for the nearest preceding year for which there is a jury roll or certified copy thereof in existence.

Certifi-
cation of
additions
by sheriff

(2) The names supplied to the jury roll under this section shall be entered thereon and certified by the sheriff. 1974, c. 63, s. 11.

JURY PANELS

12.—(1) The judges of the Supreme Court, or one or more of them, for the holding of any sittings of the Supreme Court, and the judge of the county court, for the holding of any sittings of the county court or of the court of general sessions of the peace, may respectively issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in their or his opinion is required.

Issuance of precepts

(2) The proper officer in the office of the Registrar of the Supreme Court at Toronto, shall procure the precepts for the return of panels of jurors required for the sittings of the Supreme Court, and transmit them to the sheriffs as soon as conveniently may be after the day has been appointed for the sittings for which the jurors are required. 1974, c. 63, s. 12.

Precepts to be sent to sheriffs

13.—(1) Where a judge of the Supreme Court considers it necessary that the jurors to form the panel for a sittings of the Supreme Court be summoned in more than one set, he may direct the sheriff to return such number of jurors in such number of sets on such day for each set as he thinks fit.

Two or more sets of jurors for Supreme Court

(2) The sheriff shall divide such jurors into as many sets as are directed, and shall in the summons to every juror specify at what time his attendance will be required.

Sheriff to divide jurors into sets

(3) Each set shall for all purposes be deemed a separate panel. 1974, c. 63, s. 13.

Each set a separate panel

14.—(1) The judge of the county court, if after the issue of the precept it appears to him expedient, may at any time before the day appointed for the sittings of the Supreme Court, by order under his hand and seal, and the judge assigned to hold the sittings or the presiding judge may, at any time before or during the sittings of such court, by order under his hand and seal, direct the sheriff to return an additional number of jurors.

Judge of county court may order additional jurors for Supreme Court sittings

(2) The judge of the county court, after the issue of the precept, at any time before or during the sittings of the county court or court of general sessions of the peace, by order under his hand and seal, may direct the sheriff to return an additional number of jurors.

Additional jurors

Duty of sheriff as to drafting additional number of jurors

(3) The sheriff, upon the receipt of any such order, shall forthwith draft such additional number of jurors in the manner provided by this Act, and shall add their names to the panel list, and shall forthwith thereafter summon them, and where there are not a sufficient number of jurors on the jury roll for the purpose of the additions, section 11 applies. 1974, c. 63, s. 14.

When same panels for general sessions and county courts

15. Where the same day is appointed for holding the court of general sessions of the peace and the sittings of the county court, the sheriff may return the same panel to the precepts for the panels of jurors. 1974, c. 63, s. 15.

How sheriffs to draft panels of jurors

16. Every sheriff to whom a precept for the return of jurors is directed shall, to such precept, return a panel list of the names of the jurors contained in the jury roll, whose names shall be drafted from such roll in the manner hereinafter mentioned. 1974, c. 63, s. 16.

Sheriff to draft panel

17. Upon receipt of the precept, the sheriff shall post up in his office written notice of the day, hour and place at which he will draft the panel of jurors, and he shall draft the panel by ballot from the jury roll in the presence of a justice of the peace who shall attend upon reasonable notice from the sheriff. 1974, c. 63, s. 17.

How sheriff to prepare a panel

18.—(1) Before proceeding to draft a panel of jurors from a jury roll, the sheriff shall prepare a proper title or heading for the list of jurors to be returned, to which he shall fix an appropriate number according as such panel is the first, second, third or subsequent panel drafted from such jury roll, and the title or heading shall set forth the number of jurors to be returned.

Ballots for drafting panel

(2) The sheriff shall then append to such title or heading a list of numbers from "1" forward to the number required, and shall prepare a set of ballots of uniform and convenient size containing the same number of ballots as there are numbers on the jury roll, allowing one number to each ballot, which number shall be printed or written on it, and he shall then proceed to draft the panel of jurors. 1974, c. 63, s. 18.

