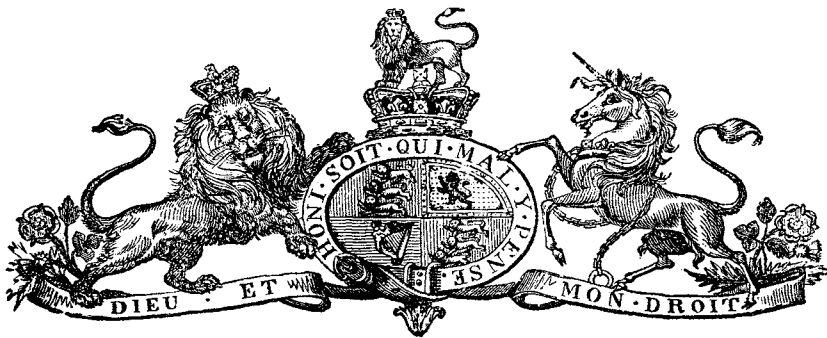


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TASMANIA.



1857-8.

ANNO VICESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 45.

Rep. by 40 V. No 6

Revised by 40 Vic No 22.

Revised by 63 Vic No 32.

AN ACT to provide for the Formation of a Special Jury List, and for the Trial of Cases by Special Juries. [25 February, 1858.]

WHEREAS many men whose names are in the Jury Lists and Jurors' Book are incompetent, from defect of education and intelligence, and otherwise, satisfactorily to try cases of difficulty and importance; and it is expedient to provide for selecting from amongst such Jurors those who are deemed to be, from education, intelligence, character, and otherwise, qualified to try such cases, to be called Special Jurors: Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PREAMBLE.

1 The Judges of the Supreme Court shall, before the Twenty-fourth day of *April*, 1858, select from the Jurors' Book now in use, and shall yearly, after the transmission of the Jury Lists of the several Districts to the Sheriff, and before the end of the year, select from such Lists the names of a sufficient number of such persons as the Judges deem qualified to be Special Jurors as aforesaid, consideration being had, so far as the Judges are enabled to form an opinion, of the character, education, and intelligence of such persons; and the Judges shall cause the names so selected to be fairly copied out in alphabetical order, together with the places of abode and additions of such persons, in a separate List, which shall be called "The Special Jury List," and such List shall be subjoined to the Jurors' Book.

Judges of Supreme Court annually to make out Special Jury List.

Judges may take assistance as they think proper.

2 In the formation of such Special Jury List, the Judges are hereby empowered to take the assistance of, and make enquiry from, such persons and in such manner as they think proper.

When Special Jury Lists to be brought into use.

3 The Special Jury List first made out under this Act shall be brought into use on the Twenty-fifth day of *April*, 1858, and shall be used till the end of the month of *December* following; and every Special Jury List subsequently made shall be completed before the end of the month of *December* in every year, and shall be brought into use on the first day of the ensuing month of *January*, and shall be used for one year next following: Provided that, until a Special Jury List is made out for any year, the Special Jury List of the preceding year shall continue to be used.

Civil Actions triable by a Jury of Seven Special Jurors.

4 All Civil Issues joined in the Supreme Court, and triable by a Jury, shall be tried, and all damages recoverable in actions in the said Court to be assessed by a Jury, shall be assessed, by a Jury consisting of Seven persons, whose names are on the Special Jury List in use for the time being.

Court or Judge may award Special Jury in Criminal cases except Treason and Felony.

5 The Supreme Court, or any Judge thereof, is hereby empowered on motion or application made on behalf of the Queen, or by any Prosecutor or Defendant in any Criminal case, excepting Treason or Felony, depending in the said Court, to order that any such case shall be tried by a Jury consisting of persons whose names are on the Special Jury List; and in case any such Order is made, the case shall be tried at such Civil Sittings as the Court or a Judge may direct, by a Jury of Twelve men to be impanelled from among the Special Jurors in the Special Jury panel returned for the trial of Civil Causes at such Civil Sittings.

Form of Precept.

6 The Precept to be issued for summoning Jurors from the Special Jury List shall be in the form in the Schedule; and such Precept shall not require the Sheriff to summon more than Twenty-eight nor less than Fourteen Jurors.

Practice of striking Jury discontinued. Mode of impanelling Jury in Civil Cases.

