

grand jury. The first grand jury mentioned in Somerset County was on Nov. 27, 1666, when "Mr. Steven Horssi [Horsey], high Sheriffe p<sup>r</sup>esented A Jury of Inquest who were sworne". Then follows a list of twelve jurors and the form of "The Oath of th<sup>e</sup> Jury of Enquest". This body was ordered to meet the following month, and certain absent constables to be summoned before it (*Arch. Md. liv*, 648-649). No record of a jury under the name, *grand jury*, having been convened in Talbot County occurs before 1671, when a "jury of inquest" in November brought several presentments for bastardy, and in 1672 the county levy shows an entry of 480 pounds of tobacco paid out for summoning the grand jury; and at the August 1672 session reference is made to the "last grand jury". (*Arch. Md. liv*, 513, 544, 532). At a session of the Talbot County Court held in March 1665/6, the findings of a "jury", which served as a jury of inquest upon the body of a servant dead of blows upon the head inflicted by his master Francis Carpender, although rendered as a "verdict", resulted in the court binding "over the said Carpender to answer att the Provinceall Court". (*Arch. Md. liv*, 390-391). In Kent the first reference specifically to a grand jury by name was in July 1675 when presentments were made by this body on the information of a constable (*Arch. Md. liv*, 324).

Trial by jury was made use of in Maryland from the earliest times in the general or Provincial court in both civil and criminal cases. Under the act of 1642 it was specifically provided that where the judge, plaintiff, or defendant required it, the cause should be tried before a jury (*Arch. Md., i*, 151). We thus find an early use of the system, still in vogue in Maryland, of giving the accused in criminal cases, even when capital punishment may be the penalty, the choice between trial by jury or before the court. In the county courts, as these records disclose, in civil cases either the plaintiff, defendant, or the court itself, might demand that a jury be impanelled, although it was usually the plaintiff who asked a jury trial. The records of these four county courts show that some fifty civil cases were tried by juries.

No mention is made in the provincial records of payment to jurymen for their services until the session of the Provincial Court held, February 2, 1663/4, when in two suits the jury declared that they had been "detayned here ever since yesterday att noone, to the lett & hinderance of our goeing about our owne busines", and asked the court to allow each jurymen thirty pounds of tobacco before their verdict was rendered, this to be paid by the "party cast in this suite". The court granted the request, and thereafter this custom seems to have become established in civil suits (*Arch. Md. xlix*, 143, 146). At the September 13, 1664, meeting of the Charles County Court a similar request was made by a jury "because the provinciall Court hath ordered the same in the licke Cases without which order the forman woold not deliver in thear Verdit". Although Mr. William Marshall, one of the county justices, dissented, the court so ordered (p. 515). In other civil suits heard later by this same court payments to jurymen were allowed (pp. 543, 603), so that it would appear that the custom was now well established. There is no record, however, of payment to county juries in criminal cases. In the Kent County levy for 1660 we find an allowance of 200 pounds of tobacco "for four Gallons of