

Where non-residents tried. inquired of and tried by a jury of either of the said counties, and such inquiry and trial, and all other the proceedings thereon had, shall be as good and effectual as if the said offence or offences, as well principal as accessory, had been committed, done or perpetrated within the body of such county, where the said inquiry, trial and proceedings shall be had.(a)

(a) If, after an offence is committed, a county be divided, and that part of the county where such offence was committed, is set off into the new county, it is indictable in such new county, *State v. Jones*, 4 Hal. 357. See *State v. Jones*, 3 Hal. 307. In a case of trespass the creation of a new county including the land trespassed upon, prior to bringing the suit but after the trespass was committed, does not warrant charging the act to have been done in the new county, *Champion v. Doughty*, 3 Harr. 3. See *Keen ads. Saxton*, 2 Harr. 313. See also cases cited in notes to TERRITORY.

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R. S. 193.

An act relative to the court of errors and appeals.

P. L. 1852, p. 746.

" 1853, p. 261.

Revision—Approved March 27, 1874.

Terms, when and where held.

1. That the court of errors and appeals shall hold annually, at Trenton, three stated terms; commencing on the second Tuesday of March and third Tuesday of June and November respectively, and such special terms, not exceeding two in any one year, as the court may from time to time appoint.

May adjourn.

2. That if a sufficient number of members to constitute the court shall

not attend on the first day of the term, it shall be lawful for the members attending to adjourn from day to day until a sufficient number shall attend, or to adjourn till the next term, in which case the writs and processes then returnable, and all suits, pleadings and proceedings depending before the court, shall be continued of course till such subsequent term.

3. That the chancellor, when present, shall be the president of the court; in case of his absence, the chief justice of the supreme court; and in case of his absence, the senior in office of the justices of the supreme court who may be present. Who to preside.

4. That the oath of office and of allegiance may be administered to the president by any member, and by the president to each of the other members of the court. Oaths.

5. That when a vacancy happens in the office of any of the six appointed judges of the court, before his term of office as such judge has expired, his successor shall be appointed and hold for the unexpired term only. Vacancies filled.

6. That the court shall have power to appoint, from time to time, such subordinate officers, as may be necessary for the convenient transaction of business, and to fix their compensation. Officers and their compensation.

7. That the compensation of the clerk of said court shall be the sum of three dollars; that of the chancellor and of the justices of the supreme court, severally, five dollars; and that of the lay judges, severally, eight dollars by the day for every day they shall respectively attend the court; and the sum of one dollar for every ten miles they shall travel in going to and returning from the place of holding the court, on the most usual route. Compensation of the court and clerk.

8. That the compensation aforesaid shall be paid by the treasurer of the state, upon a certificate signed by the president of the court. Consolidated.

9. That the reasons to be assigned by the chancellor for his decree, and by the justices of the supreme court, or by the judges of the circuit court, for their judgment, shall be submitted in writing before the argument of the appeal or writ of error, as the case may be. How paid.

10. That on pronouncing any judgment, order or decree, either of affirmance or reversal, the opinion of this court, containing the reasons for such affirmance or reversal, shall be delivered in writing. Reasons of court below to be submitted in writing.

11. That writs and processes issued out of this court, shall be signed by the clerk and tested in the name of the president, and may be made returnable at any of the stated terms of the court, or at such time in vacation as the court may, by rule, from time to time prescribe. Court to deliver opinion in writing.

12. That writs of error to remove final judgments in any circuit court, directly into this court, may be brought in the same manner and subject to the same rules as are now provided in case of a writ of error to the supreme court. Process, how signed and tested. Amended.

13. That it shall be in the discretion of this court, in cases of appeal from a decree or order of the chancellor, to award costs or not. Error to circuit court.

14. That in cases of appeal from a decree or order of the court of chancery, it shall be the duty of the clerk of the court of chancery to deliver to the clerk of this court all the pleadings, depositions, exhibits and papers which may have been filed in his office, relating to the cause in which the appeal hath been taken, and also the several orders and decree made in said cause, instead of a transcript of the proceedings, giving the said clerk of the court of chancery a receipt for the same; which papers shall be filed by the clerk of this court for the purpose of being used at the hearing of such appeal. Costs on appeal.

15. That when a cause hath been decided by final decree or order of this court, it shall be the duty of the clerk to return to the clerk of the court of chancery all the papers which have been received by him from the clerk of the court of chancery in such cause, for which he shall take a receipt, together with a copy of the order or decree of the court, which order or decree it shall be the duty of the court of chancery to carry into effect; and it shall be the duty of the said clerks to file the said receipts. Papers, &c., to be sent up on appeal from chancery.

(a) See *Carter v. Somers*, 1 Zab. 561, note. *Anonymous*, *Spen.* 495.

