

when the testimony of any aged or infirm person, or of any person about to depart the province may be required, it shall and may be lawful for the said court to issue a commission, in like manner, for the examination of such aged or infirm person, or of any person about to depart the province, due notice being given to the adverse party for the purposes aforesaid.

XXIV. *Provided always, and be it further enacted,* That the examination of such aged or infirm person so taken, shall not be admitted or read at the trial of any issue, in case he or she be living at the time of the trial, and that the examination of such person about to depart the province, so taken, shall not be admitted or read at the trial of any issue, in case he or she shall be in the province at the time of such trial.

XXV. *And be it further enacted by the authority aforesaid,* That the allowance of costs to either party, plaintiff or defendant, in all civil suits and penal actions, be regulated by the statutes and usages which direct the payment of costs, by the laws of England.

XXVI. *And be it further enacted,* That the chief justice and other the justices of the said court of king's bench, for the time being, or any two of them, whereof the chief justice for the time being to be one, shall, and may by one or more commission or commissions, under the seal of the said court, from time to time, as need shall require, empower what, and as many persons as they shall think fit and necessary, in all the several districts within this province, to take and receive all and every such affidavit and affidavits as any person or persons shall be willing and desirous to make before any of the persons so empowered, in or concerning any cause, matter or thing depending, or hereafter to be depending, or in any wise concerning any of the proceedings to be in the said respective courts, and that it shall and may be lawful for any judge of assize, in his circuit, to take and receive any affidavit or affidavits as any person or persons shall be willing and desirous to make before him, in or concerning any cause, matter or thing depending or hereafter to be depending, or in any wise concerning any proceedings to be had in the said court of king's bench, which said affidavits, taken as aforesaid, shall be filed in the office of the said court, and there be read and made use of in the said court, to all intents and purposes as other affidavits, taken in the said courts ought to be, and that all and every affidavit and affidavits, taken as aforesaid, shall be of the same force as affidavits taken in the said court shall and may be: and all and every person or persons forswearing him, her, or themselves, in such affidavit or affidavits, shall incur and be liable unto the same pains and penalties as if such affidavit or affidavits had been made and taken in open court.

*Provided always,* That for the taking of every such affidavit, the person or persons so empowered and taking the same, shall, for so doing, receive only the sum or fee of twelve pence and no more.

XXVII. *And be it further enacted by the authority aforesaid,* That the chief justice for the time being, and other the justices of the said court of king's bench, or any two of them, whereof the said chief justice shall be one, shall, or may by one or more commission or commissions, under the seal of the said court, from time to time, as need shall require, empower such and so many persons as they shall think fit and necessary, in all and every the several districts of this province, to take and receive all and every recognizance or recognizances of bail or bails, as any person or persons shall be willing or desirous to acknowledge, or make before any of the persons so empowered, in any action or suit depending, or hereafter to be depending in the said court, in such manner and form, and by such recognizance or bail as the justices of the said court may hereafter take, or may think fit; which said recognizance or recognizances of bail, or bail-piece, so taken as aforesaid, shall be transmitted to any one of the justices of the said court, who upon affidavit made of the due taking of the recognizance of such bail, or bail-piece, by some credible person, present at the taking thereof, such justice shall receive the same; which recognizance of bail, or bail-piece, so taken and transmitted, shall be of the like effect as if the same were taken

Exceptions, in certain cases, to the evidence obtained by such examinations.

Costs of suit to be regulated by the statutes and usages of England.

Commissioners to be empowered to take affidavits.

Force & effect of such affidavits.

pains and penalties of perjury in making such affidavit.

Fee for taking affidavit.

Commissioners to be empowered to take recognizances of bails.

means of rendering such recognizances of bail effectual.