

## TRINIDAD AND TOBAGO.

[Published as a Supplement to the "Royal Gazette" issued on the 5th day of December, 1935.]

No. 32—1935.

I ASSENT,

[L.S.]

A. C. HOLLIS,

*Governor.*

2nd December, 1935.

[On Proclamation.]

AN ORDINANCE to amend the Jury Ordinance, Cap. 7.

**B**E it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows :—

1. This Ordinance may be cited as the Jury (Amendment) Ordinance, 1935, and shall be read as one with the Jury Ordinance, hereinafter referred to as the Principal Ordinance.

Short title.

Construction.

2. Paragraph (6) of section 4 of the Principal Ordinance is hereby repealed and replaced by the following :—

Amendment of sec. 4 of Cap 7

(6) He shall have at least one of the following property qualifications that is to say :—

(a) He shall be possessed of freehold or leasehold interest in land of the clear annual value of three hundred dollars ; or

- (b) He shall be in the occupation of a house which is rated or assessed to some general or local tax on an annual value of not less than two hundred and forty dollars; or
- (c) He shall be in receipt for his own use of a net annual income of not less than seven hundred and twenty dollars.

Amendment  
of sec. 5 of  
Cap. 7.

3. Section 5 of the Principal Ordinance is hereby amended by the addition of the following sub-section :—

- (3) being a bankrupt or having entered into a Deed of Arrangement with his creditors.

Amendment  
of sec. 7 of  
Cap. 7.

4. Section 7 of the Principal Ordinance is hereby amended by the insertion of the words " Justices of the Peace " between the words " Magistrates and their clerks " and the words " Ministers of Religion " in the 4th and 5th lines thereof respectively.

Repeal and  
re-enactment  
of secs. 8-10 of  
Cap. 7.

Qualifications  
for special  
juror.

5. Sections 8, 9 and 10 of the Principal Ordinance are hereby repealed and replaced by the following sections :—

8. Any person otherwise qualified and liable as aforesaid shall be qualified and liable to serve as a special juror provided he has at least one of the following property qualifications, that is to say :—

- (a) He is possessed of freehold or leasehold interest in land of the clear annual value of six hundred dollars; or
- (b) He is in the occupation of a house which is rated or assessed to some general or local tax on an annual value of not less than four hundred and eighty dollars; or
- (c) He is in receipt for his own use of a net annual income of not less than two thousand four hundred dollars.

Who shall  
make list of  
jurors.

9.—(1) In the year 1936 and in every alternate year thereafter, lists of the names of all persons qualified to serve as Jurors shall be made out and returned as follows, that is to say :—

- (a) of such persons residing in any Ward, by the Warden; and

(b) of such persons not residing in any Ward, by the Clerk of the Peace for the Magisterial District in which they reside.

(2) Every person required to make out any such list is hereby authorised and required— Duties of person making list.

- (a) To make diligent enquiry as to persons in the Ward or District to which his list applies who are duly qualified and in particular by all lawful ways and means in his power to ascertain whether such persons can read and write the English language and understand the same when spoken ;
- (b) To inspect and make copies of or extracts from the House Rate Book of any City or Borough and the assessment rolls of any Ward ; and the Town Clerk of every City or Borough and the Wardens shall give facilities accordingly ;
- (c) To demand and receive from the Commissioners of Income Tax the names of persons who according to the Income Tax returns are qualified to serve as Jurors ; and the Commissioners shall furnish merely the names and addresses and shall not in any manner disclose the income of such persons ;
- (d) To serve on any employer, a notice setting out clearly the necessary qualifications for a Juror and requiring such employer to make a return on the Form " D " set out in the Schedule to this Ordinance of all persons in his employment who are qualified to serve as Jurors ; and any employer who fails to make such return within the time specified in such notice or wilfully makes an incorrect or incomplete return shall be liable on summary conviction before a Magistrate to a penalty not exceeding forty-eight dollars ;

(e) To enquire of, or consult with, the Official Receiver in Bankruptcy and the Registrar of the Supreme Court, who are required to give the necessary assistance, regarding the qualification or disqualification of any of the persons whom it is intended to enter in such list.

Form of list.

(3) Such list shall show, in respect of each such person, his name or names, his place of abode, his business or occupation (if any), and the nature of his qualification. If he is qualified to serve as a special juror, the letters S.J. shall be set opposite his name in a separate column. So far as is practicable, the list shall show the names in full arranged according to the alphabetical order of the surnames, and shall be according to the Form "A" in the Schedule to this Ordinance.

Revision of list.

