

*Justices*

The April 22, 1696 commission from Governor Nicholson designated as justices or commissioners Thomas Holliday, William Hutchison, William Barton, John White, Robert Bradley, William Tannyhill, David Small and Robert Tyler, the first four being of the quorum. Hutchison was dismissed from office in October 1696 for contempt of an order of the Council; the remaining justices were directed "to Officiate at present by the old Commission."<sup>6</sup> A second commission from Nicholson, dated June 4, 1697, named as commissioners (ten instead of eight) five of the former commissioners—Holliday, Barton, White, Bradley and Tyler who were of the quorum—and five new ones—John Smith, John Hawkins, Robert Wade, Samuel Magruder and Thomas Sprigg. The new commission issued after several justices in the first commission had been returned to the Council as "unqualified to Act now in that Station by reason of the late Act of Parliament"—presumably 7 and 8 William III, c.22, s.12, providing that all places of trust in the courts of law should be in the hands of native-born subjects of England, Ireland or the plantations.<sup>7</sup> An August 7, 1699 commission from Governor Blakiston, successor to Nicholson, increasing the number to eleven, continued Holliday, White, Bradley, Tyler, Hawkins, Wade, Magruder and Sprigg as commissioners, returned William Hutchison and William Tannyhill to the bench, and added James Stoddart. Holliday, Hutchison, White, Bradley and Tyler were of the quorum.<sup>8</sup>

Before taking their place on the bench the justices were required to take the oaths appointed by act of Parliament (sometimes referred to as the oaths of allegiance and abhorrence) instead of the oaths of allegiance and supremacy, to take the oath of a justice of the peace, and to subscribe to the Test.

The oaths appointed by act of Parliament instead of the oaths of allegiance and supremacy, as they appear in the Council records, took the following form:<sup>9</sup>

I. A:B: do Sincerely promise and swear that I will be faithful to his Majesty King William the Third etc.

So help me God etc.

I. A:B: do swear that I do from my heart abhor, detest and abjure as impious and hereticall, that damnable doctrine and position that Princes excommunicated or deprived by the Pope or any Authority of the Sea [See] of Rome may be deposed or Murdered by their subjects or any other power.

And I do declare that no Forraign Prince person, prelate State or Potentate hath or

6. *Infra* 1-2; 20 MA 516. The order in which the justices were named in the commission was some recognition of status and at times a sensitive matter. In November 1694 in Baltimore County Court George Ashman refused to sit because Edward Boothby, a "vagrant person", was nominated before him and John Hall refused because, although late sheriff, he was nominated last in the commission. Both were presented and writs of *scire facias* issued to show cause why they should not take the oath of a justice of the peace. In February 1694/5 the Governor and Council ordered that they be bound over to answer at the next Provincial Court for their contempt. Ashman thereupon made submission and was allowed to sit. John Ferry and Thomas Hammond, also named in the commission, were fined for not appearing, being lawfully summoned. *BCCP, Liber G, No. 1 (1693-96)* 325, 328-29, 336, 363, 396, 437; 20 MA 225. When Boothby was later appointed to the Provincial Court, the grand jury petitioned the governor that he not be removed as a justice in Baltimore County. *BCCP, Liber G, No. 1*, 503, 528. The justices of the quorum were sometimes termed "Gentlemen of the Quorum", as opposed to "Gentlemen Justices." 23 MA 128-29.

7. *Infra* 186-87; 23 MA 110.

8. *Infra* 519-20.

9. 20 MA 390. See An act for the Abrogating the Oaths of Supremacy and Allegiance, and Appointing other Oaths. 1 Wm. and Mary, Sess. 1, c. 8, and Kilty's comment thereon. *Report on English Statutes* 178. For "the Association" (*infra* 520) see 7 and 8 Wm. III, c. 27.