trary notwithstanding; provided, that if within fourteen days after the date of any warrant of commitment, the same or a copy thereof certified by the party in whose custody such person is detained, be not countersigned by a clerk of the Executive Council, then any person or persons detained in custody under any such warrant of commitment, for any of the causes aforesaid by virtue of this Act, may apply to be and may be admitted to bail.

2. In cases where any person or persons have been, before the passing of this Act, or shall be during the time this Act shall continue in force arrested, committed or detained in custody by force of a warrant of commitment of any two Justices of the Peace for any of the causes in the preceding section mentioned, it shall and may be lawful for any person or persons to whom such warrant or warrants have been or shall be directed to detain such person or persons so arrested or committed, in his or their custody, in any place whatever within this Province, and such person or persons to whom such warrant or warrants have been or shall be directed, shall be deemed and taken to be to all intents and purposes lawfully authorized to detain in safe custody, and to be the lawful Gaolers and Keepers of such persons so arrested, committed or detained, and such place or places, where such person or persons so arrested, committed or detained, are or shall be detained in custody, shall be deemed and taken to all intents and purposes to be lawful prisons and gaols for the detention and safe custody of such person and persons respectively; and it shall and may be lawful to and for Her Majesty's Executive Council, by warrant signed by a clerk of the said Executive Council, to change the person or persons by whom and the place in which such person or persons so arrested, committed or detained, shall be detained in safe custody.

3. The Governor may, by proclamation, as and so often as he may see fit, suspend the operation of this Act, or within the period aforesaid, again declare the same to be in full force and effect, and, upon any such Proclamation, this Act shall be suspended or of full force and effect as the case may be.

4 This act may be altered, amended or repealed during the present session of parliament.

SELECTIONS.

ASSIGNMENT OF RIGHTS OF SUIT IN EQUITY.

In classical antiquity, as well as in the early history of our own country, the right of calling another into judgment seems always to have been one in the exercise of which the state or public could never be considered as unconcerned. Inasmuch as the aggregate force of society is evoked by litigants, in order to arm the tribunals with the power to give effect to their determinations, on the subject matter of contention, to which their cognizance is drawn, we can understand why it should always have been deemed important that that kind of antagonism, which results from the relation of two persons in a state of juridical controversy, should not be entered upon with levity. The provisions of our own law in regard to the production of the *secta*, or suit, by the plaintiff, in order to raise such a *primâ facie* case as would require the defendant to answer (see 1 Reeves Hist. Eng. Law, 377), and the infliction of amercements on failure of the plaintiff to make good his claim, *pro falso clamore suo*, point to this principle, and mark the tendency of our ancient jurisprudence to check the temerity of litigants.

Considering the difficulties which must ever surround man in his exercise of the high and responsible function of a dispensator of justice, it is not surprising to find, among the civilized races, an avoidance of all that might tend to encourage litigious levity. Hence the rigid doctrines of our ancestors on the subject of maintenance and champerty. They seem, on this subject, to have been influenced by some such reasoning as this—"We have established tribunals for the decision of disputes between the subjects of the realm, and if such disputes arise and cannot be arranged without resorting to the courts, the parties appealing to the courts must have the best decision that can be procured. But these disputes are an evil in themselves, and not to be encouraged. If those persons whose fault or misfortune it has been to fall into this state of antagonism towards each other are unable to settle their differences, they shall at least carry on their contest under the full responsibility that, whichever may prove by his obstinate or unrighteous conduct to have necessitated an appeal to the justice of the realm, shall bear all the consequences of having set the machinery of the law in motion. Least of all will we allow extraneous persons to be introduced into the contest, to afford countenance or encouragement to either of the disputants, to foster the contention, or to multiply enmities by themselves becoming involved in the state of conflict which already exists between the original parties."

Such appears to be the light in which the subject was viewed by the founders of our juridical system, and for a long period there are evidences that these doctrines were enforced in all their strict and logical consequences. The statutes under which defeated litigants came to be visited with the costs of the suit have operated, as they were no doubt intended to do, as a penalty and check upon litigious temerity. The doctrines and practice of the common law on the subject of costs have, without furnishing an inflexible rule, been productive of a salutary imitation on the part of Courts of Equity, and have furnished to the latter a general guide for dealing with the question of costs.