

Blakiston assumed the role of Chancellor, but as a concession to custom administered the office with the assistance of two Council members.<sup>23</sup> Acts of 1697 and 1699 provided that the Court of Chancery was not to hear, try, determine or give relief in any cause wherein the original debt or damage did not exceed 1200 pounds of tobacco or £5, but that the judgment of the County Courts was to be final. These acts are somewhat ambiguous but apparently they were intended to prohibit intervention by Chancery in certain causes pending or tried in the county courts.<sup>24</sup>

Several acts relating to the appellate judicial structure of the Province provided that "all and every person or persons whatsoever [that] shall conceive him or themselves relievable in Equity before a Court of Chancery from any Judgment given or obeyed against him in the Provinciaall Court or County Court aforesaid shall Exhibitt his Bill and proceed in such Court of Chancery before any appeale be entred or prosecuted before the Governor and Council." This language seemingly contemplates an appeal to the Governor and Council directly from the county courts (although for a portion of the period the minimum specified would exclude actions commenced in the county courts), but we have seen no resort to such an appellate course.<sup>25</sup> In any event, the several acts do appear to contemplate application to the Chancery Court for relief against a judgment of a county court, with an appeal to the Court of Appeals from the decree of the Chancery Court therein.

The Commissary General, commissioned by the governor, had jurisdiction over the probate of wills, even where title to land was concerned, and the granting of administration. He was directed to hold court at least once every two months, proceeding according to the laws of England, except as otherwise limited by act of Assembly. He also appointed in each county some "able and Sufficient" freeholder of good repute as Deputy Commissary to take probate of wills and grant administration in case of intestacy. From the sentence of the Commissary General an appeal lay to the governor who usually appointed a Court of Delegates to hear and determine the appeal, subject to further proceedings before a commission of review.<sup>26</sup>

Courts of vice-admiralty were established by gubernatorial commission in 1695, one sitting on the Eastern Shore and the other on the Western. It seems likely that jurisdiction was largely confined to informations and actions arising under the Acts of Trade.<sup>27</sup> In a March 1698/9 case an appeal from one of the vice-admiralty courts in such an action was sought to the High Court of Admiralty in England. However, it was determined that under the governor's commission an appeal should be taken to the Governor and Council and thence to the King in Council.<sup>28</sup>

23. 20 *id.* 137, 232-33, 364-65; 22 *id.* 310-11, 318-19, 322-24, 401-04. In case of a bill of review the governor would have the advice and assistance of a full quorum of the Council, not less than five in number. From thence an appeal would lie to the King in Council in accordance with the royal instructions. See also *Chancery Record, Liber P.C., 1671-1712* (Land Office, Annapolis) where the commissioners are referred to as "assistant justices" and generally Pleasants, *op. cit. supra*, 61 *MA* 1-liv.

24. 38 *id.* 100; 22 *id.* 500. *Cf. PMCA* xvi.

25. 38 *MA* 8; 22 *id.* 471-72.

26. 13 *id.* 430; 22 *id.* 533; 38 *id.* 41; 20 *id.* 162, 311, 314-19, 358, 396-97, 408-11. See also MacQueen, *The Commissary in Maryland*, 25 *MHM* 190, 194-96, 201-05 (1930).

27. 20 *MA* 161, 225, 238-39, 478-84; 23 *id.* 274, 281-82, 369, 389-90, 392; 25 *id.* 12.

28. 25 *id.* 57-58. *Cf.* 25 *id.* 17 where an appeal directly to the King in Council from a vice-admiralty court sentence was contemplated and 20 *id.* 480 where Nicholson's commission to Nicholas Greenberry as judge of the vice-admiralty court on the Western shore reserved an appeal to the High Court of Admiralty. Attorney General Trevor, in a September 28, 1699 opinion sustained the right of appeal to the High Court of Admiralty from a Maryland vice-admiralty court. *CSP, Col., 1699*, No. 797. As to the confusion as to the proper appellate body in the case of appeals from the vice-admiralty courts see Smith, *op. cit. supra*, 177-93.