

order to their better understanding the evidence that may be given upon the trial," an order may appoint six or more, to be named by consent or, upon disagreement, by the sheriff, and the place in question shewn them by two persons appointed by the Court; and "those men who shall have had the view, or such of them as shall appear upon the jury to try the issue, shall be first sworn," and only so many added as are needed to make up twelve.

Chitty says: "In cases of indictments for nuisances, it may be necessary, either on behalf of the prosecutor, or of the defendant, for the jury to have a view of the premises indicted. This, it seems, cannot be granted by the Judges at the assizes, but if necessary may be the ground of removal by certiorari into the King's Bench. The power of granting a view, in criminal and civil cases, is now given, by the 6 Geo. 4 ch. 50, sec. 23, to the Court in which the issue is depending, or to a Judge in vacation. The Court will grant it on an indictment for not repairing a highway, or for a nuisance, but not on a prosecution for perjury, unless under particular circumstances. And a view will not be granted, if there is any risk of its misleading the jury. When it is allowed, the same rules will, in general, prevail, as are observable in civil proceedings." 1 Chitty's Criminal Law 483.

A later English statute, 15 & 16 Vict. ch. 76, sec. 114, made an order of a Judge for the view sufficient without the issue of a formal writ of view. A change of venue is authorized by the English Crown rule 45, if a view in another county is necessary: *Clerk v. R.*, 9 H.L.C. 184.

It has been held in England the Judge may adjourn the Court to enable the jury to have the view, even after the summing up; but the jury must not communicate with the witnesses during such view: *R. v. Martin* (1881), 12 Cox C.C. 204.

In *R. v. Whalley*, 2 C. & K. 376, it was held that a view could not be obtained at quarter sessions and an opinion was expressed that it was doubtful whether at assizes there could be a view except by consent. But the necessity for a view seems to be a sufficient ground for removal of the indictment into the King's Bench Division: *R. v. Justices of Tradgeley*, Sess. Cas. 180.

The County Court Judge's Criminal Court is a Court of record for all the purpose of the trial and proceedings connected therewith, or relating thereto: Cr. Code (1906), sec. 824. Its general jurisdiction is for the trial of offences which might be tried with a jury at the Courts of general sessions, or quarter sessions, in Ontario; Cr. Code (1906), ch. 825.

The Judge presiding at a County Court Judge's Criminal Court has in any case tried before him, the same power as to acquitting or convicting, or convicting of any other offence than that charged, as a jury would have in case the prisoner were tried by a Court having jurisdiction to try the offence in the ordinary way and may render any verdict which might be rendered by a jury upon a trial at a sitting of any such Court. Cr. Code (1906), sec. 835.

But all of these statutory provisions fall short of making applicable