CHAPTER 78.

An Act to amend the Procedure connected with Trial by Jury in Ireland.
[15th August 1876.]

WHEREAS it is expedient to amend the procedure connected with trial by jury in Ireland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Juries Procedure (Ireland) Act, 1876."

Interpretation.

2. The term "Juries (Ireland) Acts" in this Act shall mean The Juries (Ireland) Acts, 1871 to 1872, and the Acts altering, amending, or affecting the same for the time being in force.

Construction.

3. The Juries (Ireland) Acts as amended by this Act and this Act shall be construed together as one Act.

Summoning of jurors.

4. With respect to the summoning of jurors in rotation by the sheriff or other officer under the Juries (Ireland) Acts, the following provisions shall have effect:

1. The names of persons who when last summoned to attend as jurors have not attended in obedience to such summons shall be taken from the jurors books by the sheriff or other officer in the same manner as the names of persons who under the provisions of the said Acts are to be taken from the jurors books in rotation as persons who have not been summoned; and for the purpose of aiding the sheriff in ascertaining the persons who when summoned to attend as jurors have not so attended, it shall be the duty of the person acting as clerk of the Crown, clerk of the peace, or registrar, as the case may be, of any court to which persons shall have been summoned as jurors at the commencement of the sittings of such court, or as soon thereafter as conveniently may be, even though there be no business requiring the empannelling of a jury, to call over the panel returned by the sheriff, and to mark thereon the names of all jurors who shall have attended and answered when called, and immediately after the termination of the sittings of such court to return a copy of such panel so marked to the sheriff, who shall thereupon mark on the jurors book the names of the jurors who have attended in obedience to such summons:

   Every person named as a juror in the panel returned by the sheriff, and who shall not attend and answer when so called as aforesaid, or be proved to the satisfaction of the court to have been prevented by illness or other inevitable accident from so attending or answering, shall be ordered by the court to forfeit and pay a fine or penalty of forty shillings at the least, or such larger sum as the court shall under the circumstances think fit; and every order so made for the imposition of such fine or penalty shall be and be deemed to be within the several provisions of the Fines Act, Ireland, 1851, and any Act amending the same:

2. The persons whose names shall be returned to serve as grand jurors or petit jurors at any general quarter sessions of the peace, or in any civil bill court, shall be resident within the division in and for which such sessions or civil bill court are or is held, and where such sessions or civil bill court are or is held at more than one place in such division, the jurors returned shall be resident within such petty sessions district or districts conveniently near to the place in which such sessions or court are or is held as may be prescribed by the chairman of such county in any order made under the authority of this Act, and for such purpose the sheriff or other officer in returning the said names according to the alphabetical order of selection shall when necessary for the purpose of complying with this enactment omit the name of any person not resident in such division, and may for such purpose omit

the name of any person not resident in the petty sessions district or districts so prescribed as aforesaid:

Where a juror in attendance at any court shall have travelled a distance of not less than fifteen miles from his usual place of abode for the purpose of such attendance, it shall be lawful for the judge of such court in his discretion, upon the application of such juror, having regard to the time necessarily occupied and the expense necessarily incurred in such travelling, to grant to such juror a certificate of exemption for the next occasion when such juror would, in the ordinary course, be selected to be returned as a juror on any panel for any purpose whatsoever; and if such certificate shall be forwarded to the office of the sheriff within whose bailiwick such court was held within ten days from the granting thereof, but not otherwise, an entry of the same shall be made opposite the name of such juror in the general jurors book or special jurors book; and thereupon the sheriff or other officer shall omit to select such juror on the occasion specified in such certificate when such juror would be selected in ordinary course; and after such omission the sheriff or other officer shall, in making any subsequent selection and return, treat such juror as though he had on the occasion of such omission been duly selected, returned, and summoned, and had attended in accordance with such summons.

Where quarter sessions or civil bill court held in more than one place in division, chairman to fix locality from which jurors shall be summoned.

5. Where any general quarter sessions of the peace or any civil bill court are or is held at more than one place in any division of a county, the chairman of such county shall within three months after the passing of this Act, by order under his hand and seal, direct that the jurors returned to serve as grand jurors or petit jurors at such general quarter sessions or civil bill court shall be resident within such petty sessions district or districts as may in his opinion be conveniently near to the place in which such sessions or court are or is held, and as are prescribed by such order, and he shall forthwith, after the making of such order, deliver the same to the clerk of the peace for such county, by whom it shall be duly filed in his office and preserved among the records of such county, and the clerk of the peace for such county shall forthwith transmit a copy of such order to the sheriff of such county for the time being, and to every succeeding sheriff of such county immediately after his appointment to his office of sheriff, and from and after the making and filing of such order in manner aforesaid the jurors at such courts shall be summoned in accordance therewith: Provided, however, that the chairman may from time to time vary such order.

