

their duties; the performing any marriage or being married contrary to the table of marriages established by the Church of England.²⁰

A 1694 law regulating fencing permitted the owner of a horse a remedial action for its full value against any person killing or destroying such horse outside the bounds of land owned or lawfully held by such person. A 1692 act provided that a person arrested or taken on process by a sheriff or other officer on the Sabbath, on a training day or a day for election of Burgesses might have an action of false imprisonment against the offending officer.²¹

It would appear that prosecutions or actions for breaches of the Acts of Trade would not normally be brought before the county courts. However, in December 1697 the Council ordered that copies of a book of rates and of the late act of Parliament for preventing frauds and regulating abuses in the plantation trade (7 and 8 William III, c. 22), supplied by the Commissioners of the Customs, be lodged in each county court, among other places, and that the several Acts of Trade contained in the book of rates and the aforesaid act be read twice each year in each county court in the province. A few months later the governor also ordered copies of his trade instructions and of an oath taken by him in connection with enforcement of the Acts of Trade lodged among the records in each county. In at least one set of articles and instructions to a surveyor of the customs (issued by Edward Randolph, Surveyor General of the Customs) notice of seizures for breach of the Acts of Trade might be given to a justice of the peace, "if near inhabiting where such seizure is made," among others.²²

Despite the numerous statutory provisions for popular actions little resort was had to this type of proceeding in Prince Georges County. In the *Liber* there is only one reference to a *qui tam* action, *Wood v. Mockeboy*. An appearance was made at the June 1697 court but the cause is then listed as agreed.²³ An examination of the records of other county courts and of the Provincial Court confirms the impression that there was no widespread use of *qui tam* proceedings in the province *temp.* 1695–1700. Whether this is another facet of laxity in law enforcement or whether the inhabitants lacked the litigious spirit which characterized other colonists, such as the New Englanders, is not clear. In England abuses of popular actions had led to Parliamentary restrictions (18 Eliz. I, c. 5; 28 Eliz. I, c. 5; 31 Eliz. I, c. 10; 21 James I, c. 4) and prompted Coke to refer contemptuously to the "vexatious informer . . . who under the reverend mantle of law and justice instituted for the protection of the innocent, and the good of the commonwealth, did vex and depauperize the subject, and commonly the poorer sort, for malice or private ends, and never for love of justice."²⁴ However, in Maryland the Council and Assembly records for the late seventeenth century contain no indication that such "viperous vermin" constituted a problem in the colony.

A few actions appearing in the *Liber* were brought under remedial statutes. In *Fields v. Gardner*, a cause transmitted from Calvert County, plaintiff sought to recover the forfeitures provided by the 1694 act of Assembly referred to earlier (An Act touching Coopers and the Gage of Tobbaco Hogsheads) for the failure of defendant Cooper to set up certain tobacco hogsheads by the dates prescribed

20. 13 *id.* 491, 541; 22 *id.* 474; 19 *id.* 377; 38 *id.* 122; 22 *id.* 472; 38 *id.* 56; 22 *id.* 533; 38 *id.* 55; 19 *id.* 426; 38 *id.* 37. Penalties for being married or performing the marriage ceremony without compliance with the publication requirements were recoverable in any court of record. 13 *id.* 450.

21. 38 *id.* 12; 13 *id.* 476.

22. 23 *id.* 357, 360, 363; 22 *id.* 7–8. For the oath and instructions see 23 *id.* 70, 309–21.

23. *Infra* 177, 181, 209. *Quaere His Majesty and William Chew v. Clapcoate, infra* 109.

24. *Second Inst.* 194.