

If the plaintiff does not attend, the action to be dismissed with costs.

If the plaintiff does not appear, or appearing, does not prosecute his action, the same shall be dismissed with costs.

A R T. V.

If the parties differ in their state of facts, court shall ascertain the facts necessary to be proved.

If upon the declaration and answer, or such further pleadings as the court may, if it thinks proper, permit or direct, the parties shall appear to differ essentially in their state of facts; the court shall ascertain, and order the clerk to take down in writing, such facts material to the decision of the cause as it will proceed to receive proof upon; and appoint a day for hearing and receiving such proofs as the parties shall think proper to produce.

A R T. VI.

manner of examining witnesses,

In all cases where witnesses are produced, they shall be examined and cross examined, vivâ voce, in open court; unless some good reason is shewn to the judges from departing from this rule in particular cases.

their examinations to be taken down in writing.

The examinations of the witnesses shall be taken down in writing by the clerk, and filed among the records of the court.

A R T. VII.

English rules of evidence adopted in commercial cases.

In proof of all facts concerning commercial matters, recourse shall be had, in all the courts of civil jurisdiction in the province, to the rules of evidence laid down by the English Law.

A R T. VIII.

O F A P P E A L S.

Party appealing to sue out a writ

The party meaning to appeal from any sentence or judgment of any of the courts of common-pleas, shall sue out a writ from the court of appeals, tested and signed by the governor, lieutenant governor, or chief justice; stating that the appellant complains of being aggrieved by the judgment, and therefore commanding the judges of the inferior court, or any two of them, to send up the original papers and proceedings found in the records or registers of the court, concerning the same.

commanding the judges to send up the record.

Such writ, when presented to any of the judges of the court below, shall be allowed by him, if the appellant has given the requisite security; and when allowed, the clerk of the court shall proceed to comply with the order of the writ; and the judges, or any two of them, shall make their return against the return day thereof.

A R T. IX.

The appellant to file his reasons of appeal in 8 days.

If the appellant does not within eight days after the return of the said writ, and the transmission of the proceedings,