Summoning of jurors.

6. Section twenty-one of the Juries (Ireland) Act, 1871, shall be and the same is hereby repealed, and in lieu thereof be it enacted, that, save as by the Juries (Ireland) Acts, 1871 to 1872, and by this Act expressly provided, the summons of every person to serve on any jury in any court shall be made four clear days at least before the day on which the attendance of such person shall be required by a constable or sub-constable of the Royal Irish Constabulary acting in and for the county or borough in which such person shall reside by delivering a summons to the person to be summoned, or in case he shall be absent from his usual place of abode, by leaving such summons with some person therein inhabiting, and every summons requiring the attendance of any person as a juror shall be duly and properly filled with the name of the juror, and shall be signed by the sheriff or other officer, previous to such summons being delivered to such constable or sub-constable for service; and every constable or sub-constable summoning jurors under this Act shall keep a book or books in which he shall truly enter the name of every person so summoned by him, with the day on which such summons shall be served, and the manner and particulars of the service thereof, and every such constable and sub-constable shall attend, and shall (if required) produce such book or books at the sitting of the court, and verify the same upon oath, or shall cause such book or books to be produced to the court in case of his unavoidable absence, and in case of the death, illness, or unavoidable absence of such constable or sub-constable, the book kept by him as aforesaid, verified on oath as to his handwriting by some credible person, shall (if required) be produced to the court, and shall be primâ facie evidence of the truth of the several matters entered therein as aforesaid, and if any such constable or sub-constable shall, without reasonable excuse, neglect

Books of summonses to be kept.

to summon any juror as herein-before directed, or to keep such book or books, or to make such entries therein as aforesaid, or to attend the court, or produce or verify or cause to be produced the said book or books as herein-before provided, every constable or sub-constable so offending may, for every such neglect, be fined by the court in a summary way in any amount not exceeding ten pounds for each such offence, with the alternative of imprisonment in default of payment of such fine for any period not exceeding seven days.

Execution of Act by Royal Irish Constabulary.

7. The officers and men of the Royal Irish Constabulary shall respectively afford assistance to sheriffs and other officers in the execution of this Act, and, subject to such regulations as may be made under this Act, do such acts as may respectively be required of them and as they may be able to do without interfering with their permanent duty.

The Inspector General of the Royal Irish Constabulary shall make such orders with respect to the execution of this Act by the officers and men of the said constabulary as he may think proper and as the Chief Secretary to the Lord Lieutenant of Ireland shall approve, and he may from time to time and with the like approval revoke, alter, or amend such orders, or may make new orders in lieu of the same.

Judges may order jury summons to be sent by post.

8. It shall be lawful for any judge of assize in any county from time to time by order under his hand to direct that the summonses for the attendance of jurors in such county or any part of the same shall for such period as may be specified in such order be served by post, and every such order shall be entered in the Crown Book; and thereupon the provisions of the Juries Act (Ireland), 1871, in reference to the transmission by post of jury summonses in the county of the city of Dublin shall during the period specified in such order be and the same are hereby extended to the summoning of jurors and service of notices in such county, or such part of such county.

Lord Lieutenant in Council to fix limits of expenses.

9. The Lord Lieutenant, by and with the advice and consent of the Privy Council of Ireland, may from time to time make orders, and when made may revoke, alter, or amend the same, and may make new orders instead of any orders revoked, fixing a scale or scales according to which the expenses of printing and the remuneration of clerks of the peace, clerks and rate collectors of poor law unions, and the collector-general of rates in the city of Dublin, in carrying into execution the several purposes of the Juries (Ireland) Acts, and thereby made payable, shall be calculated, and thereupon such expenses and remuneration shall in each case be calculated according to the scale or scales fixed by such order, and for the time being in force and not otherwise. Except as specially provided with respect to collectors of poor rates in the county of the city of Dublin, all the provisions of the Juries (Ireland) Acts with respect to the payment of remuneration to the clerks of poor law unions as compensation for the duty by the said Acts imposed upon them are hereby amended so as to extend to and include rate collectors of poor law unions, and such rate collectors shall be paid accordingly.

Challenges in civil and criminal trials.

10. In all civil trials in the superior courts, the plaintiff or plaintiffs on the one hand, and the defendant or defendants on the other respectively, shall be entitled to challenge without cause assigned in all six jurors, and in the inferior courts in all three jurors, and in all trials of indictments for misdemeanor and informations the person or persons on trial shall be entitled to challenge without cause assigned in all six jurors.

Adjournment to enable jurors to view places.

