

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1786. Saint John, NB: J. Ryan, 1786.

26 George III – Chapter 25

An Act to prevent frivolous and vexatious Arrests

For the more effectual preventing frivolous and vexatious arrests, Be it enacted by the Governor, Council and Assembly, That no person shall be held to special bail upon any process issuing out of the supreme court where the cause of action shall not amount to the sum of ten pounds or upwards, nor out of any inferior court within this province, where the cause of action shall not amount to forty shillings or upwards. And that in all suits brought for a less sum, the defendant shall be served with a copy of the process within the jurisdiction of the court issuing such process, in manner as hath heretofore been accustomed, and if such defendant or defendants shall not appear at the return of such process, or within twenty days after such return, it shall and may be lawful to and for the plaintiff or plaintiffs, upon affidavit being made before any judge of the court out of which such process shall issue, or before any commissioners authorised to take affidavits to be read in the supreme court, and filed in the proper court, of the personal service of such process as aforesaid, to enter a common appearance, or file common bail for the defendant or defendants, and to proceed thereon as if such defendant or defendants had entered his, her, or their appearance, or filed common bail.

II. And be it further enacted, That in all cases where the plaintiff or plaintiffs cause of action shall amount to the sum of ten pounds or forty shillings, or upwards as aforesaid, affidavit shall be made and filed of such cause of action, which affidavit may be made before any judge of the court from which such process shall issue, and before any commissioner appointed to take affidavits to be read in the supreme court, or else before the officer who shall issue such process or his deputy, if such suit shall be brought therein: And in all cases, when the plaintiff or plaintiffs shall reside without this province, in any of his Majesty's plantations, before any judge of the supreme or superior court in such plantation, and the sum or sums specified in such affidavit shall be endorsed on the back of such writ or process, for which sum or sums so endorsed, the sheriff or other officer to whom such writ or process shall be directed, shall take bail, and for no more. But if any writ or process shall issue for the sum of ten pounds or forty shillings, or upwards as aforesaid, and no affidavit or indorsement shall be made as aforesaid, the plaintiff or plaintiffs shall not proceed to arrest the body of the defendant or defendants, but shall proceed in like manner as is by this act directed in cases where the cause of action does not amount to the sum of ten pounds or forty shillings, or upwards as aforesaid.