



BILLE NA nGIUREITHE, 1975
JURIES BILL, 1975

EXPLANATORY MEMORANDUM

GENERAL

Purpose of the Bill

1. The purpose of the Bill is to replace the statute law relating to jury service with a single Act and to make substantial changes in that law. The law is at present contained mostly in the Juries Act 1927 (No. 23), which, together with the enactments amending it, is being repealed by the present Bill. The most important changes are four. First, the provisions in the 1927 Act that only owners of land of a certain rateable value should be qualified and liable for jury service is replaced by a provision that, with certain exceptions, all persons aged 18 or over and under 70 who are on the registers of Dáil electors shall be so qualified and liable. Second, a number of changes are made as to the persons who are to be ineligible or disqualified for jury service; the most important change is that women will no longer be exempt but will be liable like men. Third, the present system by which jurors are empanelled in strict rotation, according to their place in the jurors books made up from the lists of persons qualified as jurors, is being replaced by a system by which the jurors will be selected at random directly from the electoral registers. Fourth, the right of the Attorney General or Director of Public Prosecutions to "stand-by" any number of jurors is abolished, and in future the prosecution will be in the same position as the accused as regards challenging jurors.

2. The Bill takes account of the decision of the Supreme Court in *Máirin de Burca and Mary Anderson v. the Attorney General* (12 December 1975, not yet reported) that the restriction of jury service to ratepayers is contrary to the Constitution and the decision of the majority of that court in the same case that the exemption of women from jury service is also unconstitutional. The Bill also gives effect, with some modifications, to the recommendations concerning jury service in the Second and Fourth Interim Reports of the Committee on Court Practice and Procedure (Jury Service (Pr. 8328): Jury Challenges (Pr. 8577)).

PART I

PRELIMINARY

Preliminary provisions

3. *Part I* contains the formal provisions, including the provision in *section 4* for the repeal of the Juries Act 1927 (No. 23) and the other enactments superseded by the Bill.

PART II

QUALIFICATION AND LIABILITY FOR SERVICE AS A JUROR

Section 5: Jury districts

4. *Section 5* contains the general provisions as to jury districts. By *subsection (1)* (read with the definition of "county" in *section 2*

as meaning administrative county) each administrative county will be a jury district. The four county boroughs will no longer be separate jury districts as at present under section 1 of the Juries Act 1927, but will be treated as parts of the counties in which they are situated. Subsections (2) and (3) will enable the Minister for Justice to provide by order for the division of a county into two or more jury districts or to limit a jury district to a part or parts of a county. This power will correspond to the Minister's existing powers under section 1 of the 1927 Act under which several counties have been divided into separate jury districts: in two cases the jury district is limited to part only of a county (in one case for both civil and criminal trials, in the other for criminal trials in the Circuit Court only) and the remainder of the county is not included in any jury district. Subsection (4) contains the general rule as to venue in jury trials—that is to say, that the jury is called from a panel of jurors drawn from the jury district in which the court is sitting.

Section 6: Qualification and liability for jury service

5. Section 6 states the general rule as to qualification and liability for jury service. This is that every citizen aged 18 or upwards and under 70 who is entered in a register of Dáil electors in a jury district will be qualified and liable to serve as a juror at a trial for which the jury has to be drawn (in accordance with section 5 (4)) from that jury district. The general rule is subject to three exceptions. (i) Certain classes of persons will be "ineligible" for jury service (under section 7), mostly on account of their occupation. (ii) Certain persons will be "disqualified" (under section 8) owing to a criminal conviction. (iii) Certain persons, though in general qualified and liable, will be entitled, if summoned, to be excused from service under section 9. The Bill follows the 1927 Act in referring to persons "qualified and liable" for jury service, because (subject to (iii) above) liability follows qualification; but it departs somewhat from the language of that Act in respect of the persons in the excepted classes referred to above. In particular, it avoids referring to persons who by reason of their occupation are not to serve on juries as being "exempt" from jury service. This term, used in the 1927 Act, might suggest that the persons concerned have the choice whether to serve or not. Instead the Bill provides that they are "ineligible" to serve. This makes it clear that (as at present) they must not serve, even if willing to do so.

Section 7: Ineligibility

6. Section 7 provides that the persons specified in Part I of the First Schedule shall be "ineligible" for jury service by reason of occupation or otherwise. A summary of the classes of ineligible persons, together with a reference to the differences between the present law and the proposals in the Bill, is in the note on that part of the Schedule in paragraph 47 below.

