

SUPREME COURT HISTORICAL SOCIETY

MINUTES

February 6, 2007

President Wes Horton called the meeting to order at 2:05 PM. Board members and committee chairs present included Chuck Howard, Tom Groark, Greg D'Auria, Barbara Heck, John Farley, Michael Shea, and Justice Zarella (ex officio). Dan Rogers was also present.

Mr. Howard moved the approval of the minutes of the Board of Directors meeting of December 5, 2006. The minutes were unanimously approved.

Mr. Groark reported that the Society has approximately \$13,570 in its bank account, after payment of the publisher's bill for the first edition of the Connecticut Supreme Court History and the advertisements in the Connecticut Law Tribune. He also reported that we have received \$1100 for dues renewals, representing 22 people. A subsequent discussion revealed that the dues renewals were enclosed with the mailing of the journal, but that since the journal had been mailed third class mail, many members probably had not yet received it or the renewal notice. Mr. Howard moved that a letter from Mr. Horton be sent to members after it is likely that they have received the journal, reminding them to renew their membership. Mr. Groark seconded the motion, and it carried unanimously.

Mr. Rogers was recognized to address the board on behalf of a planning committee for a conference, "The Connecticut Constitution of 1818 and Beyond," scheduled for November 3, 2007 sponsored by the Association for the Study of Connecticut History. A report on the conference is attached. Mr. Horton advised Mr. Rogers that the Connecticut Bar Journal had published the annotated minutes of the 1818 Constitutional Convention in the January 1991 issue. He also suggested that Mr. Rogers contact Mr. Besso concerning papers that may be presented at the conference, and he agreed to give opening remarks at the conference. On a motion made by Mr. Howard and seconded by Mr. Groark, the board agreed to co-sponsor the conference and authorized Mr. Horton or Mr. Collier to sign a grant application for the conference to the Connecticut Humanities Council on behalf of the Society as a co-sponsor.

Mr. Besso was unable to be present, but his report is attached. Mr. Horton described the work of the Publications Committee in producing the first edition of the Connecticut Supreme Court History as "outstanding" and "terrific." Mr. Howard moved, and Mr. D'Auria seconded, a motion to express the board's appreciation for the great work of the committee. The motion carried unanimously. In response to a question over whether the full publication bill had been paid, Mr. Groark indicated that

he would make sure that the bill was fully paid. On the question of what to do with the extra copies of the journal, Mr. Farley indicated that he would like to have some to send to the managing partners of firms that contributed and to those at firms that have not yet contributed. Mr. Shea requested copies to send to our Annual Dinner speaker last year (Professor Amar) and our speaker this year, Seth Waxman. Mr. Howard suggested that a copy be signed by the Society's board members and committee chairs for archival purposes. Those present signed a copy with the expectation that the remaining signatures would be obtained at the next board meeting. After all signatures are obtained, it will be added to the archives of the Society. Ms. Heck requested approximately twenty copies for archival purposes.

The board discussed what parts of the journal, if any, to post on the website. It was agreed that Mr. D'Auria discuss with Mr. Besso what was appropriate for inclusion on the website, with the understanding that it would be limited to such matters as introductory comments and the index and not include the full text of the articles.

Mr. D'Auria reported that he, Jon Weiner and Mike Taylor had had discussions of how to enhance the content of the material on the website. They have agreed to devote a page to each of the Society's committees and have requested the committee chairs to report on their committee's meetings. The board agreed that Mr. D'Auria would have editorial control over what is posted. At the suggestion of Mr. Rogers, Mr. D'Auria agreed to post the call for papers for the November conference. Mr. Shea suggested that the website include information on each of the Court's Chief Justices or have a reference to other sources of information on them.

Mr. D'Auria also reported that he had been in discussions with Todd Brewster, who had received a legislative appropriation for programs on the U.S. Constitution from the General Assembly. There may be a possibility for co-sponsoring an event, play or a debate, but more information will be reported after further discussions.

Mr. Horton reported on a request from Mr. Besso that the Publications Committee's name be changed to Board of Editors. On a motion made by Mr. Howard and seconded by Mr. D'Auria, the board agreed to authorize the committee to refer to themselves in the journal as the Board of Editors, but that they would remain the Publications Committee of the board.

Mr. Horton presented Justice Zarella with Chief Justice Maltbie's Charge Book for the Society's archives.

