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The Courts of Territorial Florida

Charles D. Farris

THE COURTS OF TERRITORIAL FLORIDA

By CHARLES D. FARRIS

The organic act establishing the Territory of Florida was passed by Congress on March 30, 1822. Another act of Congress admitted Florida into the union of states on March 23, 1845. [2] Provision was made for either the appointment or the election, by October 1845, of all officers under the state government who succeeded to functions of officers under the territorial government. [3] The territorial period, therefore, may be said to have ended with the elections in October 1845.

The Continuity of the Courts

During the territorial period five courts functioned in Florida. One, the circuit court, existed for less than a year; three, the county court, the superior court and the court of appeals, were abolished at the end of the territorial period ; only one, the justice of the peace court, survived the transition from territorial to state government.

Justices of the Peace. Justices of the peace were among the officers in whom the organic act permitted the Legislative Council to vest the judicial power of the territory. [4] The Council first provided

1. There is nothing herein of the functioning of the judiciary in its legal framework, nor is any comparison made with other judicial systems. This is merely a summary of the law concerning the courts of the territory. My thanks are due the Florida Historical Records Survey, which allowed me access to its transcriptions of the session acts of the Legislative Council and the General Assembly.
2. ***The Public Statutes at Large of the United States of America,*** v. 3, pp. 656, 752. Hereinafter cited as *U. S. S. L.*
3. See Florida constitution, 1838, art. 5, secs. 3, 5, 9-13; ***The Acts and Resolutions of the - General Assembly of the State of Florida,*** 1845, ch. 4, secs. 10, 13, ch. 6, sec. 1, ch. 7, sec. 1. Hereinafter cited as ***Acts.***
4. ***U. S. S. L.,*** v. 3, pp. 656, 752, v. 4, p. 45.

for justices of the peace in September 1822, and it reconstituted the office from time to time thereafter. [5] The office was continued when Florida became a state. [6]

Circuit Courts. The organic act also vested the judicial power of the territory "in such inferior courts" as the Legislative Council might establish from time to time. [7] In August 1822, the Council established two circuit courts, for East Florida and West Florida, respectively. [8] A memorial of the governor and the Council addressed later that year to the President of the United States acknowledged that the establishment of circuit courts was "a temporary expedient" to lessen the effect of the "novel and dangerous" power which Congress had "vested in one judge [the judge of the superior court]-over the lives, liberties and property, of the citizens" of the territory. [9] The circuit courts were abolished in June 1823, and all causes then pending in them were transferred to the superior and county courts, according to the jurisdictions of the latter two. [10]

County Courts. In September 1822, the Legislative Council had established in each county another inferior court known as the county court. This "court," which actually exercised only administrative functions, rather than judicial ones, was abolished by Congress in March 1823. Later that year however, in June, the Legislative Council again provided for a county court in each county, which was

5. ***Acts - of the Legislative Council of the Territory of Florida,*** 1822, p. 91. Hereinafter cited as T. A., 1823, p. 26; ***T. A.,*** 1824-25, p. 239; ***T. A.,*** 1828, pp. 91-92 ; ***T. A.,*** 1829, pp. 135-136 ; ***T. A.,*** 1833, p. 49.
6. See Florida constitution, 1838, art. 5, sees. 1, 10; ***Acts,*** 1845, ch. 7, sec. 1.
7. ***U. S. S. L.,*** v. 3 pp. 656, 752, v. 4, p. 45.
8. ***T. A.,*** 1822., pp. 3, 5.
9. ***Ibid.,*** pp. 192-193.
10. ***T. A.,*** 1823, pp. 15-17.

to have most of the judicial functions of the abolished circuit court, and the same administrative functions as the county court of 1822. The county courts so established were reorganized from time to time, and continued to function until the end of the territorial period, when their jurisdictions and powers were distributed among the newly constituted circuit courts, judges of probate, and boards of county commissioners. [11]

Superior Courts. Congress vested the judicial power of the territory in superior courts, one of which was provided for each judicial district into which the territory was divided. [12] All superior courts functioned until the end of the territorial period, when causes then pending in them were transferred to either the circuit courts of the state or the U. S. District Court, according to the juristions of the latter two. [13]

The Court of Appeals. In their memorial to the President, the governor and the Legislative Council in 1822 had requested that a court of appeals be provided for the territory, but Congress did not establish such a court until 1824. The court functioned until the end of the territorial period, when all pending causes of which it had had jurisdiction were transferred to the state supreme court, except those cognizable by the U. S. District Court, which were transferred to that court. [14]

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11. ***T. A.,*** 1822, p. 93; *U. S. S. L.*, v. 3, p. 754; ***T. A.,*** 1823, p. 8; ***T. A.,*** 1824-25, p. 247; ***T. A.,*** 1828, p. 212; ***T. A.,*** 1829, p. 41; ***T. A.,*** 1833, p. 42; ***Acts,*** 1845, ch. 4, secs. 5, 17, ch. 6, secs. 1-3, ch. 11, sec. 1.
12. *U. S. S. L.*, v. 3, pp. 656, 752, v. 4, pp. 45, 291-292, v. 5, p. 294.
13. ***Acts,*** 1845, ch. 4, secs. 5, 8. See also *U. S. S. L.*, v. 5, p. 788, v. 6, pp. 128-129.
14. ***T. A.,*** 1822, pp. 192-193; *U. S. S. L.*, v. 4, pp. 46, 600, v. 5, p. 294; ***Acts,*** 1845, ch. 5, sec. 14. See also *U. S. S. L.*, v. 5, p. 788, v. 6, pp. 128-129.