Drafting of panel

19.—(1) The sheriff shall draft the panel by drawing at random the ballots from a container in the presence of the justice of the peace.

Panel list

(2) The names of the persons so drafted, arranged alphabetically, with their places of residence and occupations shall then be transcribed by the sheriff, with a reference to

the number of each name on the jury roll, and each name shall be thereupon marked by him or by his deputy upon the jury roll, but the name of a person shall not be included on the panel list where the spouse of such person is on the list.

(3) The panel list so alphabetically arranged and numbered, with a short statement of the precept in obedience to which it has been drafted, the date and place of such drafting, and the names of the sheriff, or his deputy and the justice of the peace, present at such drafting, shall then be recorded and attested by the signatures of the sheriff, or his deputy and the justice of the peace, and such panel list shall be retained in the custody of the sheriff. 1974, c. 63, s. 19. Idem

20. The sheriff shall, upon his return to the precept, annex thereto the panel list containing the names, and places of residence, and occupations of the persons so drafted, and shall transmit one copy thereof to the office of the Registrar of the Supreme Court at Toronto or to the clerk of the county court, as the case may be. 1974, c. 63, s. 20; 1975, c. 25, s. 2. Copies of panel to be transmitted

21.—(1) The sheriff shall summon every person drafted to serve on juries by sending to him by registered mail a notice in writing in the form prescribed by the regulations under the hand of the sheriff at least twenty-one days before the day upon which the person is to attend, but when the sheriff is directed to draft and summon additional jurors under this Act, such twenty-one days service is not necessary. 1974, c. 63, s. 21 (1). Jurors to be summoned 21 days before attendance required

(2) The sheriff may excuse any person summoned for a jury sittings on the ground, Excusing of jurors

(a) of illness; or

(b) that serving as a juror may cause serious hardships or loss to him or others,

but unless the local judge of the High Court directs otherwise and notwithstanding any other provision of this Act, such person shall be included in a panel to be returned for a sittings later in the year or, where there are not further sittings in that year, in a panel to be returned for a sittings in the year next following. 1980, c. 64, s. 5.

22. The jury roll and every list containing the names of the jury drafted for any panel shall be kept under lock and key by the sheriff and every officer mentioned in section 20 having a copy thereof, and except in so far as may be necessary in order to prepare the panel lists, and serve the jury summons, shall not be disclosed by the sheriff, Secrecy of jury roll and panel

his deputy, officer, clerk, or by any officer mentioned in section 17 or 20, or by any other person, until ten days before the sittings of the court for which the panel has been drafted, and during such period of ten days, the sheriff, or his deputy, and any officer mentioned in section 20 having a copy of the panel list shall permit the inspection at all reasonable hours of the jury roll and of the panel list or copy thereof in his custody by litigants or accused persons or their solicitors and shall furnish the litigants or accused persons or their solicitors, upon request and payment of a fee of \$2, with a copy of any such panel list. 1974, c. 63, s. 22.

Counter-
mand where
no jury
cases

23.—(1) Where there is no business requiring the attendance of a jury at a sittings of a court in respect of which a precept has been issued,

- (a) the clerk of the court or local registrar, as the case may be, where the sittings is for the trial of actions; or
- (b) the Crown attorney, where the sittings is for the trial of criminal prosecutions,

shall, at least five clear days before the day upon which the sittings is to commence, give notice in writing to the sheriff in the form prescribed by the regulations that the attendance of the jurors is not required.

Postpone-
ment of date
for
attendance
of jurors

(2) Where the business of the court does not require the attendance of the jurors until a day after the day upon which the sittings is to commence, the appropriate officer determined under subsection (1) shall, at least five clear days before the day upon which the sittings is to commence, give notice in writing to the sheriff in the form prescribed by the regulations that the attendance of the jurors is not required until such later day as is specified in the notice. 1974, c. 63, s. 23 (1, 2).