Mr. Farley reported on the Membership Committee's activities. This includes trying to get more information on former Supreme Court Clerks and getting more of them to join. Likewise, he will be contacting lawyers who describe themselves as appellate practitioners. Now that the journal has been printed, he will be following up with membership renewal efforts. Mr. Howard suggested that contacting firms to

purchase tables for the Annual Dinner, with the expectation that it would include a membership or two, might be an idea his committee could explore. Mr. Farley said that his committee is still looking for ways to bring in more non-lawyer members. Mr. Farley will prepare a letter for Mr. Horton's signature to go to the law firms and Mr. Shea will supply him with information about Mr. Waxman to include in the letter.

Mr. Shea reported on plans for the Annual Dinner. Arrangements have been made with the New Haven Lawn Club for the dinner on May 10, and depending on the turnout, either of two large rooms is available. His committee will place two ads in the Connecticut Law Tribune. After discussion, it was agreed that invitations will be sent by email, if available, by April 1. Mr. Zarella will contact CTN or will make arrangements for the videotaping of the presentation. Mr. Shea will also contact reporters for The Hartford Courant and the Connecticut Law Tribune. Notices will be sent to all law school deans and announced at the Connecticut Appellate Institute.

Ms. Heck reminded all board members and committee chairs of her earlier email looking for archival material for preservation.

Mr. Horton appointed Mr. D'Auria and Mr. Collier to be a nominating committee for the board member positions currently held by Mr. Howard and Mr. Groark.

Mr. Horton reported that the 200th anniversary of the Connecticut Supreme Court is June, 2008. See the attached copies of a page from the Supreme Court Reports, showing the membership of the court in June, 1807, and the Public Acts of 1808. Mr. Horton volunteered to find out when in June, 1808 the term began so that the Program Committee can begin to think about what would be a proper celebration. Mr. Horton also reported that he had entered into a contract with West Publishing to publish a book within the next year on the history of the Connecticut Supreme Court.

The next meeting of the board was set for 5:00 at the New Haven Lawn Club on May 10, 2007 (prior to the Annual Dinner).

There being no further business, the meeting was adjourned at 5:00 PM.

Respectfully submitted,

Charles L. Howard,
Secretary

REPORT ON NOVEMBER 3RD CONFERENCE

By Donald W. Rogers

(February 6, 2007)

1. The Association for the Study of Connecticut History (ASCH) will hold its annual 2007 fall convention on "**The Connecticut Constitution of 1818 and Beyond**" at the University of Connecticut School of Law on **Saturday, November 3, 2007**, with co-sponsorship by the Connecticut Supreme Court Historical Society and the law school.
2. It is my understanding that CSCHS has volunteered \$500 to contribute to the costs.
3. A planning committee (including me) met on January 10, 2007. It was reported that ASCH President Allen Ward is already making local arrangements with the law school.
4. The conference will revolve around edited works soon to be published by Douglas Arnold and Richard Buel on events surrounding the adoption of the 1818 Constitution. The conference agenda will likely include:
 - a. An opening welcome and plenary session featuring Arnold's and Buel's work.
 - b. Paper sessions throughout the rest of the morning and afternoon on the 1818 Constitution and other facets of Connecticut legal and constitutional history. (Panels will consist of a chair/introducer and two papers for ninety minutes, including audience participation.)
 - c. Possibly a lunch-time speaker (an issue still being batted around).
5. The collaborators expect an audience of 150-200+ consisting of teaching faculty, researchers, archivists, museum curators, and members of the legal community.
6. Registration will likely cost in the \$30-\$35 range with discounts for students.
7. The planning committee asked assistant to the State Historian (Walter Woodward) Kathleen Foley to broadcast the **call for papers**. (Attached.) To date, she has circulated it to at least eighteen Internet listservs, plus law schools, political science faculties, the New England Historical Association and others. ASCH will also circulate it among its own mailing list of about 1,500.
8. **The planning committee needs from CSCHS:**
 - a. Names of contacts to circulate the call for papers among the Connecticut legal

CALL FOR PAPERS

THE CONSTITUTION OF 1818 AND BEYOND

SATURDAY, NOVEMBER 3, 2007

The Association for the Study of Connecticut History (ASCH), the Connecticut Supreme Court Historical Society, and the University of Connecticut Law School are holding a one-day conference on Connecticut constitutional history to focus both on the State's first modern constitution of 1818 and on constitutional and legal history from the seventeenth to the twentieth centuries. The meeting will feature concurrent sessions by speakers from different backgrounds on a variety of subjects.