Section 8: Disqualification

7. Section 8 specifies the persons who are to be "disqualified" for jury service by reason of a criminal conviction. The persons concerned will be (i) any person who has at any time been sentenced to imprisonment for life or for at least 5 years or to detention under section 103 of the Children Act 1908 (c.67) (which applies to children or young persons convicted of capital offences) and (ii) any person who has at any time in the previous 10 years served any part of a sentence of imprisonment, being a sentence of at least 3 months, or been detained in Saint Patrick's Institution on conviction of an offence. The new provisions are a considerable departure from the present provisions (in section 4 of the Juries Act 1927), under which the grounds for disqualification are conviction of treason, treason-felony or any felony or perjury and under which disqualification results from the mere fact of the conviction, irrespective of the sentence passed and of the time that has elapsed since the conviction. The Bill also departs from the present law in making disqualification apply (with the necessary modifications) to convictions in Northern Ireland.

Section 9: Excusal from service

8. Section 9 provides that certain persons, though qualified and liable for jury service in general, should have the right to be excused

from service if they are summoned and desire to be excused. The section also enables other persons summoned as jurors to apply for excusal at the discretion of the appropriate authority (the county registrar or the judge).

9. *Subsection (1)* specifies the classes of persons who will be excusable from jury service as of right. There will be three classes. The first class, specified in *Part II* of the *First Schedule*, will consist of persons in certain occupations and persons aged 65 or over and under 70. A summary of the effect of *Part II* is given in paragraph 48 below. The second class will be persons who have served on a jury in the previous three years, and the third class will be persons who have been excused by a judge, after a long trial, from jury service for a period that has not yet terminated.

10. *Subsection (2)* empowers the county registrar (who by virtue of *Part III* of the Bill will be the officer to empanel and summon jurors) to excuse any person whom he has summoned as a juror from attendance during the whole or any part of the sittings in question if that person satisfies him that there is good reason why he should be excused. Typical cases in which a county registrar would be able to excuse persons from attendance would be cases of women with young children, persons having business commitments or having made arrangements to be away from home on business or holidays or persons in bad health.

11. *Subsections (3) to (5)* enable a person whom the county registrar has refused to excuse from attendance as a juror to appeal against the refusal to a judge of the court in question, whose decision will be final.

12. *Subsection (6)* provides for excusal of a person by a judge at the stage when the person is required to be in attendance as a juror at a court during a sitting. The judge will have the same duty or discretion, as the case may be, as the county registrar according to whether the person in question is excusable as of right or shows good reason why the discretion to excuse should be exercised in his favour. The subsection also empowers a judge, for good reason, to excuse a juror during the course of a trial from further attendance. An example would be where a member of the juror's family becomes seriously ill or dies during a trial.

13. *Subsection (7)* provides that a judge may, at the conclusion of a trial of an exceptionally exacting nature, excuse the jurors from further jury service for such period as he may think fit. This is in accordance with existing practice, but the provision is included because there is no clear authority for the practice.

PART III

SELECTION AND SERVICE OF JURORS

Section 10: Supply of electoral registers

14. *Section 10* provides that, for the purpose of enabling county registrars to empanel and summon jurors, the electoral registration authorities (county councils and county borough corporations) shall deliver to the respective county registrars copies of the current registers of Dáil electors for the respective counties or county boroughs. The electoral registers will be required because, as mentioned in paragraph 5 above, the primary qualification of a person for jury service will be that of his being entered in an electoral register.

Section 11: Empanelling of jurors

15. *Section 11* provides that each county registrar shall draw up a panel of jurors for each court from the electoral register or registers delivered to him under *section 10*. The county registrar will use "a

procedure of random or other non-discriminatory selection", but no particular method of selection is laid down, and the county registrars will adopt their own methods subject to compliance with any administrative instructions issued by the Minister for Justice under *section 27*. The county registrar will not include in the panel any persons whom he knows or believes not to be qualified as jurors; but in future the registers themselves (unlike the present registers) will not distinguish the persons who are qualified as jurors, and the county registrars will have no obligation (or facilities) to ascertain whether a person is qualified or not. If a person who is not qualified is summoned as a juror, it will be for him to inform the county registrar of his want of qualification (as is mentioned in paragraph 16 below) or, when he attends the court, to inform the judge (as is mentioned in paragraph 22 below).

