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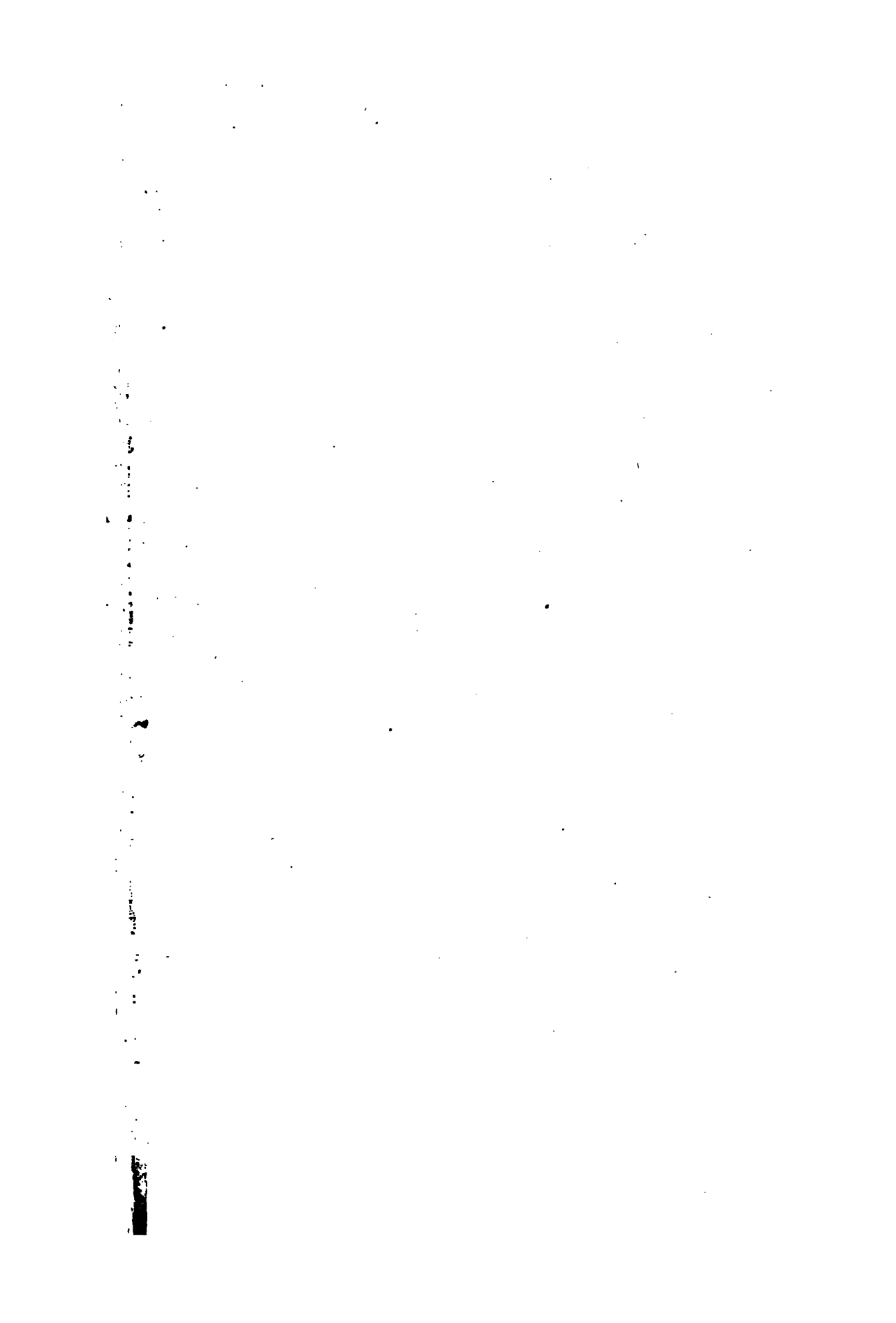
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HISTORICAL AND POLITICAL SCIENCE
(Edited by H. B. Adams, 1882-1901)

J. M. VINCENT
J. H. HOLLANDER W. W. WILLOUGHBY
Editors

MARYLAND DURING THE ENGLISH
CIVIL WARS
PART I

BY
BERNARD C. STEINER, PH.D.,
Associate in History, Johns Hopkins University.

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MARYLAND DURING THE ENGLISH
CIVIL WARS
PART I

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Indians, the first Assembly held, the first statutes made, the first crops grown on the new estates which had been granted by the Proprietary—in a word the beginnings of Maryland had come to an end. The student of the Province's history now approaches a period of troubles with the Indians and the Parliamentarians, of the intrusion of Ingle in the Provincial affairs, of Leonard Calvert's flight from the Province, of his reconquest of it and his death, of rumors of war from the great struggle between King and Parliament and of the famous act for religious toleration. To the study of this period we now address ourselves. It is the period of the English Civil Wars, yet these struggles have faint echo in the Provincial Records.

INDIAN TROUBLES OF 1639 AND 1640.

On March 20, 1638-9, the day after the adjournment of the Assembly, Calvert took, before the Secretary,¹ the oaths of allegiance and for the administration of equal justice, and administered the former oath and the one for the Councilor to Cornwallis, Brent, and Lewger. Lewger was also sworn as secretary of the Province and Brent as treasurer, and Thomas Baldrige was chosen and sworn as sheriff and coroner for a year. Matters moved smoothly in the Province for a time, save as to the Indians. Several men² patrolled the waters of Maryland to check trade with the Indians without Calvert's license and to bring unlicensed traders to St. Mary's.

Licenses are recorded³ permitting men⁴ to trade with the Indians for corn, but not to sell them arms or ammunition, and permitting corn bought from the Indians in 1639,

¹ 3 Md. Arch., Coun., 85. The form of the oath of allegiance was contained in an act introduced, but not passed, at the last Assembly. 1 Md. Arch., Ass., 40.

² 3 Md. Arch., Coun., 83-85, 91. John Harrington, Cuthbert Fenwick, John Hollis, Thomas Boys, Henry Bishop.

³ 3 Md. Arch., Coun., 84, 87, 91.

⁴ Andrew Chappell, Thomas Morris, Wm. Braithwait, Thomas Games or James.

doubtless a plentiful year, to be exported northward of the Chesapeake Bay, especially to England.

The relations of the Virginians with the Indians were unfriendly and a great massacre of whites took place about this time.⁵ The Susquehannocks and some Eastern Shore Indians were troublesome in 1639, and on May 28 Calvert, with⁶ two of his three Councilors, determined to make an expedition against these tribes and to send to Virginia a shallop manned by five men pressed for that purpose, to procure there twenty corselets, a barrel of powder, four roundlets of shot, a barrel of oatmeal, three firkins of butter, and four firkins of hot waters (i. e. spirituous liquors). The equipment is interesting, as is the fact that it had to be got in Virginia. When the supplies came a pinnace was to be sent to Kent and another to the Susquehannocks' country. To man the expedition thirty or more "good shot" (a curious instance of an early use of a common expression for a marksman) with necessary officers should be pressed. Each of the shot was to be provided with victuals and paid one hundred pounds of tobacco a month or given another man, "a good laboring hand," in his room to tend his plantation. There were to be two sergeants, who should receive double pay. On the next day Giles Brent⁷ was made a captain of the military band of St. Mary's, "to lead and command them and exercise them in discipline military," training all the inhabitants but the Councilors on "holy days and at other needful times," and viewing the provision of arms and ammunition at every dwelling house, once monthly if necessary. We have absolutely no further knowledge as to this expedition.

Just in the beginning of January, 1639-40, Calvert sent⁸ a commission to Nicholas Harvey, authorizing him to lead

⁵ Bozman, *History of Md.*, v. 2, 161.

⁶ Brent and Lewger, 2 Bozman, 162. Planning to leave St. Mary's for a time, Calvert appointed Cornwallis judge; 3 *Md. Arch., Coun.*, 85.

⁷ Cornwallis was probably absent; 3 *Md. Arch., Coun.*, 86.

⁸ 3 *Md. Arch., Coun.*, 87; 2 Bozman, 165.

any volunteers, well armed men, over twelve in number, against the Maquantequats only, who "have committed sundry insolences and rapines upon the English" in Maryland, and to "inflict what may be inflicted by the law of war," and to divide the "pillage and booty therein gotten" among the company.⁹ We know nothing of this expedition, nor why, later in the month, Calvert proclaimed that as "we are in peace and amity" with the Patuxents "I have taken them into our protection and prohibit all Englishmen from offering injury" to these Indians. Even among the Patuxents there were occasional unfriendly acts and, on February 3, Calvert directed a sufficient number of the inhabitants of Mattapanient hundred to be pressed to go to Aquascack on the Patuxent¹⁰ and to demand of the Indians there the man who killed an Englishman in Anthony Cotton's boat.

KENT ISLAND AND CLAIBORNE'S PROPERTY.

On February 3, 1639-40, William Brainthwait¹¹ was succeeded by Capt. Giles Brent as commander of Kent. In the previous month Calvert directed the surveyor to lay out for Brent one thousand acres, lying about Kent Fort in the southern part of the island, and the same amount elsewhere. This Manor of Kent Fort included the site of Claiborne's settlement.¹² Brent's commission was similar to that given Brainthwait, who was associated with Capt. John Boteler and Thomas Adams as commissioners to act with Brent, except that there was no limit assigned to his original civil jurisdiction. In April Brainthwait was reinstated¹³ as commander and Brent was asked to advise with the commissioners "in all greater causes"

⁹ 3 Md. Arch., Coun., 87.

¹⁰ 3 Md. Arch., Coun., 88.

¹¹ 2 Bozman, 165; 3 Md. Arch., Coun., 89.

¹² See Steiner in 165 J. H. U. Circ. Claiborne on June 30, 1640, in Virginia showed the court there that he, as administrator of Capt. Thos. Smith, had paid as far as the assets would go and was discharged. Streeter, Md., Two Hundred Years Ago, p. 23.

¹³ 3 Md. Arch., Coun., 90.

in the Court and on all other occasions of importance. The manor remained in the possession of the Brent family until 1782, when it was conveyed to Samuel Chew. Later the title to the land came before the United States Supreme Court for determination twice, in 1866 and 1869.^{13a}

The property of Claiborne and of Cloberry and Morehead was attached¹⁴ in January, 1638-39, on the ground that they had defended Kent Island against Baltimore's title, traded with the Indians contrary to his rights, felled the best timber trees for pipe staves, and otherwise disturbed the peace. They had been summoned to appear at St. Mary's before February 1, and, as of course they did not come, the property was forfeited. In 1640 Claiborne was busily prosecuting his case against his partners,¹⁵ with whom he had fallen out, and on August 8 he gave a power of attorney to George Scovell of Nansemond to recover his Maryland¹⁶ property, possibly in bravado, or to keep color of right to it. Scovell petitioned to be allowed to recover the estate, and was sarcastically answered that the estate Claiborne left in Maryland at his departure had been forfeited to the Proprietary for the crimes of piracy and murder whereof Claiborne was attained; but if Scovell can find out any of that estate not possessed by Baltimore, "he shall do well to inform his Lordship's attorney of it, that it may be recovered to his Lordship's use." If Claiborne had acquired property in Maryland since the attainder, the general law of Province gives Claiborne's attorney "free power and authority to recover it and, when

^{13a} Deery v. Cray, 5 Wallace Reports, 795, 10 Wallace, 263.

¹⁴ 3 Md. Arch., Coun., 82.

¹⁵ 5 Md. Arch., Coun., 181.

¹⁶ 3 Md. Arch., Coun., 92; 2 Bozman, 169. Ethan Allen, "Md. Toleration or Sketches of the Early History of Md. to the Year 1650" (1855), p. 29, states that Claiborne, as administrator of the Rev. Richard James, the Kent Island minister, brought into court at James City his inventory and account, and alleged that the Governor of Maryland had seized on the greater part of the estate of Mr. James and still detained it. James died at Sir Robert Cotton's in England in 1638, and curiously had been in Newfoundland when Baltimore was in Avalon. See Wood's *Athenae Oxoniensis*.

it is recovered, such order shall be taken with it as justice shall acquire."

Only testamentary court business is recorded during this time, there being a break in the other court records from 1638 to 1642. A few estates are settled, the details of whose inventories are interesting in giving glimpses into colonial life.¹⁷

ST. CLEMENT'S MANOR.

Mr. Thomas Gerard was granted, on November 3, 1639, a manor¹⁸ bearing the name St. Clement's and with the usual power of holding a court leet and a court baron, and the territory of this manor, with some additional land, was erected into St. Clement's hundred, a proclamation making Gerard justice of the peace therefor and giving him the powers of any two justices of the peace in England, which was probably in order to permit him to punish offenders against the game statutes.¹⁹ As conservator of the peace, Gerard was especially charged to punish offenders who destroyed herons on Heron Island, and unlawful traders with the Indians, and to see that the inhabitants were provided with necessary arms. John Robinson was appointed²⁰ constable and coroner of the hundred and directed to arrest offenders, especially such as "unlawfully trespass upon any our game of deer, turkeys, herons, or other wild fowl," sell to the Indians arms or ammunition,

¹⁷ (1) Richard Loe, 4 Md. Arch., Prov. Ct., 57, 74; (2) Andrew Chappell, op. cit., 57, 90, 112; (3) Michael Lums (nuncupative will), 59, 60, 89, 111, Baldwin Calendar; (4) Wm. Wassell (Kent), 60, 90; (5) Henry Crawley, 61, 91 (guardian appointed for his legatee, 65, 66), Baldwin Calendar (nuncupative will); (6) Thomas Cooper, 64 (Kent?); (7) John Glantham, 64, 92; (8) Richard Lee, 51, 76, 107, Baldwin Calendar; (9) Thos. Egerton, 89, 106; (10) Lawrence Mullock (Kent), 92; (11) Christopher Martin, 92. Baldwin adds John Speed, Leonard Leonardson, and Robert Cooper of St. Mary's, and Wm. Westly of Kent.

¹⁸ 2 Bozman, 167; St. Clement's Isle and Heron Isle, and the mainland between Herring and St. Catharine's creeks (3 Md. Arch., Coun., 89) and extending northward five miles into the woods.

¹⁹ 2 Bozman, 169.

²⁰ 3 Md. Arch., Coun., 89, 91.

or do not have ready sufficient arms. In England^{20a} wild animals were the property of the lord, and Baltimore meant to enforce his claim to have them included among *jura regalia* of his Palatinate.

THE JESUITS' MISSIONARY LABORS.

In order to obtain "an earlier acquaintance with the Indian language and propagate more widely the sacred faith of the gospel,"²¹ the Jesuits scattered themselves. Father John Brock, the superior, and a coadjutor brother²² remained on the plantation Mattapanient or Mattapany, given by Maquacomen, the Patuxent sachem, which plantation was their storehouse of supplies and was managed by Thomas Copley. Father Philip Fisher lived at St. Mary's, Father John Gravener at Kent Island and Father Andrew White at Kittimaquund, the seat of the Piscataways, one hundred and twenty miles away. He had devoted his endeavors for some time to achieve the conversion of the Patuxent chief, and at first had good hopes of success, but gradually the chief showed unfriendliness, not only to the new religion but also toward the whites in general. Calvert, therefore, recalled White lest the sachem should do him harm or, by

^{20a} In 1639 the Lady Anne Arundel, Lord Baltimore's wife, died. A portrait of her by Van Dyck is said to be at Wardour Castle. Browne, George and Cecilius Calvert, 118.

²¹ See B. U. Campbell, Sketch of the Early Christian Missions among the Indians of Md. 1 *Western Cont.*, 13 (Mch. 28, 1846); Shea's *Catholic Missions among the Indian Tribes*, p. 483. See U. S. Cath. Hist. Soc., Proc., 1904, *Earliest Jesuit Missionary Explorers in Md. & Me.* 7 *Md. Hist. Soc., Fund Pubs.*, 62. On Father White and the priests see Neill, *Eng. Col.*, 266. Cotton, *Way of the Congregational Churches Cleared*, p. 80, tells an amusing story reported to him by the Rev. James, who went to Virginia on the Lord's work and was detained by winds in Maryland, where he saw forty Indians baptized in new shirts, which the Catholics had given them for their encouragement unto baptism. But he tarried there so long for a fair wind that, before his departure, he saw the Indians, when their shirts were foul and they knew not how to wash them, come again to make a new motion: either the Catholic English there must give them new shirts, or else they would renounce their baptism. Campbell's paper is reprinted in *Md. Hist. Mag.* for Dec., 1906.

²² Probably Walter Morley, who came in 1638 with Father Ferdinand Pulton and died March 6, 1641. Father Brock was also known by the name of Morgan.

ferred from some disease of his feet, so that he could not walk. He recovered from this, but was afterwards afflicted with an abscess and died on November 3. In this year portents were seen, confirming the minds of the faithful and terrifying the scoffers.

On July 5, 1641,²³ Father Brock died. He had been a man of great devotion to his work and wrote, "For my part, I would rather, laboring in the conversion of the Indians, expire on the bare ground, deprived of all human succor, or perishing from hunger, than ever think of abandoning the holy work of God for fear of want."

The Jesuits had also plans for education, and the English superior of the order wrote to Father Brock, on September 15, 1640, "The hope of your establishing a college, which you hold forth, I embrace with pleasure and shall not delay my sanction to the plan when it shall have reached maturity." Joyful letters are also extant which were sent from England because of the good news from Maryland.²⁴ The general situation of the religious point of view is well summed up by the historian Gardiner:

"In²⁵ Maryland the Protestants, slack in zeal and dependent for organization upon their Catholic leaders, in all probability, never thought for an instant of erecting a dominant church, whilst the Catholics, planted in the midst of zealous Protestant settlements on either side, and depending for support on the good will of the King, could not venture, even if they had wished it, to oppress their Protestant fellow colonists."

THE FOURTH GENERAL ASSEMBLY.

The fourth general Assembly of the Province was held at St. John's, near St. Mary's, from Monday, October 12

²³ Neill, *Terra Mariæ*, 70, 71. We must remember the presence of Copley, who was probably a priest and to whom Roman Catholics bequeathed slight testimonials. (See Wm. P. Treacy's *Early Catholic Md.*)

²⁴ B. U. Campbell's *Hist. Sketch of the Early Christian Missions among the Indians of Md.* 1 *West. Cont.*, 13 (Mch. 28, 1846).

²⁵ 8 *History of England*, 180 and 181.

to October 24, 1640. On August 14 the Governor summoned²⁶ William Braithwait, Commander of the Isle of Kent, to have chosen burgesses, from one to four in number, by the freemen of the island, and Giles Brent, Treasurer of the Province, to appear in person. Nearly a month later,²⁷ on Saturday, September 12, the freemen of St. Mary's hundred were bidden to appear before the Secretary and to choose one or two burgesses, and those of St. George's and St. Michael's to do the same before the sheriff. Those of St. Clement's should choose one burgess before John Robinson, high constable of the hundred. Personal summons was also issued to Thomas Greene and Fulke Brent. A week later a third summons was sent to Mattapanient hundred to choose one burgess, and a personal summons to Cuthbert Fenwick, as Cornwallis's attorney. Greene and Giles Brent were also elected burgesses, as was Lewger, the Secretary; Fulke Brent was absent, so that, with Leonard Calvert, the Assembly consisted of fourteen members.²⁸ After the organization of the House it rejected a proposition to have a bill drafted for "stinting the planting of tobacco," a proposition we shall encounter frequently throughout Provincial days. It was voted, however, to draw up a bill for "destroying of unsound tobacco." This act, the beginning of Maryland's inspection system, was passed, and provided that no tobacco should be exported from the Province until it was sealed by a sworn viewer, three of which officers should be appointed in every hundred by the commander of every county. The act, which was to continue in force for two years, provided for inspection fees, for forfeiture of un-inspected tobacco, gave a definition of bad tobacco, and provided that such should be burned.²⁹

²⁶ 1 Md. Arch., Ass., 87. A different day was selected for each of the hundreds, and Braithwait and Robinson were allowed to select the date of their elections.

²⁷ 1 Md. Arch., Ass., 88.

²⁸ From Kent were chosen Giles Brent, Thos. Adams, Thos. Allen, and Jno. Abbott; from St. Mary's, Thos. Greene and Jno. Lewger; from St. Michael's, Thos. Morris and Thos. Baldrige; from St.

On the same first day John Dandy was summoned to answer for some crime,³⁰ showing that the Assembly was still a court, and a proclamation was issued³¹ prohibiting any person from going on board any vessel³² importing goods to be retailed in the Province, or from informing any one connected with the vessel of the "rates or quantity of tobacco or want of goods within the colony, before liberty of trade proclaimed at the fort," nor then at a higher rate than that proclaimed, under pain of such punishment as the Assembly saw fit. The people on the vessel were also forbidden to "deal for any goods with any inhabitant," or to land, except at the Governor's landing place, before he gave license, on such penalty as should be thought fit.³³ Trade monopoly, for which the Pro-

George's, Francis Gray and Geo. Pye; from St. Clement's, Robt. Vaughan, and from Conception, Robt. Lusthead. Only seven men voted in St. Clement's. We have no other figures. The Assembly voted the clerk 5s. per diem and 12s. for every private bill and the sergeant-at-arms 12s. per diem. 1 Md. Arch., Ass., 90. The burgesses were to pay the fees and charge them to their counties.

³⁰The viewer's oath is given in full. More attention was paid to this act than to any other. 1 Md. Arch., Ass., 98. The importance of the tobacco trade to the Province seems to make it worth while to repeat this definition: "Bad tobacco shall be judged ground leaves, second crops, leaves notably bruised or worm eaten, or leaves house burnt, sun burnt, frost bitten, weather beaten in the house, sooty, wet, or in too high case, so that the viewer on his conscience may reasonably think that it is not likely to last until midsummer following." Virginia had an inspection law in 1624. 2 Bozman, 176.

³¹1 Md. Arch., Ass., 89, 92. He does not seem to have been tried by the Assembly but was condemned to death for some crime about this time, and on May 10, 1641, "upon the petition of a great part of the Colony," the Governor changed his sentence to "three years' service to the Lord Proprietary, wherewith the said Dandy was well contented." 3 Md. Arch., Coun., 98. He was a violent man and was finally put to death for murder, as we shall see.

³²1 Md. Arch., Ass., 90, signed Wm. Bretton, Clerk. His salary was changed on Oct. 22 to fifty pounds of tobacco, showing an exchange value of tobacco of ten pounds to the shilling. 1 Md. Arch., Ass., 93. At the same time the sergeant-at-arms' per diem allowance was lowered to 6s. 2 Bozman, 173.

³³This proclamation seems to have been caused by some trouble about the pinnacle belonging to Thos. Weston or Thos. Games. 1 Md. Arch., Ass., 91.

³⁴1 Md. Arch., Ass., 91. A tie caused a bill to fail. The rule requiring a day to intervene was rescinded Aug. 6, 1641. 1 Md. Arch., Ass., 105.

prietary had struggled from the first, was still held important, but the proclamation for some reason was reversed on the last day but one of the session. The rules were chiefly those of the third Assembly, but a new provision was made that a bill must be read three times on three days, a day being also interposed between each reading, and that when rejected on the second reading the bill might not be propounded again at the session. I have an idea that Baltimore had sent over a draft of acts, for we notice that the "draft of the acts upon the book" were read and no reference is made to the drafting of the acts. Further, the rules say that "at the session all the bills engrossed shall be read and severally voted." At least nineteen bills were rejected on October 23, and nine were passed besides the tobacco act.³⁴ The enactments were published under the great seal, on October 30, and may be classed as follows: The rights, liberties, franchises of "Holy Church" were affirmed. "Uncertain goods" escheated to the Proprietary and should be sold "at an outcry," half the proceeds going to the finder, but the goods might be redeemed within three years.³⁵ To provide against sudden accidents in the government it was enacted that the commission from the Lord Proprietary in force at his death should remain in force until a new commission should be sent, and the "First Councillor of State residing at St. Mary's" should exercise the office of lieutenant general if the Governor died or went out of the Province without naming a successor.³⁶ These were permanent laws.

³⁴ Five opposed it, but among them was the President, Calvert. 1 Md. Arch., Ass., 93. In every other case his negative was enough to defeat the bill, why not here?

³⁵ Bacon, in 1763, considered this law still in force, and 2 Bozman, 174, finds no repeal of it, but notes that Kilty does not print it as of force when he revised the laws in 1796, considering it as abrogated by the Revolution. The rights have undoubtedly passed to the State.

³⁶ 2 Bozman, 176.

³⁷ 3 Md. Arch., Coun., 98. On July 4, 1641, the sheriff of St. Mary's and the deputy surveyor were ordered to inspect the plantations in St. Mary's, St. Michael's, St. George's, and Mattapanient hundreds to find out whether the required amount of corn was planted. This act was probably passed as that of 1639, assigning no penalty for violation.

The temporary ones, enduring for two years, compelled planters to fence corn ground against cattle, forbade the exportation of corn, but required that two acres of corn be tended by every man planting tobacco,³⁷ regulated marriage, and placed the entire control over it in the secular authorities,^{37a} fixed the outfit to be given indentured servants at the end of their term of service, and authorized county courts to "moderate the bills, wages, and rates of artificers, laborers, and chirurgeons." The Assembly had worked constantly, not even adjourning over Sunday, and had been harmonious, save that Thomas Adams³⁸ was censured and made to ask the Governor's forgiveness for "some indecent speeches touching the Lord Proprietary." Adams became so submissive and did such acceptable service as Commissioner of Kent Island that he was pardoned, on March 6, 1640-41, for "piracies" committed in the past.³⁹ When the work of the Assembly was complete the Kent Island men went home in the *Speedwell*, which had been waiting for them during four days,^{39a} and a committee of three was left behind to assess the public charges.^{39b} This custom became quite regular in later sessions.

Father More, the English Provincial of the Jesuits, writing to the Congregation for the Propagation of the Faith in 1642, said that the Assembly of October, 1640, was "composed, with few exceptions, of heretics," and that Lewger tried to pass laws "repugnant to the Christian faith and ecclesiastical immunities: that no virgin can inherit unless she marries before twenty-nine years of age" (in another part of the paper he says Lewger made this point against any "virgin making a vow of virginity and not marrying after the twenty-fifth year of her age"); that no ecclesiastic be summoned except before a secular judge, that "no ecclesiastic shall enjoy any privilege, ex-

^{37a} Johnson, *Foundation of Md.*, p. 63, thinks this was part of Baltimore and Lewger's policy against ecclesiastics.

³⁷ 1 Md. Arch., Ass., 92.

³⁸ 3 Md. Arch., Coun., 96.

^{39a} 1 Md. Arch., Ass., 93.

^{39b} 1 Md. Arch., Ass., 95.

cept such as he is ably to show *ex Scriptura*," nor gain anything for the church, except by the gifts of the Prince, nor depart from the Province, even to preach to the Indians, without a license from the magistrate, nor exercise jurisdiction within Maryland which is not derived from the Baron. He goes on to state that "the Fathers of the society warmly resisted this foul attempt," which firmness enraged Lewger so that he reported to Baltimore that his jurisdiction was interrupted by the Jesuits, which report alienated Baltimore's mind from them.^{39c}

EVENTS OF 1641.

The records of the next year are very meagre, the court records giving us only one testamentary case and one marriage.⁴⁰ On November 9, 1640, Calvert issued a proclamation against forestalling, declaring that no one importing goods should deliver them until he had agreed on rates with the Governor, and, when the rates were agreed upon, they must not be increased by sellers. No one might buy goods to sell them again until seven days from the breaking bulk, if the goods came from a pinnace, and twenty-eight days, if they were from a larger vessel.⁴¹ No goods bought in Virginia should be resold in Maryland without Calvert's permission. A copy of this proclamation must be affixed by the sheriff on the mast of every vessel which might come into his county. In the same month three men were appointed⁴² "viewers" in St. Clement's hundred, and shortly thereafter the constable of that hundred, at the complaint of William Bretton, was directed to repair to the king of any Indian town whose men had done Bretton "much harm in

^{39c} Johnson, 81; Dennis, 1 *Am. His. Ass. Rept.*, 1900, p. 112, thinks this statement that the Assembly was under Protestant influence is incorrect, and that the opposition of the Roman Catholics, Brent, Gerard, and Greene, prevented the repeal of the laws inimical to the Jesuits; p. 117.

⁴⁰ Thos. Holt died. Richard Thompson and Ursula Bish of Kent married; 4 *Md. Arch.*, *Prov. Ct.*, 65.

⁴¹ 3 *Md. Arch.*, *Coun.*, 94. The proclamation seems not to have been in force long.

⁴² 3 *Md. Arch.*, *Coun.*, 95. See 1 *Md. Arch.*, *Ass.*, 97, act of 1640.

his swine" and demand satisfaction. If this was refused he should summon the king or great men to St. Mary's, telling them that if satisfaction were not made, Bretton would be given "free liberty" to "right himself upon any the persons or goods belonging to that town."

About March, 1641, Mathias de Sousa, an indentured servant of Lewger,⁴³ was appointed by Capt. Alexander Pulton to go in his place as shipper and trader to the Susquehannocks and to hire men at Kent for the voyage. At Kent he hired John Prettyman with Brent's consent. Prettyman was on the voyage for two months lacking three days, and de Sousa later testified that he believed the pinnace and men were saved from destruction by the Susquehannocks by Prettyman's means. On December 7, 1640, Calvert notified the sheriff of Kent, in which island new patents were given the settlers by Baltimore in 1640, that he must demand of the settlers there the rent due, namely, twelvepence yearly for every fifty acres,⁴⁴ or four pounds of tobacco, or a peck of wheat. Those that held land granted by Claiborne for a rent of two capons might have that rent commuted to sixteen pounds of tobacco or a bushel of wheat.⁴⁵ This makes each capon worth two shillings, which Bozman points out was near the Shakespearean price of two and six.⁴⁶

A commission of May 8, 1641, authorized Brent to hear and decide all cases in Kent Island in which Braithwait, the commander, was interested,⁴⁷ and, on July 10, fearing trouble with the Ozinies⁴⁸ or some other neighboring Indians, all persons in the Province were forbidden⁴⁹ by Calvert to harbor, or entertain, any Indian, under penalty of punishment by martial law, and the Kent Islanders were

⁴³ 4 Md. Arch., Prov. Ct., 138.

⁴⁴ The 1636 Conditions of Plantation provided for a payment of ten pounds of wheat for fifty acres; 3 Md. Arch., Coun., 47.

⁴⁵ Tobacco thus is worth 3 d. per pound; 3 Md. Arch., Coun., 95.

⁴⁶ He also points out that the value of wheat in England by the Statute of 21 Jac. 1, ch. 28, sect. 3 (1624), was the same as is here given in Md. 2 Bozman, 181.

⁴⁷ 3 Md. Arch., Coun., 97.

⁴⁸ 2 Bozman, 183.

⁴⁹ 3 Md. Arch., Coun., 98.

authorized to "shoot, wound, or kill any Indian coming" upon the island. Calvert had just returned from Virginia⁵⁰ when he issued this proclamation, having left Cornwallis early in May in possession of all the powers of governor except those of remitting and pardoning offenses.

THE ASSEMBLY OF 1641.

The Assembly had been prorogued in October⁵¹ to January, 1640-1, but on December 7 the Governor extended the prorogation, and the second session of the fourth Assembly finally came together at St. Mary's⁵² on August 2, 1641. Thomas Gerard of St. Clement's Manor was summoned personally, but was also chosen as a burgess of the hundred^{52a} and took the place of Robert Vaughan, who had been formerly chosen as his attorney. Vaughan appeared on August 5 and was refused his demand "to have voice in his own person." The Kentishmen thought they had paid too much for their representation in the first session and now sent only Giles Brent and Adams; St. George's hundred sent only one burgess,⁵³ and Conception asked Mr. Fenwick to "answer for us at the Parliament."⁵⁴ Fulke Brent came, however, and the House numbered eleven men. Calvert was anxious to have passed two bills for the "confirmation of his Lordship's patent" and for an expedition against the Indians, but could find no support except Lewger for the former and Lewger and Fulke Brent for the latter. The Assembly declared that, in causes in which the Lieutenant General was plaintiff, he might grant writ just as when another was plaintiff, to warn the defendant to do right, or else "have him before the judge."⁵⁵ Two bills were passed

⁵⁰ 3 Md. Arch., Coun., 98.

⁵¹ 1 Md. Arch., Ass., 103.

⁵² A description of St. Mary's and St. Inigoes by Edward C. Bruce will be found in 8 Lippincott's Magazine, 36.

^{52a} Five names are signed to the return. 1 Md. Arch., Ass., 105.

⁵³ Sixteen men signed return that they wished Geo. Pye alone as their representative. 1 Md. Arch., Ass., 104.

⁵⁴ Three men signed the request. 1 Md. Arch., Ass., 106.

⁵⁵ 1 Md. Arch., Ass., 106.

which were apparently introduced by the Governor:⁵⁶ one, an act inflicting the penalty of death and forfeiture of goods, or of seven years' servitude, on fugitive apprentices;⁵⁷ and a second fixing the Winchester bushel as the standard measure of the Province.⁵⁸ A third bill, introduced by Giles Brent and opposed by Lewger and Greene, was passed, "touching probate of wills and administrations," and the Assembly was prorogued. The probate act⁵⁹ revoked former laws by which the county court had this jurisdiction, and provided that the Lieutenant General or his deputy should prove wills and exercise testamentary jurisdiction according to the laws of England, and where they were "doubtful, then according to equity and good conscience." Lewger had previously exercised the ministerial duties of the probate court, and probably continued to do so as the Governor's deputy. The control of testamentary causes by a lay tribunal instead of by an ecclesiastical one is one of the many proofs of Baltimore's freedom from clerical influence.

The prorogation was until January, but in October Calvert summoned the Assembly to meet immediately. Before it met, however, he went to Virginia and, by successive prorogations issued by Lewger, the meeting was postponed until March.⁶⁰

⁵⁶ 1 Md. Arch., Ass., 107.

⁵⁷ Receiving runaway servants was declared no felony.

⁵⁸ The barrel should contain five bushels. 2 Bozman, 187, calls attention to the almost exactly contemporaneous passage of the English standard act, 16 Car. 1, ch. 19. The law was to continue for two years.

⁵⁹ 2 Bozman, 188. The administrator was to have ten per cent. of the estate and his charges. The Lieutenant General was to administer estates where no person claimed the right, and in that case the Council were the judges, and if necessary he might name new Councilors for that purpose. The act should continue for two years.

⁶⁰ 1 Md. Arch., Ass., 113. 5 Thurloe's State Papers, 482, cited in 1 Scharf's Md., 165. Objections to Lord Baltimore's patent, among them, that laws are made by the Proprietary and a Privy Council composed mostly of Papists. In May, 1641, Baltimore's friend the Earl of Strafford was beheaded.

THE CONDITIONS OF PLANTATION OF 1641.

On May 6, 1641, the Governor and Council⁶¹ made an assessment for public charges, which Calvert in October ordered the sheriffs to collect. The levy is said to be "according to the act of General Assembly in that behalf made and provided," but I have found no such act. About this time Baltimore sent over new Conditions of Plantation⁶² to go into effect March 25, 1642. The benefits of these offers⁶³ are limited to persons of British or Irish descent, and the persons brought in must be of the same nationalities. To receive a grant of a manor, now limited in size to two thousand acres, twenty able persons, either men between the ages of sixteen and fifty, furnished with arms and ammunition according to an itemized list, or women between the ages of fourteen and forty, must be brought into the Province in one year. For the manor there must be paid a quit rent of forty shillings sterling yearly "in the commodities of the country." In case smaller numbers of persons be transported, fifty acres in some manor are given for each person, on a like quit rent of twelvecence yearly, and, for each person brought in under age, twenty-five acres are granted on payment of sixpence yearly. All such grants must be claimed within a year of the time they are due. It will be seen that Baltimore retained his aristocratic plans for his colony. In connection with these Conditions of Plantation⁶⁴ we gain a very interesting light on the struggle between the Proprietary and the Jesuits. He was so dissatisfied with their conduct in the Province that he petitioned the Congregation for the Propagation of the Faith "to grant a perfect and secular priests authority to take charge of the

⁶¹ 3 Md. Arch., Coun., 99. October 8, Wm. Hawkins was licensed "during pleasure" to keep "an ordinary victualling house at or near St. Mary's."

⁶² Dated Nov. 10, 1641. 3 Md. Arch., Coun., 99. Johnson, 65.

⁶³ Kilty, Land-Holder's Assistant, pp. 68, 70, 78, gives records of servants brought in, and of the patents for land given in return therefor.

⁶⁴ Johnson, p. 64, Foundation of Md; E. D. Neill, Light thrown by the Jesuits upon hitherto obscure points of early Md. hist., 5 Pa. Mag., 51.

Maryland Mission." This petition was granted in August, 1641. Baltimore was allowed to remove the Jesuits, and the authority to take charge in Maryland was issued to Dom Rossetti, Archbishop of Tarsus. Had this plan not been reconsidered Maryland might have seen a Roman Catholic bishop a century and a half before John Carroll. While preparing for the ecclesiastical changes, Baltimore issued these Conditions of Plantation, and to the provision spread at large on the Maryland Archives the Jesuit records at Stonyhurst add two more, which carried into operation in Maryland the provisions of the English Statutes of Mortmain.⁶⁵ These omitted sections⁶⁶ decree that "no corporation, society, fraternity, municipality, political body (whether it be ecclesiastical or temporal)" may possess lands in their own right, or that of others, without "special license first had" from the Proprietary. All grants made to such bodies without license "shall be, by the very fact, void," and no person shall grant lands to such bodies, or for any use prohibited in any English Statute of Mortmain, without similar license. With these omitted provisions there is an oath to be administered to all who receive lands before the granting of patents, in which oath, after acknowledging Baltimore to be "true and absolute Lord and Proprietary," the recipient of land swears that he will not possess any lands by virtue of any grant from the Indians, or any other person not legitimately deriving a title from a Proprietary grant, nor will delay to inform Baltimore, or his governor, in case he knows "that any other person acts contrary to this."

THE JESUITS AND THE LAND.

After the receipt of these Conditions of Plantation Calvert and Lewger called on the "religious men" in order to treat of these difficulties.⁶⁷ The Governor, in speaking of

⁶⁵ Of mortmain, see Johnson, 181.

⁶⁶ Johnson, 67. Why were not these later provisions entered on the Council minutes?

⁶⁷ Johnson, 69.

the publication of the Conditions, said that he interpreted them to mean that the grants already made were not included, but that the articles only meant that no one should be allowed to profit by these Conditions unless he would submit all his property, both that already granted and that hereafter to be granted, to the condition of non-alienation. Calvert was worried lest he be excommunicated by virtue of the bull, *Coena domini*, if he promulgated the Conditions, but the fathers said that, with this interpretation, he would not incur the penalty, as the Conditions were no new edict but "a mere proposition left to each one's choice." He was also worried lest, even though he did not incur excommunication, he should be guilty of mortal sin in promulgating his brother's Conditions, and the religious men thought it would be a mortal sin, but would examine the matter more maturely. They felt that, at any rate, the oath could not be taken with a safe conscience, but would cause both giver and taker to be excommunicated, and that, if the Conditions meant that no ecclesiastical society could take advantage of them, then to promulgate them would bring excommunication on the Governor's head. The bull above referred to asserted for the Pope full supremacy over all powers and persons, temporal and ecclesiastical, forbade any one to violate the ecclesiastical liberties or rights of the Church of Rome, and declared that ecclesiastical persons should not be subject to secular tribunals. The binding force of this bull, however, was denied by the Parliament of Paris and by many English Roman Catholics.⁶⁸

Lewger next propounded questions on propositions of Canon Law:⁶⁹ (1) Can a Roman Catholic layman hold office in a region where the Church cannot preserve all its laws; (2) are the clergy's privileges due by divine law or from the gift of princes and states, and can the temporal authority oppose the clergy's privileges without sacrilege, if they have

⁶⁸ Streeter, Md., Two Hundred Years Ago (1852), p. 32.

