

jury, whenever summoned, such act concerned with waste and also one of the above acts (that of 1692) dealing with probate and administration. The commissioners were also to hold a court in June of each year solely and wholly to put into execution the matters in such acts. However, in 1699 the limitation on the business of the June court was dropped and the commissioners were merely obligated to give in charge to the "orphan jury" in June certain statutory provisions with respect to waste. The extent to which these several statutory injunctions were followed does not appear from the *Liber*, except that it is apparent that the limitation on the June court was not adhered to.<sup>5</sup> One presentment concerning an orphan's estate appears at the June 1697 court.<sup>6</sup>

In order to determine what lands had been given to the use of any church or chapel, and not confirmed by any deed of gift or grant, a 1697 act authorized the next grand jury in each county to have in charge to inquire by what titles the lands upon which the churches or chapels stood in their respective parishes were held and to render an account thereof to the county court.<sup>7</sup>

The *Liber* shows grand juries summoned in June, August and November, 1696; January and March, 1696/7; June, September (summoned upon motion of the clerk of the indictments) and November, 1697; March, 1697/8; June, August (summoned upon court's own motion), and November, 1698; March, June and August, 1699.

#### *Presentments*

While law enforcement centered around the grand jury presentment it was recognized that process in criminal matters might issue upon special order of the court. An ordinance of the Assembly of May 20, 1695 provided that the clerks of the indictments of the several county courts should have 200 pounds of tobacco of "criminals" in those cases in which the grand jury found a true bill. For "lucre of fees" *venires* were then issued before any presentment of the grand jury or any order of the court so that various subjects were unjustly troubled and molested upon very trivial and slight complaints to the several clerks of the indictments. In order to prevent this evil it was enacted by means of a 1697/8 law that no summons or other process for any criminal matter or misdemeanor should issue out of any courts of the province against any person whatsoever without a presentment first found against such person by the grand jury unless by special order of the court. This provision was reenacted in 1699.<sup>8</sup>

As we have seen, in only one instance was an information used in a criminal proceeding. At the March, 1697/8 court the clerk of the indictments exhibited a "certaine bill of Information" against John Stevens for fornication in violation of the provisions of the Act for the Punishment of Blasphemy, Fornication and Adultery.<sup>9</sup>

5. 13 *id.* 430; 22 *id.* 533; 13 *id.* 498. Cf. *Lewis v. His Majesty and Lydall* where reversal by the Provincial Court of a June 1695 sentence of the Talbot County Court was urged on the ground, *inter alia*, that it was error (*coram non iudice*) to try a criminal at the June Court for Orphans. *PCJ, Liber IL*, 119. For some typical presentments by an "Orphan Jury" see *KCP, Liber I*, 586.

6. *Infra* 183-84. An oath of the jury for orphans' administration used in Baltimore County read as follows: "You doe Swear that you will well and truely Enquire into the breach of the Acts of Assembly Relating to Orphans Estates and a Trew presentment thereof make to this Court. So helpe you God." *BCCP, Liber G, No. 1 (1693-96)* 400.

7. 19 *MA* 592.

8. 38 *id.* 113; 22 *id.* 502. The text of the ordinance does not appear in the Assembly records. In conference on the earlier law it was agreed that instead of the word *venire*, the words "summons or any other process" should be inserted, directed to either the sheriff or constable at the discretion of the court. 22 *id.* 47.

9. *Infra* 168-69.