The Structural Organization of the Courts

Certain features of structural organization were common to all courts of the territory: the geographical extent of each court's jurisdiction was limited in general by the boundaries of a sub-county district, a circuit, a county, a judicial district, or the territory itself; all courts had judges and executive officers; all but the justice of the peace courts had clerks and prosecuting officers; and the times and places at which each could hold terms were regulated to a large extent by law.

Justices of the Peace. From January 1827 until the end of the territorial period, the county court of each county was required to divide the county into justice of the peace districts. The law prohibited the formation of more than seven districts in a county until March 1845 ; [15] thereafter any number of districts might be formed as would "best subserve the convenience of the people." [16]

Until the first districting provision, "a competent number" of justices was provided, although from September 1822 to June 1823, eight justices were specifically provided for each county, three of whom were required to live in St. Augustine and three in Pensacola. [17] Between January 1827 and November 1829, the law prescribed at least one justice, and not more than two, for each district, except in St. Augustine, Tallahassee and Pensacola, [18] where more were presumably allowed. Between November 1829 and March 1845, "a competent number" of justices was again provided for each county. [19] From February 1833 to March 1845, the Legislative Council also provided for additional justices in "such number– as

15. *T. A.,* 1826-27, p. 167; *T. A.,* 1827-28, p. 153; *T. A.,* 1828, pp. 91-92.
16. *T. A.,* 1845, p. 17.
17. *T. A.,* 1822, p. 91; *T. A.,* 1823, p. 26; *T. A.,* 1824-25, p. 239.
18. *T. A.,* 1826-27, p. 167; *T. A.,* 1828, p. 153; *T. A.,* 1828, pp. 91-92.
19. *T. A.,* 1829, pp. 135-136.

the publick good-[might] require-in each county and in each justices district." [20] After March 1845 the number of justices in each district might be "two or more." [21] After December 1824, the judges and justices of the county courts had individually all the jurisdiction, powers, and duties of justices of the peace. [22]

Under the organic act and an amendment thereto the governor could appoint justices of the peace until November 1829. In January 1828, the Legislative Council had provided for election of justices, upon the sanction of Congress. [23] The sanction was not forthcoming, but Congress did provide in January 1829 that "justices of the peace-shall be chosen by-the legislature, at such time and for such term of service as the said legislature shall prescribe." [24] Accordingly the Legislative Council provided that justices should be appointed by the governor and the Council.[25] In June 1844 Congress prescribed that "justices of the peace - in the several territories shall be elected by the people in such manner as the respective Legislatures thereof may provide by law" [26] and the Legislative Council provided in March, 1845 for the election of justices by the electorate of each justice's district. [27]

As judicial officers within the meaning of the organic act and an amendment thereto, justices of the peace until November 1829 could hold office for

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20. ***T. A.,*** 1833, p. 49.
21. ***T. A.,*** 1845, p. 17.
22. ***T. A.,*** 1824-25, p. 247; ***T. A.,*** 1828, p. 213; ***T. A.,*** 1829, p. 41; ***T. A.,*** 1833, p. 42.
23. ***U. S. S. L.,*** v. 3, pp. 654, 751; ***T. A.,*** 1822, p. 91; ***T. A.,*** 1823, p. 26; ***T. A.,*** 1824-25, p. 239; ***T. A.,*** 1827-28, pp. 172, 173; ***T. A.,*** 1828, p. 93.
24. ***U. S. S. L.,*** v. 4, pp. 332, 333.
25. ***T. A.,*** 1829, pp. 135-136; ***T. A.,*** 1833, p. 49.
26. ***U. S. S. L.,*** v. 5, p. 670.
27. ***T. A.,*** 1845, p. 17.

four years. Thereafter during the territorial period a justice's term of office was two years. [28]

During the territorial period justices were compensated by fees for specific services rendered or process issued. [29]

In the absence of specific statutory authority before February 1835, justices were presumably subject to removal from office by the agency which had appointed them. Thereafter, they were subject to removal for cause by the governor or a judge of the superior court. Likewise, in the absence of specific statutory authority before November 1829, vacancies in the office of justice of the peace could presumably be filled by the appointing agency. Between November 1829 and March 1845 vacancies were required to be filled by the governor upon petition from the inhabitants of the justice's district. However, vacancies arising from removal between February 1835 and March 1845 were filled by the officer exercising the power of removal. In March 1845 provision was made for holding a special election to fill a vacancy in the office. [30]

Any constable of the county could serve process of a justice of the peace court. The sheriff of the county and the marshal of the superior court could serve warrants for the arrest of persons charged with serious crimes. The phrase "constable or other officer attending" the justice's court, which occurs in several acts during the territorial period, indicates that the sheriff and marshal might also serve other process of a justice of the peace. [31]

