

1880, No. 16.

AN ACT for consolidating the Law relating to Juries.

JURIES.

[17th August, 1880.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

I. PRELIMINARY.

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| <b>1.</b> The Short Title of this Act is "The Juries Act, 1880." | Short Title.    |
| <b>2.</b> In this Act, if not inconsistent with the context,—    | Interpretation. |
| (1.) "Constable" includes police and peace officers :            | "Constable."    |
| (2.) "Registrar" includes Deputy Registrar :                     | "Registrar."    |
| (3.) "Maori" includes—   | "Maori."        |
- (a.) All persons of the aboriginal race of New Zealand ;  
(b.) All persons of the Polynesian, Melanesian, or Australasian races ; and  
(c.) All persons, designated "half-castes," one of whose parents is or was a Native of any such race as aforesaid :  
But no half-caste shall be deemed to be a Maori within the meaning of this Act unless he shall be living as a member of some Native tribe or community :  
(4.) "Public railway" includes all railways used for the conveyance of "Public railway" passengers in or upon carriages drawn or impelled by steam :  
(5.) "Court town" means such town as in section thirteen is so designated : "Court town."  
(6.) "Jury district" means such district as in section thirteen is so designated : "Jury district."  
(7.) "Jury Officer" means such officer as in section fourteen is so designated : "Jury Officer."  
(8.) "Sittings of the Supreme Court" includes sittings of Circuit Courts "Circuit sittings." of the Supreme Court.

II. QUALIFICATION AND DISQUALIFICATION OF JURORS.

- 3.** Every man, except as mentioned in sections five, six, eight, and nine, between the ages of twenty-one years and sixty years, not being a Maori, who shall be of good fame and character, and who shall reside within the colony, shall be liable and qualified to serve as a juror upon all juries which may be impanelled for any trial or inquiry within the jury district in which such person shall reside.

**Maoris.**

**Regulations by Governor.**

**Disqualification.**

**Aliens.**

**Convicts.**

**Undischarged bankrupts.**

**Persons of bad fame.**

**Classes of persons exempt from service.**

**Not to be put on list or summoned, except Volunteers and Militiamen, who are not to be summoned when on actual service.**

**Volunteer fire brigade members to be excused on production of certificate.**

**4.** Any Maori, whose capability may be certified, under any regulations in that behalf to be from time to time issued by the Governor in Council, which regulations the said Governor in Council is hereby authorized to make, shall be deemed to be duly qualified and liable to serve as a juror on any Maori jury or mixed jury, for the trial of any case, civil or criminal, within the jury district in which such Maori so certified shall reside, and in which case the person or property of any Maori may be affected.

**5.** The following persons shall not be qualified to serve on any jury in any Court or on any occasion :—

- (1.) Any one who is not a natural-born or a naturalized subject of the Queen ;
- (2.) Any one who has been convicted of any treason or felony or any crime that is infamous, unless he has received a free pardon ;
- (3.) Any one who has become bankrupt, and has not obtained his discharge in due course of law ;
- (4.) Any one who is of bad fame or repute.

### III. EXEMPTIONS.

**6.** The following persons shall be exempt from serving upon any jury :—

- (1.) Members of the Executive Council of New Zealand ;
- (2.) Members of both Houses of the General Assembly ;
- (3.) Judges of the Supreme Court, Judges of District Courts and Native Land Courts, and Resident Magistrates ;
- (4.) Clergymen in holy orders, and all persons who shall preach or teach in any religious congregation, and who shall not follow any secular occupation except that of a schoolmaster ;
- (5.) All schoolmasters and inspectors of schools ;
- (6.) All barristers-at-law and solicitors duly admitted and actually practising ;
- (7.) All physicians, surgeons, and medical practitioners legally qualified and actually practising ;
- (8.) All persons holding any salaried or paid office by appointment of the Governor ;
- (9.) All coroners, gaolers, police officers, and constables ;
- (10.) All licensed pilots and masters of vessels actually employed in the service of the Government, whether by appointment of the Governor or by virtue of any contract with the Government ;
- (11.) All persons in Her Majesty's Army and Navy on full pay ;
- (12.) Every commissioned officer of the Militia or of the Volunteer Force on actual service, and every other member of any corps of Volunteers while on actual service in the field, and every Militiaman when called out and on actual service.

**7.** The persons in the last section mentioned shall not be inserted in the jury lists hereinafter mentioned, and shall not be summoned as jurors ; except Volunteers and Militiamen, whose names shall be inserted in the jury lists, but who shall not be summoned while on actual service.

**8.** With respect to members of any Volunteer Fire Brigade :

If any such person summoned to appear and serve as a juror shall claim to be excused or discharged from attending and serving as a juror, by reason of his being an active member of such brigade, and shall produce to the Judge of the Court at which he shall have been summoned to appear a certificate under the hand of a fire inspector, or of the captain or other principal officer of a volunteer fire brigade, to the effect that such person is an active member of a

volunteer fire brigade, and has regularly attended the meetings of such brigade for practice or drill for a period of not less than twelve months before the sitting of the Court at which he has been summoned to appear as aforesaid, and has otherwise observed the rules or regulations of the said brigade in respect to attendance at practice or drill and at fires, the Judge shall thereupon excuse and discharge such person from further attendance at that sitting of the Court.

**9.** With respect to persons employed on or about any public railway, the Railway officials exempt. following shall, during the period within which they are so employed, be exempted from serving upon any jury, and shall not be summoned :—

- (1.) Officers in charge of stations ;
- (2.) Guards ;
- (3.) Engine-drivers ;
- (4.) Firemen ;
- (5.) Signalmen ;
- (6.) Platform porters.

**10.** If any person, during the period he is so employed as in the last section mentioned, shall nevertheless be summoned to serve as a juror, the Judge or other person before whom he is summoned shall excuse and discharge such person from attendance in obedience to the terms of the summons, upon his producing or forwarding a certificate under the hand of the general manager appointed under "The Railway Regulation and Inspection Act, 1873," for any such public railway, stating that he is exempt by reason of his being employed as aforesaid.

If summoned, to be excused on production of certificate.

**11.** If any person authorized by sections eight or ten to grant a certificate of exemption shall knowingly give one containing any false statement of fact, such person shall forfeit and pay a penalty not exceeding twenty pounds or less than five pounds.

Penalties for granting false certificates.

**12.** If any person shall claim exemption from serving as a juror by means of a certificate which he shall know to be false or to contain any false statement of fact, such person shall forfeit and pay a penalty not exceeding fifty pounds and not less than ten pounds.

Penalties for using same.

#### IV. FORMATION OF JURY LISTS ; BOXES AND BOOKS.

**13.** For every city or town at which any sittings of the Supreme Court or any District Court shall be held, which for the purposes of this Act is to be called a "Court town," there shall be a jury district.

Jury districts.

- (1.) Such district shall include all places within twenty miles from the Courthouse in such Court town in which sittings of the Supreme Court are held ;

Or, if no such Court or sittings are held in such Court town, then all places within twenty miles from the Courthouse or building in which the District Court is held.

- (2.) When any such district would include any place which would, but for this provision, be also included within any other jury district, each such jury district shall, in the direction between the Court towns thereof respectively, be limited and bounded by a straight line between the points of intersection of the circles with a radius of twenty miles round such Courthouse or building as aforesaid in each of such Court towns respectively.

**14.** There shall be a Jury Officer for each district.

Jury Officer.

- (1.) Where a Resident Magistrate's Court is usually held at a Court town, the Clerk thereof shall be the Jury Officer for the district.
- (2.) During the absence or during a vacancy in the office of such Clerk, the

Resident Magistrate, or, if there be more than one, then the one appointed to hold Courts in the Resident Magistrate's Court district whose appointment to do so is first in date, shall be the Jury Officer for the jury district.

(3.) If there be a Court town at which a Resident Magistrate's Court is not holden, the Governor shall, by warrant under his hand, appoint a person, being a Justice of the Peace, to be the Jury Officer for the jury district of such Court town.

**Warrants to constables.**

**15.** The Jury Officer of every such jury district shall, before the last day of January in every year, issue and deliver his warrants (in the form contained in the First Schedule to this Act, or as near thereto as may be) to one or more constables within such jury district, together with a sufficient number of printed forms of return and notice set forth respectively in the Second and Third Schedules to this Act.

It shall be lawful for the Jury Officer of any jury district to determine as to the portion of such district to which the warrants aforesaid shall be limited.

**Lists made out by constables.**

**16.** Each of such constables shall forthwith, after the receipt of such warrant, prepare and make out, in alphabetical order, a true list of all men residing within the limits mentioned in such warrant, qualified and liable to serve on juries, with the Christian name and surname written at full length, and with the true place of abode, title, quality, calling, or business, in the proper columns of the said form of return.

**Notice of lists fixed to office.**

**17.** Such constables, having made out such lists, shall, on the first two Sundays in March in every year, fix a notice in the form contained in the Third Schedule to this Act, signcd by them or one of them—

(1.) Upon or near the principal outer door of the office or building or of the offices or buildings in which the sittings of the Resident Magistrates' Courts and Courts of Petty Sessions are usually holden, within the limits mentioned in the said warrant; and

(2.) Of every church, chapel, and other public place of religious worship within the limits mentioned in the said warrant.

