

However, there is nothing in the wording of this act to explain why resort was had to an information in this one instance. It should also be noted that the device of "swearing the peace" was not resorted to as a form of process.

The precept to the sheriff to summon a grand jury was included in the commission to the justices; as noted, the province laws provided that such summoning was to take place in any event at the March, June and November courts, and perhaps oftener in the discretion of the justices. The mechanics of summoning grand juries at other courts is not revealed by the formalistic entries of the *Liber*, except that in a few instances the sheriff was ordered in open court to summon a grand jury to consider specific presentments. That the summoning took the form of a judicial writ (two *venires* are mentioned in some Somerset entries) and that jurors were summoned from each hundred on a systematic basis seems likely from contemporary practice in other counties. The individual jurors were summoned by the sheriff by means of a subpoena.<sup>10</sup>

In any event, after the court met it commanded the sheriff to cause to come before it the "grand inquest" summoned by him and to return the panel thereof. The panel being returned and the jurors therein being called, they would come before the court. These grand jurors were required by law to be freeholders of the county. Most of the grand juries consisted of from 15 to 20 jurors; in only three instances did they reach 24. Whether the sheriff usually attempted to impanel 24 jurors does not appear.

After coming before the court the jurors all took the oath of a grand jurymen (the text of this oath does not appear in the *Liber* or in the laws), seemingly administered by the clerk of the indictments. If the court made any charges to the grand jury (the *Liber* entries reflect only a charge relating to the defense of the province), they would have been made at this point. The jurors then went out to consider the presentments that should come before them. Normally the person or persons giving information would appear before the grand jury (occasionally depositions were used in some county courts); presumably such persons would be put under oath. In the case of presentments for defaming two of the justices the court ordered the sheriff to summon the witnesses, swore them as evidence for the crown, and then sent them to the grand jury to inform.<sup>11</sup> In most cases the names of the witnesses who appeared before the grand jury are merely noted in the margin of the *Liber*, opposite the presentment, under the designation "Witnesses Sworne." Probably these names were endorsed on the bill. Presumably these witnesses were also first sworn by the court and then sent to the grand jury to inform.

In at least one county (Baltimore) the rules of court provided for a judicial screening of presentments. Upon any complaint or information brought to the

10. For the exceptions see *infra* 255-58, 361-63. Compare the form of entry found in neighboring Charles County (*CCCR, Liber V, No. 1 [1696-98], 23*): "It was Comanded the sherrife that hee should Cause to Come here this day that is to say the Eleaventh day of August four good and Lawfull men out of Every Respective Hundred within the County before the Justices of our Sovereigne Lord the King for Charles County to make up a grand Inquest for the body of the said County as well to Enquire into all trespasses Contempts and Misdemeanours Comitted against the peace of our Sovereign Lord the King as allsoe into the breach of any of the penall Lawes or Acts of Assembly of this Province and all other matters and things that shall be given them in Charge etc." In Baltimore County it was a rule of court "for the more Spedy dispatch of Criminall Matters that the Clerk of the Court doe at some Convenient time before the Twentieth day of July . . . send forth a venire to the Sherriffe of the County Directed for the Sumoning and Impannelling a Grand Jury to be and appear at September Court then next following To Enquire into the Breach of all penall Acts and Other Offenses Committed against their Majesties peace. . . ." *BCCP, Liber G, No. 1 (1693-96), 551-52*. For the use of subpoenas to summon grand jurors see the disallowed account of Sheriff Thomas Greenfield. *PGCJ, Liber B, 134-134a* and also *infra* 256.

11. *Infra* 256-57.