

## ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,  
ON THE SECOND DAY OF AUGUST, A. D. 1749.

## CHAPTER 5.

AN ACT FOR THE BETTER REGULATING THE CHOICE OF PETIT JURORS.

*Be it enacted by the Governour, Council and House of Representatives,*

Lists of persons  
liable to serve  
on juries, to be  
taken by the  
selectmen.

[SECT. 1.] That the selectmen of each town within this province shall, within their respective [to\*]wns, some time before the first day of December, take a list of the persons liable by law, and which they shall judge able and well qualified, to serve on the [pet\*]it juries, and lay the same before the town at a meeting to be immediately called for that purpose, and the towns shall, respectively, at such meeting select out of [t\*]he list one-quarter of the number so laid before them, such as they judge most suitable to serve as jurors at the superiour court of judicature, court of assize and general goal delivery, and put their names, written on seperate p[ei][ie]ces of paper, in one box, and the remainder of such of them as the town shall think suitable, in the same manner into another box, to serve as jurors in the inferiour court of common pleas and court of general sessions of the peace, to be provided by the selectmen for that purpose, and deliver the same to the town clerk, to be by him kept under lock and key.

Persons to be  
distinguished  
for the superior  
and inferior  
courts, and  
their names put  
into separate  
boxes.

*And be it further enacted,*

Names to be  
drawn, and such  
persons to serve  
on the juries.

[SECT. 2.] That when at any time after the first of December next, during the continuance of this act, any *venire facias* shall issue forth for the choice of petit jurors, and the inhabitants of each town shall be assembled for that purpose, the town clerk, or one or more of the selectmen in case of his absence or sickness, shall carry into the meeting the box wherein the names of those persons are put who are designed to serve at the court from whence the *venire facias* issued, which shall be unlock'd in the meeting, and the major part of the selectmen, who are hereby enjo[y][i]ned to be present, and the constable who shall warn said meeting shall particularly notify them and the town clerk for that purpose; and the town clerk, or in his absence one or more of the selectmen, shall draw out so many tickets as there are jurors required by the *venire*, who shall be the persons that shall be returned to serve as jurors: *saving*, that if any whose names are so drawn are sick or otherwise unable to serve at that time, in the judgment of the town, their names shall be returned into the box, and others drawn in their stead.

Persons to serve  
on juries but  
once in three  
years.

[SECT. 3.] And to the intent the same persons may not serve too often, the clerk or selectmen who shall draw the ticket or name of any

\* The parchment is mutilated here.

person returned to serve as aforesaid, shall enter on the back thereof the date of such draft, and return the same into the box again, and said person or persons shall not be obliged, altho' drawn at any time, to serve as jurors oftener than once in three years, and no person who has served as a petit juror within two years past shall be obliged to serve again until three years be compleated from the time of his last serving, notwithstanding his name's being drawn as aforesaid.

[SECT. 4.] And the selectmen shall, in the same manner, once in every year during the continuance of this act, take a new list of such other persons as may become suitable and qualified, and lay the same before the town, whose names being first by them allowed, shall be put into their respective boxes in manner as aforesaid. And as well that all may do duty, as that the deficiency that may have happened by death or otherwise may be supplied at such time, the town may, if they think fit, make a new regulation of the list before received, and transfer the names from one box to another, as they judge needful[1].

*And whereas* it often happens that the persons returned to serve as petit jurors [o][a]bscond, and the respective constables are put to great difficulty, and frequently prevented from notifying them,—

*Be it further enacted,*

[SECT. 5.] That from and after the first of December next, and during the continuance of this act, the clerks of the respective courts in this province, shall and hereby are obliged to issue out their *venires* from their respective offices thirty days at least before the return day; and the respective constables, upon receipt of the said *venires*, are hereby obliged to notify their towns thereof, so that the several meetings may be held six days at least before the sitting of the court from whence the *venire*[s] issue[s], and the constables are hereby directed, in case they cannot personally notify those who are so drawn, upon their leaving a certificate of their being drawn as aforesaid, with the time and place of their respective courts sitting, at the usual place of such person's abode, four days before the sitting thereof; and it shall be deemed a sufficient notification.

Preamble.  
Rules for notification and issuing *venires*.