(b) If a party remove his cause from the circuit by writ

of error to the supreme court, he cannot, upon that writ being dismissed, remove it to the court of errors, *Garr v. Paulmier*, 1 Zab. 681. See ERRORS, § 5.

in their respective offices, for the benefit of the parties interested in said papers.^(a)

Causes continued.

Court to make rules.

Proviso.

R. S. 196.

P. L. 1850, p. 50.

" 1855, p. 17.

" 1871, p. 111.

Supreme court constituted.

Terms.

May be held by one justice.

Branch court constituted.

Issues, tried by whom.

Duty of justices at circuits.

Special circuit courts authorized—in what cases.

16. That all causes depending in the court of appeals in the last resort, at and immediately before the time when the present constitution went into operation, shall be continued, and further proceedings therein may be had in the court of errors and appeals, established by said constitution; and the said court of errors and appeals may, from time to time, make rules and regulations of practice, and alter, amend or revoke any rule of practice, so as to obviate doubts, advance justice, and expedite suits; *provided*, the same be not contrary to this act, the constitution of this state or of the United States.^(b)

An act relative to the supreme and circuit courts.

Revision—Approved March 27, 1874.

I. Supreme court.

17. SEC. 1. That the supreme court shall consist of a chief justice and six associate justices, and shall hold annually three stated terms, commencing on the fourth Tuesday in February, and the first Tuesday in June and November, respectively; and such special terms not exceeding two in any one year, as the court may from time to time appoint. (See *Sec. 44*).

18. SEC. 2. The said supreme court may be held by the chief justice or any one of the said justices; and that every day of each stated term, except Sunday, shall be a return day.

19. SEC. 3. It shall be lawful for the justices of the supreme court, at every term thereof, to designate in such way as to them may seem proper, one or more of their number to sit during term time in a separate apartment from that in which the regular term is held, for the purpose of hearing and deciding all such matters as by the rules of the said court, are or may be denominated common business, whose decisions and judgments shall be as good and effectual as if they had been rendered at the bar of said court.^(c)

20. SEC. 4. The chief justice or one of the justices of the supreme court, before whom the circuit court in every county of this state shall be held, shall try all issues which have been or shall be joined in the supreme court, or in any other court and brought into the supreme court to be tried, and which are or may be triable in the said county.

21. SEC. 5. The chief justice and every justice of the supreme court shall be and hereby is authorized and required, at the said circuit court, to try such issues and take such inquests by default or otherwise, as are or ought to be tried or taken in the said court, to record nonsuits and defaults, to take assizes and to do and execute all other matters and things which by law may or ought to be done respecting the premises.

22. SEC. 6. That the supreme court in term time, or any two justices thereof in vacation, whenever in their opinion the ends of justice and the public interest require it, may order a special circuit court to be holden in any county in this state for the trial of any indictment or indictments for murder or manslaughter which have been or may be removed into the supreme court, and which may require to be tried in the circuit court of such county; but such order shall designate the indictment or indictments to be tried at such special court, and whether to be tried by a jury or juries of the county in which such special court is to be held, or by a foreign jury or juries; and upon the service of a copy of such order upon the sheriff of said county, at least twenty-five days before the time appointed for holding such special circuit, it shall be his duty to cause to be selected

(a) Chancery will give to a decision of the court of appeals, made in the same cause, its fair and just legal effect, *Snowhill v. Snowhill*, 1 Gr. Ch. 30. See *Hale v. Lawrence*, 2 Zab. 73. *Davis v. Headley*, 7 C. E. Gr. 115. After the judgment has been entered and the papers remitted, the court of appeals has no further jurisdiction with respect to the case, *King v. Ruckman*, 7 C. E. Gr. 551. A writ of error to remove a cause to the supreme court of the United States, may be directed to the court of appeals where the judgment was rendered, if the record still remains there, or to the court below, if it has been remitted, *Brumagim v. Chew*, 6 C. E. Gr. 180. After such remittance no motion for leave to issue execution is necessary, *Reading v. Reading*, 1 Hal. 186.

See *Brumagim v. Chew*, 6 C. E. Gr. 180. *Allen v. Hopper*, 4 Zab. 514.

(b) For cases when appeal may be brought, see CHANCERY, § 114, and notes. If a constitutional quorum of the judges attend and vote it is sufficient, although one or more of the members be excused from voting, *Gibbons v. Ogden*, 2 South. *360. *Broadwell v. Denman*, 2 Hal. 278. *Clapp v. Ely*, 3 Dutch. 622. *Howell v. Tuttle*, 2 C. E. Gr. 547.

(c) This act is constitutional. It is not necessary that the whole or a majority of the justices constituting the court should hear or determine any particular cause, *Wood v. Fithian*, 4 Zab. 838.

and to summon in the manner directed by law, a sufficient number of petit jurors to serve at such court, unless the indictment or indictments to be tried at such special court is or are to be tried by a foreign jury or juries; and all process of venire and subpoena made returnable thereat, shall be as good and effectual as if the same were made returnable to a stated term of said court.