(4) Each such list shall be revised by a Magistrate appointed by the Governor to revise the same.

Duties of Reviser.

(5) The person making out any such list shall cause the same to be printed in alphabetical order and shall sign the same and send it on or before the 15th day of December in the year in which it has been prepared to the Reviser, who shall cause copies, with a notice mentioning the place and time at which objections to the list will be heard, to be affixed in such places as he may direct with the view of giving publicity to the same, and shall cause such list to be published in the *Royal Gazette* during the month of January of the following year.

Procedure on revision of list.

10.—(1) The Reviser shall sit in open Court during the month of February on the day and time appointed and notified and on any day to which the Court is adjourned and hear objections to the lists, and revise and settle the same, and any person may appear before him and claim to have his name struck out from or inserted in the list, and such claimant and his witnesses may be examined on oath, and the Reviser shall hear and determine

every such claim and correct the list accordingly. The Reviser shall have the powers given to Magistrates by the Summary Conviction Offences (Procedure) Ordinance for enforcing the attendance of witnesses. Cap. 24.

(2) The person who made out the list shall attend such Court and any adjournment thereof as directed by the Reviser, and shall answer on oath such questions touching the said list as may be put to him by the Reviser, and if it appears to the Reviser, on such or any other evidence or upon his own knowledge, that the name of any person is improperly inserted in ~~or omitted from~~ the list, or that there is any error or omission in any of the particulars required by this Ordinance, he shall amend the list accordingly. Correction of errors.

(3) Every such list, when duly corrected, if correction is necessary, shall be signed by the Reviser, who shall cause the same to be delivered to the Marshal on or before the 15th day of March, and the Marshal shall cause the names of the Jurors mentioned in the lists delivered to him with their respective places of abode, business or occupation and the nature of their qualifications to be fairly copied in a book to be entitled the "Jurors Book." Every Jurors Book so prepared shall be brought into use on the 1st day of July next after it is prepared and shall be used for the two years next following and thereafter until another Jurors Book is prepared according to this Ordinance: Provided that until the coming into operation of a new Jury List as provided for by this Ordinance the existing Jury List shall continue to be used and shall form the basis for such new Jury List. Making up Jurors Book and its duration

6. Sections 15 to 18 of the Principal Ordinance are hereby repealed and replaced by the following sections:— Repeal and replacement of secs. 15-18 of Cap. 7

15.—(1) No one residing in any of the following counties, that is to say, Victoria, St. Patrick, Nariva and Mayaro, shall be summoned to serve on a common jury in Port-of-Spain, and no one except Limitation of liability to serve.

persons residing in the Counties aforesaid shall be summoned to serve on a common jury in San Fernando: Provided that such exemption shall not apply to any trial by a special jury.

(2) No one except persons residing in Tobago shall be summoned to serve on a jury in Tobago, nor shall any person residing in Tobago be summoned to serve on a jury elsewhere in the Colony.

(3) In making panels of jurors, the Marshal shall not place any juror on the panel a second time, until all the jurors have been placed once on the panel, and the Marshal shall make up the panels so that all jurors shall be summoned equally.

(4) It shall be lawful for a Judge to exempt or discharge any juror or jurors from service during the whole or any part of a Criminal Sessions provided there remains available in each Court a panel of not less than 30 jurors in respect of Sessions in Port-of-Spain and San Fernando, and of not less than 20 jurors in respect of Sessions in Tobago, and a Judge may exempt from further service for a period not exceeding four years jurors who at any sessions have been engaged in a prolonged or difficult trial.

Array of  
Jurors—In  
cases of  
murder and  
treason.

16.—(1) On trials on indictment for murder and treason, twelve jurors shall form the array, and subject to the provisions of sub-section (3) hereof the trial shall proceed before such jurors, and the unanimous verdict of such jurors shall be necessary for the conviction or acquittal of any person so indicted.

In other cases.

(2) The array of jurors for the trial of any case, civil or criminal, except on indictment for murder or treason, shall be of nine jurors and no more.

Continuance  
of trial where  
one juror dies  
or becomes  
incapable.

(3) Where in the course of a criminal trial any member of the jury dies or is discharged by the Court through illness or other sufficient cause, the jury shall nevertheless, so long as the number of its

members is not reduced by more than one, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly. Where one juror has died or has been discharged as aforesaid the verdict of eleven jurors in a trial for murder or treason, or of eight jurors in a trial for any other offence, shall be deemed to be an unanimous verdict of the jury, and in the case of a trial for any offence other than murder or treason a verdict of six jurors may, at the discretion of the Judge, be received and entered in lieu of a verdict of seven jurors for the purposes of section 24 (1) of this Ordinance.

