

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1823. Fredericton, NB: George K. Lugin, Printer to the King's Most Excellent Majesty, 1823.

4 George IV – Chapter 17

An Act to provide for the surrender of the Principal in discharge of Bail in actions pending in the Supreme Court of Judicature of this Province. Passed, the 27th March, 1823.

Whereas the surrender of the Principal in discharge of Bail, in actions pending in the Supreme Court of Judicature in this Province, is attended with great inconvenience and expence—

I. Be it therefore entitled by the Lieutenant-Governor, Council, and Assembly, That the Defendant in all actions in the Supreme Court, when at large, may in the several Counties where no Judge of the said Supreme Court resides, surrender himself, or herself, or be surrendered by his or her Bail, before any Commissioner for taking Bail in the said Court, and the said Commissioners in the said Court, are hereby authorized to make out the surrender and *committitur*, and to take the affidavit of the service of notice thereof on the Plaintiff's Attorney, in manner and form as the Judges of the said Court may, or used to do; and upon the delivery of such Defendant, by such Commissioner, to the Sheriff of such County, he or she shall be charged in Law with the custody of the said Defendant, and give his certificate thereof, and upon producing the said certificate and affidavit to the proper officer, an *exoneretur* shall be by him entered on the Bail-piece.

II. And be it further enacted, That when the Defendant is already in custody of any Sheriff in some County where no Judge of the said Supreme Court resides, at the suit of another Plaintiff, in a different action or otherwise, it shall and may be lawful for any of the said Commissioners for such County, upon application of such Defendant's Bail, to surrender him or her, or upon the application of such Defendant, by his or her Attorney, to surrender himself or herself, and upon the certificate of such Sheriff, that such Defendant is actually in his custody in an action, or for a certain cause to be set forth in the said certificate, to take and make out the surrender and *committitur* of the said Defendant, in the same manner as the Judges of the said Court may do when such Defendant is brought up before them by an *Habeas Corpus*, and upon the delivery of such *committitur* to the said Sheriff, he shall be charged in Law with the custody of the said Defendant in such action, and give his certificate thereof, and the Justices of the said Court may, upon the reading of such Sheriff's certificate and the requisite affidavit of notice of such render and commitment on the Plaintiffs Attorney, unless cause be shewn during the Term succeeding such render and notice, to the contrary, in their discretion, order an *exoneretur* to be duly entered on the Bail-piece.

III. And be it further enacted, That this Act shall continue and be in force for the term of five years, and thence to the end of the then next Session of the General Assembly.