in the court records such as that now published, and for further information on the points decided resort was had to the contemporary notebooks already mentioned, those which had been kept by lawyers in attendance upon the court sessions.

10. Revival of Final Appellate Jurisdiction

The provisions made for revival of the final appellate jurisdiction for which this present book was opened need to be prefaced with an explanation of procedure continued by them from earlier years, or, more particularly, of a peculiar distinction observed between review in common law cases on appeals and review on writs of error, to be noted all through this record. There had been before 1678 four methods by which proceedings in county courts had been removed to the provincial court. Before trial in the county court the record might be removed in an appropriate case by a writ of certiorari, still a familiar method, or before trial and before issue joined a case might be removed by the writ of *habeas corpus ad faciendum et recipiendum,* more familiarly called the writ of *habeas corpus cum causa,* that is, *cum causa detentionis.* Instances of removal by the latter method will be found here in the cases of *Burroughs' v. Tench, Administrator,* and *Gresham v. Gassaway.*[1] The writ required that the defendant be produced in the higher court with a statement of the cause of his detention, to the end that the cause might there be investigated, which meant, in effect, that the cause would be tried above. After judgment, removal was effected both by appeals to the provincial court, for trials anew in that court, or by writs of error, which instituted reviews only of specified rulings of the court below. Appeals and writs of error were permitted even to parties who had allowed judgments to go against them by default, in which case, as there had been no rulings below, the assignments of error would necessarily be general and perfunctory. Many instances of appeal or writ of error after judgment by default appear in this volume. In 1678,[2] the general assembly restricted the proceeding on appeal as well as that on writ of error to a review of specified rulings below, thus denying for the future a trial anew. The old appeal was left in use, nominally, but the substantial difference was no longer there. Henceforth it was to be effected merely by lodging a transcript of the record with the clerk of the higher court, with a statement of reasons for seeking the review; and the writ of *scire facias ad audiendum errores,* and all other proceedings, would follow as in a proceeding initiated by formal writ of error. The reasons stated for the appeal were always treated as the equivalents of the assignments of error, and sometimes the same name, "reasons"

[1] *Post,* pp. 46 and 384; Taylor *v.* Lewellin (1692), 1 Harris & McHenry, 19; *Archives,* XXX, 513; Blackstone, *Comm.,* III, 130.

[2] Act 1678, ch. 8, *ibid.,* VII, 71.