Jurors to be summoned.

23. SEC. 7. That in cases arising under the last preceding section, foreign juries shall be obtained and special circuit courts held upon such terms, and subject to such rules and regulations as the supreme court shall from time to time order and direct.

Mode of obtaining such foreign juries.

24. SEC. 8. The state shall be divided into seven judicial districts; the first district shall include the counties of Cape May, Cumberland, Salem and Atlantic; the second, the counties of Gloucester, Camden and Burlington; the third, the counties of Mercer, Hunterdon and Warren; the fourth, the counties of Ocean, Monmouth and Middlesex; the fifth, the counties of Morris, Sussex and Somerset; the sixth, the counties of Passaic, Bergen and Hudson; the seventh, the counties of Essex and Union. (See Sec. 45).

Districts created.
P. L. 1855, p. 17.

25. SEC. 9. The circuit court in each of the counties of the several districts shall be held by the justice to whom such district has been or shall hereafter be assigned by the justices of the supreme court; *provided*, that if from sickness or any other cause he shall be prevented from holding any of said courts in his district, the same may be held by any other of said justices; *and provided further*, that a new assignment may be made whenever the business of the courts may render it necessary.

Appointment of justices to them.
Ib.

26. SEC. 10. The justices of the supreme court be and they are hereby authorized to appoint two suitable persons as sergeants-at-arms and criers of said courts, to hold their offices during the pleasure of said court, whose duty it shall be to attend said court during the several terms thereof, for which service they shall severally receive three dollars per day, for each day they shall be in actual attendance upon said court, to be paid by the treasurer, on the certificate of the chief justice or any other of the justices of said court.

Appointment of sergeants-at-arms and criers.
P. L. 1850, p. 50.
" 1871, p. 111.

27. SEC. 11. The chief justice, with the assent of two of the associate justices, whenever in their opinion the ends of justice and the public interest require it, may, at any time, in vacation, order the supreme court to be convoked and held, upon a notice of the time fixed for the meeting of the court, served not less than two days prior thereto, on each member of the court.

Supreme court may be convoked in vacation.
Revision.

II. Circuit courts.

R. S. 196, 200.
P. L. 1853, p. 285.
" 1855, p. 17.
" 1865, p. 409.
By whom held.
R. S. 200.

28. SEC. 12. The circuit courts in and for the several counties of this state, shall be held by one or more of the justices of the supreme court, at the times and places prescribed by law.

29. SEC. 13. The justices of the supreme court shall be judges of said circuit courts, and all writs and process issuing out of said circuit courts shall be tested in the name of one of the judges of said court, and be returnable therein; and the judgments entered in such circuit courts shall have the same force and effect, when properly entered and recorded, as the judgments of the courts of common pleas of the respective counties.

Teste and return of process.
Ib.

30. SEC. 14. The said circuit courts, in all personal actions and causes originally commenced therein, shall be regulated and governed in their proceedings by the same laws as the courts of common pleas now are; and in all real and mixed actions originally commenced, or personal actions removed therein, shall be regulated and governed in their proceedings, as near as may be, by the same laws as the supreme court now is.

Regulated, by what laws.
Ib.

31. SEC. 15. That the sheriffs, coroners, elisors and constables of the several counties in this state, for the time being, shall be the ministerial officers of said circuit courts held within their respective counties, and shall execute all writs, precepts and process issuing out of said courts, and to them directed and delivered, and make true returns thereof, according to the command in the same.

Ministerial officers and their duty.
Ib.

32. SEC. 16. That the clerks of the several courts of common pleas shall be the clerks of said circuit courts in their respective counties, be entitled

Of the clerks of said courts.
Ib.

to the same fees and subject to the same pains and penalties as are by law prescribed in relation to the clerks of the courts of common pleas, except in real or mixed actions, and personal actions removed into said circuit courts, by *certiorari*; in which the said clerks shall perform the same duties and be entitled to the same fees as are by law prescribed and allowed to the clerk of the supreme court.

When justice prevented from attending, clerk to open and adjourn court.

R. S. 196.

Amended.

33. SEC. 17. If any justice of the supreme court, by whom any circuit court or court of oyer and terminer and general jail delivery is to be held, shall be prevented from attending on the day and at the place, when and where any such court is to be commenced and held, or on any day in the term, no process returnable to, nor any recognizance entered into for the appearance of any person at such courts respectively, nor any indictment, suit or other proceeding depending therein, shall be thereby abated, discontinued or avoided, but the same shall remain and be in full force, as if such justice had opened and attended such courts; and it shall be the duty of the clerk of the said courts to cause the same to be opened by proclamation, in the usual form; and in case one of the justices of the supreme court shall not attend during the day, then the clerk shall in like manner adjourn the said courts to the next day, and so from day to day, until one of the said justices shall be present, or until such courts shall be adjourned for the term, as hereinafter is directed; which proceedings shall be regularly entered by the clerk in the minutes of the said courts.