Section 12: Summoning of jurors

16. *Section 12* provides that the county registrar shall cause a written summons, in the form prescribed by the Minister for Justice by regulations, to be served on every person selected as a juror. The summons will require the person selected to attend as a juror at the court in question on the day and at the time specified in the summons and thereafter at the times directed by the court. This procedure will enable the county registrar, in appropriate cases, to summon some of the jurors on the panel to attend for the first time on days later than the first day of the sittings. The section provides that the summons shall be accompanied by a notice setting out the effect of certain provisions of the Bill. These are the provisions on which a person's qualification as a juror depends (*section 6 to 8*), the provisions as to excusability as of right (*section 9 (1)*) and also the provisions as to the penalties for making false statements in order to evade jury service etc. (*section 35*) or for serving as a juror when ineligible or disqualified (*section 36*). The notice will also have to inform the person summoned that he may apply to the county registrar for withdrawal of the summons if he is not qualified as a juror or if he wishes or is entitled to be excused. It will be for the person in question to inform the county registrar at this stage, in the light of the information given in the notice, whether or not he is qualified as a juror. (A form of reply will in fact be issued with the summons for this purpose, but this will not be under a statutory requirement and the person summoned will not be under any liability if he does not reply). The section does not require the summons to be served by any particular time before the day when the person summoned is required to attend the court, but this result is achieved indirectly by the provision in *section 34 (3)* under which a person will not be liable for non-attendance unless the summons was served at least 14 days beforehand. (At present only 4 days' notice is required under *section 39 (1)* of the Juries Act 1927).

Section 13: Service of jury summons

17. *Section 13* provides for service of jury summonses and includes provisions facilitating the proof of service and of non-attendance in compliance with the summons. By *subsection (1)* a summons will be served either by post, which may be the ordinary post, or delivered by hand. At present summonses are ordinarily served by the Garda Síochána, under *section 41* of the Juries Act 1927, but the Minister for Justice may provide for service by registered post in specified circumstances under *section 44*.

18. *Subsection (2)* makes a particular provision concerning service by post. *Section 18* of the Interpretation Act 1937 (No. 38) makes general provision with regard to cases where an Act of the Oireachtas authorises or requires a document to be served by post. That section provides that service may be proved by, *inter alia*, "properly addressing" a letter containing the document and that "the service of such document shall, unless the contrary is proved, be deemed to have been effected at the time at which such letter would be delivered in the ordinary course of post". *Subsection (2)* of the present section provides that for the purpose of *section 18* of the Interpretation Act a letter containing the jury summons shall be deemed to be

“properly addressed” if it is addressed to the juror at his address as shown in the current register of Dáil electors.

19. *Subsections (3) and (4)* provide that in any proceedings for an offence of non-attendance in compliance with a jury summons the posting of the letter containing the summons, the personal delivery of the summons or the fact of failure to attend in court may be proved by certificate.

Section 14: Summoning of jurors to make up deficiency

20. *Section 14* is an emergency provision to provide for the possible situation where it appears to the judge that a jury will or may be incomplete. This situation might arise because owing to exceptional circumstances the number of jurors empanelled and summoned for the sittings turns out to be insufficient (perhaps because of the need to excuse an exceptionally large number of jurors). The judge will have power to require the county registrar to summon extra jurors from among persons qualified as jurors, and he will specify the area from which the persons may be summoned (for example, the vicinity of the court) and the method of summons. The provisions of *section 9* as to excusal will apply to persons summoned under *section 14* except that (because of the shortage of time) a person summoned will not be able to appeal to the judge from a refusal by the county registrar to excuse him, but he will be able to apply to the judge for excusal when he attends the court.

Section 15: Selection of jury from panel

21. *Section 15* provides that the jurors to compose a particular jury shall be selected from the panel by balloting in open court (*subsection (1)*) except that, in a case where, after the balloting has begun, extra jurors have to be summoned under *section 14* to make up a deficiency, the judge may dispense with balloting in the case of the extra jurors (*subsection (2)*).

22. *Subsection (3)* provides that the judge shall, before the selection of jurors is begun, warn the jurors present that they must not serve if they are ineligible or disqualified and as to the penalty under *section 36* for doing so. He will also invite any person who knows that he is not qualified, or is in doubt as to whether he is qualified or not, or who may have an interest in or connection with the case or the parties, to communicate the fact to the judge if he is selected on the ballot. The judge will be able to permit the person concerned to communicate the relevant fact to him in writing (for example, if the fact is that the juror has a criminal conviction that may disqualify him for jury service or if he is connected in some particular way with the case which he would prefer not to mention in open court). In most cases the judge will be able to decide there and then whether the juror is qualified. In a doubtful case he might excuse the juror from further attendance under *section 9 (6)* (if the juror is willing to be excused) or discharge him under *section 24*, or the juror might be challenged by one of the parties under *section 20* or *21*.

