

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Tuesday the 28<sup>th</sup> day of May 1765, in the Fifth Year of His Majesty's Reign, and there continued by several Prorogations, to Tuesday the Third Day of June, 1766, in the Sixth Year of His Majesty's Reign.*

6 George III – Chapter 10 (Session 1)

### **An Act Concerning Bail.**

Be it enacted, by the commander in chief, the council and assembly, that in all causes wherein a creditor shall not proceed by attachment, but by arrest of the body of the debtor, the debtor or his attorney may file common bail for the appearance of such debtor, where the demand shall be under the sum of ten pounds, and where the sum in demand shall exceed the said sum of ten pounds, that no person in this province shall be imprisoned or held to bail, unless the plaintiff in such action shall make and subscribe an affidavit in writing, before a judge of the court from whence the writ shall issue that the defendant is justly indebted to the plaintiff in the sum of ten pounds or upwards, which affidavit shall be filed in the office of the clerk of the court from whence the writ shall issue, and the sum specified in such affidavit shall be indors'd on the back of the said writ, in the form following. By oath for £\_\_\_\_\_, for which sum so indors'd, the provost marshal or his deputy, shall take bail and for no more.

And be it further enacted, that if such action shall be brought by any agent, factor or attorney, in the name of his principal, if absent, upon producing an affidavit of the debt of his principal duly authenticated according to the laws of England or the usage and practice of the plantations in such cases, or if such principal be in any part of the province remote from the court upon producing an affidavit taken as aforesaid before a justice of the peace, and upon the said affidavits being respectively filed as aforesaid, then the said judge shall indorse the sum so sworn to; and bail shall be requir'd accordingly.

And be it further enacted, that when any person or persons shall be arrested by virtue of any writ or original process, the provost marshal or his deputy shall be obliged and are hereby respectively required, upon sufficient bail being offered to let such defendant or defendants go at large, upon his or their first executing a bond with two sufficient sureties to the said provost-marshal, with a condition thereunderwritten for the personal appearance only of the defendant on the first day of the court, to which such writ is returnable, and if such defendant shall not appear accordingly or give in sufficient bail to abide the final event of the suit, judgment shall be entered against the defendant by default, and the provost-marshal shall then and there in court, upon the request of the plaintiff or his attorney, assign the bail bond, by indorsing his name thereon, for the benefit of the plaintiff, to be in suit or otherwise recover the penalty thereof, which assignment shall not debar the plaintiff from proceeding to final judgment and execution, the same court against the defendant or defendants in the said action as in cases wherein default is made, but whenever it shall happen that the defendant or defendants in the said action, shall appear according to the

tenor of the condition of the bond, and there abide by the order of the court, or give bail to the satisfaction of the plaintiff and approbation of the court to abide by the final issue and determination of the suit, or if the defendant from some impediment, shall not appear but nevertheless two sufficient persons to be approved of by the plaintiff and court, shall offer to become and give bail in manner aforesaid in such case the bail for appearance only shall be discharg'd, and such defendant or defendants shall be intitled to all the privileges of law, and in no other case whatsoever unless consented to and agreed upon in open court between plaintiff and defendant or their attornies in their behalf.

And be it further enacted, that this act shall continue and be in force for the term of two years from the publication hereof, and until the end of the session of the general assembly then next following.

Publish'd according to law, the 5th day of July 1766.