

men, and as near as may be peers or equals, and of the neighborhood, and men without just exception: and in criminal matters of life there shall be first twenty-four returned by the sheriff for a grand inquest, of whom twelve at least shall find the complaint to be true; and then forty-eight shall be likewise returned by the sheriff, of whom twelve shall have the final judgment; but reasonable challenges shall be always admitted against all or any of them.]

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER XCIV.

THE LAW ABOUT ARRESTS AND MAKING DEBTORS PAY BY SERVITUDE.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, And [sic] in case any man arrest another going out of the province, he shall be ready with his declaration and evidence the next day, and shall put in security to pay the charges and damages sustained by the party arrested, if he shall be found in the wrong.

[Section II.] And be it further enacted, That all persons of known estates refusing to pay their just debts if arrested and imprisoned, shall be kept at their own charges until security be given or satisfaction made.

Provided, That no persons shall be kept in prison for debt or fine longer than the second day of the next sessions after his or her commitment, unless the plaintiff shall make it appear that the person imprisoned hath some estate that he will not produce, in which case the court shall examine all the persons suspected to be privy in the concealing such estate; but if no estate can be found, the debtor shall satisfy the debt by servitude as the county court shall order, if desired by the creditor.

[Section III.] And be it further enacted, That no inhabitants in this province or territories shall be taken for debt before a trial, unless he or she be about to depart out of the same and shall refuse to give sufficient bail for appearance at the next court, or security for the payment of the debt, or hath not goods sufficient to be attached; and that in such cases, before any warrant of arrest be granted, the plaintiff shall solemnly declare before those who are empowered to grant the same, that he or she believeth in his or her conscience that his or her cause or action is just, and his or her declaration and evidence are ready for trial, if the defendant shall pray a special court; and that in cases relating to other inhabitants residing within the said province and territories, the process and proceedings shall be by summons as by the sixty-sixth chapter of laws is established and ordained; and further that it shall and may be lawful for any plaintiff to sue out a writ of summons and serve upon the defendant personally, in whatsoever county he or she shall be found, although it should happen that the dwelling or abode of such defendant may be in another county; and when so personally summoned, such defendant shall be bound to appear in the court of the said county out of which such writ or summons was issued, and in default of appearance judgment shall be entered against him or her: or if such defendant appear, and upon trial judgment shall go against him or her, execution shall be awarded in open court to be directed to the sheriff of such county where the defendant dwells or inhabits, or where his estate lies, to be executed in such manner as if the said execution had proceeded from the court of that county where he is sheriff, any law, usage or custom to the contrary hereof notwithstanding.

Provided always, That this law shall not extend to any members of the provincial council and assembly during their attendance and service in provincial council and assembly, and fourteen days before and fourteen days after their said service and attendance therein.]

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 153.