

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1840. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1840.

3 Victoria – Chapter 40

An Act for enabling person indicted of Felony to make their defence by Counsel. Passed 25th March 1840.

Whereas it is just and reasonable that persons accused of offences against the Law should be enabled to make their full answer and defence to all that is alleged against them;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, all persons tried for Felonies shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto by Counsel learned in the Law, or by Attorney, in Courts where Attornies practice as Counsel.

II. And be it further enacted, That in all cases of summary conviction, persons accused shall be admitted to make their full answer and defence, and to have all witnesses examined and cross examined by Counsel or Attorney.

III. And be it further enacted, That all persons who, after the passing of this Act, shall be held to bail or committed to prison for any offence against the Law, shall be entitled to require and have on demand, (from the person who shall have the lawful custody thereof, and who is hereby required to deliver the same,) copies of the examinations of the witnesses respectively upon whose depositions they have been so held to bail or committed to prison, on payment of a reasonable sum for the same, not exceeding one shilling for each folio of one hundred words: Provided always, That if such demands shall not be made before the day appointed for the commencement of the Assize or Sessions at which the trial of the person on whose behalf such demand shall be made is to take place, such person shall not be entitled to have any copy of such examination of witnesses, unless the Judge, or other person to preside at such trial, shall be of opinion that such copy may be made and delivered without delay or inconvenience to such trial; but it shall, nevertheless, be competent for such judge, or other person so to preside at such trial, if he shall think fit, to postpone such trial on account of such copy of the examination of witnesses not having been previously had by the party charged.

IV. And be it further enacted, That all persons under trial shall be entitled at the time of their trial to inspect, without fee or reward, all depositions (or copies thereof) which have been taken against them, and returned into the Court before which such trial shall be had.