Notice to
jurors

(3) Subject to subsection (4), where, upon receipt of such notice it appears to the sheriff that the attendance of jurors is not required or not required until a later date, the sheriff shall forthwith by registered mail or otherwise, as he considers expedient, notify in the form prescribed by the regulations each person summoned to serve as a juror that his attendance at the sittings is not required or is not required until the day specified in the notice. 1975, c. 25, s. 3, *part.*

Sheriff must
ascertain
that there
are no
prisoners
in custody

(4) In the case of a sittings of the Supreme Court for the trial of criminal matters and proceedings, or in the

case of a sittings of the court of general sessions of the peace, the sheriff shall not give the notice mentioned in subsection (3) unless he is satisfied that there is no prisoner in custody awaiting trial at the sittings. 1974, c. 63, s. 23 (5).

24.—(1) Where a judge of the Supreme Court considers it necessary, he may direct that the jurors summoned for a sitting of the Supreme Court be divided into two or more sets as he may direct, and each set shall for all purposes be deemed a separate panel. Division of Supreme Court panel

(2) Where the judge of a county court considers it necessary, he may direct that the jurors summoned for jury sittings of the county court or the court of general sessions of the peace, or both, be divided into two or more sets as he may direct, and each set shall for all purposes be deemed a separate panel. 1974, c. 63, s. 24. Division of county court panel

25.—(1) A person summoned for jury duty may be excused by a judge from service as a juror on the ground that service as a juror is incompatible with the beliefs or practices of a religion or religious order to which he belongs. Excusing of juror for religious reasons

(2) A person summoned for jury duty may be excused by a judge from attending the sittings on the ground, Excusing of jurors for illness or hardship

(a) of illness; or

(b) that serving as a juror may cause serious hardships or loss to him or others,

and the judge may excuse the person from all service as a juror, or the judge may direct that the service of a person excused be postponed and that notwithstanding any provision of this Act, he be included in a panel to be returned for a sittings later in that year or in a panel to be returned for a sittings in the year next following.

(3) A person summoned for jury service may be excused under subsection (1) or (2), Application for excusing

(a) before the day for attendance by the local judge of the High Court;

(b) on or after the day for attendance, by the judge presiding at the sittings,

and the application to be excused may be made to the sheriff. 1980, c. 64, s. 6.

Release of
jurors
before
sittings

26.—(1) Where jurors are summoned for a jury sittings, a local judge of the High Court where the sittings are of the Supreme Court or a judge of the county court where the sittings are of the county court or court of general sessions of the peace may, at any time before the sittings, release from or postpone service of any number of jurors summoned for the sittings.

Release
during
sittings

(2) The judge presiding at the sittings may release from or postpone service of any number of jurors summoned for the sittings.

Transfer
to another
panel

(3) Jurors released from service at a sittings under this section may be resummoned by the sheriff for service at any other sittings, whether of the same or any other court, held concurrently with or immediately following the sittings from which they were released.

Constitution
of panel

(4) Where jurors have been released from service or their service has been postponed under this section, the remaining jurors constitute the panel, and jurors recalled or resummoned under this section form part of the panel to which they are added. 1975, c. 25, s. 4.

Supreme
Court may
issue
precepts as
heretofore

27. Subject to this Act, the Supreme Court and the judges thereof have the same power and authority as heretofore in issuing any precept, or in making any award or order, orally or otherwise, for the return of a jury for the trial of any issue before the court, or for amending or enlarging the panel of jurors returned for the trial of any such issue, and the return to any precept, award or order shall be made in the manner heretofore used and accustomed, and the jurors shall, as heretofore, be returned from the body of the county, and shall be eligible according to this Act. 1974, c. 63, s. 27.

County
courts

28. The provisions of this Act respecting the issue of precepts for the return of a general panel of jurors for the sittings of the Supreme Court, as well as for the execution and return of the precepts, with all things touching the same, shall be observed and followed in all particulars with respect to the sittings of courts of general sessions of the peace and of county courts. 1974, c. 63, s. 28.

