



Common Law Procedure Act 1852

1852 CHAPTER 76

Jury and Jury Process

And with respect to Juries and Jury Process, be it enacted as follows :

CIV Jury Process abolished.

The several Writs of Venire facias juratores, and Distringas juratores, or Habeas Corpora juratorum, and the Entry Jurata ponitur in respectu, shall no longer be necessary or used.

CV Precept by Judges of Assize to summon Jurors for Civil as well as Criminal Trials.

The Precept issued by the Judges of Assize to the Sheriff to summon Jurors for the Assizes shall direct that the Jurors be summoned for the Trial of all Issues, whether civil or criminal, which may come on for Trial at the Assizes; and the Jurors shall thereupon be summoned in like Manner as at present.

CVI A printed Panel to be prepared, and annexed to the Record.

A printed Panel of the Jurors summoned shall, Seven Days before the Commission Day, be made by the Sheriff, and kept in, the Office for Inspection ; and a printed Copy of such Panel shall be delivered by the Sheriff to any Party requiring the same, on Payment of One Shilling; and such Copy shall be annexed to the Nisi Prius Record.

CVII Sheriffs of London and Middlesex to summon Common Jurors, and prepare a Panel, to be annexed to the Record.

The Sheriffs of *London* and *Middlesex* respectively shall, pursuant to a Precept under the Hand of a Judge of any of the said Superior Courts, and without any other Authority, summon a sufficient Number of Common Jurors for the Trial of all Issues in the Superior Courts of Common Law, in like Manner as before this Act; and Seven Days before the First Day of each Sittings a printed Panel of the Jurors so summoned

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for the Trial of Causes at such Sittings shall be made by such Sheriffs, and kept in their Offices for public Inspection; and a printed Copy of such Panel shall be delivered by the said Sheriffs to any Party requiring the same, on Payment of One Shilling; and such Copy shall be annexed to the Nisi Prius Record; and the said Precept shall and may be in like Form as the Precept issued by the Judges of Assize, and One thereof shall suffice for each Term, and for all the Superior Courts ; and it shall be the Duty of the Sheriffs respectively to apply for and procure such Precept to be issued in sufficient Time before each Term to enable them to summon the Jurors in manner aforesaid; and it shall be lawful for the several Courts, or any Judge thereof, at any Time to issue such Precept or Precepts to summon Jurors for disposing of the Business pending in such Courts, and to direct the Time and Place for which such Jurors shall be summoned, and, all such other Matters as to such Judge shall seem requisite.

CVIII Special Jurors, not exceeding Forty-eight in Number, to be summoned to try all Special Jury Causes at Assizes.

The Precept issued by the Judges of Assize as aforesaid shall direct the Sheriff to summon a sufficient Number of Special Jurymen, to be mentioned therein, not exceeding Forty-eight in all, to try the Special Jury Causes at the Assizes; and the Persons summoned in pursuance of such Precept shall be the Jury for trying the Special Jury Causes at the Assizes, subject to such Right of Challenge as the Parties are now by Law entitled to ; and a printed Panel of the Special Jurors so summoned shall be made, kept, delivered, and annexed to the Nisi Prius Record, in like Time and Manner and upon the same Terms as herein-before provided with reference to the Panel of Common Jurors; and upon the Trial the Special Jury shall be balloted for, and called in the Order in which they shall be drawn from the Box, in the same Manner as Common Jurors : Provided that the Court or a Judge, in such Case as they or he may think fit, may order that a Special Jury be struck according to the present Practice, and such Order shall be a sufficient Warrant for striking such Special Jury, and making a Panel thereof for the Trial of the particular Cause.

CIX Mode of obtaining a Special Jury in Country Causes.

In any County, except *London* and *Middlesex* the Plaintiff in any Action, except Replevin, shall be entitled to have the Cause tried by a Special Jury, upon giving Notice in Writing to the Defendant, at such Time as would be necessary for a Notice of Trial, of his Intention that the Cause shall be so tried; and the Defendant, or Plaintiff in Replevin, shall be so entitled, on giving the like Notice within the Time now limited for obtaining a Rule for a Special Jury: Provided that the Court or a Judge may at any Time order that a Cause shall be tried by a Special Jury, upon such Terms as they or he shall think fit.

CX Special Juries in London and Middlesex, how struck.

In *London* and *Middlesex* Special Jurors shall be nominated and reduced by and before the Under Sheriff and Secondary respectively, in like Manner as by the Master before this Act, upon the Application of either Party entitled to a Special Jury, and his obtaining a Rule for such Purpose; and the Names of the Jurors so struck shall be placed upon a Panel, which shall be delivered and annexed to the Nisi Prius Record, in like Manner and upon the same Terms as hereinbefore provided with reference to the Panel of Common Jurors ; and upon the Trial the Special Jury shall be balloted

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for, and called in the Order in which they shall be drawn from the Box, in the same Manner as Common Jurors.

CXI Remedy for Delay by Notice of Trial by Special Jury.

Where the Defendant in any Case, or Plaintiff in Replevin, gives Notice of his Intention to try the Cause by a Special Jury, and the Venue is in *London* or *Middlesex*, the Court or a Judge, if satisfied that such Notice is given for the Purpose of Delay, may order that the Cause be tried by a Common Jury, or make such other Order as to the Trial of the Cause as such Court or Judge shall think fit.

CXII Notice to Sheriff of Trial by Special Jury.

Where Notice has been given to try by Special Jury, either Party may, Six Days before the First Day of the Sittings in *London* or *Middlesex*, or Adjournment Day in *London*, or Commission Day of the Assizes, give Notice to the Sheriff that such Cause is to be tried by a Special Jury ; and in case no such Notice be given no Special Jury need be summoned or attend, and the Cause may be tried by a Common Jury, unless otherwise ordered by the Court or a Judge.

CXIII If Special Jury not summoned, Cause to be tried by a Common Jury.

In all Cases where Notice is not given to the Sheriff that the Cause is to be tried by a Special Jury, and by reason thereof a Special Jury is not summoned or does not attend, the Cause may be tried by a Common Jury, to be taken from the Panel of Common Jurors, in like Manner as if no Proceedings had been had to try the Cause by a Special Jury.

CXIV View to be by Rule without Writ.

A Writ of View shall not be necessary or used, but, whether the View is to be had by a Common or Special Jury, it shall be sufficient to obtain a Rule of the Court or Judge's Order, directing a View to be had; and the Proceedings upon the Rule for a View shall be the same as the Proceedings heretofore had under a Writ of View; and the Sheriff, upon Request, shall deliver to either Party the Names of the Viewers, and shall also return their Names to the Associate for the Purpose of their being called as Jurymen upon the Trial.

CXV Proceedings before Jurors so returned same as before this Act.

The Jurors contained in such Panels as aforesaid shall be the Jurors to try the Causes at the Assizes and Sittings for which they shall be summoned respectively; and all such Proceedings may be had and taken before such Juries in like Manner, and with the like Consequences in all respects, as before any Jury summoned in pursuance of any Writ or Writs of *Venire facias juratores*, *Distringas juratores*, or *Habeas corpora juratorum*, before this Act.

CXVI Defendant's Right to try, upon Default of the Plaintiff, preserved.

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 Court ; and if Records are entered for Trial both by the Plaintiff

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and the Defendant, the Defendant's Record shall be treated as standing next in order after the Plaintiff's Record in the List of Causes, and the Trial of the Cause shall take place accordingly.