⁶⁹ Johnson, 71. Father More in a letter to the Congregation for the Propagation of the Faith spoke of Lewger as having retained yet much of the leaven of heresy. Johnson, p. 80.

not been conferred by princes; (3) is the erection of ecclesiastical tribunals, "with power of external compulsory jurisdiction," to be by virtue of Baltimore's own authority or by special commission from the Pope; (4) can Roman Catholics who are in the Provincial Legislature give consent to laws about testamentary causes, especially if the laws declare that the goods of the deceased "go to the public use of the temporal State and not to pious purposes, as is done in Catholic countries;" (5) can such Roman Catholics consent to a law prohibiting the bequeathing, or otherwise aliening, of land to spiritual persons without leave of the Prince; (6) can such Roman Catholics consent to laws of matrimonial causes, such as were passed by the Assembly of 1640; (7) can such Roman Catholics consent to a law which prohibits a woman from being heir to lands and from holding them, unless she marry within a limited time; (8) can a secular Roman Catholic judge in Maryland examine and punish clergy, so far as the loss of life and limb, without excommunication; and (9) can Roman Catholic legislators consent to laws imposing taxes "for sustaining the Prince or defending the Province, on ecclesiastical persons and church lands;" are such persons and lands included in such laws when they are not in the law excepted, and can a secular Roman Catholic judge issue process imposing such taxes on such persons or goods, without an express license from the Pope? Father White⁷⁰ wrote a full account of this interview to the Provincial of England, Henry More, a descendant of Sir Thomas More, and expanded Lewger's nine queries into twenty. The country is "newly planted" and depends "wholly upon England for its subsistence," there is "no ecclesiastical discipline established" nor can there be while England is a heretic nation, no Provincial Synod has

⁷⁰ Johnson, 73. The nine questions of Lewger are modified in White's draft and correspond as follows: 1-1, 2-3, 3-4, 4-8, 5-9, 6-11, 7-13, 8-18, 9-19. On the struggle with the Jesuits see also Thomas, *Chronicles of Colonial Md.*, p. 87. Shea, *Colonial Church*, p. 61, quotes a letter of Peaseley and his wife in September and October, 1642, to the Jesuits, stating, "I have prevailed for the present employment of two of yours."

been held nor spiritual courts erected, nor have the Canon Laws been accepted nor clergymen admitted as such, nor is the Catholic religion publicly allowed. The situation is a perplexing one and "three parts of the people or four (at least) are heretics." Father White's additional queries deal with these points: (2) Must lay Roman Catholics in Maryland accept the Canon Law before it be accepted by some local law; (5) do testamentary causes belong to the spiritual court of the "Church's proper right," or did princes of their voluntary election sever their causes from the Crown either because of a connection between the causes and Christian doctrine, or from a presumption that the church would faithfully discharge the trust; (6) may lay judges act in testamentary matters by commission from the Proprietary, or must they obtain delegation from the Pope, on pain of excommunication; (7) may a Roman Catholic in Maryland refuse to prove a will because it contains a statement by the testator that he is a faithful member of that Church, or because it gives legacies for masses to be said for the soul of the deceased, or is he bound to prove it, though the Lord Proprietor may incur danger for such a record; (10) must a Roman Catholic executor follow the order of marshaling assets prescribed by the English law or that of the Canon Law, by which the debts due to spiritual persons were paid before those due laymen; (12) may Roman Catholic legislators consent to a law prohibiting the marriage of apprentices without the master's consent; (14) does land granted by the Lord Proprietor to religious persons, by that very fact, become exempt from lay burdens; (15) if one trespass on the lands of the clergy may they put in force the censures of the Bull Coena without or before proceeding against the trespasser in some court, spiritual or temporal; (16) may ecclesiastical persons be summoned into the Assembly and into court, and may a Roman Catholic secular judge give sentence and issue execution against them without excommunication; (20) may the General Assembly make laws to dispose of the clergymen's interests when they are neither pres-

ent nor represented by proxy (though they were summoned), nor hold Provincial Synods where they might give their consent to the laws?⁷¹

MINOR MATTERS IN THE WINTER OF 1641-1642.

In January, 1641-2, Brent was appointed judge of all causes in Kent,⁷² and Boteler was authorized to sit in cases in which Brent was interested. In March John Langford was appointed surveyor general for his natural life,⁷³ so that the new grants of land might properly be laid out.

In addition to a marriage bond and a testamentary matter,⁷⁴ the court records reveal the troubles that planters, varying in importance from Mrs. Brent and Lewger to some very plain people, had with three Irishmen, who owed the complainants money but "feloniously ran out of the Province, with intent never to return again." Judgment was given against the Irishmen⁷⁵ and their estates in Maryland were divided, so that each plaintiff received a little more than a third of his debt.

THE ASSEMBLY OF MARCH, 1641-1642.

As many of the laws had been passed for a two years' period, which would soon expire, Calvert now determined to call a new Assembly.⁷⁶ At first he sent out writs of election similar to those of the fourth Assembly, but for some reason changed his mind, and on March 2, 1641-2, summoned all freemen to appear in person, or by proxy, at St. Mary's on March 21. On that day came together forty-one men; all of the seven Councilors were included but Gerard.

⁷¹ Shea, *Colonial Church*, p. 68, suggests that Baltimore again applied for secular clergy in 1645.

⁷² 3 Md. Arch., Coun., 101.

⁷³ The term for life is a unique one in Maryland.

⁷⁴ John Ormsby and Frances Griffin. 4 Md. Arch., Prov. Ct., 67. Christopher Martin, *op. cit.*, 66, 92.

⁷⁵ 4 Md. Arch., Prov. Ct., 67.

⁷⁶ The proclamation was not sent to Kent until Mch. 13. 1 Md. Arch., Ass., 114-116. He had personally summoned the Councilors: the Brents, Cornwallis, Lewger, Greene, Jno. Langford and Thos. Gerard.

Two men came from Kent, one from an unknown part of St. Mary's County, five from St. Mary's hundred, twelve from St. George's, eight from St. Michael's, one from St. Clement's, and six from Mattapanient.⁷⁷ Twenty more from the Western Shore were represented by proxies held by five men, and seven of those present appointed proxies and left.⁷⁸ On the second day three more came from St. Clement's, one from St. Michael's, two from St. George's, and one from Kent, while on the third and last day four more from Kent, two from Mattapanient, one from St. Michael's, and one whose residence is unknown were added.

The Long Parliament was in session, the civil war which was to destroy the English monarchy for a time had begun. In May, 1641, the English statute declared that the King should no more prorogue nor dissolve Parliament, and an echo of this act was heard in the Maryland Assembly when, after calling the roll and reading the "bill for the support of the Government, with general consent" the House voted that it might not be adjourned or prorogued but by and with its consent.⁷⁹ As a result, the House "adjourned itself" daily, and the Governor "dissolved" it after another assembly was appointed to begin⁸⁰ on June 1. Lord Baltimore, though a Roman Catholic, took a studiously neutral position throughout the whole struggle in England, and his brother in Maryland preferred to bend rather than break. The suspicion felt toward the executive of the Province was also shown by the Assembly's refusing to entrust an expedition against the Indians to the discretion of the Governor and Council.⁸¹ Two other acts failed, one for the planting of

⁷⁷ Three came late.

⁷⁸ On no day does the attendance seem to have exceeded forty. The clerk was allowed fifty pounds of tobacco per diem during the session and two days before it began and two days after it ended. 1 Md. Arch., Ass., 122.

⁷⁹ 2 Bozman, 195, calls attention to the fact that the Governor in the earliest assemblies seems to have adjourned the houses from day to day.

⁸⁰ 1 Md. Arch., Ass., 121. The Assembly did not actually meet until July. The act of 1642, ch. 4, provided that the next Assembly should begin on Nov. 12, unless sooner called.

⁸¹ 1 Md. Arch., Ass., 118.

plenty of corn and one "to prohibit the exportation of deer skins, to the end that they might be dressed in the country." This protection to an infant industry was postponed because "the leather dresser could not undertake to take of all the deer skins in the country till he had provision of tallow, etc., out of England."⁸² Three bills were passed. The first⁸³ continued in force till the next Assembly certain portions of the act of 1639, and ratified any judicial proceedings had since the session of 1640 which violated no law of the Province. The second act, granting a subsidy to the Proprietary,⁸⁴ was passed unanimously and signed by Cornwallis and Giles Brent in behalf of the freemen before Calvert "enacted" it in "his Lordship's name."⁸⁵ This act shows a warm feeling of gratitude to Baltimore,⁸⁶ who is said to have spent £40,000 on the Province in the first two years of its settlement. Chalmers wrote: "This donation does equal honor to both" Proprietor and freemen "because it shows that one had merit and that the others were grateful." The preamble states that the freemen "desire to return his Lordship some testimony of their gratitude" for his "great charge and solicitude in maintaining the government and protecting the inhabitants in their persons, rights, and liberties, and to contribute, so far as the young and poor estate of the Province will yet bear." They therefore enact that fifteen pounds per poll be contributed before November 10 for every inhabitant, freeman or servant, above the age of twelve years.⁸⁷ The last act was a mere repetition of the act against fugitives of the preceding session.⁸⁸

⁸² 1 Md. Arch., Ass., 121.

⁸³ 1 Md. Arch., Ass., 122, viz: concerning the rights of the Lord Proprietary, and the people's liberties, the power of judicature, the captain of militia, officers' fees, the settling of the house of Assembly (2 Bozman, 203, calls attention to the fact that this provided for a representative body and not a mass meeting), the payment of debts and the custom duty on tobacco.

⁸⁴ 1 Md. Arch., Ass., 123.

⁸⁵ 1 Md. Arch., Ass., 118, 120.

⁸⁶ Chalmers' Annals, 208.

⁸⁷ Masters must pay for servants, and distraint is provided for any one's failure to pay the subsidy.

⁸⁸ 1 Md. Arch., Ass., 124. A committee of six (two from Kent) was appointed to assess charges of the session.

In addition to its legislative business this Assembly had several matters of a judicial nature before it. John Medley petitioned that John Hallows deliver him some cattle, which delivery was ordered by the House after a committee reported favorably upon the petition.⁸⁹ Other petitioners did not fare so well. Ingle was told that Giles Brent should not be held liable for a direction to the sheriff for serving an execution.⁹⁰ John Wheatly was answered⁹¹ that he had not proved that Cornwallis had refused to provide him and his wife with the necessaries which he was bound to give, Robert Nicholls and John Hampton were left to the ordinary course of law,⁹² Thomas Morris was told that the conduct of Richard Thompson toward him would be "champerty by the law of England, but not such as is criminal here."⁹³ A more important petition than any of these was one presented by David Wickliff, in the name of the Protestants,⁹⁴ complaining that Mr. Thomas Gerard had taken away the key of the chapel and had carried off the books^{94a} from it. The Assembly heard both sides and decided that Gerard was guilty of a misdemeanor, and that he should bring back the key and the books and relinquish all title to them or to the house, and should pay as fine five hundred pounds of tobacco toward maintaining the first minister that should arrive. These proceedings seem to show three things,—the scrupulous care of the authorities to preserve freedom of worship, the early erection of a Protestant meeting-house in St. Mary's County, and the fact that there was as yet no Protestant clergyman or minister on the Western Shore.

⁸⁹ 1 Md. Arch., Ass., 118, 119.

⁹⁰ 1 Md. Arch., Ass., 120. The Governor announced the date of coming court days.

⁹¹ 1 Md. Arch., Ass., 121.

⁹² Which they do not seem to have taken.

⁹³ This is an early instance of the selection of what English statutes shall be held in force in the Province.

⁹⁴ In one place the record calls the petitioners "Protestant Catholics," probably a careless pleonasm of the clerk. 1 Md. Arch., Ass., 119.

^{94a} 2 Bozman, 200, guesses that the books were prayer-books; they may have been Bibles.

EVENTS IN THE SPRING OF 1642.

During these years the English Civil Wars had begun, the Long Parliament was in session and was throwing down one after another of the institutions of the monarchy. Though Maryland was soon to become involved in the troubles of England, we have heard not a rumor of trouble in the Province as yet. Baltimore, whose wife, the Lady Anne Arundel, was of a strong Royalist family, seems to have held himself neutral throughout the whole combat. In carrying out this principle of neutrality he was thought to desire to leave England for Maryland in March, 1642; a writ of *ne exeat regno* was asked against him, and he is said to have given bond not to leave the kingdom without the Lords' permission.⁹⁵ In the spring of 1642 Thomas Adams and Capt. John Boteler,⁹⁶ two of the most prominent citizens of Kent Island, died. On August 2 Brent succeeded Braithwait as commander of Kent, and William Ludington and Richard Thompson were appointed as his commissioners, with "all the powers of the Commissioners of a County."⁹⁷ Troubles with the Indians occurred again this summer. Robert Evelin was made captain of the English in Piscataway⁹⁸ on June 25, and on the same day William Blount received like commission in St. Mary's County. Orders were proclaimed that no man shall entertain any

⁹⁵ 2 Bozman, 192. 3 Md. Arch., Coun., 102. An attempt to restore the Va. Company was unsuccessful this year. 2 Bozman, 211. Neill, *Terra Mariae*, 106.

⁹⁶ 4 Md. Arch., Prov. Ct., 68, 69, 99, 128. That same spring and summer these estates came before the Court: (1) Henry Wood, *op. cit.*, 69, 96; (2) Wm. Westly of Kent, *op. cit.*, 70 (nuncupative will, Baldwin Calendar); (3) Richard Lusthead, 71, 94, 95; (4) Thos. Charinton, 71, 95; (5) John Machin, 71, 95, 154; (6) John Cockshot, 72, 96, 145, 147; (7) Leonard Leonardson, 94.

⁹⁷ 3 Md. Arch., Coun., 104; Robert Vaughan was added to the commission on Dec. 16, *op. cit.*, 124.

⁹⁸ 3 Md. Arch., Coun., 103. The commissions are given in full and differ in their detail. This step is the initial one for the establishment of a second county on the Western Shore. Wm. McFenin was made sergeant for St. George's hundred. 3 Md. Arch., Coun., 104. On Oct. 17 he was made sergeant for the several hundreds of the county (*op. cit.*, 118). I regret to find that he was sued for debt, as a notorious fugitive, in December. 4 Md. Arch., Prov. Ct., 163.

Indian, nor permit him to have a gun or ammunition. Householders must provide gun, powder and shot for each man able to bear arms. No man may discharge three guns in a quarter of an hour except to give alarm. When such alarm is heard every housekeeper is to continue it as far as he may. No man able to bear arms may go to church, or chapel, or any considerable distance from home unarmed. A messenger was sent to the great men of the Patuxents and of the nations joined to them to bring before the Governor the Indians who had done Simon Demibiel or Henry Bishop "injury in their swine."⁹⁹ While matters were in this excited state the Assembly met.

THE ASSEMBLY OF 1642.

On April 4, 1642, Calvert called a new Assembly, the sixth, to meet on June 1, consisting of one or two burgesses for each hundred.¹⁰⁰ For some reason he postponed it and, by proclamation dated July 1, called it for Monday the eighteenth of the month. The elections took place in St. Mary's on the Saturday before, and personal writs were issued to Cornwallis, Giles Brent, William Blount, John Langford, Thomas Gerard, Robert Evelin, Cuthbert Fenwick, Robert Clerk, and William Bretton, all of whom but Brent, who had given Cornwallis his proxy, appeared on the first day of the session. We learn that members from the hundreds need not live in the one they represented, since David Wickliff, planter, of St. Mary's,¹⁰¹ sat for St. George's with George Pye. The other burgesses were Thomas Greene, gentleman, and Nathaniel Pope, planter, of St. Mary's; Thomas Sterman, cooper, and John Langford, carpenter, of St. Michael's; William Brough, of St.

⁹⁹ 3 Md. Arch., Coun., 104. Vide Calvert's letter from Baltimore.

¹⁰⁰ Cyprian Thorowgood, sheriff of St. Mary's County, summons all the freemen save on St. Clement's Manor, where Gerard summons them; Giles Brent summons the Kent Islanders. 1 Md. Arch., Ass., 127-129.

¹⁰¹ He was taxed in St. George's. 1 Md. Arch., Ass., 128, 144.

Clement's, and Henry Bishop,¹⁰² from Conception. Richard Thompson and Robert Vaughan, who appeared for Kent County (a new term for the Island) with proxies, were refused admission until they showed Brent's letter that they were also chosen as burgesses. The Assembly continued in session¹⁰³ until August 1. On the next day the committee of six, appointed to assess the charge of the session upon the hundreds, met and heard the demands of the burgesses. Apparently those personally summoned received no pay.¹⁰⁴ An allowance of forty pounds of tobacco daily for thirteen days was made to each burgess, save to those from Kent, who were allowed for twenty days, probably to cover their travel, and to Henry Bishop, who was allowed for fifteen days. The Kentishmen were also allowed for hire of a boat for three weeks and for wages and diet of a servant. The charges of the clerk and the drummer were apportioned among the hundreds, and the full list of taxables and the levy against each is given. From this we learn that there were twenty-nine men taxpayers in St. Mary's, thirty men taxpayers in St. George's, twenty men taxpayers in St. Clement's,¹⁰⁵ forty-five in St. Michael's, fourteen in Mattapanient and seventy-one in Kent County.

This was an important session. On the first day Robert Vaughan, speaking for the burgesses, asked that they might sit "by themselves and have a negative," but Leonard Calvert refused this.¹⁰⁶ On the next day a compromise was made, repealing the previous law as to the quorum of the

¹⁰² He first claimed admission from St. Leonard's hundred, alleging it was recognized on the probate of a will, but he was told no writ was issued to it and it was not yet created a hundred. 1 Md. Arch., Ass., 130.

¹⁰³ Except on Sundays and on Monday, July 25.

¹⁰⁴ 1 Md. Arch., Ass., 142-146. Lewger was chairman; all the other members were burgesses. The treasurer was ordered, "on motion of the freemen," to bring in his accounts at the October court. On Lewger and Cornwallis's plantations at St. Mary's and the famous old mulberry tree there, see Thomas' *Chronicles of Col. Md.*, 24 and 55.

¹⁰⁵ Gerard is not taxed nor is any one personally summoned.

¹⁰⁶ 1 Md. Arch., Ass., 130.

Assembly¹⁰⁷ and fixing it for this and the next Assembly at ten, including the Lieutenant General and at least six burgesses,¹⁰⁸ unless sickness prevented so many from coming together, in which case the members present should "make the house." When this was read as a rule of the House Lewger said it was contrary to a previous law and should be considered as a bill, which was done.¹⁰⁹ On August 1 a bill was passed, against the votes of eight out of ten of the burgesses. Greene protested that the major part of the burgesses must vote aye to carry the bill, but his point was overruled in reference to this bill, and it was held that the major part of both those personally summoned and of the burgesses carried a measure.¹¹⁰

There was quite a little friction between Calvert and the burgesses. On the day when they found they could not sit separately they expressed a "great opposition"¹¹¹ to a march against the Indians. Calvert told them plainly, "I do not intend to advise with you, whether there should be a march or not, for that judgment belongs solely to me, as appeared by the clause of the patent touching the power of war and peace, but to see what assistance you will contribute, in case I should think fit to go."¹¹² Lewger moved that a bill be drawn for the levying of twenty pounds of tobacco per head toward the charge of the expedition. "First," answered the burgesses, "let us have the patent to peruse and respite till morning." Their caucus must have decided against the expedition, for we hear no more of it, and another step was taken toward shearing Baltimore of some of the privileges conferred by his charter.

¹⁰⁷ Laws of 1638, ch. 1 and 2. 1 Md. Arch., Ass., 81-82.

¹⁰⁸ 1 Md. Arch., Ass., 131, 132, 146; 2 Bozman, 216, calls attention to the fact that of the twenty-one members the burgesses numbered ten, so a measure could be carried with all of them against it.

¹⁰⁹ 1 Md. Arch., Ass., 141.

¹¹⁰ Cornwallis had a proxy for Giles Brent at the beginning, and on July 22 showed one for Fenwick. Lewger was made proxy for Gerard on the twentieth.

¹¹¹ 1 Md. Arch., Ass., 130.

¹¹² Charter secs. 12 and 13 bear out Calvert's contention.

At sunrise the drum beat and at each half hour thereafter. At the third drum-beat the House met¹¹³ and absentees were fined, unless excused by the Governor for absence at this early hour. No bill might be read more than once a day, nor could a member speak more than once a day to any bill without the Governor's consent. At 3 p. m. daily a committee, composed of Cornwallis as chairman, Lewger, Evelin, and four burgesses,¹¹⁴ sat to consider all bills and petitions. There seem to have been few petitions.¹¹⁵ After three days the committee was discharged, and the bills and petitions seem to have been considered in full house.¹¹⁶

At this session Calvert first exercised the veto power, and a reflection of the English phrase, "le roi s'avisera," is found in his statement, when the House would not agree to amendments he desired, that he will take "time of advising" concerning the act for "right of the Lord Proprietary¹¹⁷ and liberty of the people," and concerning the acts¹¹⁸ "for taking of boats," for "delivering arms to Indians," and "touching the house of Assembly." Several other bills failed to pass the House, but it managed to put on the statute books thirty acts, besides revising the table of fees for secretary of the Province, clerks of county courts, surveyor general, and sheriff (who also acted as coroner).¹¹⁹

The Assembly¹²⁰ renewed the five per cent. duty on

¹¹³ 1 Md. Arch., Ass., 131. No one should use "indecent, taunting, or reviling words to the naming or personating of any member, or misbehave himself in speech," on pain of censure.

¹¹⁴ Six were named, of whom four could sit at any time. 1 Md. Arch., Ass., 132.

¹¹⁵ George Binks asked unsuccessfully for a public salary "to the finding of a chest," Henry Bishop asked a remedy against the Indians of Patuxent for killing his swine, and was told to prove his case first, and three other petitions of unknown import were answered. 1 Md. Arch., Ass., 134, 136, 141.

¹¹⁶ 1 Md. Arch., Ass., 133, 136. Calvert, on July 20, had given the committee power to summon persons, administer an oath and imprison for contempt.

¹¹⁷ Cornwallis, as Brent's proxy, cast the only vote against this bill. 1 Md. Arch., Ass., 136.

¹¹⁸ 1 Md. Arch., Ass., 139, 140.

¹¹⁹ 1 Md. Arch., Ass., 162. All fees were paid in pounds of tobacco.

¹²⁰ 1 Md. Arch., Ass., 146, 182. 2 Bozman, 245, suggests that the Dutch trade may have brought in revenue therefrom.

tobacco till the end of the next Assembly, to which period nearly all its laws were limited. The judicial system was organized by several acts. Judges shall be appointed by the Governor, cases "not limited by any certain law of the Province" shall be decided by the Governor and Council in the Provincial court, now first clearly differentiated from the county court, or by the Governor or Commander and Commissioners of the county courts.¹²¹ If the judges vote equally, the judgment of the chief is to prevail. An oath must be taken by a judge, before he assumes office, to "administer equal justice to all persons, according to the laws of their Province." No mention is made of those of England. If the chief judge is absent, or interested in the case, the next in commission shall take his place. The Governor may sit, though interested in the decision. In civil cases "right and just" must be "determined, according to the law, or most general usage of the Province, or former precedents of the same or the like nature."¹²² In default of those, "right and just shall be determined according to equity and good conscience, not neglecting (so far as the judge or judges shall be informed thereof and shall find no inconvenience in the application to this Province) the rules by which right and just useth and ought to be determined in England in the same or the like cases." Thus early did the colonists claim the right

¹²¹ 1 Md. Arch., Ass., 147, 183. When the law was reënacted in September the Governor is dropped from the list of those who sit in the county court, and it is clearly stated that the latter tribunal must not exceed their commission and that there is an appeal therefrom to the Provincial court. It is then further provided that the Governor, any Councilor, or Commander of Kent may correct offenses which a justice of the peace may determine in England, and that the judges sitting must not be interested in the decision of the case. If the other judges are absent from the county, the chief judge may sit alone. The Governor is not suable for his official acts, and no execution may be accorded against him nor against "his necessary menial servants" in such cases, while strict limits are placed to process against his goods and chattels.

¹²² 1 Md. Arch., Ass., 147, 184. In September there was added a prohibition to outlaw or exile, or to fine any one above one thousand pounds of tobacco, without Provincial statute, or to punish corporally a gentleman.

to determine what laws of the mother country were applicable to and should be used in Maryland.

Crimes were to be punished according to Provincial statute, and when there was none such and the offense did not involve a punishment depriving the offender of life, member, or freehold, the court should determine "according to the best discretion of the judge or judges, judging as near as conveniently may be to the laudable law or usage of England."¹²³ Appeals were allowed, on giving security to the trial court to prosecute the same and abide the decision above. If the higher court found no cause of appeal, they might give treble damages¹²⁴ to the "party grieved." The order of hearing and determining causes was fixed,¹²⁵ and the dates of court days were established, to St. Mary's being given six such days, and to any other county eight.¹²⁶ Provision was made to prevent justice from being defeated when the defendant failed to appear, was not in the Province, or had fled from it.¹²⁷ The forms of proceeding were to be fixed by the courts¹²⁸ "as near as conveniently they may, to the former precedents and usages of the court" and, in defect thereof, to the forms of England. The rules of evidence and the methods of summoning a jury¹²⁹ were determined. The effect of set-offs and the conditions under which the setting aside of a jury's verdict might be set also by the court¹³⁰ were provided for. A rule for the execution of civil judgments was established, tobacco and necessary clothing, bedding, utensils, and tools being exempted.¹³¹ If a debtor could not pay and had lived at any time before in the quality of a servant, laborer, or artificer, he might be

¹²³ I Md. Arch., Ass., 148, 184.

¹²⁴ Changed to double in September.

¹²⁵ I Md. Arch., Ass., 149; not reenacted in September.

¹²⁶ I Md. Arch., Ass., 149, 184.

¹²⁷ I Md. Arch., Ass., 150, 185.

¹²⁸ I Md. Arch., Ass., 150, 185. In September the chief judge is given the power.

¹²⁹ I Md. Arch., Ass., 151, 186.

¹³⁰ I Md. Arch., Ass., 151, 187.

¹³¹ I Md. Arch., Ass., 152, 187. In September tobacco and utensils are no longer exempt.

bound out to some corporal labor to work out his debt, but if he was not fit to be put to corporal labor the court might commit him to strict custody and the sheriff must keep him in the prison, when one should be built. A long list of minute provisions guided officers of the law in laying attachments and executions on tobacco and corn.¹⁸² The testamentary law was stated, with careful provision for wills and intestate estates. If the judge in testamentary cases¹⁸³ was complained of, or was interested in any case, the judge of the Provincial court was to determine the controversy "according to the law or usage of the Province or former precedents." It is remarkable how little change has been made in the law respecting succession to property from that time to the present.

Assignments of contracts were regulated,¹⁸⁴ and then the lawmakers passed to the establishment of the first criminal code. Capital offenses included: (1) Treason according to the statute of Edward III, if the act was committed in Maryland; (2) wilful murder; (3) conspiring the death of or attempting violence against the Proprietary, or the Governor in his absence; (4) holding private intelligence with a declared enemy of the Province; (5) rising in arms or uniting against the Lord Proprietary. All these were to be punished by death, by forfeiture of property, and by corruption of blood.¹⁸⁵ "Less capital offenses," to be punished by death, by burning in the hand, by loss of member, by loss of lands for life and of goods, chattels, dignity, or office, by outlawry, by exile, by imprisonment or enforced service of the Lord Proprietary for a period not exceeding seven years (if the offender

¹⁸² 1 Md. Arch., Ass., 137, 153, 195. By the earlier act no growing crop could be attached. This defect was corrected in September.

¹⁸³ 1 Md. Arch., Ass., 138, 154, 188. Touching testamentary causes; 1 Md. Arch., Ass., 138, 157, 190. Touching succession to land; 1 Md. Arch., Ass., 138, 156, 191. Touching succession to goods of intestate persons.

¹⁸⁴ 1 Md. Arch., Ass., 138, 157, 191.

¹⁸⁵ 1 Md. Arch., Ass., 138, 158, 192. Corruption of blood was omitted from the penalty in September.

were not a gentleman), by corporal correction, or by putting to shame, were homicide, piracy, robbery, burglary, sacrilege, sodomy, sorcery, rape, polygamy,¹³⁶ larceny, wilful burning of another's house or stack of tobacco or hay, or plucking out another's eye or tongue. A third class of offenses,¹³⁷ punishable by loss of the right hand, by burning in the hand, by other corporal shame or correction (not extending to life) or by fine, included striking any officer, witness or juror in presence of the court, or striking any other person with a drawn weapon in that presence, striking a magistrate or high sheriff¹³⁸ in or for doing his official duty, counterfeiting, falsifying or embezzling records, giving false witness or procuring another to do so. Drunkenness¹³⁹ was punished with a fine of one hundred pounds of tobacco, which fines should be used toward building a prison or for such other public use as the Proprietary chose, or, if the offender were a servant and could not pay, he must sit in the stocks fasting for twenty-four hours. Profane swearing was punished by a fine of five pounds of tobacco.¹⁴⁰

Another act touching the taking up of land¹⁴¹ was passed, probably chiefly "to regulate the priority of warrants" for surveying land, while still other laws continued the requirement that every tobacco planter¹⁴² plant two acres of corn, prohibited the exportation of corn altogether from the middle of October until the middle of February, and allowed it at other times only with the Governor's license,¹⁴³ forbade engrossing and forestalling,¹⁴⁴ and decided in what way a debtor might make a lawful tender of tobacco.¹⁴⁵ The Assembly prohibited¹⁴⁶ any one from transporting from the Province any debtor, or person other-

¹³⁶ 1 Md. Arch., Ass., 138, 158, 192. Polygamy is omitted in September.

¹³⁷ 1 Md. Arch., Ass., 138, 158, 193.

¹³⁸ 1 Md. Arch., Ass., 138, 139. It was first proposed to have this read "officers."

¹³⁹ 1 Md. Arch., Ass., 159, 193. Seven burgesses wished the fine to go toward building a church; vide p. 139.

¹⁴⁰ 1 Md. Arch., Ass., 139, 159, 193.

wise obnoxious to justice, without a pass from the chief judge of the county, and strict regulations hedged about the granting of such passes. The sergeant of the train-band in every hundred was granted an allowance for "his art and pains in training" the militia.¹⁴⁷ Justices of the peace and commanders of the counties were to be appointed by the Governor from residents thereof, who are "freed from service." Yearly in March the county commissioners, who were the same as the justices of the peace, should nominate persons to be sheriff, from which nominations the chief judge might select a sheriff, but he might also select any one else not a Councilor.¹⁴⁸ Prior to this time the appointment had vested in the Governor and, as this act expired in the autumn, it never went into force.

THE INDIAN TROUBLES OF 1642.

Immediately after the adjournment of the July Assembly the court records begin again. On August 2, when James Neale sat as judge,¹⁴⁹ Lewger docketed ten suits for sums owed him and, about that time, had recorded a mortgage of a cow and steer and of two men's tobacco crops given him to secure payment of debts.¹⁵⁰ Two days later, when Lewger took the oath of judge before the Governor, Cornwallis docketed¹⁵¹ eight suits and had two crop mortgages and a deed of sale of four cows recorded. One of Calvert's debtors confessed judgment and another was sued by him, and Mrs. Brent docketed five or six suits.¹⁵²

¹⁴¹ 1 Md. Arch., Ass., 140, 159, 194. 2 Bozman, 228. Kilty, Land-Holder's Assistant, 248.

¹⁴² 1 Md. Arch., Ass., 140, 160. Not reënacted.

¹⁴³ 1 Md. Arch., Ass., 141, 161. Not reënacted.

¹⁴⁴ 1 Md. Arch., Ass., 141, 161. Not reënacted.

¹⁴⁵ 1 Md. Arch., Ass., 141, 162. Not reënacted.

¹⁴⁶ 1 Md. Arch., Ass., 140, 160, 194. The regulations were lessened in September.

¹⁴⁷ 1 Md. Arch., Ass., 140, 159, 193.

¹⁴⁸ 1 Md. Arch., Ass., 136, 148. Not reënacted.

¹⁴⁹ 4 Md. Arch., Prov. Ct., 113-115. He came from Spain and settled on the Wicomico River near St. Mary's. Neill, *Terra Mariae*, 74.

¹⁵⁰ 4 Md. Arch., Prov. Ct., 116.

¹⁵¹ 4 Md. Arch., Prov. Ct., 117-121.

¹⁵² 4 Md. Arch., Prov. Ct., 118. I am uncertain as to the date of her suits against John Medley and Thomas Charinton.

On the fifth¹⁵³ Calvert sued a debtor, John Dandy entered eight suits, Cornwallis sixteen, and Lewger thirteen. Mrs. Mary Tranton or Troughton docketed two suits on the eighth, Cornwallis withdrew one of his and substituted another on the thirteenth,¹⁵⁴ on which day Lewger brought one suit. On the eighteenth Gerard instituted three suits¹⁵⁵ and Francis Posey one on the twenty-fourth. I have been thus minute because one is impressed by the large number of these suits, especially in the time of an Indian alarm, and by the fact that the greater part of them are brought by a very few persons and these for the most part the most prominent people in the Province.

The Indian alarm continued.¹⁵⁶ Cornwallis was directed on August 18 to "levy men and command them and use all power to the resistance and castigation of the enemies and vanquishing them," but, until actual danger, men might continue to tend their crops, repairing with women and children in case of an alarm to the forts and abiding there a month, unless sooner permitted to return home.¹⁵⁷ The Governor of Virginia was also appealed to for help, Col. Trafford being sent to him with a letter. Five of Virginia's citizens and eight of those of Maryland had been slain and their houses burnt and robbed, so both Governors should set forth "an expedition against the Indians, for the vindicating of the honor of our nation, and also to deter the like outrages for the future." Virginia was asked to furnish one hundred men to be present at the rendezvous of the forces at Kent Island on October 1, at which place Calvert planned to have as many more. Calvert would have attacked the Indians, who killed the Virginians, alone, had

¹⁵³ 4 Md. Arch., Prov. Ct., 121-124.

¹⁵⁴ 4 Md. Arch., Prov. Ct., 124.

¹⁵⁵ 4 Md. Arch., Prov. Ct., 125.

¹⁵⁶ 3 Md. Arch., Coun., 106.

¹⁵⁷ 3 Md. Arch., Coun., 107. St. Inigoes Fort, where the sheriff commanded with six men on guard day and night during the alarm; Thomas Sterman's house, St. Michael's hundred, where Lt. Thomas Baldrige commanded; Thomas Weston's house (St. George's hundred), where George Pye commanded; and Patuxent Fort, where Henry Bishop probably commanded, were the rendezvous.

he been able, as they were nearer him. Now also Marylanders had been killed, and the general safety required a joint expedition, like that forgotten previous one against the Nanticokes to punish them for the death of a citizen of Accomac.

In July the Virginia Assembly had stated among the "weighty consequences and benefits of its session" the treaties and overtures with the Governor and Province of Maryland, requiring time for maturing and very successful in the bay of Chesapeake, and the "settling of peace and friendship with the Indians."¹⁵⁸

THE GOVERNOR'S NEW COMMISSION.

In this difficult situation Calvert seized the arrival from his brother of a new commission¹⁵⁹ for him as Governor as an opportune time to reassemble the Legislature. This commission was sent undoubtedly to strengthen Calvert's position in the controversy with the Jesuits. He is not only to be Governor, but, because of his "faithful and laudable services," both "in the adventure of his person in the descent and settling of Maryland" and in "the ordering and advancing" of the Province, he is now to execute all the powers conferred on Baltimore by the charter as fully as if the latter himself were present. He is given a full power, which he did not have before, to assent to laws which shall then be in force, unless and until disassented to by the Proprietary. This seems to concede to the colonists the right of originating laws, and so differs from the commission of 1637 and follows the letter of August 21, 1638. The former commission authorized Calvert to "call, adjourn, and dissolve Assemblies." The power of prorogation is now expressly added. Power is also given Calvert to add to his Council such persons as Baltimore might appoint from time to time, and provision is made for the event of the Governor's death. With the Governor's commission came commissions

¹⁵⁸ Burk, *Hist. of Va.*, v. 2, p. 64. 2 Bozman, 230.

¹⁵⁹ 3 *Md. Arch., Coun.*, 108.

for a new Council,¹⁶⁰ to whose membership Col. Francis Trafford, William Blount, and John Langford, the surveyor, were added. A new commission for Lewger as Secretary was received. Both of these commissions were more minute than the former ones, and the judicial function of the Councilors was more accurately defined.¹⁶¹

THE ASSEMBLY OF SEPTEMBER, 1642.

This new commission of Leonard Calvert as Governor,¹⁶² which Baltimore signed on November 18, 1641, doubtless reached the Province in the summer of 1642, and though not promulgated until September 4, we can hardly doubt but that Calvert had received it when on August 22 he summoned all the "freemen inhabiting the Province" to come on September 5 in person to St. Mary's for an assembly or to send "delegates sufficiently authorized." The day after the reading of the new commission there assembled with Calvert, Cornwallis, Lewger and Langford of his Council and fourteen freemen. Two more freemen came in later.¹⁶³ It is interesting to notice that Cornwallis had only seven proxies and Lewger two, while Giles Brent held seventy-three proxies, all from men of Kent. Francis Posey held seven, and seven of the remaining fourteen freemen held from one to four, amounting in all to sixteen proxies. Seven more, including the other two Councilors,¹⁶⁴ were excused as being out of the country, eight were notified to appear and seventy-six were amerced twenty pounds of tobacco each for failure to come or send a proxy. This large number of proxies and absentees is perplexing, and it is important to note that this gathering was almost exactly the

¹⁶⁰ 3 Md. Arch., Coun., 114.

¹⁶¹ 3 Md. Arch., Coun., 116, 136. These commissions were dated Nov. 18, 1641. 2 Bozman, 234.

¹⁶² 3 Md. Arch., Ass., 114, 136. This summons was contrary to the law passed at the last session. Some damage was done to Francis Posey's house at St. Leonard's while he was away at the Assembly, and he asked St. Mary's County to reimburse him. 4 Md. Arch., Prov. Ct., 161, 162.

¹⁶³ Randolph Revell and Nathaniel Pope. 1 Md. Arch., Ass., 166.

¹⁶⁴ Trafford and Blount.

same in number as the last Assembly. When the roll had been called Thomas Weston, one of those present, pleaded¹⁶⁵ that he was no freeman, for he had no land in the Province, but the House voted that he need not be a freeholder to be a freeman, whereupon he remained in the Assembly. A new summons¹⁶⁶ was sent to the freemen of four of the hundreds of St. Mary's to appear, under penalty of fifty pounds of tobacco. Of the seven men returned as out of the Province, one appeared by proxy during the session, as did two of those suspended from amercement.¹⁶⁷ Of the seventy-six amerced, sixty sent proxies, as did seventeen more who are not mentioned in the first list. Some men changed their proxies, so that the list is confusing, but my figures show that twenty-three men were present during the session and that one hundred and seventy-seven persons appeared by proxy. After the roll of the House had been fixed on the first day, Lewger administered an oath of office to Calvert as Lieutenant General,¹⁶⁸ and rules of order were adopted similar to those of the last session.

The House then appointed a committee of seven to meet that afternoon and "draw up a bill touching a war to be made upon the Indians and other matters pertaining to the safety of the colony."¹⁶⁹ This shows that Calvert retired from his position of the last session. "Outrages" had been committed by the Susquehannocks and must be avenged. The committee reported on the same afternoon, showing that the bill had probably been already prepared, and when it was read Calvert demanded to be exempted from the levy, but the Assembly refused to grant this demand by a vote of 38 to 100.¹⁷⁰ The Governor then adjourned the House until the morrow, a power he consistently exercised at this

¹⁶⁵ 1 Md. Arch., Ass., 170.

¹⁶⁶ 1 Md. Arch., Ass., 171. No summons to Mattapanient.

¹⁶⁷ John Rutledge was excused from appearing, as he was a servant. 1 Md. Arch., Ass., 177.