23. *Subsection (4)* provides that the jurors shall choose their foreman. At present, under *section 47 (5)* of the Juries Act 1927, the first juror to be sworn becomes foreman.

Section 16: Inspection of jury panel

24. *Section 16* provides that every person shall be entitled to reasonable facilities to inspect a panel of jurors free of charge and that any party to any proceedings to be tried with a jury shall be entitled to a copy of the panel free of charge on application to the county registrar. These rights will apply to the ordinary panel prepared before the sittings in question (including any supplementary panel so prepared), but any person will have the right to be shown, on request, all alterations to the panel and the names of any persons summoned under the emergency provisions of *section 14* and to be told of any excusals. The provisions of *section 16* replace those of

section 50 of the Juries Act 1927, under which a copy of the panel is posted in the court building, and the accused in a criminal case is entitled to a copy free of charge and other persons (including the parties to civil proceedings) are entitled to copies on payment of a prescribed fee.

Section 17: Mode of swearing a jury

25. *Section 17* provides for the procedure for swearing the jurors when selected on the ballot (further details being contained in *sections 18 and 19*). In particular, *subsection (4)* requires that any challenge to a juror is to be made immediately after his name is called out on the ballot and before the administration of the oath to him is begun. The only change of substance that *section 17* makes from the present law (in *sections 52 and 53* of the Juries Act 1927) is that *subsection (2)* of the new section requires that the jurors shall in all cases be sworn separately. At present jurors may be sworn collectively except in capital cases.

Section 18: Administration of oath to jurors

26. *Section 18* lays down the particular manner in which the oath is to be administered to jurors. The section includes (in *subsection (2)*) a provision applying the Oaths Act 1888 (c. 46), the most important provision of which is that allowing a person to make affirmation, instead of taking an oath, if he objects to taking the oath on the ground that he has no religious belief or that the taking of an oath is contrary to his religious belief. Apart from the abolition of collective swearing (mentioned in paragraph 25 above) *section 18* makes no change of substance from the present provisions in *section 53* of the Juries Act 1927.

Section 19: Forms of oath to be taken by jurors

27. *Section 19* specifies the wording of the various oaths to be taken by jurors as appropriate to the nature of the issue to be tried. The section reproduces in a simplified form *section 54* of the Juries Act 1927, but it omits *subsection (4)* of that section, which specifies the wording of the oath to be taken when the issue is whether an accused person is "mute of malice" or "mute by the visitation of God". The omission is because this issue is now, by virtue of *section 80* of the Courts of Justice Act 1936 (No. 48), determined by the judge. That section is reproduced in *section 28* of the Bill.

Section 20: Challenges without cause shown

28. *Section 20* replaces the existing provisions (in *section 57* of the Juries Act 1927) as to the numbers of jurors that the parties to proceedings may challenge without cause shown. At present the plaintiff and defendant in civil proceedings may each challenge up to 3 jurors without cause shown, but, if there are more than one plaintiff or more than one defendant, the plaintiffs and defendants respectively may challenge only 3 jurors between them and, in the case of the plaintiffs, the challenges must be made jointly. In criminal proceedings where there is only one accused he may challenge up to 5 jurors without cause. If there are more than one, they may challenge up to 10 jurors between them in cases of treason or murder and up to 6 in other cases. In criminal proceedings the Attorney General or Director of Public Prosecutions has no similar right of challenge without cause shown, but he may, under *section 59* of the 1927 Act, direct any number of jurors to "stand-by", with the result that they are not included in the jury unless the panel becomes exhausted without them. *Section 20* of the Bill provides that each party to civil proceedings, and the prosecution and each accused in criminal proceedings, may challenge up to 7 jurors without cause shown. Joint challenges will therefore be abolished. Also, the Attorney General and Director of Public Prosecutions will no longer have the right to "stand-by" jurors, and the position of the prosecution in criminal proceedings will thus be similar to that of the defence.

