

1. **SPECIAL** bail to provincial writs may be given, before the return of such writ, in the county where the defendant is arrested, before one provincial justice, or before the president or any two justices of the county court, with two sufficient freeholders, such as the said justice or justices shall approve of; which bail shall be delivered to the sheriff, and by him be returned with the writ to the provincial court.—1715, c. 28, § 2.

2, 3. If special bail be ruled by the provincial court, on request of the plaintiff's attorney at calling over the appearance docket, the party against whom the rule is given, if present, shall give special bail in open court; or else be remanded in custody of the sheriff who arrested him, and so remain till he procure special bail. And the recognizance of special bail so taken shall be transmitted to the provincial court, together with a warrant of attorney directed to some attorney of that court, empowering him to enter an appearance for the defendant; and the officers shall have the same fees, and the recognizance the same effect as if taken in court; and the justices taking such bail shall receive five shillings, and no more.—*ibid.* § 3, 4.

6, 7. The provincial justices shall make such rules for justifying such bail, as they think meet; so as not to compel personal appearance of the cognizers; and the justices who take it, may examine the sureties upon oath for their better satisfaction.—*ibid.* § 5, 6.

8, 9. One or more county justices may take special bail on actions brought in the county court, according to the same rules and the fee to such justice, shall be 2s. 6d. and no more; and they are vested with the like power of receiving such bail, as the provincial court, and shall act therein by the same rules.—*ibid.* § 7.

10. In actions of trover and conversion, and of detinue, the justices of the court (on affidavit of the plaintiff, or other evidence, to their satisfaction) may award special bail against the defendant; and for a default of such bail, may commit him till he put in such bail as is usual in other cases.—1753, c. 17.

13. *For the form of recognizance of special bail to be used, see recognizance art. 3.* The judge or justices by and before whom such recognizance shall be taken and acknowledged, shall carefully examine into the circumstances and sufficiency of the bail, and shall be careful that they do not take any recognizance of bail of persons who shall not appear to them to have sufficient estate within this state to answer the same, but nothing herein shall be construed to abridge or take away the power of the justices of the general or county courts within this state, to make rules and orders for the justifying bails and making the same absolute, or to examine the sureties upon oath, touching the value of their estates.—*Ord.* 1778, c. 21, § 5.