17.—(1) At the opening of any Jury Sessions, the Registrar shall cause to be written a list in alphabetical order of the names of the Jurors appearing on the panel and shall prefix to each name in such list a number commencing from the first name and continuing them in regular arithmetical series down to the last name: Provided that it shall be lawful for the Registrar, subject to the direction of the Chief Justice or of a Judge, to divide the panel of Jurors returned by the Marshal for Port-of-Spain Criminal Sessions into two equal parts and make a separate list for each of the two Courts which shall be sitting; such division of the panel shall be made before the sitting of the Court and shall be carried out by the Registrar drawing, in the presence of a Judge, from a box containing the names of all the Jurors appearing on the panel, one by one half of the names in the said box, and such half so drawn shall constitute the panel for the First Court and the remaining names shall constitute the panel for the Second Court: Provided also that at any time during the Port-of-Spain Criminal Sessions one or more of the jurors on the panel in one Court may by order of the Chief Justice or of the Judge of the Court be transferred to serve in the other Court and his name shall be placed on the panel of the other Court.

Preparation  
of panel.

(2) When such list or lists of the Jurors names duly numbered shall be completed, the Registrar shall place in a box for every name included in the panel a counter inscribed on one side only with a number corresponding to the number prefixed to the name in the list ; the counters shall consist of disks being all as nearly as may be of uniform size thickness and colour.

Selection of  
jury.

18.—(1) When any cause is called on for trial the Registrar or a deputy Marshal shall place before the presiding Judge the list of the panel, retaining a copy for himself and having thoroughly inter-mixed the counters placed in the box in manner provided by the preceding section, shall in open Court proceed to draw, one by one, out of the box a number of counters equal to the number required for the Jury in the cause and, as each counter is drawn, hand it to the presiding Judge who shall after referring to the list write down the number inscribed on the counter and, opposite to the number, the name in the list to which that number is prefixed and the Registrar or deputy Marshal shall call out the name, and if any of the persons whose names are so drawn and called do not appear, or are challenged or set aside, then any further number and name until there be drawn the number required for the jury in the cause of persons who appear and, after all just causes of challenge allowed, remain as indifferent, and the said number of persons so first drawn and appearing and approved as indifferent, they being sworn, shall be the Jury to try the cause, their names and numbers being copied down from the panel by the Registrar or deputy Marshal.

(2) The counters corresponding with the names of the persons so drawn and sworn shall be kept apart by themselves until such jury is discharged and then the same counters shall be returned to the box, there to be kept with the other counters remaining at that time undrawn and so *toties quoties* as long as any cause remains to be tried : **Provided**

that if any cause is brought on before the Jury in any other cause have given in their verdict or have been discharged the Court may order the required number of the residue of the said counters remaining in the box (excluding those relating to the Jury in such other cause) to be drawn in manner aforesaid for the trial of the cause so brought on: Provided that where no objection is made on behalf of the Crown or any other party, the Court may try any cause with the same jury that previously tried or was drawn for the trial of any other cause without their counters being returned to the box and redrawn, or may order the counters of any persons on such jury whom both parties consent to withdraw or who may be justly challenged or excused by the Court to be set aside and other counters to be drawn from the box, and may try the issue with the residue of the original jury together with the persons whose counters are so drawn and who appear and are approved as indifferent, and so *toties quoties* as long as any cause remains to be tried.

7. Sections 22, 23 and 24 of the Principal Ordinance are hereby repealed and replaced by the following sections:—

Repeal and replacement of secs. 22-24 of Cap. 7.

22.—(1) When the jury have been once sworn to try any cause, the jurors shall not be discharged, except in cases of evident necessity, nor allowed to separate or hold communication with other persons, until they have given in their verdict: Provided that upon the trial of any person for any offence other than murder, treason or misprision of treason, the Judge may, if he thinks fit, at any time before the jury consider their verdict, permit the jury to separate and go at large.

Custody and discharge of the jury: their verdict.

(2) The verdict of the jury, whether on consultation in the jury-box or after the jury have retired and been enclosed, shall be returned by the mouth of the foreman of the jury in the presence of the other jurors: Provided that when any such jury are not immediately prepared to return their verdict, the Court may direct them to retire and be enclosed.

(3) Whenever the jury have not been allowed to separate or are enclosed, it shall be lawful for the Judge, for sufficient cause shewn to his satisfaction, to allow one or more of the jurors to separate from the other jurors, but not so as to hold communication with other persons and provided that the jurors allowed to separate shall remain in the charge of the Marshal or his deputy.

