The first county court was held by the governor and council at St. Mary's in 1638. Somewhat earlier than this a court known simply as "the court," was held by them, and the same body continued to hold the county court; the change was one in name and jurisdiction. When the second county, Kent, was erected with a court of its own, some time between 1640 and 1642, this original court at St. Mary's was continued as a court for the whole province, and differentiated under the name of "provincial court," and a separate county court was then organized at St. Mary's. Each additional county had its own county court.[1]

The provincial court came to be looked upon as having powers of both the benches in England,[2] and as bearing somewhat the same relation to the county courts as the central courts in England bore to the county courts in that country. The appellate jurisdiction of the court of king's bench was attributed to it, and from the beginning this court entertained appeals from the county courts.[3] It was regarded as the chief court of the province down beyond the American Revolution, until the year 1805, with a change of name to that of "general court" after the disappearance of the provincial status.[4] Such a central court for much of the judicial business became inconvenient as the population spread, and by the end of the seventeenth century the inconvenience brought into discussion a plan of dividing and localizing some of the jurisdiction. Eventually, in 1805, it brought about the abolition of the court. Under a royal command, received in 1706, that the justices of the provincial court should be reduced to four in number and that these should also be justices of assize, oyer and terminer, and gaol delivery and should go circuits to inquire and take the verdicts of juries in the several counties, the provincial council started assize sessions in the following year.[5] The lower house was, however, opposed to this development, preferring to enlarge the powers of the county courts, and it disagreed on incurring the expense of the service.[6] This caused a suspension of the assizes until 1723, when an act passed by both houses provided that two justices of the provincial court on each side of the bay should be appointed by the governor to act as justices of assize, nisi prius, and oyer and terminer, together with such justices of the peace, not over three, as the justices of the provincial court might see fit to associate with themselves, to hear and try

1 For a recent exhaustive study, by J. Hall Pleasants, of the organization of the first courts, see introductory letter, *Archives*, XLIX; and for a history of the courts and of the administration of justice, Newton D. Mereness, *Maryland as a Proprietary Province* (New York, 1901), ch. iii.

2 *Post*, p. 36.

3 Runkel *v.* Winemuller (1796), 4 Harris & McHenry, 429, 449. Daniel Dulany, the elder, a leading attorney of Maryland at the time, gave it as his opinion in 1722 that the court was the equivalent of the court of king's bench. MSS. in possession of present court.

4 *Constitution and Form of Government of Maryland* (1776), sec. lvi.

5 *Archives*, XXVII, 12, 17, 236; and see Cooper *v.* Bayley (1708), *post*, p. 113.

6 *Ibid.*, XXIX, 292, 293.