¹⁶⁸ Full text of oath is in 1 Md. Arch., Ass., 170.

¹⁶⁹ 1 Md. Arch., Ass., 171, 174, 196. The Governor, the three Councilors present, and three burgesses served on the committee.

¹⁷⁰ 1 Md. Arch., Ass., 173. Brent with his seventy-three proxies from Kent must have been the determining factor in this vote.

session, though against the protest of some. Then the bill was amended, excepting the Lieutenant General and his apprentices from the levy, and, as amended, was passed.¹⁷¹ It authorized the Governor to make the expedition when and as he wished, and to take out of every hundred every third man who could bear arms, who should be armed and provisioned for two months and transported to and from the expedition at the charge of the hundred. This charge was to be apportioned on all the inhabitants by the freemen of the hundred in a public meeting, and distress was ordered in case any one refused to contribute his share. Persons aggrieved at the assessment might appeal to the Governor and Council in St. Mary's and to the commander and commissioners in Kent, and any surplus stock after the end of the expedition was to be returned to the counties, by them to the hundreds, and by them to the particular persons. In like manner, the "perquisites and benefits, arising" from the "enemies prosecuted by this expedition," which were declared to belong to the Province, were to be distributed to the citizens.

After the bill for the Indian expedition had been presented, the committee, with a trifling change of membership, was continued and directed to draw up a bill "for the better safety of the colony."¹⁷² This act authorized the Governor, "whenever the necessary defence of the Province or any part thereof against the assault or invasion of the Indians shall require it," to impress vessels, men, arms, ammunition, etc., "at the usual rates of the country," and to charge the

¹⁷¹ 1 Md. Arch., Ass., 174, 176, 179, 180, 182. It is impossible to explain the vote. On engrossing, Brent voted nay, as did Cornwallis, Greene and four others for themselves and proxies, while Calvert, Lewger, Langford and four others voted yea. Yet the vote was reconsidered and the engrossing ordered unanimously. On final passage, apparently, of both this and the act for public safety the vote of those present was 7 to 6, but all except Cornwallis (for fifteen of his proxies of St. Michael's hundred, who objected to the exemption of the Governor's servants) finally passed it. I cannot understand why Calvert insisted on this exemption, unless on the score of his dignity.

¹⁷² 1 Md. Arch., Ass., 174, 180 (seemingly some opposition to it), 182, 198.

sum upon the "inhabitants of the Province," as he, with the advice of the Council, shall think fit, provided that the charge of St. Mary's County be not more than four thousand pounds of tobacco a year, nor of Kent more than half that sum. If any pressed person receive "corporal harm in such service, whereby he shall be disabled to follow his labor or calling, he shall be cured and his wife and children," if need be, maintained, till he be able to go to work, at cost of Province or county, as the court¹⁷⁸ may assess. If any inhabitant be compelled by "public order" to forsake house or goods to assist others and his property be hurt therefrom, his loss shall be "repaired by a public contribution" of the whole county, as the court might assess it. This is the first pension system of Maryland.

We have noted the act requiring passes, recorded by the Assembly at its last session. It made much trouble in this one.¹⁷⁴ On the first day of the session Brent, on behalf of the Kentish men, asked the House to declare whether the inhabitants might freely, without leave, depart out of the Province unless they were indebted or otherwise obnoxious to justice. Calvert quickly answered: "I do not consent that it should be decided by or in this house," and adjourned the session. On the next morning Brent brought up the question again, but Calvert refused to put the question to the freemen as judges. Bozman is doubtless correct in regarding the Governor's act as an attempt to maintain his brother's legal prerogatives, on the analogy of the position of the Crown officers that no one could lawfully leave England without the permission of the King. Lewger now rose¹⁷⁵ and said that, as a Councilor, he thought the matter was proper to be decided by the House, both by former usage, because the writ for the session called them to consult, and because the former act for passes, sent over by Baltimore, had been enacted by the House in June. Calvert, after a little more de-

¹⁷⁸ Qy. Provincial court?

¹⁷⁴ 1 Md. Arch., Ass., 171, 173. 2 Bozman, 240. Were the Kentishmen restive at the law of June?

¹⁷⁵ 1 Md. Arch., Ass., 174.

bate, declared that "it is the common right of all inhabitants to depart out of the Province at their pleasure, unless indebted or obnoxious to justice, or unless there be some transcendent cause for the safety of the people, for the Lord Proprietary, or his substitute to overrule that right in some particular cases for a convenient time." On the last day of the session some of the members of the House protested against this statement, and Calvert yielded the point entirely and made "no exception of any transcendent cause."¹⁷⁶ Thus was another of the Proprietary's claims to especial privileges whittled away by the opposition of the colonists.

The laws made in June were declared to be in force until the close of the next session, yet, instead of discussing which should be reënacted, the Assembly, on September 6, moved to "repeal" certain¹⁷⁷ of them. It is quite possible that most of these laws had been drafted by Baltimore's advisers in England and that, after mature consideration, the settlers were not willing to continue what they had been quite willing to test. Calvert said he was willing to repeal several of them, such as those for judges and executions. When the reading of them began, however, and an amendment to the act for the support of government was favored by the House, the Governor refused to alter it, and then he "appointed a bill to be drawn for the repeal of all the laws made last Assembly." That afternoon, however, the House appointed Calvert, the three Councilors and four burgesses to be a committee to consider bills to be propounded to the House on next Monday, to which date the Assembly adjourned.¹⁷⁸ The committee met on Wednesday, September 7, and revised several bills. Cornwallis and Brent, heading here as always during this session the popular party, opposed the

¹⁷⁶ 1 Md. Arch., Ass., 180. Was this the anonymous protest Brent tried to present but the House refused to receive on the preceding day? 1 Md. Arch., Ass., 179.

¹⁷⁷ 1 Md. Arch., Ass., 174.

¹⁷⁸ 1 Md. Arch., Ass., 175, 176.

¹⁷⁹ 2 Bozman, 245, calls our attention to the fact that, as the act failed, on Sept. 15, 1642, Calvert appointed a sheriff by his prerogative.

bill for officers, as it forced any citizen selected as sheriff, "against common right and decency," to be a hangman, and did not limit the amount of the sheriff's recognizances, nor the number of offices any one man might be forced to hold.¹⁷⁹ Calvert was willing to except the hangman's office and to limit recognizances to such sum as the business entrusted to a sheriff might amount to,¹⁸⁰ but the committee refused to report the bill.¹⁸¹ Brent and Cornwallis, however, were unsuccessful in their struggle to defeat the act for capital offenses. The committee does not seem to have met on Friday or Saturday, but on Sunday they agreed on twenty-five bills, including the military ones already discussed.¹⁸² They also agreed not to report the acts for the order of hearing causes for executing upon corn or tobacco, and for what shall be judged a lawful tender, and made no recommendation as to the bills for the planting and exportation of corn and against forestallers. On Monday, September 12, the bills reported by the committee were read and slightly amended. The Governor, with Lewger and Langford and three burgesses, counting proxies twenty-six "voices," voted that these laws should "endure till the first meeting of the next Assembly."¹⁸³ Six burgesses, casting forty-six votes, voted to amend this by stating that laws should expire at the end of three years, if no Assembly had been sooner called, while Cornwallis and Brent voted for the period of three years without any alternative. During the noon recess the last two men must have done some brisk campaigning, for when the House came together in the afternoon they had with them all but one of the five burgesses previously holding the middle position and one who voted with Calvert in the morning. Calvert and his other followers of the morning now took the middle position, with one burgess who voted for this provision on both occasions.

¹⁷⁹ 1 Md. Arch., Ass., 175.

¹⁸¹ It was brought up before the Assembly on Monday; Calvert, Lewger, Langford and four burgesses with proxies voted for it, Cornwallis, Brent and three burgesses with proxies were against it and it was lost.

On Tuesday Calvert refused to sign several of the bills proposed by the committee,¹⁸⁴ but finally did so and all became laws, while none of those passed which were not recommended by the committee.¹⁸⁵ Calvert then dissolved this Seventh General Assembly,¹⁸⁶ whose acts expired on September 13, 1645.

EXPEDITION AGAINST THE SUSQUEHANNOCKS.

On September 13, the day the Assembly adjourned, Calvert proclaimed the Susquehannocks, Wicomeses (possibly an Iroquois tribe) and Nanticokes as enemies of this Province,¹⁸⁷ and shortly after Edward Parker was appointed high sheriff of St. Mary's County, and was sworn to "serve the Lord Proprietary and do the Lord's profit," as well as to "truly and rightfully treat the people of your sheriffwick and do right, as well to poor as to rich."¹⁸⁸ On September 21 the expedition against the Indians was begun,¹⁸⁹ and it was concluded on October 13. The sheriff of St. Mary's pressed twenty men, but we have record of only fourteen

¹⁸³ 1 Md. Arch., Ass., 176.

¹⁸⁴ 1 Md. Arch., Ass., 177, 179.

¹⁸⁵ 1 Md. Arch., Ass., 180, 181.

¹⁸⁶ Calvert, Lewger, Langford and five burgesses and their proxies wished the act against engrossers reënacted. Cornwallis, Brent, and three burgesses with proxies opposed it and it failed.

¹⁸⁷ John Hallows was allowed one thousand pounds of tobacco and Henry Hooper, the drummer, one hundred pounds for their services, the sums to be assessed two-thirds on St. Mary's and one-third on Kent. The sheriff who collected them was allowed ten per cent. commission. 1 Md. Arch., Ass., 180, Nov. 25. Assessment was made on seventy-eight taxpayers in St. Mary's, of whom three were women and ten were gentlemen, and on sixty-two taxpayers of Kent, of whom four were gentlemen. The Kent assessment was renewed in December, when seventy-one taxpayers were returned. 3 Md. Arch., Coun., 120, 123, 125.

¹⁸⁸ 2 Bozman, 214. 3 Md. Arch., Coun., 116. Chalmers, Introduction to the Hist. of the Revolt of the Am. Col., 76, calls this a "savage Indian war."

¹⁸⁹ 3 Md. Arch., Coun., 117. No reference to England in the oath. The jura regalia were carefully preserved for the Proprietary.

¹⁹⁰ 4 Md. Arch., Prov. Ct., 156, 157. 3 Md. Arch., Coun., 117, 119, 121, 125, 137. Two lists of St. Mary's taxpayers are given, containing sixty-seven and fifty-five names. Assessment made in December. Execution against John Hollis for his tax in March. 4 Md. Arch., Prov. Ct., 190.

privates who went with Sergeant McFenin and Surgeon Alexander Pulton. Cornwallis provided some powder and shot and Lewger victualled the expedition, providing salt, pease, corn and an ox, which was killed at Kent Island, where the men stayed two days and whence they seem to have returned without pushing on farther. The total cost of the expedition was covered by an assessment of six thousand pounds of tobacco, two-thirds of which were levied on St. Mary's. Brainthwait was captain of the forces. Cornwallis had refused for some reason to take the oath of a Councilor or to be in the commission, and therefore probably was not made the leader.¹⁹⁰ Shortly after the expedition returned Gerard and Neale were authorized,¹⁹¹ on October 29, to demand satisfaction from any Indians they might find killing their cattle, stealing or injuring their corn, or otherwise trespassing on their lands, and, in default of satisfaction, to "pillage them of what you may within your said lands," use force to chastize them and put them off the lands. If the Indians offer violence to the English in the execution of these powers, the latter may use further violence, and may even kill the Indians.

BRENT'S DIFFICULTIES WITH THE GOVERNOR.

Out of this Indian expedition and the September session of the Assembly arose considerable difficulty between Brent and the Governor. On October 10, before the march was over, Calvert heard "of demeanors" of Brent on Kent Island¹⁹² which made him suspect "some intents and desires of his to disaffect that island and withdraw it into sedition,"

¹⁹⁰ 4 Md. Arch., Prov. Ct., 125.

¹⁹¹ 3 Md. Arch., Coun., 118.

¹⁹² 4 Md. Arch., Prov. Ct., 126. On the Brent family important information is contained in 14 Va. Mag., 100 (July, 1906). From this it seems that Margaret (born 1601, d. after 1661), Mary (d. circa 1657), Fulke (m. Cecilia —, and d. 1656 s. p.), and Giles (m. Margaret and d. 1671), all came to America about 1638. See also 1 Md. Hist. Mag. (1906), 189 and 136, in which it is stated that Giles, with his wife and family, resided on Kent Island, but also resided for a part of the year in his sister Margaret's house in St. Mary's.

and therefore required him to give bond to answer these charges at the next court and to be "of good behavior" in the mean time. Brent considered the matter and then refused to enter the recognizances Calvert required of him, whereupon the latter commanded him not to depart out of St. Mary's hundred until the next court. On the seventeenth Lewger, as attorney for the Lord Proprietary,¹⁹³ entered an information before the court that Brent had first propounded the expedition against the Susquehannocks to Calvert, had consulted with him about it and had been given a commission to raise men at Kent at the country's charge, and had them out upon the service. After Brent arrived at Kent Island, however, he heard of a commission granted Braithwait as commander of the island¹⁹⁴ and, "taking disgust thereat or for some other secret discontent," did not use his commission according to its full power, but, trying to make it ineffectual and yet not daring to disobey it, he left it to the consideration of the Kentish men whether they were willing to be pressed or not, for they should not be urged against their wills. When they refused "that so gentle a proposition," Brent dismissed them without pressing any man, "pretending some illegalities found in the commission."¹⁹⁵ Later he "swallowed" these illegalities and issued a warrant for pressing twenty men. They came with arms ready to be employed,¹⁹⁶ but when they "uttered some expressions of unwillingness he dismissed them again of his own head without authority," thus letting the "whole enterprise and charge fall to the ground," to the disgrace of our nation among the Indians, to the encouragement of the people to despise the like commission at another time, to the imminent

¹⁹³ 4 Md. Arch., Prov. Ct., 128, 135. On Nov. 2 Lewger brought a civil suit in the Proprietary's name against Brent for his conduct on Kent, claiming 5622 pounds of tobacco as damages. 4 Md. Arch., Prov. Ct., 136.

¹⁹⁴ The proof that such commission was issued is found in 4 Md. Arch., Prov. Ct., 131.

¹⁹⁵ I do not find this commission extant.

¹⁹⁶ The soldiers from St. Mary's received each three weeks' pay. 3 Md. Arch., Coun., 122.

danger of the colony and to the damaging of Baltimore and the planters by a fruitless expense and inconvenience. On receipt of these serious charges, laying the whole fault for the failure of the expedition upon Brent, Calvert authorized Robert Vaughan, "lieutenant of our isle and county of Kent," with the other two commissioners,¹⁹⁷ to take testimony in this matter. Brent sent over interrogatories designed to show that the Kent Islanders told him that if the voyage was made they must leave the island, which would be dispeopled; that, if ammunition were taken for the expedition, many houses would be left wholly desolate, that crops unhoused would be lost and that the enemy would follow them back to Kent, destroying their tobacco, hogs and cattle, and killing men in the woods. Braithwait, addressed as commander of Kent, was directed to collect evidence for the prosecution. On the twenty-first Calvert directed¹⁹⁸ Braithwait and Vaughan to inquire whether Brent, while he was commander and "chief judge in civil causes," refused to do justice to any plaintiff who demanded judgment until he examined his account book, and if when he found the defendant owed him money he granted no execution until the defendant had made over his crop to him for security. This scandal must be investigated at once and its truth or falsity made known.

Brent took some counter-steps. On October 10 he conveyed¹⁹⁹ all his property to his sister Margaret, and he had Speak, one of the St. Mary's soldiers in the late expedition, depose before Lewger that on October 9, as Speak was coming with the other soldiers to Popley's Island, he saw mutton²⁰⁰ boiled and afterwards eaten by the others, which mut-

¹⁹⁷ 4 Md. Arch., Prov. Ct., 129. Any two may sit, but Ludington must be present. Brent's interrogatives were to be asked of twenty-one men.

¹⁹⁸ 4 Md. Arch., Prov. Ct., 133.

¹⁹⁹ 4 M. Arch., Prov. Ct., 132, 134.

²⁰⁰ Brent sued five of the soldiers for killing his sheep and seems to have recovered damages from two of them. 4 Md. Arch., Prov. Ct., 164, 165, 201. It is interesting to note that Lewger has just accused Phillpot (a Kentishman) of killing and using one of Baltimore's oxen. 4 Md. Arch., Prov. Ct., 132.

ton Brent suspected to have come from a ewe sheep feloniously killed by Braithwait's soldiers. On November 2 Brent answered that he delayed at Kent for good reasons and for further orders,²⁰¹ and pleaded not guilty to the charges laid against him. Lewger obtained a judgment against Brent by default, and asked that this answer be taken off the record as containing matters of "scandalous and contemptuous" implications to his Lordship and his authority.²⁰² Brent now came to the court in answer to a warrant, and handed in a written statement that he intended to inquire of learned English counsel whether the judgment against him was rightful, and if they said it was not, "I intend to seek my right at the hands of our sovereign the King." He asked to have this statement recorded. Here was material for consternation, but the court was unmoved. It took Brent's answer off the record, but kept it on file and ordered judgment to be entered. Before this was done Calvert told Brent that if he would yet tender the general issue and "go to trial before the country" the court would not enter judgment. Brent took four days to consider the matter and then agreed to plead to the general issue, which he did on November 14, and the proceedings, after the filing of the complaint, were annulled. A week later a subpoena was issued,²⁰³ directing Brent not to leave St. Mary's until a day was fixed for the trial. Brent now filed a second answer that the bill drawn up against him was so uncertain that he could not tell whether he was tried for a civil or a criminal offense.²⁰⁴ He denied that he had acted wrongly, of whichever nature the charge might be. Lewger now filed a declaration in a civil suit charging six thousand pounds of tobacco as damages,²⁰⁵ which declaration Brent answered and, issue being joined, a panel of twenty-four jurymen was summoned. On December 1 the case was tried, Calvert, Lewger, Blount and

²⁰¹ 4 Md. Arch., Prov. Ct., 136.

²⁰² 4 Md. Arch., Prov. Ct., 140. Calvert and Langford sitting.

²⁰³ 4 Md. Arch., Prov. Ct., 150.

²⁰⁴ 4 Md. Arch., Prov. Ct., 151.

²⁰⁵ 4 Md. Arch., Prov. Ct., 151, 152.

Langford all sitting on the bench.²⁰⁶ There was a curious mixture of judge and party, Lewger being the prosecutor and Calvert being sworn as a witness. The jury found for Brent, and four days later Lewger moved for a new trial, as the issue was understood in one sense by the plaintiff and in another by the defendant. On December 2 Lewger filed a criminal suit against Brent charging him with a misdemeanor; Brent pleaded not guilty, but the form of his plea was not satisfactory to the court and he was ordered to amend it.²⁰⁷ This he did on the twelfth, claiming that his management of the expedition was guided by the best of his discretion for the honor and benefit both of his Lordship and of the colony.²⁰⁸ The court accepted his excuses and found him innocent and also dismissed the civil case. After this vindication we find that Brent was fully taken back into favor and was appointed on December 16 commander of the "isle and county of Kent,"²⁰⁹ with all the powers of a "chief captain" in all matters of warfare, and of a judge in matters not extending to life, member or freehold. With him William Ludington, Richard Thompson, and Robert Vaughan were associated as commissioners. Brainthwait may have left the island, as he is not taxed this month, and this was probably the cause for the new commission. A month later Vaughan and Thompson were empowered to hold one county court to last two days, as Brent was absent.²¹⁰

MISSIONARY LABOR IN 1641-1642.

The Tayac died in 1641,²¹¹ but the good work of the

²⁰⁶ 4 Md. Arch., Prov. Ct., 155. It was unusual to have so many Councilors sitting; business was frequently transacted when but two were present. Brent was amerced for absence. Brent objected to one of the jurors, but his objection was overruled.

²⁰⁷ 4 Md. Arch., Prov. Ct., 160, 161.

²⁰⁸ 4 Md. Arch., Prov. Ct., 164.

²⁰⁹ 3 Md. Arch., Coun., 124.

²¹⁰ 3 Md. Arch., Coun., 127.

²¹¹ The Tayac, sometimes known as Kittamaquund, held his power through his murder of his brother Wannas, or Uwanno, and left the chieftaincy to this daughter. The Indians rejected her and chose another. She married one Fitzherbert, an Englishman, and he, failing in his expectations of a great portion, civilly parted from her. Browne, Geo. and Cecilius Calvert, 125.

Jesuits among the Indians continued. About this time the Tayac's daughter, the "young empress" or queen of Port Tobacco, was baptized at St. Mary's and, at her town, the Tayac's wife and two sons and one hundred and thirty others were converted. The convenience of Port Tobacco's situation and the fact that Piscataway was near the hostile and warlike Susquehannocks induced the priests to remove their station to the former place. They did not confine their work, however, to one center, but a father, an interpreter, and a servant sailed or rowed, in pinnace or galley, up and down the Patuxent and Potomac rivers, preaching to the natives. Miraculous deeds of healing are reported to have followed their prayers. Father Roger Rigby, in spite of three months' illness, acquired such knowledge of the language of the dwellers by the Patuxent that, with an interpreter's aid, he was able to compose a short catechism in that language.²¹²

The Tayac's daughter, "the young empress," was still being educated at St. Mary's, having become proficient in the English language. The priests tell of a miraculous cure of a wounded Indian by application of holy relics to the wound. Father White still preached at Piscataway and converted most of the Indians of that village in 1642. An interesting story is told of how he embarked with a hard-hearted and troublesome captain of New England, "a region full of all Calvinist heresy," early in the year, that he might go to Piscataway from St. Mary's. He feared that the captain would carry him to sea or to New England, but, near the mouth of the Potomac, the ship stuck fast in the ice and could not be moved for seventeen days. Father White walked ashore on the ice and reached his destination, but the floes jammed and sank the ship when the ice was broken up. Father Philip Fisher, the superior and also the only other priest in the mission, re-

²¹² The legend is that the Jesuits had a printing-press at St. Inigoes and printed this catechism, of which Father McSherry saw a copy at Rome about 1840. I Scharf, 190.

mained for most of the time at St. Mary's, to take care of the English and Indians who resorted thither. During the year two other priests came from England after an unpleasant voyage of fourteen weeks, though it did not usually take more than six or eight weeks. After 1642 only broken records of the priests' labors remain.

THE JESUITS' STRUGGLE WITH THE PROPRIETARY.

The letter of 1642, from which we have already quoted, makes reference to the difficulty between the Proprietary and the Jesuits. The Jesuits say that those from whom they had the right to expect aid and protection, too intent on their affairs, violated the immunities of the Church by using their endeavors to have laws passed in Maryland like those in England which declared it unlawful for any ecclesiastical community to acquire or possess land, unless the consent of the civil magistrate be first obtained.²¹³ They add that Baltimore had two priests sent from England to teach the contrary, but that these, when they heard the Jesuits' reasons, fell in with their opinion, and that the laity seemed to be of like mind. The coming of the new Jesuits—those of the hill, as Baltimore called them²¹⁴—was strictly against his orders. The representatives of the order in England in vain importuned the Proprietary to allow them to send out men, and his steadfast refusal to do so caused him to have a "bitter falling out" with his "sister Peasley," and "some discontentment" arose between him and her husband. When one of the Jesuits secretly got

²¹³ Dennis calls attention to their dislike of the manorial system, which Baltimore tried to fix upon the Province, and to the fact that the members of the Society of Jesus brought into the Colony sixty persons in the first five years of its history.

²¹⁴ 28 Md. Hist. Soc., Fund Pubs., 210-221, long letter from Baltimore to Leonard Calvert dated Nov. 21 and 23, 1642. Dennis, in his valuable review of Lord Baltimore's *Struggle with the Jesuits*, 1 Am. Hist. Ass., Rept., 1900, p. 112 and ff., thinks the restraint of the acquirement of land by Jesuits, the toleration act of 1649 and the encouragement of the settlement of Protestants in the Province were all part of Baltimore's scheme for curbing the power of the ecclesiastics. Streeter, Md., Two Hundred Years Ago, p. 32, states that the author saw Mrs. Peaseley's letters.

on board of Capt. Ingle's ship in the Downs bound for Maryland late in November, 1642, Baltimore in hot anger wrote his brother Leonard of the occurrence "as a high affront unto me." If "the man" who goes to the Province in contempt of Baltimore's prohibition should get away from Calvert before he can lay hold of him, by being sent back to the Indian settlements or elsewhere, still the affront to the Proprietary will remain and "the danger of prejudice be the same." If the new priest escape, Leonard Calvert is ordered to seize Mr. Copley, the temporal coadjutor of the order, and send him to England by the next shipping, unless "he will bring the other newcomer into your power to send back again." Baltimore's letter is incoherent in its rage, and it is interesting to see how moved was the man who was usually so calm. He has learned accidentally from a Jesuit²¹⁵ in England that the Tayac had given a great deal of land at Piscataway, shortly before his death, to Father White, and prays the Governor to hasten the design concerning which he has already written, "of bringing all the Indians of that Province to surrender their interest and right to me." By the action of Father White might be seen "of what dangerous consequence" the Jesuits' proceedings are to the Proprietary. With characteristic shrewdness Baltimore adds, "Methinks the Indians who are christened, if their conversion be real, might be brought to assist in their labors and contributions of beaver, peak, etc., for the building of the new chapel" at St. Mary's.²¹⁶

Earlier in 1642 the Rev. Mr. Gilmett had come out in Capt. Ingle's ship, as one of the priests sent by Baltimore

²¹⁵ The observance of care to avoid any reference to the ecclesiastical character of the priests or to the word Jesuit in Lord Baltimore's letter shows how he dreaded that it might fall into hostile hands, which might use it against him with the English government.

²¹⁶ Baltimore thanks Leonard Calvert for his kindness to John Langford and Robert Evelin, both of whom have written Baltimore with reference to Calvert's conduct. Baltimore also sends kind respects to Mrs. Troughton and thanks her for a letter she sent answering one of his. See Kilty.

and referred to in the Jesuits' report. Baltimore had recommended him to his brother and desired that Gilmett should sojourn with him, and that his boy, whom he needed as an attendant, be also provided for, and that necessaries of bedding, etc., be provided them. In the end of November the vessel which bore the Proprietor's letter, from which we gain our information, carried the second of these priests, the Rev. William Territt. He is also commended to Leonard Calvert's care, and assurance is given that both of the priests are "men of high esteem here and worthy to be cherished and valued by you." Territt is to be properly accommodated, Baltimore promising to pay the charges of both priests unless Leonard Calvert can otherwise provide for them. Territt is commissioned to acquaint Calvert more particularly with his brother's mind with relation to the Jesuits, and "with the opinion and sense which divers pious and learned men here have to this odious and impious injury offered unto me." Territt has been told what should be done to vindicate Baltimore's honor and "prevent a growing mischief upon" him. The Proprietary thinks his brother has been too complaisant to the Jesuits and writes: "If you do not that right unto me, as I require from you in my instructions,²¹⁷ . . . I shall have just cause to think that I have put my honor there in trust to ill hands, who betray me to all the infamous contempts that may be laid upon me." The Jesuit partisans in England have maligned Leonard Calvert, so that he has no reason to love them very much, while Baltimore has good reason to believe that "they do design my destruction" and will try to arm the Indians and overthrow the government with their aid, if the English will not join their party. "Laymen would be the basest slaves and most wretched creatures upon the earth," Baltimore wrote in his fierce indignation, if all things that clergymen do under the "mask and vizard" of "God's honor and the propagation of the Christian faith" should "be accounted just and to proceed from

²¹⁷ Those of Oct. 20.

God." "If the greatest saint upon earth," he continued, "should intrude himself into my house against my will . . . with intention to save the souls of all my family, but withal gave me just cause to suspect that he likewise designs my temporal destruction, . . . although with all he do perhaps many spiritual goods, yet certainly I may and ought to preserve myself by the expulsion of such an enemy and by providing others to perform the spiritual good he did, who shall not have any intention of mischief towards me." Do not the Italian princes engage in warfare with the Pope himself and yet continue to be Roman Catholics? This argument was undoubtedly written to Leonard Calvert, because Baltimore is not sure of his loyalty in the matters, and he adds that "if you do not, with a constant resolution and faithful affection to me," execute my orders, written and verbal, you will "betray me to the greatest dishonor and prejudice that ever one brother did another." Calvert must also see that neither Gilmett nor Territt receive any prejudice, by "committing my mind to you or by their zealous affection and fidelity to me." Baltimore further rebukes his brother for passing grants "to those of the Hill, of St. Inigoes and other lands at St. Mary's" and Piscataway, because he conceived the lands were in justice due unto them, though contrary to Baltimore's directions. "It was a great breach of trust" in Calvert to make these grants contrary to his brother's orders. If the Jesuits had "just cause of complaint by having grants refused them," Calvert should have referred them unto his brother, "for you are merely instrumental in those things to do what I direct and not to direct me to do what you think fitting." For the future Calvert is earnestly desired to be more observant of his brother's directions, and not to expect to learn the reasons of all directions. The letter ends with this prohibition: "I do once more strictly require you not to suffer any grant of any lands for the future to pass my seal here to any member of the Hill there, nor to any other person in trust for them upon any pretence or claim whatsoever, without especial warrant un-

der my hand and seal." In the same letter Baltimore complains that Calvert gave "kind entertainment in 1641, to certain Dutch" who are planted in Delaware Bay within his Province and who came to St. Mary's last year.²¹⁸ He also states that he hears that the Indians kill the planters' hogs and the government "connives at" the Indians upon pretence of their being made Christians, so that the planters can have no remedy nor "are permitted to right themselves." If this be true it should be redressed.

Business is never wholly lost sight^{218a} of by Cecil, Lord Baltimore, and he asks what has become of the proposition of setting up an iron work, directs that full account be given him of the cattle belonging to him, gives Robert Evelin and Calvert the profit of an adventure which Lady Baltimore made in Virginia last year, complains of the failure of Mr. Kemp in Virginia to deliver certain sheep, and urges that Leonard collect the Indians' tribute, investigate the red earth and get all the freight he can for the vessel which bears the letter, that the "master may be encouraged to adventure thither again."

With reference to the Virginia colony Baltimore writes that their agent in England, Sir John Berkeley, is not a "good solicitor," and suggests that he might help them to obtain their desires "if they would deserve it of me," but they have so "disobliged" him this year that he has little reason to trouble himself in their behalf. Baltimore claims to have deserved better treatment, as his efforts had prevented the Virginians from being "reduced under that com-

²¹⁸ I Scharf, 230. Delaware Bay, discovered by Hudson in 1609, was named by Argall in 1610, and Capt. May in 1614 explored it and named the cape on its eastern point. In 1621 Capt. Hendrickson explored Delaware for the Dutch West India Company and called it South River. In 1629 Godyn and Blommaert had a grant on the west side of the bay. In 1631 Capt. Heyes founded Swaanendael on Lewes Creek, but the savages destroyed it in the next year. In 1638 the Swedes came to Jamestown and later settled on Christiana Creek, and in 1641 the New Haven men made an unsuccessful settlement near Salem, N. J. The Dutch expelled them in 1642.

^{218a} He complains to Calvert that "you do usually omit to give me satisfaction in divers things, wherein you do not well and I have told you often of."

pany" which "they so much abhor." He will use his efforts further for Virginia only in case that colony's Assembly make a declaration importing a "settlement of friendship between me and that colony," an "allowance and approbation" of Baltimore's patent, a "disclaimer of all petitions" against Baltimore sent to England in their name, a condemnation of Claiborne's proceedings against Baltimore, a grant to Baltimore and his Province of fur trade with Virginia, and of leave to transport any goods bought there into Maryland, and a promise to "make a league offensive and defensive" with the Proprietary.

END OF THE STRUGGLE WITH THE JESUITS.

Father More, the English superior of the Jesuits, forwarded²¹⁹ the queries to Rome and wrote a long letter describing the difficulty to the Congregation for the Propagation of the Faith, telling of the work of the Jesuits in Maryland and asking, if possible, that they be permitted to remain and not be superseded by the secular clergy. This letter seems to have been effective. Father More was of a conciliatory disposition,²²⁰ and gave Baltimore a certificate that his Conditions of Plantation would not cause him or any of his officers to be subject to excommunication or to be guilty of mortal sin. More also executed a release of Matapany²²¹ and other lands acquired and of the right to acquire them from the Indians. Baltimore also prepared a paper to be signed by the Jesuits not only giving up any right to receive lands from the Indians, but also admitting that all ecclesiastics are bound by the laws of the Province, that ecclesiastics have no more rights in Maryland than are granted in England to such persons, that Baltimore's officials may institute judicial process against ecclesiastical persons and their property without incurring any sin, and that testa-

²¹⁹ Johnson, p. 78.

²²⁰ Johnson, p. 83.

²²¹ Johnson, p. 84. Matapany was given by the chief of Patuxent and divided into the manors of the Immaculate Conception and of St. Gregory.

mentary and matrimonial causes may be heard by Baltimore's appointees without their committing sin until an ecclesiastical tribunal be constituted with the Proprietary's consent.²²² To these terms the Jesuits yielded, peace was made and the secular priests were recalled. Three interesting survivals of the struggle between Baltimore and the Jesuits are found in the laws of the state to-day: no ecclesiastic may sit in the General Assembly; no gift, sale, or devise of land, nor gift, nor sale of goods or chattels to take effect after the death of donor or seller can be effective without ratification by the Assembly; and Maryland is the only state of the Union which requires a religious ceremony for the completion of a marriage.

²²² A form of agreement between the Proprietary and the Jesuits is printed in Johnson, p. 90, but he thinks it was not signed. It agrees with the provisions above cited, and adds that corporal punishment shall not be inflicted on a Jesuit in Maryland unless the offense be a capital one, that no Jesuit be sent to Maryland without Baltimore's prior license, and that, if Baltimore wish any Jesuit removed from the Province, such removal must be made at the Proprietary's expense within a year.

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(Edited by H. B. Adams, 1882-1901)

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J. H. HOLLANDER W. W. WILLOUGHBY
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MARYLAND DURING THE ENGLISH
CIVIL WARS
PART II

BY
BERNARD C. STEINER, Ph.D.
Associate in History, Johns Hopkins University.

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MARYLAND DURING THE ENGLISH CIVIL WARS. PART II.

The former part of this monograph, published in the last number of the Studies for 1906, discussed events occurring in Maryland from the beginning of the period of the English Civil Wars down to the close of the difficulties between Lord Baltimore and the Jesuits. The narrative is now taken up with the events of the year 1643, and soon brings us to the appearance of Richard Ingle in Provincial affairs.

RELATIONS WITH NEW ENGLAND.

In the summer of 1642¹ Neale went to Boston with two pinnaces containing corn from Calvert. He was commissioned to buy mares and sheep, but had nothing to pay for them except bills drawn on Baltimore, and no one would deal with him. "One of his vessels was so eaten with worms that he was forced to leave her." In spite of this, in May, 1643, Cuthbert Fenwick was commissioned to go out with the *Thomas* to New England and "to require seamen and others to be obedient and respective."² On this trip, doubtless, Baltimore's letter was carried to Captain Gibbons of Boston, offering land, "free liberty of religion and all other privileges which the place afforded" to the Massachusetts men, "they paying such annual rent as should be agreed upon," but no one, as Governor Winthrop wrote, had "temptation that way."³

A year later⁴ a pinnace, sent from Boston for trade on the Delaware River, reported "that the Swedes would not let them trade, but that they were not so narrowly watched but

¹ 2 Winthrop's N. E., 72. Neill, Beginnings of Md., 42.

² 4 Md. Arch., Prov. Ct., 204.

³ 2 Winthrop's N. E., 148. Gibbons removed to Md. in 1650.

⁴ Hubbard's N. E., 443.

that they found opportunity to trade on Maryland side." This phrase is important, as it shows that Baltimore's claims to the west bank of the Delaware were recognized in 1644.

MORE INDIAN ALARMS.

On January 17, 1642-3, Calvert issued a proclamation¹ to put the colony in safety not only from danger, but even from fear of the Indians, and announced that he was about to send messengers to the neighboring Indians to warn them against coming near the English for the present, on peril of their lives, if they came by land or water between the Patuxent and the Potomac. If they had business with Calvert, they must bring an Englishman with them, or bear a "flag or fane of white fustian with his Lordship's arms in wax, ensealed thereon." Any other Indians entering the English pale after six days and not yielding themselves on demand to the English might be killed with impunity. On January 23 Cornwallis was commissioned to lead an expedition against the Susquehannocks, with all the powers of a captain-general, and a proclamation was issued calling for volunteers, who should be paid with the "purchase" or booty of the expedition.² The clearing of ground for the cultivation of tobacco and corn rendered the late winter and early spring of great importance to the planters, so that they were averse to leaving home to attack Indians. Nego-

¹ 3 Md. Arch., Coun., 126. A proclamation was prepared, but never published, that as the people feared a great charge this year in making a march or in guarding against the Indians, "to the foreslowing of their usual diligence and alacrity in proceeding in their labors for the next crop," Calvert would furnish the country with ammunition, and the charge of any expedition or outguards should be borne by Baltimore ["and such others as may be able or willing to contribute thereto;" this clause is omitted in the later proclamation] without charging the country more than to furnish soldiers to make the march or to serve as outguards, and that any march which might be necessary should be laid so as to be no considerable hindrance to the crops of those who went on it. All men were required to have their guns fixed and all other things ready to be "disposed of for the service and safety of the country." The proclamation of the 23d was modelled on this, and added that Calvert would try to have creditors forbear suing this year any of their debtors who should volunteer to march.

² 2 Bozman, 249; 3 Md. Arch., Coun., 128.

tiations were also taken up at this time with the Nanticokes, and on the twenty-sixth Calvert modified his earlier proclamations and declared that no Englishman might shoot any Indian unless the latter were a known Susquehannock or Wicomesse, or unless the Indian first assaulted him, or put him in "bodily fear of his life." Harboring Indians without especial license was forbidden, and a truce of six weeks was declared with the Nanticokes.³ Under pretence of this truce some of the St. Mary's men planned to go over to the Eastern Shore to trade, and Calvert prohibited their going without a license. The Susquehannock expedition did not start. Possibly there was difficulty in obtaining volunteers, and at any rate, on April 8, it was finally given up.⁴

MISCELLANEOUS EVENTS OF 1642-3.

On April 11, 1643, Calvert appointed¹ Giles Brent "Lieutenant General, Chancellor, Admiral, Chief, Captain, Magistrate, and Commander, as well by sea as by land, of this Province of Maryland and of the islands to the same belonging," with as full powers as Baltimore's commission gave his governor, and, within a week from that time, Calvert had left the Province for England. Before he left he exempted Nathaniel Pope and his nine menial servants from watching, mustering, and marching unless Pope consented. Quite possibly Pope was left in charge of Baltimore's farm land.² The Province was growing. Cornwallis had taken up four thousand acres of land beyond Port Tobacco Creek, in March, 1642.³ To prevent an ill practice which had arisen, Calvert issued another proclamation⁴ on the eve of

¹ 3 Md. Arch., Coun., 128. Some "reasons and accidents" had happened since the seventeenth. ² Bozman, 250, thinks friendly Indians may have been killed. The reopening of negotiations with the Nanticokes seems sufficient explanation.

³ 3 Md. Arch., Coun., 130.

³ 3 Md. Arch., Coun., 130.

² Bozman, 253, seems to take an unnecessarily harsh view of Calvert's act in thus exempting Pope. The Governor and his apprentices were exempt by the act of the last session.

² Bozman, 247.

