

On December 13, 1669, the Provincial Court issued the following order regulating appeals from the county courts: "Ordered That all appeales from the County Courts to this Court shall Stand for Habeas Corpus's and that the plaintiff declare anew here and the defendant to putt his answer and the same cause be heard the same Court". (p. 486).

CRIMINAL CASES

The Provincial Court had exclusive jurisdiction in all criminal actions in which the penalty by law involved loss of life or member. The county courts ordinarily tried criminal cases of a less serious nature and could even order culprits flogged, but this record shows that the Provincial Court occasionally assumed jurisdiction over these less serious cases, especially when these had occurred in St Mary's or Calvert counties. Thus we find on several occasions, as recorded here, it tried cases of bastardy, trivial assault, fighting and quarreling, malicious damage of property, and women charged with loose living, ordinarily heard in the county courts.

While the court procedure in criminal trials was in most respects the same as that followed now, there are certain differences of interest. As in Maryland to-day the accused was given the chance of "putting himself upon the country", which meant a trial by jury, or he might ask to be tried by the court. In most of the criminal cases tried during this period the accused asked for a jury trial. In the two trials for barratry and in some of the contempt proceedings, however, no defense was made, and the accused threw themselves upon the mercy of the court. At this period those charged with criminal offenses were not represented by counsel, and we find that they were frequently, perhaps always, called upon to testify in their own behalf. Prosecution was conducted by the Attorney General.

In this five year period the Provincial Court had before it those charged with murder, rape, hog-stealing and other forms of theft, barratry, misdemeanors, contemptuous speaking, and also occasionally such trivial offences as those referred to in the previous paragraph. It also heard charges of neglect of duty by such public officers as sheriffs, coroners, overseers of highways, and jurymen.

The court minutes under some of the clerks were kept in such a way that the detailed steps of the procedure in these criminal cases are clearly presented, while other clerks were more sketchy and gave a mere summary. Thus we usually find in the trial of felonies, as for instance in a murder case, the findings of the coroner's jury held in the county where the murder occurred, the record of the calling together in the Provincial Court by the sheriff of the grand jury, with the names of the foreman and other jurymen, the presentment of the accused by the Attorney-General to the grand jury, the formal indictment", the plea of guilty or not guilty by the accused in court, the choice by the accused of trial "by his country" (petit jury), or by the court, the selection of the petit jury with the foreman and other jurymen named, the names of the witnesses but with few details as to the character of their testi-