

# ARCHIVES OF MARYLAND

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PROCEEDINGS AND ACTS

OF THE

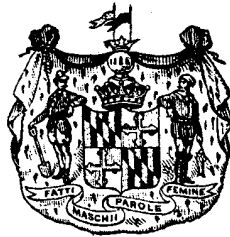
## GENERAL ASSEMBLY OF MARYLAND

*JANUARY 1637/8—SEPTEMBER 1664*

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*Editor*



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Shall be by a Jury of twelve marriners or (in defect of marriners) of other freemen of the province till the number of twelve Jurors be Compleate Liber  
C & W H

And Such Judgement Shall be given in all matters and causes whatsoever as is most agreeable to the Laws of this Province or (in default thereof) to the Judgments which usually are or ought to be given in the same or the like causes by the custom or Law Merchant of England or in the Admiraltie Court of England as near as the said Admirall Judge or Judges Commiss<sup>r</sup> or Commiss<sup>rs</sup> Shall be able to detirmine.

And all fines forfeitures of Bonds or recognizances to the use of the Lord Proprietarie confiscations derelicts pyrates or enemies goods found in or upon the Sea or within high water mark (not haveing any owner challenging the same) and all other proffits and perquisites due or belonging in England to the high Admirall of England shall be to the use and proffit of the said Admirall or (in vacancie of an Admirall) to the use of the Lord Proprietarie (except were the said proffits or perquisits or any of them are otherwise granted by Patten) This Act to continue till the end of the next Assembly. p. 11

#### An Act For the Erecting of a County Court

Be it Enacted By the Lord Proprietarie of this Province by and with the advice and approbation of the Freemen of the same that all causes of appeal from inferiour Courts and all causes whatsoever civill determinable in any Court of common Law in England and all causes for recovery of Legacy's and all Causes matrimonial (forasmuch as concerns the triall of Covenants and Contracts and the punishment of faults committed against the same) and all offences of incest attempting of anothers chastity defamation temararious admircōn detention of Legacy's clandestine mariage without beanes thrice published or bond entred in the Court and all Crimes and offences whatsoever (not extending to felony or treason by the Laws of this Province) for which any certain punishm<sup>t</sup> is appointed by the laws of this Province or by the Common Law of England shall be heard and determined finally by and before the cheif Justice of the Province for the time being or by and before such other Commiss<sup>r</sup> or Commission<sup>rs</sup> as the Lord Proprietarie of this Province or the Leuten<sup>t</sup> Generall shall authorize to hear and determine the same

'Which said cheif Justice shall or may appoint a Register for the Recording of all matters pertaining to that office and the said cheif Justice Commiss<sup>r</sup> or Commiss<sup>rs</sup> for the time being

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and the said Register shall be a Court of Record and shall be called the County Court and the said Court Shall or may have use exercise and enjoy all or any the same or the like powers priveledges authorities and Jurisdictions within this province (in the Causes aforesaid) as any of the Kings Courts of Common Law in England useth or may use and exercise within the Realm of England (except were it is otherwise provided by any Law of this Province)

And (untill there be a Seal appointed to this to this Court by the Lord Proprietarie) all mean prossesse and Judiciall Writts in all causes appertaining to this Court shall be drawn and Signed by the Register of this Court and Such Signature Shall be a sufficient warrant to the Chancellour or keeper of the great Seal to put the great Seal thereto and they Shall issue in the name of the Lord Proprietarie with the teste of the said cheif Justice or cheife Commiss<sup>r</sup> and Shall be directed to the parties themselves or to any Witnesses or to the Sherrif of the Countie or to any other officer named upon the writt and Such formes of process and proceedings upon bill plaint information Presentment, or endictment Shall be used and observed in the Court as are most agreeable to the Laws of this Province or otherwise to the forms used and observed in the Courts of Common Law in England in the same or the like causes as neer as the Judge or Register may well know them or otherwise such formes as the said Cheif Justice shall appoint or approve to be used and observed (except were it is otherwise provided by any law of this Province)

And all questions and Demurers in Law in this Court shall be determined by the said cheif Justice Commiss<sup>r</sup> or Commiss<sup>rs</sup>. And in all pleas and matters civill or Criminall (in this or any other Court within the Province) the Lord Proprietarie shall be allowed all the same and the like prerogatives and Royall Rights as are usually or of right due or belonging to a Court Pallatine (saveing allways the Soveraigne Dominion due to the King of England)

p. 13 And all issues of fact in this Court shall Be tried by the said cheif Justice Commiss<sup>r</sup> or Comm<sup>rs</sup> and the Councill sitting in Court or the Major part of them if the defendant shall chuse to be tried by the Court or otherwise by a Jury of Seven or more freeholders of the County to be returned by the Sherrif if the defendant Shall chuse to be tried by his Country

And the Register of the saide Court may at any time take a writt out of the Chancery returnable into this Court directed to the Sherriff to returne any five or more freemen (named upon the writt) for a grand enquest and after the empanelling of the said enquest or of any five of them the Court shall or may charge them with an oath truely to enquire of and true

presentment to make of all offences and misdemenors whatsoever committed to their or any of their knowledge or by vehement suspition publique fame or by information of any partie upon oath said or affirmed to be committed against the laws of this Province which presentment delivered into the Court by the said enquest shall be an indictment of any partie in any Crime of Felony or treason (Provided that such presentment or Indictm<sup>t</sup> be made or found by a Grand enquest of twelve Jurors at least) upon which such partie presented or Indicted may be put upon his tryall in the pretoriall Court and likewise it Shall be a Conviction of the partie presented of any other crime whereof he is presented (the said crimes of Felony or treason excepted) upon which such persons may be sencured for the said crime unless the partie presented purge him or herself thereof by such means as the Court shall appoint the partie for his or her purgation

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C & W H

And every person lawfully served and warned to be of the enquest as aforesaid and not appearing upon call at the time and place prefixed in the writt shall lose and forfeit such issues as shall be mentioned in the writ for a pennaltie of not appearing (provided that such pennaltie exceed not one hundred weight of Tobacco and the same Law Shall be for any other Jurors provided that the pennaltie of not appearing exceed not fifty weight of Tobacco

P. 14

And Such Judgment Shall be given in all causes in this Court as is most agreeable to the Laws of this Province or (in defect of such Laws) to the Judgements usally given in the same or the like causes in the civill Courts or Courts of common Law in England as neer as the Judge shall be able to detirmine and yearly on the first monday in October and afterward monthly till March (exclusively) Shall be held a County Court at S<sup>t</sup> Maries by the cheif Justice or (in his absence) by any Commiss<sup>t</sup> by the said cheif Justice appointed or in default of a Commiss<sup>t</sup> by the cheif Councillour of State at that time Present at S<sup>t</sup> Maries who shall in all things dureing the said Court have and use all the same powers and authorities as are given and granted to the cheif Justice in any part of this Act This Act to Continue till the end of the next generall Assembly.

An Act For the Erecting of a  
Court of Chancery.

Be it Enacted By the Lord Proprietarie of this Province of and with the advice and approbation of the freemen of the same That all matters and causes whatsoever determinable in