

power to order execution issued was doubtful in England.

No formally promulgated rules, other than that adopted in 1712 to fix the time for filing the assignment of errors or reasons, and already quoted, have been found. A statute of 1715, chapter 41, section 7, fixed the fee of an attorney for conducting a case on writ of error or appeal before the Governor and Council at six hundred pounds of tobacco. Two eighteenth century statutes authorized minor adaptations to needs of the court, which seem to have been met in the same way before the enactments. In the act of 1713, chapter 4, section 7, it was provided that the Council and its President might determine cases in the absence of the Governor. And in 1729, chapter 3, section 2, it was provided that when both the Governor and the President were absent, the senior councillor present might preside, provided five justices should be present. The senior councillor was the first commissioned, that is, the first named in the joint commissions to all the councillors. The order of precedence resulted from the principle, acted upon in the appointment of legislative committees, that the first named was to be the presiding officer.

Appeals to the King and Council in England, "appeals home", as they were sometimes called,<sup>24</sup> allowed in cases involving three hundred pounds or more,<sup>25</sup> were effected by simple prayers in the Court of Appeals for such appeals, which were granted and entered as of course. Transcripts of

24. 2 Harris & McHenry, 365.

25. Act 1694, C. 18.