(*post,* 14, 46, 97, 182, 189, 211). When one of the parties to a suit put himself upon the country and the other party also, the next step was the command to the sheriff of St. Mary's that "he cause to come here twelve &c by whom &c and who neither &c To recognize &c because as well &c." The sheriff got a hundred and twenty pounds of tobacco for summonsing a jury (*Archives* II, 532; *post,* 39-40). In addition to trial juries there were other kinds. When the Court awarded damages to one party but did not know how great those damages ought to be, it ordered the sheriff to "cause to come here . . . twelve good and lawfull men of his county diligently to enquire what damages" the party who gained the verdict had sustained (*post,* 74, 76, 137, 139, 152, 202-203). Invariably the Court considered that the damages should be the amount the jury recommended. Sometimes a jury would be summonsed to decide the partition of a tract of land, but there were no cases like that at this time.

Though there is little to be said now about the quality of the jurymen, there is no reason to believe that in one year it rose substantially. Richard Hodgson served on a jury eight times, so that he must have been satisfactory. Yet, when the sheriff of Charles County went to arrest Hodgson at the suit of John Addison, he reported "that the Defend^{t} is not to be taken by reason he keepes himselfe upon his Guard, swearing the death of any person that shall attempt to come in upon him" (*post,* 147). That did not deter the plaintiff and his attorney: they got an attachment against his goods and chattels. As to the ability of the jurors to read and write, nothing is known: there are no marksmen, but then there are no documents to be signed. Generally the same men served again and again on juries: the clerk even entered their names in the same order. Richard Boughton and the brothers Doxey served on ten juries in the course of this one year. In several cases, though, the jury contained not one man who had served on another jury (*post,* 202). Was this a blue-ribbon jury?

Even more than in earlier years, most of the cases heard were original. There are no criminal cases, although one man sued another for damages following an assault and battery (*post,* 197-198). There were only five cases on writ of error, and three on appeal. There was a difference between appeals and writs of error. On a writ of error, only questions of law can be examined, and the court will not go into the matter of possible errors on points of fact. On appeal, the upper court will consider matters of fact as well as matters of law, and may examine the case as if it had not been tried before. That is the theory, and in most courts it is the practice as well. Here, though, the Assembly, by an act passed in 1678, substantially wiped out the difference between the two (*Archives* VII, 71-73). All appeals "shall from hence forth by the Provinciall Court of this Province be admitted and allowed of in nature of a writt of Error." For the future there was to be no new trial under an appeal, even though both processes were used. At this time there was one trial on writ of error, and several which had come in to the Court were continued or imparled. In the case of Ralph Fishborne *v.* Humphrey Davenport, Davenport, a chirurgeon, sued Fishborne for medical care, and the Talbot County court ordered that