Section 21: Challenges for cause shown

29. *Section 21* reproduces in a simplified manner the provisions of sections 58 and 59 (d) to (f) of the Juries Act 1927 enabling a party to civil or criminal proceedings to challenge any number of jurors for cause shown. There is no change of substance except that the provisions in those sections that the judge's decision on the challenge shall be "final and conclusive" are not reproduced. As to the procedure for challenge for cause shown, see paragraph 9 of the Fourth Interim Report of the Committee on Court Practice and Procedure (referred to in paragraph 2 above) and the cases (*The People v. Lehman* (No. 2), [1974] I.R. 137 (C.C.A.), and *The People v. Paul Singer* (C.C.A., 23 June 1961, unreported), cited in that paragraph of the report.

Section 22: View by jury

30. *Section 22* reproduces the provisions of section 60 of the Juries Act 1927 empowering a judge to order that the jury shall have a view of a particular place (for example, the scene of an accident). The only change is the omission of the provision in section 60 (4) that a breach of a direction given by the judge for the purpose of preventing undue communication with the jurors during the execution of the order shall not be a ground for ordering a new trial.

Section 23: Death or discharge of juror during trial

31. *Section 23* reproduces the provision in section 64 of the Juries Act 1927 by which a trial with a jury is continued notwithstanding the fact that during the trial a juror dies or is discharged by the judge as being incapable through illness or any other cause of acting as a juror. The trial may not be continued if the number of jurors falls below ten, and in any event the judge may direct that it shall not continue. The present section makes it clear that the provision will apply to cases where a juror is discharged by the judge under *section 9 (6)* or *24* of the Bill in the same way as where he is discharged owing to illness etc.

Section 24: Discontinuance of juror's service

32. *Section 24* provides that the judge may at any stage direct that any person summoned or sworn as a juror shall not serve, or shall not continue to serve, as a juror if the judge considers it desirable in the interests of justice to give the direction. The Committee on Court Practice and Procedure, in paragraph 16 of their Fourth Interim Report (mentioned in paragraph 2 above), thought that there was an inherent power vested in judges to give such a direction but that there was some doubt about the matter. The committee instanced as possible reasons for giving a direction "physical disability on the part of the juror, perhaps raised by the juror himself or even by the judge, or. . . some other matter brought to the attention of the judge, or raised by himself, and not already raised by the parties in their challenges".

Section 25: Separation of jurors during trial

33. *Section 25* provides that in any trial the jurors may separate before considering their verdict except where the judge otherwise directs. At present, by virtue of section 63 (1) and (2) of the Juries Act 1927 (as amended by section 7 of the Criminal Justice Act 1964 (No. 5)) the jurors may not be permitted to separate in cases of capital murder, treason or treason-felony.

Section 26: Non-effect of appeals as to electoral register on jury service

34. *Section 26* reproduces the provision in section 8 (5) of the Electoral Act 1963 (No. 19) that the qualification or liability of a person to serve as a juror shall not be affected by the fact that an appeal is pending under that section. The provision is included because a person's qualification and liability to serve as a juror will depend (under *section 6* of the Bill, as under the present law) on his being entered in a register of Dáil electors and an appeal may have been brought under section 8 of the 1963 Act (before or after he is summoned as a juror) against the entry of his name in the register.

PART IV

GENERAL

Section 27: Administrative instructions

35. Section 27 provides that, with a view to securing consistency in the administration of the Act, the Minister for Justice may issue instructions to county registrars with regard to the procedure to be adopted by them in the discharge of their duties under the Act. Instructions might, for example, be issued with regard to the arrangements for empanelling and summoning of jurors and as to the appropriate method, in general, of dealing with applications for excusal. But it is expressly provided that the section shall not authorise the Minister to issue any instruction as to whether any particular persons should or should not be summoned as jurors or, if summoned, should or should not be excused from attendance.

Section 28: Persons standing mute

36. Section 28 reproduces the provision in section 80 of the Courts of Justice Act 1936 (No. 48) that the issue whether a person who stands mute when called upon to plead is mute "of malice" or "by the visitation of God" shall be decided by the judge and that, if the judge is not satisfied that the accused is mute by the visitation of God, he shall direct that a plea of not guilty should be entered for him. Before the 1936 Act this issue had to be decided by a jury.

Section 29: Jury service by employees and apprentices

37. Section 29 provides that for the purpose of any contract of service or apprenticeship a person shall be treated as employed or apprenticed during any period when he is absent from his employment or apprenticeship in order to comply with a jury summons. This will ensure that he will be entitled to pay for the period of his absence. Subsection (2) makes it impossible for the contract to deprive the employee or apprentice of the benefit of the section.