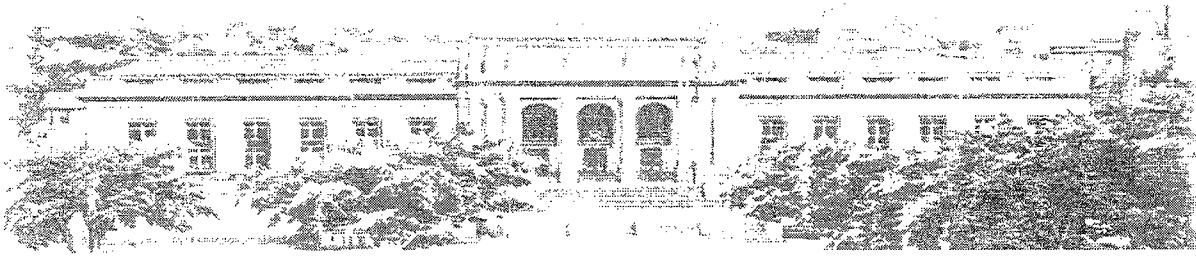
In 2007, significant works edited by Douglas Arnold and Richard Buel, Jr. on the debates concerning and events surrounding Connecticut's 1818 Constitution are being published. These books form the centerpiece for discussion of the significance of the 1818 Constitution in the constitutional history of Connecticut and constitutional and legal issues relating to this document and not anticipated by it.

Researchers are invited to submit proposals addressing specific aspects Connecticut's constitutional and legal history from the time of the Fundamental Orders and Charter of 1662 to the Constitution of 1965, including but not limited to issues like government under the Fundamental Orders and Charter, the reasons for a new constitution in 1818, disestablishment, amendments to the Constitution of 1818, the work of the Connecticut Supreme Court and other courts, voting rights and representation, and the social impact of constitutional and legal developments in 19th and 20th century Connecticut.

Those interested in participating should submit a title for the paper, an abstract of its contents, and a short c.v. to Bruce P. Stark, Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106 or e-mailed (in MSWord format) to: bstark@cslib.org

Application deadline is May 15, 2007.

Connecticut Supreme Court Historical Society



To: CSCHS Board of Directors
From: Michael Besso
Subject: Report from Board of Editors
Date: February 5, 2007

On behalf of the Board of Editors, I am happy to report the obvious: the 2006 volume of *Connecticut Supreme Court History* is now printed and available. The Board of Editors' target for distribution was mid-November, but for a variety of reasons -- outlined in my January 18, 2007, e-mail to Wes Horton and to the Board of Editors -- we missed the date by a couple of months.

I should first express to the Board of Directors the great appreciation I have for the Associate Editors who all worked together with me to ensure the production of the issue: Wylan Ackerman, Cynthia Barlow, Judge Tom Bishop, Ben Buckley, Vicky Canevari, Sheila Huddleston, Don Rogers, Joe Scully, and Colin Tait. I must add that, from this group, particularly notable -- and vitally essential -- contributions came from Vicky Canevari, Sheila Huddleston, Don Rogers, and Joe Scully.

I do not yet have a bill from Western Publishing, but I understand that it was sent to the Society care of Wes Horton's firm. The bill is in the \$2000+ range, I believe. This would be higher than our original estimate, but we did approve "add ons," such as the cover finish, the printing and bundling of the renewal notice, and some other items. I should review the invoice before the Society approves any payment.

The order was for 300 copies. Western Publishing mailed 120 copies to members directly; this mailing went third class (which is standard, rather than first class, as I had thought), but I hope that, by now, all members have received the issue. Western Publishing shipped the balance of the 300 to the Society. Of this balance, I have about 60 copies, of which I intend to distribute two copies each to named contributors to the issue (Urofsky; Peters; Collier) and an extra copy each to members of the Board of Editors. I would also like to send copies to some academically affiliated historians and political scientists in the state -- for example, at the University of Connecticut -- which might spark an interest among that group in our Society.

