

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1860. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1860.

23 Victoria – Chapter 32

An Act relating to procedure in Criminal Cases. Passed 9th April 1860.

Section.

1. In certain cases, Court or Judge in vacation may issue warrant to compel attendance of witnesses.
2. Sheriff's fees for service.
3. Peremptory challenge of Jurors on part of Crown.

Section.

4. Supposed interest not to disqualify Free-men, &c. of Saint-John, as Jurors.
5. Private prosecutor's name to be endorsed on Indictment.

Whereas inconvenience arises in the administration of Criminal Law, from the want of a power in the Judges of the Supreme Court to compel the attendance of Witnesses at a Criminal Trial;—

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. If in any criminal case cognizable at the Sittings for the County of York, or in any Circuit Court or Court of Oyer and Terminer or Gaol Delivery in any part of this Province, it shall appear to any such Court, or if such Court is not sitting, then before the time for holding such Court to any Judge of the Supreme Court, on motion or application of the Attorney General, Solicitor General, or other Officer acting on behalf of the Queen, that any person within the jurisdiction of the Supreme Court is likely to give material evidence before the Grand or Petit Jury touching the matter of such prosecution, and that it is probable that such person will not attend to give evidence unless compelled, or upon similar motion or application made on affidavits by or on behalf of any prisoner or person charged, in either of such cases it shall be lawful for such Court to order a Warrant to issue, signed by the Clerk of such Court, or for such Judge out of Court to issue a Warrant under the hand of such Judge, directed to any Sheriff, commanding him to arrest such person and have him at the time and place in such Warrant mentioned to testify as therein directed; which said warrant shall be a sufficient authority in Law for such Sheriff, his Deputy and assistants, for arresting the person or persons therein named in any part of the Province, and bringing him or them before such Court, notwithstanding such arrest be made beyond the Bailiwick of such Sheriff: provided that the issuing of such Warrant shall be discretionary with such Court or Judge: provided also, that the Court or Judge upon the issuing of any such Warrant upon the motion or application of any person or prisoner charged, may prescribe such terms as to the payment by such prisoner or party charged of the expense of executing such Warrant, as to such Court or Judge may seem reasonable.

2. The Sheriff's fees for services under this Act shall be as follows, and shall be paid by the Treasurer of the County wherever the Trial shall be had, in the same manner as prosecutor's fees under Chapter 160, Title XL, of the Revised Statutes:—

Serving Warrant, - - - - £	0	5	0
Travel per mile, from place of residence of Sherrif, and back, - - - -	0	0	6

3. In all Criminal Trials, four Jurors may be peremptorily challenged on the part of the Crown.
4. No inhabitant, freeman, or freeholder of the City of Saint John, shall be disqualified from serving as a Grand Juror or Petit Juror in any criminal case, for or by reason of any interest or supposed interest in any forfeiture of the goods and chattels of any person charged with felony.
5. No Bill of Indictment prepared by any private prosecutor for any misdemeanor where the accused has not been committed or bound by recognizance to answer such charge, shall be presented to or found by any Grand Jury, unless the name of such prosecutor, his place of abode, and occupation, with the addition of the word "prosecutor," be first indorsed on the Bill by the proper Officer of the Court at the instance of such prosecutor, and the person so preferring the Bill do enter into recognizance in such sum as the Court may direct, to appear and give evidence on the trial of the accused, if the Bill be found a true Bill by the Grand Jury.