³ 3 Md. Arch., Coun., 129; 2 Bozman, 250.

his departure. Men had received warrants for the quantity of land to which they were entitled and had seated themselves thereon, without troubling to take a grant or patent, by which neglect the title to the land might become doubtful and Baltimore would assuredly lose his rents. To prevent this in future, all persons claiming lands were directed to take out patents for them within twelve months of the time when their right accrued.⁵

Brent and Neale were both added to the Council. The former took the oath of Governor from Lewger, swearing to defend Baltimore's rights and to do justice to all the planters, and Neale took the Councilor's oath from Brent.⁶ The vessel sailed and the Province lost Leonard Calvert's guidance for over a year. The records of the Provincial court are quite full during the period from the adjournment of the Assembly⁷ in September, 1642, to Calvert's departure for Europe in April, 1643. On September 26 the sheriff was ordered to bring before the Governor a man, "lately come from Virginia, to show cause why he should not be

⁵ Kilty, *Landholder's Assistant*, pp. 66, 70, 78, gives records of transportation of servants and grants of land therefor. He also (p. 73) shows how the early land system had been formulated, with a public officer authorized to issue warrants of survey on the filing of claim for them, the rights being stated. The warrant directed another officer to lay out the land and return a certificate of survey, on receipt of which a grant, or patent, for the land was issued to the applicant. Kilty (p. 210) refers to an interesting early practice in the surrender of land to the Proprietary for the use of another and the regrantee of it to that other. Land was given in that way by Randoll Revell to Jane Cockshot.

⁶ Cornwallis's name is omitted, I am inclined to think, by a copyist's error. No salvo of any allegiance to England occurs in Brent's oath; Neale's oath was in the form prescribed in the bill which did not pass the Assembly of 1638. 3 Md. Arch., Coun., 131; 1 Md. Arch., Ass., 45.

⁷ On Dec. 16, 1642, Calvert summoned "all freemen" to appear personally or by proxy at St. Mary's on Feb. 3; but, two days before that time, he issued a proclamation discharging all men from attendance. 1 Md. Arch., Ass., 201. On March 28, 1643, Calvert, in like manner, summoned "all freemen" to appear at St. Mary's on April 3. This session seems not to have been held. Bacon gives the date as 1643, the record in 1 Md. Arch., Ass., 201, says 1642. It seems probable that Leonard Calvert would have summoned an Assembly prior to his departure for Europe in April, 1643 (3 Md. Arch., Coun., 136), and Brent and Blount were not Councilors in 1642.

returned⁸ thither. Another extradition case, in October, concerned a man charged with breaking prison in the neighboring colony.⁹

We have seen how the poorer planters had already begun to mortgage their crops in advance, to obtain wherewithal to live till the crops should be marketable, and cases of debt for such advances, etc., were very frequent.¹⁰ While the leading men, like Gerard and Lewger, often brought suit, we also find lesser men as plaintiffs, such as John Wortly, John Hallowes or Hollis, and Robert Nichols. We also find a complaint against a man for leaving service before his term expired;¹¹ another was not allowed to leave the Province until he had given security to pay any judgment which might be given against him;¹² against the debts due to a third attachments were laid;¹³ a fourth sued for "diet" he gave a man and a woman,¹⁴ and a fifth, because a covenant to deliver him a good breeding sow in payment for three months' work was not fulfilled by Mr. Gerard.¹⁵ In this last case the defendant denied that he so covenanted, but said that he agreed to give a "young sow ready to pig or pigs by her side," which he had tendered the plaintiff, and the court dismissed the case.¹⁶ The procedure of English law was followed and many of the suits were probably compromised, as no final disposition of them is found. At the Provincial Court in November a number of licenses were issued to kill unmarked swine¹⁷ running wild in "his Lord-

⁸ 4 Md. Arch., Prov. Ct., 125, 126. Neither seems to have been returned to Va.

⁹ This man was also sued for debt.

¹⁰ The court sat almost daily during October. 4 Md. Arch., Prov. Ct., 125, 126, 133-135 (*Hardwick v. Allen*, 146, 157, 158; *Hollis v. Nevill*, 136, 142, 143, 152; *Wayvill v. Edwards*, 135, 157).

¹¹ 4 Md. Arch., Prov. Ct., 126, 128, 155, 157, 162, 192. Execution upon the person of a servant for the debts of his master was awarded, *op. cit.*, 138; also against the person of a man who had no property, 155, 156, 162.

¹² 4 Md. Arch., Prov. Ct., 127.

¹³ 4 Md. Arch., Prov. Ct., 139, 140, 172; property attached must not be paid away, 145, 147.

¹⁴ 4 Md. Arch., Prov. Ct., 128, 156.

¹⁵ 4 Md. Arch., Prov. Ct., 135, 143.

¹⁶ 4 Md. Arch., Prov. Ct., 144, 157.

¹⁷ 4 Md. Arch., Prov. Ct., 139, 142-151, 163, 165, 182, 207, *Thomas Hebden* was fined in June, 1644, for killing swine unlawfully.

ship's Forest," the two ears and the skin betwixt them of each animal killed being brought to the Governor within a month after the killing. An inquest was held on the body of Anne Thompson, infant, who was held to have come to a natural death. On the nineteenth of November a suit for slander was docketed, but I do not find that it came to trial.¹⁸ Two days later we find record of an appeal¹⁹ from a judgment of the Kent County court.²⁰ On the same day Cyprian Thorowgood, late sheriff of St. Mary's, was sued for letting a debtor,²¹ who had been arrested, escape from his custody.²² Trespass, on a man's "tenement at Porkhall," by killing one man's steer calf²³ and by killing another's marked swine in his Lordship's forests,²⁴ also came before the court. The last case was brought by Captain Cornwallis and the testimony is interesting, as it shows the details of the three or four days' hunting trips for wild swine;²⁵ these trips must have been common, from the number of permits granted. In this month of November the varied jurisdiction of the court is further shown by a prayer that no patent be granted one man for land which another claimed, and by complaints that one man detained another's clothing, and that a woman did the same for one of her own sex.²⁶

In December we find George Binx recovering a sum due for physic,²⁷ and other suits were brought for taking a man's boat from the landing place, and for the price of a

¹⁸ 4 Md. Arch., Prov. Ct., 150, Thomas Boys was alleged to have called Restituta Hollis (wife of John) a whore.

¹⁹ 4 Md. Arch., Prov. Ct., 150, 185, 193, 215 (Thos. Cooper's estate).

²⁰ Apparently a case arising in Kent might receive original trial in the Provincial Court, if there were no court held shortly in Kent; 4 Md. Arch., Prov. Ct., 151.

²¹ 4 Md. Arch., Prov. Ct., 150, 161, 163-165, 172.

²² Thorowgood admitted this and alleged that Neale promised to save him harmless. Neale paid and attached the debtor's goods.

²³ 4 Md. Arch., Prov. Ct., 143.

²⁴ 4 Md. Arch., Prov. Ct., 152, 153.

²⁵ 4 Md. Arch., Prov. Ct., 167, 170, 174. For a similar suit see p. 154. In January suit was brought for trespass in killing swine, *op. cit.*, 174, 176.

²⁶ 4 Md. Arch., Prov. Ct., 153, 154.

²⁷ 4 Md. Arch., Prov. Ct., 155, 159.

tenement at the fort which Calvert took away from the purchaser.

On the very last day of the year 1642, Thomas White was tried by the court for enticing²⁸ Michael Hacker, a "maid-servant of Jane Cockshot (widow)," to run away from her mistress and into Virginia, and being found guilty, he was condemned to be whipped with thirty stripes and "imprisoned until he put in security to the value of 1000 lbs. tobacco not to depart unlawfully from the Province."

Early in January Nicholas Harvey was ordered²⁹ to turn over to the sheriff all the things he took from Chapoy Senim (an Indian name) and his company, and to appear before the Governor to receive fitting order touching "the late accident," when he shot at the Indians and killed one of them. Later in the month John Robinson, the barber, John Elkin, and Robinson's servant, Miles Richards, were summoned³⁰ to explain why they killed the Indian King of Yaocomoco. A grand jury of twelve indicted them on February 1. Elkin shot the Indian, on January 22, at an Indian quarter in the woods near St. George's Creek, and the others were accused of being accomplices. Elkin admitted the killing, but the jury brought in a verdict of not guilty, because they understood the act not to have been committed against his Lordship's peace or the King's, because the party was a pagan and because they had no precedent in the neighboring colony of Virginia to make such acts murder. Calvert told them that the tribe to which the dead man belonged was at peace, and that "they ought not to take notice of what other colonies did, but of the law of England," and sent them back to "consider better" of their opinion. When they came out again they said "guilty of murder in his own defence." They were again sent back, being told that this verdict "implied a contradiction," and then brought in a third verdict that "he killed the Indian in his own defence." Calvert "willed" that the verdict be not entered, but that

²⁸ 4 Md. Arch., Prov. Ct., 165. He did not ask for a jury.

²⁹ 4 Md. Arch., Prov. Ct., 166.

³⁰ 4 Md. Arch., Prov. Ct., 173, 174, 177, 180, 181, 183, 188.

another jury be called. On February 9 the case was heard by a new jury,³¹ and a verdict of guilty of manslaughter was brought in. The former jury was then informed against by Lewger, who asked that they be fined. A test case was made of George Pye, one of the members, who was fined two thousand pounds of tobacco. Lewger stated that when Calvert "importunately" pressed the jury to proceed according to the evidence, Pye insolently replied to the whole court, "If an Englishman had been killed by the Indians, there would not have been so much words made of it." Pye denied the words, but Greene swore to them, and the court fined Pye one thousand pounds of tobacco. I find no proceedings against the other members.³²

In January Calvert had a curious deposition entered on the records that an indentured servant³³ of Francis Gray's had covenanted to serve the Governor from the time of his being free from Gray in that month until the next Christmas, and to "do all his labors, except beating bread," and, if he should be ill longer than a fortnight, to make up the time at the end of his service. For this service Calvert agreed to pay three barrels of corn, fifteen hundred pounds of tobacco, and a waistcoat. Langford alleged that Francis Gray had contracted to build "300 feet of housing at Piney Neck" within three months and had not done so.³⁴ Gray denied the contract, and alleged that Langford owed him for carpenter's work and for his servant's labor, and won his case. On February 1, in another suit against Langford, Calvert and Lewger judged that Langford should pay one hundred pounds of tobacco for non-performance of a bargain to deliver a flock bed and a rug, or should deliver one of the beds

³¹ One of its members had served on the Grand Jury. The prisoner challenged, peremptorily, two men on the panel. One of those challenged was Greene.

³² 4 Md. Arch., Prov. Ct., 166.

³³ Richard Browne. See similar agreement made by John Hilliard and John Hollis. 4 Md. Arch., Prov. Ct., 173, 174.

³⁴ 4 Md. Arch., Prov. Ct., 175, 182, 197, 200. Specific performance is asked by Robert Nichols, on Jan. 17, of a bargain made by Thos. Allen of twenty days' work for so much work lent him in the crop last summer, and the court so decreed it; *op. cit.*, 172.

that the men lay on at Piney Neck.³⁵ Colonel Trafford, who had left Maryland, was the defendant in January in suits by Dr. Binx for physic given his servants,³⁶ by Brent for "transportation of 3 of his men from Virginia last year," and by others. Fugitives continually caused trouble. In January Gerard demanded six hundred pounds of tobacco from William Cook, and Neale, who was Gerard's attorney, sued Randoll Revell³⁷ in February for carrying Cook out of the Province, after he had been put in the sheriff's custody. Revell put in the plea that he did not carry Cook out of Maryland "to convey him out of the Province," but carried him out and returned him again, so that the plaintiff was not damaged, but the court thought otherwise and gave judgment against Revell. John Angud had died, leaving Calvert his administrator, and, on October 11, 1641, John Hollis had recovered from the estate "4 good wild kine with calf." The petitioner found a pinnace but no kine in the estate.³⁸ Therefore, he came, on February 1, 1642-3, and asked that the value of the cattle be paid him in tobacco, as had been done in a similar case.³⁹ Two other men now came and said that they also recovered a judgment of thirty-five shillings sterling against Angud's estate, but it contained no specie, so they asked to be given tobacco. Calvert agreed to these requests. Hollis asked that the kine be valued at five thousand pounds of tobacco, alleging that he paid Angud four thousand pounds for them and before delivery sold them to John Medley, who recovered from Hollis the cattle or the five thousand pounds,⁴⁰ so that Hollis had to procure the cattle at once at excessive rates. Lewger and Langford, sitting as the court,⁴¹ agreed with him. They

³⁵ 4 Md. Arch., Prov. Ct., 176.

³⁶ 4 Md. Arch., Prov. Ct., 169-172, 195, 197, 198. Deposition about the Colonel's corn, 171. One of the Colonel's men was Antonia de Leymos, a Portuguese, p. 171. Daniel Scoffin was claimed as one of his men.

³⁷ 4 Md. Arch., Prov. Ct., 170, 184, 193.

³⁸ 4 Md. Arch., Prov. Ct., 175, 176. No will is extant but the term is often used loosely, 273, 280. A chattel mortgage of a cow is recorded on Feb. 2; *op. cit.*, 178.

³⁹ Record of it lost, as it is of Hollis's judgment.

⁴⁰ One hundred pounds of beaver is an equivalent.

⁴¹ The one concerned, Calvert, did not sit as judge.

also valued the specie debt at two hundred pounds and ordered that the administrator should pay these sums, as far as he could, from the unadministered portion of the estate.⁴²

A second case of slander, in which a woman had been charged with unchastity and theft, was tried on February 13,⁴³ and the slanderer was ordered to ask public forgiveness in court, pay the woman one thousand pounds of tobacco, and be imprisoned in irons until he paid. The only other cases of interest in February were one for delivery of three servants, alleged to be mortgaged for a sum the defendant failed to pay;⁴⁴ another brought by a man for a debt due his wife's first husband, of whose estate she was executrix; a third, in which the sheriff sued a man for fees of imprisonment; a fourth, in which Lewger sued Brent because the latter had failed to carry out a written covenant to discharge Lewger of a bill of eight thousand pounds of tobacco due Richard Ingle; and a fifth, in which Lewger sued a man for carrying off two hogsheads of his tobacco the year before.

On March 1 John Hollis was cautioned to observe the proclamation about trading with Indians.⁴⁵ On the same day a jury of twelve men presented eight men as fugitives for debts, and proclamation was made that those claiming the fugitives' estates should enter their claims at once.⁴⁶ Concerning William Hawkins, one of these fugitives, we have an interesting case.⁴⁷ Hawkins had agreed to buy Walter Beane's house, but had not paid for it, nor received

⁴² There were several difficulties about Angud's estate, especially because he failed to transport three cattle of Thomas Boys from Va., for which task Boys had given him a note; 4 Md. Arch., Prov. Ct., 177-179, 187, 188. Hampton had lent him a dog, when he went to the Susquehannocks, and sued for its value; op. cit., 180.

⁴³ 4 Md. Arch., Prov. Ct., 181-183.

⁴⁴ 4 Md. Arch., Prov. Ct., 184-187. The way in which the Court followed English forms of procedure may be well seen in the case of Brough v. Dandy, op. cit., 186, 187, 194, 215, 253.

⁴⁵ 4 Md. Arch., Prov. Ct., 186.

⁴⁶ 4 Md. Arch., Prov. Ct., 187, 188, 212. Two of these were the accomplices in the case of the slain Indian.

⁴⁷ 4 Md. Arch., Prov. Ct., 187, 188, 195. A suit for a debt between Marmaduke Snow and Fulke Brent lasted for some time; op. cit., 192, 228, 229, 269, 335. 10 Md. Arch., Prov. Ct., 94.

possession as owner, but only as tenant. The sheriff entered upon the property as Hawkins's, whereupon Beane sued the sheriff for trespass. The court dismissed the suit, but restored the property to Beane until paid for. Beane forgot himself in his excitement and swore by God in the presence of the court, for which he was fined five pounds of tobacco.⁴⁸

On March 6 Richard Ingle appears for the first time in the court⁴⁹ and demands a debt from Cockshot's estate. A day later Calvert has an interesting deed of land recorded selling his manors⁵⁰ of St. Michael, St. Gabriel and Trinity,⁵¹ agreeing withal to finish his house at Piney Neck with a brick chimney containing two flues in the center, a partition by the chimney, doors, and windows, and brick or stone underpinning. In return for this, John Skinner bargains to deliver, within a year, fourteen negro slaves and three negro women slaves, between sixteen and twenty-six years of age, "able and sound in body and limb," brought "within the Capes," *i. e.*, probably from Africa. It is too bad that we have to link the name of the Province's first Governor with the first recorded importation of negro slaves.⁵²

Thomas Greene, the first person of standing to marry in the Province, filed a marriage bond for his wedding with Millicent Browne⁵³ in April, and in the early part of this month such minor matters came before the court as a suit for the price of a boat;⁵⁴ a pass for a man to go to Eng-

⁴⁸ 4 Md. Arch., Prov. Ct., 188.

⁴⁹ 4 Md. Arch., Prov. Ct., 189.

⁵⁰ On the St. Mary's County manors, see Thomas's Chronicles of Col. Md., 288.

⁵¹ Warrant issued on March 14 to his Lordship's tenants in Whitcliffe Creek to pay rent at West St. Mary's before Lady's Day on pain of distress. 4 Md. Arch., Prov. Ct., 191.

⁵² On the eighth we have the sale of the time of an indentured maid-servant recorded, and on the eleventh a mortgage of a black cow. 4 Md. Arch., Prov. Ct., 190. An indentured man-servant, whose master claimed five years' service from him while the man said only four were due, was brought before the court in March; *op. cit.*, 195, 205.

⁵³ 4 Md. Arch., Prov. Ct., 192.

⁵⁴ 4 Md. Arch., Prov. Ct., 173, 193.

land,⁵⁵ as another man assumed to pay his debts; a suit for the freight of a ketch, which Cornwallis hired from Lewger but found "insufficient;"⁵⁶ a demand for beaver due on suretyship, which beaver the plaintiff recovered on oath later in the year "upon the refusal of the defendant to wage" his oath;⁵⁷ a suit by Cornwallis against John Mottram, who had agreed to be answerable for all persons exported from the Province in Mr. Givin's pinnace,⁵⁸ which pinnace had carried off one of the captain's debtors; an accusation made by Brent, but not proved, that Vaughan, while acting as his attorney, had injured him by receiving unmerchantable tobacco for his use. Brent himself was accused by Cornwallis of having shipped in Ingle's⁵⁹ ship, on Cornwallis's account, tobacco which was not "merchantable sound tobacco" as Brent was bound to send by "factorage." Brent replied that he used "a moral diligence and care in the receiving Cornwallis's" tobaccos in the same manner and degree as he did for his own, and that further he was not bound. On April 12, 1643, only Brent, Lewger, and Neale sat as court, Calvert having returned to England.

BRENT'S GOVERNORSHIP AND HIS SUSQUEHANNOCK EXPEDITION.

Brent and Cornwallis had headed the opposition in the last General Assembly and Cornwallis had refused to take the Councilor's oath, yet now they were in control. Although Brent was the cause of the failure of the expedition against the Susquehannocks in September, 1642, he now planned

⁵⁵ 4 Md. Arch., Prov. Ct., 194.

⁵⁶ 4 Md. Arch., Prov. Ct., 196, 197. The court awarded Lewger the case. He had sworn that he hired her as she was, but that she was sufficient.

⁵⁷ 4 Md. Arch., Prov. Ct., 197.

⁵⁸ 4 Md. Arch., Prov. Ct., 198. A man from Kent, who sued another from that county in the Provincial Court, said he had been from home and should be "in his return" two weeks more; *op. cit.*, 199, 200.

⁵⁹ Ingle on April 12 sued Nicholas Causin for debt; 4 Md. Arch., Prov. Ct., 197, 203. The day Calvert departed, Ingle swore before him that Samuel Langridge of London had refused to pay a bill of exchange which Mrs. Brent had given Ingle during the last year.

another expedition,¹ and on April 17 appointed Cornwallis to be "Commander of the County of St. Mary's for all military affairs" and to be Captain General of the proposed expedition. This expedition against "those barbarous and inhumane pagans" was to follow the requirements of the act of September, 1642. At first, Cornwallis was authorized to take every third man able to bear arms; then it was thought that the business could be carried on by volunteers; and, finally, it was felt impossible to make the march at that time, and the Council voted to raise a company of ten "choice shot" instead, who should "seat and fortify upon Palmer's Island" in the Susquehanna under Brent's direction.² It is probable that a fort was then built. I think this was Fort Conquest, for whose support a contribution was promised by a number of planters, some of whom failed to fulfill their pledges and were sued therefor.³ As soon as the expedition was mooted, Brent directed Thomas Baldridge to inspect the arms in St. Michael's hundred and James Neale to do the same in St. Clement's hundred.

The affair was only postponed. On July 18 Cornwallis was authorized to "levy soldiers and all other means necessary, by way of press, according to the law" of September, 1642, and, about that time, James Cauther was directed to go out against the Eastern Shore Indians, who were in St. Mary's County, and, as they had made no satisfaction for their past outrages, to expel or vanquish and put them to death and pillage their goods. He might then pursue them to the Eastern Shore and carry on the war till he obtained peace.⁴ Whether he went forth we know not,⁵ but Cornwallis undoubtedly made an expedition, for an assessment to pay therefor, of four thousand pounds of tobacco, was

¹ 3 Md. Arch., Coun., 132, 133, 134.

² 2 Bozman, 279. 3 Md. Arch., Coun., 150.

³ 4 Md. Arch., Prov. Ct., 230, 249, 250, 275, 360, 361 (suit by Edward Parker, sheriff, against T. Weston's estate).

⁴ 2 Bozman, 260. 3 Md. Arch., Coun., 137. Probably the truce with the Nanticokes had not led to a treaty.

⁵ 4 Md. Arch., Prov. Ct., 244. Thos. Sterman had a boat pressed by Cornwallis at Kent in September, 1643.

laid by the Council that year upon fifty-five taxpayers⁶ of St. Mary's. The expedition was unsuccessful and two field pieces were lost to the Indians, as well as several guns and other goods. James Cauther had a company in the expedition, and when his executor sued for his wages⁷ Brent replied that the bill ought not to be allowed, because he brought away his company before the time appointed him and performed not his duty. The author who wrote under the name of Plantagenet⁸ gives some account of this expedition which, though doubtless garbled, has a probable basis of fact. He accuses the Swedes of having "hired out 3 soldiers to the Susquehannocks who taught them the use of our arms" and marched with them into Virginia, whence they carried the King of Potomac prisoner. From Maryland they expelled nine Indian nations, "civilized and subject to the English crown." These statements show the kind of reports that went from man to man. He thinks that of the Susquehannocks there are in 1646 "not now of their naturals left above 110, though with their forced auxiliaries, the Thonadoes and Wicomeses, they can make 250, these together are counted valiant and terrible to other cowardly, dull Indians, which they beat with sight of guns only; but, in truth, meeting with English are the basest cowards of all, though cunning and subtle to entrap and

⁶ T. Weston was assessed 1000 pounds. 3 Md. Arch., Coun., 138, 146, 149; cf. 4 Md. Arch., Prov. Ct., 216; execution was awarded on Dec. 30, but Weston's servant refused to open his house that it might be collected. On July 18 the sheriff was authorized to demand that the servant deliver the goods or open the door, and if he refused to do either, to open the house and serve the execution (op. cit., 282; vide 228. 3 Md. Arch., Coun., 134). Isaac Edwards was also sued, 4 Md. Arch., Prov. Ct., 235, and Thos. Sterman, who said that the condition of the contribution of May 2, 1643, was not fulfilled, viz., that the hundred should not be molested any more that year for any service for the colony against which covenant service had been set. Brent replied that the condition was that no tax be set and none had been set. Gerard was also sued therefor, pp. 236, 248. Robert Sedgrave and Henry James said they consented to the contribution, on the promise that there should be no marches that year, but later they were called out against the Susquehannocks; op. cit., 249. The court gave judgment in every case. Francis Gray was sued; p. 290.

⁷ 4 Md. Arch., Prov. Ct., 228.

⁸ New Albion, pp. 19, 24.

surprise on all straits, coverts, reeds, and ambushes. For at the last Maryland march against them these 250, having surprised in the reeds and killed three Englishmen with the loss of one of theirs, Capt. Cornwallis, that noble, right valiant, and politic soldier, losing but one man more, killed with 53 of his and but raw and tired Marylanders, 29 Indians as they confessed, though compassed round with 250." Plantagenet also tells of an exploit which occurred in the summer, in which exploit Captain Lewis of Maryland "at the Coves, drawing but 20 men out of his wind-bound sloops and 2 small cockboats," found "24 canoes and therein 140 Susquehannocks, reduced by these 3 Swedes into a half moon, with intent to encompass the 1st small boat before the 2nd could reach the former. At the 1st volley of 10 shot and loss of 1 Indian they run all away."

International relations for Maryland begin with the letter which Brent sent the Governor of New Netherland, in consequence of the flight of certain servants who were thought to have gone from Maryland into the other Province. Brent wrote that "justice and fair correspondence" should exist between "two governments so nearly bordering and which are shortly like to be nearer neighbors in Delaware Bay," and he asked that the Dutch remand to Maryland all its runaway apprentice servants who come to them, and compel freemen who fly thither without a pass, "being indebted or otherwise obnoxious to the justice of this place, to make such satisfaction" as the Dutch "shall find justice to require." The like "help and concurrence" from the Maryland government was promised. The letter was sent probably because word had come to Maryland that the three Irish fugitive debtors of whom we have spoken had fled to New Amsterdam and remained there.⁹

It was always found impossible to prevent the white men from selling guns to the Indians, and the French and Dutch traders, as well as the English, were sources of supply for the Maryland Indians.¹⁰ To prevent any great number of

⁹ 4 Md. Arch., Prov. Ct., 204.

¹⁰ 3 Md. Arch., Coun., 143, 144.

guns from coming into Indians' hands, on January 2, 1644, the Council prohibited any one from lending or delivering to an Indian either a gun or ammunition without a license, and it summoned a jury of inquest to present violators of this order. Lewger and Neale at once took out a license for their Indian man to carry a gun. On February 1, 1643-4, Cornwallis demanded in the Provincial court a gun which Henry Lee took from his servant. Lee replied that he took the gun from an unlicensed Indian, and asked successfully that he might have it for his pains.¹¹

On March 19, 1643-4, Braithwait succeeded Cornwallis as captain of the St. Mary's Militia.¹² About that time Brent gave the Indian friends notice not to approach the plantations on the Patuxent, where the people were far from other plantations, scattered and continually exposed to danger, one of these plantations having been nearly cut off in 1643. Until May 25 the people on the Patuxent, on the approach¹³ of any Indian, were to bid the Indian depart and warn him that, if he did not depart, they would shoot him. If the Indian did not go instantly, the planter was authorized to shoot him, and after May 25 the friendly Indians would have been notified, so that the planter might shoot without warning. On June 8 Brent gave a letter of protection to "Peter Mimascape or Nicoatucen,¹⁴ an Indian of Patuxent, and all other Indians of that town and nation," who were "to be treated and used with all humanity as friends and confederates." All planters were warned on their peril not to injure any of these Indians, unless they "put you in fear of your lives, by repairing to any of your houses and plantations in numbers, lurking and in suspi-

¹¹ 4 Md. Arch., Prov. Ct., 235. J. Hollis was told he must explain why he gave an Indian a gun; p. 259.

¹² 3 Md. Arch., Coun., 146. Edward Parker was recommissioned as sheriff of that county in the fall of 1643; p. 137. Cornwallis was sentenced to imprisonment, but was released, as he expected to leave the country. 4 Md. Arch., Prov. Ct., 265.

¹³ 3 Md. Arch., Coun., 146.

¹⁴ 4 Md. Arch., Prov. Ct., 280. On June 12, 1644, a case concerning a canoe between this Indian, called Nicotamen, and an Englishman was docketed.

cious manner, without showing a pass under the great seal."¹⁵

LEWGER'S INSTRUCTIONS TO FLEET.

In June¹ Brent must have left St. Mary's for a time, during which Lewger received news from Piscataway that some of "our enemies, the Susquehannocks," were expected there, "under color to treat and conclude a peace with them and us; but, perhaps, to confederate and unite all the Indians of these parts in some general league plot for the cutting off of the English in Maryland, as they have most savagely attempted in Virginia." To prevent danger from this conference, Lewger thought it well to have an Englishman present, "to direct and overrule it, if need be, to countenance and strengthen our friends that yet remain and terrify the others and to proceed with the Susquehannock agents, either in hostility or truce, as there shall be most cause and reason." For this ambassador Lewger could think of none so acceptable as Captain Henry Fleet, from his "skill in the Indian language and long conversation and experience in the Indian affairs," as well as from his prudence. Lewger, therefore, issued him a commission, to which was signed Brent's name, to go with twenty or more armed Englishmen to Piscataway and there to proceed according to his instructions. He was given power to press men for the expedition and to command them, even to the inflicting of death on the disobedient. If he found the "best reasons persuade to peace" with the Susquehannocks, he was authorized to make a treaty, a truce being declared in the mean time, and to give such hostages in exchange as would accompany the Indians. During the truce they must give hostages² or other security not to harm or to come within the territory of the Maryland planters or of their confederates, in which number the Potomac Indians were counted. The Susquehannocks must give satisfaction for robbing Angud once and Mattapany house twice, espe-

¹⁵ 3 Md. Arch., Coun., 148.

¹ 2 Bozman, 275. 3 Md. Arch., Coun., 148.

² Of course a safe conduct was to be given their official messengers. The form of it is given. 3 Md. Arch., Coun., 150.

cially returning the arms then taken, or an equivalent number; Fleet must also get back as many as possible of the "arms and other goods lost or left in our last march upon them," and must obtain some present to the Governor, as well as any other conditions he thought fit for the honor and safety of Maryland or its confederates, including the Virginians. He might insinuate, "the better to endear our peace" to them, that the hostages of both sides would quickly become interpreters between the two peoples, and then the Maryland men "will be willing to come and live among them and to aid them against their enemies, as now we do the Piscataways." If Fleet deemed it not wise to make peace or truce, he might pillage, take or kill the Susquehannocks, break off all league and treaty between them and "our confederates," and terrify the latter from "leaguering or treating with the common enemy" without the consent of the Marylanders and of the queen of the Piscataways,³ who resided at St. Mary's. This was a wide discretion given Fleet, and that he might not abuse it Lewger directed him to advise with Gerard and Neale, who were Councilors, and with Fenwick, Baldrige, Pope, and Price of the planters. At least two must be consulted on every point and one of the Councilors must be of the number.⁴

Brent was much offended that Lewger had taken this authority and had issued the commission in Brent's name, and on August 26 suspended him from the office of Councilor and from his judgeship in St. Mary's, and appointed Brainthwait, Greene, and Fenwick as commissioners to hold court there. This suspension seems to have lasted only until Calvert's return to the Province early in September.

BALTIMORE'S INSTRUCTIONS TO BRENT AND THE AFFAIRS OF THE SECULAR PRIESTS.

In August, 1642, hostilities between Charles I and his Parliament began, and Leonard Calvert landed in England

³ I. e., Mary Kittamaquund.

⁴ 3 Md. Arch., Coun., 151.

in time to see the King's court fixed at Oxford and Rupert storm Bristol in July. Baltimore was with the King¹ that summer, and Leonard Calvert told his brother many things we should like to know as to the condition of Maryland. Baltimore intended, for a time, to come over to America in the autumn, and so, by letter to the Council² dated July 14, he suspended the grants of lands until his arrival.³ In this communication, which he directs Brent to have recorded and published, Baltimore confirms Calvert's appointment of Brent to be Lieutenant General until Calvert return or the Proprietary grant another commission. However, he withholds from Brent the power of assenting to laws passed by any future Assembly and disassents to any laws enacted by any Assembly⁴ since Calvert left. Calvert, Lewger, and Langford, before the first left the Province, bought the "chapel⁵ of St. Mary's and the other buildings and land belonging thereunto, using the name of Cornwallis as the vendor," although the said purchase was not made from him, and drew three bills of exchange on Baltimore for £200 sterling, which bills Baltimore "thought fit not to accept" by "reason of some mistakes in that business." Two other bills of exchange, signed by Cornwallis, for payment to Leonard Calvert of £30 and £10 respectively, were protested by the men on whom they were drawn. On all these bills "true right and justice can not be done" without some English testimony, so that Baltimore directs Brent not to allow any steps to be taken concerning them until Baltimore arrive, when the Proprietary will do equal right. This letter⁶ was published in Maryland on December 23,

¹ 2 Bozman, 265.

² 3 Md. Arch., Coun., 135.

³ 3 Md. Arch., Coun., 100, 114.

⁴ There had been none.

⁵ This was mixed up with the Jesuit question. Davis's *Day-Star*, p. 33, thinks this chapel was jointly erected by Protestants and Roman Catholics, was the one whose key Gerard seized (vide 2 Bozman, 263), and that about it the Roman Catholics were buried; cf. will of John Lloyd of St. Mary's, a Roman Catholic, who in his will, made in 1658, expressed the wish to be interred "in the ordinary burying place in St. Mary's Chapel-yard."

⁶ 3 Md. Arch., Coun., 135.

1643, but before that time matters wore so grave an aspect in England that Baltimore had to give up his plan to visit his colony. On November 2 the Earl of Warwick⁷ was appointed by Parliament governor in chief of the American colonies and given a council to assist him. In governing and preserving the plantations and advancing the true Protestant religion therein, they were given authority to appoint and remove governors and other officers. It was uncertain whether they would meddle with Maryland or not. The war clouds grew ever blacker at home, so Baltimore must stay, and, for some reason, Leonard Calvert also determined to stay a while longer in England. Consequently, on November 17 and 18, 1643, from Bristol, the Proprietary sent Brent four communications.⁸ The first of these was an appointment as Councilor of Thomas Gerard, of whose good affection, fidelity, and more than ordinary ability Leonard Calvert had spoken. Before the commission reached Maryland, on February 3, at St. John's, Gerard had been sworn in as Councilor,⁹ Brent having appointed him by virtue of a clause in some lost instructions of the Proprietary, dated October 20, 1642, which authorized the Governor to name a new Councilor whenever the number was reduced to less than three by death or absence. The oath of fidelity taken by Gerard contained no reference to allegiance to the crown, but contained a clause, added on account of the land controversy with the Jesuits, that he would not take land from the Indians or from any person holding it without a grant from the Proprietary, unless he took it for the use of the Proprietary.

The second of Baltimore's letters to Brent¹⁰ gave him power to assent to any laws passed by an Assembly, and to grant lands on the same conditions as Leonard Calvert could. The third document was a commission to Brent, Lewger, Neale, Gerard, and Brainthwait to be commission-

⁷ 2 Bozman, 265.

⁸ 3 Md. Arch., Coun., 138.

⁹ 3 Md. Arch., Coun., 144. Of those nominated in April, 1643, Trafford had gone.

¹⁰ 3 Md. Arch., Coun., 139.

ers of the Proprietary's treasury. They succeeded others, whose names are to us unknown, who had previously been appointed to order and dispose of his Lordship's cattle and goods¹¹ and "of all rents, fines, confiscations, or escheats, tribute, or other gifts from the Indians, customs or subsidies, granted to me by any General Assembly." They should manage, clear and let such farms or manors set out for the Proprietary's especial use as he should give orders from time to time. At least two of these commissioners, of whom Brent must be one, must agree in the care of this property, and they might appoint and dismiss officers to care for it and might fix their wages. The commissioners had full powers, sending an annual account of their proceedings to Baltimore. The last document of the four contained the instructions given these commissioners. They must make an inventory of the cattle¹² and other goods and chattels, and prepare a rent roll, and send them to England. Rev. Mr. Gilmett was to be allowed by them to continue his custody of those goods of Baltimore's as long as he staid in Maryland, but he must give a written itemized acknowledgment of them. The Proprietary's carpenters and other apprentice servants must be sold at once, for Baltimore intended, for the future, to hire servants and pay them wages, rather than have apprentices and send them out supplies. Brent and Gilmett were to receive each two steers yearly from his Lordship's stock for their trouble, and Lewger was to be given the same, with the addition of twenty barrels of corn from the quit rents and the use of six milch kine. He must pay for the kine's keep, however, rear their calves until weaned, and then deliver them to be put with the other cattle of the Proprietary on his farm at West St. Mary's. Brent should also receive one half of all fines, confiscations, wrecks, tribute from the Indians, customs, and other gifts from the Assemblies. The commissioners must pay any obligations left by Leonard Calvert

¹¹ 3 Md. Arch., Coun., 140. Some of the former commissioners had left the Province.

¹² They must have the cattle marked.

in his brother's name, and if necessary sell some of the cattle to do so, but Baltimore wished the commissioners to remember that he was very anxious to have his stock of neat cattle and sheep preserved and increased. Finally, he wished them to try to get Mr. Copley to take back his house and land, and to discharge the bargain made for it, a reasonable consideration being allowed him for Mr. Gilmett's time of occupation. Baltimore was willing to continue to pay a fair rent for the house until midsummer, 1645. This doubtless refers to the adjustment of affairs with the Jesuits and the withdrawal of the secular priests, which occurred about this time. If this arrangement could not be made,¹³ he desired some other place to be provided for the diet of Mr. Gilmett and his family and of Mr. Territt, at his expense. He never referred to the fact that they were priests, but asked the commissioners to try to keep these gentlemen in the Province until that time when he hoped to be able to provide better for them "than, by reason of the extremity of the present troubles in England, I could do this year." In May, Lewger, as Baltimore's receiver, filed an account for rents, fines, the price of a heifer, composition for two years' service of a redemptioner and the sale of another, etc.¹⁴ Among the expenses were for Mr. Gilmett's diet, half the fines to Brent, and wages for the "beater for the gang." The commissioners of the treasury also filed an inventory of the furniture and tools, the corn, and live-stock. We find there had been one hundred and forty-nine cattle during the year, eleven sheep, of which number the wolves had killed four, and twenty-four swine.

INTERNAL AFFAIRS UNDER LIEUTENANT GOVERNOR BRENT.

The tobacco crop of 1642 was poor,¹ and, to prevent the ships which sailed from Maryland for England in 1643 from

¹³ 3 Md. Arch., Coun., 147. The commissioners appointed Braithwait collector of corn rents in St. Mary's County and Edward Parker collector of other rents, with a ten per cent. commission.

¹⁴ 4 Md. Arch., Prov. Ct., 275, 279.

¹ 3 Md. Arch., Coun., 144.

wanting cargo, Brent, on January 8, issued a proclamation prohibiting the exportation of tobacco from the Province except in ships coming from England until these ships were fully freighted. In the Provincial court servants' cases were quite prominent² during the early days of Giles Brent's administration. Three men, who were alleged to have fled from Captain Fleet's service in Virginia, were sent back thither. Nathaniel Pope³ petitioned on May 24 that he might have Sir Edmond Plowden's three maid-servants delivered to his custody to carry them to their owner in Virginia. This was refused, as Pope showed no authority to act in the matter and Plowden, on March 26, had given a power of attorney to Brent. The latter had gone to Kent, so Lewger and Neale, sitting as the court, said that they would do justice for Sir Edmond whensoever the servants should be lawfully demanded.

On July 17, William Eltonhead swore that Jane and Eleanor Stevenson,⁴ during June, 1642, in London, contracted with Plowden to serve him for five years in New Albion, in Delaware Bay. These maid-servants were destined to cause Plowden much trouble. In January, 1644, Robert Ellyson, barber chirurgion, sued⁵ him for chirurgery and physic given them during the last summer, and, at the same time, the court adjudged that Anne Fletcher, one of the servants,⁶ be put into Brent's hand to be taken to Virginia. There she might satisfy the authorities, if she could, that she was bound only from year to year to serve in New Albion, as a waiting maid to the ladies of Plowden's family; that he had defaulted in paying her wages and insisted on her serving in Virginia, and that she had practi-

² 4 Md. Arch., Prov. Ct., 201, 207. Rowland Vaughan was allowed wages out of Col. Trafford's estate.

³ 4 Md. Arch., Prov. Ct., 205. In Nov., 1643, Cornwallis complained that a servant who had a year or more to serve refused to do so; *op. cit.*, 213.

⁴ 4 Md. Arch., Prov. Ct., 210. Eleanor Stevenson married Brainthwait in 1645. He was dead before 1649-50; *op. cit.*, 524.

⁵ 4 Md. Arch., Prov. Ct., 215, 229. Lewger would not decide this case in Brent's absence.