[SECT. 6.] And if any person drawn and notified as aforesaid, shall neglect to attend and serve accordingly, unless reasonable excuse be made to the justices of the respective courts, he shall be fined in a sum not exceeding forty shillings of the last emission; and if such jurors belong to the town of Boston, they shall be fined in a sum not exceeding twenty pounds of the same emission for the superiour court only, to be divided between the petit jurors drawn as aforesaid and serving at such court.

Penalty for persons not attending as jurors.

*And be it further enacted,*

[SECT. 7.] That the justices of the respective courts aforesaid are hereby directed, upon motion from either party in any cause that shall be tried after the first of December next, and during the continuance of this act, to put any juror to answer upon oath, whether returned as aforesaid or a talisman "whether he doth[e] expect to gain or loose by the issue of the cause then depending; whether he is any way[s] related to either party; and whether he hath been of council to either party; or directly or indirectly given his opinion, or is sensible of any prejudice in the cause"? And if it shall then appear to said court that such juror does not stand indifferent in said cause, he shall be set aside from the trial of that cause, and another appointed in his stead.

Method for preventing partial jurors.

*And whereas* it frequently happens that many of the jurors so chosen to serve in the several courts of judicature within this province fail of attendance, and by reason of challenges made by parties to several of said jurors, the number of returned jurors are too few to serve at said courts; for remedy whereof,—

Preamble.

*Be it enacted,*

New writs to be issued, in case.

[SECT. 8.] That from and after the first of December next, and during the continuance of this act, it shall and may be lawful for the justices of the courts aforesaid, when sitting, and as they shall judge there is occasion, to cause new writs of *venire facias* to be forthwith issued out and directed to the constables of the several towns in the county in which said court is held, for the appointment and return of so many good and lawful men to serve upon the jury at said court as shall be directed in the writ, which jurors shall be forthwith appointed, and being notified and returned to the said court, shall be and hereby are obliged to give their immediate attendance accordingly, under the penalty by this act provided for non-appearance of jurors.

*And be it further enacted,*

Jurors' fees.

[SECT. 9.] That the fees for the petit jurors in the county of Suffolk, at the superiour court, shall be twenty-six shillings a case, the foreman to have four shillings and the other jurors two shillings each.

*And be it further enacted,*

The act of the 15th of his present majesty, relating to jurors, revived.  
1741-42, chap. 18.

[SECT. 10.] That the law made and passed in the fifteenth year of his present majesty's reign, [e][i]ntit[u]led "An Act for the better regulating the choice of petit jurors, be and hereby is revived, and all and every part thereof declared to be and continue in full force and virtue, until the first day of December next, and no longer: *saving* only, that whereas, in and by said act it is provided that when any person shall neglect to attend and serve as a juror, being drawn and notified, unless reasonable excuse be made to the justices of the respective courts, he shall be fined in a sum not exceeding forty shillings,—it is hereby provided, enacted and declared that when any juror, being an inhabitant of the town of Boston, altho' such juror may already have been drawn for and notified to serve at the superiour court, shall neglect to attend and serve accordingly, unless reasonable excuse be made as aforesaid, he shall be fined in a sum not exceeding twenty pounds, to be divided between the petit jurors drawn as aforesaid, serving at [said\*] court.

Limitation.

[SECT. 11.] [This\*] act to continue and be in force until the first of September, which shall be in the year of our Lord one thousand seven hundred and fifty-six, and [to the e\*]nd of the session of the general court next after, and no longer. [Passed August 12; published August 22.]

## CHAPTER 6.

AN ACT FOR REGULATING THE HOSPITAL ON RAINSFORD ISLAND, AND FURTHER PROVIDING IN CASE OF SICKNESS.

Preamble.

1743-44, chap. 19.

WHEREAS a good and convenient house hath been provided, at the charge of the province, on the island called Rainsford's Island, for the reception of such persons as shall be visited with any contagious sickness,—

*Be it therefore enacted by the Governour, Council and House of Representatives,*

Inquiry to be made at the castle respecting infectious vessels.

[SECT. 1.] That inquiry shall be made by the officer or other person on duty at Castle William, of every vessel coming from sea and passing by said castle, whether they are all well on board, and also whether any

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