Yet these were not choices between empty pomp and circumstance of the councillor's position and the abrasive creativeness of the legislative branch. For the councillor's duties were exacting of both time and talent. Above all the broad appointive powers required wide knowledge of people and nice judgment of their capacity to serve the public. The mere catalogue of appointments assigned to the Council indicates the magnitude of the task. The Council appointed the chancellor, all judges and justices, the attorney-general, naval officers, officers in the regular military service, officers of the militia, registers of the land office, surveyors, and "all other civil officers of government (assessors, constables, and overseers of the roads only excepted)." For a large county like Prince George's the justices of the county court numbered eighteen and the judges of the orphans' court seven. To be sure the personnel of both courts overlapped not only in Prince George's but in the other counties as well. Still appointments to the county courts and orphans' courts of the seventeen counties became the chief, almost the only business of the council for an entire month. Witness the year 1786 when the councillors worked from February 15 to March 13 drawing up these panels. Not surprisingly the Council recommended to the General Assembly a reduction in the number of justices (March 6, 1786).

Such formal recommendations were rare. The Council carried out its duties almost entirely within the established frame of government and statutes made under it. Even so interpretation and establishment of precedent are among the most instructive features of the proceedings before us. As watchdogs of the Constitution the State Council kept a sharp eye on justices of the inferior courts to insure adherence to letter and spirit of the Constitution. Elections in particular created problems for county court justices. In late 1785 the State Council reviewed several cases which established precedents followed thereafter. A difficulty perpetually confronting the justices at elections grew out of a constitutional provision (Article XLII) requiring them to certify two names from each county for the office of sheriff. These two persons were to be those of the duly qualified candidates receiving the highest number of votes. To qualify the candidate had to be twenty-one years of age, a resident of the county, and possessed of an estate, real and personal, valued at £1000 current money. The double return had practical value. The governor commissioned the person receiving the highest number of votes for a three year term. But in the event of his death, refusal to serve, or disqualification the governor then commissioned the other person, second on the return, to complete the three year term. This arrangement had two advantages. It eliminated the necessity for a special election when the successful candidate would not or could not serve; it also prevented the important office of sheriff from remaining vacant longer than a few days in such cases. But for all the excellence of Article XLII it was silent on one point: what the judges should do when only one person in the field of candidates in an election could qualify?

Such a case arose in October 1785 when the justices certified a single name for sheriff of St. Mary's County with the explanation that the two other candidates receiving votes lacked "property sufficient to render them eligible to the