

*Laws of His Majesty's Province of Upper Canada*, passed in the year 1834. York: Robert Stanton, 1834.

#### 4 William IV — Chapter 5

### **An Act to grant further Relief to Bail in certain cases, and to regulate the manner of putting in and perfecting Bail in vacation. Passed, 6th March, 1834.**

Whereas it is necessary to afford further relief to Bail in certain cases; Be it therefore enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "*An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'*" and by the authority of the same, That the Special Bail in any action now pending, or which may be hereafter brought in any of the Courts of this Province, may surrender their principal to the Sheriff of any of the respective Districts in which he may be resident or found, and upon the production of the copy of the Bailpiece, certified by the Clerk of the Court in which the Bail shall have been entered, the Sheriff of any such District shall receive the Defendant into custody, and shall give a certificate under his seal of office of his being so surrendered into his custody, upon which certificate being produced an exoneretur shall be entered upon the Bailpiece in the same manner as is now authorised by Law in other cases, and upon notice of such surrender to the Plaintiff, or to his Attorney, and upon such exoneretur being so entered, the Bail in such case shall be discharged; Provided always, that nothing in this Act contained shall be taken to compel the Plaintiffs in any such action or suit to change the venue or to conduct his suit in any manner different from that in which he would have been compelled had the render been made in the District in which the Defendant had been arrested.

II. And be it further enacted by the authority aforesaid, That notwithstanding any thing contained in any Law to the contrary, it shall and may be lawful after the passing of this Act, for bail to justify in vacation before a Judge of His Majesty's Court of King's Bench, whether the Defendant be or be not in actual custody, and such Judge may make his rule or order for the allowance of such Bail, ; Provided always, nevertheless, that this provision shall not take effect until after the end of the Term of sitting of the Court of King's Bench which shall commence next after the passing of this Act, and that it shall be competent for the Court of King's Bench in the said Term, and in any Term afterwards, to make such orders or rules as to them may seem fit, respecting the manner of justifying and perfecting Bail as aforesaid, and respecting the notices to be given previous thereto, the attendance of Bail before a Commissioner or before a Judge, and the affidavits or examinations to be required, or any other matter or thing which may to them appear expedient for carrying this proviso the most justly and conveniently into effect.

III. And be it further enacted by the authority aforesaid, That in case any Defendant or Defendants in any action now pending, or which may be hereafter brought in any of the District Courts in this Province, shall be surrendered by his Bail into the custody of the Sheriff of any District other than that in which such action shall have been instituted, it shall and may be lawful for the Plaintiff or Plaintiffs in any and every such action, after obtaining and entering up judgement, to procure a transcript of the judgment Roll and proceedings, certified under the hand of the Judge of the Court wherein the same shall be obtained, and upon filing such transcript so certified as aforesaid, in the office of the Clerk of the District Court of the District wherein such Defendant or Defendants shall be so surrendered into custody, to charge the said Defendant or Defendants in execution, and take all other necessary proceedings in like manner as if the suit had been originally instituted in such District Court; Provided always, that nothing in this Act contained shall be held to interfere or do away with the provision of any existing Law, for the removal of causes from inferior to superior Courts by Writ of Certiorari or otherwise.