Regarding the many other copies, I understand that the Society will use them for a variety of purposes, including promotion of and recruitment for the Society. One target population for the journal is the system of various libraries across the state. I do not know how libraries operate, but I believe that we should attempt to have libraries accept, retain, and catalog the journal. This

would begin with the state library in Hartford, but could also include the University of Connecticut (in Storrs and at the law school), the constituents of the Connecticut State University system, and private institutions, such as Yale University, Wesleyan University, Trinity College, and Connecticut College. I recommend that some person, to be selected, work on this.

Internet-Based "Publication"

I recommend that the Board of Directors approve the posting of the journal, in modified format, on the Society's website. Practices vary greatly among journals regarding the format and extent of publishing journal content on the internet. Some journals post articles in their entirety; others post abstracts only; others simply post a table of contents. Because the Society expects to use the journal for recruitment purposes (among other uses), it is not appropriate to post the entire journal content on the Society website. It does seem appropriate, however, to post some content, which could impart to a reader the nature of the journal's substance and, ideally, generate an interest in the Society. Accordingly, for Volume 1, I recommend the following internet-based "publication":

- notice of Volume 1 (with link), available on Society's main web page;
- full table of contents;
- full content of the "inauguration of the society" essays by Urofsky and Peters;
- one-paragraph abstracts of the "essays, reports, and miscellanea" material by Collier and the Board (the *Symsbury* and 1806 essays).

NOTE: Regarding the Society's webpage, I request that the "publications committee" listing, on the membership page, be changed to "Board of Editors," with editor and associate editors listed as in Volume 1. In the alternative, the membership page can keep the "publications committee," but I would like to see the Board of Editors listed with the internet-based journal content.

Volume 2: 2007

The Board of Editors has not yet begun its work for Volume 2. The 2007 conference on the 1818 constitution, sponsored jointly by CSCHS and ASCH (Association for the Study of Connecticut History) will likely generate an article or two -- or so I hope. Because that conference will feature the publication of the 1817 and 1818 volumes of the official Connecticut Records, I will ask the editor of those volumes (Doug Arnold) to contribute a small essay about his findings regarding the Connecticut Supreme Court. We will also publish at least one more in-depth study of a Connecticut Supreme Court case from the court's history. One suggestion is the state court's decision in *Calder v. Bull* (1796), which later went to the United States Supreme Court. The decision in the latter court became a much-studied case on the role of natural law in American jurisprudence. A study of the Connecticut decision would likely prove very interesting. The Board of Editors are open, certainly, to any additional suggestions for publishable material.

Babcock v. Huntington.

In trials before single ministers of the law, in this state, the issue has usually been joined *ore tenus*, and appears only in the *postea*. Among the frequent exceptions, which have been taken to the judgments of our magistrates, was it ever supposed, that they were erroneous for this cause? Upon the general issue, in criminal cases, the *similitur* is never added, in our practice: Are all our judgments, in criminal cases, erroneous?

The objection, that the motion in arrest of judgment is not answered, cannot be supported, either upon principle, or authority. No rule requires, that it should be answered. A train of special pleadings upon a motion, would be a novelty in judicial proceedings. The English forms (3 Black. Com. App. No. II, § 4) as well as our own, are decisive of the question.

By the Court. The judgment was affirmed.

THE SUPREME COURT OF ERRORS,

HOLDEN AT NEW HAVEN IN JUNE, 1807,

CONSISTED OF

HIS EXCELLENCY JONATHAN TRUMBULL, *Governor*.

HIS HONOR JOHN TREADWELL, *Lieutenant-Governor*.

Assistants,

HON. OLIVER ELLSWORTH, HON. JONATHAN BRACE,

HON. WILLIAM HILLHOUSE, HON. CHAUNCEY GOODRICH.

HON. JOHN CHESTER, HON. ELIZUR GOODRICH,

HON. ROGER NEWBERRY, HON. MATTHEW GRISWOLD,

HON. ASHER MILLER, HON. STEPHEN T. HOSMER, and

HON. AARON AUSTIN, HON. HENRY CHAMPION.

OWEN V. MANV.

In the court below,—David Owen v. Andrew Mann.

In an action of ejectment, the defendant claimed title to the demanded premises under B. to whom he had given his note for the purchase money. B. had indorsed this note to C. who, after the suit was commenced, applied to the defendant for payment, which was made under an agreement, that C. should retain the note, and if judgment should be rendered against the defendant, should refund the money, and resort to B. on the indorsement. B. it appeared, was a man of property. Held, that C. thus situated, was so far interested in the event of the suit, as to render him an incompetent witness for the defendant.