Judges of pleas may adjourn court.

P. L. 1865, p. 469.

Amended.

34. SEC. 18. If the justice of the supreme court by whom any circuit court, or court of oyer and terminer, and general jail delivery, is to be held, shall be prevented from attending on the day and at the place when the court of common pleas then and there held may order the clerk, instead of proceeding as is required by the preceding section, to adjourn said circuit court, and court of oyer and terminer, and general jail delivery, by proclamation, to any subsequent day that shall be requested by any justice of the supreme court in writing or otherwise, and to enter said adjournment in the minutes of said circuit court, and court of oyer and terminer and general jail delivery; and all suits, indictments, processes, orders, rules, recognizances, returns of jurors and other proceedings pending in such courts shall be continued to the time to which such adjournment shall be made, without prejudice to any parties therein, and may then be proceeded in according to law in the same manner as if such courts had been regularly adjourned from day to day.

In what cases clerks may adjourn court for term.

R. S. 196.

Amended.

35. SEC. 19. If no justice of the supreme court shall attend before twelve o'clock on the third day of the term as fixed by law, or at the time to which the court may have been adjourned, then the clerk of the said court of oyer and terminer, and general jail delivery, and circuit court, shall cause the same, by proclamation in the usual manner, to be adjourned to meet according to law; and in such case all suits, actions, indictments, rules and other proceedings pending in the said courts respectively, except such as may be tried in the court of general quarter sessions of the peace, shall be continued and stand over to the next ensuing term of the said courts without prejudice to any of the parties.

Courts may adjourn over from one day to another in term.
Ib.

36. SEC. 20. The circuit courts, or court of oyer and terminer, and general jail delivery, when sitting in and for any county in this state may be adjourned over from any one day in term to any subsequent day in the same term whenever the public convenience and that of the members of the court may require or justify such adjournment; and in case of such adjournment, all suits, indictments, processes, orders, rules, recognizances, and other proceedings pending in such courts shall be continued to the time to which said adjournment shall be made, without prejudice to any of the parties therein, and may then be proceeded in according to law, in the same manner as might have been done if such court or courts had been adjourned from day to day.

One justice may take place of another in holding court.

37. SEC. 21. In case the justice of the supreme court holding any circuit court, or court of oyer and terminer, and general jail delivery, shall be prevented from continuing to preside at such court until the business thereof shall be finished, then it shall and may be lawful for any other

justice of the supreme court to take his place and to proceed with the business of the said courts, in the same manner as he might have done if he had been present and presiding at the commencement of the term.

38. SEC. 22. If at any time during the session of any circuit court or court of oyer and terminer, and general jail delivery, the justice of the supreme court holding and presiding at such court or courts, shall be prevented from continuing to hold such court or courts, and no other justice of the supreme court shall be at hand to proceed with the business pending in such court or courts, it shall be the duty of the clerk of such court or courts to enter an adjournment for the term, or to any subsequent day in the same term; and all suits, indictments and proceedings remaining undisposed of, in such court or courts, shall be continued and stand over to be tried and disposed of at the next succeeding term of such court or courts, or at the time to which said adjournment shall be made, without prejudice, except such indictments as may be triable in the court of quarter sessions of the peace, and which that court may thereupon proceed to try, if they think proper so to do, in the same manner as they might have done if a rule had been ordered by the court of oyer and terminer and general jail delivery, that the same should be handed down to the court of quarter sessions.

To be adjourned for term if justice cannot attend.
Ib.

39. SEC. 23. The chief justice or any justice of the supreme court who shall hold any circuit court, or court of oyer and terminer and general jail delivery in a county, whenever in his opinion the ends of justice and the public interest require it, may in term time of the courts in said county, order a special term of said courts, or of either of them, to be held therein for the trial of any causes or indictments then triable and remaining untried, which may require to be tried in either of said courts, before the next regular term thereof; and all suits, indictments, processes, orders, rules, recognizances and other proceedings, pending in any of such courts, shall be continued over to such special term, without prejudice to any of the parties therein, and may then be proceeded in according to law.

Special term of circuit or oyer and terminer, &c., may be held.
P. L. 1853, p. 285.

40. SEC. 24. The petit jurors summoned to attend at the regular term of such courts shall attend and serve at the special courts; and notice of such special term shall be published in one or more of the newspapers printed and circulated in the county, at least once a week, from the date of the order to the opening of the special term; and in case no newspaper be printed in the county, that then the said notice shall be published as aforesaid, in one or more newspapers printed in an adjoining county or counties, as the court shall direct.

Jurors to attend.
Ib.
Notice given.

41. SEC. 25. The sheriff or other officer of the county in which the said circuit court is to be held, shall make return to the said court of all writs and juries, with the panels and other matters relative to the same, legally arrayed and executed.

