

7. THE JUDGES

From the brief descriptions here given of the organization of the courts, it will have been observed that the ancient office of justice of the peace was one made use of in the province extensively and variously. From the middle of the seventeenth century, or shortly after, the judges of all the courts held commissions. To what extent justices were appointed without relation to service on the courts cannot be safely stated now from the knowledge at hand, but there seem to have been unattached justices.¹ The commissions to members of the governor's council gave them comprehensive judicial powers,² and the courts held by them were from the time of the settlement presided over by justices; but for holding the provincial court they were given special joint commissions.³ The county courts were for a time in the early years held by military commanders, with the assistance of justices appointed by them, but by the year 1658 all justices of county courts were commissioned jointly by the governor, in the established form of the commission of the peace, with a few designated as the quorum, one of whom was required to sit to constitute a legal tribunal.⁴ The designation of quorums for both the provincial and county courts was continued down to the time of the American Revolution, and selection was one of the cherished distinctions of life in the provincial period. The number of justices varied; during the period of this record ten were usually commissioned for the provincial court, and from eight to twelve for county courts. Commissions were issued at irregular intervals, and the same justices were ordinarily continued in office for many years.

A few men trained in the law are found listed among those appointed. Benjamin Rozier, for instance, after an active career as an attorney in the courts at St. Mary's, became in 1677 a member of the council,⁵ and therefore a justice of the provincial court and a member of the court of the governor and council on appeals and writs of error. Henry Jowles, whose name appears in this record as one of the councillors sitting, and who had had a long career as a justice of the Calvert County court and of the provincial court, as chancellor, and as judge of the vice-admiralty court, and who had been sheriff of Calvert County, had studied law in Gray's Inn; but no record of his having practiced in Maryland has been found. He entered Gray's Inn in 1663, "son of John Jowles, late of Newington Butts, Surrey, Esq., deceased."⁶ During the eighteenth century there were several lawyers who

¹ *Archives*, III, 70, 89; acts 1699, ch. 24, *ibid.*, XXII, 500; 1715, ch. 41, *ibid.*, XXX, 320.

² Bozman, *op. cit.*, II, 625.

³ *Archives*, XX, 137; *ibid.*, XVII, 433; *ibid.*, XV, 65, 109, 110, 216, 325.

⁴ *Ibid.*, XLI, 87-89. Holdsworth, *op. cit.*, I, 670. Much the same form, with the quorum clause, was used for other joint commissions: for a court of delegates, *Archives*, XX, 312; for courts of oyer and terminer, Holdsworth, *op. cit.*, I, 280. ⁵ *Ibid.*, XV, 149.

⁶ Foster, *The Register of Admissions to Gray's Inn, 1521-1889* (London, 1889), p. 295.