Section 30: Commission "de lunatico inquirendo"

38. Section 30 reproduces the provision in section 5 of the Juries Act 1961 (No. 11) that, when a jury is in attendance before a commissioner *de lunatico inquirendo*, the commissioner shall be treated, for the purpose of the law relating to juries, as a court and as a judge of the court. A commission *de lunatico inquirendo* has occasionally to be held for the purpose of determining whether a person is of unsound mind so that his estate has to be administered by the court, and in some cases this issue has to be determined by a jury. Although the commissioner sits in a judicial capacity and may in fact be a judge, he does not sit as a judge but as a commissioner and the commission does not in law constitute a court. The present section is included in order to ensure that the commissioner shall have the same powers in relation to the jury as a judge of a court has in relation to the jury in that court (for example, the power to excuse or discharge a juror).

Section 31: Liability to serve on coroner's jury

39. Section 31 replaces the provisions of section 42 of the Coroners Act 1962 (No. 9) as to who are liable to serve on a coroner's jury. Every citizen aged 18 or upwards and under 65 residing in a coroner's district will be liable unless he is ineligible or disqualified for service as a juror in an ordinary court or is excusable as of right from such service. The effect is similar to that of section 42 of the Coroners Act, adapted so as to fit the new law as to qualification etc. The upper age limit for service on a coroner's jury is to be 65 instead of 70, because persons between those ages will be excusable as of right in respect of service on ordinary juries and the short notice at which coroners' juries may sometimes have to be assembled precludes the introduction of any special provision for excusals.

Section 32: Non-application of provisions to coroners' inquests

40. *Section 32* provides that the Act (except *section 31*) shall not apply to coroners' inquests. The section corresponds to section 67 of the Juries Act 1927.

Section 33: Restriction of functions of sheriff

41. *Section 33* provides that the powers and duties conferred and imposed on county registrars under the Act shall be exercised and performed by them notwithstanding anything in the provisions of section 12 of the Court Officers Act 1945 (No. 25) or of the orders made thereunder. Under those provisions certain functions relating to juries are at present vested in the sheriffs in Dublin and Cork. In future all the functions in question will be exercised by the county registrars. At present jurors for civil actions in the High Court are empanelled by the sheriffs in Dublin and Cork and by county registrars elsewhere; they are summoned by the officer in the Central Office nominated by the President of the High Court. Jurors for the Central Criminal Court (which sits in Dublin) and for criminal cases in the Circuit Court in Dublin and Cork are empanelled and summoned by the sheriffs: jurors for criminal cases for Circuit Court sittings elsewhere are empanelled and summoned by the county registrar. (Juries in civil cases in the Circuit Court were abolished by section 6 of the Courts Act 1971 (No. 36).)

PART V

OFFENCES

Section 34: Failure of juror to attend court etc.

42. *Section 34* provides that a person who fails without reasonable excuse to attend in compliance with a jury summons shall be liable on summary conviction (in the District Court) to a fine not exceeding £50. The same will apply to failure to attend on a later day as required by the court, to not being available in court when called upon to serve or to being unfit for service by reason of drink or drugs. *Subsection (3)* provides that, except in the case of a summons under the emergency provisions of *section 14*, a person shall not be guilty of an offence in respect of non-attendance unless the summons was served at least 14 days before the date specified for his first attendance. (As mentioned in paragraph 16 above, this provision contrasts with the present law, under which 4 days' notice is sufficient).

43. The provisions of the section differ substantially from those of the present law. Stated shortly, the effect of the present provisions (contained in sections 46 (4), 47 (3) and 51 of the Juries Act 1927) is that, if a person fails to answer to his name when the panel is called over or when a jury is being selected by ballot, the judge, unless satisfied that the juror had a reasonable excuse, shall impose a fine of £3 on him, but, when the absent juror is notified by the appropriate officer of the court that the fine has been imposed, he may apply to that officer for a remission of the fine and that officer then brings the application before the judge, who decides whether or not to remit or reduce the fine. Under the Bill absence will be an ordinary summary offence, so that the imposition of a fine will no longer be automatic, and the District Court will have the usual discretion as to whether to impose a fine and as to the amount. The provision penalising being unfit to serve by reason of drink or drugs is new.

Section 35: False statements by or on behalf of juror

44. *Section 35* creates a number of summary offences (all punishable with a fine not exceeding £50) relating to the making of false statements relevant to liability to jury service. *Subsections (1)* and *(2)* create offences of making (or causing or permitting to be made) a false representation for the purpose of enabling the offender or another person to evade jury service. *Subsection (3)* makes it an offence for a person to refuse to answer, or to give a false answer, in

reply to a question put to him by a judge for the purpose of determining whether that person is qualified as a juror. The offence under *subsection (3)*, unlike those under *subsections (1) and (2)*, is not limited to false statements for the purpose of evading jury service, but might be committed for the purpose of concealing the offender's lack of qualification (for example, when the juror was being questioned by the judge at the time of the balloting for a jury as mentioned in paragraph 22 above). The offences under *section 35* will be new.