Refreshments  
to jury.

23. Any jury when not allowed to separate either during any adjournment of the trial or after being charged shall be permitted to receive a reasonable amount of meat and drink subject to the approval of the Judge, and when directed by the Judge the same may be provided by the Marshal at the cost of the Colony.

Verdict of  
seven  
jurymen.

24.—(1) Except in trials for murder or treason, when a jury have been charged and have retired, if at the end of three hours after such retirement the foreman of the jury states to the Judge that seven of the jury are agreed upon a verdict, the verdict of such seven may, at the discretion of the Judge, be received and entered, and if seven are not so agreed, or if the Judge does not think fit to accept the verdict of seven, then the Jury may be further directed to retire.

Verdict of  
manslaughter  
on charge of  
murder

(2) In a trial for murder if at the end of three hours after retirement the foreman of the jury states to the Judge that nine of the jury are agreed upon a verdict of manslaughter the verdict of such nine may, at the discretion of the Judge, be received and entered, and if the Judge does not think fit to accept the verdict, the Jury may be further directed to retire.

Discharge of  
jury after  
3 hours'  
retirement.

(3) It shall be lawful for the Judge, on being satisfied that there is no reasonable probability that the jury will arrive at a verdict, to discharge the jury at any time after the expiration of three hours from the moment of their first retirement.

(4) In cases of evident necessity, such as when a juror is taken ill during any trial, or a prisoner is by illness rendered incapable of remaining at the bar, or for other cause deemed sufficient by the Judge, the Judge may, at any time after the jury have been sworn, discharge the jury. Discharge of jury during trial.

(5) In any case in this section mentioned wherein a jury have been discharged the Judge may adjourn the case for trial at the same sessions or at a future sessions, or in the case of a civil trial to such special day as the Judge may deem fit, and at the subsequent trial the case shall be tried before another array of jurors and the Judge may in his discretion excuse from such array any juror who took part in the previous trial. Subsequent trial.

8. Sections 28 and 29 of the Principal Ordinance are hereby repealed and replaced by the following sections :— Repeal and replacement of secs. 28 and 29 of Cap. 7.

28. The Marshal shall, within ten days after the making up of the Jurors Book in each alternate year, take from it the names of all persons qualified to serve as special jurors, and shall cause the names of all such persons to be fairly copied out in alphabetical order, together with their respective places of abode, business or occupation, and qualifications, in a separate list to be subjoined to the Jurors Book and called the "Special Jurors List," and shall affix to every name in such list its proper number, commencing from the first name and continuing them in a regular arithmetical series down to the last name. Special Jurors List.

29. Whenever the Supreme Court orders a special jury to be struck the Marshal shall appoint a time and place for the nomination of such special jury, and a copy of the order of the Court and of the appointment by the Marshal shall be served by the party obtaining such order on the opposite parties; and the Marshal, at the time and place appointed, if any of the parties attend by themselves or their solicitors, shall, in the presence of the parties so attending place in a box for every name included in the Special Jurors List, a counter inscribed on Preparing panel for special jury.

Quadruple  
the number  
required for  
the jury to be  
drawn in first  
instance.

one side only with a number corresponding to the number prefixed to the name in such list, the counters consisting of disks, being all as nearly as may be of uniform size, thickness and colour, and having thoroughly inter-mixed the counters in the box shall draw out of the box, one after another, so many counters as amount to quadruple the number required for the jury in the cause, and shall as each counter is drawn refer to its corresponding number in the special jurors list and read aloud the name designated by such last mentioned number ; and if, at the time of so reading any name, any party or his solicitor objects that the person whose name is read is incapacitated from serving on the said jury, and then and there proves his objection to the satisfaction of the Marshal, such name shall be set aside, and the Marshal shall, instead thereof, draw out of the box another counter and shall in like manner refer to its corresponding number in the said list, and read aloud the name designated thereby, which name may be in like manner set aside, and other counters and names shall in every such case be resorted to, according to the mode of proceeding hereinbefore prescribed, for the purpose of supplying names in the places of those set aside, until the required quadruple number of names not liable to be set aside is completed ; and if in any case it happens that the full number cannot be obtained from the Special Jurors List, the Marshal shall fairly and indifferently take from the Jurors Book such a number of other names of Jurors as make up the full quadruple number required, all of which names shall in such case be equally deemed to be those of special jurors ; and thereupon the parties or their solicitors in the presence of the Marshal, or the Marshal in lieu of any party failing to attend, shall, in turn, beginning with the plaintiff, strike off one of the said quadruple number until the number of jurymen is reduced to double the number required for the trial ; if none of the parties attend, the Marshal shall take the first such double number obtained by drawing as

Then double  
the number to  
be drawn.

aforesaid. The double number of jurors obtained by either of the processes aforesaid and no others shall be summoned to attend on the day of the trial, and the jury for the trial shall consist of such as first appear on their counters being drawn from the box and their names being called over in Court up to the number required for the jury: Provided as follows:—

Drawing of the jury for the trial.