ACTIONS TRIED BY JURY

When
actions to
be entered
for trial

29. Subject, in the case of an action in the Supreme Court, to any order made by a judge of that court, and in the case of an action in the county court, to any order made by a judge of the

county court, actions to be tried by a jury, whether in the Supreme Court or the county court, shall be entered for trial not later than six clear days before the first day of the sittings. 1974, c. 63, s. 29.

DRAWING JURY AT TRIAL

30.—(1) The name of every person summoned to attend as a juror, with his place of residence, occupation, and number on the panel list shall be written distinctly by the sheriff on a card or paper, as nearly as may be of the form and size following, viz.: Empanelling jury at the trial

15. DAVID BOOTH

OF LOT NO. 11, IN THE 7TH CON. OF ALBION

MERCHANT

and the names so written shall, under the direction of the sheriff, be put together in a container to be provided by him for that purpose, and he shall deliver it to the clerk of the court.

(2) Where an issue is brought on to be tried, or damages are to be assessed by a jury, the clerk shall, in open court, cause the container to be shaken so as sufficiently to mix the names, and shall then draw out six of the cards or papers, one after another, causing the container to be shaken after the drawing of each name, and if any juror whose name is so drawn does not appear or is challenged and set aside, then such further number until six jurors are drawn, who do appear, and who, after all just causes of challenge allowed, remain as fair and indifferent, and the first six jurors so drawn, appearing and approved as indifferent, their names being noted in the minute book of the clerk of the court, shall be sworn, and shall be the jury to try the issue or to assess the damages. How the clerk is to proceed to draw names

(3) The cards or papers containing the names of persons so drawn and sworn shall be kept apart until the jury has given in its verdict, and it has been recorded, or until the jury has been by consent of the parties, or by leave of the court, discharged, and shall then be returned to the container there to be kept with the other cards or papers remaining therein. 1974, c. 63, s. 30. Names drawn to be kept apart, etc.

31. A jury may be selected in accordance with section 30 at any time before the trial of an issue or assessment of damages Selection of juries in advance

directed by the judge presiding at the sittings and shall attend for service upon the summons of the sheriff. 1974, c. 63, s. 31.

Several causes may be tried in succession by the same jury

32. Notwithstanding sections 30 and 31, where no objection is made by a party, the court may try any issue or assess damages with the jury previously drawn to try any other issue, or to assess damages, without the cards or papers containing their names being returned to the container and redrawn, or may order any of the jurors whom both parties consent to withdraw, or who may be justly challenged or excused by the court, to retire and may cause another name or other names to be drawn from the container, and shall try the issue or assess the damages with the residue of the original jury and the new jurors who appear and are approved as indifferent. 1974, c. 63, s. 32.

If a full jury does not appear a *tales* may

33.—(1) Where a full jury does not appear at a sittings of a court for civil matters, or where, after the appearance of a full jury, by challenge of any of the parties, the jury is likely to remain untaken for default of jurors, the court may command the sheriff to name and appoint so many of such other able persons of the county then present, or who can be found, as will make up a full jury, and the sheriff shall return such persons to serve on the jury.

Adding names of *talesmen*

(2) Where a full jury does not appear, the names of the persons so returned shall be added to the panel returned upon the precept. 1974, c. 63, s. 33.

How jury to be composed

34. The presiding judge before whom a civil case is or may be heard may, in his discretion on an application made by or on behalf of the parties or any of them or at his own instance, make an order for the jury to be composed of men only or of women only, as the case may require. 1974, c. 63, s. 34.

The sheriff to note on rolls names of jurors who do not serve

35. Immediately after the sittings of the Supreme Court and of the court of general sessions of the peace, and of the county court, the sheriff shall note on the jury roll from which the panel of jurors returned to the sittings was drafted opposite the names of the jurors, the non-attendance or default of every juror who has not attended until discharged by the court. 1974, c. 63, s. 35.