28. ***U. S. S. L.,*** v. 3, pp. 657, 753, v. 4, pp. 332, 333; ***T. A.,*** 1829, ***T. A.,*** 1845, p. 17.
29. ***T. A.,*** 1822, pp. 172-174; ***T. A.,*** 1824-25, pp. 281-282; ***T. A.,*** 1828, pp. 171-172; ***T. A.,*** 1832, p. 91.
30. ***T. A.,*** 1829, p. 136; ***T. A.,*** 1835, p. 319; ***T. A.,*** 1845, p. 18.
31. ***T. A.,*** 1822, pp. 91, 93; ***T. A.,*** 1823, pp. 10, 27, 31, 108; ***T. A.,*** 1824-25, pp. 240, 242, 244-245, 246, 254; ***T. A.,*** 1825, p. 35; ***T. A.,*** 1826-27, pp. 56-57, 118-120; ***T. A.,*** 1827-28, pp. 154-155, 156, 163; ***T. A.,*** 1828, pp. 95, 101, 119-120; ***T. A.,*** 1833, p. 46.

After December 1824 each justice was required by law to hold one term of his court once a month in his district, on a day to be set by him. [32]

Circuit Courts. For purposes of the circuit courts the territory was divided into the circuits of East and West Florida, separated by the Suwannee river. The governor appointed a judge in each circuit who was to hold office during good behavior subject to removal by the governor and the Legislative Council. The compensation of each judge was $1200 per annum. There was a clerk of the circuit court in each county. Two solicitors, one in each circuit, acted as prosecuting officers of the circuit courts, and the sheriff of each county was the executive officer of the court in his county. The judge in the western circuit was required to hold four terms annually at Pensacola and two "at the Big Spring, on the Chipola, in Jackson County"; the judge in the eastern circuit was required to hold four terms annually at St. Augustine, and two at Jacksonville. [33]

County Courts. The boundaries of the counties limited the extent of the jurisdictions of the county courts. Until December 1824, each county court was composed of one judge. From December 1824, to December 1825, the law provided for a three-judge court, consisting of a presiding judge designated by the governor and two associate judges. Any two of the three judges were a quorum. The office of associate judge was abolished in December 1825, and from then until November 1828 the law provided for a county court of one judge. An act of November 22, 1828, continuing the one-judge court was amended the following day to constitute a county court of three judges, any two of whom were a quorum. The amendment did not provide for desig-

32. ***T. A.,*** 1824-25, p. 154; ***T. A.,*** 1828, p. 93.
33. ***T. A.,*** 1822, pp. 3-6. The Big Spring is in section 33 of township five north of range nine west.

nating a presiding judge. The three-judge court was abolished in November 1829, and from then until February 1833 the county court consisted of a justice of the peace who was styled the presiding justice of the county. From February 1833 until the end of the territorial period the county court was composed of one judge. [34]

Judges and justices of the county courts were always appointed by the governor and the Legislative Council. In spite of the provision of the organic act and amendments thereto that judicial officers should hold office for terms of four years, the Legislative Council in 1823, 1824, and 1828 provided that judges of the county courts should hold office during good behavior. No term was prescribed for the presiding justices between November 1829 and February 1833, but these officers probably held office for two years like other justices of the peace. After February 1833 the judge's term of office was four years. [35]

Judges and justices of the county courts were always compensated by fees for specific services performed. [36]

Until November 1829 judges and justices of the county courts could be removed from office by the governor and a majority of the Legislative Council. From then until February 1835 no specific manner of removal was provided by law, but thereafter the governor or a judge of the superior court could remove from office any person holding office by appointment from the governor and Legislative Council [37] In the absence of specific statutory pro-

34. ***T. A.,*** 1823, p. 8 ; ***T. A.,*** 1824-25, p. 247 ; ***T. A.,*** 1825, p. 84; ***T. A.,*** 1828, pp. 213, 218; ***T. A.,*** 1829, p. 41; ***T. A.,*** 1833, p. 42.
35. ***U. S. S. L.,*** v. 3, pp. 657, 753, v. 4, p. 332; ***T. A.,*** 1823, p. 8; ***T. A.,*** 1824-25, p. 247; ***T. A,,*** 1828, *pp.* 213, 218; ***T. A.,*** 1829, pp. 135-136; ***T. A.,*** 1833, p. 42.
36. ***T. A.,*** 1823, p. 12; ***T. A.,*** 1824-25, p. 285; ***T. A.,*** 1825, p. 84; ***T. A.,*** 1828, pp. 171-172, 214; ***T. A.,*** 1829, p. 45; ***T. A.,*** 1832, p. 99; ***T. A.,*** 1833, p. 45.
37. ***T. A.,*** 1823, p. 8; ***T. A.,*** 1824-25, p. 247; ***T. A.,*** 1828, p. 213; ***T. A.,*** 1835, p. 319.

vision, vacancies in the office were presumably filled by appointment of the governor and Legislative Council.

