provincial court,[1] published and unpublished, yet it is evident, too, that they had not reached that height of professional specialization at which originality stops. Much was done upon informal petition to the courts, or to the assembly.[2] An act of 1663[3] required that "actions and petitions" be filed in court proceedings three days before the opening of court sessions; and a proceeding which occupied an important place in the judicature of Maryland down to 1863, that upon petition for freedom of slaves, originated in this common resort to petitions by masters and servants in the middle of the seventeenth century. One such proceeding by a slave is entered in the present record, but only to note its dismissal because the slave had run away.[4] In 1698, it became necessary to protect this proceeding from attacks grounded on its free departure from practice in England. "Whereas," read the preamble of an enactment of that year,[5]

it hath been the common practice of this Province both in Provinciall and County Courts to heare and determine the complaints of Masters and Servants by way of petition. And that Whereas there hath been severall appeales and Writts of error brought upon the said Judgments and for want of due and formal proceedings according to the Strict Rule of Law judgments have been reversed * * * No such Judgment shall be reversed for want of Judiciall process, or that the same was not tryed by Jury or any matter of form Either in the Entry or giving of Judgment, provided it appears by the Record that the parties defendant were Legally summoned and not condemned unheard.

It is one of several indications that an increase of sophistication and influence of the bar was tending to check indigenous growths in practice.

The institution of the jury was handled with a new freedom. From the beginning of the province criminal cases were tried, at the election of the accused, without juries, the accused answering on his arraignment that he "put himself upon the court" for trial.[6] At the end of the century a new, and perhaps saving, foundation for this practice was found in the duly accredited proceeding upon confession, in which the accused "submitted to the Grace of the King,"[7] and throughout most of the eighteenth century the form in Maryland in all trials of criminal cases without juries was that the accused "submitted to the grace of the Court."[8] The inquest was made use of for an unusual variety of purposes at that time, among them that of obtaining preliminary surveys of the grounds of dispute in boundary

1 See report of trial on a charge of treason (1682), *Archives*, V, 313.
2 Galwith *v.* Galwith (1689), 4 Harris & McHenry, 477; *ibid.*, XLI, 166, 242, 418, 425.
3 Act 1663, ch. 21, *ibid.*, I, 498.
4 Eliz. Blackiston *v.* Jeoffrey, a Malatta, *post*, p. 26.
5 Act 1698, ch. 12, *Archives*, XXXVIII, 117.
6 *Ibid.*, IV, 165; Acts 1638, ch. 2, *ibid.*, I, 83; 1642, ch. 4, *ibid.*, p. 151.
7 Hawkins, *Pleas of the Crown* (London, 1824), II, ch. 31, sec. 3; Comyns' *Digest*, tit. Indictment, (K), Confession.
8 Miller *v.* Proprietary, 1 Harris & McHenry, 543.