at intervals during the year. An act of 1748, Chapter 7, relaxing a rule adopted shortly before, gave express permission to county clerks to continue taking recent volumes of records to their houses to work on them because going to the court houses would be a hardship on the clerks. Another noteworthy fact of the final appellate jurisdiction, even after the Revolution for a considerable period of time, was the slow pace of cases once they reached the docket. Clearly movement was not regarded as an essential of litigation on appeal. It was not uncommon, indeed, for a case to lie becalmed on the docket for a decade; and there are many entries of abatement by death.

Some changes occurred in the constitution of the court during the eighteenth century, before the Revolution, chiefly from a demand for separation of the tribunals of the province. It has been seen that in 1694 the lawyers expressed a conviction that judges on the Court of Appeals and judges of trial courts should be different persons. In 1709, and again, in 1720, the Lower House of the Assembly complained that members of the Council who sat as justices of the Provincial Court also sat on appeals;[46] and the consequences of this was the establishment of a precedent that a justice who had sat on the trial of a case in the Provincial Court, should not sit on the same case on appeal. After that fewer members of the Council sat in the Provincial Court, and in 1760, when two members happened to be justices of the Provincial Court, the Attorney General recommended that they should be replaced by others so that the Court

46. Mereness, 234.