Each county court had a clerk. The district attorneys of the superior courts prosecuted the criminal cases of which the county courts had jurisdiction, and the sheriffs of the several counties were their executive officers. [38]

Until January 1827 and after January 1828 the judges and justices of the county courts were required to hold two regular terms of court every year. Between December 1825 and January 1827 they were required to hold two additional terms per year solely for probate business, and between January 1827 and January 1828 they were required to hold four regular terms every year. [39]

Superior Courts. Until May 1824 the territory was divided into two judicial districts, the Eastern District, consisting of "that part of the territory known as East Florida", and the Western District, consisting of "that part of the territory known as West Florida." [40] In May 1824 the Eastern District was redefined as "that part of the territory east and south of the Suwannee river"; the boundaries of the Western District were contracted to include only "that part of the territory-west of the river Apalachicola"; and the Middle District, established at the time, was defined as "that part of the territory situated between the Apalachicola and Suwannee rivers." [41]

In May 1828 all that part of the Eastern District "south of a line from Indian river on the east, and

38. ***T. A.,*** 1823, pp. 10, 11, 12; ***T. A.,*** 1824-25, pp. 247, 250; ***T. A.,*** 1828, pp. 213, 216; ***T. A.,*** 1829, pp. 42, 45, 46; ***T. A.,*** 1833, pp. 43. 46. 47.
39. ***T. A.,*** 1823, p. 11; ***T. A.*** 1824-25, p. 251; ***T. A.*** 1825, pp. 85, 86; ***T. A.,*** 1826-27, p. 106; ***T. A.,*** 1827-28, pp. 86-88; ***T. A.,*** 1828, ***T. A.,*** 1829, pp. 42-43; ***T. A.,*** 1833, p. 44.
40. ***U. S. S. L.,*** v. 3, pp. 656, 752.
41. ***Ibid.,*** v. 4, p. 45.

Charlotte harbor on the west, including the latter harbor" was erected into the Southern District. [42] The Eastern and Southern Districts underwent no further changes in area during the rest of the territorial period. When Franklin county was created in February 1832 from an area which lay in both the Western and the Middle Districts, the Legislative Council made the new county part of the Western District. Congress placed Franklin county in the Middle District in February 1836. [43]

A resolution of the Legislative Council on February 14, 1835, besought the territory's delegate to Congress to urge Congress to establish a new judicial district, to be known as the Suwannee District, and to be composed of Madison, Hamilton, Columbia, Alachua and Hillsborough counties, as those counties were then constituted. The resolution averred that the judges in the Eastern and Middle Districts had much difficulty in holding courts in their respective districts because of the great distances to be covered and the poor methods of transporation available. [44]

Congress did not establish the Suwannee District, but in July 1838 it did erect Franklin, Washington and Jackson counties, as then constituted to the knowledge of Congress, into the Apalachicola District. The latter two counties had formerly been in the Western District, and Franklin county had been in the Middle District. [45] After the establishment of

42. ***Ibid.,*** p. 292.
43, ***T. A.,*** 1832, pp. 44, 45; ***U. S. S. L.,*** v. 5, p. 5.
44. ***T. A.,*** 1835, pp. 347-348.
45. ***U. S. S. L.,*** v. 5, p. 294. It seems likely that Congress at the time was not aware of the Legislative Council's act of January 26, 1838, creating Calhoun county, mainly from the western part of Franklin county, and placing the new county in the Western District (see ***T. A.,*** 1838, pp. 9-10). At any rate, in an act of March 4, 1839, regulating the terms of superior court for the Apalachicola District, the Council required the judge of that district to hold two terms in Calhoun county (see ***T. A.,*** 1839, pp. 16-17). For composition of judicial districts by counties, see Appendix.

the Apalachicola District, no changes were made in its boundaries, nor were further changes made in the boundaries of the Western and Middle Districts during the rest of the territorial period.

The President of the United States, by and with the advice and consent of the Senate, appointed one judge of the superior court in each judicial district. Each judge held office for a four-year term. [46]

Until June 1834 the judges in the Eastern, Middle and Western Districts received annual salaries of $1,500, and the judge of the Southern District received an annual salary of $2000. In May 1828, additional compensation of $800 per year was allowed each judge who adjudicated land claims. After June 1834 each judge who was not engaged in the adjudication of land claims received an additional annual salary of $300. This increment in salary was also allowed to judges who had engaged in the adjudication of land claims when their extra compensation from that source had ceased. [47] The judge of the Apalachicola District was to receive the "same" salary "as-allowed-to other judges" of the superior court in the territory. [48] The acts of Congress after 1838 making appropriations for salaries of superior court judges in Florida indicate that the judge of the Apalachicola District received an annual salary of $1800, the same as that allowed the judges of the Eastern, Middle and Western Districts. [49]

Judges of the superior courts could be removed from office upon conviction after impeachment. [50] In the absence of specific statutory provision, the

46. ***U. S. S. L.,*** v. 3, pp. 656, 657, 752, 753, v. 4, pp. 45, 292, v. 5, p. 294.
47. ***Ibid.,*** v. 3, pp. 657, 753, **v.** 4, pp. 46, 56, 285, 292, 739.
48. ***Ibid.,*** v. 5, p. 295.
49. ***Ibid.,*** pp. 344, 376, 427, 481, 592, 639.
50. U. S. Constitution, art. 1, sec. 3, art. 3, sec. 1.

