

proceeding before it, to be tried by a Jury before the Judge of the Court, when such trial would take place in the County Court in the ordinary manner.

In New Brunswick and Nova Scotia, the Probate Courts have no such power.

Fifteenthly.—With reference to executors and administrators, an important provision exists both in Ontario and Nova Scotia relative to the law of evidence in suits arising out of matters with deceased parties in which issue has been joined, and a trial, or any enquiry, is being had, namely, that it shall not be competent for the survivor or survivors, being a party or parties to the suit, or their wives, to give evidence on their own behalf, of any dealings, transactions, or agreements with the deceased, or of any statements or acknowledgments made, or words spoken by deceased, or of any conversation with deceased; but such parties may be compelled to give evidence on behalf of deceased.

This apparently fair policy has not been adopted in New Brunswick, and is not in accordance with the law in England, perhaps because it is depriving one party, without any fault of his own, of an advantage which both possessed; and perhaps because the knowledge that such an advantage may be lost, induces parties more to reduce their agreements to writing, and thereby avoid unseemly conflicts of testimony.

In Nova Scotia, the proceedings against executors and administrators *cum testamento annexo* have been simplified on behalf of legatees by permitting actions at Common Law, and in the same Act, for enabling executors appointed trustees by a will, or trustees appointed by deed, to be relieved of their trusts or executorship by an application to the Supreme Court, or to be removed on an application in the same way by any one interested in the execution of the trust.

In the course of this work, Mr. Butler's Alphabetical Index of the Canadian Statutes, from 1859 to 1867, has been continued so far as Ontario is concerned, from 1867 to the present day; and the New Brunswick index, first prepared and referred to above, has also been further continued to the present time.

There are many other differences which will be observed by an examination of the schedules annexed, but it is obvious that any review of a subject so comprehensive as the legislation of three Provinces must be more or less imperfect, unless made by persons familiar with the construction put upon the Statutes of each Province by the Courts of each Province. A knowledge of the decisions of the Courts in one Province alone might very erroneously lead a party to suppose that inadvertencies or omissions existed in the Statutory Laws of the other Provinces, which an acquaintance with the decisions of the Courts of those Provinces might show was not the case, but a knowledge of which could only be obtained by their being brought forward or quoted in the discussion on those differences themselves.

Opinions of the Statutes as found in the Statute Book, without knowing how far the practical operation of those Statutes may have been extended or narrowed by the critical examination to which they would be subjected in the process of judicial enquiry, must be subject to inaccuracies.

The instructions given to me being simply to prepare for a Commission hereafter to be issued—not to recommend or propose any form or suggest any change—I have confined my labor solely to pointing out the differences; but there can be no doubt that an excellent practical Code of Law, simple in its language, easily understood, expeditious and economical in its administration, could be formed from a judicious selection of the best of the Laws of each of the Provinces by men who were severally acquainted with each.

I beg to refer you for further information to the Schedules hereunto annexed, numbered 1, 2, and 3,

And have the honor to be, Sir,

Your obedient servant,

J. H. GRAY.

To the Honorable the Minister of Justice.

MEN
columns
index of
As t
and those
examinat
volumes o
must be n
For

In O

All p

Division, c
local purpo
Township,
rate there
in all Cour

The ex

Executive C
Government
ment—and
of the Prov

Peace; She

Members of

Courts of J

Army and M

Office; Sher

Collectors a

establishmen

Employees;

convicted cri

Member

rations, May

being selecte

Assizes, or M

Jurors w

by Selectors,

Twelve J

By the C

with the Plai

The Jur

Tho May

Selectors.