

court shall consist of three judges at least : that is to say, the chancellor who shall preside, the associate judge who could not on account of his residence sit in the cause below, and one of the judges who did sit in the said cause. The judges of the superior court to whom it appertains to hold the superior court in each county shall sit alternately in the court of errors and appeals in cases in error brought from the superior court held in such county, according to the following rotation, that is to say : If the judgment below be rendered in the court in New Castle county at the first term of the said court there, the chief-justice shall sit ; if at the second term of said court there, the associate judge for Kent county shall sit ; and if at the third term of said court there, the associate judge for Sussex county shall sit. If the judgment below be rendered in the court in Kent county at the first term of said court there, the associate judge for Sussex county shall sit ; if at the second term of the said court there, the associate judge for New Castle county shall sit ; and if at the third term of the court there, the chief-justice shall sit. If the judgment below be rendered in the court in Sussex county at the first term of said court there, the associate judge for New Castle county shall sit ; if at the second term of the said court there, the chief-justice shall sit, and if at the third term of the said court there, the associate judge for Kent county shall sit ; and so from term to term, in every succeeding rotation the judges beginning and following each other in the same order. But if in any case in the court of errors and appeals, the judge who sat in the cause below, and ought according to this provision to sit in the court of errors and appeals, be absent, unable, or disqualified, then either of the other judges who sat in the cause below may sit ; and the court shall have power to prevent any inconvenience or delay from observing the rotation above described, by making an order or regulation for either of the judges who sat in the cause below, to sit in such cause in the court of errors and appeals. If a judge did not sit in the cause below, he shall sit in the said cause in the court of errors and appeals, unless there be a legal exception to him ; but the court, if there be three judges present, may proceed in his absence.

Whenever the superior court consider that a question of law ought to be decided before all the judges, they shall have power, upon the application of either party, to direct it to be heard in the court of errors and appeals ; and in that case the chancellor and four judges shall compose the court of errors and appeals, the chancellor presiding, and any four of them being a quorum ; and in the absence of the chancellor, the chief-justice shall preside. The superior court in exercising this power may direct a cause to be proceeded in to verdict and judgment in that court, or to be otherwise proceeded in, as shall be best for expediting justice.

Upon appeal from the court of chancery, the court of errors and appeals shall consist of the chief-justice and three associate judges ; any three of them shall be a quorum.]

§ 8. [In matters of chancery jurisdiction in which the chancellor is interested, the chief-justice sitting in the superior court without the associate judges, shall have jurisdiction, with an appeal to the court of errors and appeals, which shall consist in this case of the three associate judges, the senior associate judge presiding.]

§ 9. [The governor shall have power to commission a judge *ad litem*,