**Inspection of original lists.**

In such notice shall be stated, in the proper blanks in such form, the time and place at which a meeting of Justices will be holden to revise such list.

**Penalty for defacing notice.**

**18.** The constables shall keep the original lists or true copies thereof, to be inspected and perused by any of the inhabitants of the said jury district at any reasonable time during the first three weeks of the same month, without fee or reward, to the end that notice may be given of men qualified and liable to serve as aforesaid who are omitted, or of men inscribed who ought to be omitted, from such list.

**19.** Any person who shall deface or remove such notice shall forfeit a sum not exceeding five pounds nor less than forty shillings.

**Notice by Jury Officer of meeting of Justices.**

**20.** The Jury Officer of every such jury district shall, by a notice in the form in the Fourth Schedule to this Act published, in such manner as he shall think fit, fourteen days at least before the day of meeting, call, for the purposes herein mentioned, a meeting of the Justices of the Peace residing within the jury district, to be held on the first Friday in April of every year, at some Resident Magistrate's Courthouse or office, or some other suitable building, to be named in such notice, at the Court town of such district.

**Quorum.**

**21.** At such meeting any two Justices of the Peace shall form a quorum, and a Resident Magistrate, in the absence of other Justices, may act alone.

**Constables to attend, and provide lists.**

**22.** Such meeting may be adjourned from time to time; and all constables as aforesaid shall then and there produce the lists of men qualified and liable to

serve as aforesaid, by them prepared and made out as hereinbefore directed, and shall answer upon oath such questions touching the same as shall be put to them by the Justices then present.

**23.** If any man not qualified and liable to serve as aforesaid is inserted in any such list, the Justices shall, upon satisfaction, from the oath of the party complaining, or other proof, or upon their own knowledge, that he is not qualified and liable to serve as aforesaid, strike his name out of such list; and shall also strike thereout the names of men disabled, by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body, from service on juries.

**24.** Such Justices shall also insert in such list the name of any man qualified and liable as aforesaid, omitted therefrom; and likewise reform any errors or omissions which shall appear to them to have been committed in respect of the name, place of abode, title, quality, calling, or business of any man included in such list.

**25.** When every such list shall be revised and completed, the Justices present, or any two of them, shall insert at the foot thereof their allowance thereof, and shall sign the same and deliver it to the Jury Officer of the district.

**26.** The Jury Officer shall, before the twenty-third day of April then next, deliver or transmit such list to the Sheriff of the Sheriff's district within which the jury district for which such list shall have been prepared shall be situated.

**27.** It shall be lawful for the Jury Officer, if a Resident Magistrate or Justice of the Peace, to act as such Resident Magistrate or Justice of the Peace at such meeting of Justices, and also to act as Jury Officer; and it shall not be deemed incompatible for him to act in both capacities.

**28.** The constables, for their assistance in completing the lists pursuant to this Act, may, during the month of February in each year, put to any person all such questions as they may think proper relating to the said lists, and to the Christian name and surname, place of abode, title, quality, calling, business, occupation, or employment of any man.

**29.** Such constables shall, upon request made by them or any of them, at any reasonable time, in the same month, to any person having the custody of any valuation, rate, or assessment for any city, town, borough, district, or place, have free liberty to inspect the same, and take from thence the names of such men qualified to serve on juries as aforesaid, dwelling within such jury district, as may appear to them or any of them to be necessary or useful.

**30.** Every Justice of the Peace shall, upon the like request to any person having the custody of any such valuation, rate, or assessment, have the like free liberty to inspect and make extracts from the same for the purpose of assisting them in the revision and completion of the jury lists according to this Act.

#### *Boxes for Jurors' Names, and Jury Books for Special and Common Juries.*

**31.** The Sheriff of every Sheriff's district shall procure and keep in his office, for every Court town at which sittings of the Supreme Court are holden within such Sheriff's district, two substantial boxes, of a cylindrical 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 such two boxes to be painted white.

**32.** On one of the said boxes the Sheriff shall cause to be legibly painted in black letters the name of the Court town for which such box shall be in-

Striking out disquali-fied persons.

Inserting names and reforming errors.

Allowance of lists.  
Delivery to Sheriff.

tended, with the words "Common Jurors in use," and on the other of the said boxes shall cause to be legibly painted in black letters the name of the same Court town with the words "Common Jurors in reserve."

**Boxes made to revolve.**

**Sheriff to keep boxes locked.**

**Special-jury book.**

**Numbers and names on parchment.**

**Box for numbers of special jurors, &c.**

**Special jurors not exempt from serving on common juries.**

**Common-jury book.**

**Contents.**

**Numbers put in box.**

**33.** Such Sheriff shall cause the said boxes to be placed horizontally on strong wooden frames, so as that the same can be easily made to revolve on their said axles in the manner and for the purposes hereinafter mentioned.

**34.** Such Sheriff 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.

*Jury Books, Special and Common.*

**35.** The Sheriff shall keep the lists so sent and delivered to him by the Jury Officers in his office, and shall take from such lists consecutively and enter in a book consecutively the names, in the order in which they stand therein, of all men who shall be described in such lists as "esquires, gentlemen, merchants, managers of banks, civil engineers, and architects," and also such other persons whose names appear on such lists as shall be known to him to be of the best condition, so as to make up such a number of special jurymen as he shall consider to be necessary.

**36.** The Sheriff shall prefix to such book the name of the Court town of the jury district for which such lists shall have been prepared, and to every name in such book its proper number, beginning the numbers from the first name and continuing them in a regular arithmetical series down to the last name, and shall cause the said several numbers to be written upon distinct pieces of parchment being all as nearly as may be of equal size and shape, and having thereon respectively the name of the said Court town and the word "Special."

**37.** The Sheriff, after all the said numbers shall have been so written, shall put the pieces of parchment together by themselves in a box, to be kept by him for that purpose, with the name of the same Court town and the words "Special Jurors" painted thereon, and shall there safely keep the same to be used for the purpose hereinafter mentioned.

All men whose names are so copied into such book shall be called "special jurors," and shall serve on all special juries under this Act.

**38.** But no person qualified as a special juror, and whose name appears on any special-jury book, shall be exempted from serving on any common jury.

**39.** The Sheriff shall in like manner take from the said lists consecutively as aforesaid the names of every person contained in the general jury list for his district, and shall cause the names of all such men, together with their respective places of abode and addition, to be fairly and truly copied into a book to be called "The Common-Jury Book."

**40.** The Sheriff shall prefix to such last-mentioned book the name of the said Court town, and to every name in such book its proper number, beginning the numbers from the first name and continuing them in a regular arithmetical series down to the last name, and shall cause the said several numbers to be written upon distinct pieces of parchment, being all as nearly as may be of equal size and shape, and having thereon respectively the name of the said Court town and the word "Common."

**41.** The Sheriff, after all the said numbers shall have been so written, shall put the pieces of parchment together by themselves into the said box with the name of the said Court town and the words "Common Jurors in use" painted thereon, and shall there safely keep the same to be used for the purpose herein-after mentioned.

All men whose names are so copied into such last-mentioned book shall be called "common jurors," and shall serve on all common juries under this Act.

**42.** Every Sheriff on quitting his office shall deliver the jury books and boxes above mentioned to the succeeding Sheriff. Delivery of books, &c., to succeeding Sheriff.

**43.** Every jury book shall be so provided and prepared before the fourteenth day of May after such lists shall have been sent or delivered to the Sheriff as aforesaid, and shall be brought into use on that day, and be used for one year then next following. Time for preparation of jury books.

**44.** If there shall at any time be more than one Court town in the same Sheriff's district, the Sheriff shall keep the lists aforesaid for one jury district separate from the lists for any other jury district, and shall cause to be made separate jury books for every such jury district. Separate book for separate Court town in one Sheriff's district.

**45.** The enactments herein contained with respect to the numbers, parchments, books, and boxes aforesaid respectively shall be observed and obeyed with respect to the jury books of every such jury district, and shall be applicable thereto. Enactments to apply to separate districts.

**46.** No special-jury book as aforesaid shall be made for any jury district at the Court town of which no sittings of the Supreme Court are usually holden. No special-jury book at Court town where no sitting of Supreme Court is held.

**47.** If, after the fourteenth day of May in any year, sittings of the Supreme Court should be appointed to be held, then a special-jury book in the manner aforesaid shall be formed from such lists; but the common-jury book and the pieces of parchment marked with the word "Common" as aforesaid shall not be altered. Case where sittings appointed after formation of lists.

**48.** In case any sittings of the Supreme Court for trial of civil or criminal cases, or District Court, shall hereafter be lawfully directed or appointed to be holden at any town other than those at which Courts are now holden, the Clerk of the Resident Magistrate's Court there, if there be one, or a Jury Officer to be appointed for the jury district of such town in manner aforesaid, shall act as Jury Officer for the jury district of such town. Jury lists for new Court town.