Writs to be returned.
R. S. 196.

42. SEC. 26. The justices of the supreme court shall be ex-officio judges of the inferior court of common pleas, and orphans' court, and court of general quarter sessions of the peace, of the several counties; and the justice holding the circuit court in any county, shall be the president judge of the court of common pleas, and court of general quarter sessions of the peace, and orphans' court of said county. (a)

Justices ex-officio judges of pleas, orphans' court and quarter sessions.
P. L. 1855, p. 17.

43. SEC. 27. The justices of the supreme court shall and may adopt and settle uniform rules of practice in all matters not regulated by law for the government of said circuit courts, and the same from time to time, alter, repeal and modify as occasion may require; *provided*, such rules are not contrary to the provisions of this act, the laws and constitution of this state, or of the United States.

Justices may adopt rules of practice.
R. S. 200.

Supplement.

Approved April 6, 1875.

P. L. 1875, p. 54.

44. SEC. 1. That the supreme court shall consist of a chief justice and eight associate justices.

Constitution of supreme court.

45. SEC. 2. That there shall be created two additional judicial districts to be known as the eighth and ninth judicial districts; that the fourth judicial district shall be composed of the counties of Middlesex and Mon-

Additional judicial districts.

(a) Employment of stenographer, see PRACTICE OF LAW, § 250.

mouth; the sixth judicial district shall be composed of the counties of Bergen and Passaic; the seventh judicial district shall be composed of the county of Essex; the eighth judicial district shall be composed of the county of Hudson; and the ninth judicial district shall be composed of the counties of Union and Ocean.

Times of holding terms of courts mentioned. 46. SEC. 3. That after the fourth day of July next, the regular terms of the respective courts mentioned in the act to which this is a supplement, shall be held at the times following, and not otherwise. [See *Sec. 62* for terms of courts].

Proceedings to conform thereto. 47. SEC. 4. That all proceedings in the said several courts shall commence and be continued in conformity to the terms and times hereby established.

Assignment of justices. 48. SEC. 5. That the justices of the supreme court shall assign one of their number to hold the courts in each of the districts embraced in this act.

Rev. 179, 574, 776,
789.

An act respecting the prerogative court, and the power and authority of the ordinary.

Approved April 16, 1846.

Harr. 297.

R. S. 203.

Authority of the ordinary.

49. SEC. 1. That the authority of the ordinary shall extend only to the granting of probates of wills, letters of administration, letters of guardianship, and to the hearing and finally determining of all disputes that may arise thereon.(a)

Proof required before probate granted.

50. SEC. 2. That probate of any will shall not be granted by the ordinary, until proof be made to his satisfaction that no caveat against proving such will hath been filed in the office of the surrogate of the county where the testator resided at the time of his death, or that notice hath been given to all persons concerned of the application to the ordinary for such probate.

Court, when to be held.

51. SEC. 3. That for the hearing and determination of all causes cognizable before the ordinary, he shall hold a prerogative court at each stated term of the court of chancery, and at such other times and at such place or places as he shall from time to time appoint, when he shall hear and finally determine all causes that shall come before him, either directly or by appeal, from any surrogate or from the orphans' court of any county.(b)

Register's duty.

52. SEC. 4. That the register of the prerogative court shall attend the sitting of the court at the stated terms, to register the decrees and proceedings of the court.

When justices called to advise.

53. SEC. 5. That it shall and may be lawful for the ordinary, in any case in which he may be interested, or may have been concerned for either party, or may have given an opinion as attorney, solicitor, or counsel for either party, or in any other case in which he may deem it expedient, to call to his assistance one or more of the justices of the supreme court, to sit and advise with him on the hearing or argument of such case, or of any motion touching the same, and by and with the advice of such justice or justices to make and pronounce such order, sentence or decree as shall be according to law, and the rules and practice of the prerogative court.

Justice's fees in such case.

54. SEC. 6. That the justice or justices so sitting with the ordinary in the prerogative court, shall be entitled to receive the same compensation as is allowed by law for sitting with the chancellor in the court of chancery.

How payment of costs compelled.

55. SEC. 7. That the payment of costs when awarded by the prerogative court, may be compelled in the same manner as the court of chancery is authorized to compel payment thereof.

(a) Original jurisdiction of ordinary in matters of probate of wills and granting letters of administration, *Abraham Courson's Will* 3 Gr. Ch. 408. *Will of Isaac Lawrence*, 3 Hal. Ch. 215. *Chambers v. Sunderland*, Hal. Dig. 216, § 1. The ordinary has no jurisdiction where the title of lands comes in question, *Haring v. Van Buskirk*, 4 Hal. Ch. 545, 548; nor in matrimonial causes, *McClurg v. Terry*, 6 C. E. Gr. 228, per *Zabriskie, C.* The proper proceeding is by petition, *Webster's Case*, 3 Gr. Ch. 558. *Green's Case*, 4 Hal. Ch. 550. See *Trimmer v. Adams*, 3 C. E. Gr. 505.

