

ADMINISTRATION OF JUSTICE.

to shall at the request of either party be noticed or referred to by the examiner in or upon the depositions; and he shall state his opinion thereon to the counsel, attorneys, agents, or parties, and if requested by either party he shall on the face of the depositions refer to such statement.

27. When the examination before the examiner shall have been concluded, the original depositions authenticated by the signature of such examiner shall be returned and kept in like manner as depositions are directed to be returned and kept by the one hundred and ninety-third section of the Common Law Procedure Act.

28. The sheriff, gaoler, or other officer having the custody of any prisoner may take such prisoner for examination under the authority of this Act, by virtue of a writ of *habeas corpus* to be issued for that purpose, which writ may be issued by the court or judge under such circumstances as such court or judge may by law issue a writ of *habeas corpus ad testificandum*.

29. The order for the examination of a party adverse in point of interest, or of the officer of a corporation, referred to in the twenty-fourth section of this Act, shall be granted as of course upon the production, by the party purposing to examine of an affidavit of such party, or of his attorney or agent, stating that the deponent believes that the party purposing to examine, whether plaintiff or defendant, will derive material benefit in the action or other proceeding from such examination, that there is good cause of action (or of defence) upon the merits, and (if the application be made on the part of the defendant) that the examination is not sought for the purpose of delay.

30. Any party or person refusing or neglecting to attend at the time and place appointed for his examination, or refusing to be sworn or to answer any lawful question put to him by the examiner, or by any party entitled so to do, or his counsel, attorney or agent, shall be deemed guilty of a contempt of court, and proceedings may be forthwith had by attachment: Provided always, that if the party under examination shall demur or object to any question or questions which may be put to him, the question or questions so put, and the demurrer or objection of the witness thereto shall be taken down by the examiner and transmitted by him to the office of the court to be there filed; and the validity of such demurrer or objection shall be decided by the court or a judge; and the costs of and occasioned by such demurrer or objection shall be in the discretion of the court or judge.

31. The distinction between local and transitory actions at law is hereby abolished, and the plaintiff may sue out the writ for the commencement of any action from any such office as under the practice heretofore in force he might have sued out such writ in a transitory action.

JURISDICTION OF CHANCERY IN LEGAL MATTERS.

32. Where a suit is instituted, or where a petition is filed in the Court of Chancery for the purpose of establishing the title of the plaintiff to any real property, no objection to such suit or proceeding shall be allowed upon the ground that such plaintiff should first have sued at law, or would have an adequate and complete remedy at law by action of ejectment or otherwise; and if it shall appear upon the hearing or other determination of such suit or proceeding that the plaintiff or petitioner is entitled to the possession of such real property, he may obtain an order against the defendant or respondent for the delivery of such possession, and writs of execution shall issue accordingly.

33. No objection shall be allowed on demurrer or upon the hearing of any cause in the Court of Chancery, upon the ground that the subject matter of the suit or other proceeding is exclusively or properly cognizable in a court of law: but in case at any stage of a cause in chancery it appear to the court or a judge thereof that the suit may for any reason be more conveniently, expeditiously, or inexpensively carried on or dealt with in a court of law, the Court of Chancery or a judge thereof may order the suit to be transferred to such one of the courts of common law as the said court or judge may think proper; and such order may be made by such court or judge *sua sponte*, or upon the application of either party to the court or judge on notice to the other parties interested.

34. When an order is made under the foregoing section the proper offices of the Court of Chancery shall annex together all the pleadings and papers filed with him, and transmit the same together with the order of transference or a copy thereof, to such office of the court of common law as the order shall direct.

LAW AND EQUITY.

35. When a transfer has been made under either the ninth section or the thirty-third section of this Act, the suit, action or other proceeding shall thereafter proceed in the court to which it has been transferred; and the judges of such court and the officers thereof shall have the same powers and perform the same duties in relation