Whatever the nature of the jury, the quality of the jurymen was no higher than it had been. Many could not write their own names, yet they were chosen again and again to serve. John Tenison (or Tennison) made his mark to sign a jury verdict in September 1677, and he served on two more juries after that (*post,* pp. 63, 324, 417). Of a jury summoned in May 1677 to partition land, nine of the twelve were marksman (*post,* p. 104). To be sure, none of the persons summoned or jury service were drunk or in jail when they should have been serving (*Archives* LXV, pp. 50, 225). Yet the marksmen doing jury service were not below the average of the population. In cases where women had to sign documents, most of them made their marks, and the signatures of men who wrote their names make it probable that they could write very little more. Illiteracy was no bar to office-holding. "Edward[Turner] being an illiterate person" but nonetheless "constituted Constable of the said Hundred [of St. Clements]", was fined 500 pounds of tobacco for not setting up in the St. Mary's County court house a fair list of all the tithables of his hundred according to act of Assembly (*Archives* II, 538-539. Edward petitioned the Governor and council for a remission of his fine because he was wholly ignorant of the law, and he had delivered a list to the sheriff. Ignorance of the law does not excuse anyone from what he is presumed to know, but the Governor was willing to presume that Constable Turner did not need to know, He had the Provincial Court order the justices of St. Mary's to stop trying to collect the fine, but there was no effort to remove Turner. For the future, though, the person swearing in a constable was to tell him about the law, and so leave him without Turner's excuse (*post,* p. 90).

Although most of the cases heard now, as in the past, were original, a handful did come up on appeal or on writ of error and supersedeas. Strictly, on an appeal, the higher court examined both the law and the facts, and tried the case as if it had not been tried before; on writ of error the court did not go into the facts at all, and concerned itself with the law only. In the late seventeenth century in the Province of Maryland at least, the Provincial Court was not at all nice in observing this difference. February 23, 1677/8 the case of Clayland *v.* Barnes came up in the higher court "upon an Appeale from Talbot County Court, & the plaintiffe not appearing to prosecute upon the Writt of Error & Supersedeas, a procedendo is awarded (*post,* p. 206). The same thing happened and the same words were used in the case of John Thompson *v.* John Atkey (*post,* p. 178). In this case there is a careless mistake that must be blamed on the clerk of the Provincial Court, Nicholas Painter. Atkey it was who got the writ of error and supersedeas, and therefore, though he had been defendant in the county court, he was now plaintiff in error, and he should have been so designated in the Provincial Court record. Instead, here is Painter's entry:

"John Thompson ag^{t} John Atkey } This cause being upon an Appeale from the County Court of Calvert County And the defend^{t} appeareing by Robert Carvile his Attorney And the said John Atkey not appearing to prosecute his writt of Error & Supersedeas a Procedendo is granted".