President and the Senate could presumably fill vacancies in the office.

The judge of each judicial district was always required to appoint a clerk of the superior court in each county of the district wherein the judge was required by law to hold terms of court. [51] A district attorney and a marshal in each district were the prosecuting and executive officers, respectively, for the superior court of the district. [52]

Congress always required each judge to hold terms of court at one place in his district. These "district seats" were St. Augustine, Pensacola, Tallahassee, Key West, and either Apalachicola or St. Joseph, for the Eastern, Western, Middle, Southern, and Apalachicola Districts, respectively. From March 1822 to May 1826 and after March 1827 each judge was also required to hold terms of court at such other places and times in his district as the Legislative Council might provide. Between May 1826 and March 1827 Congress provided that the Legislative Council could require judges of the superior courts to hold terms in only one other place in their respective districts than the one assigned by the laws of the United States. After May 1826 the judges could hold court as occasion demanded for the trial of causes of admiralty and maritime jurisdiction and the hearing of cause in equity, and after April 1828 the judges could order extra terms and adjourn regular terms to other times and places than the ones required by law when the public interest required it and when the judges could not hold the regular terms assigned by law. [53]

51. ***U. S. S. L.,*** v. 3, pp. 656, 752, v. 4, pp. 45, 293, v. 5, p. 294.
52. ***Ibid.,*** v. 3, pp. 656, 657, 752-753, v. 4, pp. 46, 292, v. 5, p. 294.
53. ***Ibid.,*** v. 3, pp. 656, 752, v. 4, pp. 45, 165, 166, 241, 264, 292, v. 5, p. 294. A county-seat controversy in Franklin county between Apalachicola and St. Joseph (see ***T. A.,*** 1836, pp. 1-2; ***U. S. S. L.,*** v. 5, p. 70; ***T. A.,*** 1837, pp. 3-4), which ultimately resulted in the creation of Calhoun county with St. Joseph as the county seat of the new county (see ***T. A.,*** 1838, pp. 9-10), was probably the cause of Congress' indecision in prescribing the "seat" of the Apalachicola District.

Court of Appeals. The court of appeals of the territory was composed of all judges of the superior courts. Thus its membership consisted of three judges from May 1824 to May 1828, four judges from May 1828 to July 1838, and five judges after July 1838. [54]

Under the law which established the court of appeals two judges constituted a quorum until July 1832, in spite of the fact that the organization of the Southern District in May 1828 increased the number of superior court judges and the membership of the court of appeals to four. After July 1832 a majority of the court's membership constituted a quorum to hear and decide causes. [55]

The clerk, district attorney, and marshal of the Middle (superior court) District were, respectively, the clerk, attorney, and executive officer of the court of appeals. [56]

The court of appeals was required to hold a regular annual term in January at Tallahassee. After the regular term of 1836 was not held Congress set a special term for May of that year and authorized the judges thereafter to hold a special term in lieu of a regular term not held for any cause. [57]

Original Jurisdictions of the Courts

Each court of the territory except the court of appeals exercised original jurisdiction in at least one of the following two kinds of causes: those arising under the laws of the territory including civil causes at law or in equity, criminal causes, and matters pertaining to the estates of decedents and minors; and those arising under the constitution and laws of the United States. The court of appeals had no original jurisdiction.

54. ***U. S. S. L.,*** v. 4, pp. 46, 291, 600, v. 5, p. 294.
55. ***Ibid.,*** v. 4, pp. 46, 291, 600.
56. ***Ibid.,*** p. 46.
57. ***Ibid.,*** v. 4, p. 46, v. 5, p. 5.

Civil Causes at Law and in Equity. The civil jurisdiction of a justice of the peace from September 1822 to June 1823 extended to all causes "founded upon any bond, bill, note, or account in writing, or assumpsit", when the value was $20 or less. [58] Between June 1823 and January 1828 a justice had jurisdiction of "civil causes, wherein the amount of the debt, damages or value of the thing in controversy, - [did] not exceed - one hundred dollars," but no justice during that time had cognizance of actions for assault and battery, false imprisonment, trespass on lands where title was in question, and actions for slander, libel or malicious prosecution. [59] This jurisdiction was extended in January 1827, when justices were specifically given cognizance of all causes "founded on any speciality bill or note in writing or account" wherein the value was $50 or less. [60] From January 1828 until the end of the territorial period a justice of the peace could exercise exclusive jurisdiction of suits for the collection of debts, dues, and demands wherein the value was $50 or less. [61] In January 1828 justices were forbidden to take cognizance of "any cause sounding in detinue, trover or other action, brought exclusively for the recovery of damages," [62] and in November 1828 and March 1842 justices were forbidden to take cognizance of actions for slander, assault and battery, false imprisonment, and trespass on lands. [63]

All other territorial courts of original jurisdiction were given cognizance of civil causes at law and in equity. During the time the circuit court functioned

