

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1851. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1851.

14 Victoria – Chapter 21

An Act relative to Recognizances for the appearance of persons on criminal charges. Passed 30th April 1851.

“Whereas it is expedient that the sureties of persons admitted to bail on criminal charges should be allowed to surrender such persons into the proper place of custody in discharge of their Recognizances, on reasonable grounds shewn therefor: And whereas some further provisions are necessary in respect to such Recognizances;”

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, in manner following, that is to say,—

1. The sureties of any person bound by Recognizance to appear to answer upon any charge of felony or misdemeanor at any Court of Criminal jurisdiction, may apply to a Judge of the Supreme Court, upon affidavit, shewing the grounds of such application, accompanied by a certified copy of the Recognizance, for an order to render such person to the common gaol of the County or City and County in which the alleged offence is to be tried.
2. Such Judge may, and he is hereby authorized, upon such application, if he shall in his discretion think fit, to make an order in writing under his hand for the render by such sureties of the person so charged to the proper gaol in discharge of the Recognizance.
3. Such sureties may under and by virtue of such order arrest and take the body of the person so to be rendered, and him safely keep, convey and deliver into the custody of the keeper of the gaol designated in such order, at the said gaol, which order shall also be delivered to the said keeper with the said body, and such keeper is thereupon required to receive and imprison such person in the said gaol, and shall be charged with the keeping of the same until he shall be discharged in due course of law, in the same manner as if he had been committed by any Justice or other proper authority to answer to the alleged offence.
4. Provided always, that such person so committed may apply to a Judge of the Supreme Court to be again admitted to bail, which Judge may on examination of the case, in his discretion, allow or refuse an order for such bailment, and may make such order thereupon as to the number of sureties and the amount in which the Recognizance shall be taken, as to him may seem meet; which order shall be dealt with in the same manner as now by law provided for the bailment of prisoners on criminal charges, and so *toties quoties* in case of render by the new sureties.
5. On due proof made to a Judge of the Supreme Court of render by the sureties, and on the certificate of the Sheriff of the County or City and County, duly proved by the affidavit of a subscribing witness before a Judge or Commissioner to take affidavits, that such person has been

so rendered, it shall and may be lawful for such Judge, and he is hereby authorized, to direct an entry of such render to be made in the margin or on the back of the Recognizance by the officer having charge of such Recognizance, which entry shall have the effect of vacating such Recognizance, or may be pleaded or alleged in discharge thereof.

6. It shall and may be lawful for the sureties of any person charged with and bound to appear to answer to any charge of felony or misdemeanor, to bring him to the Court at which he is bound to appear, during the sitting of the same, and there by leave of the Court to render him in discharge of the Recognizance, either before, upon or after his arraignment, whereupon he shall be committed to the common gaol, there to remain until discharged by due course of law; provided always, that such Court may, in its discretion, admit such prisoner again to bail for his appearance during the said sitting of the said Court when called for, or at any adjournment thereof, or upon any particular day or time during such sitting or adjournment, or any subsequent Court or Sitting, as to such Court may seem meet.

7. The Recognizance for the appearance of any person to answer to any charge of felony or misdemeanor shall not be deemed fulfilled or discharged upon the arraignment of such person upon any indictment or information therefor, nor upon his conviction of the offence therein charged, but shall be held to continue good, valid and effectual for the appearance of such person for trial or sentence, as the case may be, unless he shall be duly rendered in discharge of the Recognizance as hereinbefore enacted; provided always, that nothing herein contained shall be held or construed to prevent the Court before which such arraignment or trial shall be had from committing such person to the gaol upon such his arraignment or trial notwithstanding such Recognizance, or from requiring new or additional sureties for his appearance for trial or sentence, as the case may be; provided also, that when such commitment is duly made, it shall operate as a discharge from further liability on such Recognizance.

8. This Act shall take effect from the passing thereof as to all Recognizances already made or hereafter to be made, and shall continue in force until the first day of May in the year of our Lord one thousand eight hundred and sixty.