- (1) No challenge shall be allowed in a criminal or any other case ; No challenge allowed.
- (2) The parties in any cause, or their solicitors, may consent to have a special jury nominated ; and upon consent to that effect, signed by each party or his solicitor, being communicated to the Marshal, he is hereby authorised and required to nominate a special jury for the trial of every such cause ; Special jury may be nominated by consent.
- (3) The same special jury, however nominated, may try any number of causes so as the parties in every such cause or their solicitors have signified their assent in writing to the nomination of such special jury for the trial of their respective causes ; Jury may try several causes.
- (4) It shall be lawful for the Court, if it so thinks fit, upon the application of any person who has served upon one or more special juries at any Sessions, to discharge such person from serving upon any other special jury during the same Sessions. Exemption.

9. Section 34 of the Principal Ordinance is hereby amended by adding at the end thereof the following :— Amendment of sec. 34 of Cap. 7.

And the Court may order such person or talesman to be imprisoned without hard labour for any period not exceeding thirty days in default of payment of such fine: Provided that whenever any fine is imposed upon any person for non-attendance as a juror or for not answering to his name when called, the order of the Court shall not be enforced until after the expiration of fourteen days, and, in the meantime, the Registrar shall forthwith by letter inform the said person of the imposition of the fine,

and require him within ten days after the date of such letter, to forward him an affidavit of the cause, if any, of his non-attendance; and such officer shall, upon the receipt of any such affidavit, submit the same to the said Court, or the Judge who presided at the time when the fine was imposed, and the Court or Judge may remit the fine or any part thereof.

Sec. 35 of  
Cap. 7 added  
to.

**10.** Section 35 of the Principal Ordinance shall be read as though the following were added thereto as subsection (2) :—

Judgment not  
to be reversed  
through defect  
in Jury List  
or panel.

(2) No judgment after verdict shall be stayed or reversed by reason of the neglect or default of any officer to do or perform any of the acts or requirements by this Ordinance required in relation to the preparation of the jury lists, or in the making of the jury panels.

Repeal and  
replacement  
of sec. 38 of  
Cap. 7.  
Rules of Court.

**11.** Section 38 of the Principal Ordinance is hereby repealed and replaced by the following :—

38. Rules of Court may be made by the Chief Justice with the concurrence of a Puisne Judge, as to all or any of the following matters :—

- (1) For distributing equitably, so far as is practicable, actual service as Jurors among the persons liable to such service, and for the selection and preparation of Jury panels;
- (2) For exempting from attendance for cause any juror who may have been summoned to attend a Jury sessions, and regulating the procedure on application for exemption.

All such Rules shall be published in the *Royal Gazette*.

Repeals.

**12.**—(1) In section 2 of the Principal Ordinance the following words are hereby deleted, namely :—

“ Marshal ” includes the Deputy Marshal in cases where he is substituted for the Marshal under this Ordinance.

No. 7 of 1928.

(2) Section 9 of the Criminal Administration Ordinance, 1928, is hereby repealed.

13. This Ordinance shall commence on a day to be fixed by the Governor by Proclamation. Commence-  
ment.

SCHEDULE.

The following Form is hereby added to the Schedule to the Principal Ordinance.

FORM D.  
(Section 9 (2) (d) ).  
Return by Employer.

To \_\_\_\_\_ of \_\_\_\_\_

You are hereby required to deliver to me on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, a return on the Form endorsed hereon (or enclosed herewith) of your own name if you are qualified to serve as a Juror and the names of all persons in your employment who are qualified to serve as Jurors. The qualifications for a Juror are set out below.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

.....  
Warden,  
or Clerk of the Peace.

Qualifications for a Juror.

(Insert here the provisions of Sections 4, 5 and 8 of Cap. 7 as amended).

(ENDORSEMENT.)

Return by Employer.

Christian and surname at length.	Place of abode.	Quality, Calling or Business.	Nature of Qualification	Locality of Property Qualification (if any).	Whether qualified as Special Juror or Common Juror.

Passed in Council this twenty-second day of November, in the year of Our Lord one thousand nine hundred and thirty-five.

J. O'CONNOR,  
Clerk of the Council.