7 The practice of striking Juries in Civil Cases shall be discontinued, and the following practice shall be substituted; upon any Civil Issue being called on to be tried, the Clerk or other Officer of the Court shall in open Court, from the Box containing the pieces of card on which are written the names, residences, and additions of the Special Jurors returned in the panel, draw out such cards one after another until Seven Jurors appear, or, where a view has been had, so many as together with the viewers appearing are sufficient to make up the number of Seven, and, after all causes of challenge allowed, remain indifferent and approved of; and the said Seven men shall be the Jury to try the Issue, and shall be impanelled and sworn accordingly.

In case Panel exhausted, number of Jury may be completed from among bystanders.

8 In case a sufficient number of the Jurors named in such cards are not in attendance, the full number of Jurors so directed to be drawn shall be completed by appointment of the Sheriff from among the bystanders, being men whose names are contained in the Special Jury List as Special Jurors, if a sufficient number of such men can be found who, after all causes of challenge allowed, remain indifferent; and the Court shall proceed to the Trial of the Issue with those Jurors who were before impanelled, together with the Jurors so appointed from among the bystanders, as if all the said Jurors had been returned in the Jury Panel.

9 The foregoing provisions shall equally apply to cases where Assessment of damages are to be assessed only. damages.

10 In Civil cases where the Jury has remained Six hours or upwards in deliberation, if all of them do not agree as to the verdict to be given or damages to be assessed, the decision of Five of them shall be taken and entered as the verdict or assessment of all; and if, after having remained in the whole Twelve hours or upwards in deliberation, Five of the Jurors do not concur in the verdict or assessment, the Jurors shall be discharged, and the cause may without any new process be again set down for trial or assessment, as the case may be, either at the same or any subsequent sittings, as the Court thinks fit to order. Cases of difference of opinion in Jury provided for.

11 The Special Jurors shall be summoned from the Special Jury List in regular alphabetical rotation as their names appear therein, until every Special Juror has been summoned in his turn; and the same order shall be observed in each succeeding year, the Sheriff commencing with the names in the new Special Jury List next to the names in the Special Jury List of the year preceding of the Special Jurors last summoned. Each Special Juror to be summoned in turn.

12 Every Special Juror summoned in pursuance of any Special Jury Precept, who attends the Supreme Court, shall, for every day during his attendance upon such Court, whether he has actually served upon a Jury or not, be entitled to receive as compensation for such attendance such sum as may be allowed by the Court, not exceeding the amount mentioned in the Schedule, to be paid to him in the same manner as Witnesses for the Crown in Criminal prosecutions are paid their expenses; and every Talesman serving with such Jurors shall be entitled to the same compensation, excepting Travelling expenses, as a Juror; and such compensation shall be charged upon, and payable out of, the General Revenue. Allowance to Special Jurors.

13 Nothing in this Act contained shall exempt any Special Juror from his liability to serve on Criminal Juries in the usual course. Special Jurors not exempt from other Juries.

14 Subject to the provisions of this Act, the provisions of the Laws relating to Jurors and Juries shall be applicable to Special Jurors and Juries under this Act, and to all proceedings relating to the Trial of Issues and Assessment of Damages in the Supreme Court by Special Juries. Provisions of 18 V. No. 11, and 20 V. No. 28, to be applicable.

15 In referring to this Act it shall be sufficient to use the expression Short Title. *The Special Jury Act.*

SCHEDULE.

FORM OF SPECIAL JURY PRECEPT.

To the Sheriff of *Tasmania* or his Deputy.

GREETING :

You are hereby commanded that you cause to come before the Supreme Court of *Tasmania*, at the Court House at [*Hobart Town*], on [*Wednesday*] the [*Twelfth*] day of [*May*] now [*next*], at [*ten*] o'clock in the [*fore*] noon, [*Twenty-one*] good and lawful men whose names are on the Special Jury List, to make a Jury for the Trial of all such Issues and matters as may then be required to be tried by a Special Jury. And that you have then there the names of those Jurors, and also this Precept.

Given under my hand and seal at [*Hobart Town*] this [*Twenty-sixth*] day of [*April*, 1858.]

V. F. (L.S.)

COMPENSATION TO SPECIAL JURORS.

| | <i>s.</i> | <i>d.</i> |
|---|-----------------------------------|-----------|
| Special Jurors summoned under a Special Jury Precept if residing within Three Miles of the Court, per diem .. | 5 | 0 |
| The same if residing more than Three Miles from the Court, per diem | 10 | 0 |
| And for every Mile of distance between any such Juror's residence and the Court, if such distance exceeds Three Miles | 1 | 0 |
| | <i>i.e.</i> 6 <i>d.</i> each way. | |