**49.** Such Jury Officer, and all Justices of the Peace, and the Registrars, Clerks, or other officers of Courts, constables, and Sheriffs, shall, within such time as the Governor shall order for that occasion only, do and perform all such acts, matters, and things in and towards preparing, collecting, allowing, sending, and delivering the lists of men qualified and liable to serve on juries, and making out the jury books for every such jury district, as are hereinbefore required ordinarily to be done at a different time or period. Preparation of lists for same.

**50.** All such last-mentioned jury books shall be brought into use, and the persons whose names shall be therein set down shall be liable to serve, immediately after the same shall have been made out by the Sheriff; Jury books to be used till new are prepared.

And the said last-mentioned books shall be used until new books shall have been prepared under the provisions hereinbefore contained.

**51.** If at any time it shall be found that no jury list shall have been made for the current year for any jury district, the jury list for the preceding year shall be deemed to be the proper jury list. Provision for using previous year's list when no list made.

#### V. GRAND JURY.

**52.** The Registrar of the Supreme Court shall, before the day fixed for any Grand jury precept. Circuit Court for trial of criminal cases, issue a grand jury precept under his hand in the form contained in the Fifth Schedule to this Act, or to the like effect.

**Delivery to the Sheriff.**

**Summons to jury.**

**Form of summons.**

**Mode of selection of names.**

**Provision if number insufficient.**

**Sheriff to deliver precept, parchments, &c., sealed up in Court.**

**Ballot.**

**Complete jury.**

**Common juries in criminal cases.**

**Common juries in civil cases.**

**Precept to the Sheriff.**

**53.** Every such precept shall be delivered to the Sheriff fourteen days before the same is returnable.

**54.** Upon receipt of such precept, the Sheriff shall summon not less than twenty-four nor more than thirty men, to attend at such Circuit Court, and at such time and place as may be specified in such precept to inquire, present, do, and execute all those things which on the part of the Queen shall then and there be commanded of them.

**55.** Such summons shall be in the same form or to the like effect, and shall be served in the same manner, as is hereinafter provided with regard to a summons to other jurors.

**56.** The names of such men shall be taken from the special-jury book of the jury district in which the Court town at which such Court is to be held is situate, in the same manner as a special jury is hereinafter directed to be taken, except that there shall be no striking out or reduction of the number so taken as in the case of special juries.

**57.** If there be not a sufficient number of jurors' names in the special-jury book of any such district, then the Sheriff shall select and take from the common-jury book of such district such number of names of common jurors of the best condition as will, with the number of names of special jurors, make up the required number of grand jury.

**58.** At the time and place aforesaid, the said Sheriff shall bring into Court the said precept, with the name, place of abode, and addition of every grand juror written on separate pieces of parchment, all being as nearly as may be of equal size and shape, and enclosed with the said precept in a cover under his seal, and indorsed with the words "Grand Jury."

**59.** Such seal shall, in open Court, be broken by the proper officer thereof. Such officer shall thereupon put the said pieces of parchment together in a box to be provided for that purpose, and, after having shaken them together, shall then, in open Court, draw out of the said box the said pieces of parchment one after another until twenty-three men shall appear.

**60.** The twenty-three men so first drawn and appearing, or, if twenty-three men should not appear, such of them as do appear, not being less than twelve men, shall be the grand jury.

#### VI. COMMON JURIES.

**61.** In criminal cases in the Supreme Court or District Courts, the trial of every issue joined upon any indictment found or any criminal information shall, except as in sections eighty-five and eighty-six mentioned, be had by a jury of twelve men, whose names shall be taken from the common-jury book of the jury district in which the trial is to be had.

**62.** In civil actions in the Supreme Court, the trial of issues and the inquiry of damages shall, except as mentioned in sections seventy-one, seventy-two, and seventy-three, be heard by a jury of twelve men, whose names shall be taken from the common-jury book of the district in which such trial shall take place, except in cases tried at a minor jury sittings of the Supreme Court, which shall be by six taken from such common-jury book.

**63.** Whenever common juries are required for the trial of issues either civil or criminal, or the assessment of damages, in the Supreme Court, or for the trial of criminal cases in the District Court, the Registrar, Clerk, or proper officer of such Courts respectively shall issue a precept to the Sheriff of the Sheriff's district within which such trial is to be heard, under his hand, commanding such Sheriff to summon a sufficient number of jurors to attend or serve at such trial.

**64.** Such precept shall be in the form contained in the Fifth Schedule of Form of precept. this Act, or to the like effect, and shall command the Sheriff to summon not less than thirty-six men, or, if the trial or assessment of damages is to be at a minor jury sittings of the Supreme Court, then not less than eighteen men.

**65.** Every such precept shall be delivered to the Sheriff, or other person to Time of delivery, whom the same is directed, fourteen days before the same is returnable.

**66.** The Sheriff, upon the receipt of any such common-jury precept, shall, by some notice affixed in legible characters in some public and conspicuous place of his office, appoint some future day, and some hour on that day not earlier than eleven o'clock in the forenoon nor later than three o'clock in the afternoon, at which he or his deputy will, in such office, proceed to draw the names of persons to be summoned to serve as jurors at the Court for which such precept shall have been issued.

**67.** The Sheriff at the time so named, and in his said office, and in the Ballot for the same. presence of all persons who may choose to attend, shall cause that one of the said boxes for the proper jury district on which the words "Common Jurors in use" are painted, to revolve on its axle for the space of one minute at the least, and immediately after the expiration of that time shall draw out of the said box as many of the said parchments as are equal to the number of jurors intended to be summoned, one after another.

**68.** As each parchment is drawn, the Sheriff shall refer to the corresponding Entry on panel. number in the common-jury book of the then current year, and read aloud the name designated by such number, and then and there write the said number, and also such name with the place of abode and addition, on a panel to be signed by him and sealed with his seal of office; and, after having so written the same on such panel, shall keep the said parchments, which shall have been so drawn out as aforesaid, until after the said precept is returnable.

**69.** If any juror whose name may be on the said panel does not attend at the sitting of the Court in pursuance of the summons hereinafter mentioned, the Sheriff shall return the said parchment bearing the number by which the name of such juror is designated as aforesaid, to the said box marked "Common Jurors in use," and shall put the residue of the said parchments, or (if all such jurors shall attend as aforesaid) the whole of the said parchments, into that one of the said boxes for the same district on which the words "Common Jurors in reserve" are painted, there to remain until the remainder of the said parchments shall have been drawn out of the first-mentioned box in the manner aforesaid, and then to be returned to such box for the purpose of being again resorted to according to the mode of proceeding hereinbefore described.

**70.** If at any time there shall be no jury book in existence for the current Where no book for year, previous year's book used. year, it shall be lawful to take the names of common jurors from the common-jury book for the preceding year in the manner aforesaid, and the jurors contained in the said panel shall be the jurors to try all issues and inquire of all damages at the Court to which they shall be summoned.

## VII. SPECIAL JURIES.

### (1.) Civil Cases.

**71.** The party giving notice of trial or inquiry in any civil action in the Supreme Court may, by leave of the Court or a Judge thereof, procure such trial or inquiry to be had by a special jury of twelve men, or of four men if both parties to the action agree, at the time of the settling of the issues, and the Judge of the Court assents thereto at the time of such leave being granted,

In civil cases, of twelve or four men, on request of party giving notice of same.

upon entering the action with the Registrar for trial or inquiry by such jury, at any time not less than ten days before the day fixed for the trial or inquiry, or such other time as shall be fixed by any general rule or order, and giving notice to that effect to the other party, not less than ten days before the day fixed for such trial or inquiry, or any other time which shall be fixed by any general rule or order.

**On application of other party.**

**72.** The other party may also procure such trial or inquiry to be had by such jury, by obtaining a rule or order of the Supreme Court or Judge thereof for a special jury, which he may obtain by leave of the Court or Judge, if he apply for the same more than eight days before the day fixed for the trial, or at such other time as shall be fixed by any general rule or order.

**73.** But the Court or Judge may at any time order that the trial or inquiry shall be had by a special jury upon such terms as it or he shall think fit.

**74.** The party who shall procure any trial or inquiry to be had by a special jury shall pay all the fees and expenses occasioned by the trial or inquiry by the same, and shall not have any further or other allowance for the same upon taxation of costs than such party would be entitled to in case the trial or inquiry had been had by a common jury of twelve men as hereinbefore described, unless the Judge before whom the trial or inquiry comes on to be had shall, immediately after the verdict or nonsuit, certify under his hand upon the back of the record that the same cause was proper for a special jury.

**Striking special jury.**

**75.** Whenever a civil action has been duly entered to be tried by a special jury, other than a special jury of four, and whenever any rule or order for the trial of any case, civil or criminal, by a special jury has been made, the Registrar of the Court at which any such trial is to be held shall issue a special precept to the Sheriff of the Sheriff's district within which such trial is to be held, under his hand, commanding him to summon not less than twenty-four special jurors to attend and serve on such trial.

**Precept.**

**76.** The precept shall be in the form in the Fifth Schedule to this Act or to the like effect, and the same shall be intituled in the cause, and shall be delivered to the Sheriff or other person to whom the same is directed, seven days before the same is returnable, or such other time as shall be fixed by any general rule or order.