(b) Appeal lies to orphans' court in matters as to granting letters of guardianship, *Read v. Drake*, 1 Gr. Ch. 78. *Matter of Clement*, 10 C. E. Gr. 508. But see *Tenbrook v. McCole*, 5 Hal. 333; or in regard to a guardian's account, *Runkle v. Gale*, 3 Hal. Ch. 101; or, granting probate of a will, *Courson's Will*, 3 Gr. Ch. 408. *Perrine v. Applegate*, 1 McCart. 531; or, on a decree revoking letters of administration, *Delany v. Noble*, 2 Gr. Ch. 559. *Quidort v. Pergeaux*, 3 C. E. Gr. 472. See

Morris v. Morris, 1 Harr. 526; or, from an order fixing the amount of an executor's commissions, *Anderson v. Berry*, 2 McCart. 232; or, from a decree refusing to confirm and setting aside a sale, *Conover v. Walling*, 2 McCart. 167; or, from an order and proceedings in partition, *Diamant v. Love*, 2 Vr. 220; or, the appointment of a trustee, *Brush v. Young*, 4 Dutch. 237. Who may appeal, *Rorback v. Van Blarcom*, 5 C. E. Gr. 461. *Swaackhamer v. Kline*, 10 C. E. Gr. 503. *Raleigh v. Rogers*, 10 C. E. Gr. 506. When the appeal must be taken, *Clark v. Haines*, 3 Gr. Ch. 136. *Hillyer v. Schenck*, 2 McCart. 399. How evidence is taken, *Read v. Drake*, 1 Gr. Ch. 78. *Reeve v. Townsend*, 4 Hal. Ch. 81. *Sayre v. Sayre*, 1 C. E. Gr. 505. After a decision the case may be continued in the prerogative court, if further proceedings are necessary, *Runkle v. Gale*, 3 Hal. Ch. 101. *Trimmer v. Adams*, 3 C. E. Gr. 505. *Osborn v. Rogers*, 4 C. E. Gr. 429. For costs, see CHANCERY, 124 note(a), and *Perrine v. Applegate*, 1 McCart. 532.

56. SEC. 8. That if any person shall neglect or refuse to obey any citation, or to perform any sentence or decree of the ordinary or judge of the prerogative court, it shall and may be lawful to and for such ordinary and such court to cause such person or persons, by process directed to any sheriff of any county of this state, to be taken and imprisoned until he shall obey the said citation, or perform the said sentence or decree; and every sheriff is hereby directed to cause all such process, to him at any time directed, to be duly executed, and to confine the person against whom such process shall be issued, as in execution, until he shall be delivered by due course of law; and if any sheriff shall neglect his duty therein, he shall be answerable to the party aggrieved in such manner as he would be answerable upon process of the like nature issuing out of the supreme court.

Power to issue compulsory process.

Liability of sheriff.

57. SEC. 9. That the transcript of any will or testament registered or recorded in the prerogative office, duly certified by the register of the said office to be a true transcript, shall be received in evidence in any court of this state, and shall be as good and effectual in law as if the books in which the same are registered or recorded were then and there produced and proved.

Transcript of will, evidence.

Supplement.

Approved February 17, 1869. P. L. 1869, p. 84.

58. SEC. 1. That all persons aggrieved by any order or decree of the prerogative court, may appeal from the same, or any part thereof, to the court of errors and appeals in the last resort in all causes, which appeal shall be taken within the same time and prosecuted in the same manner in all respects as now provided by law for appeals from the court of chancery.(a)

Appeal from prerogative court to court of appeals.

Court of common pleas.

59. That after the fourth day of July next [1855], there shall be no more than three judges of the inferior court of common pleas in each county, exclusive of the justice of the supreme court; and any two of the said judges may hold the orphans' court and court of general quarter sessions of the peace;(1) *provided*, that the judges of said court that may be in office on the first day of April next shall continue until their terms of office shall expire.

Number of judges of the court of common pleas.

P. L. 1855, p. 17. sec. 5.

60. That it shall be lawful for the court of common pleas, the court of general quarter sessions of the peace, and the orphans' court in and for the several counties of this state, to adjourn over for any day in term to any subsequent day in the same term, whenever the convenience of the public and of the said courts respectively, shall require such adjournment; and in case of such adjournment, all suits, indictments, process, orders, rules, recognizances and other proceedings pending in such court, shall be continued to the time to which such adjournment shall be made, without prejudice to any of the parties therein, and may then be proceeded in according to law, in the same manner as if such court had been adjourned from day to day.

Power of court of common pleas, etc., to adjourn over to subsequent day in term.