Section 36: Service by ineligible or disqualified person

45. *Section 36* makes it a summary offence for a person to serve on a jury knowing that he is ineligible or disqualified. The penalty for serving when ineligible will be a fine not exceeding £50, and that for serving when disqualified will be a fine not exceeding £200. These offences will be new.

Section 37: Refusal to be sworn as a juror

46. *Section 37* makes it a summary offence, punishable with a fine not exceeding £50, for a person to refuse to be sworn as a juror in an authorised manner when called on to be sworn. The section will be subject to the right of a person to make affirmation instead of taking the oath as mentioned in paragraph 26 above. The section will replace the provision in *section 52 (5) of the Juries Act 1927*, which provides that, if a juror refuses to be sworn as mentioned, the judge shall thereupon impose on him a fine not exceeding £10 and not less than £5.

FIRST SCHEDULE

PERSONS INELIGIBLE AND PERSONS EXCUSABLE AS OF RIGHT

Part I: Persons ineligible

47. *Part I of the First Schedule* specifies the persons who are to be ineligible for jury service under *section 7*. Apart from the President of Ireland, these persons fall under three heads—persons concerned with the administration of justice, members of the Defence Forces and persons incapable owing to infirmity of serving as jurors. Subject to the exceptions mentioned below, the classes correspond very broadly to the classes of persons who are “absolutely exempted” from serving by virtue of inclusion in Part I of the First Schedule to the Juries Act 1927, though a considerably larger class of persons than at present will be ineligible on account of connection with the administration of justice. The exceptions referred to in the previous sentence are that members of the Oireachtas, the Comptroller and Auditor General, members of the staffs of the Oireachtas, civil servants, local authority officials, the clergy and persons in the employment of the Commissioners of Irish Lights will not be ineligible; but members of the Oireachtas, the Comptroller and Auditor General and the clergy will be excusable as of right. The largest change will be that civil servants and local government officials will no longer be exempt from jury service in all cases by the mere fact of being employed as such. Instead, only the heads of departments and offices will be excusable as of right and other officials will be excusable as of right only on a certificate by the head of the department etc., which will, as mentioned in paragraph 48 below, have to state in effect that the official's services are indispensable at the time when he would be required to be absent on jury service.

Part II: Persons excusable as of right

48. *Part II of the First Schedule* specifies the persons who are to be excusable as of right from jury service under *section 9 (1) (a)*. *Part II* corresponds broadly to Part II of the First Schedule to the Juries Act 1927 with the important difference that under that Act the persons concerned cannot be summoned to serve as jurors unless they apply to do so. As mentioned in paragraph 47 above, the persons who will be excusable as of right will include certain classes of per-

sons (specified in that paragraph) who are at present included among the persons specified in Part I of the First Schedule to the 1927 Act as "absolutely exempted" from jury service (that is to say, not qualified at all). As was also mentioned in paragraph 47 above, in certain cases the head of a department, office or organisation will be made excusable as of right and the other officials will be so excusable only if he gives a certificate for the purpose. This will apply to the members of the staffs of the Oireachtas, to civil servants, to certain civilians employed by the Minister for Defence, to local government employees and to members of the teaching staffs of universities, schools and other educational institutions. The certificate will have to include a statement to the effect that the services being performed by the person in respect of whom excusal is claimed "cannot reasonably be performed by another or postponed". Of the persons at present unqualified because of being in the employment of the Commissioners of Irish Lights, lighthouse keepers actually employed as such will be excusable as of right but other employees will be excusable like ordinary persons only at the discretion of the county registrar or judge (*section 9 (2) and (6) of the Bill*). The persons who at present enjoy no exemption from jury service but who will be excusable as of right under the Bill are members of the Council of State, vowed members of religious orders living in a monastery, convent or other religious community, registered nurses, registered midwives, licensed aircraft commanders and whole-time students. Persons aged 65 or over and under 70 are in a special class. At present they are not qualified at all for jury service; in future they will be qualified and liable but excusable as of right whenever summoned as jurors (except that, as mentioned in paragraph 39 above, they will not be qualified or liable to serve on juries at coroners' inquests—*section 31 of the Bill*). The classes of persons who will lose their present privilege of not being liable for jury service unless they volunteer for it will be women, peace commissioners, members of the staffs of newspapers and civil engineers.