58. ***T. A.,*** 1822 p. 91.
59. ***T. A.,*** 1823, p. 27; ***T. A.,*** 1824-25, pp.239-240.
60. ***T. A.,*** 1826-27, p. 55.
61. ***T. A.,*** 1827-28, p. 154; ***T. A.,*** 1828, pp. 93-94; ***T. A.,*** 1829, p. 136; ***T. A.,*** 1842, p. 20.
62. ***T. A.,*** 1827-28, p. 154.
63. **T. A.,** 1828, pp. 93-94; ***T. A.,*** 1842, p. 20.

its jurisdiction of such causes was exclusive when the value involved was between $20 and $100, and concurrent with that of the superior court when the value was greater than $100. [64] From June 1823 to January 1827 the county court had jurisdiction of civil actions at law and in equity when the value involved was between $20 and $100, and from January 1827 to February 1833 it had jurisdiction of such causes when the value was between $50 and $100. Until February 1833 the county court also had jurisdiction of civil causes at law and in equity concurrent with that of the superior court when the value involved was $100 or more. [65] After February 1833 the county court had exclusive jurisdiction of civil actions at law and in equity when the value involved was between $50 and $1000 of such civil actions involving less than $50 as were not specifically within the jurisdictions of other courts and in all civil actions involving more than $1000 of which the superior court, by reason of the interest or other disability of its judge, could not take cognizance. [66] The superior court was always vested with jurisdiction of civil actions at law and in equity arising under the laws of the territory when the value involved was $100 or more. After May 1826 its civil jurisdiction was merely original but not exclusive. [67]

Criminal Causes. During the territorial period a justice of the peace had no criminal trial jurisdiction. Justices always discharged the functions of committing magistrates, however, and were always

64. ***T. A.,*** 1822, p. 3.
65. ***T. A.,*** 1823, p. 8; ***T. A.,*** 1824-25, p. 247; ***T. A.,*** 1826-27, pp. 106-107 ; ***T. A.,*** 1828, p. 213; ***T. A.,*** 1829, p. 41.
66. ***T. A.,*** 1833, pp. 42-43 ; ***T. A.,*** 1838, p. 38. These laws give the county court *exclusive* jurisdiction in eases where the value involved was between $50 and $1000, regardless of the act of Congress giving the superior court original jurisdiction of cases involving more than $160.
67. ***U. S. S. L.,*** v. 3, pp. 656, 752, v. 4, pp. 45, 164, 291, v. 5, p. 294.

designated conservators of the peace. After June 1823 judges of the county courts and superior courts were likewise designated committing magistrates and conservators of the peace. [68]

During the time it functioned the circuit court had jurisdiction of all offences committed against the territory in Duval and Jackson counties. [69] From June 1823 until December 1824 the county court had concurrent jurisdiction with the superior court of all criminal cases not capital, [70] and from January 1827 to January 1828 it had concurrent jurisdiction with the superior court of actions "of assault and battery, affrays and breaches of the peace." [71] From December 1824 to January 1827 and after January 1828 the county court had no jurisdiction of criminal cases unless the judge of the superior court was the party accused or unless the superior court for any other reason was unable to exercise its criminal jurisdiction. [72] The superior court always had original jurisdiction of all criminal cases arising under the laws of the territory and exclusive jurisdiction of all such cases as were capital. [73]

Probate and Estates. While it functioned, the circuit court had exclusive jurisdiction of matters relating to the probate of wills, the granting of letters testamentary and letters of adminisration, and of other functions usually discharged by courts of

68. ***T. A.,*** 1822, pp. 91, 93 ***T A,,*** 1823, pp. 30, 32; ***T. A., 1824-25,*** pp. 244, 245, 254, 255 ; ***T. A.,*** 1827-1828, p. 154; ***T. A.,*** 1828, pp. 93, 119-120.
69. ***T. A.,*** 1822, p. 5. Terms of superior court were not provided for these counties until 1823; ***T. A.,*** 1823, p. 18.
70. ***T. A.,*** 1823, p. 8.
71. ***T. A.,*** 1826-27, p. 107; ***T. A.,*** 1827-28, p. 88.
72. ***T. A.,*** 1824-25, 247 ; ***T. A.,*** 1827-28, p. 88 ***T. A.,*** 1828, 213 ; ***T. A.,*** 1829, p. 42; ***T. A.,*** 1833, p. 43. The county court of Monroe county was an exception. From January 1827 to November 1828 it exercised jurisdiction of all crimes and misdemeanors when the punishment was not capital. ***(T. A.,*** 1826-27, p. 100; ***T. A.,*** 1828, p. 208.)
73. ***U. S. S. L.,*** v. 3, pp. 656, 752, v. 4, pp. 45, 164, 291, v. 5, p. 294.

ordinary. After June 1823 such jurisdiction was vested in the county court. [74]

Federal Causes. Until May 1826 the organic act of the territory and amendments thereto vested in each superior court the same jurisdiction of all causes arising under the constitution and laws of the United States as was vested by the federal judiciary act of 1789 and an amendment thereto in the U. S. District Court of Kentucky. [75] In terms of those acts the Kentucky court had exclusive jurisdiction "of all suits at common law where the United States sue, and the matter in dispute amounts-to the sum-of one hundred dollars," and "of causes where an alien sues for a tort-in violation of-a treaty of the United States"; "original cognizance - of all suits of a civil nature at common law or in equity, where the matter in dispute exceeds-the sum-of five hundred dollars, and the United States are plaintiffs-; or an alien is a party"; "original exclusive cognizance of all civil causes of admiralty and maritime jurisdiction, including all seizures under the laws of impost, navigation or trade of the United States," whether such seizures were made on land or water, "and of all suits for penalties and forfeitures incurred, under the laws of the United States"; and exclusive jurisdiction of "all crimes and offences-cognizable under the authority of the United States," committed either within the district of the court or upon the high seas. [76]