**Mode of striking.**

**77.** The Sheriff shall appoint a time and place for striking such jury, and shall, in the presence of the parties and their solicitors, if they choose to attend, on reasonable notice, put the numbers from the special-jury book (written on distinct pieces of parchment as aforesaid) into a box to be provided by him for that purpose, and, after having shaken them together, shall draw out of the said box forty-eight of the said numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the special-jury book, and read aloud the name designated by such number.

**Delivery of lists to parties, and reducing number.**

**78.** When such forty-eight numbers shall have been drawn, the Sheriff shall prepare two lists of the men's names, with the numbers as they are written in the special-jury book, and shall deliver one list to the plaintiff or his solicitor, and another list to the defendant or his solicitor, and the forty-eight names contained in the lists so delivered shall, at a time to be appointed by the Sheriff, be reduced to twenty-four by the plaintiff or his solicitor, and the defendant or his solicitor; each of them alternately, in the manner heretofore accustomed, striking out at his discretion twelve names from each of the said lists in the presence of the said Sheriff.

**Sheriff striking for absent party.**

**79.** The Sheriff shall, in the absence of either party or his solicitor, and on proof being made that such absent party has been duly served with notice of

the appointment, strike out the names on his behalf, and the said Sheriff shall sign such reduced lists.

**80.** The jurors whose names are not struck out on such lists shall be Summoning, summoned by the Sheriff or his officer as hereinafter provided.

**81.** The Sheriff shall prepare a panel, on which he shall write the names Preparing panel. of the jurors not struck out, with their respective additions and places of abode, with the proper number prefixed to each, and shall sign and seal such panel. The jurors contained in the said panel shall be the jurors from which shall be drawn, in manner hereinafter mentioned, the jury to try such case.

**82.** If in any case it shall so happen that the whole number of jurors Supplementary num-  
cannot be obtained from the special-jury book, such a number of names from  
ber from common-  
the common-jury book for the same district of the then current year, in addition  
jury book.  
to those already taken from the special-jury book, as shall be required to make  
up the proper number shall be taken in the same manner as is hereinbefore  
described with respect to special juries; and the said last-mentioned names  
shall in such case be deemed and taken to be those of special jurors in force  
for civil and criminal cases.

**83.** If there shall be no jury books in existence for the current year, it Books of preceding  
shall be lawful to take the names of special jurors from the special-jury book year.  
or common-jury book for the preceding year in the manner aforesaid.

**84.** If the trial or inquiry is to be heard by a special jury of four men, Special jury of four :  
then sections seventy-one to eighty-three inclusive are to apply to the same,  
provisions of sections  
“four” being substituted for “twelve,” “eight” for “twenty-four,” and  
71 to 83 applicable.  
“twenty-four” for “forty-eight.”

#### (2.) *Criminal Cases.*

**85.** For the trial of any indictment or any criminal information in the Supreme Court, or at any Circuit Court thereof, it shall be lawful for the Supreme Court, on application made on behalf of Her Majesty, or by or on behalf of any prosecutor, or by or on behalf of any defendant or person accused of any indictable offence, whether any indictment shall have been found or any information exhibited or filed or not, to order that the trial of any issues joined or to be joined upon any indictment or information against the person to be named in such order, shall be by a special jury of twelve men, and the proper officer shall issue a jury precept accordingly.

**86.** But such application, if made by a defendant or person accused, shall not be granted unless he shall have served a notice of his intention to make the same upon the Attorney-General, Crown or other prosecutor, at least four days before making the same.

**87.** For the purpose of balloting for special jurors to serve on trials of criminal cases, the Sheriff of every Sheriff's district shall procure and keep, in the same manner in every respect as provided in sections thirty-one to thirty-four inclusive of this Act, two boxes of the description as in the thirty-first section mentioned, on one of which boxes shall be painted the words “Special Jurors in use,” and on the other the words “Special Jurors in reserve.”

**88.** The provisions of sections eighty-one and eighty-two shall apply to special jurors in criminal cases.

**89.** Whenever a criminal case has been duly entered to be tried by a special jury, and whenever any rule or order for the trial of any criminal case by a special jury has been made, the Registrar of the Court at which any such trial is to be held shall issue a special precept to the Sheriff of the Sheriff's district

Form.

within which such trial is to be held, under his hand, commanding him to summon a sufficient number of special jurors to attend and serve on such trial.

Balloting for jurors to be summoned.

**90.** The precept shall be in the form contained in the Fifth Schedule to this Act, or to the like effect, and shall be intituled in the prosecution or other matter; and every such precept shall be delivered to the Sheriff, or other person to whom the same is directed, seven days before the same is returnable, or such other time as shall be fixed by any general rule or order, and shall command the Sheriff to summon not less than thirty-six special jurors.

Mode of balloting at trial.

**91.** Upon receipt of any such special-jury precept in criminal cases, the Sheriff shall proceed, in manner indicated by sections sixty-six to seventy inclusive of this Act, in the selection by ballot of the special jurors to be summoned, in the same manner as he is by the aforesaid sections directed to proceed in selecting common jurors; and for this purpose the said sections shall be read as if the words "special jurors," "special-jury book," and "special jurors in reserve," had respectively been inserted therein in lieu of the words "common jurors in use," "common-jury book," and "common jurors in reserve."

**92.** Upon delivery by the Sheriff to the proper officer of the Court of a special-jury panel, as in the ninety-fifth section of this Act mentioned, the last-named officer shall, on trials in criminal cases, deal with the parchments whereon are written the names of the special jurors in the same manner as if they were common jurors, and thereafter the said officer shall take all proceedings with respect to such special-jury panel in a criminal case, and with the aforesaid parchments, as if the same were a common-jury panel.

### VIII. GENERAL POWERS OF COURT.

Reservation of general powers of Court to order return of jury.

**93.** The Supreme Court, and every Judge thereof, and all District Courts and Judges thereof, shall respectively have and exercise such power and authority as they have heretofore had and exercised, or as similar Courts in England have, 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 as hereinafter mentioned; and the return to every such award or order shall be made in the manner heretofore used and accustomed in such or similar Courts respectively in England, save and except that the jurors so returned shall be qualified according to this Act.

Trial by proviso.

**94.** Nothing herein contained shall affect the right of a defendant to take down a cause for trial after default by the plaintiff to proceed to trial according to the course and practice of the Supreme Court.

### IX. SUMMONING JURORS. JURY PANEL.

Sheriff to summon jurors.

**95.** When the numbers and names with the places of abode and additions shall have been written on any such panel as in the sixty-eighth and eighty-first sections aforesaid, the Sheriff shall forthwith issue a summons, in the form contained in the Sixth Schedule to this Act, to every juror whose name shall be on any such panel.

Time of service.

**96.** The said summons shall be delivered to every such juror, or shall be left at his usual or last known place of abode, at least three clear days before the attendance of such juror is required.

In cases of treason, list of jurors to be delivered to party indicted.

**97.** When any person is indicted for high treason or misprision of treason in any Court whatsoever, a list of the petit jurors, with the Christian name and surname written at full length, and with the true place of abode, title, quality, calling, or business of every such juror, shall be given to the party so indicted.

ten days before the arraignment, and in the presence of two or more credible witnesses.

**98.** A copy of every panel made under the sixty-eighth or eighty-first sections of this Act shall, three days before such precept as aforesaid is returnable, be made by the Sheriff, and shall during such three days be kept in his office for inspection. Copy of jury panels for inspection.

**99.** A copy of such panel shall be delivered by the Sheriff to any person requiring the same on payment of two shillings. Copy may be obtained.

**100.** Upon the day and at the place named in every such jury precept for the appearance of the jurors thereby required to be summoned, the Sheriff shall, in open Court, deliver or cause to be delivered the said jury precept to the proper officer of such Court, and shall annex the panel to the said precept, and shall also then and there furnish to the same officer the names of the said jurors, with their respective places of abode and additions, written on separate pieces of parchment, being all as nearly as may be of equal size and shape. Sheriff to return precept and panel with parchments.

**101.** Such officer shall thereupon, where the jury is a common jury, in open Court, put the said pieces of parchment together in a box, to be provided for that purpose, and shall there keep the same to be used in manner hereinafter mentioned. If common jury, parchments to be put in box in Court.

#### X. PROCEEDINGS AT TRIAL.

##### (1.) Swearing and Balloting.

**102.** The proper officer of the Court, on delivery to him of such common-jury panel as in the sixty-eighth section aforesaid, shall in open Court call aloud the names of the jurors in the said panel one after another, and such of the said jurors as shall then or at any time thereafter answer to their names may be sworn in open Court in such one of the forms contained in the Seventh Schedule to this Act as may be applicable to the case. Swearing common jury in civil and criminal cases.

**103.** Being once sworn, such jurors shall not need to be resworn in each trial, unless either party or they that sue for the Queen or the person arraigned shall so require. Jury need not be resworn.

**104.** The said officer shall, as and when each juror is so sworn, make a minute thereof in the said panel. Minute of swearing in panel.

**105.** Where the jury is a special jury, the proper officer of the Court, on any case civil or criminal being called on, shall put the parchments delivered to him by the Sheriff into a balloting-box. Parchments of special jury in civil or criminal cases put in balloting box.

