law of this Province is silent Justice shall be administered according to the Laws of England" appears on its face limited to civil actions or suits. [4]

The Maryland commissions, in addition to leaving out "unlawful assemblies," omitted the further enumeration of offenses contained in the English commissions, *viz.*, riding in company with armed force against the peace, lying in wait to maim or kill, abuse of weights or measures or in sale of victuals and unlawful or negligent conduct by sheriffs and other officers. The provincial commissions omitted the clauses concerning inspection of indictments, continuation of process, and reservation of difficult causes to the justices of assize. Most surprisingly, the provincial commissions omitted the specific "hear and determine" and "chastise and punish" clauses following the continuation of process clause; perhaps they were regarded as redundant. The English commissions, of course, contained no limitation as to infliction of punishment and no clause conferring civil jurisdiction. Despite the differences in the form of the Maryland and English commissions, a justice in Maryland could still profitably resort to such treatises as Lambard (*Eirenarcha*) and Dalton (*The Countrey Justice*) and, in receiving guidance and instruction, conform provincial practices to those of England.

The constitutional significance of the commission in the field of criminal jurisdiction appears from an incident in May 1697. When it was proposed that the governor might appoint a justice of the peace under his hand and seal when any died or moved out of the county, without putting the county to the charge of a new commission, the House of Delegates was of the opinion that although "much to the advantage and ease of the publick charge," it would be of a dangerous consequence to make a law so contrary to the known laws of England, especially since the law empowered the commissioners of the county courts to try criminals. It was thereupon resolved that "all Commissions of that nature ought to be under the broad seale and soe consequently noe person in a meaner Capacity capable of sitting Judge of the same. [5]

A substantial number of acts of Assembly during the period under consideration, in a somewhat unsystematic manner, conferred jurisdiction upon the county courts over a wide variety of criminal offenses. In most cases the jurisdiction was concurrent with that of the Provincial Court. In a smaller number, exclusive jurisdiction was conferred upon the county courts. In a few instances, due to inept drafts-

4. See the 1681 proprietary commission for Calvert County Court. 15 *MA* 396–98; Karraker, *The Seventeenth-Century Sheriff* 183–86. For the English commission of the peace see Dalton, *The Countrey Justice* 534–37 (1677 ed.). For the 1692 act see 13 *MA* 483. The 1696 act for the establishment of the Protestant religion in the province (19 *id.* 426, a replacement for the disallowed 1692 act on the same subject, 13 *id.* 425), which provided that "his Majesties Subjects of This Province shall enjoy all their Rights and Libertys according to the Laws and Statutes of the Kingdom of England in all Matters and Causes where the laws of this Province are silent", also does not appear concerned with establishing the penal laws of England in the province. Kilty, in discussing the Coventry Act, 22 and 23 Charles II, c. 1, stated that "it may be observed that those offenses which were made felonies by act of parliament were generally of a local nature, and were seldom adopted in the province." *Op. cit. supra* 95. As to 22 and 23 Charles II, c. 7 (An act to prevent the malicious burning of houses, stacks of corn and hay, and killing or maiming of cattle), Kilty states "this statute never extended to the province." *Op. cit. supra* 96.

In commenting on 1 Ed. III, St. 2, c. 16 (Who shall be assigned justices and keepers of the peace), in connection with the authorization in provincial commissions to hold plea of all offenses that might be heard and determined by any justice of the peace in England, Kilty noted that many of the statutes on this subject were of a local nature but the instant act appeared to be a general provision applicable to the people of the province. *Op. cit. supra* 216. See also *id.* 216, 220–21 for comments on 4 Ed. III, c. 2 and 34 Ed. III, c. 1.

5. 19 *MA* 515.