

*vice* until further order from the governor appointing a new sheriff; from the secretary, as to a new clerk of the court; and from the attorney or solicitor general, as to a new clerk of the indictments. The House of Delegates, however, was of the opinion that there was no "Absolute necessity at present" for such a law. As to the sheriff, it was in the King's prerogative to make the appointment and "it would be inconvenient to make any act that might in the least intrench upon the same." As to the other offices, the justices were already sufficiently qualified to appoint until the secretary or attorney general could be notified. The Council in turn queried whether the justices had such power of appointing a clerk of the court or clerk of the indictments and proposed consultation with counsel therein "which if Judged that they have no such Power that then such power be added to their Commissions." Finally, on September 29th, it was resolved by the House, and assented to by the Governor and Council, "that the Justices of the County courts upon the death or disability of the Clerk of the County or Clerk of the Indictments be hereby empowered to appoint such Clerk of the County Court or Indictments *pro hac vice* until further directions from the honourable the Secretary or Attorney General."<sup>37</sup> The Council returned to the matter in June 1697. The crown law officers, asked whether the clerks name ought to be inserted in the commission of the peace, reported that there was no occasion "seeing by his Honor the Secretarys Commission to such Clerks, They are thereby Sufficiently empowered to Act."<sup>38</sup>

The principal duty of the clerk of the county court was to keep the records of such court, as indicated earlier, and to issue process. These duties were amplified in several orders of the court. At the August 1699 court it was ordered that a docket, both of trial and appearance, be presented by the clerk to the court the second day of each session; the clerk was to receive 50 pounds of tobacco for each docket but to forfeit 1,000 pounds for each neglect to make such presentation. At the October 1699 court it was ordered that the clerk make his appearance at his office in Charles Town every Wednesday and Saturday; if such appointed day proved wet, the first dry day thereafter. Presumably this was to facilitate the issuance of process, discussed below.<sup>39</sup>

An elaborate schedule of clerk's fees was provided by law, covering a wide variety of clerical acts. That the post was lucrative appears from a 1695 act requiring those holding offices of profit to pay certain amounts each year for the "use of the Publick"; the clerk, as well as the sheriff, was required to pay two pounds of tobacco per poll for every tithable person within the county. By contrast the clerk of the Provincial Court only had to pay 400 pounds of tobacco per annum.<sup>40</sup>

Some administrative duties were imposed on the clerks of the county by conciliar order. By an August 1695 order of the Council the several county clerks and clerks of the indictments were to make oath to the fines and forfeitures passed in their respective courts before the justices of the county courts. A later order limited the swearing out lists of fines to the county clerks, the lists afterwards to be sent to his Majesty's receiver to be duly collected. In October 1696 the clerks of the several county courts were directed to make return of the county levies pursuant to a late act of Assembly. In August 1697 the county clerks and vestry clerks were ordered to return copies of the oaths taken by the several officers and of all bonds given by sheriffs and others. In November 1698 it was ordered that each county clerk return a list of the officers in his county who ought to pay the impositions

37. 19 *MA* 444, 446, 447-48, 456.

38. 23 *id.* 111.

39. *Infra* 542, 615.

40. 13 *MA* 512; 38 *id.* 50.