⁶ 4 Md. Arch., Prov. Ct., 224. She went to Virginia and Dr. Binx sued Cloughton for carrying her from the Province; *op. cit.*, 306.

cally served a year and so should be free. One of these maids had served Mr. Brent in Kent from May to July, 1643, when she fell lame and returned to St. Mary's. Brent was not able to recover the women for Plowden for want of proofs.⁷

Soon after Calvert left he was sued successfully for a debt, though Peter Draper, whom he had left as his attorney, knew nothing of the "dueness" of the demand.⁸ About this time Lewger assigned Cornwallis his freehold of St. John's in payment of a debt of ten thousand pounds of tobacco. Debts were not always paid in tobacco or in beaver. Lewger demanded of Hallowes or Hollis two hundred arms' lengths of roanoke⁹ and "satisfaction for pillage taken aboard his ketch." Tobacco was usually sold in the hog-head and was not always "as good below as at the top,"¹⁰ so as to be all merchantable. Transportation of debtors out of the Province, without consent of the creditor, led to suits for damages.¹¹ Debts were the chief grounds of suit,¹² and were not only for goods and cattle.¹³ Draper, in Calvert's name, sued Francis Gray for rent,¹⁴ and William Hardwick, tailor, docketed two suits to recover the amount of bills for clothes.¹⁵ On June 2 Robert Kedger demanded a patent for four hundred acres on Herring Creek, and Thomas Hebden protested that he had previously made choice of part of this land with Calvert's consent and had seated and built a hog-

⁷ 4 Md. Arch., Prov. Ct., 358. Probably Anne Fletcher, p. 374. Anne was not the woman who married Ellis Beach; *op. cit.*, 202, 269, 274.

⁸ Wm. Lewis recovered of Mrs. Mary Tranton the sum he paid her (six pounds beaver) for certain curtains stolen from her, so that she could not deliver them. 4 Md. Arch., Prov. Ct., 203.

⁹ An arm's length of roanoke was worth ten pounds of tobacco, and a pound of beaver, one hundred pounds of tobacco, but it sometimes fell to seventy-two pounds of tobacco. 4 Md. Arch., Prov. Ct., 214, 227.

¹⁰ 4 Md. Arch., Prov. Ct., 205.

¹¹ 4 Md. Arch., Prov. Ct., 204, 206, 227. Security was sometimes given to induce creditors to consent to debtors' leaving.

¹² 4 Md. Arch., Prov. Ct., 206, 212.

¹³ 4 Md. Arch., Prov. Ct., 211, 251.

¹⁴ 4 Md. Arch., Prov. Ct., 208. Two barrels and three bushels of corn and three hens or capons; *cf.* p. 211.

¹⁵ 4 Md. Arch., Prov. Ct., 212, 213.

sty upon it.¹⁶ The same Hebden complained of a trespass, in detaining a canoe from him. A deposition of Thomas Yewell was filed to assure the title to a cow which it was alleged that Claiborne had given to one of his servants.

The widow of Roger Oliver demanded¹⁷ some of her husband's possessions from three men, and this demand shows us one of the forgotten tragedies of the early settlement, for, on July 10, Hollis testified that he was on the deck of a vessel when Thomas Boys called him to help Oliver. Leaping down into the hold he saw Oliver struggling with an Indian; Oliver knocked the Indian on the head with the barrel of a gun and then fell dead with a wound in his throat made by the Indian with a Dutch knife. Other Indians were in the hold, and Hollis felt in peril of his life.

THE PROTESTED BILLS OF EXCHANGE.

On December 30, 1643, Peter Draper, Calvert's attorney, swore¹ that he had a letter from Leonard Calvert asking him to demand of Cornwallis £80 for the two smaller bills of exchange protested in England, whose sum was £40. Cornwallis replied, when Draper² told him of Calvert's message, "I will give you no more answer to it, but that there is more due me." On January 3, 1643-4, Cornwallis came before the court, then composed of Brent, Lewger and Neale, and complained that Calvert, Lewger, and Langford in April previous had drawn three bills of exchange on Baltimore for £200; Thomas Gerard of Staples Inn had shown one of these bills to Baltimore, who refused to accept it, and it was protested, wherefore Cornwallis as assignee sued Calvert's estate for £400 sterling. Brent asked his associates whether process could be given in this case, in view of Baltimore's letter of July. Lewger answered, "I ought not to give any judgment, being myself a party to

¹⁶ 4 Md. Arch., Prov. Ct., 206, 209.

¹⁷ 4 Md. Arch., Prov. Ct., 209.

¹ 4 Md. Arch., Prov. Ct., 216, 217.

² As to Draper's power of attorney, see 4 Md. Arch., Prov. Ct., 252. He refused a hogshead of tobacco from Pope, pp. 253, 270; see 254, 259.

it;" Brent then demanded the opinion of both associates, in virtue of their official oaths. Lewger then said that in the absence of the Proprietary, the Lieutenant General and Council, by law of the Province³ not dissented to by the Proprietary, were judge in all causes for which no certain rule was, and the commission of Giles Brent as Lieutenant General could not hinder him from doing justice according to that law, and, therefore, process should be allowed. Neale thought Brent's power of hearing this cause was taken away and that nothing should be done until Baltimore gave further order. Brent thereupon reviewed his gubernatorial oath and declared that, as neither the "law of the Province nor the office of Lieutenancy" was abrogated or restrained, he must grant process, and so the writ was issued to the sheriff. Draper, on February 1, brought a countersuit as Calvert's attorney against Cornwallis for two hundred and ninety-six pounds of tobacco, but the court dismissed the charge, as Cornwallis proved that the sum had been paid.⁴

Four days later Cornwallis in court tendered Draper satisfaction for the smaller bills of exchange⁵ out of the £200 bill of exchange, and then prosecuted his suit against Calvert and the two Councilors. Lewger answered that he received no satisfaction, nor thing of value for the bill, though he had acknowledged it therein, but took only a house, *i. e.*, the chapel, for Baltimore's use at the price charged, which house Baltimore refused as not "valuably bought," and relinquished to Cornwallis; and so Lewger asked that he be not required to pay.

Brent asked if there was any "reservation in the bargain to relinquish it, if disliked," and as Lewger did not prove this Cornwallis was required to make oath of his damage, and he prayed respite for it. The jury did not agree and were discharged. On March 16 Cornwallis brought up the suit again.⁶ Brent and Lewger tendered him the "chapel

³ 1 Md. Arch., Ass., 83.

⁴ 4 Md. Arch., Prov. Ct., 236.

⁵ 4 Md. Arch., Prov. Ct., 243.

⁶ 4 Md. Arch., Prov. Ct., 263, 264, 267.

house and appurtenances, in discharge of the bargain," but he refused to accept the offer, making oath that he believed himself damaged forty-eight thousand pounds of tobacco and cash by the non-payment of the bills. The court then granted him judgment to that amount.⁷ Cornwallis next demanded of Draper the delivery of the protest of the smaller bills of exchange, as he had tendered Draper full satisfaction by offering to discount them from the judgment debt. On the eighteenth Lewger under oath admitted the purchase of the "Chapel house" and, on the next day, execution was issued against him and sequestration against Calvert and Langford; and, in Baltimore's behalf, Brent relinquished the house and land to Lewger, for the benefit of Calvert and Langford, to indemnify them for the suit. After Calvert's return, on January 7, 1644-5, he demanded twenty thousand pounds of tobacco and cash for protest of the smaller bills.⁸ Three days later Fenwick, as Cornwallis's attorney, asked that Calvert pay one hundred thousand pounds of tobacco⁹ and cash, as damages for the protest of the large bill, and Brent sent the petition to Calvert, asking that he pay or show the Council, at once, why he should not. Calvert bluntly replied that he was not bound to show cause and would not. On the thirteenth Fenwick asked attachment against Calvert,¹⁰ which was given him. Parker, the sheriff, refused to serve the writ and Brent appointed Thomas Matthews to do so. On January 15, 1643-4, Brent had complained against Calvert¹¹ because he had paid for his manor, containing Kent Fort, the mill, and other housing, but Calvert had delayed to secure to him the bargain.

Draper died in the spring of 1644 and William Harrington,¹² who had been an indentured servant of Calvert, recovered the wages and clothes promised him from the

⁷ 4 Md. Arch., Prov. Ct., 265.

⁸ 4 Md. Arch., Prov. Ct., 292.

⁹ The sum has been more than doubled since the former judgment.

¹⁰ 4 Md. Arch., Prov. Ct., 294.

¹¹ 4 Md. Arch., Prov. Ct., 221.

¹² 4 Md. Arch., Prov. Ct., 271. He had worked for Mr. Gilmett; vide pp. 270, 273, 280-282, 284, 303, 307.

Governor's estate. Edward Parker seems now to have been recognized as Calvert's agent.¹³ We learn from a suit for an accounting that Draper had been "selling earthenware for tobacco with great profit."

On March 14, 1643-4, Mrs. Brent for her Indian ward, Mary Kittamaquund, "the young empress," sued Calvert's estate¹⁴ for seven thousand pounds of tobacco, for the price of eleven cattle due from Calvert, who had been the Indian girl's guardian. Attachment was accordingly laid, and Cornwallis said in open court, "It was done to defraud me of my right to the tobacco, which will be sent home to Leonard Calvert." Lewger, as the Proprietary's attorney, at once complained of this, alleging that Cornwallis referred to the attachment. This he denied, saying he referred to the petition, but Brent sentenced him to imprisonment without bail for three weeks. "After taking notice of his occasions to England, however, he released the imprisonment."¹⁵ Cornwallis took ship to England with Ingle, who on his arrival in England gave testimony¹⁶ before a Parliamentary committee of "his good affection to the Parliament and his great sufferings for that cause." In May the commissioners of the treasury recorded on the court records the transfer of this cattle to Mary Kittamaquund and of others to Lewger and Gerard.¹⁷

CORNWALLIS AND INGLE.

In the month of January, 1643-4, begin the troubles with Richard Ingle.¹ On the eighteenth William Hardwick, the

¹³ 4 Md. Arch., Prov. Ct., 273. Another sued to recover wages for work on Calvert's vessel, the *Recovery*.

¹⁴ 4 Md. Arch., Prov. Ct., 259, 263, 265, 270, 388.

¹⁵ 4 Md. Arch., Prov. Ct., 265. Cornwallis left the Province, making his servant Fenwick his attorney, in April; *op. cit.*, 270. He was sued for a cow and calf in May; *op. cit.*, 272. On July 24, 1644, Richard Bennett gave Fenwick a receipt in payment for two negroes sold to Cornwallis; *op. cit.*, 304.

¹⁶ 3 Md. Arch., Coun., 167.

¹⁷ 4 Md. Arch., Prov. Ct., 270, 272, 273, 274. At this time a cow claimed both by Mrs. Brent and by Sterman was sequestered by the court and finally given Sterman.

¹ 4 Md. Arch., Prov. Ct., 231, 232. Ingle was from Redriff, Surrey; *op. cit.*, 238.

tailor, was given by Brent, with Lewger's advice, a warrant to arrest Ingle for high treason, and Cornwallis was asked to help in the seizure and to keep the matter secret. Hardwick had informed against Ingle, and he went on board Ingle's ship, the *Reformation*, which lay at anchor in St. George's River, and seized the ship and goods. Brent put a guard of thirty men² on board, under command of John Hampton, with express orders not to let Ingle come aboard without Brent's warrant. Ingle had then been arrested, and most of the crew were ashore cutting wood or doing other work. Brent offered those on board an oath to be true to King Charles, and when they refused to take it he drank a health "to the King sans Parliament," and, turning to John Durford, told him, "You shall be master of the *Reformation* and carry her to England," to which Durford answered, "I shall do nothing without Ingle's consent."

Richard Garrett, or Jarrett, the vessel's quartermaster, and Durford's brother, William, who dwelt in Maryland, were about to go aboard the *Reformation* when they were met on St. Inigoes Point by Cornwallis and others and were compelled to go to Brent's house, where they were detained for an hour. After this time they went on board with Cornwallis and found the ship under guard. After nightfall Parker, the sheriff, Cornwallis,³ and Neale, without Brent's consent, carried Ingle on board and persuaded Hampton to discharge and disarm the guard, saying, "All is peace."⁴ Ingle therefore took the guards' arms, possessed himself again of the ship, and escaped. For this rescue Parker was at once removed from his shrievalty and Dr. Ellyson appointed his successor. Ingle was called upon, by procla-

² It was later alleged that Brent seized on the ship because she was from London, and tampered with the company to go to Bristol, a royalist port, and gave them an oath against Parliament. 3 Md. Arch., Coun., 161.

³ Cornwallis later said he did this to declare his affection to the Parliament; 3 Md. Arch., Coun., 166. Mary Ford said he and Brent seized the ship; *op. cit.*, 170.

⁴ 4 Md. Arch., Prov. Ct., 234, 247; the charge against the two Durfords, Johnson, and Ingle stated that they beat, wounded, and otherwise abused the guard.

mation, to surrender⁵ before February 1, the grand jury was summoned, and Brent appointed Lewger, as attorney general, to prosecute Neale, Cornwallis, Parker, and Hampton. Hardwick gave information that at Kent, about March or April, 1642, and at other times at St. Mary's, he heard Ingle say that he was captain of Gravesend in Kent in the preceding November for the Parliament against the King; that in February, 1641-2, at Accomac, Ingle was commanded in the King's name to come ashore, but refused to do so in the Parliament's name, and, standing with his curtal-ax drawn, said, "I will cut off his head that comes aboard," of which deed Ingle himself told later in Maryland. Hardwick said further that Richard Primer had heard Ingle say, "King Charles is no King." On February 1 the jury was impanelled and chose Robert Vaughan as foreman.⁶ Cornwallis excepted to Hardwick's testimony, as he was "infamous," but the court⁷ allowed it and swore him, Gerard, and Walter Broadhurst. Lewger then told the jury that they had the right to inquire of treasons done out of Maryland, to learn whether the offender should be sent for trial to England, or where the act was committed, and then the jury was asked to pronounce upon the Accomac incident, the governorship of Gravesend, and his saying on April 5, 1642, on board the *Reformation*, riding at anchor near St. Clement's Island, that "Prince Rupert was a rogue or rascal;" to all of which questions the jury replied, "Ignoramus." A new jury was then impanelled and heard five witnesses, after which it also replied, "Ignoramus," to the question as to whether Ingle broke out of the custody of Sheriff Parker. The first jury was then asked if at Mat-

⁵ See Edward Ingle's monograph on Richard Ingle, 19 Md. Hist. Soc. Fund Pubs. He seems to think that there was connivance in Ingle's escape to get rid of a troublesome question. Ingle traded regularly with Maryland. On Oct. 7, 1642, William Peaseley, the Proprietary's brother-in-law, wrote of Ingle's intent to sail from Gravesend shortly in the last ship of the season. Streeter, Md., Two Hundred Years Ago, 33.

⁶ 4 Md. Arch., Prov. Ct., 237. Robert Clark fined for non-attendance.

⁷ Brent and Lewger.

tapanient, in St. Clement's hundred, in April, 1643, Ingle said, maliciously and seditiously: "Prince Rupert is Prince traitor and Prince rogue. If I had him aboard the ship I would whip him at the Capstan," and the return, "Ignoramus," was a third time made; but the jury failed to agree as to whether on March 30, 1643, Ingle said, on his ship in St. George's River, "The King is no King, neither will be no King, nor can be no King, unless he join with the Parliament," which words the jury was urged to find to be "intending and conspiring the death and destruction of our Lord the King." Two days later, on Saturday, a third jury was impanelled, containing seven members out of twelve in the first one, and, after hearing one witness, returned, "Ignoramus," to the bill over which the first jury disagreed.⁸ Not satisfied with these repeated failures, the court issued a warrant to either Parker or Ellyson to arrest Ingle for high treason,⁹ and on the fifth impanelled still a fourth jury, which disagreed as to whether Ingle was proved maliciously and traitorously "to have said, on January 20, 1642-3, on his ship, the *Reformation*, on a voyage across the ocean to Maryland, that 'The King is no King, nor will I acknowledge him for my King longer than he joins with the honorable his house of Parliament.'"

On the eighth Lewger filed formal charges against Hampton, Parker, Neale, Cornwallis, William Durford, John Durford, Frederick Johnson, and Ingle¹⁰ for their part in the "prison break, rescue, misdemeanor, and contempt" which occurred on January 18. He also charged that Ingle, since January 18, in St. George's River, had assaulted Henry Bishop¹¹ and other peaceful citizens and had taken from them against their will "their vessels, guns, and other goods, and threatened to beat down the dwelling houses of other inhabitants, even of the Governor General,"¹² and so was guilty of "piracy, mutiny, trespass, contempt, and mis-

⁸ 4 Md. Arch., Prov. Ct., 241.

⁹ 4 Md. Arch., Prov. Ct., 245.

¹⁰ 4 Md. Arch., Prov. Ct., 245.

¹¹ Bishop was one of the witnesses against Ingle.

¹² 4 Md. Arch., Prov. Ct., 248.

demeanor." Cornwallis answered to the charge against him that he knew the original charges against Ingle to be of no importance but suggested by Hardwick's malice, which was shown by the grand inquest's failure to find enough probability in the accusations to put Ingle to trial, and that he supposed that Ingle went on board ship with the license and consent of Brent and the Council and the sheriff, and was not accessory to the escape. Brent proposed to postpone judgment "till the return of the ship," but Cornwallis asked a decision without delay, and an interesting point arose. Brent asked Lewger whether the proceedings should be held according to the rule expressed in the Provincial law, "in bar implied to the Law of England," or according to the latter law.¹³ Lewger replied that both by the Governor's commission and the Council's oath the procedure must be according to Provincial law. This is an early expression of the dominance of the legislation of the Colonial Assembly when it conflicted with the English law. Brent then heard the whole matter, found Cornwallis to be an accessory to the rescue, and fined him one thousand pounds of tobacco;¹⁴ but, on Cornwallis's petition, he respited the fine¹⁵ for the time being. Neale did not appear,¹⁶ and Brent, who wished to go to Kent, suspended him on February 11 from his membership in the Council, "until he purge himself of the faults charged against him." Ellyson was not satisfactory as sheriff¹⁷ and was discharged from office on the same day, Parker being restored. Lewger filed a new charge¹⁸ against Neale on the fourteenth. This was at once answered by a flat denial,¹⁹ and on March 12 Brent, sitting without a jury,

¹³ 4 Md. Arch., Prov. Ct., 249.

¹⁴ 4 Md. Arch., Prov. Ct., 255. On Feb. 29 Brent ordered execution to issue for this amount, and the proceeds to be delivered to John Wyatt, commander of Kent, to pay part of Baltimore's debt to him.

¹⁵ Cornwallis later said this was the greatest fine that could be laid in Maryland. 3 Md. Arch., Coun., 167, 168.

¹⁶ 4 Md. Arch., Prov. Ct., 250.

¹⁷ 4 Md. Arch., Prov. Ct., 254.

¹⁸ 4 Md. Arch., Prov. Ct., 251.

¹⁹ 4 Md. Arch., Prov. Ct., 252.

dismissed the case in default of proof and reinstated Neale in the Council.²⁰

With Ingle, a compromise seems to have been made²¹ on February 8. For him to await trial would cause "great demurrage" to his ship and "other damages and encumbrances in the gathering of his debts," so he was allowed to depart from the Province, provided he deposited a barrel of powder and four hundred pounds of shot, as a pledge that he or his attorney would appear at the St. Mary's court within the next year. After this he was permitted to trade freely, and he even received freight of tobacco from Brent and a grant of a certain island to be called Ingle's Island, whither he sent hogs. After enjoying "free trade and commerce," he departed peaceably and quietly, as he afterwards said, "without any show of discontent or dislike at all." On his return to England he requited the favor Cornwallis had shown him by saving from confiscation the goods which belonged to Cornwallis and had been shipped on the *Reformation*, on the ground that, although he was a Papist, he was the means of saving all the ships seized in Maryland, and Ingle was especially beholden to him, as he had saved Ingle's life. Ingle made such representations not only to the officer, who came to the vessel with a warrant, but also to the Committee on Sequestrations at Camden House, and thus secured the goods to their owner.

On March 16 Lewger announced that Ingle had left²² Maryland without satisfying the said composition, or paying or securing the customs dues, or taking a discharge of his ship, and that he was known to be carrying his ship to London, a port in actual rebellion against the King. He, therefore, asked that all Ingle's "rights, goods and debts" in Maryland be sequestered into his Lordship's hands. This was accordingly done. On the same day Lewger sued Ingle for the price of two pieces of plate and a scimitar

²⁰ 4 Md. Arch., Prov. Ct., 258.

²¹ 4 Md. Arch., Prov. Ct., 251.

²² 4 Md. Arch., Prov. Ct., 261. He left six hundred pounds of tobacco to pay the fees of Ellyson, the sheriff, for warning the juries and evidences.

which Ingle bought from him, but for which Ingle failed to pay the price agreed. Cornwallis, on Ingle's behalf, agreed that the latter should return Lewger the value of the plate, and the scimitar or its price, within a year, and so Ingle passes from the scene for a few months.²³

In November, 1648, Mrs. Brent, as the Proprietary's attorney, demanded of Fenwick, Cornwallis's attorney, half of the forfeiture wherein at St. Inigoes House he assumed that Ingle in May, 1644, should pay the powder and shot to the use of the Province.²⁴ In the next month Brent sued for the other half of the bond, which he claimed by virtue of Baltimore's grant to him as Governor. Fenwick denied the forfeiture to be due.²⁵

MISCELLANEOUS COURT BUSINESS OF 1644.

Among the many suits to pay physicians¹ and other men's bills brought before the court about this time we find men demanding payment for wages for the washing of linen, for a half share of a plantation, for a sum due from a partner in dissolving a copartnership, for the delivering of crop, for a heifer, for trespasses done by swine, and for roanoke belonging to one man and delivered by an Indian to another.² When Binx brought suit for physic against Pope, the latter denied that Binx had fulfilled the conditions of the contract, and when Ellyson sued Harvey for the same cause,³ the defendant pleaded that the plaintiff relinquished the "cure before it was perfected." The jury, however,

²³ 4 Md. Arch., Prov. Ct., 263, 265. Cornwallis was ordered to deliver to Brent the barrel of powder and 400 pounds of shot or lead undertook for Mr. Ingle to be disposed for common defense.

²⁴ 4 Md. Arch., Prov. Ct., 438.

²⁵ 4 Md. Arch., Prov. Ct., 457, 471. On Dec. 20, 1649, a receipt is recorded, given by Frederick Johnson to Nicholas Causin for four hogsheads of tobacco by appointment of Ingle for the use of Thos. Herne; op. cit., 536.

¹ 4 Md. Arch., Prov. Ct., 217, 221, 223, 225, 226. T. Hebden sues Hall for chirurgery of his man's leg done by his wife and for diet, and recovers; op. cit., 244, 256, 268. W. R. Steiner, *A Contribution to the History of Medicine in the Province of Md., 1636, 1671*; Johns Hopkins Hospital Bulletin, Vol. 13, nos. 137, 138.

² 4 Md. Arch., Prov. Ct., 228, 242.

³ 4 Md. Arch., Prov. Ct., 215, 226, 230, 240.

found for the physician in the latter case. Brent left St. Mary's in January, giving Lewger a commission to issue and sign ordinary process and to hear any civil cases with liberty of appeal.⁴

During the early months of 1644 there were several miscellaneous cases of interest.⁵ William Stone, of Accomac, later to be Governor, by his attorney asked process for a judgment recovered by him in the Kent "County Court" on November 30, 1640. Thomas Bushell complained, in vain, that "Michael Harker, spinster," slandered him by reporting that he said, "I hope there will be ne'er a Papist left in Maryland by May day."⁶ Damages were asked for the non-delivery of five barrow shoats and five breeding sows.⁷ Thomas Hebden successfully asked patent for seven hundred acres of land, on which he had built and dwelt for four or five years, and which he now wished to sell to John Dandy.⁸ John Hollis mortgaged⁹ his lands, four milch cows, two steers, three calves and all his swine to Cornwallis, as security for the delivery of two hundred and sixty-seven and three fourths pounds of "good and merchantable winter beaver." A writ was issued against a debtor, who must give security that he would not leave Maryland.¹⁰ John Cage recovered a judgment from Cornwallis for wages and "imprisonment," and Brent one from Hebden for bringing up a canoe from Accomac,¹¹ and one from Henry Bishop for a grapnel, which belonged to Baltimore as owner of uncertain goods.¹² Brent also fined Robert Ellyson for

⁴ 4 Md. Arch., Prov. Ct., 229. Brent was back before Feb. 1; *op. cit.*, 235.

⁵ 4 Md. Arch., Prov. Ct., 233, 235, 236.

⁶ 4 Md. Arch., Prov. Ct., 234. Mary Edwin soon sued Widow Whitcliff for saying she laid with an Indian for peak or roanoke; *op. cit.*, 258.

⁷ 4 Md. Arch., Prov. Ct., 237. A hog was attached; *op. cit.*, 241, 244.

⁸ 4 Md. Arch., Prov. Ct., 239.

⁹ 4 Md. Arch., Prov. Ct., 242.

¹⁰ 4 Md. Arch., Prov. Ct., 243. Contract to pay fifty dressed skins for three years as price of a release of indenture of service. See suit for trespass for transporting a debtor from Maryland, p. 253.

¹¹ 4 Md. Arch., Prov. Ct., 244. Copley asked to have his boat returned to him; *op. cit.*, 254.

¹² 4 Md. Arch., Prov. Ct., 248.

losing, when he was in drink,¹³ a gun deposited in his hands, which loss was, doubtless, the reason why Ellyson was discharged of his sheriffwick. Complaint was made by John Nevill of a "forcible entry" into his dwelling house.¹⁴

On February 24 the sheriff was ordered to remove the public guns and ammunition into a place more secure from surprisal of Indians and to arrest John Dandy for killing an Indian lad. The coroner's jury accused Dandy of shooting the boy. Dandy was tried in March and sentenced to be hanged, but the sentence was commuted and he was made public executioner.¹⁵ He later showed himself especially ready and faithful to Leonard Calvert, and the latter promised to release him from all former penalties, which promise Greene confirmed after Calvert's death.¹⁶ It was a postponement of hanging after all, for Dandy killed a white youth later and was hanged. John Wayvill, an insolvent debtor, on March 8 was committed to the sheriff's custody, to be maintained by his creditor in such necessaries as should be thought fit, the price of which he might add to his account.¹⁷ In June three men were ordered to be arrested for "open rebellion in arms to commit felony in carrying servants out of the Province."¹⁸ About this time Hebden in vain sued Francis Otway, chirurgeon,¹⁹ for not bringing in certain medicines this shipping, as the covenant named no time in which the bargain should be performed. A judgment for the price of a canoe loaned Philip White, mariner, by John Norman and not returned by the former was recovered from him, inasmuch as the plaintiff waged his oath

¹³ 4 Md. Arch., Prov. Ct., 249, 250.

¹⁴ 4 Md. Arch., Prov. Ct., 253.

¹⁵ 4 Md. Arch., Prov. Ct., 254, 255, 258, 260, 262. Dandy was ordered to fix a lock in May; *op. cit.*, 274.

¹⁶ 3 Md. Arch., Coun., 187.

¹⁷ 4 Md. Arch., Prov. Ct., 254, 256, 257, *vide p.* 268, accusation against two men for aiding fugitive servants to escape. A long suit between Fulke Brent and Marmaduke Snow for debt, 192, 229, 269, 270, 335. 10 Md. Arch., Prov. Ct., 97.

¹⁸ 4 Md. Arch., Prov. Ct., 279, 280, for alleged fugitive debtor.

¹⁹ 4 Md. Arch., Prov. Ct., 256. Who was the "old doctor?" p. 259.

and the defendant refused to do so.²⁰ On March 20 Brent, who intended to leave St. Mary's for a time, authorized Braithwait to hear any causes in which Lewger was a party, when no other Councilor was present.²¹ In April justice was shown Indians by the issuance of a warrant²² ordering four men to restore corn and other goods taken from the Patuxent Indians, on sight, or to show cause in court why they should not be fined for their acts.²³ A rumor was falsely spread in June that Copley spoke in "approbation of the Indians' cutting off Virginia."²⁴ For the rest we find such entries as declaration of intention to marry,²⁵ an accusation²⁶ of burglary, a deed of sale of two calves,²⁷ a bond given by Captain Fleet to Calvert,²⁸ a debt for a gun, a fishing line and hooks and "drinking tobacco,"²⁹ and a suit for a shallop lent by Nicholas Causin to Neale and lost by him. We also find the will of Edward Parker, sheriff, who, being about to go to sea in command of Fleet's pinnace to trade with the Dutch, left half of his property to Cicely Lewger,³⁰ five hundred pounds of tobacco to the chapel and the rest to Elizabeth Speare.

There is spread on the records a covenant³¹ given Lewger by one Thomas Todd, on October 24, 1642, in which the

²⁰ 4 Md. Arch., Prov. Ct., 257. For a rather interesting suit for wages for a servant who worked to make a crop, vide pp. 262, 267, 286. Depositions seem to have been recorded when taken, and the plea of former trial held good; op. cit., 264, 266, 332, 346, 361 (suit for beaver). An acquittance from a bond to pay for a man's freedom is found; op. cit., 268, 269. Newbold's Notes on the Introduction of Equity Jurisdiction into Md. is valuable for its study of early court proceedings.

²¹ 4 Md. Arch., Prov. Ct., 267. On June 12 Gerard was commissioned to hear a case concerning the ownership of a canoe claimed by Peter Nicotamen and Robt. Tuttey.

²² 4 Md. Arch., Prov. Ct., 269.

²³ 4 Md. Arch., Prov. Ct., 280. Trespass done by swine was complained of. As to ownership of a sow, see p. 282.

²⁴ 4 Md. Arch., Prov. Ct., 279.

²⁵ 4 Md. Arch., Prov. Ct., 271.

²⁶ 4 Md. Arch., Prov. Ct., 281.

²⁷ 4 Md. Arch., Prov. Ct., 284.

²⁸ 4 Md. Arch., Prov. Ct., 283.

²⁹ 4 Md. Arch., Prov. Ct., 284.

³⁰ 4 Md. Arch., Prov. Ct., 73, 281. See Baldwin's Calendar of Wills.

³¹ 4 Md. Arch., Prov. Ct., 283.

latter, for release from service, agreed to dress the forty-six skins then in the lime pit and to make from them twelve pairs of breeches and twelve pairs of gloves by April, and, in every succeeding year during the period in which his service should have endured by the indentures, to pay fifty good dressed skins, of which ten might be fawn skins, to let Lewger have the refusal of all the skins he dressed, and at the end to return Lewger his tools, viz., a stock, a beam knife, and a withe (whittle?).

GOVERNOR CALVERT'S RETURN.

When Leonard Calvert returned into his Province, in the early autumn of 1644, he brought with him new commissions for himself as Governor¹ and for a Council,² consisting of Brent, Lewger, Greene, Gerard, and Neale. Langford, Trafford, and Blount, of the previous Council, were no longer in the Province. Thomas Greene³ was added for the first time. He had served in the Assembly and was to be Governor later. Lewger was named as attorney general and recommended as judge of causes testamentary and matrimonial and as secretary, John Wyatt was made commander of Kent, and John Abbott and William Cox were appointed commissioners with him. The new commission to the Governor,⁴ while quite similar to the former one of 1642, had some important differences. The power of assenting to laws was limited to those made to continue in force until the Proprietary disassented and not to those to continue in force for only a limited time, as for a fixed number of years or until the next Assembly, nor could the Governor assent to any law for the "constitution, confirmation, alteration, or change of any affairs," or to one that might prejudice the Proprietary's royal jurisdictions. In England

¹ 3 Md. Arch., Coun., 151. The complicated question of the dates of the early governors' accession to office and leaving it is discussed by the present author in 22 Pa. Mag., 98. Calvert's royal commission is found in 1 Md. Hist. Mag., 211.

² 3 Md. Arch., Coun., 150. ² Bozman, 281.

³ Greene took the oath on Nov. 4. 3 Md. Arch., Coun., 160.

⁴ 3 Md. Arch., Coun., 154.

the King could not create offices or annex new fees to old offices; but, by his charter, Baltimore might claim the right to "constitute and ordain" officers. The dispute over the question of temporary and permanent laws now begun was destined to continue as long as Maryland remained a Province, the planters claiming that by the passage of such laws alone could they check the Proprietary, insure frequent summoning of Assemblies, and preserve their rights. Any laws, however, which might be assented to by the Governor should continue in force until Baltimore confirmed or disassented to them. Grants of land were also more carefully guarded. Grantees must take "the oath of fidelity to the Lord Proprietor," and the surveyor must certify on the grant that the land had been surveyed and contained no more than was claimed. Calvert was also excluded from hearing testamentary cases and, in default of statutes of the Province, was empowered to decide to his best discretion (in weighty cases with the agreement of two Councilors) in as ample a manner as Baltimore himself could do. In all these changes we see results of the troubles with the Jesuits and of Baltimore's great confidence in Lewger.

Calvert also brought with him a commission from King Charles, dated January 26, 1643-4, and directing him to go to Virginia and there, with the aid of Governor Berkeley, to seize all ships and other property of "any Londoners whatsoever, or of any of our cities, towns, or places in actual rebellion against us." This power is given inasmuch as the London merchants "drive a great trade in the dominion and colony of Virginia, receiving daily great advantages from thence, which they impiously spend in vast contributions towards the maintenance of an unnatural war." Calvert was also authorized to seize any ship belonging to "any Londoner, or other persons in rebellion," which he might meet on his voyage to America, and was made "Commander in Chief" of the ship in which he sailed, of "all other ships of war" sailing with him, and of the vessels he should capture, with power to govern those on board all

these vessels by martial law. He was also authorized to enlist in Virginia recruits for the royal army. Half of the proceeds of the seizures should go to Lord Baltimore. The other half should be returned to the King, after paying all expenses and giving £2000 sterling in tobacco to Berkeley. It does not appear that Calvert ever used this commission, but it became known that he had received it and Ingle used this fact against him. The commission, whether by intent or not, referred only to Virginia, and it was a question whether it had force in Maryland. "The first Assembly after Calvert's arrival" was said by Copley and Brent to have "declared that they would have free trade with Londoners and others under the protection of Parliament and that they would not receive any commission to the contrary," and Thomas Copley, or Giles Brent, wrote a letter to Ingle in Calvert's name "signifying the good affections of the inhabitants of Maryland to the Parliament and their desire of free trade with Ingle or other Londoners."

BRAINTHWAIT AS GOVERNOR WHILE CALVERT IS IN VIRGINIA AND CLAIBORNE IN MARYLAND.

On September 30 Calvert nominated Brainthwait as Councilor and as his substitute,¹ while he left the Province, probably to go to Virginia. Brainthwait took the oath of Governor on October 3 and that of Councilor on November 2. During Calvert's absence we find few entries on the records. A man who had been pressed by the Governor's warrant to serve in the garrison at Piscataway sued Fleet for wages.² There was recorded a deed of sale of a house to Dr. Binx, and Thomas Bushell sued Henry Brooke for not completing a shallop. The garrison at Piscataway, which was established in August, 1644, was continued until January, 1644-5, when order was given to assess the charge of it upon the inhabitants.³

¹ 3 Md. Arch., Coun., 160. ⁴ Md. Arch., Prov. Ct., 286. Why was not Brent named again?

² 4 Md. Arch., Prov. Ct., 286, 287.

³ 3 Md. Arch., Coun., 163.

It is possible that during his absence in Virginia Calvert "registered, proclaimed, and endeavored to put in execution" the commission from the King.⁴ He had another document, however, which will account for his presence in Virginia, namely, an authority from Charles I to treat with the Assembly of that colony for the passage of an act levying customs there for the use of the King, of which customs, by special contract dated April, 1644, Cecilius, Lord Baltimore, was made collector.⁵

In the late autumn⁶ of 1644 Claiborne, who was then a member of the Virginia Council, sailed up the Chesapeake in his own vessel, bringing with him another boat called *Thompson's Cock*. The party numbered ten or eleven persons, and, joining with seven or eight others newly arrived from Chicacoan, they stirred up the inhabitants of Kent Island to rise in arms against the settled government and, by force of arms, to take the house of Captain Brent, who then lived on the island. They met at Cummins' house and marched about three miles toward Brent's and as far as John Abbott's house. Then the men, before they would march further, demanded that Claiborne show the authority under which he acted. He thereupon showed them a piece of parchment and a letter, which he said were a commission and a letter from the King. Most of the men doubted the validity of his authority, gave over the design and left him, whereupon he betook himself to his vessels and departed.⁷

Claiborne had come again into Provincial history. On June 3 Brent had ordered⁸ the seizure of any of his property, as he had been "convicted of open hostility done" in Maryland against the Proprietary, and Simon Richardson, sheriff of Kent, seized twenty-seven neat cattle of Clai-

⁴ 3 Md. Arch., Coun., 164.

⁵ Streeter, Maryland, Two Hundred Years Ago, p. 33; Neill, Va. Carolorum, 175.

⁶ 4 Md. Arch., Prov. Ct., 458.

⁷ J. H. Latané, Early Relations between Maryland and Virginia, 13 J. H. U. Studies. For a sketch of Claiborne's Life, see 27 N. E. H. G. Reg., 125, written by S. F. Streeter and edited by S. M. Allen.

⁸ 4 Md. Arch., Prov. Ct., 281 and 390.

borne's. The loyalty of Kent was doubtful, and on November 22 Calvert, who had heard of Claiborne's voyage, directed eight men to proceed in a shallop to that island.⁹ They should go secretly and observe whether there were a vessel riding against the southern end of the island, and should go ashore at one of the weaker plantations further north than Kent Point to learn the state of Kent Island, especially inquiring as to Claiborne and delivering a letter to Brent. Claiborne had been appointed by the King treasurer of Virginia for life in 1642, but had now ranged himself with the Parliamentarians.¹⁰

On January 1, 1644-5, Braithwait was appointed commander of Kent, his stronger hand being substituted for Wyatt's, though the latter was retained as a commissioner, serving with Vaughan, Abbott, and Cox.¹¹ About the same time proclamation was issued forbidding any vessel to trade at Kent until it had been at St. Mary's, declaring Claiborne and one Richard Thomson, a planter, enemies of the Province, and forbidding any intelligence or correspondence with them. During these exciting times¹² the court records went on as usual; an ear-mark for cattle was entered,¹³ and debts of guns, corn and cows, and suits for failure to perform service and to pay for physic occupied the court's time.¹⁴ Calvert and Cornwallis's attorney, Fenwick, contended over the protested bills. A more serious thing was that Brent and Calvert fell out. The Governor sued Brent for thirty thousand pounds of tobacco and cash for trespass.¹⁵ On January 25 Calvert ordered Brent's arrest for crimes,¹⁶ yet Brent sat in court and filed a suit¹⁷ on February 4. Mean-

⁹ 3 Md. Arch., Coun., 161.

¹⁰ 2 Bozman, 289.

¹¹ 3 Md. Arch., Coun., 161. 4 Md. Arch., Prov. Ct., 290. Geo. Taylor was commissioned to bring the bark *Virginia* into the port of St. George's River.

¹² 4 Md. Arch., Prov. Ct., 288.

¹³ 4 Md. Arch., Prov. Ct., 300, 305.

¹⁴ 4 Md. Arch., Prov. Ct., 288, 290, 294, 302, 303.

¹⁵ 4 Md. Arch., Prov. Ct., 293 (Brent sat then as judge, 294), 304.

¹⁶ 4 Md. Arch., Prov. Ct., 301.

¹⁷ 4 Md. Arch., Prov. Ct., 302, 358.

while, Brent petitioned that the Council intercede for him with Calvert, and that Calvert be given security to indemnify him if William Claiborne wrest Kent Fort Manor from him.¹⁸ On the same day Brent and his wife Mary also asked the Council to intercede so that Calvert should give them some cattle he owed them, or pay damages. The Council, by Lewger, on January 9, asked Calvert to do justice in these matters.

THE ASSEMBLY OF 1644-45.

