entered verbatim in the record. However, in the *Liber* only the condition appears to have been entered verbatim. In one case in which oyer was granted of a bill of exchange and the protest, neither was entered verbatim in the *Liber*. Whether it was the practice to pray oyer in open court does not appear from the *Liber*. In any event the effect of oyer was to make the document so read a part of the plaintiff's declaration to which defendant might demur.

Trial

In a substantial number of cases the defendant pleaded the general issue and "put himself upon the Court." Plaintiff's counsel then joined in this tender of a trial by the court, rather than by a petty jury, by writing below defendant's plea a similiter, "And the plaintiff also," and signing his name. (This readily appears from *Liber* entries and the surviving file papers dating from the early 1700's.) Most of such entries follow the same format. However, in *Fry v. Warren* in the September 1698 court, an action of trespass on the case, the entry differs substantially from the usual *Liber* entry reading as follows:

> And the Said Samuell Warren by Joshua Cecell his attorney comes and Defendeth the force and Injury when etc. and Saith that the Said Debt was not assum'd in manner and forme and this he is ready to verifie in any manner as the Court here Shall Consider and the Said plaintiffe Likewise Whereupon as well the Said John Fry as the Said Samuell Warren by and at their Consent and request are admitted here to produce their Witnesses respectively for information of the Court in the premises according to the Custome of this Court here used and approved and now here at this day to Witt the 27th of September the Witnesses on Each part respectively being produced heard and examined and the truth of the matter in Controversie between the parties aforesaid by the Court here being heard understood and Maturely deliberated it is thereupon Considered. . . .[51]

This language is virtually identical with that of many entries found in the records of Charles County Court and it would appear that it was copied from a form of that court. This use of a verification in connection with a plea of the general issue is unorthodox by the standards of English practice. The reference to the "Custome of this Court" indicates an adaptation from English sources designed to permit trial by the court rather than by a petty jury. The first case tried in Prince George's County by the court, rather than a jury, was *Smith* v. *Palmer* at the November 1696 term. In this case defendant pleaded the general issue and put himself on the court, as did the plaintiff. There was no verification. However, the language of the entry then follows that of the Charles County form, "Whereupon", etc.[52] In several other cases tried by the court, traces of the Charles County format appear in references to "witnesses on Each part Respectively being produced Sworne heard and Examined." Why there was limited use of the Charles County format in Prince Georges County does not appear from the *Liber*.

The fact that the justices of the county courts in some cases tried matters of fact themselves without a petty jury was a matter of some legislative concern. In June 1697 an act was passed (An Act for the Reformation of Jeofailes in Maryland) which recited that, although there were "several good and wholesome Statutes of England made to reform Jeofailes and mispleadings after the Matter of fact found and return'd by 12 men of a Jury" in force in the province, yet many errors and mispleadings happened in many county courts for want of knowing and able attorneys and clerks which were not remedied by such laws. By reason thereof many

51. *Infra* 377–78.
52. *Infra* 82–83.