**106.** If any person called as a juror shall refuse or be unwilling, from alleged conscientious motives, to be sworn, the Court, upon being satisfied of the sincerity of such objection, may permit such person, instead of being sworn, to make his solemn affirmation and declaration in the words contained in the Eighth Schedule to this Act, which solemn affirmation or declaration shall be of the same force and effect as if such person had taken an oath in the usual form. Affirmation for oath.

**107.** Wherever in any legal proceedings whatsoever any other legal proceedings may be set out, it shall not be necessary to specify that any particular persons, who acted as jurors, had made affirmation or declaration instead of oath; but it may be stated in such first-mentioned proceedings, and also in any record whatsoever, that the jurors served and acted as jurors, in the same manner as if no Act had passed for enabling persons to serve as jurors without oath. Mode of alleging affirmation in record and formal proceeding.

**108.** Where any issue joined on any indictment found or information filed in the Supreme Court or any District Court, or in any civil action in the Supreme Court, shall be brought on to be tried in any such Court, the proper Balloting at trial.

officer thereof shall, in open Court, draw out of the box into which the parchments have been placed as hereinbefore mentioned twelve (or where the trial or inquiry is at any minor jury sittings, six, or four in case of a special jury of four) of the said parchments one after the other, and, if any of the men whose names shall be so drawn shall not appear or shall be challenged and set aside, then such further number until the full number of jurors be drawn who shall appear and, after all just causes of challenge allowed, shall remain as fair and indifferent.

**The jury to try.**

**Swearing special jurors.**

**Names of common jury kept apart till verdict recorded, or jury discharged.**

**Names returned to boxes.**

**Proceeding with new jury when one jury has retired.**

**Several civil cases may be tried by same common jury without redrawing, if not objected to.**

**No common juror to attend more than six days.**

**But must serve till determination of case.**

**Attendance only till end of week.**

**Challenge of common juror for want of qualification.**

**109.** The twelve, six, or four men as the case may be so first drawn and appearing, and approved as indifferent, shall be the jury to try the said issue.

**110.** If such jury be a special jury, the jurors so drawn and appearing shall be sworn in the manner and form heretofore accustomed according to the practice of the Supreme Court.

**111.** When the jury is a common jury their names shall be kept apart by themselves until such jury shall have given in their verdict and the same shall have been recorded, or until such jury shall by consent of the parties or by leave of the Court be discharged.

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

**113.** When a common jury has retired to consider its verdict in any case, the Court may proceed to the trial of any other cases, before such jury shall have returned its verdict or been discharged, with a new jury drawn from the residue of the jurors other than the members of such first-mentioned jury, in the manner in the last section provided, until the necessary number of fair and indifferent men has been completed.

**114.** Where no objection shall be made on behalf of the Queen or any other party it shall be lawful for the Court to try any issue with the same common jury which shall have previously tried or been drawn to try any other issue, without their names being returned to the box and redrawn, or to order the names of any men on such common 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 common jury and with such men whose names shall be so drawn and who shall appear and be approved as indifferent, and so *toties quoties* as long as any issue shall remain 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 actions to be tried by a common jury.

**115.** No person shall be liable to serve as a common juror for a longer time than six consecutive days at any one sitting of the Supreme Court or any District Court.

**116.** Every common juror who shall be sworn to try any case, issue, cause, or action which at the expiration of the said period may have been partly heard shall be bound to continue to serve until the determination of such case, issue, cause, or action, or until lawfully discharged by the Court.

**117.** If the sitting of the Court shall commence on any day other than Monday, the first panel shall be summoned to attend for the remainder of the week, only subject, however, to the provision for continued service hereinbefore mentioned.

#### (2.) Challenges, Tales, etc.

**118.** If any man, returned as a common juror, shall be disqualified, or shall not be qualified according to this Act, such disqualification, or the want of such

qualification, shall be a good cause of challenge; and he shall be discharged upon such challenge if the Court shall be satisfied of the fact.

**119.** Where, either before or after challenges, a full jury shall not appear before any Court, such Court, upon request made for the Queen by any one thereto authorized, or assigned by the Court, or on request made by either party or his solicitor in any action or suit, shall command the Sheriff to name and appoint, as often as need shall require, so many of such other able men of the jury district as shall make up a full jury. Either party may pray a *tales*.

**120.** The Sheriff shall, at such command, return such men duly qualified to serve on such jury, and shall add and annex their names to the said panel. Return by Sheriff.

**121.** The Queen, by any one so authorized, or assigned, as aforesaid, and all and every the parties aforesaid, may have their respective challenges to the jurors so added and annexed. Parties may have challenge to talesmen.

**122.** The Court shall proceed with those jurors who were before impanelled, together with the men so newly added, as if all the said jurors had been returned upon the original jury precept. Proceedings with jury so composed.

**123.** On the trial of all criminal cases, and of all civil cases to which the Queen is a party, there shall be no challenge on behalf of the Queen, except for cause certain. No challenge for Queen but for cause certain.

**124.** The truth of such challenge shall be inquired into according to the custom of the Court. The truth of challenge ascertained in usual way.

**125.** In all civil cases in the Supreme Court, to be tried before a common jury, the plaintiff and defendant respectively shall be admitted to challenge peremptorily to the number of six of the jury. In civil cases, peremptory challenge of six.

**126.** Every person arraigned for any treason, felony, or misdemeanour shall be admitted to challenge peremptorily to the number of twelve. In criminal cases, peremptory challenge of twelve.

**127.** Every peremptory challenge above the numbers aforesaid shall be void, and the trial or inquiry shall proceed as if no such challenge had been made. Peremptory challenge of more void.

**128.** Where several defendants in a civil case have pleaded separately, or where several persons are indicted together, and all such defendants or persons do not consent to join in their challenges, the proper officer of the Court shall draw out of the said box a sufficient number of parchments to permit each of such several defendants or persons, or each combination of such defendants or persons who consent to challenge jointly, to exercise the right of peremptory challenge to the numbers aforesaid respectively. Several severing in challenge.

**129.** The right to challenge special jurors in criminal cases shall be the same as exists with respect to the challenge of common jurors in such cases. Right of challenge of special jurors in criminal cases.

**130.** Unless the jurors shall be sworn for the particular trial or inquiry every challenge shall be made as the juror comes to take his seat, and before he takes it. Time for challenging.

#### XI. VIEW.

**131.** When a view is desired in any case, either civil or criminal, or on any penal Act, depending in the Supreme Court, or in any criminal case in any District Court, either party, whether the view is to be had by a common or special jury, may obtain a rule or order of such Court containing the usual terms, and commanding the Sheriff to have six or more, or, in case of a jury of four, three, of the jurors named in such rule or order, or in the panel thereto annexed (who shall be mutually consented to by the parties, or, if they cannot agree, shall be nominated by the Sheriff), at some place to be named in such rule or order, and at some convenient time before the trial or inquiry. Rule or order for a view.

**132.** Such jurors then and there shall have the place in question, if any, or the real or personal property (the view of which may be proper or necessary, Place or property shown by two persons.

Rule drawn up without motion.

Deposit of costs of view.

Proceedings as heretofore in England on writ of view.

Sheriff to deliver names of viewers and certify view.

Sheriff to deliver rule and indorsement to Court.

Sheriff to fix amount of deposit for costs on affidavit.

Provision when sum fixed more than sufficient.

When sum fixed insufficient.

Judge may order trial when viewers in attendance.

Viewers to be on jury.

Court may order view at any time.

No jury *de medietate linguae*.

Governor to make rules respecting Maori juries.

in order to the better understanding of the evidence that may be given on such trial or inquiry, or material to the proper determination of the question in dispute), shown to them by two persons in the said rule or order named, to be appointed by the Court.

**133.** Such rule or order may in all cases be drawn up by the proper officer on the application of the party, without a motion for that purpose.

**134.** The party obtaining such rule or order shall, at the time of delivering the same to the Sheriff, deposit in the hands of such Sheriff, for payment of the expenses of the view, the sum hereinafter mentioned.

**135.** The proceedings upon such rule or order shall be the same as the proceedings heretofore had in England under a writ of view, or as near thereto as may be.

**136.** The Sheriff, upon request, shall deliver to either party the names of the viewers; and by indorsement on the said rule shall certify that the view or inspection hath been had according to the command of the same, with the names of the viewers or inspectors.

**137.** Upon the day and at the place named in the jury precept for the appearance of the jurors thereby required to be summoned, the Sheriff shall deliver the said rule or order, with the said indorsement thereon, to the proper officer of the Court, for the purpose of such viewers being called as jurymen on the trial or inquiry.

**138.** Upon any application for a view, there shall be an affidavit stating the place at which the view is to be had, and the distance thereof from the office of the Sheriff; and the sum to be deposited in the hand of the Sheriff shall be fixed by the Sheriff in each particular case, or by the Court or a Judge thereof.

**139.** If the party making the application shall be dissatisfied with the amount so fixed by the Sheriff, and if such sum shall be more than sufficient to pay the expenses of the view or inspection, the surplus shall forthwith be returned to the solicitor of the party who obtained the view or inspection.