After Calvert's return to Maryland from Virginia he summoned,¹ on November 16, 1644, "all freemen" to appear personally or by proxy at St. Mary's on December 3; but he further authorized Lewger to prorogue the session and to act himself as commander of St. Mary's County should Calvert not be present on the day appointed for opening the session. On November 11 Calvert had prohibited, by proclamation, any traffic with the Indians for arms or ammunition, and any receiving of Indians, unlicensed by the Governor, into planters' houses. Any one finding an Indian in possession of gun and ammunition without license was authorized to seize them and bring them to the Governor.² The General Assembly was not held in December, but on February 11, 1644-5, it met at St. Mary's under Calvert's presidency.³ The proceedings are lost and but one act is known, which provided that, for the defense of the Province, Calvert might pay for the late expedition to Kent, for this Assembly, and for a garrison which he was authorized to establish at Piscataway, by assessing these charges "on every head able to bear arms," provided the assessment did not exceed fifty pounds of tobacco or a barrel of corn. He might also press men for the garrison at a yearly salary of twenty-three barrels of corn, or one thousand pounds of tobacco and three barrels of corn, and might appoint the payment of such soldiers in such hundred as he saw fittest.

¹⁸ 3 Md. Arch., Coun., 162.

¹ 1 Md. Arch., Ass., 202.

² 3 Md. Arch., Coun., 160.

³ 1 Md. Arch., Ass., 205.

THE PLUNDERING TIME.—ANARCHY AND INGLE.

On February 11, the day the Assembly adjourned, the court sat and heard a number of cases, among them one against Dandy for service.¹ One Genalles alleged that he had agreed to find Dandy coals, beat his bread from time to time, and gather up his tobaccos, but Dandy replied that, after he had employed Genalles for three weeks, he refused to work on Saturday afternoons and so was discharged. On the next day the court sat again and held that a suit arising from a contract made in Virginia by inhabitants of that Province touching payment to be made therein ought to be tried in Virginia, as the Maryland court had no jurisdiction.²

On August 26, 1644, the House of Commons granted to eight vessels the right to carry victuals, clothes, arms, ammunition, etc., "for the supply and defence and relief of the planters of Virginia." One of these vessels was the *Reformation*, of which Ingle was still master. He was in London receiving cargo in October and was entrusted by Cornwallis with goods valued at £200 sterling. In a petition which he prepared in February, 1646, on his return to England, he said that on his arrival in Maryland he found that Calvert had a commission from the King in Oxford "to seize all ships belonging to London and to execute a tyrannical power against the Protestants and such as adhered to the Parliament, and to press wicked oaths upon them and to endeavor their extirpation." He then conceived himself bound to come to their help and "did venture his life and fortune, in landing his men and assisting the said well affected Protestants, against the said tyrannical government and the Papists and malignants. It pleased God to enable him to take divers places from them and make him a support to the said well affected." The smug hypocrisy of these sentences is revolting, and their falseness throws a most unfavorable light on Ingle's character.

¹ 4 Md. Arch., Prov. Ct., 306.

² 4 Md. Arch., Prov. Ct., 307.

In 1645 Ingle was thirty-six years old,³ and in February of that year he arrived in Virginia again in the *Reformation*, bearing letters of marque from the Lord High Admiral, under authority of Parliament, which gave him power to seize ships bound to or from any place in hostility against the Parliament or trading with the inhabitants of such places. In Virginia Ingle heard of the King's commission to Leonard Calvert and was given a copy of it by Claiborne. Ingle then proposed to his company that they change their trading voyage to a "man of war cruize" to Maryland, which was in "opposition and hostility" against Parliament. He falsely asserted also that the Marylanders used all "means to suppress such of London as came thither," and offered his crew one sixth of whatever might be captured, which offer seems to have been accepted by all. They promptly sailed northward and arrived in St. George's River on February 24. At the mouth of St. Ignatius Creek the Dutch ship *Speagle* was found. She had been chartered by her owners, citizens of Rotterdam, to English merchants resident there, for a trading voyage to Virginia and back to Holland, and carried a cargo of sugar, strong waters, lemons, hats, shirts, stockings, frying pans, etc., valued at 2338 guilders. The expectation was to trade these supplies for tobacco, beaver skins, and other commodities, which would be worth in Holland six times that amount. Arriving in Maryland three days after Christmas, the ship had been trafficking in the Province for two months when Ingle found her at anchor, flying the colors of the Prince of Orange at her topmast and the English flag at her stern. Ingle was flying a white flag, and when he ordered the master of the *Speagle* to come on board, in the name of King and Parliament, the latter went, accompanied by three Englishmen who were among his crew. When the master of the *Speagle* (or *Looking Glass*, as her name is translated in

³ Ingle's Ingle, 19 ff. Journal of House of Commons, 1642-1644, p. 607. 6th Rept. Hist. Com., 101. I Scharf, History of Md., 149. Extremely important new light is thrown upon Ingle's career by Mr. H. F. Thompson's article in 1, Md. Hist. Mag., 125.

some of the persons that completed the account of the voyage Ingle "seized" him and his men as prisoners and fired four guns at the *Speagle*. He next set off with some of his men to ward her as soon as possible, to "prevent the effusion of blood," as he said, but he did not explain how this would prevent it, nor why he expected it. He afterwards stated that the guns on the *Speagle* were loaded and she was ready for a fight, probably intending to attack the *Reformation*, and only prevented from doing so by his presence. The Dutch captain well replied to him, that if he had intended to attack Ingle there was no reason why he should not have done so, and not have come on board the *Reformation*, when Ingle summoned him, but that his ship was always kept in readiness for fighting, in ward off any possible Indian attack. Ingle met with no resistance on the *Speagle* and found no one to oppose him, but discovered the cabin doors fastened against him. Searching axes and other implements he threw at the doors a while, until those within opened the doors and "yielded themselves." In the cabin Ingle and his party found one of the characters of the vessel, who had come to Maryland in her, and between *John Giles Brent* was discovered and made prisoner.

Ingle next ordered the master of another vessel, lying about four leagues away, to come on board the *Reformation*. He did so, said he was bound for London with his cargo, and was then permitted to return to his ship. Ingle expected to see him on the next day; but during the night he got under way and escaped. John Durford, mate of the *Reformation*, was put in command of the *Speagle*, and Ingle then had two ships, one mounting twelve and one eleven guns, so that the Province was at his mercy. He afterwards alleged, as an excuse for his various exploits in Maryland, that most of the people there were "Papists," that nearly all of them assisted Leonard Calvert in putting his commission in force, that they had suffered none but those of the "Romish religion" to hold office, that it was generally believed in Maryland that, if Ingle had not

come, the Papists would have disarmed all the Protestants, and that all the property taken or destroyed by him, or his men, belonged to Papists. Some of these statements are false and others were obviously made solely to stir up religious prejudices. Men were now sent ashore to seize the tobacco and other goods which were there waiting to be shipped on board the *Speagle*, and they took one hundred hogsheads of tobacco belonging to the merchants who chartered the vessel, to its captain and other officers, and to Leonard Calvert. They also took guns and many chattels from the people, burned some of their houses, and terrified them so that they fled to the woods for safety. A party was sent in pursuit of Governor Calvert, but Fenwick, Lewger, Buicks (?), Copley, Causin and another man met them and turned them back, so that Calvert escaped to Virginia.⁴ Ingle's party took St. Thomas's Fort, however, and made the garrison prisoners.

Ingle was near Heron Island with his vessel in February, and Anthony Rawlins and Thomas Gerard were on board also. Ingle showed Rawlins⁵ an account against him for a thousand pounds of tobacco owed to Fenwick and, seizing upon the tobacco, said, "If the tobacco belonged to the Governor, Mr. Copley, Captain Cornwallis, or Mr. Fenwick, it belongs to me." A little later some of Ingle's men came to William Lewis's house, to take away his corn, but Gerard and four of his men prevented them, alleging that the corn belonged to Gerard and carrying it off.⁶ This time was known in future days as "the plundering year,"⁷ or as "the Rebellion."⁸ We catch fleeting glimpses from the court proceedings of events which occurred after the restoration of Proprietary government. Richard Banks had

⁴ On Apr. 5, 1648, Robt. Sharpe sued Mrs. Brent for the value of a musket which Calvert "detained from him at his going out of the Province." 4 Md. Arch., Prov. Ct., 379, 381.

⁵ 4 Md. Arch., Prov. Ct., 349, 360. The jury exonerated Rawlins from further payment, when Fenwick sued him in 1647-8.

⁶ 4 Md. Arch., Prov. Ct., 357 (cf. 353, 359), 363.

⁷ 4 Md. Arch., Prov. Ct., 362.

⁸ 4 Md. Arch., Prov. Ct., 383. "Ingle his raising of the rebellion;" op. cit., 421, 422.

paid Fenwick, as Cornwallis's agent, two hogsheads of tobacco, which were forcibly taken away from Banks's house by Ingle's command and carried on board his ship.⁹ Banks asked of the men who took the tobacco their authority, and they replied, "We will show no authority, who will, or who durst say anything against?" Cornwallis seems to have been the especial object of Ingle's hatred. Ingle's follower, Ralph Beane, came to Francis Pope¹⁰ and demanded five hogsheads of tobacco which Pope held for Cornwallis, and said, "Capt. Ingle has sent for it to be carried into his ship." Pope replied, "I shall deliver none of it, except to Mr. Fenwick himself." Whereupon Ingle commanded that all the tobacco be carried on board his ship, which was done. From Walter Beane,¹¹ Ingle took tobacco due Cornwallis and gave him an acquittance. Ingle sent two men to Beane's house for it. Beane refused to deliver the goods, whereupon Ingle sent him word that, unless he would suffer the men to take the tobacco, they should take away the tobacco which was in cask and burn the tobacco house. Beane was not able to withstand them, and they carried away all the tobacco which was in cask. Cornwallis had left his manor,¹² the Cross, in Fenwick's hands. Fenwick was bound to Accomac and had a pinnace in the river, in which were his clothes, bedding, and other goods. To bring the pinnace nearer the house, Fenwick sent three servants, but they refused to obey, and waiting until Ingle came into the creek, allowed him to take and plunder the pinnace.

Captain Cook, of the *Speagle*, said, in later admiralty proceedings brought by Ingle to have the vessel condemned as a prize, that he had been at Captain Cornwallis's house six or seven times, and that it was very well furnished with

⁹ 4 Md. Arch., Prov. Ct., 370. Another hogshead belonging to Cornwallis was taken from Walter Waterlin's house. All Fenwick's papers were "plundered from him;" op. cit., 416.

¹⁰ 4 Md. Arch., Prov. Ct., 372. Pope's and St. Thomas's forts are spoken of; op. cit., 381.

¹¹ 4 Md. Arch., Prov. Ct., 375. The same Walter Beane, on Oct. 5, 1648, sued Gov. Greene for a debt which the latter had promised to see satisfied out of Baltimore's customs; op. cit., 419.

¹² Ingle's Ingle, p. 27. Neill, Va. Carolorum, p. 177.

carpets, tapestry hangings, silver, etc. From the house Ingle and his men took all these things, together with linen, bedding, brass, pewter, tobacco, etc., and Captain Cook found nothing left, when he returned after they had gone, except the bed on which Cornwallis's wife and children lay. The house itself was spared, but the storehouses were burned, while the pinnace, which was not over a year old, well fitted and provided with a shallop and small boat, so that in all it was worth £500, was carried off, as were four negroes and twelve other men- and maid-servants. Edward Matthews and others of the servants were held captive on the *Reformation*. Thomas Harrison, a servant, who had been bought from Ingle by Cornwallis, joined his former master, and then fled to Accomac.¹³ To protest against Ingle's acts, Fenwick went on board the *Reformation* and, on his return to the shore, was seized by a party of men under John Sterman and carried back to the vessel as a prisoner. While Fenwick was on the *Reformation*¹⁴ Thomas and John Sterman and William Hardwick led a party to sack Cornwallis's dwelling. They carried away the contents, "plate, linen hangings, bedding, brass, pewter," etc., which the owner estimated to be worth £1000, "pulled down and burnt the pales about it, killed and destroyed all the swine and goats and killed or mismarked almost all the cattle, swine, goats, sheep, and horses. They took or dispersed all the servants, about twenty in number, carried away a great quantity of sawn boards from the pits and ripped up some floors of the house." The Stermans then possessed themselves of the house, dwelt in it a while, and, "at their departing, took the locks from the doors and the glass from the windows."

In another pinnace, assisted by one Andrew Moore, Ingle plundered Copley's two houses and burned one of them at Port Tobacco, and made him prisoner. They dispersed his sixty head of cattle and disposed of his twenty servants. In all Copley claimed that he suffered a loss amounting to £2000. Copley was a temporal coadjutor of the Jesuits, and

¹³ Vide 10 Md. Arch., Prov. Ct., 362, 371.

¹⁴ 10 Md. Arch., Prov. Ct., 253.

though he claimed to be "a sober, honest, and peaceable man, not given to contention or sedition, nor anyway opposing, or in hostility to the King and Parliament," he could not expect consideration for himself, nor for those he represented, from one whose pose was to show himself an ardent Protestant. John Lewger was also seized and held prisoner. Dr. Thomas Gerard's house was burned. Nicholas Green, boatswain of the *Reformation*, headed a party which took from the house of Nicholas Causin, a Roman Catholic, two beds, a rug, a small trunk and a musket, which they carried to the fort for the use of the soldiers. Against Giles Brent and his sister Margaret, Ingle's conduct was flagrantly bad. He seized their pinnace, the *Phoenix*, worth £50, and took out of her bedding and other commodities worth £10. Out of another boat Ingle took property of the Brents' consisting of linen, shoes, stockings, sugar, etc., valued at £40, and a little cabinet containing jewels worth £20. From still another pinnace, the *Shotlocker*, Ingle took a "chest with clothes in it, 2 guns, linen and other commodities to the value of £14 and divers writings, books of accounts and specialties to the value of £200 sterling, all which articles did belong to Giles Brent." Account books Ingle invariably destroyed. The inventory filed by the Brents and Copley in the admiralty suit they brought against the *Reformation* shows how wealthy they were and how great was their loss. They enumerate among the articles seized at St. Mary's and Kent one hundred head of neat cattle, twenty sheep, about one hundred hogs, much wheat, barley, pease and tobacco, eight apprentice servants carried off and twenty-one more made unuseful, five great bowls double gilt, each one of which was worth £6,14s., silver spoons, two small silver salts, two silver cruets, a small silver basin, two silver dram cups, a great diamond worth £200, two small chains of gold each worth £30, two jewels containing in each eight diamonds and worth £32, one other jewel with a "fair diamond and ruby" worth £20, two bracelets of gold, "engraven agates," four or five diamond

rings worth in all £10, a ring with a great sapphire, a silver chain and several enamelled chains, clothing, "arras hanging," eight feather and two flock beds, "household stuff sufficient to furnish plentifully two large houses," "one fair library of books" worth £150, and thirty-six guns. One can imagine what Mistress Margaret Brent said when her jewelry was taken from her. Brent, Copley, and Lewger were carried prisoners to London in the *Speagle*. When the vessels, which seem to have left Maryland in the summer of 1645, were near Plymouth, England, Ingle summoned Durford and Beane to come on board the *Reformation* and, when they had done so, told them "he would have Brent and Copley thrown overboard." The prisoners would have suffered this fate but that one of Ingle's "mates would not agree to it." When London was reached the prisoners were set free; they brought an admiralty suit against the *Reformation* and a personal one in chancery against Ingle and Durford for damage to their persons and property, but no record of any decision in these cases has been found. Ingle, on his part, brought an admiralty suit to have the *Speagle* condemned as his prize, and, when the decision of the court went against him, he appealed, but the fate of this appeal is unknown. His career in Maryland was a true "plundering time," and Thompson well ends his account of it by saying, "It is not to be wondered at that, since that voyage, his name should be coupled with reproach and infamy and his memory associated with deeds of violence and outrage."

Fathers White and Fisher were carried off to England as prisoners,¹⁵ possibly by Ingle when he returned in 1645. Father White was confined in Newgate Prison from 1646 to 1648, and was then dismissed on January 7 by the House of Commons, on condition that he leave England within fifteen days. That the Roman Catholics in Maryland were not entirely deprived of rights we learn from an occurrence in

¹⁵ 4 Md. Arch., Prov. Ct., 418. Ingle's Ingle, 24. Neill's Founders, 103. Neill, *Ld. Baltimore and Maryland Toleration*, 28 *Contemp. Rev.*, 616.

the summer¹⁶ of 1645. On the night of July 31 the Roman Catholics had the habit of honoring St. Ignatius,¹⁷ whose feast was that day, by firing a salute of cannon. The salute was fired about five miles from a fort which the invaders held, and, "aroused by the nocturnal report of the cannon," they came to St. Inigoes on the next day, broke open the houses of the Roman Catholics and took away whatever arms or ammunition they could find.

During these troublous times we are told¹⁸ that Lieutenant Nicholas Stillwell and others of the colony of Virginia secretly conveyed themselves to Maryland and others were likely to follow, so that the Assembly of the former Province instructed Captain Thomas Willoughby and Captain Edward Hill to go to "Maryland or Kent" and demand the return of persons lately departed from Virginia.

In the summer of 1645¹⁹ Leonard Calvert appealed to the Virginia authorities for help. They informed him on August 9 that "in respect of their daily opposition by the Indians they could send him no help," and that they recommended that the differences between Claiborne and Baltimore be submitted to arbitration. They also expressed the

¹⁶ Shea, *Church in the Colonies*, 37 ff, states that Thomas Copley and Father Philip Fisher are the same, and suggests that Copley may have paid the expenses of the Jesuits who came to the Province. Copley came to Md. in 1637 and died in 1652 or 1653 (p. 47). Shea (p. 55) says that Father Brock's real name was Ferdinand Poulton and that he was accidentally shot crossing St. Mary's River, and that Bernard Hartwell (p. 65), who was sent out as Superior of the Mission in 1645, died the year after, leaving no priest in the Province. Fathers Rigbie and John Cooper, who reached Maryland in 1644, escaped to Virginia, where they both died in 1646. The service of the Maryland mission had been so desired that twenty-three young Jesuits in July and August, 1640, begged the Provincial that they might be sent thither. Shea claims that, in the early days, there was a school maintained in Maryland by the Jesuits and kept by Ralph Crouch.

¹⁷ Md. Hist. Soc., *Fund Pubs.*, 95. The miraculous death of a scoffer at St. Ignatius is recounted at length.

¹⁸ Neill, *Terra Mariae*, 110; *Va. Carolorum*, 188. 1 Hening, 321.

¹⁹ Streeter, *Md., Two Hundred Years Ago*, 34. Plantagenet's New Albion said: "I went to Chicacoen, avoiding Maryland, for it was then in war with both the Susquehannocks and all the Eastern Bay Indians, and a civil war between some revolters, Protestants, assisted by fifty plundered Virginians, by whom Mr. Leonard Calvert was taken prisoner and expelled." Vide also p. 35.

opinion that Claiborne should "for the present surcease to intermeddle with the government of the Isle of Kent," to which advice he paid little heed.

ECHOES OF INGLE'S ACTS IN ENGLAND.

After Ingle's return to England,¹ Cornwallis brought suit against him there for damages he had suffered in the destruction of his property to the alleged amount of £3000. He stated that in February, 1644-5, Ingle had incited his servants to rebellion and that, under the leadership of John Sterman, Thomas Sterman his son, and William Hardwick, they took possession of his mansion, carried off his cattle, wrenched off the locks of his doors, and damaged his estate.

In England, Baltimore's legal title to his Province was attacked, as his possession of it had been in America. On November 28, 1645, a petition² of divers of the inhabitants of Maryland, probably brought over by Ingle, was read at the Committee of Lords and Commons for Foreign Plantations, setting forth "the tyrannical government of that Province, ever since its first settling by recusants," and asking that Parliament appoint a government. Brent's seizure of Ingle's ship and Calvert's commission to seize Parliamentary vessels were proofs that neither Brent nor Calvert was fit to hold office, and that Baltimore had broken the trust reposed in him by the charter. It would be good service to place Maryland in Protestant hands. It was ordered by the House of Lords on December 25, as a result of this petition, that an ordinance be drawn up for settling the government in Protestant hands³ and for the indemnity of Ingle

¹ I Scharf, 149. Cornwallis represents himself as possessing "a comfortable dwelling house furnished with plate, linen, hangings, bedding, brass, pewter, and all manner of household stuff, worth at least £1000, about 20 servants, at least 100 breed cattle, a great stock of swine and goats, some sheep and horses, a new pinnace about 20 tons, well rigged and fitted, besides a new shallop and other small boats."

² 3 Md. Arch., Coun., 164. The only proof given was that the Jesuits had made converts. Ingle evidently inspired the petition.

³ The text of this ordinance may be found in 3 Md. Arch., Coun., 173.

from suits "for matters done in Maryland for the Parliamentary service." On February 24, 1645-6, Ingle filed a petition, stating that he had come to the assistance of the Protestants and such as adhered to the Parliament in Maryland, and had ventured his life and fortunes in assisting them. In this he had "several bickerings" with the "tyrannical governor and the papists and malignants his adherents" and took divers places from them. Since his return fictitious suits had been brought against him at common law in the name of Cornwallis and others for taking the goods he seized from "these wicked papists and malignants," with which goods he "relieved the poor distressed Protestants there, who otherwise must have been starved and rooted out." These actions in any case, "for matters of war acted in foreign parts," could be heard only by the constable and marshal, and it would be dangerous to permit malignants to "sue the well affected for fighting and standing for the Parliament." Therefore, Ingle asked that the case between him and Cornwallis be heard at the bar of the House of Lords. This was ordered to be done on March 3. Cornwallis filed his papers⁴ on March 2, alleging that Ingle was not satisfied with converting to his own use commodities to the value of £200 with which Cornwallis had intrusted him to trade, but had rifled his house in Maryland to the value of £2500 and, returning to England, had complained to the Committee of Examinations against Cornwallis as an enemy to the State, hoping to shelter himself. The Committee did not agree with Ingle in this charge, so Cornwallis sued Ingle at law for the commodities given him with which to trade, and procured a commission from chancery to examine witnesses concerning the value of the goods taken in Maryland. To stay these proceedings, Ingle sued Cornwallis for £5000, induced Cloberry, Claiborne's former partner, to sue him for £10,000, and had him put in prison, whence Cornwallis got out with the help of friends. After attending the Lords several days and finding Ingle absenting

⁴ 3 Md. Arch., Coun., 166.

himself, Cornwallis, to avoid expense, asked that the matter be heard shortly,⁵ but it dragged on.

Meantime was filed a foolish, trumped-up petition of Mary Ford,⁶ a widow, "in behalf of the Protestant inhabitants in Virginia and Maryland." She accused Cornwallis of kidnapping two of her children to plant Maryland and make it more fruitful, of causing Ratcliffe Warren's death, of being "a great agent and factor for the settling a Popish faction in Maryland," and of joining Baltimore's "poisoned purposes" to "rob, murder, and destroy." On April 25 she petitioned again, saying that she could not find Cornwallis, but understood that the differences between him and Ingle were to be heard in three days, and asking that her petition might be heard first.

On February 8, 1646-7, Cloberry and seventeen other London merchants trading to Virginia petitioned the Lords to pass the ordinance for taking Maryland from Baltimore at once, and to send it down to the Commons, as he and his agents "have acted horrid things in that Province as Papists and Rebels."⁷

On March 4, 1646-7, Baltimore filed a petition with the Lords, stating that he "hath engaged the greatest part of his fortune" upon Maryland, and asking for a bill of particulars "wherefore it is proposed to repeal his charter," and that he may have reasonable time for defense and for bringing witnesses from Maryland.⁸

On September 8, 1647, Ingle transferred to Cornwallis certain bills and made him his attorney to collect them. Among them were two of John Sterman for powder and tobacco given in April, 1645. This seems to show that Ingle and Cornwallis had compromised their difficulties. No further steps seem to have been taken for two years,⁹

⁵ 3 Md. Arch., Coun., 170. Ingle went to sea; vide 179.

⁶ 3 Md. Arch., Coun., 169.

⁷ 3 Md. Arch., Coun., 181. They say there have been several days appointed for a hearing.

⁸ 3 Md. Arch., Coun., 180. On January 23, 1646-1647, Baltimore asked the House of Lords that depositions of witnesses made in the Admiralty Court concerning Maryland might be read. Vide Ingle's Ingle.

⁹ Foundations of Md. 18 Md. Hist. Soc., Fund Pubs., 101 ff.

and Johnson points out that in 1647 Cromwell and the New Model Army had gained the control and that their influence was for toleration, while many Papists, among whom may have been Baltimore, showed sympathy with the Parliamentary party, in the hope of getting religious toleration. Chalmers thus sums up Baltimore's policy: "Possessing great prudence, as well as great reach of thought, the first proprietary joined the prevailing party with the usual policy of the world. Nothing was required by his charter but a general allegiance and he seems to have been willing to yield general subjection to any sovereign who might gain possession of England."¹⁰

In December, 1649, Ingle sent to the Council of State a petition against the government of Maryland. The hearing was referred to the Committee of the Admiralty, and postponed to January 10, 1650. Baltimore then asked that it be deferred until the sixteenth, when he appeared and was ordered to make answer on January 30. On the twenty-ninth the hearing was postponed to February 6. It was again delayed until March 1, when Ingle was "unprovided to prove his charges." On March 15, after several debates concerning Leonard Calvert's commission of 1643 from the King, the Attorney General was directed to examine the validity of the Maryland charter. On December 23, 1651, the Council of State left Baltimore to "pursue his cause according to law."

KENT ISLAND DURING THE REBELLION.

Mrs. Brent, in 1648, sued Edward Cummins,¹ of Kent Island, for entering with other islanders into her house on the island and dispersing all her goods, so that her servants left it for want of provisions and other necessaries, whereby Claiborne came to the island. It was alleged² also that Edward Cummins went up into the loft of Captain Brent's

¹⁰ 1 Introd. to the Hist. of the Revolt of the Am. Cols., 79. 7th Rept. Hist. Com., 54, 162. Calendar Col. Papers, 1574-1660, pp. 331-337, 368.

¹ 4 Md. Arch., Prov. Ct., 435, 449, 473, 481, 489.

² 4 Md. Arch., Prov. Ct., 441.

house and threw down his books to be burned, saying, "Burn them Papist Divells." The matter dragged on for over a year; Cummins alleged that he had already paid Giles Brent for the damages, and the case was finally dismissed by agreement of the parties. On Kent Island, Cox took back the cattle Brent had taken from him,³ and courts were held by the rebels. Brent had transferred Kent Mill and Kent Fort, with all the land, housing and appurtenances to his sister. Peter Knight, "bearing himself as the captain of a rebellious crew,"⁴ took the mill, in July or August, 1646, converted to his use the profits, and made a garrison of Kent Fort House "to defend the said Isle against the Governor." He converted the profits of the land to his own use, killed some of the cattle and made the rest wild, fired various houses,⁵ used up Mrs. Brent's "wain and wheels," and dispersed her plow-gear. When he was forced to fly by the Governor, he took away all the iron work of the mill and the hinges, locks, and doors of Kent Fort House.

Robert Percy was a prisoner at Pope's Fort,⁶ and it was rumored that he had hidden the priest's plate. John Hilliard said he would forgive him a debt, hoping that Percy, who was about to leave the country, would tell him where it was hidden. But Percy did not tell him and so Hilliard sued in vain for the debt in Greene's administration.

About Christmas time⁷ in 1646 Claiborne, who with his

³ 4 Md. Arch., Prov. Ct., 394, 395.

⁴ 4 Md. Arch., Prov. Ct., 399, 417, 419, 434, 454.

⁵ A tobacco house and a hogsty, and at least two oxen and a calf;
4 Md. Arch., Prov. Ct., 454.

⁶ 4 Md. Arch., Prov. Ct., 415, 418, 419. Brent was carried as a prisoner to England.

⁷ The author of Plantagenet's New Albion visited Kent Island about this time (p. 16), and found it "too wet and plashy, having bad weather." He claimed the benefit of the *hactenus inculta* clause for Kent Island, and said that the Delaware Bay does not lie in 40° north latitude, but ends at 38° 50' (p. 29). He also visited Palmer's Isle in the mouth of the Susquehanna (named for Edward Palmer of Leamington; 28 Contemp. Rev., 616), and found it to contain 300 acres, half mead, half wood. In it is a rock forty feet high like a tower, fit to be built on for a trading house for all the Indians of the Chesapeake Gulf. The island lies, he claims, in 40° 12' north latitude. Five miles away is Mount Royal (the Port Deposit hills), whence you may see, one hundred miles off, high hills like sugar-loaves.

cousin Thompson had possessed himself of Brent's house on the Isle of Kent, suddenly drew into arms the inhabitants of the island, together with about twenty men whom he had brought with him from Virginia. His men had spread stories that Claiborne had a commission from Sir William Berkeley to take the Isle of Kent and such estate as had formerly belonged to Captain Claiborne therein, and that Claiborne would have been commissioned Governor of Virginia in that year if he would have accepted it. Having mustered the men under Lieutenant South and Peter Knight, in Kent Field, he proposed to them to go down with him in warlike manner to assault and take the Governor of Maryland and the fort at St. Mary's. They believed he had lawful authority and assented to go, but, after the embarkment of some of the provisions for the voyage, some desired to be acquainted with his authority before they would embark themselves. He refused to show this, so they "drew off from the design." Claiborne again urged them, saying that he would carry them down in his eight pinnaces and land them at Point Lookout and then go over to Chicacoan and send or fetch more help. The inhabitants refused to go and, after a day, Claiborne left the island for Virginia.

Thomas Bradnox⁸ was also accused by Mrs. Brent of having, as captain of a certain crew of rebels, made her house his garrison for some time, burned down a house of hers, killed some cattle and consumed corn and other of her provisions. After the reducing of the island to its obedience to Baltimore, he held intelligence with the rebels, whereby Kent Mill was fired and certain cattle killed by the rebels.⁹

Captain Robert Vaughan stated that in April, 1647, Thomas Bradnox, in company with the rebels of Kent, came twice in arms and assaulted the house where Vaughan lived. In the assault Vaughan lost two servants and was taken prisoner, being detained at Bradnox's house for three weeks. During this time the rebels burnt four hogsheads of his tobacco.

⁸ 4 Md. Arch., Prov. Ct., 436, 444.

⁹ 4 Md. Arch., Prov. Ct., 460.

CALVERT'S RESTORATION.

On July 30, 1646, in Leonard Calvert's name, there was issued¹ to Captain Edward Hill, whom the Council had made Governor, a commission appointing him to that office with the same authority as Calvert himself, and authorizing him to take as a reward for his service one half of all rents, profits and customs, etc., accruing to Baltimore during the time of his government. Hill was to preserve the stocks of cattle belonging to the Proprietary, to be turned over on demand.

Hill came to Maryland before the arrival of this commission, which may not have been issued with Calvert's knowledge,² and he seems to have reduced the Province to some order. He summoned an Assembly, which passed certain laws, but, as all of its proceedings are lost, we have but vague idea of them. Baltimore disassented to them all,³ on August 12, 1648, being informed that some of them "are very prejudicial to our rights and royal jurisdictions" in Maryland, and others are "inconvenient for our people there." Calvert confirmed⁴ the summons of Hill's Assembly by reconvening it instead of summoning a new one, in December, 1646, after he had returned from Virginia. The Assembly of 1649 spoke of this Assembly as consisting, with only two or three exceptions, of that "rebelled party" and Calvert's "professed enemies," whom he had just surprised and cast into prison.⁵

In 1649 Baltimore granted James Lindsey and Richard

¹ 3 Md. Arch., Coun., 171. Under his own commission (op. cit., 157), Calvert's authority to do this seems clear, but Baltimore on August 12, 1648, disavowed the act, on the ground that Hill was not of the Council and only such should be named; op. cit., 220.

² 2 Bozman, 293.

³ 3 Md. Arch., Coun., 220.

⁴ 3 Md. Arch., Coun., 188.

⁵ 1 Md. Arch., Ass., 239. They instance as proof thereof that he freed them during this Assembly (12 W. & M. Coll. Q., 267). Some of the opponents of the Proprietary removed to Virginia, for example, Francis Gray, of St. George's hundred, carpenter, who was in Maryland in 1637, and married Alice Moorman, a servant of Cornwallis brought into the Province in 1637. He settled in Machodoc, Westmoreland Co., Va., after Leonard Calvert's return.

Willan lands⁶ "for their singular and approved worth, courage, and ability, to the end a memory of their merit and of his sense thereof may remain on record to the honor of them and of their posterity forever." To these tried servants of the Proprietary we may add John Jarboe and William Evans,⁷ who received a grant of a Kentish plantation which had been forfeited for rebellion.

In April, 1649, the Assembly⁸ spoke of the "heinous rebellion" begun by that "Pirate Ingle and afterwards almost for two years continued by his complices," in which time Baltimore's "loyal friends" were despoiled of their estates and banished from the Province or plundered. These enemies strove by oaths and other inventions to withdraw the people from their obedience to the Proprietary and to assure themselves of the Province so wrongfully taken. In spite of these efforts, the Proprietary's friends underwent pains and travail in aiding Calvert to subdue the rebels and conserve the Province for Baltimore. Calvert⁹ brought soldiers with him from Virginia in 1646 and gave them sack¹⁰ at the fort at St. Inigoes, whither he directed that all who had been in rebellion should be brought.

The frequent changes of government in Maryland's early history remind us of Hammond's words, when he was trying to induce Englishmen to settle in the Province: "Maryland is (not an Island as is reported, but) part of that main adjoining to Virginia, only separated or parted from Virginia by a river of ten miles broad, called Potomack river,—the commodities and manner of living as in Virginia, the soil somewhat more temperate (as being more northerly) many stately and navigable rivers are contained in it, plentifully stored with wholesome springs, a rich and pleasant

⁶ Kilty, Landholder's Assistant, 79. The Manor of Snow Hill, which was escheat.

⁷ Kilty, Landholder's Assistant, 74, 85.

⁸ 1 Md. Arch., Ass., 238.

⁹ 4 Md. Arch., Prov. Ct., 344, 382, 432. Richard Bennett furnished corn, some shot, a yearling and poultry for Gov. Calvert and his company.

¹⁰ Receipt for sack given soldiers, 4 Md. Arch., Prov. Ct., 402, 410, 414, 416, 417, 420.

soil, and so that its extraordinary goodness hath made it rather desired than envied, which hath been fatal to her as beauty is often times to those that are endued with it."¹¹

LEONARD CALVERT'S LAST ASSEMBLY.

At St. Inigoes Fort on December 29, 1646, came together an Assembly of whose proceedings we have but fragmentary record.¹ From this record it appears that this Assembly sat in two houses, Calvert, with Lewger and Greene, constituting the Council or Upper House. After the Upper House was called together, the burgesses were sent for, and Calvert made them the first Governor's speech we have preserved,² saying: "You were called hither as freemen to treat and advise in assembly, touching all matters, as freely and boldly, without any awe or fear and with the same liberty, as at any Assembly you might have done heretofore, and you are now free from all restraint of your persons and shall be free during the Assembly. After the Assembly, I save to myself, such charge as I may have against any for any crime committed since the last general pardon."

Six men were then sworn who testified that Calvert, before returning from Virginia, told publicly his little army, of which they were members, that, "You are to attend me on these terms, viz: If I find the inhabitants of St. Mary's have accepted my pardon for their former rebellion and are in obedience to his Lordship, you are to expect no pillage there, but I will receive the inhabitants in peace and only take aid from them to the reducing of Kent."

The session continued until January 2,³ when the Assembly adjourned until March 1, though it did not meet then, nor

¹¹ Hammond's *Leah and Rachel*, 1656.

¹ 1 Md. Arch., Ass., 209. We do not know how the burgesses were chosen; *op. cit.*, 220.

² 4 Md. Arch., Prov. Ct., 380. It was alleged that Calvert, on his return to the Province, agreed to have restored to every one his own as it was before the rebellion, under the forfeiture of treble damages. Estates settled about that time: John Longworth, December 3, 1646; Henry James, September 23, 1646; Robert Dixon, December 17, 1646; Nicholas Porter, September 25, 1646; Thomas Kendall, November 9, 1646.

³ 1 Md. Arch., Ass., 184, 210.

indeed in Calvert's lifetime. At least three acts were passed, though we have the text of but one of them, namely, an act touching judicature, which differed from the act of 1642 chiefly by omitting all reference to the laws of England or to the limitation of the discretions of the Court in criminal cases, and by giving a casting vote to the Governor whenever there was a tie. Another act fixed the sheriff's fees,⁴ and still a third granted certain custom duties to the Proprietary on condition that he undertake the whole charge of the government, both in war and peace.⁵ The Assembly of 1649 complained of these laws as illegal, but Baltimore supported them⁶ warmly and declared that, though the first summons were issued by one who was no lawful lieutenant, yet, being afterwards approved by one who was such an officer, the proceedings thereafter were valid, for the charter permitted the Proprietary to summon the freemen in Assembly as he saw fit, and did not limit him to any form of summons. In truth, if the freemen should meet without summons, though this would be an illegal proceeding, yet if a lawful Governor should afterwards allow thereof and enact laws with the consent of this Assembly, these laws would be valid.

THE LAST MONTHS OF CALVERT'S GOVERNORSHIP.

On January 2, Lewger, Gerard, and Greene, of the Council, and between thirty-five and forty freemen took the oath of fealty.¹ On November 15, 1646, Baltimore had sent a commission to Calvert and Lewger to collect his rents and debts in Maryland, which commission must have arrived about this time.² Some writers thought this commission was a proof that the Province seemed to Baltimore to be definitely

⁴ 1 Md. Arch., Ass., 291, confirmed by Laws of 1650, ch. 6.

⁵ 1 Md. Arch., Ass., 416, repealed by Laws of 1661, ch. 6. On January 16, 1646-1647, Calvert directed Bretton to see that customs were paid by Ralph Beane for his cargo of tobacco, and to seize any wine or hot waters and to bring tidings of the goods sold by him since coming from Virginia. 3 Md. Arch., Coun., 177.

⁶ 1 Md. Arch., Ass., 239, 266.

¹ 3 Md. Arch., Coun., 174.

² 3 Md. Arch., Coun., 172. Neill, *Terra Mariae*, 133.

lost. Neill, however, thought it was to induce men to pay Calvert and Lewger as agents the debts to the Proprietary which they might refuse to pay them as officials, as they had been ousted from office. A proclamation of embargo, the cause for which was not given,³ was issued from Inigoes Fort on January 16, forbidding, on pain of death or other judgment of a court martial, any persons to go out of St. Mary's County, or to entertain any one coming from outside the Province or from Kent Island, without acquainting the Governor with the fact. The proclamation was to be in force for a month, at the end of which time it was renewed for a month more. It especially prohibited the export of cattle or corn. These proceedings show the unsettled condition of affairs in Kent. On January 18 Lewger filed an accusation⁴ against six men, three of whom had taken the oath of fealty on the second, and all of whom had been pardoned by two several pardons for rebellion and sedition. Several or all of these had secretly fled from the Province and had resorted to the house of one John Mottram in Chicacoan, where on the sixteenth they were thought to have conspired⁵ with Baltimore's enemies to kill Captain Price, Thornbury, and Hebden, "who were the chief cause of entertaining the present governor," and to have sent a party to fire, burn, and destroy all they could when a favorable opportunity should come, such as Calvert's going to Kent Island. Four of the defendants were seized as prisoners on their return⁶ and, with another, gave security not to leave St. Mary's County without telling the Governor, nor to entertain secret communication with Mottram, with the other two defendants, or with Thomas Lewis. These last three were also accused of returning to Maryland by night⁷ and there killing and carrying away cattle and were

³ 3 Md. Arch., Coun., 174; cf. 179.

⁴ 3 Md. Arch., Coun., 175.

⁵ Francis Gray, called the speaker, was said to have spoken once again.

⁶ 3 Md. Arch., Coun., 177. Two of these, with William Hardwick, were licensed to go to Chicacoan on January 29; *op. cit.*, 180.

