

6-7 EDWARD VII., A. 1907

Subjects ; the Jury shall be composed of an equal number of each, if such be required by either of the Parties in any of the above-mentioned Instances.

English Rules
of Evidence
adopted in
Commercial
Cases.

Art 10. In Proof of all Facts concerning Commercial Matters, Recourse shall be had, in all the Courts of Civil Jurisdiction in this Province, to the Rules of Evidence laid down by the Laws of England.

Where
neither Party
is desirous of
the Trial
by Jury,
Proceedings
as formerly.

Art 11. Provided always, And it is Ordained and Enacted, That in all causes before the said Courts of Common Pleas, where the Parties, Plaintiff nor Defendant, are neither of them desirous of a Trial by the Verdict of a Jury of and respecting Matters legally within the Cognizance of such Jury, but that such Trial should be by the Deposition of Witnesses, and by Proofs, as at present used in His Majesty's Said Courts of Common Pleas, the Court shall, after issue joined on the Merits of the Cause, in the manner as hereafter expressed, appoint a Day for hearing the Evidence of Parties, Plaintiff and Defendant, and cause the same to be taken down in Writing by the Clerk of the Court in open Court, and signed and sworn to by each respective Witness, save and except as hereafter provided for Witnesses absent by reason of Sickness, or of departing the Province.

Provision for
examining
Witnesses in
case of Sick-
ness, or when
about to de-
part the Pro-
vince.

Art 12. Provided also, That in case of Sickness, and where the Witnesses, cannot attend the Court to be ascertained by Affidavit, it may be lawful for the Court in such Cases, and of evident Necessity, after Issue joined as abovesaid, to allow and permit that any one Judge, in the Presence of the Parties, Plaintiff and Defendant, or their Attornies, or in their or either of their Absence, after due Notice signified, may take the Deposition of such Witness in Writing, to be signed and sworn to, and certify and Record the same in the said Court, and there to be of legal Effect ; and moreover that such Deposition so taken may be offered and read to the Jury as legal Evidence, if such Cause be to be tried by Jury ; and also in Causes instituted in the said Court, where any Witness may be about to depart the Province, and by which means either party might be deprived of his Testimony, to be ascertained by Affidavit, it shall and may be lawful for any Judge of the said Courts to take the Deposition of such Witness, in presence of the Parties, or their Attornies, in the manner as above Expressed, and the same shall be of legal Effect in every Cause in the manner as abovesaid.

Limitation of
Pleadings.

Art 13. And it is further Ordained and Enacted, That every Issue in Law or Fact, to be formed in any Cause in either of the said Courts of Common Pleas, between the Parties, Plaintiff and Defendant, shall be made and completed, by the Declaration, Answer, and Replication, or by the Plea, Answer,