

SESSIONAL PAPER No. 18

§7. Be it also enacted, That as often as the Party plaintiff in a cause, *being one of his Majesty's natural born subjects, shall commence his Action against another person that is not one of his Majesty's Canadian subjects according to the course of the common Law, the same Cause shall proceed to the end thereof in the same course, and have all its legal consequences and effects, as if the same had been begun and prosecuted in the Common-Pleas of Westminster-Hall, as nearly as the condition of the Province will permit ; and for the fullest security of his Majesty's Canadian subjects in the enjoyment of the ancient Laws, Usages and Customs of Canada, every such suit shall abate whenever the defendant shall plead or alledge that he is one of his Majesty's Canadian Subjects, or descended from any person that was so at the Conquest, in the paternal or maternal line, and the question of fact, whether he is or is not, shall be tried and determined by the Court without a Jury, and if the facts shall be found for the Defendant by the Court in manner aforesaid, judgement of non pros shall be entered against such Plaintiff for the Defendant, and the Defendant recover his Costs.*

§8. And be it also enacted by the same authority, That in all causes where the Sheriff is a party, *or shall appear to the Court to be exceptionable and not indifferent* between the parties in any cause, the process shall go to the Coroner.

§9. And where Appeals are brought by executors, administrators or guardians, the Plaintiff shall not have execution nor any process in the nature of execution, without such security first given as the Court of Common-Pleas in their discretion shall direct, to refund the damages and costs in case the judgement shall be reversed, together with such costs as the Court of Appeal may award.

And whereas *great inquietudes have arisen in the Colony within four years past, respecting certain processes against estates and effects, seizing and arresting the same, and divesting the proprietor thereof without previous trial and judgement at law between the parties, which proceedings pass in France under the name of saisie arrêts, and saisie exécution, tho' they are there exercised under special guards, would be very mischievous if practiced against the poor inhabitants of this province, and especially as the Sheriffs and the subordinate executive agents are not yet under any bonds with sureties for their demeanor, and it is more expedient in so infant a country to leave Creditors in general to the caution prudence requires against negligent confidences, than to introduce the rapid measures of ancient and populous nations against complicated frauds and bankruptcies.*

§10. Be it further enacted by the same authority, That no such process shall hereafter be issued except for attaching the estates and effects of persons concerned in traffic, and only then for debts exceeding the Sum of Fifty Pounds Sterling, after Oath before the Judge issuing the same, of the amount of the debt and of the demand of payment thereof, and that there is good cause to apprehend the loss of the debt without such process, which oath shall be indorsed thereon.