In May 1826 the substance of these provisions was codified, revised somewhat, and embodied in an amendment to the organic act. In terms of the amendment each superior court had "original juris-

74. ***T. A.,*** 1822, p. 127; ***T. A.,*** 1823, pp. 9, 43; ***T. A.,*** 1824-25, p. 248; ***T. A.,*** 1825, p. 84 ; ***T. A.,*** 1826-27, p. 107; ***T. A.,*** 1828, pp. 124, 215; ***T. A.,*** 1829 p. 44; ***T. A.,*** 1833, p. 45.
75. ***U. S. S. L.,*** v. 3, pp. 656, 752, v. 4, p. 45.
76. ***Ibid.,*** v. 1, pp. 76-79, 334.

diction in all civil causes, in law and equity, whether arising under the laws of the territory or otherwise, where the sum in controversy-[amounted] to one hundred dollars"; original, but not exclusive, jurisdiction of all suits to which the United States were parties, whatever might be the amount in controversy; original and exclusive cognizance "of all civil causes of admiralty and maritime jurisdiction, including all seizures under the laws of impost, navigation, or trade of the United States, whether such seizures-[were] made on land or water, and of all suits for penalties and forfeitures incurred under the laws of the United States"; "and original and exclusive jurisdiction of all crimes and offences -cognisable, under the authority of the United States" committed either within the district or the court or upon the high seas. [77] Each superior court exercised such jurisdiction until the end of the territorial period. [78]

Appeals and *Review*

During the territorial period, there were three methods by which proceedings or cases originating in an inferior court could be reviewed by a higher court: by appeal from an inferior to an appellate court, by writ of error from a court of error to an inferior court, and by writ of certiorari from a higher to an inferior court.

Justices of the Peace. Until February 1833 the decision of a justice of the peace in cases involving less than $10 was final; after that time a justice's decision in such cases was final unless a point of law apparent on the record was involved. [79]

77. ***Ibid.,*** v. 4, p. 164.
78. ***Ibid.,*** v. 4, p. 291, v. 5, p. 294.
79. ***T. A.,*** 1822, p. 91; ***T. A.,*** 1823, p. 27; ***T. A.,*** 1824-25, p. 239; ***T. A.,*** 1827-28, pp. 160-161; ***T. A.,*** 1828, p. 93; ***T. A.,*** 1833, pp. 42-43; ***T. A.,*** 1838, p. 38.

While it lasted the circuit court had appellate jurisdiction of judgments of justices of the peace. If an appeal were taken from a justice's decision he was required to deliver all papers in the case to the clerk of the circuit court wherein the appealed case was heard and determined "in a summary way without pleadings in writing, according to the justice of the case." [80] The superior and county courts had concurrent appellate jurisdiction of judgments of justices of the peace after June 1823. When an appeal was taken from a justice's decision he was required to deliver such papers and records as had been filed to the clerk of the appellate court, wherein the appealed case was tried *de novo.* A decision of the county court which affirmed the decision of the justice appealed from was final, unless a point of law alone was involved. [81]

Although either party to a ease before a justice of the peace was permitted by law after July 1823 to file a bill of exceptions to the justice's decision, the county courts and superior courts were not specifically authorized to direct writs of error to justices of the peace until November 1829. [82]

In 1823 and again in 1824 the Legislative Council had directed that the papers in a justice of the peace case should be transferred "to the court above" upon a writ of certiorari from the higher court. However, not until January 1828 were county courts, and not until February 1832 were superior courts, specifically authorized by territorial laws to direct such writs to justices of the peace. [83]

80. ***T. A.,*** 1822, pp. 3, 91-92.
81. ***T. A.,*** 1823, pp. 8, 11, 30, 104; ***U. S. S. L.,*** v. 4, pp. 45, 164; ***T. A.,*** 1824-25, pp. 243-244, 247, 251; ***T. A.,*** 1827-28, pp. 135, 160-161; ***T. A.,*** 1828, pp. 99, 213, 218; ***T. A.,*** 1829, pp. 41-42, 48, 138; ***T. A.,*** 1832, p. 147; ***T. A.,*** 1833, pp. 42-43, 48, 49; ***T. A.,*** 1838, p. 38.
82. ***T. A.,*** 1823, p. 30; ***T. A.,*** 1824-25, p. 243; ***T. A.,*** 1827-28, pp. 135-136; ***T. A.,*** 1828, p. 40; ***T. A.,*** 1829, pp. 41-42; ***T. A.,*** 1833, pp. 42-43; ***T. A.,*** 1838, p. 38.
83. ***T. A.,*** 1823, p. 30; ***T. A.,*** 1824-25, p. 243; ***T. A.,*** 1827-28, pp. 135-136; ***T. A.,*** 1828, pp. 40, 213; ***T. A.,*** 1829, pp. 41-42; ***T. A.,*** 1832, pp. 146-147; ***T. A.,*** 1833, pp. 42-43; ***T. A.,*** 1838, p. 38.

