

Judges for the time being of its Superior Courts, of Queen's Bench, Chancery, and Common Pleas, with power to the Governor General to appoint any retired Judge of one of the said Courts to be the Chief Justice, or an additional Judge of the said Court of Error and Appeal.

Thus Ontario is the only one of the three Provinces which affords to the litigants therein, without resort to a distant and most expensive tribunal, the opportunity of an appeal to a Court composed of Judges other than those of the particular Court in which the complainant may justly conceive that he has been condemned or deprived of his rights contrary to law.

In Ontario the Senior Judge of the County Court is, *ex officio* Judge of the Surrogate Court.

In New Brunswick and Nova Scotia the Surrogate Judge of Probate is appointed directly to that office by the Governor in Council.

In Ontario, the Surrogate Court may order any question of fact, arising in any 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 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 admi-