**140.** If such sum shall not be sufficient to pay such expenses, the deficiency shall be forthwith paid by such solicitor to the Sheriff, and the Sheriff shall pay and account for the money so deposited according to a scale to be fixed by the Judges of the Supreme Court, or any two or more of them.

**141.** In any case wherein a rule or order for a view shall have been obtained as hereinbefore provided, the Judge before whom the trial or inquiry is to be had shall, on the application of the party obtaining such rule or order, appoint such trial or inquiry to take place during the attendance and service of the jurors named in the panel in which the viewers or inspectors are included.

**142.** Where a view shall have been had in any case, those men who shall have had the same, or such of them, if any, as shall appear upon such trial or inquiry, shall be upon the jury; and so many only shall be added to them as shall, after all defaults, and challenges allowed, make up the full number.

**143.** In every trial or inquiry the Court or Judge may order such inspection as aforesaid by the jury, even after the evidence on one or both sides has been closed, if in their or his opinion such a course be necessary for the attainment of justice.

### XII. ALIENS, MAORIS, AND MIXED JURIES.

**144.** No alien shall be entitled to be tried by a jury *de medietate linguae*, but shall be triable in the same manner as if he were a natural-born subject.

**145.** It shall be lawful for the Governor to make rules for the following purposes, that is to say,—

- (1.) For forming, revising, keeping, and transmitting to the Sheriffs, jury lists for Maori cases ;  
 (2.) For designating the persons therein, and for arranging the lists ;  
 (3.) For summoning jurors, and for regulating the order in which Maori jurors shall be summoned and serve.

**146.** All such rules so made and altered shall be published in the *Gazette*, Rules gazetted to have force of law. and, being so published, shall have the force of law, as if the same had been inserted in and had formed part of this Act.

**147.** The provisions of this Act shall apply to Maori juries except so far as they relate to matters which the Governor is authorized to regulate. This Act to apply otherwise.

**148.** Upon any trial in a criminal case, in any Court whatever, in which an indictment shall be found or information filed against a Maori, for an offence committed against a Maori, such first-mentioned Maori may, at the time of his commitment, or at any time not less than seven days before the trial, give notice to the committing Magistrate, Registrar, or Clerk of the Court, that Notice. he claims to be tried by such jury ; such case shall be tried by such jury accordingly.

**149.** In case the person charged shall give such notice at the time of his commitment, it shall be the duty of the committing Magistrate to transmit such notice to such Registrar or Clerk. Transmission of notice to committing Magistrate.

**150.** In every civil case in the Supreme Court in which both parties shall be of the Maori race, in case they shall concur, they may, at any time not less than fourteen days before the trial, give notice to the Registrar or Clerk that they claim to have the case tried by a Maori jury ; and such case shall be tried by such jury accordingly. Civil cases, both parties Maoris.

**151.** Maori juries shall be composed wholly of Maori jurors, if a sufficient number shall be in attendance when the trial takes place ; but, if a sufficient number of Maori jurors shall not be in attendance, then the requisite number shall be made up of ordinary jurymen, or of bystanders in cases where bystanders may lawfully be called and sworn to serve on juries, or in the discretion of the Court. Composition of Maori juries.

**152.** In every civil case in the Supreme Court in which both parties shall be Maoris, and one of such parties only shall desire that the case may be tried by a Maori jury, and in every civil case in which one of the parties shall be of the European race and the other shall be of the Maori race, and such Maori shall desire that the case shall be tried by a mixed jury, he may give notice of such his desire to the Registrar or Clerk of the Court at any time within seven days before the trial, and the same shall in such cases be heard by a mixed jury accordingly. Mixed juries in civil cases.

**153.** Mixed juries shall be composed, half of ordinary jurors and half of Maori jurors, if a sufficient number of Maori jurors shall be in attendance at the trial ; but, if a sufficient number of Maori jurors shall not be in attendance, the jury shall be completed from ordinary jurymen, or from bystanders in cases where bystanders may lawfully be called and sworn to serve on juries, or in the discretion of the Court. Composition of mixed juries.

**154.** In all cases which shall be appointed to be heard by a jury of Maoris or by a mixed jury, and where a sufficient number of Maori jurors shall not be in attendance, it shall not be compulsory on the Court or on the Judge thereof to make up the number from ordinary jurymen or from bystanders as herein-before provided ; but it shall be lawful for such Court or Judge at its or his discretion to adjourn the trial in order to obtain the attendance of Maori jurors. Power to adjourn in order to obtain Maori jurors.

Precept for Maori or mixed jury.

**155.** Upon receiving any notice as aforesaid of a demand for a Maori or mixed jury, it shall be the duty of the Registrar or Clerk to issue a precept to the Sheriff of the district, requiring him to summon a sufficient number of Maori jurors to serve on such Maori or mixed jury, such number being not less than twice nor more than three times the number of Maori jurors required to form the jury.

Verdict of three-fourths in civil cases.

**156.** If three-fourths at least of any jury impanelled on any civil cause shall, after the jury have retired to consider their verdict for a period of at least three hours, intimate to the Judge presiding that the jury have considered their verdict, and that there is no probability of their being unanimous, the verdict of three-fourths shall be taken and accepted as, and shall have all the consequences of, a verdict of the whole of such jury.

Discharge of jury after twelve hours.

**157.** Where a jury shall have remained twelve or more hours in deliberation, and shall not agree as to the verdict to be given, the jurors of such jury may be discharged by the Court from giving any verdict.

Such proceedings may thereupon be taken anew as if no trial or inquiry had been commenced before the jury so discharged.

Court may order another trial at same sittings.

**158.** If, at the time of such discharge, the Court shall think fit so to order, another trial or inquiry may forthwith, or at some other time during the same sittings, be commenced and proceeded with as if such first-mentioned trial or inquiry had not been commenced.

#### XIV. REFRESHMENT AND PAYMENT.

Fire and refreshment at discretion of Judge.

**159.** Jurors, after having been sworn, may, in the discretion of the Judge, be allowed, at any time before giving their verdict, the use of a fire when out of Court, and be allowed reasonable refreshment, to be provided by the Sheriff at the public expense.

Payment of jurors in civil cases. Special and common.

**160.** Every juror who shall be summoned and who shall have attended at the Supreme Court to try civil issues or assess damages, and shall have actually served as a juror upon a jury, shall be entitled to receive, if the jury be a special jury, and whatever be the number, the sum of twenty shillings in respect of the first day, and the sum of ten shillings in respect of each day thereafter that he shall have so served; if a common jury, ten shillings.

Payment of talesmen.

**161.** Every talesman who shall have been added to any panel to try civil issues or assess damages in pursuance of this Act, and shall have served upon any jury, shall be entitled to receive the same sum for such attendance as if he had been originally written on the said panel.

No juror to be paid more except for view.

**162.** No person who shall serve on any jury shall be allowed to take for so serving more than the sums aforesaid respectively, except in the cases wherein a view is directed, and shall be had by such juror.

Payment of amount to officer of Court for common jurors.

**163.** In the case of common juries, the plaintiff or defendant, as the case may be, bringing on any issue in any civil action in the Supreme Court for trial, and the plaintiff in every inquiry or assessment of damages in such Court, shall, before any such case shall be called on for trial or assessment of damages, pay for compensation of jurymen to the Registrar or other proper officer of the Court the following sums—that is to say, where the trial or assessment is by a common jury of twelve men, six pounds, and, where by a jury of six men, three pounds.

Same for special jurors.

**164.** In the case of special juries, the party procuring any issue to be tried by a special jury shall, amongst other expenses occasioned by the trial of the

cause by a special jury, pay either the sum of twelve pounds, or such other sum as the Court shall appoint in each case, for compensation of such special jurors; and such sum shall be paid to the Registrar or other proper officer at the time customary, according to the practice of the Supreme Court, or at such other time as shall be fixed by any general rule or order.

**165.** Every person who shall be summoned to attend, and shall attend, at any sitting of the Supreme Court at which criminal cases are tried, or of any District Court, as a common juror, shall receive for every day and fraction of a day that he shall be in attendance on such Court as a common juror, and until he shall be discharged from attendance, an allowance according to the scale contained in the Ninth Schedule.

**166.** The sum payable under the preceding clause shall be paid to every juror at the time of his being discharged from attendance, by the Registrar or Clerk of the Court.

**167.** All sums payable under the last two sections shall be paid out of the Consolidated Fund.

Payment of common  
jurors at criminal  
sittings.

Payment to Registrar.  
Money to be paid  
out of Consolidated  
Fund.

#### XV. LIABILITIES, INDEMNITIES, AND PENALTIES.

**168.** If any man, having been duly summoned to attend on any kind of jury at any sittings of the Supreme Court for trial of civil or criminal cases, or in any District Court, shall not attend in pursuance of such summons, or, being thrice called, shall not answer to his name, or if any such man or any talesman, after being called, shall be present, but not appear, or, after his appearance, shall wilfully withdraw himself from the presence of the Court, the Court shall set such fine upon every such man or talesman so making default, as the Court shall think meet.