11. On the trial of any indictment or information the court or judge may at any time after the jurors have been sworn to try the case, and before they shall give their verdict, order that they shall have a view of any place named in such order, and may for that purpose adjourn the trial and may order the costs and expenses occasioned thereby to be paid as part of the costs of the prosecution when the Crown is the prosecutor, and in other cases in like manner as costs are ordered to be paid when the costs of prosecution or defence are allowed by the judge under the Acts in that behalf now in force. And the court or judge shall give such directions as shall seem requisite for the purpose of preventing undue communication with such jurors, provided that no breach of any such directions shall be deemed ground of mistrial or of error.

Jurors to be allowed fire and refreshment.

12. 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 also to obtain reasonable refreshment.

Juries de v. in. abolished.

Power for court to direct inquiry by medical men.

13. In cases where a female upon a capital conviction alleges, or the court has otherwise reason to suppose that she is pregnant, no jury de ventre inspiciendo shall be empannelled or sworn, but the court shall direct that one or more medical men be sworn to inquire whether she be with child of a quick child, and if after due inquiry he or they shall report that she is with child of a quick child, the court shall stay execution of the sentence until such female be delivered of a child, or until it is no longer possible in the course of nature that she shall be so delivered, and in such case the court may order the expenses of such inquiry to be paid as part of the costs of the prosecution.

Power to correct jurors books may be exercised by any judge, &c.

14. All the powers under section fifteen of the Juries Act (Ireland), 1871, of ordering a general jurors book or special jurors book to be corrected or amended, may be exercised by any judge at any time during the sitting of his court, upon sworn testimony or any other evidence or information satisfactory to such judge, and shall extend to and include the expunging from any general jurors book or special jurors book, as the case may be, of the name of any person contained therein who may be exempted or disqualified from serving on juries under this Act, though not so exempted under the Juries Act (Ireland), 1871.

Power to judge to excuse jurors from serving.

15. Whereas doubts have been entertained as to the power of judges to excuse jurors from serving, and it is expedient to remove such doubts: It is hereby declared and enacted, that it shall be lawful for the judge, if he shall so think fit, of any court before which any person may be summoned as a juror, to discharge in open court such person from further attendance on such court, or to excuse such person from attendance for any period during the sittings of such court.

Private prosecutors to have no right to have jurors ordered to stand by 34 & 35 Vict. c. 65. s. 24., but may challenge six jurors peremptorily.

16. From and after the passing of this Act, section twenty-four of the Juries Act (Ireland), 1871, shall be and the same is hereby repealed, and in lieu thereof be it enacted, that where any bill of indictment is preferred before any court in Ireland by or on behalf of any private prosecutor, he shall not upon the trial of any such indictment have the right of requiring the court to order any juror to stand by until the panel shall have been gone through; but such private prosecutor shall be entitled to challenge without cause assigned six jurors.

Challenge to the array.

17. From and after the passing of this Act, no challenge to the array shall be allowed for any cause except partiality, fraud, or wilful misconduct of the sheriff or other officer returning the panel.

Names of persons summoned as grand jurors at Green Street not to be initialed or omitted in taking subsequent panel.

18. Whenever the sheriff or other officer shall select persons to be returned to serve as grand jurors at any general sessions of the peace or at the sittings of the court of oyer and terminer and general gaol delivery to be holden at Green Street, Dublin, he shall not initial in any jurors book the names of the persons so selected to serve as grand jurors as aforesaid, and in preparing any subsequent panel of jurors, such sheriff or officer shall not omit to take the name of any person whom he may have previously thereto selected and summoned to serve as such grand juror as aforesaid on account of his having already summoned such person to serve as such grand juror.

Names of jurors in criminal cases to be ballotted for.

19. The name of each man who shall be summoned and empannelled as a juror in any court for the trial of criminal issues, with the place of his abode and addition, and his number upon the panel, shall be written on a distinct piece of card, such cards being all as nearly may be of an equal size, which shall be delivered unto the proper officer by the sheriff or other officer returning the process, and the same shall, under the direction and care of such officer, be put together in a box to be provided for that purpose, and shall be shaken together; and when any criminal issue shall be brought on to be tried, such officer shall in open court draw out the said cards, one after another, and shall call out the name and number upon each such card as it is drawn, until such a number have answered to their names as in the opinion of the court will probably be sufficient, after