R. S. 253, sec. 6.

61. That the court of common pleas for the several counties of this state, are hereby authorized, at their stated terms, to order and appoint special terms of the said court, to be holden at such time in the vacation between the stated terms of said court, as they in their discretion shall think fit; and, at such special terms, to hear, try and determine all appeals from the courts for the trial of small causes depending in said court, in which no jury shall be demanded or required; and also at such special term, to hear and determine all such arguments upon matters of law, arising in causes depending in said court, as shall by the consent of parties, be set down for hearing at such special term; *provided always*, that at such special term, the hearing of appeals shall have preference of argument upon matters of law.(b)

Pleas may appoint special terms, try appeals, etc.

Ib., sec. 7.

(a) This section is not unconstitutional, *Harris v. Vanderveer*, 6 C. E. Gr. 424.

(b) For original ordinance creating common pleas, see 1 *Hal. Appendix*, p. 2. The common pleas has a common law jurisdiction, and its judgments cannot be questioned collaterally, *Diehl v. Page*, 2 Gr. Ch. 143. *Den, Vanderveer*

v. Gaston, 4 Zab. 818. *Young v. Rathbone*, 1 C. E. Gr. 224. *Hendrickson v. Norcross*, 4 C. E. Gr. 417. See *Den v. Zellers*, 2 Hal. 153. But they cannot discharge from jail a prisoner confined under the process of another court. *Stryker v. Rea*, 6 Hal. 319. See *English v. Bonham*, 3 Gr. 431. Matters resting in discretion, or on its rules and practice, cannot be review-

(1) See CRIMINAL PROCEDURE, title Courts, and notes.

R. S. 253.
 P. L. 1850, p. 13.
 " 1855, p. 17.
 " 1857, p. 244.
 " 1865, p. 750.
 " 1866, p. 303,
 701.
 " 1867, p. 960.
 " 1868, p. 938.
 " 1875, p. 54.
 Courts, where
 and when held.
 P. L. 1857, p. 17.
 Bergen.
 P. L. 1875, p. 54.
 Hudson.
 P. L. 1875, p. 54.
 Essex.
 P. L. 1875, p. 54.
 Monmouth.
 P. L. 1875, p. 54.
 Somerset.
 P. L. 1865, p. 750.
 Middlesex.
 P. L. 1875, p. 54.
 Warren.
 P. L. 1868, p. 938.
 Sussex.
 P. L. 1855, p. 17.
 Morris.
 P. L. 1855, p. 17.
 Passaic.
 P. L. 1875, p. 54.
 Hunterdon.
 P. L. 1866, p. 303.
 Mercer.
 P. L. 1868, p. 938.
 Burlington.
 P. L. 1855, p. 17.
 Camden.
 P. L. 1855, p. 17.
 Cumberland.
 P. L. 1866, p. 701.
 Salem.
 P. L. 1866, p. 701.
 Gloucester.
 P. L. 1855, p. 17.
 Atlantic.
 P. L. 1855, p. 17.
 Cape May.
 P. L. 1867, p. 960.
 Ocean.
 P. L. 1850, p. 73.
 P. L. 1875, p. 54.

An act to ascertain the times and places of holding certain courts.

Approved April 18, 1846.

62. SEC. 1. That the circuit courts, the court of oyer and terminer and general jail delivery, the court of common pleas, the court of general quarter sessions of the peace, and the orphans' court, shall hold annually [three] stated terms, at the times and places following, and not otherwise, that is to say: (1)

1. In the county of Bergen, at New Barbadoes, on the first Tuesday of April, September and December, respectively.

2. In the county of Hudson, at Jersey City, on the first Tuesday of April, September and December, respectively.

3. In the county of Essex, at Newark, on the first Tuesday of April, September and December, respectively.

4. In the county of Monmouth, at Freehold, on the first Tuesday of May, October and January, respectively.

5. In the county of Somerset, at Bridgewater, on the third Tuesday in April, September and December, respectively.

6. In the county of Middlesex, at New Brunswick, on the first Tuesday of April, September and December, respectively.

7. In the county of Warren, at Belvidere, on the fourth Tuesday in April, third Tuesday in September, and the first Tuesday after the fourth Tuesday in December, in each and every year.

8. In the county of Sussex, at Newton, on the first Tuesday of April, September and December, respectively.

9. In the county of Morris, at Morristown, on the first Tuesday of May and October, and the third Tuesday of January, respectively.

10. In the county of Passaic, at Paterson, on the fourth Tuesday of April and September, and the third Tuesday of December, respectively.

11. In the county of Hunterdon, at Flemington, on the second Tuesday in April, and the first Tuesday in September and December in each and every year.

12. In the county of Mercer, at Trenton, on the third Tuesday in January, the second Tuesday in May, and the first Tuesday in October in each and every year.

13. In the county of Burlington, at Mount Holly, on the third Tuesday of April, September and December, respectively.

14. In the county of Camden, at Camden, on the first Tuesday of May, October, and the second Tuesday of January, respectively.