⁷ 3 Md. Arch., Coun., 178, 179. Only one, Robert Smith, seems to have returned to the Province.

summoned to appear or be treated as "rebels and robbers." If they should submit, however, and take the oath of fealty, they were promised a free pardon.

On January 19 Calvert ordered⁸ a search made at St. Inigoes House to take all goods there found except what the possessors should make oath to have been theirs on February 14, 1644. All claimants to the property were to appear on February 4, on which date the inhabitants of Newtown and of St. Clement's hundreds were summoned to pay rents and head corn at the fort. This looks as if some of the plundered goods had been left at the Jesuits' former residence. In March Calvert⁹ sent a boat to Kent, probably commanded by Nathaniel Pope, and on the sixteenth of April Calvert, who had crossed to the island, took the oath of fealty from fourteen freemen there, to whom he issued a proclamation of pardon.¹¹ On the eighteenth he appointed Robert Vaughan commander of Kent and gave him Cox, Thomas Bradnox, Edward Cummins, Philip Connor and Francis Brooke as a Council. Two days later Calvert directed them to seize the lands and goods of the rebels on the island who had fled or refused to take the oath of fealty, and to hold the property until these rebels had answered at St. Mary's for their crimes of rebellion and refusal of the oath.¹² The extant records of the court¹³ begin only on May 13, 1647, though it was in regular session from Jan-

⁸ 3 Md. Arch., Coun., 178, 179. Wm. Lewis seems to have been sheriff. He summoned a jury and served writs.

⁹ 3 Md. Arch., Coun., 181, 197. 4 Md. Arch., Prov. Ct., 308. Appointment revoked November 11, 1648. Full provision as to appeal to Provincial Court was made. 12 W. & M. Quar., 192, states that Colonel Nathaniel Pope, who settled in Maryland about 1637 and removed to Virginia in 1650, was sent as an agent to Kent Island in 1647.

¹⁰ 4 Md. Arch., Prov. Ct., 331, 336.

¹¹ 4 Md. Arch., Prov. Ct., 441.

¹² Did Brent go to Kent Island at this time, hiring Francis Brooke's shallop therefor, for which Brooke later brought suit (10 Md. Arch., Prov. Ct., 28)?

¹³ 4 Md. Arch., Prov. Ct., 308. Bretton acted as clerk for a time. He had the power of administering oaths and signing writs; 3 Md. Arch., Coun., 180. But 4 Md. Arch., Prov. Ct., 350, 361, proves that the court was meeting regularly from January, 1646-1647.

uary, when John Harwood was sentenced to be fined and whipped with thirty lashes because, when charged by Edward Parker that in the time of rebellion he had marked divers cattle of other men's wrongfully by way of plunder, he replied, "I hope within this 6 or 7 weeks to be at the marking of a great many more."

On May 31 Calvert directed¹⁴ the collection of the customs, confiscations, forfeitures and escheats, and the gathering of all the neat cattle belonging to Baltimore on the Isle of Kent.

On June 1 Calvert and Greene¹⁵ sat in court, and the proceedings show that matters were growing settled. One man accused another of setting dogs on his hogs, Greene recorded the gift of a red heifer calf to his son, a man sued another for the loss of his rowboat, suits for debts were instituted, and a guardian was appointed for a child formerly brought into Maryland by one now dead.

LEONARD CALVERT'S DEATH.

But this peacefulness was not long to be enjoyed by Calvert. He was taken ill early in the month¹ and died on the ninth,² naming, six hours before his death, Thomas Greene as Governor of the Province and Mrs. Margaret Brent as his executrix. She and her sister Mary, with at least one other woman, Greene and two men, probably servants, were with him at the time.³ He told Mrs. Brent, "Take all and pay all,"⁴ and then asked every one else to leave the room, that he might have private conference with

¹⁴ 4 Md. Arch., Prov. Ct., 308, 309. Does a curious paper in 10 Md. Arch., Prov. Ct., 100, belong to this Kent Island expedition?

¹⁵ 4 Md. Arch., Prov. Ct., 309.

¹ It seems Dr. Waldron was called from Va. to try to save him.

² 3 Md. Arch., Coun., 187. 4 Md. Arch., Prov. Ct., 312, 314. Baldwin's Calendar.

³ Where was his wife?

⁴ On June 21, the will of Robert Tuttey (a devout but illiterate man) was probated (4 Md. Arch., Prov. Ct., 316, 318, 460), and Nicholas Harvey's nuncupative will was probated on the 28th, pp. 318, 324, 327, 331, 361, 470 (Fenwick administered the estate), 410, 508. Baldwin's Calendar.

her.⁵ Then he called the others again into the room, gave his clothing to his two men-servants, a mare colt to his godson, Leonard Greene, and another to Mrs. Temperance Pippett of Virginia. Near his grave at St. Mary's was erected a monument by the State of Maryland in 1890, bearing the following inscription :

To the Memory of
Leonard Calvert
First Governor of Maryland
This monument is
Erected by
The State of Maryland.

Erected on the Site of the
Old Mulberry Tree
Under which the
First Colonists of Maryland assembled
To Establish a Government
Where the persecuted and oppressed of every creed
and clime might repose in peace and security,
adore their common God, and enjoy the priceless
blessings of civil and religious liberty.

Leonard Calvert
Second Son of George Calvert,
First Baron of Baltimore,
and Anne, his wife,
Led the First Colonists to Maryland,
November 22, 1633—March 3, 1634,
Founded Saint Mary's, March 27, 1634,
Died June 9, 1647.

By His Wisdom, Justice, and Fidelity, He Fostered the
Infancy of the Colony, Guided it Through Great
Perils, and Dying, Left it at Peace.
The Descendants and Successors of the Men
He Governed, Here Record
Their Grateful Recognition of His Virtues.
November, MDCCCXC.

On June 10, 1647, Greene became Governor. Nine days

⁵ Thomas, *Chronicles of Colonial Maryland*, 62, 77, discusses his descendants. The monument to Governor Calvert was unveiled June 3, 1891. On this occasion J. Thomas Scharf, Esq., delivered an address which was afterwards published in pamphlet form.

later Mrs. Brent came to the court and asked Greene's testimony as to Calvert's will. Greene gave it, taking an oath before Giles Brent, and then Mrs. Brent was granted letters of administration. On June 30 she brought in an inventory, amounting to 23,424 pounds of tobacco, to which a supplement, amounting to 980 pounds, was made on March 11, 1647-8.⁶ A large frame house and one hundred acres of town land, a large house and three manors at Piney Neck, and seven horses are the chief items. Furniture, arms, and a few books make up the remainder. His devoutness is shown in such items as a table book and a discipline, a bone cross, a gold reliquary case, a kneeling desk, and a "picture of Paul's." On June 6, 1648, she filed an account in which she also charged herself with Lord Baltimore's debt to the estate, amounting to 18,548 pounds of tobacco, and with other debts, etc., amounting⁷ to 13,160 pounds of tobacco. The payments for wax lights, physic, a hearse cloth, debts of the estate, etc., in all amounted to 23,150 pounds of tobacco. Mrs. Brent charged the estate with 5432 pounds for her own salary, with 9522 pounds paid the soldiers, and with 748 pounds paid the Indian chieftainess, Mary Brent Kittamaquund.

Mrs. Brent had much trouble over the estate. As early as July 5, 1647, a suit⁸ was filed against it. A second suit was entered on September 3, and the court awarded a verdict for a sum due by bill,⁹ but refused to allow a claim, as

⁶ 4 Md. Arch., Prov. Ct., 314, 316, 319, 320, 344, 358, 388. For Geoffrey's charge paid from Calvert's salary, see p. 350. He was also given a cow from Baltimore's stock, pp. 350, 358, 424, 456, 494. The cow was sold to Smoot and seized by Fenwick, possibly as the former owed him some money for a survey (p. 318), whereupon Smoot sued Fenwick for the beast. He also sued Mrs. Brent without success, pp. 410, 516, 521, 528. Fenwick acted as Cornwallis's agent and so the latter came into the suit, which dragged on until 1654, when, after a jury decided in Smoot's favor, Cornwallis settled the case by keeping the cow and paying a debt Smoot owed Nicholas Causin. 10 Md. Arch., Prov. Ct., 206, 223, 324.

⁷ Among these three is an execution of 2800 pounds of tobacco assigned to Captain Cornwallis by Giles Brent. 4 Md. Arch., Prov. Ct., 389.

⁸ 4 Md. Arch., Prov. Ct., 320.

⁹ 4 Md. Arch., Prov. Ct., 325, 333, 388 (Nathaniel Pope). On p. 428 Gerard gives her a release, June 7, 1648.

due by account, for want of specialty, "the Court being tied to follow the rule of the law of England, admitting no recovery upon a dead man's estate without specialty." All sorts of claims were made, among them John Hampton's¹⁰ for service in the Isle of Kent in March previous and for his share of the crop he made for Calvert in 1641.

In April, 1649, the Assembly, in a letter¹¹ to Baltimore, defended Mrs. Brent's interference in the Proprietary's estate, which he had blamed, and told him that it was "better for the Colony's safety at that time in her hands, than in any man's else, after your Brother's death, for the soldiers would never have treated any other with that civility and respect and, though they were ready several times to run into mutiny, yet she pacified them." Finally, the intrepid woman felt that things were brought to that strait that she must be "declared Baltimore's attorney by an order of Court," and so, on January 3, 1647-48, when Greene and Giles Brent were sitting in the Provincial Court,¹² it was questioned whether, on the death of Leonard Calvert, Baltimore's sole attorney in the Province, Calvert's administratrix was to be received as Baltimore's attorney until the Proprietary made a new substitution. Greene asked Brent his opinion and was told that his sister, the administratrix, ought to be looked upon as attorney for recovering of rights into the estate, paying debts due therefrom and taking care for its preservation, and no farther. In this opinion Greene agreed, and this order was issued, thus preventing matters from going to ruin and a second mischief arising greater than the first. Kilty writes that Mrs. Brent was "very actively employed in taking up lands and in affairs of all kinds relating to property."¹³

¹⁰ 4 Md. Arch., Prov. Ct., 330, 335, 336, 342, 344, 345, 348, 374, 382. Hampton's suit seems to have failed. In it Brent appeared for his sister, and his claim of the privilege of an administrator was allowed.

¹¹ 1 Md. Arch., Ass., 239.

¹² 4 Md. Arch., Prov. Ct., 358. 2 Bozman, 315, comments on Brent's sitting as a judge in a case in which his sister was so nearly concerned.

¹³ Kilty, Landholder's Assistant, p. 104.

THE SOLDIERS IN THE FORT.

On June 11 Captain John Price, who commanded the fort at St. Inigoes, told Greene that there was great want of corn toward the maintenance of the soldiers.¹ Greene at once issued order that any corn in a planter's possession, more than was needed for his family's use, "should be passed at the market price of 120 lbs. per barrell" upon his Lordship's account for the maintenance of the fort. Five barrels, probably of Cornwallis's crop, were at once taken from Fenwick. Bozman² remarks that their seizure must have been made under the palatine regalia, either by purveyance, whereby provisions for the royal household might be seized and paid for at the common rate, or by the prerogative of pressing provisions in time of war. The support of these soldiers, before Calvert's death, caused much trouble. Those whose cows had been killed to feed the garrison brought in claims.³ Captain Price, after Calvert's death, on behalf of the whole garrison, sued⁴ Mrs. Brent, as his administratrix, for 45,600 pounds of tobacco and cask and 100 barrels of corn for soldiers' wages, and was granted an attachment on all Calvert's estate. In January, 1647-8, Lieutenant William Evans and William Bretton demanded their salary as soldiers in the forts,⁵ and Greene sold two yearling heifers from Baltimore's stock "towards soldiers' payment."⁶ Henry Hooper sued for a debt for "salary and

¹ 4 Md. Arch., Prov. Ct., 312. On June 12 two soldiers' recognizances to Jas. Lindsey, one of Leonard Calvert's men-servants, for 110 pounds were filed, as well as the bonds of four other men for various amounts.

² 2 Bozman, 309.

³ 4 Md. Arch., Prov. Ct., 323, 350, 374.

⁴ 4 Md. Arch., Prov. Ct., 338, 357, 359. As a result of this attachment, judgment on another debt which she admitted was respited, as she could give up no part of the estate until she answered the former suit (op. cit., 353). A later soldier's suit for a salary; op. cit., 374, 382 (Edward Hull).

⁵ 4 Md. Arch., Prov. Ct., 358, 364, 366. Bretton as clerk of fort sued for his fees in December. 4 Md. Arch., Prov. Ct., 355.

⁶ 4 Md. Arch., Prov. Ct., 365. Did Mrs. Brent sell cattle for the same purpose (378, cf. 367)? She certainly gave a cow in payment of wages on February 26, 1647-1648; op. cit., 373. A suit is brought in Kent for corn supplied St. Inigoes Fort in June, 1648; op. cit., 394,

chirurgery in the fort of St. Inigoes.”⁷ John Hampton sued Mrs. Brent for his wages, on October 5, 1648, and she denied the debt, as it was for “public employment” and she had no assets to pay it, since Leonard Calvert’s estate, by act of Assembly, was to be “applied to the payment of the garrison soldiers of St. Inigoes’ Fort.”⁸

CAPTAIN HILL’S CLAIMS.

After Calvert’s death a letter came to him from Hill, asking his “salary in that unhappy service:” viz., half the custom, half rents, and satisfaction for a horse he claimed Calvert had promised him. Greene answered Hill’s letter on the nineteenth, stating that he did not as yet understand the business and asking that Hill’s attorney¹ be sent to press his claim. The note was a conciliatory one, and Greene promised to pay whatever might be found due. In November Hill made John Hollis, or Hallowes, his attorney in Maryland,² and on June 10, 1648, before the Provincial Court, composed of the Governor, Brent, and Gerard, Hill demanded³ half of the Proprietary’s rents and half the customs for the year 1646, claiming that they were “covenanted unto him by Leonard Calvert, Esq., for his service in the office of Governor.” The court admitted the justice of his claim and ordered it to be paid.⁴ Hardly had Greene as-

411, 414, 416. On p. 413, in September, 1648, Fenwick demanded of Mrs. Brent a sum for a month’s use of a sloop. She gave William Whitle a cow in part payment for wages in January, 1648; *op. cit.*, 449, 469, 475, 480, 482, 489. Some of the soldiers were still unsatisfied in 1649. See 10 *Md. Arch.*, *Prov. Ct.*, 6. In same volume, pp. 24, 40, is record of Henry Brooke’s suit for a gun taken from him in the late troubles by Governor Calvert’s direction.

¹ 4 *Md. Arch.*, *Prov. Ct.*, 379, 383. The debt was not paid during his life, and his executor assigned it in 1653. 10 *Md. Arch.*, *Prov. Ct.*, 321.

² 4 *Md. Arch.*, *Prov. Ct.*, 419. 10 *Md. Arch.*, *Prov. Ct.*, 242, 339.

³ 4 *Md. Arch.*, *Prov. Ct.*, 315.

⁴ 4 *Md. Arch.*, *Prov. Ct.*, 341.

⁵ 4 *Md. Arch.*, *Prov. Ct.*, 389, *cf.* 351, 352.

⁶ 4 *Md. Arch.*, *Prov. Ct.*, 408. Later Hallowes made Captain Francis Poytres Hill’s attorney, and he in turn appointed George Manners as attorney. Suit was brought by Manners in February, 1648–1649, as Hill’s attorney, against Mrs. Brent, for the debt alleged to be due Hill from Leonard Calvert; *op. cit.*, 469, 472.

sumed his new office when Edward Hill from Chicacoan, on June 20, 1647, wrote⁵ to Greene and Brent, signing himself, "your loving friend," and asking a speedy answer. He insisted that he had rightfully been chosen Governor during Calvert's absence, as the Council had the immediate power to choose him, and the safety of the Province made it needful for him to act "independent of any contradiction but his Lordship." In fact, he maintained that Calvert's invasion was unlawful, or the Marylanders were slaves. He claimed that the government of the Province was "inherent in me, till his Lordship's pleasure be further known." Hill had suffered great losses of fortune and credit and his friends had been "ruined by the unjust breach of the composition." Therefore, he feared he might be forced to "some strange overture," though preferring "some moderate way," being "unwilling to move the stone violently." By Calvert's death the opportunity had come for the Council to acknowledge Hill as Governor, and then "peace may breathe a quiet possession." He little hoped for this, however, and wrote to "give a fair demonstration to the world and his Lordship of all proceedings." If the Marylanders would not accept him,⁶ "others of humors different" from his, who "embrace a parliamentary influence," might "prove fatal to the whole." On June 12 Sir William Berkeley, the Governor of Virginia, wrote Calvert. Greene answered the letter.⁷ We learn that Berkeley had asked that justice be done Hill. Greene replied that justice was never denied him "by the noble gentleman deceased," nor would Greene deny it, but he asked Berkeley to "take some effectual course

⁵ 4 Md. Arch., Coun., 188. On July 28 Greene authorizes Bretton, register of the court, on urgent occasions or in the Governor's absence to sign writs or warrants in his name. 4 Md. Arch., Prov. Ct., 323. Bretton was sick in August and Robert Clark was appointed temporarily as his successor; *op. cit.*, 324. On Greene, see Davis's Day-Star, 181, where he is said to have several times married and to have had four sons.

⁶ 4 Md. Arch., Prov. Ct., 351, 352. A demand was made in December, 1649, upon Hill to pay a tax levy upon one John Thimbleby, who went with him to Virginia.

⁷ 3 Md. Arch., Coun., 190. 4 Md. Arch., Prov. Ct., 315. Berkeley also answered a query concerning a mare.

that Captain Hill may not by his evil designs and practices proceed to disturb" the peace, as he had planned to do, by invading the Province from Virginia. Greene willed not that "this Colony should be further imbued in the effusion of blood, if it may be avoided," but was "fully determined to give him his due and deserved punishment, whenever we shall be invaded" by him. The governorship had fallen on Greene, by Calvert's nomination, and he would defend, with God's help, all of Baltimore's right and title to Maryland. On June 21 Greene answered Hill's letter, from St. Inigoes Fort, denying that the Council had right to nominate Hill as Governor,⁸ as he was not a Councilor. He feared not Hill's threats and was now lawfully installed as Governor. If Baltimore should appoint Hill, Greene would readily resign to him; but he would defend his rights and not be allured to a resignation by Hill's "boasting threats and other vain persuasions."

Hill had his partisans in Maryland. One of them, James Johnson, about July 3, told Richard Bennett: "I hope within a time to see a confusion of Papistry here. You and all the soldiers who came from Virginia with Calvert were rogues and have undone a brave country. Had it not been for you, we might have enjoyed this country to ourselves and our progeny after us." Bennett answered, "There were in the Governor's company as honest men as yourself." "Nay," replied Johnson, "they were all rogues. I shall justify it. Go down and certify the Governor of my speeches. If you complain to the Governor, I regard it not; for I care no more for him, than for any of the rest. I'll give anyone a rogue's mark, who relates what I say. O, that Capt. Hill would come and reassume the government! If he were come and I could see Capt. John Price pressing soldiers to resist him, with not above two others in his company I would shoot him." Bennett told the whole conversation to the Provincial Court, and Johnson was fined in two thousand pounds of tobacco, whipped with thirty

⁸ 3 Md. Arch., Coun., 189.

lashes for his mutinous speeches, and bound to keep the peace and not molest Bennett.⁹

INDIAN TROUBLES IN 1647.

On July 4 Greene commissioned John Price¹ to take thirty or forty men, chosen by him, with sufficient arms, and to go to the Indian towns of the Nanticokes and the Wicomicoes and destroy them, in return for their incursions on the planters and their refusal to conclude a peace. He might kill them or take them prisoner, burn their houses and destroy their corn, in his discretion. No division of booty was to be made until he should arrive at St. Inigoes on his return and give just account of all the plunder. He might appoint his subaltern officers and rule his troops by martial law. Two parties set out. When they reached the Indian camp,² on the Eastern Shore, Lieutenant William Lewis drew his sword, pulled a mat from off the "house" and, entering it, brought forth an Indian woman and child, whom he delivered to the guard. As he went in an Indian "bolted out," and Evans ordered his men to fire at him. Later, the two parties of troops came together, and Price bade the company to march, doing no wrong to, taking nothing from, nor shooting at any Indian. So the company marched nearly twenty-six miles back without firing. But as the Indians, who gathered "in great companies" about the Marylanders, shot "a man of ours in the rear," Price commanded his company to give fire. We know no more of the expedition.

⁹ Md. Arch., Prov. Ct., 321, 324. In August an affidavit was made that Mr. Broadhurst in June said: "There is now no Governor in Maryland, for Captain Hill is Governor, and some of the soldiers will sell their country for their wages. They are a company of silly rogues who can think anybody will give any thing for the country."

¹ 3 Md. Arch., Coun., 191. In 1648 Price was made "muster master general" for his "abilities in martial affairs" and for his fidelity during the plundering year.

² 4 Md. Arch., Prov. Ct., 373.

AFTERMATH OF INGLE'S REBELLION.

The country was still troubled with vague terrors. On September 11 Thomas Bradnox and Edward Cummins, two Kentish men, swore¹ that Nathaniel Pope, who had been sent by the Governor as an agent to Kent, in March, played false and said to one: "The Governor makes large promises unto you, yet you shall find that there will be nothing performed by him, but his words are mere delusions. If we do not stand true hearted to one another we shall be betrayed." He tried to "animate the people to avoid (*i. e.*, desert) the Island," and said to them: "If you will come and live at Appomattocks, I make no question but, in short time, we shall get strength enough to get the Country again. You may insure yourselves that the tobacco, which I demand of you, I shall assuredly have, for I am coming up, as soon as I return, with a great company of soldiers." On September 15 Greene ordered² that a oath of fealty to the Lord Proprietary and his Governor should be taken by all persons who were concerned in the rebellion, and that whenever they came to the Province the captain of the fort should take their arms and ammunition, and should keep them until the owners left Maryland. The oath bound those taking it to reveal, within twenty-four hours, all conspiracies discovered against the government, and not to try to draw any of the inhabitants of Maryland to forsake the Province. None of those who were concerned in the rebellion should have hearing in court, or be permitted to stay in the Province, till the oath was taken. Calvert's May proclamation was continued until Christmas, and no one was allowed to admit to his house any of the late rebels unless the latter bore a certificate that he had taken the oath of fealty.³ During Greene's administration fourteen men are recorded as having taken the oath in 1647, eleven in 1648 and four in 1649.

¹ 3 Md. Arch., Coun., 192. ⁴ Md. Arch., Prov. Ct., 331, 333.

² 3 Md. Arch., Coun., 193. The longer and typical oath of fealty is on p. 196.

³ 3 Md. Arch., Coun., 228.

Fearing a scarcity of corn, on November 10, 1647,⁴ Greene issued a proclamation forbidding its exportation. At the same time, to increase the stock of horses, he forbade that any horses, mares or foals be exported. These proclamations Bozman justifies⁵ under the ordinance-making power conferred by Baltimore in the charter, and because the delay of summoning an Assembly and the uncertainty of its action in these troublous days made it inadvisable to wait for legislative initiative.

On March 4, 1647-8, Greene issued a proclamation of pardon⁶ to all the inhabitants of the Province who were in rebellion by Ingle's instigation between February 14, 1644-45, and April 16, 1647, but who were returned now in obedience, and also to all those out of the Province who should acknowledge their sorrow and ask pardon before St. Michael's feast.

PROVINCIAL COURT PROCEEDINGS UNDER GOVERNOR GREENE
IN 1647.

Of miscellaneous cases before the Provincial Court we find an unsuccessful action of battery¹ brought on June 23, in which one man was accused of running at another with a naked sword, and an order on June 30 to return a runaway servant to Virginia.² On July 28 an attachment was brought for a boat, and Greene claimed a gun as his.³ In September⁴ the nuncupative will of Richard Cox was probated,⁵ and in his inventory are found two pairs of brick moulds, one of the many proofs that bricks were early made

⁴ 3 Md. Arch., Coun., 194.

⁵ 2 Bozman, 313.

⁶ 3 Md. Arch., Coun., 195. Ingle is especially excepted from the pardon. 4 Md. Arch., Prov. Ct., 441.

¹ 4 Md. Arch., Prov. Ct., 318. A slander case is docketed on June 19, but is no more heard of; *op. cit.*, 314.

² 4 Md. Arch., Prov. Ct., 319; see 327 for two other cases, in one of which the articles of indenture are given in full.

³ 4 Md. Arch., Prov. Ct., 322, 411, 423, 431.

⁴ Quittances, as one given by Fenwick for freight or cattle from Accomac, frequently appear. 4 Md. Arch., Prov. Ct., 323.

⁵ 4 Md. Arch., Prov. Ct., 326-328, 333, 368, 489, 511. The estate was insolvent. Baldwin Calendar.

in the Province. A deed of gift of cows and swine, from a woman to her children, was recorded.⁶ In a suit to recover two cows the court allowed oral testimony as to a judgment given by Captain Hill, as certain leaves were missing in the records.⁷ A defense was upheld that an account, being a specialty, need not be delivered by any law of the Province.⁸ A cow, promised by Calvert out of Baltimore's stock, was ordered to be delivered, and, as Fenwick claimed that Captain Price delivered one of his and not of Baltimore's, quite a controversy arose. One Blanche Oliver claimed¹⁰ that Governor Calvert had killed her ox at St. Thomas's Fort and had promised another in its place. She later married Humphrey Howell, and in June, 1648, sued¹¹ Nathaniel Pope for satisfaction for a cow¹² which Pope, or "some of his complices in time of the rebellion," killed at the fort and for which he promised her satisfaction. He did not admit the killing or the promise and said that, in any case, such actions had been taken away by act of Assembly, but the court¹³ awarded her a cow in damages. Two hired servants, whom Lewger and Brent, as commissioners for the Proprietary's private estate, had employed for Rev. Mr. Gilmett, complained¹⁴ that they had never received the cow and calf apiece and the ox which had been promised them, and Brent admitted the contract, adding that owing to the troubles which followed he knew nothing of any payment made. An occasional will or other testamentary matter was recorded.¹⁵ A man sued another for corn

⁶ 4 Md. Arch., Prov. Ct., 329.

⁷ 4 Md. Arch., Prov. Ct., 332.

⁸ 4 Md. Arch., Prov. Ct., 333.

⁹ 4 Md. Arch., Prov. Ct., 333-335, 343, 415, 422, 425, 433, 447. Fenwick lost.

¹⁰ 4 Md. Arch., Prov. Ct., 334, 336.

¹¹ 4 Md. Arch., Prov. Ct., 422-424 (June, 1648), 453, 471. 10 Md. Arch., Prov. Ct., 96.

¹² Robert Clark, on November 6, 1647, recorded the gift of a brown, bobtailed cow called Five Pints, as well as of a black and white pied heifer called Py, to his daughter.

¹³ 4 Md. Arch., Prov. Ct., 341.

¹⁴ 4 Md. Arch., Prov. Ct., 336.

¹⁵ *e. g.*, William Cox, 4 Md. Arch., Prov. Ct., 338. That of John Tompson, dated February 19, 1648-1649, is wrongly placed. 4 Md. Arch., Prov. Ct., 337. Baldwin's Calendar.

spoiled in the field by the latter's neglect.¹⁶ Another suit¹⁷ arose from one man's wrongfully taking corn from the field. Still other suits arose over the ownership of an iron pot,¹⁸ of a gun,¹⁹ or of a boat.²⁰ In this last case the damages for detaining the boat were assessed by two arbitrators.

Suits for beaver²¹ still occurred, cows were²² "sequestered" to pay for debts, the sale of cattle was recorded,²³ a man sued another for damages sustained in staying at St. Mary's to prove a cutlass to be his which the other sold him and which a third person claimed,²⁴ and a suit was brought for a sum of tobacco "for the cure of a wound" which the defendant gave the plaintiff.²⁵

GREENE'S ASSEMBLY.

The Assembly, which¹ met in Lewger's house, January 17, 1647-8, was the first to sit under any other presidency than that of Leonard Calvert. Thomas Greene called it² on December 14, to come together on January 7. The summons³ was directed, not to the sheriffs, but to all freemen, calling them to appear personally or by proxy,⁴ and Greene cautioned all to choose proxies "whose able judgment and fortunes may render them more considerate to the weale

¹⁶ 4 Md. Arch., Prov. Ct., 342, 344, 345.

¹⁷ 4 Md. Arch., Prov. Ct., 339.

¹⁸ 4 Md. Arch., Prov. Ct., 342, 345, 347.

¹⁹ 4 Md. Arch., Prov. Ct., 342, 346.

²⁰ 4 Md. Arch., Prov. Ct., 343, 345.

²¹ 4 Md. Arch., Prov. Ct., 346. On p. 362 a power of attorney is filed, January, 1647-1648, by Hugh Dunne, given him by Lawrence Marshall, grandfather and guardian of Agnes Marshall, whose father was a Marylander. On the strength of it, Dunne asked to be made administrator of Richard Marshall, and this request was granted; p. 365. He later sold cows of the estate, pp. 341, 374.

²² 4 Md. Arch., Prov. Ct., 350, 353.

²³ 4 Md. Arch., Prov. Ct., 371, 372, 375; Governor Greene gives his son, Robert, a red heifer to advance him a portion, 373.

²⁴ 4 Md. Arch., Prov. Ct., 370, 375.

²⁵ 4 Md. Arch., Prov. Ct., 371.

¹ 1 Md. Arch., Ass., 230.

² 1 Md. Arch., Ass., 213.

³ He says *Delegates*; is not this old proxy-giving the origin of the name of our House of Delegates?

⁴ 2 Bozman, 317.

publique." On January 7 the St. Mary's men came together, but none from Kent were present, so that he adjourned the Assembly for a month. Vaughan came from Kent Island a few days later, and on January 11 Greene summoned the St. Mary's freemen to be present on the seventeenth. Bretton, the clerk,⁵ did not then appear, and the Assembly awaited his arrival,⁶ finally organizing at St. John's on Thursday, January 21. Sixteen men, holding ninety-three proxies, "and divers other inhabitants," came together in the morning, and one more, bearing twenty-nine proxies, came later in the day. Thus began the first long session of the Assembly, for it was not dissolved until March 4. Greene held no proxies and Captain Robert Vaughan, who bore twenty-six proxies, was the only man from Kent. No Councilors seem to have been present⁷ until Brent came on February 21, and Cuthbert Fenwick was the only other person of any distinction in the body.

The Assembly at once resolved⁸ that any Councilors who might be present and sixteen named freemen should constitute the Assembly, ten of whom should constitute a quorum sitting in one house with the Governor and clerk. Six of these persons had not yet appeared, though they did so later, and four of those present, holding six proxies, were not named. On Saturday two of the sixteen went away, substituting others in their places, and this precedent, authorized by the rules of the House, was several times followed during the session.⁹ The sixteen, or their proxies, are spoken of as "the freemen bound to attend the Assembly," and the House was adjourned by the Governor

⁵ It is not stated who appointed him clerk, probably the Governor. He seems to have had a vote.

⁶ 1 Md. Arch., Ass., 218. On February 10 Bretton was absent, and Greene appointed William Lewis to take his place for the day. 1 Md. Arch., Ass., 223, and again John Lewger, Jr., 1 Md. Arch., Ass., 224.

⁷ 1 Md. Arch., Ass., 224.

⁸ 1 Md. Arch., Ass., 215. The bill was probably prepared in advance and was passed and signed by the Governor at once.

⁹ 1 Md. Arch., Ass., 215, 216. If no proxy appeared and if a quorum was present without him, the member might be fined.

from day to day.¹⁰ On the twenty-fourth it was ordered that no one but the sixteen freemen¹¹ or their delegates, assembled with the Governor and clerk, should have vote or seat in the House after the general day of sessions. Bozman¹² thought this last phrase, whose meaning is uncertain, might refer to the date for which the session was called, viz., February 7; but there seems to have been no change, after that day, in the constitution of the House. Another suggestion is that it refers to the last day of the session, for in the rules¹³ of the House, adopted Friday, January 21, it was provided that three days "before the general day of sessions for the enacting of laws" notice should be given to all the freemen of St. Mary's to make personal appearance, if they cared to do so. No record is found that this summons was ever sent, or that any more freemen appeared on that day.

On this second day of the session came Mrs. (or Miss, as we should now call her) Margaret Brent, Giles Brent's strongminded sister, and "requested to have vote in the house for herself and voice also."¹⁴ This remarkable plea was made not for her own interests, but because she was Leonard Calvert's administratrix and so the Proprietary's attorney, and it is no wonder that, in the absence of her brother and of all the other Councilors, she feared Baltimore's rights might suffer. Greene denied that Mrs. Brent should have any vote, saying nothing as to her voice. She then "protested against all proceedings in this present Assembly, unless she may be present and have vote."

Another claimant of the right to vote was Nicolas Gwyther, who came on Wednesday, the twenty-sixth, and

¹⁰ 1 Md. Arch., Ass., 216.

¹¹ 1 Md. Arch., Ass., 217.

¹² 2 Bozman, 320.

¹³ 1 Md. Arch., Ass., 216. Other new rules provided that no one should come into the House with a weapon, that misdemeanors happening in the House should be censured and fined by that body, that he who spoke must do so standing "reverently and bareheaded, directing his speech to the Governor."

¹⁴ 4 Md. Arch., Prov. Ct., 358. 1 Md. Arch., Ass., 215.

petitioned to have a vote as a freeman.¹⁵ Fenwick said, "He is not a freeman, but owes me service." On Saturday the House heard his petition and "censured" that no service was due Fenwick by Gwyther, "but that the produce of his labor, over and above his necessary maintenance, after the war was done, should be coming to Mr. Fenwick," and Gwyther must render account. He did so on Monday, showing what he had paid for expenses from the taking of St. Thomas's Fort until the beginning of November, 1646, and the House, approving of the account, ordered Fenwick and Gwyther to give each other quittances. The whole proceeding is a curious combination of legislative and judicial functions.

On Monday, January 24, the Assembly agreed to an order for the levying of corn toward defraying the wages of the soldiers.¹⁶ When Calvert raised his army in Virginia for the reduction of the Province, he promised the soldiers that the wages of the men and the other charges of the expedition should be paid from his and Baltimore's estates, and if these should not be sufficient he would engage the Province even with the sale of his Lordship's patent. This promise was understood by the Provincials to cover also the support of the soldiers in the garrison at St. Inigoes, after Calvert's return to power. The disturbed condition of affairs during 1647 had caused a scarcity of grain, so that the soldiers were rendered dissatisfied and mutiny was feared. "His Lordship's attorney, Mrs. Brent, had no corn left on his estate, having distributed to the soldiers all there was and can provide no more at present."¹⁷ To prevent mischiefs the Assembly, apprehending that there was a considerable quantity of corn concealed by divers persons for their private interests, resolved to have it purchased from the owners,

¹⁵ 1 Md. Arch., Ass., 218, 220, 222. 4 Md. Arch., Prov. Ct., 354.

¹⁶ 1 Md. Arch., Ass., 217, 226, 229. 2 Bozman, 320.

¹⁷ On February 29 three soldiers petitioned for themselves and others for wages due from Mrs. Brent, and she promised with all speed to send tobacco to Virginia to buy diet for them. 1 Md. Arch., Ass., 226. On Mrs. Brent, see G. W. Brown's *Origin and Growth of Civil Liberty in Maryland*, p. 16.

under direction of the Governor, and distributed among the soldiers. Sworn officers should view every man's corn and press all found above two barrels for every head, except sucking children, and deliver it to Mrs. Brent for the soldiers' use. The corn was to be paid for in tobacco, or an equivalent of corn to be restored next year by Mrs. Brent; and forfeiture of the corn concealed, with a fine of double its price, was the penalty to be visited upon those who concealed their store.

Greene's proclamations of November 8, 1647, concerning the exportation of corn and the preservation of the increase of the stock of horses, were also confirmed¹⁸ to remain in force until he should revoke them, but on March 4 the House determined that the order for levying corn and the proclamation should remain in force only during the present Assembly.

On January 25 began a struggle to pass certain acts for governing the Province and for repealing the customs act of 1647, of which struggle we have but meager details. After some days, when Greene probably showed his objections to repealing the customs act,¹⁹ a protest was filed, signed by all the sixteen freemen then present and by the clerk, holding in all one hundred and thirty-five proxies, "against all the laws which are now pretended to be in force by the last general Assembly, concerning that they were not lawfully enacted, for that no summons was issued out to all the inhabitants, whereby their presence was required by lawful authority." Calvert, as will be remembered, had reconvened, in 1647, the Assembly first summoned by Hill, and the objection of the freemen may well seem to us a "frivolous" one, the real ground, doubtless, being that the act for customs was "found too burthensome and in-

¹⁸ 3 Md. Arch., Coun., 194. 1 Md. Arch., Ass., 223. On February 3 the house was adjourned by the Governor upon request of the major part of the freemen assembled.

¹⁹ 2 Bozman, 325. 1 Md. Arch., Ass., 220. Baltimore wrote, in August, 1649, that Brent was prime mover in this (1 Md. Arch., Ass., 267), and that he protested against the remonstrance as seditious.

convenient." On the next day²⁰ Greene, who stood alone for the Proprietary's interest, ordered to be entered on the minutes a statement that the protesters "falsely pretended an unlawfulness" in the acts, and that, against their protest, Greene in turn protested, declaring the Assembly of 1647 to be lawful and its acts Statutes of the Province. "In the face of this present assembly," the bold man added, "I shall, to the utmost of my power, by virtue of his Lordship's commission given to me in that behalf, see the due observance of the same throughout all the parts of the Province, until his Lordship's disassent thereto shall appear under his hand and seal." Truly Mrs. Margaret Brent was not needed to defend Baltimore's interests while he had so dauntless a lieutenant. The bill "touching the Governor" caused another struggle between Greene and the delegates, during which he adjourned the House from January 31 to February 21. On this last named day²¹ Giles Brent came, and after that sessions were again held almost daily until the final adjournment on March 4. On February 21 Brent, Vaughan, and Fenwick were appointed a committee to draw up a remonstrance "concerning the aggrievances of the Province," and they did so, reporting it on the next day. It was amended on the day following, but unfortunately we know not what the remonstrance contained. It seems to have led to "an act for settling government in the Province, as the present state of things will permit." This bill had ten clauses; the first was concerned with soldiers' wages, and, though Greene seems to have approved of it, Baltimore dissented in August, 1649, because it insisted on the payment coming from Baltimore's private estate.²² The second clause, with reference to court days,²³ was enacted and continued in force until 1676, providing for six sessions of the county courts each year, at which either party could ask for

²⁰ 1 Md. Arch., Ass., 221.

²¹ 1 Md. Arch., Ass., 224, 225.

²² Baltimore also vetoed the preamble. 1 Md. Arch., Ass., 226, 229, 267. The vetoing of separate clauses in acts is seen to be no new feature of government.

²³ 1 Md. Arch., Ass., 232.

a jury and the judges should decide the causes "according to the laudable customs of this Province and according to equity and good conscience." The third clause, touching levies and judgments, was approved by²⁴ Greene, but vetoed by the Proprietary as it nullified the acts made by the Assembly of January, 1646-7. He also vetoed the fourth clause, touching officers' fees, and the fifth, touching the oath of fealty, as it spoke of the "pretended" Assembly of 1646-7. The sixth clause, for defense of the Province from the Indians, and the seventh, touching the fort at St. Inigoes, became law, but the text is lost.²⁵ The eighth clause, touching the remonstrance, had all but two of the sixteen freemen for it, but Greene vetoed it, as he did the ninth, touching the Governor.²⁶

The grievance of attachments and executions caused the passage of an act²⁷ providing that no such process should be laid on goods of any inhabitant, unless he were not resident in the Province at that time, that execution should not deprive the settlers of all livelihood for the future, but that "corn for necessary maintenance and bedding, gun, axe, pot, necessary laborer's tools, household implements, and ammunition" of residents should be exempt from execution. Fugitives were to have no benefit of this law. Another statute²⁸ for the debtors' benefit established a period of limitations of nine months on contracts, not by specialty, made before the close of the session, and provided that no recovery should be made upon any dead man's estate after nine months, except for debts made known before that time or made in writing, and that no specialty should be assigned without consent of the debtor. A curious law, to endure ten days after its publication,²⁹ decreed that no one should

²⁴ 1 Md. Arch., Ass., 219, 224, 226, 229, 267.