THIS was an action of ejectment.

On trial to the jury, under the general issue, the defendant claimed title to the land in question by virtue of a convey-

Edwards v. Nichols.

would be restricted in his proof, if the declaration were more special.

2. The plaintiff and defendant are well described as citizens of the states of New York and Connecticut. The plaintiff is alleged to be a citizen of the district of New York, and the defendant a citizen of the district of Connecticut. By the act of Congress to establish the judicial courts of the United States (vol. 1, U. S. Laws, 48,) the United States are divided into districts; and the states of New York and Connecticut are respectively constituted districts of the same name. The same territorial limits, as well as the same body politic are, therefore, described by the terms district of Connecticut, as if the word state had been used. The district and state of Connecticut are synonymous and coextensive, and the parties are described as citizens of the states of New York and Connecticut, by language perfectly definite and certain.

LIVINGSTON, J., overruled the motion in arrest, and ordered judgment to be entered.

CASES ARGUED AND DETERMINED

IN THE

SUPREME COURT OF ERRORS,

AND BEFORE THE

NINE JUDGES OF THE SUPERIOR COURT

OF

THE STATE OF CONNECTICUT,

AT

HARTFORD, IN JUNE, 1808.

The present organization of the Supreme Court of Errors, and of the Superior Court of the State of Connecticut, was established, by an act of the Legislature, in May, 1806. (Stat. Conn., tit. XLII, chap. 14.) It is summarily as follows:

The Superior Court consists of one chief judge, and eight assistant judges, who annually divide themselves into three branches; and the several counties in the state being divided into three circuits; one branch is assigned to each circuit. In all the counties, a Circuit Court is held twice, and in one county, three times a year. This court has civil, criminal, and chancery jurisdiction; and, in its several capacities, determines, by the aid of a jury, auditors, referees, or com-

S. J. May, 1860

THE PUBLIC

Statute Laws

OF THE STATE OF

CONNECTICUT.

BOOK I.

PUBLISHED BY AUTHORITY OF THE GENERAL ASSEMBLY.



HARTFORD:

PRINTED BY HUDSON AND GOODWIN.

1808.

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CHAP. XIII.

An Act in addition to an Act, entitled, "An Act for constituting and regulating Courts, and appointing the times and places for holding the same."

[Enacted in October, 1804.]

Reasons of the supreme court of errors to be recorded, &c.

BE it enacted by the Governour and Council and House of Representatives in General Court assembled, That the reasons which shall be assigned by the supreme court of errors on the reversal of a judgment or decree of the superior court, shall be recorded by the clerk of the supreme court of errors in a book to be kept for that purpose, and such clerk shall afterwards deliver to one of the judges presiding in the circuits of the superior court, the originals of said reasons; and to the other of the judges presiding in said circuits a certified copy thereof for the use of the judges of said court.

CHAP. XIV.

An Act in further addition to and alteration of an Act for constituting and regulating Courts and appointing the times and places for holding the same.

[Enacted in May, 1806.]

Superior court to consist of nine judges after next session of the assembly.

§ 1. BE it enacted by the Governour and Council and House of Representatives in General Court assembled, That from and after the session of the general assembly, which shall be held on the second Thursday of October next, the superior court of this state shall consist of a chief judge and eight assistant judges, to be appointed and commissioned for that purpose.

Three circuits. Of what counties to consist.

§ 2. Be it further enacted, That there shall be three circuits, wherein the sessions of said court shall be held.—One of the circuits to consist of the counties of *Hartford*, *New-Haven*, and *Middlesex*; another to consist of the counties of *Fairfield* and *Litchfield*; and the other to consist of the counties of *New-London*, *Windham*, and *Tolland*; and there shall be two sessions of said court in each of said counties, to be held annually, except in the county of *Hartford*, in which there shall be three sessions of said court to be holden annually; by any three of said judges, who shall have and exercise all the powers, and authorities, with which the superior court of this state is by law vested.

Number of sessions.

To be held by three judges.

Processes to be entered.