**169.** Where any viewer, having been duly summoned to attend on a jury, shall make default as aforesaid, the Court is hereby authorized and required to set upon such viewer a fine to the amount of ten pounds at the least, and as much more as the Court, under the circumstances of the particular case, shall think proper.

**170.** Every Sheriff and other officer shall be and is hereby indemnified for impanelling and returning any man named in the jury book, although he may not be qualified or liable to serve on juries.

**171.** If any Sheriff or other officer shall wilfully impanel and return any man to serve on any jury, such man's name not being inserted in the jury book for the current year, or, if there shall be no jury book in existence for the current year, then in the jury book for the preceding year;

Or if any Registrar, Clerk, or other officer of any Court shall wilfully record the appearance of any man so summoned and returned who did not really appear in every such case;

The Court shall and may, upon examination in a summary way, set such fine upon such Sheriff, Registrar, Clerk, or other officer offending as the Court shall think meet.

**172.** No Sheriff, bailiff, or other officer or person whatsoever shall directly or indirectly take or receive any money or other reward, or promise of money or other reward, to excuse any man from serving, or from being summoned to serve on juries, or under any such colour or pretence.

**173.** No bailiff or other officer appointed by any Sheriff or other person to summon juries shall summon any man to serve other than those whose names are specified in the summons signed by such Sheriff or officer.

Fining jurors for  
non-attendance.

Fine on viewer or  
inspector for  
non-attendance.

Sheriff indemnified  
for returning  
unqualified juror.

Fine on Sheriff for  
wilfully returning  
any man whose name  
is not on jury book,  
and on officer for  
wilfully recording  
appearance of man  
who did not appear.

No Sheriff or officer  
to take anything for  
excusing juror from  
serving.

No officer to summon  
person not mentioned  
in signed summons.

**Penalties in last two cases.**

**Penalty on Jury Officer for neglect.**

**Penalty on persons refusing inspection of rate-books, &c.**

**Penalty on constables.**

**174.** If any Sheriff, bailiff, or other officer shall wilfully transgress in any of the cases in the two last sections aforesaid, or shall summon any juror less than two days before the day on which he is to attend, except in the cases hereinbefore excepted, the Supreme Court, or District Court within whose jurisdiction the offence shall have been committed, shall, on examination and proof of such offence, in a summary way, set such a fine upon every person so offending as the Court shall think meet according to the nature of the offence.

**175.** If any Jury Officer shall refuse or neglect to issue and deliver his warrant, as hereinbefore directed, to one or more constables, or shall refuse or neglect to do any thing which by this Act he is required to do, every such Jury Officer so offending shall, for every such offence, forfeit a sum not exceeding ten pounds, nor less than forty shillings.

**176.** Every person offending in any of the following cases shall, for every such offence, forfeit a sum not exceeding ten pounds, nor less than five pounds:—

- (1.) If any person to whom any question may be put by any such constable as aforesaid, relating to any list required by this Act, or to the Christian name or surname, place of abode, title, quality, calling, or business, and the nature of the qualification of any man, shall not truly answer such question;
- (2.) Or if any person, having the custody of any valuation list or rate-book for any city, borough, town, municipality, or other place within any jury district, shall refuse to allow any such constable as aforesaid, upon due request, to inspect any such valuation list or rate-book, and take from thence such names as aforesaid;
- (3.) Or shall refuse to allow any Justice of the Peace, upon due request, to inspect or make extracts from any such valuation list or rate-book, for the purposes hereinbefore mentioned.

**177.** Any constable who shall be guilty of any of the acts or omissions in this section mentioned shall forfeit a sum not exceeding ten pounds, nor less than forty shillings, that is to say,—

- (1.) Refusing or neglecting (unless prevented by sickness) to assist in making out any list required by this Act, so that the same shall not be made out at the time and in the manner hereinbefore directed;
- (2.) Or wilfully omitting out of such list the name of any man whose name ought to be inserted therein;
- (3.) Or wilfully inserting therein the name of any man who ought to be omitted;
- (4.) Or taking any money or other reward for omitting or inserting any name whatsoever;
- (5.) Or wilfully inserting therein a wrong description of the name, place of abode, title, quality, calling, business, or the nature of the qualification of any man;
- (6.) Or refusing or neglecting, in case the number of forms of return or notice delivered by the Jury Officer shall be insufficient, to apply to him for a sufficient number so that the list may be made out at the time and in the manner hereinbefore directed;
- (7.) Or refusing or neglecting to fix such notice as hereinbefore required upon or near the principal door of any Courthouse or other building, or any church, chapel, or other public place of religious worship, within the limits mentioned in the warrant of the Jury Officer on any of the Sundays on which the same ought to be so fixed;
- (8.) Or refusing to allow any inhabitant of the jury district to inspect or

peruse such list or a true copy thereof gratis at any reasonable time during the three weeks hereinbefore mentioned;

- (9.) Or neglecting to produce such list at such meeting of Justices as aforesaid;
- (10.) Or neglecting to answer upon oath such questions as aforesaid touching the same as shall there be put;
- (11.) Or neglecting to attend at such meeting of Justices or any such adjournment thereof as aforesaid.

**178.** The Justice before whom such offender shall be convicted of any such offence of wrongful insertion or omission shall forthwith, in writing under his hand, certify the same to the Sheriff by whom the list in which such wrongful insertion or omission shall have occurred is by this Act required to be kept; and such Sheriff shall correct the special- or common-jury book, as the case may be, according to such certificate.

**179.** Any Sheriff who shall be guilty of any of the acts or omissions in this section mentioned shall forfeit the sum of twenty pounds:—

- (1.) Making, or causing or suffering to be made, any alteration whatsoever in any jury book, except in consequence of the conviction of the constable or officer of police hereinbefore provided for;
- (2.) Or neglecting to provide or prepare any jury book in the manner and before the time hereinbefore prescribed;
- (3.) Or wilfully writing, or causing or suffering to be written, in any jury book the name of any person not qualified;
- (4.) Or wilfully omitting thereout the name of any person duly qualified as a special or common juror as the case may be;
- (5.) Or neglecting to write or cause to be written the several numbers contained in any such jury book upon distinct pieces of parchment in the manner aforesaid, before such jury book shall be brought into use;
- (6.) Or subtracting or destroying, or by any fault or neglect losing, any of the said pieces of parchment;
- (7.) Or neglecting or refusing upon discovery of such loss to supply the same within five days;
- (8.) Or refusing or neglecting to make or keep for inspection or to deliver as aforesaid a copy of the panel in the cases hereinbefore provided for;
- (9.) Or refusing or neglecting, within seven days after the next succeeding Sheriff shall have entered upon office, to deliver over to him all the jury books and lists that shall have been made or prepared within four years then next preceding, whether in the time of his shrievalty or in that of any of his predecessors.

**180.** In any case where under this Act any act, matter, or thing would have to be done by the Sheriff, if the Sheriff shall be interested, or if under like circumstances according to the practice in England such act, matter, or thing would have to be done by other officers or persons specially appointed, then and in such case the Supreme Court or any Judge thereof may appoint any officer or other person to perform such act, matter, or thing.

**181.** Where any jury precept, or any award or order for returning a jury for the trial of any issues or the inquiry of any damages, shall be directed to any other officer or person than the Sheriff, he shall have free access to the jury books and parchments aforesaid, and shall execute and obey the said precept, award, or order, in the same manner as the Sheriff is by this Act required to execute and obey the same, and shall do and perform all such other acts and

Certificate to Sheriff by convicting Justice, and amendment of jury books by Sheriff.

Penalty on Sheriff for neglect.

Appointment of another person when Sheriff interested, &c.

Such person to be liable to same duties and penalties as Sheriff.

Attaint abolished.

duties in reference thereto, and be subject and liable to the same penalties, forfeitures, and proceedings as any Sheriff in the like case offending is subject and liable to by virtue of this Act.

Embracery punishable.

**182.** It shall not be lawful either for the Queen or any one on her behalf, or for any party or parties in any case whatsoever, to commence or prosecute any writ of attaint against any juror for the verdict by him given, or against the party or parties 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 are utterly abolished.

Verdicts not affected by informalities.

**183.** Every person who shall be guilty of the offence of embracery, and every juror who shall wilfully or corruptly consent thereto, shall and may be respectively proceeded against, and be punished by fine and imprisonment, in like manner as every such person and juror might have been before the passing of this Act.

Jury lists for District Courts delivered by Sheriff to Clerk.

**184.** No verdict shall be in any way affected by reason of any of the jury having been erroneously summoned from a greater distance or from a different district or otherwise than hereinbefore in that behalf provided, nor by reason of any error, omission, or informality in or with respect to any such lists, jury books, precepts, or panels as aforesaid.

Sheriff to receive fee.

#### XVI. DISTRICT COURTS.

No one to be summoned not residing within district.

**185.** The Sheriff of every district shall cause to be delivered to the Clerk of each District Court in his Sheriff's district a list of persons qualified and liable under the provisions hereinbefore contained to serve as jurors under this Act, before the twenty-first day of May in every year, each list containing only the names of persons residing within the jurisdiction of such District Court.

District Courts Act not otherwise affected.