15. In the county of Cumberland, at Bridgeton, on the first Tuesday in the months of October, January and May, respectively.

16. In the county of Salem, at Salem, on the third Tuesday in the months of October, January and May, respectively.

17. In the county of Gloucester, at Woodbury, on the first Tuesday of April, September and December, respectively.

18. In the county of Atlantic, at Mays Landing, on the second Tuesday of April, September and December, respectively.

19. In the county of Cape May, at Cape May Court House, on the fourth Tuesdays of September and April, and the third Tuesday in December, respectively.

20. In the county of Ocean, at Toms River, on the first Tuesday of May, October and January, respectively.

ed on certiorari, *State, Newell v. Bassett*, 4 Vr. 26; but they cannot by adopting rules alter the laws, *Hinchly v. Machine*, 3 Gr. 476. *Ten Eyck v. Furlee*, 1 Harr. 348; nor on the trial of an appeal can they seal a bill of exceptions, *Clark v. Fulse*, Pen. *263. *Moore v. Hamilton*, 4 Zab. 532. *Roston v.*

Morris, 1 Dutch. 173. Whether they can do so in an insolvent case, see *Davis v. Hendrickson*, 3 Gr. 481. *Van Waggoner v. Coe*, 1 Dutch. 197; they may send up a state of the case, *Curtis v. Hall*, 1 South. *361(a).

(1) Although many changes have been made in the times of holding courts since the passage of this act of 1846, and two new counties (Ocean and Union) erected, yet it is deemed best to publish so much of the first section as regulates the places of holding courts in the several counties, (which are not provided for in any supplement or later act), and to add to the text the changes in the times, the changes in the places of holding the same, and also the places and times of holding courts in the counties of Ocean and Union, making the proper references on the margin.

21. In the county of Union on the first Tuesday of April, September and December, respectively.

Union.
P. L. 1857, p. 244.
P. L. 1865, p. 54.

63. SEC. 2. That all writs, process, recognizances and other proceedings of the said several courts, shall be made returnable at and in conformity to the terms and times hereby established.

Writs, etc., returnable.

64. SEC. 3. That the said several courts may, respectively, be held and continued for so long time, at each session, as the business thereof shall render necessary.

Courts, how long held.

[For remaining sections see "Courts of Common Pleas"].

[For courts of Oyer and Terminer and General Quarter Sessions, see Criminal Procedure, *title* COURTS].

An act to authorize the United States to hold its courts in the state house.

R. S. 255.

Passed November 22, 1824.

United States Courts may be held in state house.

65. SEC. 1. That it shall and may be lawful for the United States to hold its courts in that part of the state house, which is appropriated to the supreme court; *provided*, that the sessions of the said courts, shall not interfere with the regular terms of the said supreme court, as established by the laws of this state.

Supplement.

Approved March 9, 1848.

P. L. 1848, p. 220.

66. SEC. 1. That from and after the passing of this act, it shall be lawful for the United States to hold its courts in any room of the state house, which may at the time be unoccupied, whenever the room appropriated to the supreme court of the state shall be occupied by the said supreme court.

To be held in any room unoccupied, etc.

67. SEC. 2. That any and all sums of money which shall be received by this state from the United States, as compensation for the use of the state house, as granted in the act to which this is a supplement, and in this act, shall be appropriated as follows: one hundred dollars annually to the New Jersey law library association, for the increase of its library; (1) *provided*, the said law library be accessible to the members of the legislature during future sessions, so long as said appropriation continues, and the residue for the increase of the state library.

Moneys received for use of rooms, how appropriated.

Proviso.

Supplement.

Approved March 5, 1858.

P. L. 1858, p. 217.

68. SEC. 1. That the secretary of state and state treasurer are authorized to agree with the United States or any duly authorized person, upon the terms and conditions upon which it shall be lawful for the United States to hold courts in the state house.

Terms, &c., with United States, by whom made.

(1) See supplement to act to regulate the state library, P. L. 1855, p. 498, authorizing the state librarian to take charge of the library of the law association.

Cranberries.

1. Penalty for gathering on unlocated lands.
2. Or on lands not their own.

3. Penalty for unlawful taking.
4. Removing vines unlawfully.

An act for the preservation of cranberries.

Approved April 10, 1846. R. S. 780.

1. If any person or persons shall take or gather from the vines, at any time after the first day of June, and before the fifth day of October, cranberries on the common or unlocated lands within this state, or on any lands not their own property, or for which they pay no tax, such person or persons shall forfeit and pay, for every such offence, the sum of six dollars, and also the further sum of four dollars for each and every bushel so taken or gathered, within the times aforesaid, to be sued for and recovered by action of debt, in any court where the same may be cognizable, with costs of suit, to be applied, one-half, if on the common or unlocated

Penalty for gathering on unlocated lands.