

In the case of affirmance of the judgment of the Provincial Court on appeal, such determination in civil common law causes was final, except that, in accordance with the royal commission and instructions to Nicholson, the above act of Assembly allowed an appeal to the King in Council if the judgment exceeded £300 sterling or 60,000 pounds of tobacco. On review of Chancery decrees further appeal to the King in Council was allowed by such act if the original debt or damages exceeded the same minimum.<sup>5</sup>

The Provincial Court held at Annapolis was the principal common law court of original jurisdiction in the province in both civil and criminal matters. It was characterized as having the powers of King's Bench, Common Pleas and Exchequer; it did not, however, go on circuit or exercise *nisi prius* jurisdiction.<sup>6</sup> It exercised sole jurisdiction in civil actions involving title to land, being commissioned to hold common pleas and to hear and determine "all and all manner of actions Civil Real personall and Mixt" within the province. Until June, 1697 it exercised exclusive jurisdiction in personal actions exceeding 10,000 pounds of tobacco; following changes in the commissions to the county courts, made at the instance of the House of Delegates, it then exercised concurrent jurisdiction with such courts.<sup>7</sup> For the entire period under consideration it had concurrent jurisdiction with the county courts in personal actions under 10,000 pounds of tobacco, except that in actions for debts not exceeding 1,500 pounds of tobacco the county courts had exclusive jurisdiction.<sup>8</sup> It also exercised concurrent jurisdiction with the county courts over actions on various penal statutes. It exercised appellate jurisdiction (by appeal or writ of error) over the county courts and other inferior courts of record in civil causes wherein the debt or damages amounted to £6 sterling or 1,200 pounds of tobacco.<sup>9</sup>

The Provincial Court had sole original jurisdiction in criminal matters in which punishment extended to life and limb, including by the commission terms murder, treason and misprision of treason. In most other criminal matters, including numerous statutes providing for informations, it exercised concurrent jurisdiction with the county courts. However, it seems likely that most of the serious criminal

5. 38 MA 61-62; 1 Labaree, *Royal Instructions to British Colonial Governors, 1670-1776*, No. 446 (1935).

6. 25 MA 320; cf. PMCA 36. In May 1692 it was presented as a grievance to the Assembly that the justices of the Provincial Court did not "Ride the Circuit" and that criminals were not tried in their own county "according to the usuall Customes in old England." 13 MA 357. In May, 1695 there was referred to the next Assembly a report of the Burgesses that "an equall number of Itenerant Justices of the Provinciaill Court be appointed on each syde the Bay to ride the circutes as the Judges in England, and to hold their courts on the Eastern and Western shore, and clerkes appointed to attend them. . . ." 19 *id.* 175. See also in July 1699 the negative Lower House vote on the second reading of a bill to appoint judges of *nisi prius*. 22 *id.* 433.

7. The House desired an order that the County Court commissions "be enlarged in limiting them to 10,000 pounds of tobacco or £50 sterling being a greate greivance to this province therefore we desire they may be as formerly." 19 *id.* 523-24. For the commission changes see *infra* 1-2, 172-73, 519-20. The account by Bond (PMCA xv-xvi) fails to note the 1697 change in the county court commissions. For the Provincial Court commissions see PCJ, *Liber TL*, No. 1, 120-22; PCJ, *Liber WT*, No. 3, 1-3 (Hall of Records, Annapolis).

8. 13 MA 447; 22 *id.* 500.

9. 38 *id.* 60. The statement by Bond (PMCA xiv) that the relationship of the Provincial Court to the County Courts was comparable to that of the central courts in England to the county courts is misleading. In England, since the county courts were not courts of record, no writ of error would lie. Review of erroneous judgments was by Common Bench upon writ of false judgment. Perhaps of more significance was the transfer of causes from the county courts to King's Bench or Common Bench by writ of *recordari facias loquelam* (if commenced by plaintiff) or by writ of *pone* (if the suit was before the county court by writ of *justicies*). Greenwood, *The Authority, Jurisdiction and Method of Keeping County-Courts, Courts-Leet, and Courts-Baron* 52-54 (1730).