6. Qualification and liability for jury service.

*An Roinn Dlí agus Cirt,
Eanáir 1976.*

7. Disqualification.

9. Excusal from service.

PART III

SELECTION AND SERVICE OF JURORS

10. Supply of electoral registers.
11. Empanelling of jurors.
12. Summoning of jurors.
13. Service of jury summons.
14. Summoning of jurors to make up deficiency.
15. Selection of jury from panel.
16. Inspection of jury panel.
17. Mode of swearing a jury.
18. Administration of oath to jurors.
19. Form of oaths to be taken by jurors.
20. Challenges without cause shown.
21. Challenges for cause shown.
22. View by jury.
23. Death or discharge of juror during trial.
24. Discontinuance of juror's service.
25. Separation of jurors during trial.
26. Non-effect of appeals as to electoral register on jury service.

PART IV

GENERAL

27. Administrative instructions.

persons (specified in that paragraph) who are at present included among the persons specified in Part I of the First Schedule to the 1927 Act as "absolutely exempted" from jury service (that is to say, not qualified at all). As was also mentioned in paragraph 37 above, in certain cases the head of a department, office or organisation will be made excusable as of right and the other officials will be excusable only if he gives a certificate for the purpose. This will apply to the members of the staffs of the Oireachtas, to civil servants, to certain civilians employed by the Minister for Defence, to 1928 government employees and to members of the teaching staffs of universities, schools and other educational institutions. The certificate will have to include a statement to the effect that the services being performed by the person in respect of whom excusal is claimed cannot reasonably be performed by another or postponed. Of the persons at present unqualified because of being in the employment of the Commissioners of Irish Lights, lighthouse keepers actually employed as such will be excusable as of right but other employees will be excusable like ordinary persons only at the discretion of the county registrar or judge (section 9 (2) and (3) of the Bill). The persons who at present enjoy no exemption from jury service but who will be excusable as of right under the Bill are members of the Council of State, vowed members of religious orders living in a monastery, convent or other religious community, registered nurses, registered midwives, licensed aircraft commanders and whole-time students. Persons aged 65 or over and under 20 are in a special class. At present they are not qualified at all for jury service; in future they will be qualified and liable but excusable as of right where mentioned as jurors (except that, as mentioned in paragraph 39 above, they will not be qualified or liable to serve on juries at coroners' inquests—section 31 of the Bill). The classes of persons who will lose their present privilege of not being liable for jury service unless they volunteer for it will be women, peace commissioners, members of the staffs of newspapers and civil engineers.

PERSONS INELIGIBLE AND PERSONS EXCUSABLE AS OF RIGHT

Part I: Persons ineligible

47. Part I of the First Schedule specifies the persons who are to be ineligible for jury service under section 7. Apart from persons mentioned in that Part, these persons fall under three heads—persons concerned in the administration of justice, members of the Defence Forces and persons owing to infirmity of mind or body. Subject to the exceptions mentioned below, the classes correspond very broadly to the classes of persons who are "absolutely exempted" from serving by virtue of inclusion in Part I of the First Schedule to the 1927 Act, though a considerably larger class of persons than at present will be ineligible on account of connection with the administration of justice. The exceptions referred to in the previous sentence are that members of the Oireachtas, the Comptroller and Auditor General, members of the staffs of the Oireachtas, civil servants, local authority officials, the clergy and persons in the employment of the Commissioners of Irish Lights will not be ineligible; but members of the Oireachtas, the Comptroller and Auditor General and the clergy will be excusable as of right. The largest change will be that civil servants and local government officials will no longer be exempt from jury service in all cases by the mere fact of being employed as such. Instead, only the heads of departments and offices will be excusable as of right and other officials will be excusable as of right only on a certificate by the head of the department etc., which will, as mentioned in paragraph 38 below, have to state in effect that the official's services are indispensable at the time when he would be required to be absent on jury service.

Part II: Persons excusable as of right

48. Part II of the First Schedule specifies the persons who are to be excusable as of right from jury service under section 9 (1) (a). Part II corresponds broadly to Part II of the First Schedule to the 1927 Act with the important difference that under that Act the persons concerned cannot be summoned to serve as jurors unless they apply to do so. As mentioned in paragraph 47 above, the persons who will be excusable as of right will include certain classes of persons