§ 3. Be it further enacted, That all appeals, petitions, writs of error, and other processes, before said superior court, may be brought forward and entered at any session of said court, in manner and form, as by law is already provided, and that it

S. J. Milam, 1850

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Number of sessions.

To be held by three judges.

Processes to be entered.

§ 3. *Be it further enacted*, That all appeals, petitions, writs of error, and other processes, before said superior court, may be brought forward and entered at any session of said court, in manner and form, as by law is already provided, and that it

shall be the duty of said superior court at all and every sessions in all causes and suits before them, which may require an hearing or trial at the next succeeding session, to order, and direct, all pleas to be entered and closed ready for decision; and said court may, when necessary, order such pleas to be filed and entered in the offices of the clerks of said court, at any time, during the several vacations, as they shall judge proper.

§ 4. *Be it further enacted*, That the times and places for holding the sessions of said court, in the circuits, shall be as follows, viz. Within and for the county of *Hartford*, at *Hartford*, on the first Tuesday of *September*, the second Tuesday of *February*, and the second Tuesday of *November*; within and for the county of *New-Haven*, at *New-Haven*, on the second Tuesday of *August*, and the first Tuesday of *January*; within and for the county of *Middlesex*, at *Middletown*, on the second Tuesday of *December* next; and the next year at *Haddam*, on the last Tuesday of *July* and second Tuesday of *December*, and the year then next at *Middletown*, at the times aforesaid, and so on alternately each succeeding year at *Middletown* and *Haddam*, as aforesaid; within and for the county of *New-London*, at *New-London*, on the fourth Tuesday of *September*, and at *Norwich* on the third Tuesday of *January*; within and for the county of *Windham*, at *Windham*, on the second Tuesday of *September* and first Tuesday of *January*; within and for the county of *Tolland*, at *Tolland*, on the first Tuesday of *September*, and the third Tuesday of *December*; within and for the county of *Fairfield*, at *Danbury*, on the second Tuesday of *July*, and at *Fairfield*, on the last Tuesday of *December*; within and for the county of *Litchfield*, at *Litchfield*, on the third Tuesday of *August*, and the first Tuesday of *February*. And it shall be the duty of the superior court from time to time, to adjourn the court at their sessions in the respective circuits, whenever it may be necessary, and expedient, for finishing the business therein depending.

§ 5. *Be it further enacted*, That from and after the session of the supreme court of errors, composed of the governour, lieutenant-governour and council, which shall be held in *June*, one thousand eight hundred and seven, the powers and authorities of said court shall cease and determine, and thereupon the judges of the superior court, for the time being, any five of them, to make a quorum, shall constitute the supreme court of errors, and be the dernier resort of all matters brought by way of error, or complaint, from the judgments, or decrees, of any superior court, in matters of law, or equity, wherein the rules of law, or principles of equity, appear from the files, records, and exhibits of said court to have been erroneously, or mistakenly, adjudged, and determined. And said supreme court of errors is hereby empowered, authorized, and enabled to take cognizance of all such causes as shall be brought before them, as aforesaid, and shall be invested with all the powers, authorities, and jurisdictions necessary and requisite for carrying into complete execution all their judgments, decrees, and determinations in the matters aforesaid, according to the

Courts may order pleas, &c. to be entered, &c.

See ch. 25. Times of holding sessions in Hartford, *Repealed as to 2^d Tues. Nov. v. 2. 1860.* New-Haven,

Middlesex,

New-London,

Windham,

Tolland,

Fairfield,

Litchfield.

Court may adjourn.

See ch. 1. § 19, 20, 21, 22, 23. Powers of the court of errors when to cease. Superior court to constitute court of errors.

Decrees, &c.
to be final.

To take cog-
nizance of
causes unde-
termined.

Held.
u. 2^d 33^d To sit on first
Tuesday of
June annually.

Writs when
served and re-
turnable.

U. 10^a
60^a u. 2^d 33^d May adjourn.

Reasons of
their judg-
ments to be
lodged with
clerk.

Majority to
reverse.

Judges who
have set not
to act,
except, &c.

When to as-
sign the cir-
cuits.

Assistants to
supply the
absence of
judges.

laws, customs, and usages of this state ; and their determina-
tions and decrees shall be final and conclusive on all concerned.
Provided however, That all causes, that shall be pending and
undetermined before the supreme court of errors, at the end
of their session, which is to be held in *June*, one thousand
eight hundred and seven, may be removed into the supreme
court of errors established by this act, at their session to be
held in *June*, one thousand eight hundred and eight, there to
be proceeded with, and determined in like manner as is pro-
vided, as to causes that may be brought before said court.