Circuit Courts. Cases originating in the circuit court could be reviewed by the superior court upon appeal, or by writ of error or writ of certiorari. [84]

County Courts. A litigant in the county court always had the right to appeal from the decision of the county court and might file a bill of exceptions and ask that it be made a part of the record on appeal. Failing to appeal, a litigant in the county court was always allowed to procure a copy of the record, assign error therein, present the assignment of error to the superior court, and secure a writ of error to the county court. Writs of certiorari always lay from the superior courts to the county courts. [85]

Superior Courts. Until March 1823 appeal might be taken from the decision of a superior court to the Supreme Court of the United States in the same kinds of cases and in the same way that appeals were taken from U. S. Circuit Courts to the Supreme Court. Likewise during that time writs of error in such cases lay from the Supreme Court to a superior court as from the Supreme Court to U. S. Circuit Courts. From March 1823 to May 1824 appeals might be taken and writs of error secured as previously, but only in cases involving more than $1000 value. [86]

When Congress established the court of appeals in May 1824, it provided that appeals might be taken from any decision of the superior courts to the court of appeals in such manner as the Legislative Council should provide, and that accordingly writs of error should lie to the superior courts from the court of appeals as the council should provide. The Council

84. ***T. A.,*** 1822, pp. 3, 4.
85. ***T. A.,*** 1823, pp. 8-9; ***U. S. S. L.,*** v. 4, pp. 45- 164, 165-166; ***T. A.,*** 1824-25, pp. 247-248; ***T. A.,*** 1827-28, pp. 111, 135-136; ***T. A.,*** 1828, pp. 40, 213, 217-218; ***T. A.,*** 1829, pp. 41-42, 47-48; ***T. A.,*** 1833, pp. 4243, 47-48.
86. ***U. S. S. L.,*** v. 3, pp. 656, 752.

provided that an appellant should secure a transcript of the record and file it with the clerk of the court of appeals, and that a plaintiff in error should file an assignment of error with the clerk of the court of appeals. [87]

Substantially the same procedures for appeals and writs of error in the superior courts remained in effect during the rest of the territorial period, as far as cases arising under the laws of the territory were concerned. After May 1826, however, in superior court cases arising under the constitution and laws of the United States, appeal was made from a superior court to the court of appeals as from a U. S. District Court to a U. S. Circuit Court. Correspondingly, writs of error lay from the court of appeals to a superior court as from a U. S. Circuit Court to a U. S. District Court. No such appeal or writ of error was allowed in cases involving less than $100. [88]

Court of Appeals. The only decisions of the court of appeals which were subject to review by a higher court were its decisions in cases which originated under, or which involved, the constitution and laws of the United States. Until May 1826 no decision of the court of appeals in such cases could be reviewed unless more than $1000 value was involved. The restriction on value was removed then but was again put into effect in July 1832. Appeals might be taken from such decisions of the court of appeals to the Supreme Court of the United States in the same way that appeals were taken from U. S. Circuit Courts to the Supreme Court, and correspondingly, writs of error lay from the Supreme Court to the court of appeals as from the Supreme Court to the U. S. Circuit Courts. [89]

87. ***Ibid.,*** v. 4, pp. 45-46; ***T. A.,*** 1824-25, pp. 166-168.
88. ***U. S. S. L.,*** v. 4, pp. 165-166, 291, 600, v. 5, p. 294; ***T. A.,*** 1828, pp. 44-45, 46-47; ***T. A.,*** 1832, pp. 92-93, 94-95.
89. ***U. S. S. L.,*** v. 4, pp. 46, 165, 601.

Appendix: Composition of Superior Court Judicial Districts by Counties

The judicial districts for the superior courts are listed below chronologically according to the date each was created. The date of creation follows the name of each district. Each county is listed under each district of which it was ever a part. The period during which each county was part of a district follows the name of the county.

Eastern District (1822)

Duval (1822-45)
St. Johns (1822-45)
Monroe (1823-28)
Alachua (1824-45)
Mosquito (1824-45)
Nassau (1824-45)
Columbia (1832-45)
Hillsborough (1834-45)
Hernando (1843-45)
Marion (1844-45)
St. Lucia (1844-45)
Levy (1845)

Western District (1822)

Escambia (1822-45)
Jackson (1822-38)
Gadsden (1823-24)
Walton (1824-45)
Washington (1825-38)
Franklin (1832-34)
Fayette (1832-34)
Calhoun (Jan.- July 1838)
Santa Rosa (1842-45)

Middle District (1824)

Leon (1824-45)
Gadsden (1824-45)
Jefferson (1827-45)
Hamilton (1827-45)
Madison (1827-45)
Franklin (1834-38)
Wakulla (1843-45)

Southern District (1828)

Monroe (1828-45)
Dade (1836-45)

Apalachicola District (1838)

Jackson (1838-45)
Washington (1838-45)
Franklin (1838-45)
Calhoun (1838-45)