**186.** For every list the said Sheriff shall be entitled to receive out of the Consolidated Fund a fee after the rate of fourpence for every folio of seventy-two words; and such list shall be the jury list within the meaning of the sixty-fourth section of "The District Courts Act, 1858."

District for which jury to be summoned.

**187.** No person shall be summoned to attend any District Court as a jurymen who does not reside within the district in which such Court has jurisdiction.

**188.** Except as herein expressly provided, nothing in this Act shall affect or alter any of the provisions of "The District Courts Act, 1858," relating to juries and trials by jury in civil actions in any District Court.

#### XVII. COURT OF APPEAL.

Rules as to times and other matters made by Supreme Court or two Judges.

**189.** In all cases where a jury is directed to be summoned under any of the provisions contained in "The Court of Appeal Act, 1862," the Supreme Court shall direct from what jury district such jury shall be summoned.

Act not to apply to Coroners' inquests. Repeal of Acts. Saving.

#### GENERAL RULES.

**190.** Where by this Act it is provided that any time or times may be fixed or appointed, or other matter may be regulated, by a general rule or order, such general rules or orders may be made by the Judges of the Supreme Court, or any two or more of them.

**191.** This Act shall not apply to any inquest held before a Coroner.

**192.** The Acts enumerated in the Tenth Schedule are hereby repealed.

All acts done, proceedings taken, lists, books, appointments, and orders made under the Acts hereby repealed and subsisting at the time of the passing hereof, shall continue and have the same effect as if done, taken, or made under this Act.

## SCHEDULES.

## Schedules.

## FIRST SCHEDULE.

**WARRANT FROM JURY OFFICER.**

Jury District  
of }  
To wit }

Warrant from jury  
officer.  
Sec. 15.

To A.B., a constable within the said district.  
THESE are to command you in Her Majesty's name to make out, before the first Sunday in March next, a true list in writing, in the form hereunto annexed, containing the names of all men qualified as hereinafter mentioned, and residing within the said jury district [*or describing the portion of district for which warrant given*] ; and, when you shall have made out such list, you are to sign the several notices hereunto annexed, and on the two first Sundays of the said month of March you are to fix one of such notices upon or near the principal outer door of every Resident Magistrate's and Petty Sessions Courthouse, and every church, chapel, or other public place of religious worship, within the district aforesaid ; and you are to keep the said list, or a true copy thereof, to be inspected or perused by any of the inhabitants of the said district, at any reasonable time during the first three weeks of the said month of March, without any fee or reward. And I do further require you to appear personally at the meeting of Justices to be holden at \_\_\_\_\_, on \_\_\_\_\_, the \_\_\_\_\_ day of next, at \_\_\_\_\_ o'clock in the forenoon, then and there to produce the said list, and to answer on oath all questions touching the same which may then and there be put to you.

You must omit from the said list all persons who are by section 6 of "The Juries Act, 1880," exempted from being inserted in such list.

With the above exception, every man between the ages of twenty-one years and sixty years, not being a Maori, who shall be of good fame and character, and who shall reside within the said district, is liable to serve on juries.

Given under my hand, at \_\_\_\_\_, in the said district, this \_\_\_\_\_ day  
of January, 188\_\_\_\_\_. A. C. S., Jury Officer.

**SECOND SCHEDULE.**

**LIST OF MEN WITHIN THE JURY DISTRICT OF [REDACTED], QUALIFIED AND LIABLE TO SERVE ON JURIES.** Form of jury list. Sec. 15.

Christian Name and Surname at full length.	Residence, in Towns, and Names of Streets and Numbers of Houses where numbered.	Description.
Adamson, John ...	4, Molesworth Street ...	Shoemaker.
Bright, Thomas ...	Karori ...	Farmer.
Clarke, James ...	Wade's Town ...	Esquire.
Daly, William ...	Lambton Quay ...	Merchant.
And so on.		

### THIRD SCHEDULE.

**NOTICE OF JURY LIST OPEN TO INSPECTION.**

**NOTICE** is hereby given that a list of men residing within the jury district of \_\_\_\_\_, and qualified and liable to serve on juries therein, has been made

**Notice of jury list  
open to inspection.  
Secs. 15, 17.**

out, and may be inspected and perused at the place hereunder described during the first three weeks of this present month.

All objections to the said list will be heard by the Justices of the Peace, at a meeting of Justices on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ next, at the hour of o'clock in the forenoon, at \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 188\_\_\_\_\_.

A. B.

#### FOURTH SCHEDULE.

**Notice of revision  
of lists.  
Sec. 20.**

#### NOTICE OF REVISION OF LISTS.

To the Justices of the Peace in the Jury District of \_\_\_\_\_. You are hereby requested to attend a meeting of Justices to revise the jury list for the district of \_\_\_\_\_, at the Resident Magistrate's Office [or Courthouse] at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 188\_\_\_\_\_.

A.B., Jury Officer.

#### FIFTH SCHEDULE.

**Form of precept.  
Secs. 52, 64, 76, 90.**

#### FORM OF PRECEPT.

To the Sheriff of \_\_\_\_\_. PURSUANT to the Act in such case made and provided, you are hereby commanded that you cause to come before the [*Insert the style of the Court*] to be holden at the Courthouse at \_\_\_\_\_, on [*Here insert the day of the week*], the day of \_\_\_\_\_ now next [or instant], at the hour of \_\_\_\_\_, not less than \_\_\_\_\_ good and lawful men of the jury district of \_\_\_\_\_ aforesaid, duly qualified according to law as common [or special, or grand, *as the case may be*] jurors, to make a jury of the country for all such matters as shall be then and there required of them in that behalf, and that you have then and there this precept, with a panel annexed thereto containing the names of those jurors, as by law is required of you.

Given under my hand and the seal of the said Court this \_\_\_\_\_ day of \_\_\_\_\_, 188\_\_\_\_\_.

A.B., Registrar [or Clerk].

[*If the precept be for a special jury, the precept to be intituled in the cause, prosecution, or other matter.*]

#### SIXTH SCHEDULE.

**Form of summons.  
Sec. 95.**

#### FORM OF SUMMONS.

To Mr. \_\_\_\_\_.

In obedience to a jury precept to me directed, I do hereby require you to appear and serve as a juror [or special juror] at the [*Here insert the proper title of the Court*], to be holden at \_\_\_\_\_, on (Monday), the \_\_\_\_\_ day of next [or instant], at ten o'clock in the forenoon of that day; \*and you are to attend the said Court during the whole of that day, and so on from day to day until the end of the week; but if at the end of that week any trial or inquiry for which you shall be a juror shall have commenced and shall not have been concluded, or if the Judge shall by word of mouth or otherwise direct you to attend for any further period than six days, you must remain in attendance until such trial or inquiry is concluded, or until the expiration of such further period

[or, if a special juror, during the trial of this ],\* or until discharged in due course of law.

Given under my hand and seal of office this      day of      , 188 .  
M.N., Sheriff.

N.B.—The penalty for disobeying this summons is such sum as the Court shall think meet.

[*The summons is to be intituled in the cause, prosecution, or other matter, if the jury be a special jury.*] [

*In the case of a grand jury, omit from \* to \*, and insert: "to inquire present, do, and execute all those things which, on the part of the Queen, shall then and there be commanded of them."*]

#### SEVENTH SCHEDULE.

##### JUROR'S OATH.

Juror's oath.  
Sec. 102.

You and each of you shall well and truly try and true deliverance make between our Sovereign Lady the Queen and all persons whom you or any of you shall have in charge, and a true verdict give according to the evidence: so help you God.

You and each of you shall well and truly try \*the issues and assess the damages in all causes that may be brought before you or any of you for trial or inquiry, and a true verdict give according to the evidence: so help you God.

[*If the jury be a special jury, the juror shall be sworn in the special cause, prosecution, or other matter, in the form heretofore accustomed, according to the practice of the Court. The grand jury also is to be sworn in the accustomed manner.*]

#### EIGHTH SCHEDULE.

##### JUROR'S DECLARATION.

Juror's declaration.  
Sec. 106.

I, A.B., do solemnly and truly affirm and declare that the taking of any oath is, according to my religious belief, unlawful, and I do solemnly and truly affirm and declare that I will well and truly try, &c. [*as in previous form, from the asterisk*].

#### NINTH SCHEDULE.

##### ALLOWANCES TO JURORS.

£ s. d. Allowances to jurors.  
Sec. 165.

Jurors residing within the city or town in which the Court is held...	0	3	0
Jurors residing beyond the town in which the Court is held, but not beyond seven miles from the Courthouse ... ...	0	4	0
Jurors residing beyond seven miles, and not beyond twelve miles, from the Courthouse ... ... ...	0	6	0
Jurors residing beyond twelve miles, and not beyond twenty miles, from the Courthouse ... ... ...	0	8	0

#### TENTH SCHEDULE.

##### ACTS REPEALED.

Acts repealed.  
Sec. 192.

1868, No. 49.—The Juries Act, 1868.

1870, No. 22.—The Juries Act Amendment Act, 1870.

1874, No. 64.—The Juries Act 1868 Amendment Act, 1874.

1876, No. 28.—The Juries Act Amendment Act, 1876.

1878, No. 20.—The Juries Act Amendment Act, 1878.