

In civil cases, too, the jury figured largely. In fact, one of the main duties of the sheriff of St. Mary's was the summoning of "twelve & c by whom & c who neither & c to recognize & c because as well & c". This formula was never written out in full; sometimes it was even further abbreviated to "twelve & c". The jury was called to try cases, although many times when the trial opened, the defendant failed to appear, or, appearing, offered no defense; thus he suffered judgment by default and no jury was needed. Juries were also called to appraise the value of land (*post*, p. 668), to decide on its partition (*ibid.*, p. 410), or to direct the carrying out of a survey (*ibid.*, 355-356, 466). In half a dozen cases, juries were called to ascertain the amount of damages suffered, in cases where the Court had decided that damages were due, but had not been able to say how much they should be (*ibid.*, pp. 202, 239, 312, 331-332, 552-553). Jurymen and talesmen and sheriffs, like attorneys, often felt the displeasure of the Court in a substantial way. A dozen times, men called for jury service and not appearing, were fined 500 pounds of tobacco (*post*, 18, 21, 24, 25, 29, 31, 32, 40, 45, 141, 225, 246, 314). Another jurymen, who disclosed the verdict prematurely also paid his 500 pounds (*ibid.*, 440). A witness who did not appear at the proper time escaped the usual fine only by making it appear that he had not been properly summoned (*post*, pp. 203-204). Sheriffs were regularly amerced, or fined, 40 shillings when someone for whom they had returned a *cepi* (I took him) failed to come up to court. The Governor acting as Governor and not as Chief Justice could and did sometimes remit these fines (*ibid.*, 33, 225).

There was no insistence, apparently, on getting high-quality jurymen. On December 19, 1671, Joshua Guibert, presented "for marking John Blomfeilds Cattle with the said Guiberts marke appeared by Robert Carville his Attorney", stood on his traverse and had the presentment against him quashed (*post*, p. 19). Yet, two days later, Guibert was chosen as a juror in a murder trial, and he served without being challenged (*ibid.*, pp. 19-20). William Whittle, fined 100 pounds of tobacco for being drunk in court (*ibid.*, p. 29), had served on juries and served again later (*ibid.*, p. 159). Another talesman, appearing in Court too drunk to serve, was set in the stocks for half an hour (*ibid.*, p. 50). Another absent talesman, fined the usual 500 pounds, had his fine remitted when he proved he was in jail at the time and could not come (*ibid.*, p. 225).

APPEALS

In the period covered by the present volume there are not many cases heard by the Provincial Court on appeal or writ of error from county courts, and none of them were important. Two or three cases came up on writ of error, with no indication of the county in which they had arisen. They were only "upon Errors Continued untill the next Provincial Co^{rt}" (*post*, p. 108) and when at that next court they were considered again "These two Causes upon writs of Error^r are by Consent of Attorneys of both sides continued untill the next Co^{rt}." (*ibid.*, p. 168). After that, no more is heard of them here.

But a writ of error, a common law process, examines the law only and