

Province of New Brunswick.

SUPREME COURT.

Barker, J., }
In Equity. }

FLEMING v. HARDING.

[Dec. 21, 1897.]

Practice—Leave to file bill—Order absolute.

Where bill was not filed within the time provided by 53 Vict., c. 4, s. 22, owing to a settlement of the suit pending, and defendants had not appeared, an order absolute was granted, giving leave to file the bill with direction for service of order on defendants.

A. P. Barnhill, for the application.

Full Court.]

QUEEN v. MCGUIRE.

[Feb. 22.]

Power of judge to summon second grand jury—Jurors serving on a previous panel—Order to one coroner.

Defendant was arrested and committed for trial for theft during the sitting of the Carleton Circuit Court, and after the grand jury had been discharged the Court ordered the sheriff to summon a new grand jury, which found a true bill. It transpired that the informant and principal witness in the case was a brother of the sheriff who summoned the jury and His Honour for this reason quashed the indictment and ordered a coroner to summon a third jury. This jury, comprising several men who had been on the sheriff's jury which found a true bill on the indictment that was quashed, also found a true bill, and the prisoner was convicted.

Held, on a case reserved, that the Court had the power, inherent in itself, to order the summoning of a second grand jury.

Held, also, that the fact of several of the jurors of the last panel having served on a previous grand jury in the same case would not invalidate the indictment.

Held also, that the order for the coroner's jury need not go to all the coroners of the county but that it was sufficient for it to go to and for the return to be made by one coroner.

A. B. Connell, Q.C., for prisoner. *A. S. White*, Attorney-General, for Crown.

Full Court.]

TROOP v. EVERETT.

[Feb. 22.]

Suggestion of death of parties—Judge's order allowing same.

This was an application to rescind an order of the Chief Justice allowing plaintiff to enter a suggestion of the death of a co-plaintiff and one of the defendants. It was contended that there was no provision in the statute authorizing a Judge to make such an order, and that consequently he had no power to do so.

Held, (per TUCK, C.J., and LANDRY and MCLEOD, JJ., VANWART, J., dis-