§ 6. *And be it further enacted,* That the supreme court of
errors, constituted by this act, shall be held on the first Tues-
day of *June*, annually, at *Hartford* and *New-Haven* alternately,
beginning at *Hartford*, in the year one thousand eight hun-
dred and eight ; and all writs returnable to said court, shall
be served twelve days before the session of said court, and be
returned to the clerk of said court, before the first day of said
session.

§ 7. *Be it further enacted,* That the secretary of this state,
for the time being, shall ex officio be the clerk of said court :
and said court shall have power to adjourn from time to time,
and to such place as they shall think necessary and expedient.

§ 8. *Be it further enacted,* That it shall be the duty of the
supreme court of errors, to cause the reasons of their judg-
ments to be committed to writing, and signed by one of the
judges, and to be lodged in the office of the clerk of said
court.

§ 9. *And it is further provided,* That no judgment, com-
plained of before said court, shall be reversed but by the con-
curring voice of the majority of the members, who shall try
the same ; and the judges who have rendered the judgment,
or decree, at the sessions in the circuits, shall not act on the
writ of error, brought for the reversal thereof, in the court of
errors ; except in such cases only, where there shall not be a
quorum without said judges.

§ 10. *Be it further enacted,* That on the first Tuesday of *No-
vember*, one thousand eight hundred and six, the judges of the
superior court shall meet at *Hartford*, and assign to the judges
of said court the circuits in which they shall respectively at-
tend the sessions ; and thereafter the assignment of the judg-
es, to the respective circuits, shall be made at the sessions of
the supreme court of errors, or at such other time as the said
court may direct, and no more than two of the same judges
shall attend together, on said sessions in the same circuit in
immediate succession.

§ 11. *And be it further enacted,* That when and so often as
it shall happen, that by reason of the necessary absence of, or
just exception against any of the judges of the superior court,
there shall not be a sufficient number of them to hold either
of the courts aforesaid, the same may be supplied by any of
the assistants of this state.

§ 12. *Be it further enacted,* The act, entitled, " an act in
addition to, and alteration of an act, entitled an act, for consti-

tuting and regulating courts, and appointing the times and places for holding the same," made and passed at the session of the general assembly, held on the second Thursday of October, A. D. one thousand eight hundred and one, shall be, and continue in force, until the rising of the general assembly, to be held on the second Thursday of October next, and no longer.

CHAP. XV.

An Act respecting the Supreme Court of Errors.

[Enacted in May, 1807.]

§ 1. **BE** it enacted by the Governour and Council and House of Representatives in General Court assembled, That judges in the supreme court of errors shall not be deemed disqualified to sit and vote in any case, by reason of their having before given an opinion in the same.

Having given an opinion not a disqualification.

§ 2. *And be it further enacted*, That the judges of the superior court, when constituting a supreme court of errors, or met for any purpose, be, and they hereby are empowered, to institute such rules of practice for the regulation of the said court of errors, and of the superior court in the respective circuits, as shall be deemed most conducive to the administration of justice.

Judges of superior court may institute rules of practice.

CHAP. XVI.

An Act concerning the powers of the Judges of the Superior Courts in their circuits.

[Enacted in October, 1807.]

§ 1. **BE** it enacted by the Governour and Council and House of Representatives in General Court assembled, That any two of the judges of the superior court in the respective circuits, shall have power in the absence of the third, to proceed to the trial of any cause before said court, in the same manner as the three judges are authorized to do when all are present; *provided*, a judge of another circuit, or an assistant, cannot, in the opinion of said judges, be conveniently called in to supply the place of such absent judge.

Two judges of superior court may try causes provided, &c.

§ 2. *Be it further enacted*, That in the absence of one or more of the judges of the superior court in either of the circuits, the vacancy may be supplied by a judge or judges of either of the other circuits, *provided* they shall not be engaged in holding court in any other circuit.

Vacancy of the circuit judges how supplied.

§ 3. *And be it further enacted*, That an act entitled "an act concerning the powers of the superior courts in their circuits," passed in general assembly at their session in May, 1807, be and the same is hereby repealed.