

By His Excellency

Edward Viscount Cornbury Capt. General and Governour in Chief in and over her Majestys Provinces of New-Jersey, New-York, and all the Territories and Tracts of Land depending thereon in America, and Vice-Admiral of the same, &c.

AN
ORDINANCE

FOR
Establishing Courts of Judicature.

W Hereas Her most Sacred Majesty, ANNE, by the Grace of God, Queen of England, Scotland, France and Ireland, Defender of the Faith, &c. by her Royal Letters Patents, bearing date the 5th day of December, in the first year of her Majesties Reign, did among other things therein mentioned, give and grant unto his Excellency Edward Viscount Cornbury, Captain General and Governour in Chief in and over the Province of Nova Cesarea or New-Jersey, &c. full Power and Authority, with the Advice and Consent of her Majesty's Council of the said Province, to erect, constitute and establish such and so many Courts of Judicature and publick Justice within the said Province and Territories depending thereon, as his said Excellency & Council shall think fit and necessary, for the Hearing and Determining all Causes as well Criminal as Civil, according to Law and Equity, and for awarding Execution thereupon, with all necessary Powers, Authorities, Fees and Priviledges belonging to them.

His Excellency the Governour, by and with the Advice and Consent of her Majesty's Council, and by virtue of the Powers and Authorities derived unto him by her said Majesty's Letters Patents, doth by these Presents Ordain, and it is hereby Ordained by the Authority aforesaid, That every Justice of the Peace that resides within any Town or County within this Province, is by these Presents fully impowered and authorized to have Cognizance of all Causes or Cases of Debt and Trespas to the value of Forty Shillings, or under; which Causes or Cases of Debt and Trespas, to the value of Forty Shillings, or under, shall and may be Heard, Try'd and finally Determined without a Jury, by every Justice of the Peace residing, as aforesaid.

The

The Process of Warning against a *Free-holder* or *Inhabitant* shall be by Summons, under the Hand of the Justice, directed to the Constable of the Town or Precinct, or to any deputed by him, where the party complained against does live or reside; which Summons being personally served or left at the Defendants House or place of his Abode, four days before the hearing of the Plaint, shall be sufficient Authority to and for the said Justice to proceed to hear such Cause or Causes, and determine the same in the Defendants absence, & to grant Execution thereupon against the Defendants Person, or for want thereof, his Goods and Chattels, which the Constable, or his Deputy, of that Town or Precinct shall and may serve, unless some reasonable excuse for the Parties absence appear to the Justice.

And the Process against an *Itinerant Person*, *Inmate* or *Forreigner*, shall be by Warrant from any one Justice of the Peace, to be served by any Constable, or his Deputy within that County, who shall by virtue thereof, arrest the Party, and him safely keep till he be carried before the said Justice of the Peace, who shall and may immediately hear, try & finally determine all such Causes and Cases of Debt and Trespass, to the value of *Forty Shillings*, or under, by awarding Judgment and Execution; and if payment be not immediately made, the Constable is to deliver the Party to the Sheriff, who is hereby required to take him into Custody, and him safely keep till payment be made of the same, with Charges; *Alwayes provided*, That an Appeal to the Justices at the next Court of Sessions held for the said County, shall be allowed for any Sum upwards of *Twenty Shillings*.

And his said Excellency, by the advice and consent aforesaid, doth by these Presents further Ordain, That there shall be kept and holden a Court of *Common Pleas* in each respective County within this Province, which shall be holden in each County at such place where the General Court of Sessions is usually held and kept, to begin immediately after the Sessions of the Peace does end and terminate, and then to hold and continue as long as there is any business, not exceeding three days.

And the several and respective Courts of Pleas hereby established, shall have Power & Jurisdiction to hear, try, and finally determine all Actions or Causes of Action, and all Matters and Things Tryable at Common Law, of what nature or kind soever. *Provided always, and it is hereby Ordained*, That there may, and shall be an Appeal or Removal by *Habeas Corpus*, or any other lawful Writ, of any Person or of any Action or Suit depending, and of Judgment or Execution that shall be determined in the said respective Courts of Pleas, upwards of Ten Pounds, and of any Action or Suit wherein the Right or Title of, in or to any Land, or any thing relating thereto, shall be brought into Dispute or upon Tryal.

And it is further Ordained by the Authority aforesaid, That the General Sessions of the Peace shall be held in each respective County within this Province at the Times and Places hereafter mentioned, that is to say,

For the County of *Middlesex*, at *Amboy* the third *Tuesdays* in *February*, *May* and *August*; and the fourth *Tuesday* in *November*.

