

PREFACE.

The Provincial Court at St. Mary's was the chief judicial body in the Province, being not only a court of first instance for all matters civil, criminal, and testamentary for the city and county of St. Mary's, but having also appellate jurisdiction over the county courts. It was composed, during the years embraced in this volume, of the Governor as presiding judge, and one or more of the members of the Council as associate judges. In the absence of the Governor, the councillor next in commission presided. The judges were sworn to give judgment according to the laws of the Province, and were disabled from sitting in cases in which they were personally interested.

During these years the Province was so sparsely settled, that we are justified in surmising that nearly all the judicial business was brought, in one form or another, before the Provincial Court. Unfortunately, the record is not complete, the part from February, 1644/5, to May, 1647, being lost; for which we may probably thank Ingle and his brigands.

While the contents of this volume cannot have the same general interest as the records of the Assembly and Council, there is much in them worthy of attention by students of Maryland's early history and institutions, who may here note how laws and principles of law that had grown up under very different conditions were adapted without violence to the needs of the infant colony.

One feature that cannot be overlooked is the singular absence of crimes of violence. Leaving out of view the little sea-fight at Pocomoke, the offences against the person consist of two homicides and one (unproved) battery. In the case of the homicides, both the victims were Indians; and it is interesting to see how careful the court was to allow no partiality to interfere with justice, a jury who doubted whether "pagans" had the same standing in the court as Christians being promptly dismissed and a new trial ordered.

The process against Lewis and others (p. 35) shows that "offensive speeches and unreasonable disputations about religion" had been forbidden by public proclamation more than eleven years before the passing of the "Act concerning Religion." We find also here (p. 189) the first reference to the importation of negro slaves, and (p. 304) perhaps the first recorded purchase of negroes. Probably the solitary recorded instance of a deodand occurs on p. 10. The "custom of the country," as it was called, or the outfit that a master was legally bound to give his servant at the expiration of his term of service, is here (pp. 361, 470) judicially defined.

Some light is also thrown, by depositions in various trials, upon the proceedings of Ingle and his raiders in "the plundering year," as it was long called, an adjective which exactly defines their acts and their purposes; as also (p. 458) a characteristic piece of strategy on the part of Claiborne.