

more, for to Examine her, and then shee Confessed that shee had A Child and the Hoggs had Eaten it" (*Arch. Md. LIV*; 395). Why she was acquitted is not clear. Possibly it was a still-born child.

The trial for infanticide of Mary Marler of Port Tobacco, Charles County, spinster, a maid of Mrs. Hannah Price, which took place at the April, 1666, court, furnished some dramatic features. She had given birth to twins, a boy and a girl, and was indicted and tried before a jury charged with having killed the boy twin by having the rather notorious Hannah Price, now indicted as an accessory, expose him to the cold. Several witnesses and the two accused testified. The jury brought in the following verdict "Though wee cannot by evidence finde Mary Marler guilty of the murder abovesaid according to the words of the Indictment yet by her flight wee finde the law makes her Guilty and ought to be indicted and prosecuted, Wee allsoe finde Hannah Price by her Concealm^t of the murder of the Childe so many dayes to be accessory to the said murder". When the sheriff went to bring the prisoner into court to be sentenced, he found that Mary "Had broke prison and fled for it, Whereupon Proclamacon made three times that if she came not in, to be Outlawed"—and if she did not appear at the three successive courts she was "to be for ever Outlawed" (pp. 74, 75, 99: *Arch. Md. LIII*; 617). Nothing further appears in the record about Mary Marler, whose prosecution may have been dropped, or who may have made a successful escape. The record does show, however, that at the October, 1666, court, Hannah Price was cleared by proclamation (pp. 119, 125). Earlier records of the Provincial Court show how very often, the unfortunate Hannah and her worthless husband had been previously in the toils of the law (*Arch. Md. XLI, XLIX*).

Two men charged with rape, although this word is not actually used anywhere in this record, came before the court. In both instances the accused were acquitted. William Key of Selby's Cliff, Calvert County, was charged with assault by force and arms and of ravishing against her will Ann, the wife of Frances Billingsley of the same place. The assault was said to have taken place in her husband's chamber, and the indictment declared that it was an offence contrary to the statute passed in the 13th year of the reign of Edward I. It is of interest to know that the statute of Westminster II, 13 Edward I (1285), made rape a felony with the benefit of clergy, while the statute passed in 1575 in the reign of Elizabeth, which one would suppose had supplanted the earlier act, took away the benefit of clergy. Key, who could probably read, was presented under the earlier and milder statute. The trial was conducted in a peculiar way, in that Key, indicted for rape, and a certain Thomas Corker, indicted for murder, had their cases, according to the record, heard consecutively by the same jury, which then retired and brought in at the same time verdicts in both cases. Key pleaded not guilty and asked a jury trial. The jury of "life and death" of which Joseph Horsley was foreman, after hearing the evidence of the alleged victim and of another woman and two men, brought in a verdict of not guilty, and the jury "being askt if he did not fly for it answered not to our knowledge"—a question asked to show whether the accused had attempted escape, because, whether found guilty or not, attempted flight by an accused