

make any resistance with force, you shall Levy hue and Cry and pursue them untill they be taken, you shall do your best endeavour that hue and Cry be duly raised and pursued against Murtherers theivs and other Felons and fugitive Servants, And the Laws and Orders against Vagabonds and such other idle persons coming within your Limitts be duly putt in Execution at your County Courts coming, you shall present all Offences done against the Severall Acts made for the suppressing of Drunkenness and also true presentment make of all bloodsheds, Affrays, Out cries Rescues and other Offences committed against their Majesties Peace within your Limitts who shall well and truly Execute all Precepts and Warrants to you directed from the Justices of the Peace of this County or Higher Officers, And you shall well and truly according to your knowledge, Power and ability do and Execute all things belonging to the Office of a Constable so long as you shall continue in this Office so help you God.<sup>82</sup>

By law the constable was also charged with determining and listing all the taxables in his hundred; one list was to be furnished the sheriff, another to be presented to the next county court and there set up.<sup>83</sup>

In May 1697, upon representation from Somerset County that "poor men" were constables "who cannot well attend the said Imploy by reason of such their poverty," the House resolved that the Governor and Council be desired "to direct the Justices of the severall County Courts to choose able men that are Richer and may better attend the said office of Constable." However, the governor did not know how far it might be "legally proper" to excuse poor men from being constables and apparently no such direction ever issued.<sup>84</sup>

## VI. CRIMINAL JURISDICTION

The first Nicholson commission, dated April 22, 1696, in the first *assignavimus* authorized Thomas Holliday and the seven other justices jointly and severally:

- (a) to keep the peace in Prince Georges County;
- (b) to keep and to cause to be kept all laws and orders for the good and conservation of the peace and for the quiet rule and government of the people;
- (c) to chastise and punish any offending in said county against the form of the laws of the province or any of them in accordance with such laws.

The second *assignavimus* authorized four or more of the commissioners (of whom a justice of the quorum was always to be one) to inquire by the oaths of good and lawful men of the county (the grand jury) of all felonies, witchcrafts, enchantments, sorceries, magic art, trespasses, forestallings, engrossings and extortions whatsoever and of all singular other misdeeds and offences (excepting matters relating to title to land), of which justices of the peace in England might or ought lawfully to inquire, done or perpetrated in the county against the laws and orders of the province. This power was subject to the proviso that the commissioners should not proceed in any such case to take life or members but were to send the prisoners with their indictments and the whole matter pending before the commissioners to next Provincial Court to be tried there.

Lastly, following the grant of jurisdiction in civil actions, the justices were commanded diligently to attend the keeping of the peace, laws and orders and,

82. 13 MA 516. Kilty, in commenting on the Statute of Winchester (13 Ed. I, St. 2, c.1) stated that no entry respecting the pursuit of felons by hue and cry had been found in the court records of the province. *Report on English Statutes* 214. Note also that the Archbishop of Canterbury sent to Nicholson, among other books, copies of "A Guide for Constables." Steiner, *Some Unpublished Manuscripts from Fulham Palace Relating to Provincial Maryland*, 12 MHM 115, 120 (1917).

83. 13 MA 538; 22 *id.* 514.

84. 19 *id.* 516, 519, 561.