For

L 5 J

For the County of *Bergin* at *Bergin* the first *Tuesdays* in *February*, *May* and *August*, and the second *Tuesday* in *November*. 275

For the County of *Essex*, at *Newark*, the second *Tuesdays* in *February*, *May* and *August*; and the third *Tuesday* in *November*.

For the County of *Monmouth*, at *Shrewsbury*, the fourth *Tuesdays* in *February*, *May* and *August*, and the first *Tuesday* in *December*.

For the County of *Burlington*, at *Burlington*, the first *Tuesdays* in *March*, *June* and *September*, and the second *Tuesday* in *December*.

For the County of *Gloucester*, the second *Tuesdays* in *March*, *June* and *September*, and the third *Tuesday* in *December*.

For the County of *Salem*, at *Salem*, the third *Tuesdays* in *March*, *June* and *September*, and the fourth *Tuesday* in *December*.

For the County of *Cape May*, at the House of *Shamgen Hand*, the 4th *Tuesdays* in *March*, *June* and *September*, and the first *Tuesday* in *January*. Which General Sessions of the Peace in each respective County aforesaid, shall hold and continue for any Term not exceeding two days.

And be it further Ordained by the Authority aforesaid, That there shall be held and kept at the Cities or Towns of *Perth-Amboy* and *Burlington*, alternately, a *Supream Court* of Judicature, which *Supream Court* is hereby fully impowered to have Cognizance of all Pleas, civil, criminal and mixt, as fully and amply, to all intents and purposes whatsoever, as the Courts of *Queens Bench*, *Common Pleas* and *Exchequer* within her Majesties Kingdom of *England*, have or ought to have, in and to which *Supream Court* all and every Person and Persons whatsoever shall and may, if they see meet, commence any Action or Suit, the Debt or Damage laid in such Action or Suit, being upwards of Ten Pounds, and shall or may by *Certiorari*, *Habeas Corpus*, or any other lawful Writ, remove out of any of the respective Courts of Sessions of the Peace or *Common Pleas*, any Information or Indictment there depending, or Judgment thereupon given, or to be given in any Criminal matter whatsoever, cognizable before them, or any of them, as also all Actions, Pleas, or Suits, real, personal or mixt, depending in any of the said Courts, and all judgments thereupon given, or to be given. Provided always, That the Action or Suit depending, or Judgment given, be upwards of the value of Ten Pounds, or that the Action or Suit there depending or determined be concerning the Right or Title of any Free-hold.

And out of the Office of which *Supream Court* at *Amboy* and *Burlington* all Process shall issue out, under the Test of the chief Justice of the said Court; unto which Office all Returns shall be made. Which *Supream Court* shall be holden at the Cities of *Amboy* and *Burlington* alternately, at *Amboy* on the first *Tuesday* in *May*, and at *Burlington* on the first *Tuesday* in *November*, annually, and every year; and each Sessions of the said Court shall continue for any Term not exceeding five days. And one of the Justices of the said *Supream Court* shall once in every Year, if need shall so require, go the Circuit, and hold and keep the said *Supream Court*, for the County of *Bergin*, at *Bergin*, on the third *Tuesday* in *April*. For the County of *Essex*, at *Newark*, on the fourth *Tuesday* in *April*. For the County of *Monmouth*, at *Shrewsbury*, the second *Tuesday* in

in May. For the County of Gloucester, at Gloucester, the third Tuesday in May. For the County of Salem, at Salem, the fourth Tuesday in May. For the County of Cape May, at Shamger Hands, the first Tuesday in June. Which Justice, when he goes the Circuit, shall in each respective County be assisted by two, or more Justices of the Peace, during the time of two days, whilst the Court, in the Circuit, is sitting, and no longer.

And it is further Ordained by the Authority aforesaid, That all and every of the Justices or Judges of the several Courts afore-mentioned, be, and are hereby sufficiently Impowered and Authorized to make, ordain and establish all such Rules and Orders, for the more regular prosecuting and proceeding in the said Courts, as fully and amply, to all intents and purposes whatsoever, as all or any of the Judges of the several Courts of Queens-Bench, Common-Pleas and Exchequer in England legally do.

And it is further Ordained by the Authority aforesaid, That no Persons Right of Property shall be, by any of the aforesaid Courts, Determined, except where matters of Fact are either acknowledged by the Parties, or Judgment confessed, or passeth by the Defendants fault for want of Plea or Answer, unless the Fact be found by Verdict of Twelve Men of the Neighbourhood, as it ought to be done by Law.

CORNBURY.

Printed by William Bradford, Printer to the Queens Most Excellent Majesty, in the City of New-York, 1704.