

EARLY MARYLAND COUNTY COURTS

In the present connection we shall only concern ourselves with the organization, functions, and scope of the local courts set up by the Proprietary in the various counties of Maryland down to the end of the third quarter of the seventeenth century. Except in the case of St. Mary's and Kent counties, where the evolution of the county courts during the first two decades following the settlement, in their relation to the Provincial Court and the Council, was doubtless one of trial and error, the local administration of justice and the civil administration of county affairs were conducted side by side and by the same commissioners or justices. In the case of St. Mary's County, which was the seat of government, the general court, or Provincial Court, as it was soon to be called, came into existence a year or two after the settlement, when the swaddling clothes of early Provincial infancy were cast aside, and executive, legislative, and judicial functions became defined. The Provincial Court was at the beginning the only court of original jurisdiction, except when the General Assembly occasionally acted as a court of justice, and so remained until December 30, 1637, when Capt. George Evelyn was made Commander of the Isle of Kent and given authority to appoint six or more additional commissioners to hold court with him, with power in civil cases not involving more than £10 sterling, and in criminal cases with power similar to that exercised by Justices of the Peace in England sitting in their Court of Sessions, not extending to life or member (*Arch. Md. iii*, 59). Thus was the first secondary court of limited jurisdiction established, although not until some time between 1640 and 1642, apparently in the former year, when the settlements about Kent Island ceased to be called a hundred of St. Mary's and were given a legal county status, could the Eastern Shore court be technically designated a county court. Perhaps coincident with the commissioning of Capt. George Evelyn to hold court in Kent, was the granting of a county status to St. Mary's and the creation of a St. Mary's County Court. Of the exact date of the creation of a county court in St. Mary's we cannot be certain, as the provincial records for the period are incomplete, and all the local records of St. Mary's County have been destroyed by fire. Certain it is, however, that January 24, 1637/8, St. Mary's is referred to specifically as a county, and John Lewger appointed Conservator of the Peace there with powers limited to those of a single Justice of the Peace in England (*Arch. Md. iii*, 60-61). It is also certain that the powers of this Conservator of the Peace were, by the terms of his commission, more limited than those of the Kent court which consisted of seven or more justices with powers similar to those of an English Court of Sessions. The explanation of this difference is apparently a simple one. The distance of the settlements about Kent Island from the Provincial capital of St. Mary's made a greater degree of local judicial and civil authority necessary