CHALLENGES

Lack of eligibility

36. If a person not eligible is drawn as a juror for the trial of an issue in any matter or proceeding, the want of eligibility is a good cause for challenge. 1974, c. 63, s. 36.

37. In any cause, the plaintiff or plaintiffs, on one side, and the defendant or defendants, on the other, may challenge peremptorily any four of the jurors drawn to serve on the trial, and such right of challenge extends to the Crown when a party. 1974, c. 63, s. 37.

Peremptory challenges in civil cases

38. In a matter or proceeding to which a municipal corporation, other than a county, is a party, every ratepayer, and every officer or servant of the corporation is, for that reason, liable to challenge as a juror. 1974, c. 63, s. 38.

Ratepayers, officers, etc., of municipality may be challenged

GENERAL

39.—(1) Such fees and allowances as are prescribed under the *Administration of Justice Act* shall be paid to,

Fees payable to jurors and justices of the peace

(a) every juror attending a sitting of the Supreme Court or of the court of general sessions of the peace or of the county court; and

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(b) the justice of the peace in attendance for each panel drafted under section 17.

(2) With every record entered for trial of issues or assessment of damages by a jury in the Supreme Court there shall be paid to the Registrar or the local registrar of the Supreme Court, as the case may be, such sum as is prescribed under the *Administration of Justice Act*, and the record shall not be entered unless such sum is first paid. 1974, c. 63, s. 39.

Sums to be paid with record when entered for trial in jury cases

40.—(1) The clerk of the court or the sheriff or his officer shall, at the opening of the court and before any other business is proceeded with, call the names of the jurors, and the sheriff or his officer shall record those who are present or absent.

List of jurors to be called

(2) The sheriff shall keep a record of the payment of fees to jurors for attending sittings of a court. 1974, c. 63, s. 40 (1, 2).

Record of fees paid

(3) A juror is not entitled to fees or expenses in respect of days that he does not or is not required to attend. 1975, c. 25, s. 5.

When fees payable

41. The Lieutenant Governor in Council may make regulations,

Regulations

(a) prescribing any form required or permitted by this Act to be prescribed by the regulations;

- (b) prescribing the manner of keeping jury rolls and lists of jury panels and records thereof and requiring and prescribing the form of the certification or authentication of entries therein. 1974, c. 63, s. 41.

Offences

42.—(1) Every person who,

- (a) wilfully makes or causes to be made any alteration in any roll or panel or in any certified copy thereof except in accordance with this Act;
- (b) falsely certifies any roll or panel; or
- (c) influences or attempts to influence the selection of persons for inclusion in or omission from any jury roll or panel, except in a proper procedure under this Act,

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both.

Idem

(2) Every sheriff or clerk of the peace, or clerk or registrar of a court who refuses to perform any duty imposed on him by this Act, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. 1974, c. 63, s 42 (1, 2).

Idem

(3) Every person who is required to complete a return to a jury service notice and who,

- (a) without reasonable excuse fails to complete the return or mail it to the sheriff as required by subsection 6 (5); or
- (b) knowingly gives false or misleading information in the return,

is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. 1974, c. 63, s. 42 (3); 1975, c. 25, s. 6.

Evidence of
not mailing

(4) For the purposes of subsection (3), where the sheriff fails to receive a return to a jury service notice within five days from the date on which it was required by this Act to be mailed, such failure is *prima facie* proof that the person required to mail it to the sheriff failed to do so in the time required.

Certificate
as evidence

(5) A statement as to the receipt or non-receipt of a return to a jury service notice purporting to be certified by the sheriff is, without proof of the appointment or signature of

the sheriff, receivable in evidence as *prima facie* proof of the facts stated therein in any prosecution under subsection (3). 1974, c. 63, s. 42 (4, 5).