allowing for challenges of jurors and directions to stand aside, to provide a full jury; and thereupon the officer shall proceed to swear the jury, each juror being called to swear in the order in which his name was so drawn, until after subtracting all just challenges allowed, and jurors directed to stand aside, twelve jurors shall be sworn; and if the number so answering shall prove insufficient to provide such full jury, the officer shall proceed to draw further names from the box, and call the same in manner aforesaid, until, after challenges allowed and jurors directed to stand aside, twelve jurors shall be sworn: Provided always, that nothing herein contained shall deprive the prisoner of his right to have the inquest taken, and for that purpose in case by challenges and directions to stand by the panel shall be exhausted without leaving a sufficient number to form a jury, those who have been directed to stand by shall be again called in the order in which they were drawn, until the jury shall be completed, but as regards such last-mentioned jurors subject only to such and no other right to challenge or direct to stand aside as would in like case have existed if this Act had not been passed; and the twelve men who in manner aforesaid shall be ultimately sworn shall be the jury to try such issue, and the names of the men so drawn and sworn shall be kept apart by themselves until such jury shall have given in their verdict, and the same shall be recorded, or until such jury shall be discharged; and 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: Provided also, that when the prosecutor or prisoner in any criminal case shall not object thereto, the court may try any such issue with the same jury that shall have previously tried or been drawn to try any other issue, without their names being returned to the box and redrawn, or order the name or names of any man or men on such jury, whom both parties may consent to withdraw, or who may justly be challenged or excused by the court, to be set aside, and another name or other names to be drawn from the box, and try the issue with the residue of such original jury and with such man or men whose name or names shall be so drawn, and who shall appear and be approved as indifferent, and so toties quoties as long as any issue remains to be tried: Provided also, that omission to follow the directions in this section shall not be deemed ground of mistrial or of error.

Exemption from serving on juries.

20. From and after the eleventh day of January one thousand eight hundred and seventy-seven the provisions of the Juries (Ireland) Acts which relate to the exemption of persons from serving on juries, inquests, or inquiries shall be and the same are hereby repealed; and thereupon the persons described in the first schedule to this Act annexed shall be absolutely freed and exempted from being returned, and from serving on any jury, inquest, or inquiry in any court or on any occasion whatsoever; and the names of such persons shall not be inserted in any jurors lists or jurors books to be prepared after the first day of July one thousand eight hundred and seventy-six by virtue of the Juries (Ireland) Acts: Provided that no verdict or trial shall be invalid or impeached on the ground that any person so exempted was sworn and served upon the jury which found such verdict at such trial.

Disqualifications.

21. In addition to the persons not qualified under the Juries (Ireland) Acts to serve on juries, inquests, and inquiries, no man who has been or shall be convicted of perjury, unless he shall obtain a free pardon, is or shall be qualified to serve on juries, inquests, or inquiries in any court, or on any occasion whatsoever.

Abolition of market juries.

22. Whereas the enactments specified in the second schedule to this Act annexed were made for the establishment of market juries, and such juries are not any longer necessary: Be it therefore enacted, that from and after the passing of this Act the said enactments specified in the said second schedule to this Act annexed shall be and the same are hereby repealed.

FIRST SCHEDULE.

EXEMPTION from serving on JURIES.

Peers.

Members of Parliament.

Clergymen in Holy Orders and other persons who shall teach or preach in any religious congregation, and who do not follow any secular occupation, except that of schoolmaster.

Persons holding any paid, judicial, or other office belonging to any court of justice in Ireland.

Persons of the following professions actually practising:—

Barristers-at-law.
Attorneys and solicitors.
Licensed medical practitioners.
Apothecaries duly certified.
Pharmaceutical chymists duly registered.
Civil engineers.
Public notaries and actuaries entitled to grant statutable certificates.
Professors, schoolmasters, or teachers in any college, academy, or school.

Persons holding any public office under Her Majesty's Government, or any public department, or under any local authority, and paid from taxes, general or local.

Persons licensed to sell intoxicating liquors by retail to be consumed on the premises where such premises shall be rated at a net annual value of less than fifteen pounds a year.

Masters of vessels and duly licensed pilots.

Persons who cannot read and write the English language, or who from lunacy, imbecility of mind, deafness, blindness, or other permanent infirmity are unfit to serve as jurors.

And persons heretofore exempted by virtue of any prescription, charter, grant, writ, or Local Act of Parliament.

SECOND SCHEDULE.

Session and Chapter.	Title or Abbreviated Title.	Extent of Repeal.
	Acts of the Parliament of Ireland.	
13 & 14 Geo. III. c. 22. -	An Act for paving the Streets, Lanes, Quays, Bridges, Squares, Courts, and Alleys within the city and county of the city of Dublin; and other purposes relative to the said city of Dublin, and other places therein particularly mentioned.	Section 73.
15 & 16 Geo. III. c. 20. -	An Act to explain and amend an Act intituled An Act for paving the Streets, Lanes, Quays, Bridges, Squares, Courts, and Alleys within the city and county of the city of Dublin; and other purposes relative to the said city of Dublin, and other places therein particularly mentioned, and for extending the provisions of the said Act to the baronies of Saint Sepulchre's and Donore.	Section 43.
27 Geo. III. c. 46. - -	An Act for establishing Market Juries in Cities - -	The whole Act.
28 Geo. III. c. 42. - -	An Act for continuing the Acts relative to Bankrupts, and for reviving, continuing, and amending certain temporary Statutes.	Section 9.