

C. H. A. P.
XXVII.

excuse such persons shall offer, why they ought not to be proceeded against according to law, as fornicators or adulterers, as the case shall happen; and in case the person or persons having such notice given them shall not appear according to such notice, on affidavit of such notice given, or appearing, do not excuse or acquit themselves of the grounds of such suspension, in such manner as such minister, vestry and churchwardens as aforesaid shall approve, that then it shall and may be lawful for such minister, vestry and churchwardens, or the major part of them as aforesaid, and they are hereby required, to admonish such person or persons, according to the directions aforesaid, which admonition, together with proof of the cohabitation of the parties so admonished, or their frequenting the company of each other, contrary to, and after such admonition given, shall be sufficient evidence in any court of this province to convict the persons so cohabiting, or frequenting each other's company, after admonition given as aforesaid, of fornication, or adultery, as the case shall happen, and subject them to the penalties aforesaid, any law, statute or custom to the contrary notwithstanding.

This act is repealed by 1785, ch. 47, as far as it respects the proceedings against persons guilty of fornication.

C. H. A. P. XXVIII.

An ACT for taking special bail in the several counties of this province upon actions or suits depending in his majesty's provincial court, and in the several county courts of this province. Lib. LL. No. 4. fol. 170.

Passed 3d of
June, 1715.

Preamble.

FOR the greater ease and benefit of all persons inhabiting or residing within this province, in taking recognizances of special bail in all actions and suits depending, or to be depending, in his majesty's provincial or county courts of this province,

Special bail,
how to be
given.

II. BE IT ENACTED, by the King's most excellent majesty, by and with the advice and consent of his majesty's Governor, Council and Assembly of this province, and the authority of the same, That it shall and may be lawful to and for the defendant in any writ issued, or to be issued, out of the provincial court, after arrest and bail given to the sheriff for his appearance, and before the return of such writs, to go before one of the justices of the provincial court, or before the president or any two justices of the county court where such defendant shall be arrested, with two sufficient freeholders of this province, such as the justice or justices before whom such defendant shall go shall approve of, and then and there give special bail to any action wherein he shall be so arrested by virtue of such writ, which bail, so taken, shall be delivered to the sheriff of such county where the same is taken, to be by him returned, with such writ, to the provincial court.

When ruled, to
be given in
open court, &c.

III. AND BE IT FURTHER ENACTED, by the authority aforesaid, by and with the advice and consent aforesaid, That when special bail is required in the provincial court by the plaintiff's attorney, at the calling over the appearance docket, and that the court does rule special bail shall be given; and the party, against whom the rule is given that he shall give special bail, be present, the party defendant shall then and there give special bail in open court, and shall be deemed to be in the custody of the sheriff that arrested him in that action till he give special bail as aforesaid; but if the said party defendant be not able, at the provincial court, to procure such special bail, then the said party shall be and remain in the custody of the same sheriff that arrested him, and by him in safe custody kept, guarded, and carried back into the county where the defendant was arrested, and there in safe custody kept, till he can procure such special bail.

Recognizance,
how to be
taken.

IV. AND For the greater ease of making and taking recognizances of such special bail, it shall and may be lawful for one of the justices of the provincial court of this province, or for the president, or any two justices of the county court, to take and receive every such recognizances of bail as any person or persons, who shall be deemed by him or them sufficient sureties, shall be willing or desirous to acknowledge or make before him or them in the county, in any action or suit depending, or hereafter to be depending, in the said provincial court, which recognizances, so required to be taken, as well before as after the return of the writ, shall be taken in such manner and form as followeth, viz. "John Doe, plaintiff, against Richard Roe, defendant. You A. B. and C. D. and either of you, do undertake for the said Richard Roe, defendant in _____, to be levied on your, and either of your lands and tenements, goods and chattels, to the use of the said John Doe, the plaintiff, upon condition, That if the said John Doe do obtain judgment in an action of _____, depending in the provincial court, against the said Richard Roe the defendant, that then the said Richard Roe shall pay the condemnation of the court thereupon, or deliver himself to the custody of the sheriff
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