43. Every person is in contempt of court who, without ^{Contempt of court} reasonable excuse,

- (a) having been duly summoned to attend on a jury, does not attend in pursuance of the summons, or being there called does not answer to his name; or
- (b) being a juror or talesman, after having been called, is present but does not appear, or after his appearance wilfully withdraws himself from the presence of the court; or
- (c) being a sheriff, wilfully empanels and returns to serve on a jury a person whose name has not been duly drawn upon the panel in the manner prescribed in this Act; or
- (d) being a registrar, clerk of the peace or other officer wilfully records the appearance of a person so summoned and returned who has not actually appeared. 1974, c. 63, s. 43.

44.—(1) Every person is in contempt of court who, being ^{Idem, tampering with jurors} interested in an action that is or is to be entered for trial or may be tried in the court, or being the solicitor, counsel, agent or emissary of such person, before or during the sittings or at any time after a juror on the jury panel for such court has been summoned knowingly, directly or indirectly, speaks to or consults with the juror respecting such action or any matter or thing relating thereto. 1974, c. 63, s. 44 (1).

(2) Where a solicitor or barrister or student-at-law is ^{Barrister, solicitor or student to be disbarred or suspended} guilty of such offence he may, in addition to any other penalty, be struck from the roll of solicitors or be disbarred or suspended from the practice of his profession for a limited time or his name may be erased from the list of the Law Society or removed therefrom for a limited time by the Supreme Court upon motion at the instance and in the name of the Attorney General. 1974, c. 63, s. 44 (2); 1975, c. 25, s. 7.

(3) This section does not apply where a juror is also a party ^{Exception where juror is a party or witness} to or a known witness or interested in the action or is otherwise ineligible as a juror in the action, nor to anything that may properly take place in the course of the trial or conduct of the action. 1974, c. 63, s. 44 (3).

Leave of
absence
from
employment

45.—(1) Every employer shall grant to an employee who is summoned for jury service a leave of absence, with or without pay, sufficient for the purpose of the discharge of the employee's duties, and, upon the employee's return, the employer shall reinstate the employee to his position, or provide him with alternative work of a comparable nature at not less than his wages at the time his leave of absence began and without loss of seniority or benefits accrued to the commencement of his leave of absence.

Liability
of
employer
for
breach

(2) An employer who fails to comply with subsection (1) is liable to the employee for any loss occasioned by the breach of his obligation.

Penalty
for
reprisals

(3) Every employer who, directly or indirectly,

(a) threatens to cause or causes an employee loss of position, or employment; or

(b) threatens to impose or imposes on an employee any pecuniary or other penalty,

because of his response to a summons, or his service as a juror, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than three months, or to both. 1980, c. 64, s. 7.

Posting up
copies of
s. 127 (2, 3) of
Criminal Code

46. The sheriff shall at the sittings of the Supreme Court or county court for trials by jury and the court of general sessions of the peace post up in the court room and jury rooms and in the general entrance hall of the court house printed copies in conspicuous type of subsections 127 (2) and (3) of the *Criminal Code* (Canada) and subsection 44 (1) of this Act. 1974, c. 63, s. 45.

R.S.C. 1970,
c. C-34

Saving of
former
powers of
court and
judges
except as
altered

47. Nothing in this Act alters, abridges or affects any power or authority that any court or judge has, or any practice or form in regard to trials by jury, juries or jurors, except in those cases only where such power or authority, practice or form is repealed or altered, or is inconsistent with any of the provisions of this Act. 1974, c. 63, s. 46.

Omissions to
observe this
Act not to
vitiate the
verdict

48.—(1) The omission to observe any of the provisions of this Act respecting the eligibility, selection, balloting and distribution of jurors, the preparation of the jury roll or the drafting of panels from the jury roll is not a ground for impeaching or quashing a verdict or judgment in any action.

Panel
deemed
properly
selected

(2) Subject to sections 36 and 38, a jury panel returned by the sheriff for the purposes of this Act shall be deemed to be properly selected for the purposes of the service of the jurors in any matter or proceeding. 1974, c. 63, s. 47.