²⁵ A seventh clause touching general pardon had been rejected by the House. Brent voted aye, Bretton nay.

²⁶ 1 Md. Arch., Ass., 228.

²⁷ 1 Md. Arch., Ass., 232.

²⁸ 1 Md. Arch., Ass., 233. On April 29, 1650 (1 Md. Arch., Ass., 298), Price, Vaughan, Fenwick, Manners, Bretton, and Hatch, who had been of this Assembly, told the Assembly then sitting what they meant by the act, which meaning was then confirmed.

²⁹ 1 Md. Arch., Ass., 233.

deliver guns or ammunition to any pagan for killing of meat or for any other purpose, except that the Governor, for his own use, might employ one pagan at a time and might deliver arms and ammunition to friendly pagans for the defense of the Province.

A number of judicial matters were heard by the Assembly.⁸⁰ Thomas Oliver, a servant of Cornwallis's, was discharged from further service, as Fenwick, the captain's attorney, could not "perform the cure" according to condition. The Assembly, as court of appeal, censured⁸¹ that John Hatch, the sheriff, acted rightfully in levying execution on Francis Posey's estate. Thomas Thornborough received from James Neale's attorney the latter's plantation, provided that he "would come into the county and seat upon it." Calvert had confirmed this grant "before his last coming into the Province to reassume the government," and now the freemen unanimously bound themselves to save Thornborough harmless and to stand between Neale and him, so that he might enjoy the plantation.⁸² The freemen also voted that they could not find that Calvert had ever given Thornborough a horse which he had promised him. Mrs. Brent, as Governor Calvert's administratrix, had sued⁸³ Thomas Gerard for 5359 pounds of tobacco on December 2, 1647, and a jury had awarded a verdict of 1994 pounds and costs 174 pounds. She assigned the judgment to Edward Parker and he demanded satisfaction from Gerard's attorney, who was the sheriff, Hatch. The House ordered Hatch to give Parker three bills due Gerard, amounting to 2232 pounds of tobacco, Parker being responsible for the 64 pounds "overplus."

After this Mrs. Brent, as attorney for the Proprietary, asked that her cause might be tried by the House against

⁸⁰ 1 Md. Arch., Ass., 220.

⁸¹ 1 Md. Arch., Ass., 221. 4 Md. Arch., Prov. Ct., 325, 330, 335, 365.

⁸² 1 Md. Arch., Ass., 221, 223. 4 Md. Arch., Prov. Ct., 343, 347, 355, 368.

⁸³ 4 Md. Arch., Prov. Ct., 348, 349, 351-352, 372. 1 Md. Arch., Ass., 225. Gerard married Susanna, sister of Justinian Snow. Neill's Founders, p. 97.

Gerard for five thousand pounds of tobacco for "violently and contemptuously" transporting out of the Province six hogsheads of tobacco without paying or giving security to pay the customs, thus breaking the Provincial statute.⁸⁴ On December 13 she had brought her suit in the Provincial Court, and now certain members, speaking in Gerard's behalf, had the case postponed, as there was no proof that he had received notice of the former proceedings and as he had no attorney present. I find no further disposition of the case.

William Eddis sued the administrator of Thomas Weston for clothes, etc., due for his service, and was granted three hundred and thirty-seven pounds of tobacco.⁸⁵ Captain William Stone sued the same estate for a debt of £135 and interest for twenty-two years. The administrator denied that interest was due and the Assembly agreed with him; but it gave judgment for the principal and awarded execution upon the lands, as the personal estate was not sufficient, unless in two months the Virginia administrator should bring in his account.

The House tried in vain to bargain with the scouts or rangers,⁸⁶ but its committee of six selected to allow accounts and appoint the assessments made grants against St. Mary's County for bringing word touching the Susquehannocks and for apprehending and imprisoning five Indians who were suspected of felony. The St. Mary's men objected, but the Governor overruled their objection. The charge of the session against St. Mary's amounted in all to 7752

⁸⁴ 1 Md. Arch., Ass., 225. 4 Md. Arch., Prov. Ct., 355. The act must have been the one passed on January 2, 1646-1647. Query, was the case settled by the transaction noted (4 Md. Arch., Prov. Ct., 428)?

⁸⁵ 1 Md. Arch., Ass., 228, 230. Tobacco at 1½d. per pound. To this claim of Stone's there are references in 4 Md. Arch., Prov. Ct., 376, 482, 486, 489, 511. 10 Md. Arch., Prov. Ct., 4.

⁸⁶ 1 Md. Arch., Ass., 227, 228, 230-232. Part of Vaughan's allowance was charged against St. Mary's in March. The committee declined to make the assessment until October, as they could not then make a true estimate of the number of people now planting. Kent seems to have paid 1702 pounds. 4 Md. Arch., Prov. Ct., 406, 426, 428.

pounds, which was divided by the freemen of the county at the house of the Governor on June 14 among the tithables at fifty-five pounds a head, showing one hundred and forty-one such inhabitants.

MINOR MATTERS IN 1648.

On April 5, 1648, we find¹ that the Governor had no Councilor present to hold Provincial Court with him, and so "ordered that all causes should be tried by a jury of twelve men," but on the next day he appointed William Bretton judge of the court in a cause and Bretton adjudged for the plaintiff. At this time most complicated claims for the ownership of a "blackish brown pyed cow" and of a "black pyed heifer" were adjudicated,² another claim of a "brownish pyed heifer," taken up from among several wild cattle, was instituted,³ and in later courts viewers were appointed to inspect the animal, and she was declared by a jury to belong to the defendant. In all these cases fraudulent alteration of the ear-marks was alleged. Among these suits for cattle are scattered suits for wages,⁴ for killing a boar,⁵ for detinue of a canoe,⁶ for five years' service due by indenture,⁷ and for transporting unlawfully from St. Mary's to Kent a pestle, two persons, and the estate of a third person which lay under execution.⁸ Apparently the plaintiff in the last suit, George Manners, sheriff of St. Mary's, lost his case in regard to the pestle, but won as to the transportation of the two men, for which act Cummins was fined in November. The defendant, Edward Cummins, at once brought countersuit for slander, as Manners charged that he had stolen the pestle, and Cummins obtained a verdict

¹ 4 Md. Arch., Prov. Ct., 379.

² 4 Md. Arch., Prov. Ct., 379-384; cf. 385, 388.

³ 4 Md. Arch., Prov. Ct., 383, 384, 416, 431. 10 Md. Arch., Prov. Ct., 41.

⁴ 4 Md. Arch., Prov. Ct., 384.

⁵ 4 Md. Arch., Prov. Ct., 387.

⁶ 4 Md. Arch., Prov. Ct., 385.

⁷ 4 Md. Arch., Prov. Ct., 385.

⁸ 4 Md. Arch., Prov. Ct., 385.

for three hundred pounds of tobacco.⁹ Manners was ordered to ask forgiveness in open court. Cummins himself was a man of intemperate speech and had to apologize to Francis Brooke for calling him perjured.¹⁰ As soon as Manners's suit against Cummins was concluded, Mrs. Brent, as "His Lordship's Attorney," brought one against Cummins for taking persons and goods out of the sheriff's hands and for "uttering words of great contempt" against the Governor and the "authority of the government."¹¹ Manners testified that he forewarned Cummins, being sent unto him by the Governor, not to carry away these persons, and Cummins answered, "How durst the Governor send such word to forewarn me, for I shall obey no such order, for there is no law in the Province and I will carry them away." Brent and Greene were sitting in court, and Brent "censured the defendant to be fined" for both these offences, in which censure Greene agreed.

There was no judge of testamentary causes in the Province,¹² and the Provincial Court had no power to grant letters of administration, so that when John Thimbleby came before it on May 2, 1648, with the will of Peter Makarell,¹³ the court ordered him to collect the estate, have it appraised, and bring in an inventory and account whensoever he was called by the judge of testamentary causes. Tales were current in May, 1648, that the enemies were "actually on foot intending to invade" the Province. Because of this danger and the inconvenience of weakening any of the settlements by calling men to serve on a jury,¹⁴ Greene by proclamation on the twenty-second of May dis-

⁹ 4 Md. Arch., Prov. Ct., 402, 430, 431, 450.

¹⁰ 4 Md. Arch., Prov. Ct., 434, 438.

¹¹ 4 Md. Arch., Prov. Ct., 434, 436 (Greene paid 1000 pounds of tobacco, or one half of what the court gave judgment for, on the charge of carrying the men away, and Mrs. Brent gave him a receipt in full satisfaction), 437, 438.

¹² Baldwin Calendar. Will of Francis Cox is entered on January 26, 1647-1648. 4 Md. Arch., Prov. Ct., 369, 385-387. On p. 400, account of Thos. Weston's administrator was filed in July, 1648, and the will had been filed March 6, 1646-1647. When Governor Stone came, we find he asked accounting; *op cit.*, 466.

¹³ Baldwin's Calendar.

¹⁴ 3 Md. Arch., Coun., 195.

pensed with the June court, postponing all cases until October.

GREENE ON KENT ISLAND.

In the middle of June Greene went to Kent Island and held court there,¹ with Thomas Matthews as clerk. Cummins was in frequent trouble during this term of court. He and Thomas Bradnox proved that they had not damaged Francis Brooke² by driving his cattle "out of his own ground;" but Cummins was ordered to pay a debt³ for which Brooke sued him and was not allowed to give his oath in "wager of law," as Captain Robert Vaughan, the commander of Kent, testified that Cummins had "formerly taken a rash oath in the court before him" concerning an account.⁴ Other suits concerned the killing of a young steer by Thomas Bradnox and of a "fair sow" by Edward Hudson, both animals being the property of Captain Brent.⁵ In one of these cases John Goneere committed perjury, and was adjudged to be "nailed by both ears to the pillory with three nails in each ear and the nails to be slit out and afterwards to be whipped with 20 good lashes. And this to be executed, immediately, before any other business of court be proceeded upon."⁶ On the next day Henry Morgan, the sheriff, complained⁷ that Thomas Munday presented a gun against him and struck him, when Morgan went to arrest him. The court ordered Munday "to be tied to a post and with a good pohicory wand to have 40 good stripes

¹ 4 Md. Arch., Prov. Ct., 390. Greene stayed on the Island into July and held court at Vaughan's, Cummin's and Henry Morgan's houses.

² 4 Md. Arch., Prov. Ct., 390, 393. Cummins is also sued for slanderously calling Roger Baxter a perjured rogue (p. 392). John Dandy claimed but failed to prove that Cummins had taken some of his goods in the time of the troubles of the Province; pp. 396, 397, 450.

³ Cummins appealed to the Provincial court in December and filed depositions that he had paid the bill. 4 Md. Arch., Prov. Ct., 448, 452.

⁴ In a second suit in November, 1648, Cummins was again forbidden to "make oath." 4 Md. Arch., Prov. Ct., 440, 451.

⁵ 4 Md. Arch., Prov. Ct., 391, 396-398, 413, 433.

⁶ 4 Md. Arch., Prov. Ct., 393.

⁷ 4 Md. Arch., Prov. Ct., 395.

about the shoulders." An attachment on the goods of a non-resident was filed.⁸ Suits were brought for service and wages⁹ and for unlawfully detaining a canoe; gifts and bequests of cattle were recorded,¹⁰ and steps were taken to prevent the stealing of Indians out of Maryland for sale in Virginia.¹¹ Brent recovered¹² from Vaughan a cow, which had been part of Claiborne's herd and which Brent had taken from Cox in 1644. Cox had taken it back in Ingle's time, and Vaughan now claimed it by "order of justice that then was upon the island," but the Governor held "those that were then present upon the Island and that did hold courts and exercise acts of judicature to be rebels and their judgment to be utterly illegal," so that Brent should have the heifer again.

EVENTS AFTER GREENE'S RETURN TO ST. MARY'S.

On Greene's return to St. Mary's a writ of *ne exeat regno* was issued,¹ a suit of detinue was brought for a gun, and security was demanded to save John Dandy from claims for transporting a man from Virginia to Maryland. Early in August, 1648, the body of Thomas Allen² was found dead upon the sands by Point Lookout in St. Michael's Manor. He had been shot under his right shoulder, and his skull was broken and scalped. Allen had dreaded two Irishmen at Piney Neck and had asked that, in the event of his death, they be questioned as suspicious persons. He left a will,³ made in April, which is deeply religious in feeling,

⁸ 4 Md. Arch., Prov. Ct., 397.

⁹ 4 Md. Arch., Prov. Ct., 396, 397.

¹⁰ 4 Md. Arch., Prov. Ct., 397, 398.

¹¹ 4 Md. Arch., Prov. Ct., 392, 399.

¹² 4 Md. Arch., Prov. Ct., 394. Vaughan also claimed that Leonard Calvert gave him the cow. On June 30 Brent gave two cows to Cox's two children; p. 401.

¹ 4 Md. Arch., Prov. Ct., 400. On August 25 Copley complained that Hallowes had occasioned his servant to absent himself (p. 406).

² Baldwin Calendar; 4 Md. Arch., Prov. Ct., 403.

³ 4 Md. Arch., Prov. Ct., 423. The inventory amounted to 5393 pounds tobacco. No judge of testamentary causes yet in Maryland. Thomas Payne's will was brought into court on April 8, 1648 (pp. 406, 408). Inventory of Nicholas Harvey's estate is brought into court in September; p. 410. Baldwin's Calendar. 4 Md. Arch., Prov. Ct., 404.

and in it he bequeaths all his property to his three sons equally. His sons were all minors, and he directs that they do not live with any Papist, nor shall the younger boys be sold for "slaves or mortar boys." Guardians are named and friends are suggested with whom each of the lads may be placed, as they "would use him well and not set him to the mortar." Apparently his murderer was never found. Allen's sons fell into the Indians' hands, and the General Assembly showed itself niggardly in regard to their release,⁴ but Lieutenant Richard Banks on September 15, 1650, agreed to redeem one of the sons "without any consideration of servitude or any other consideration whatsoever but his free love and affection."⁵ William Marshall, in the same year, agreed to redeem the younger boy, "the child to be at liberty to live with him" or any other whom he "shall best like of without any tie or restraint of servitude."⁶

There were other signs that Indians were troublesome, and five Patuxent Indians were arrested and tried by jury in September⁷ for stealing hogs and other "goods." The proof was slight and the Indians were acquitted. In the same month George Manners⁸ complained against Edward Hall for letting his hogs into Manners's corn field, so that they spoiled his corn, pease, and pumpkin vines. A number of suits⁹ bring echoes of the late rebellion, and show how much confusion it made in the Province. Mrs. Brent sued¹⁰ one Knight for his acts upon Kent Island and, in December, recovered a judgment against him. Thomas Bushrode sued¹¹ Brent in October as security for a debt owed by

⁴ 1 Md. Arch., Ass., 297.

⁵ 10 Md. Arch., Prov. Ct., 31.

⁶ 10 Md. Arch., Prov. Ct., 51, 68.

⁷ 4 Md. Arch., Prov. Ct., 406, 408, 409.

⁸ At the same time William Styles sued Manners for unjustly detaining from him his indenture of service, though he had fully satisfied it. 4 Md. Arch., Prov. Ct., 411, 412.

⁹ A suit for a bull. 4 Md. Arch., Prov. Ct., 422, 427, 429, 435, 436, 445, 462.

¹⁰ 4 Md. Arch., Prov. Ct., 417, 454.

¹¹ 4 Md. Arch., Prov. Ct., 413, 418, 453. Gerard testified that 20 per cent. should be allowed for transport of tobacco.

Lewger for the penalty due by bond. Brent answered that he was being carried unjustly into England as a prisoner on the day when the debt was due, and so could not make tender of the amount in Maryland. Bushrode did not demand the debt in Maryland from Lewger, though he lived in the Province over a year, and, contrary to right, had Brent arrested in Virginia and put to expense. Young John Lewger also stated that the bill was dischargeable by placing bills in Nathaniel Pope's hands, which had been done by his father. The jury held that the forfeiture was void and, deducting what Brent had paid in Virginia, gave judgment for the remainder in December.¹²

Mrs. Brent in October, on behalf of the Proprietary, asked that "stoppage be made of a cow and her increase now in possession of Thomas Copley and claimed by William Hardich [Hardwick] and intended to be transported out of the Province by him, as his Lordship has an interest in all uncertain titles." Hardwick had sued¹³ Captain Price for the value of sack furnished Leonard Calvert's troops in 1646, and the jury brought in a verdict for the defendant. On the next day¹⁴ Hardwick asked the court to traverse the jury, as they were not unanimous, and on examination it transpired that William Styles, a jurymen, did not agree with the rest and said "No," in a low voice, when the Governor asked if they were agreed. Few heard him and he did not "move any further tarryance." The court held that Styles¹⁵ acted through ignorance and not malice, and thereafter should be disabled to be of a jury; when his turn came he must hire another, nominated by the sheriff, in his room. The court held that it would not grant Hardwick's petition for a new trial at present, but

¹² Brent, on October 5, 1648, sued Edmund Lemin for having slandered him at Cummins's house on Kent Island. 4 Md. Arch., Prov. Ct., 419.

¹³ 4 Md. Arch., Prov. Ct., 420.

¹⁴ 4 Md. Arch., Prov. Ct., 414, 420. An assignment of land for a servant is recorded; *op. cit.*, 424.

¹⁵ Ralph Beane sues out a writ *ne exeat regno* against Styles in October. 4 Md. Arch., Prov. Ct., 427.

would further consider the matter. Hardwick then sued Styles for "unnecessary damage and charge."

The ownership of cattle often came into question; two men claimed a bull,¹⁶ two others a cow,¹⁷ Brent sued Hardwick and Rawlins for taking one of his cows and was given her until they proved her theirs, the burden of making proof being put on them "because they have been heretofore manifestly convicted of taking and possessing cattle of the aforesaid Giles Brent and others injuriously." They did not prove her theirs for a time, and Brent kept the heifer until they did so.¹⁸

Robert Clark brought¹⁹ suit, at this time, against Walter Smith, with whom he was "mated in a crop of corn," which crop Smith was gathering and carrying away. Clark asked that Smith be ordered not to gather any corn but "what shall be for his own present necessary subsistence" until the division of the whole.²⁰ Smith and Clark soon brought countersuits, each claiming that the other did not fulfill his part of the contract.²¹ Commissioners were appointed to measure and divide the corn.²² A number of miscellaneous entries are found in October. Copley, with Mrs. Brent's consent, was authorized to receive the rents of certain property in the manor of East St. Mary's, and to hold them till the decision of the question as to whether the land belonged to Copley or to the Proprietary;²³ a deposition was made concerning an Indian's killing a hog, an assignment of "all my salary for keeping my ordinary" was made by Francis Van Enden.²⁴ At the November court a number of the jury were fined for non-appearance. Suits

¹⁶ 4 Md. Arch., Prov. Ct., 422, 427.

¹⁷ 4 Md. Arch., Prov. Ct., 423.

¹⁸ 4 Md. Arch., Prov. Ct., 424, 425, 428, 432, 449, 450, 485, 487, 488, 540. Similar course was taken in a suit Mrs. Brent brought for a cow she alleged to be Mrs. Eure's. 10 Md. Arch., Prov. Ct., 4, 71.

¹⁹ 4 Md. Arch., Prov. Ct., 425.

²⁰ 4 Md. Arch., Prov. Ct., 443.

²¹ 4 Md. Arch., Prov. Ct., 444, 445; Smith also asked for his writings in Clark's possession, 451, 453, 474, 498.

²² 4 Md. Arch., Prov. Ct., 426.

²³ 4 Md. Arch., Prov. Ct., 426.

²⁴ 4 Md. Arch., Prov. Ct., 429.

for debt and for failure to deliver goods, or to return the price when the article bought was not delivered, occupied much of the court's attention.²⁶ Cattle and the troubles of the rebellion were still discussed.

GREENE'S TROUBLES WITH VAUGHAN AND EVENTS IN THE
WINTER OF 1648 AND 1649.

Greene sued Vaughan, commander of the Isle of Kent, for "divers, reviling, scoffing speeches against the person" and authority of the Governor.²⁷ Among the "unworthy expressions" which Vaughan had used were the words, "the Greene Governor," uttered in a "scornful, base, manner" and tending to arouse the people to rebellion and to the lessening of the authority of that government "from which his own is derived, rather than to the upholding of it, according to his oath." Vaughan was also alleged to have uttered such "rash, upbraiding speeches" concerning the judicial decisions Greene made when he was last upon the island as, "There is no right to be had in the Province in matter of justice." Apparently the decision by which Brent was given certain cattle out of Cox's estate²⁸ was the one which chiefly disturbed Vaughan. Francis Brooke and Lieutenant William Evans deposed that Vaughan had said to them, in a "most reviling and base manner," that Brent "must needs recover them, for whatsoever Capt. Brent claimeth as his, our Greene Governor presently adjudgeth to him, without further proving. There is neither right nor justice to be had here and, therefore, I am going to Virginia, where I make no doubt but to recover those cattle again." On December 9, however, before the trial of the case,²⁹ Vaughan petitioned to have the action withdrawn, humbly confessing his falsely reviling the Governor, and asking pardon, which requests were at once granted.

²⁶ 4 Md. Arch., Prov. Ct., 430, 433.

²⁷ 4 Md. Arch., Prov. Ct., 439.

²⁸ 4 Md. Arch., Prov. Ct., 440, 449.

²⁹ 4 Md. Arch., Prov. Ct., 459.

Because of these difficulties Greene had removed⁴ Vaughan as commander of Kent, giving Henry Morgan, the high sheriff of the county, his military powers, and Philip Connor the power to issue writs. All further power of judicature was suspended for the present, and cases between Kentishmen must be determined at St. Mary's. On December 2 Greene revoked⁵ this order, reappointed Vaughan commander, and gave him Philip Connor and Nicholas Browne as commissioners. If this date is correct, Vaughan's submission⁶ had also been made by that time. It is stated that he was involved in a dispute with the commissioners of the county court at this time and asked their forgiveness also.

Among the court business of November already noted we find a warrant for the seizure of the person and property of John Gresham of Kent Island,⁷ a rebel who had not taken advantage of the acts of amnesty, and a number of suits⁸ against John Hallows brought by John Walton's creditors⁹ for transporting Walton out of the Province. Bargains and sales of swine and cows and trespass in killing dogs were also the subjects of suits.¹⁰

The first December case throws an interesting light upon customs of the time, being a complaint that Captain Edward Hill had failed to fulfill a contract to deliver two Indian boys whom a man had bought from him.¹¹ For perjury, on December 4, Blanche Howell¹² was compelled to "stand nailed in the pillory and to lose both her ears." The record grimly continues, "This to be executed before any other

⁴ 3 Md. Arch., Coun., 197.

⁵ 3 Md. Arch., Coun., 198.

⁶ Davis's Day-Star, 191, from Fragment of Kent County Records. For a sketch of Vaughan, see Davis. He was removed from office in 1653 by Bennett, after Stone had in 1652 deprived him of the extensive power to grant land warrants conferred on him in 1648. He left a son, William, and a daughter, Mary, who married Major James Ringgold.

⁷ 4 Md. Arch., Prov. Ct., 441.

⁸ 4 Md. Arch., Prov. Ct., 442, 443, 446, 453, 472, 474.

⁹ 4 Md. Arch., Prov. Ct., 441, 451.

¹⁰ 4 Md. Arch., Prov. Ct., 443, 444.

¹¹ 4 Md. Arch., Prov. Ct., 444.

¹² Formerly Oliver; 4 Md. Arch., Prov. Ct., 445.

business in court be proceeded upon . . . and was executed." The estate of Thomas Allen came into court in two cases of some importance, in one of which the man "who is accounted and esteemed as administrator" was directed to allow a servant, whose term had expired, the equipment in accordance with the custom of the country;¹³ in the other he was directed to pay a debt to the attorney of a mariner,¹⁴ since the debt was with valuable consideration, though the bill was not made, in words, "payable to any attorney or assignee." Walter Gwest demanded¹⁵ tobacco from Anthony Rawlins for "undertaking and affecting business for him," and Rawlins replied that he had given him an axe for his services "in being my attorney against Mr. Fenwick." This is one of the first suits for a lawyer's fee. The grand jury was summoned to hear an accusation of felony¹⁶ against Thomas Bradnox of Kent, who, forgetting that he had been pardoned his rebellion, some time during the past summer had killed and eaten at his house a two-year-old steer, doubtless from Baltimore's herd.¹⁷ Only one witness testified,¹⁸ however, and there was some question as to his understanding of an oath. Even in his testimony there was little to fix the killing of the beast upon Bradnox, so the latter was acquitted.¹⁹ Mrs. Bradnox asked out²⁰ of the estate of William Cox a "cow calf, whereby his hand was occasioned to be hurt," which calf he gave to her "for her pains in endeavoring the cure of his hand;" and she asked from the estate of Mrs. Cox a

¹³ 4 Md. Arch., Prov. Ct., 447, 456, 470. The custom of the country allowed the servant to receive at the expiration of his term a "cap or hat, one new cloth or frieze suit, one shirt, one pair shoes and stockings, one axe, one broad and one narrow hoe and three barrels of corn."

¹⁴ 4 Md. Arch., Prov. Ct., 445.

¹⁵ 4 Md. Arch., Prov. Ct., 446, 465.

¹⁶ 4 Md. Arch., Prov. Ct., 444.

¹⁷ 4 Md. Arch., Prov. Ct., 437. Brent had warranted two old female cattle to Bradnox in June.

¹⁸ 4 Md. Arch., Prov. Ct., 444, 445, 447. Wm. Tompson also warranted a cow to Walter Wallerton in December, 1648.

¹⁹ 4 Md. Arch., Prov. Ct., 448.

²⁰ 4 Md. Arch., Prov. Ct., 446.

yearling heifer, which she gave Mrs. Bradnox for "curing her child's mouth and tending her in her last illness."²¹ Vaughan had Cox's estate and was summoned to appear in January,²² but, as he could not come then, the case was respite until March. Vaughan, in return, brought suit against Bradnox for his conduct during the rebellion.²³ At this December court of 1648 Mrs. Brent induced²⁴ the court to rule that the forfeitures of tenements belonging to rebels within Leonard Calvert's manors should fall to him, by virtue of English law and the Conditions of Plantation. Our litigious acquaintance, Cummins, brought suit for a gun and for divers debts,²⁵ Van Enden sued for his tavern bills,²⁶ Nicholas Gwyther had the estate of a man attached to repay him a sum he had been forced to pay as surety,²⁷ payment of various debts was demanded,²⁸ the account of the administrator of Robert Tuttey was filed,²⁹ and ear-marks for cattle were recorded.³⁰ Two men, who were the greatest creditors of the estate of William Smithfield, who was drowned upon the ice in Bretton's Bay, were appointed to receive and collect his estate, and gave bond therefor.³¹ At the very end of the year Greene had recorded³² the indenture between him and a woman servant.³³

²¹ 4 Md. Arch., Prov. Ct., 471.

²² 4 Md. Arch., Prov. Ct., 478. Baldwin's Calendar names additional estates (Thomas Hebden, William Thomson, Thomas Arnold and Henry Hooper), which came before the court from 1648 to 1649.

²³ 4 Md. Arch., Prov. Ct., 460.

²⁴ 4 Md. Arch., Prov. Ct., 457, 460, where there is an inquiry about killing cattle and hogs of John Abbott's estate which had escheated to the Proprietary. 2 Bozman, 345, doubts the legality of this extrajudicial opinion, and points out that in England such forfeitures went to the King and to the Lord of the Manor.

²⁵ 4 Md. Arch., Prov. Ct., 459.

²⁶ 4 Md. Arch., Prov. Ct., 467.

²⁷ 4 Md. Arch., Prov. Ct., 459.

²⁸ 4 Md. Arch., Prov. Ct., 457.

²⁹ 4 Md. Arch., Prov. Ct., 461. There was as yet no one in the Province with power to grant letters of administration.

³⁰ 4 Md. Arch., Prov. Ct., 462.

³¹ 4 Md. Arch., Prov. Ct., 463. Inventory on p. 466.

³² 4 Md. Arch., Prov. Ct., 464. On February 8, 1648-1649 (p. 469), Manners testified that he had bought a maid-servant from Abraham Johnson of Kent Island for the use of Captain Stone, and that Gov-

At the January court there was not much business beyond a few questions concerning service,³⁴ and on January 8 Greene adjourned the court until February 5.³⁵ A suit was instituted in January to recover money won in playing ninepins, and in June the court finally decided to give the plaintiff no relief.³⁶ Deeds of lands and of cows and powers of attorney are recorded in the midst of suits for private debts, in February and March.³⁷ Though Copley was out of the Province,³⁸ the protection given to him by the King as a recusant in 1635 is recorded.³⁹ Father Fisher, with Father Lawrence Starkey, came from Europe to Virginia during this winter and reached the latter country on January 7, after a tolerable journey of seven weeks. Father Starkey staid there, but Fisher arrived in Maryland in February,⁴⁰ so that the Jesuit mission at St. Inigoes was reëstablished. Father Fisher writes to his superior shortly after his return to the Province that the Indians summon him to their aid and have not been ill treated since he was torn from them. He has been for a fortnight with his flock but cannot do all that is needed. "Truly flowers appear in our land: may they attain to fruit. A road by land through the forest, has just been opened from Maryland to Virginia; this will make it but a 2 days' journey and both countries can now be united in one mission." "By the singular Providence of God, I found my flock collected together after they had been scattered for 3 long years;

ernor Greene now had the maid. He also demanded a year's service from Edward Hudson of Kent.

³³ In March a most curious partnership agreement is recorded, by which (4 Md. Arch., Prov. Ct., 479) Walter Peaks and John Slingsby agreed for five years to have all their property together and then to divide it equally. In the mean time each child is to have a cow calf, and Mrs. Peaks is to have her wearing clothes and her child's and one bed furnished her.

³⁴ 4 Md. Arch., Prov. Ct., 456, 465, 472.

³⁵ 4 Md. Arch., Prov. Ct., 466.

³⁶ 4 Md. Arch., Prov. Ct., 465, 470, 491.

³⁷ Mrs. Brent is granted respite until the next court in a suit, because she was not lawfully summoned three days before the court according to the court's custom. 4 Md. Arch., Prov. Ct., 481.

³⁸ 4 Md. Arch., Prov. Ct., 473.

³⁹ 4 Md. Arch., Prov. Ct., 479.

⁴⁰ Neill, Founders, 104. 3 U. S. Cath. Mag., 36.

and they were really in more flourishing circumstances than those who had opposed and plundered them; with what joy they received me and with what delight I met them, it would be impossible to describe, but they received me as an angel of God."⁴¹

WILLIAM STONE'S COMMISSION AS GOVERNOR.

At Bath, where Lord Baltimore was residing, he issued a commission to William Stone as Governor,¹ on August 6, 1648. The commission was not used by Stone until March and may not have been received in Maryland until then. With it came a commission to Greene, Captain John Price,

⁴¹ B. U. Campbell, *Historical Sketch of the Early Christian Missions among the Indians of Maryland*, I *Western Cont.*, 13 (March 28, 1846). 12 *Am. Hist. Rev.*, 584, contains early Jesuit documents.

¹ 4 *Md. Arch.*, *Prov. Ct.*, 515. William Stone (3 *Va. Mag.*, 272) was born in England in 1603, came to Virginia before he was thirty years of age, and was forty-five when made Governor of Maryland. In 1635 he was a vestryman in Accomac County and in 1646 was sheriff of Northampton County, with Thomas Hatton, afterwards secretary of the Province of Maryland, as his under-sheriff. Job Chandler, who afterwards served in the Maryland Council, then lived in Northampton County, and Captain Wm. Hawley, Jerome's brother, had resided there two years before (Neill, *Va. Carolorum*, 413, 416; 18 *Md. Hist. Soc. Fund Pubs.*, 179). Wm. Stone, a nephew of Thomas Stone, haberdasher of London, came from Northampton County, Va., and brought in (Neill, *Terra Mariae*, 118; *N. E. H. G. Reg.*, July, 1895) six persons with him. It has been suggested that the Puritan settlers from Nansemond may have been the five hundred he promised to bring in. Davis, on rather slight evidence, thinks he came from Northamptonshire, England. He was a brother-in-law of the Rev. Francis Doughty, a non-conformist clergyman who lived in New York and later probably in Maryland with his daughter Mary, the wife of Hugh O'Neal of Patuxent. Stone's family tradition states that he was granted as much land as he could ride around in a day, and thus acquired his manor, Avon, on the Nanjemoy River in Charles County. He is said to have been twice married and once to a Roman Catholic. He died about 1660, according to another account about 1695. Among his descendants have been: Thomas Stone, a signer of the Declaration of Independence; John Hawkins Stone, Governor of Maryland in 1794; Michael Jenifer Stone, a member of the Convention of Maryland which ratified the Federal Constitution; the Rt. Rev. Wm. Murray Stone, Protestant Episcopal Bishop of Maryland; and Hon. Frederick Stone, Judge of the Maryland Court of Appeals. (See also Davis's *Day-Star*, 175.)

Thomas Hatton² (who was to be the secretary), John Pile,³ and Robert Vaughan to be the Council,⁴ Greene being the only one who had served before. Lewger seems to have returned to England; Brent, Gerard, and Neale were omitted for some cause. The form of an oath⁵ was sent over which must be taken by each one before he could exercise any of the functions of the office. Stone, or his deputy, must always be at Council⁶ meetings, and he was given the casting vote in case of a tie, and the right to nominate a successor and to add two or three "able and faithful" persons to the Council during the next twelve months. As Ingle had carried off the great seal, Baltimore formally protested against any document sealed therewith⁷ since it fell into Ingle's hands, and sent over a new seal to be kept by Stone.

John Price had shown "great fidelity" in the rebellion and had a knowledge of military affairs, so he was made muster master general to train the settlers in arms.⁸ Vaughan was recommissioned as commander of Kent because of his faithfulness in Ingle's time, and was authorized to select any six Kentishmen for his council.⁹ Hatton was

² Thomas Hatton (see Davis's *Day-Star*, 200), came in 1648 with his wife, two sons, John and Robert, and three white servants, and brought over his deceased brother Richard's family in the following year. He was killed in 1655 in the Battle of the Severn.

³ Davis's *Day-Star*, 186, says he was probably a native of Wiltshire.

⁴ 3 *Md. Arch., Coun.*, 211. 2 *Bozman*, 337, calls our attention to the fact that here for the first time the Governor is not named as of the Council, except to advise with them.

⁵ 3 *Md. Arch., Coun.*, 213. 2 *Bozman*, 337, notes that the oath contains the clause ensuring religious liberty. Most of the commissions were dated on August 12.

⁶ 3 *Md. Arch., Coun.*, 208. See *Evolution of a Colonial Governor* in 89 *Macmillan's Magazine*, 44.

⁷ Alice Thornton's *Autobiography*. In the *Surtees Society Pubs.*, vol. 62, p. 348, is a curious story that on the day before the execution of Charles I she saw Baltimore with other Papists and fanatics who tried to get the King to acknowledge he was at fault, in which event they promised to save his life.

⁸ 3 *Md. Arch., Coun.*, 215. He was to have as ample fees as were allowed in Virginia, which colony often served as Maryland's model. 2 *Bozman*, 339.

⁹ 3 *Md. Arch., Coun.*, 216. The oath he took is given. Previously the commander of Kent had been appointed by the Governor. 2 *Bozman*, 339.

made secretary, with care not only of the official papers of the Governor and Council, but also of land grants and of the probate of wills. Robert Clark¹⁰ was appointed surveyor general, succeeding Langford, and was given the same fees as were paid in Virginia.¹¹ New Conditions of Plantation were also sent,¹² the earlier ones being revoked, and the benefits of the Conditions were extended not only to the British and Irish, but also to settlers of French, Dutch, and Italian birth. No escheated land, nor any one of Baltimore's manors, was permitted to be granted without his especial warrant. The new Conditions of Plantation stated that the oath of fidelity to Baltimore, in the form specified, must be taken before any grant would be delivered to any "adventurer." We shall see that this oath of fidelity was destined to cause grave discontent.¹³ There had been no new Conditions for over six years. In the new Conditions of 1648 an attempt was made to make the manors permanent by providing that one sixth of each manor should be called the demesne and never alienated, separated, or leased from the royalties. Provision was also made for the seizure of land by Baltimore if the owner did not keep it peopled. Servants, at the end of three years, were to be accounted planters and held entitled to grants of land. Corporations, societies, fraternities, guilds, and bodies politic were not allowed to hold land in their own name, or that of any other person, without special license first given them, and any other person might be also especially excepted from the right to hold land. Land might not be given or sold by any planter to any corporation, or to any one in trust for such corporation, or for uses forbidden by the statutes of mortmain, without a similar special license.¹⁴

¹⁰ Davis's Day-Star, 195. He lost his property in the Puritan troubles and died in 1664. His wife was Jane, widow of Nicholas Causin, and he had children, John, Robert, Thomas and Mary.

¹¹ 3 Md. Arch., Coun., 219.

¹² 3 Md. Arch., Coun., 221. Dated June 20.

¹³ 3 Md. Arch., Coun., 224. Kilty, p. 39.

¹⁴ This would conciliate Lewger, who was not reappointed as secretary (18 Fund Pubs., 114).

The application for a grant of lands must be made within a year of the time it was earned. "Because all secret trusts are usually intended to deceive the government, or some other persons, and by experience are found to occasion many suits and dissensions, no adventurer" may take a grant in trust for any other, unless the purpose be expressed in the grant. In this manner the Proprietary guarded himself against the Jesuits.

Stone removed to Maryland from Northampton County, Va., and was made Governor chiefly because he had "undertaken, in a short time, to procure 500 people of British or Irish descent to come from other places and plant and reside" in the Province.¹⁵ He was a Protestant, as were all his Council but Greene and Pile. He was given the usual gubernatorial powers, except that he could not appoint Councilors or such other officers as Baltimore appointed, nor could he assent to the repeal of any law, nor to the passage of any law for the establishment or alteration of any office, nor to the imposition of any fine or forfeiture, except for Baltimore's benefit; nor could he act in matters of religion, constitution of parishes, payment of tithes, oaths to be taken by the people, treasons, matter of judicature, or that which might in any way infringe the Proprietary's "rights, prerogatives, or royal jurisdictions and dominion," without a special warrant, under Baltimore's hand and seal, first obtained, published to the General Assembly and kept among its records. All laws passed by the General Assembly should henceforth be perpetual. Stone's pardoning power was also limited by excepting from it Claiborne, Ingle, and John Durford, and any other person whom Baltimore might exempt from pardon.

The oath of office for the Governor¹⁶ included clauses that he would not "molest or discountenance" for his religion

¹⁵ 2 Bozman, 333. 3 Md. Arch., Coun., 202. 13 Va. Mag., 315. Stone was a vestryman of Hungar's church, Northampton County, Va., in 1635.

¹⁶ 3 Md. Arch., Coun., 210. 18 Md. Hist. Soc. Fund Pubs., 114. This oath and the toleration act are to be construed together. These clauses had not been found in previous official oaths.

any person "professing to believe in Jesus Christ and, in particular no Roman Catholic," if he were neither unfaithful to Baltimore, nor conspiring against the civil government established here; that he would not make a difference of persons, in conferring office or favors, because of religion, but would regard "the advancement of his Lordship's service here and the public unity and good of the Province without partiality;" and that if any other person in the Province, during Stone's term of office, should molest any Christian for his religion, he would apply his power to protect the person so molested and punish the person troubling him.

THE ASSEMBLY OF 1649.

On April 2, 1649, the General Assembly met.¹ Whether it was an adjourned session or a new Assembly we do not know, for the proceedings of all but the last day are lost. Stone presided as his Lordship's Lieutenant Governor, and Hatton, the new secretary, recorded that he received the "Book of Entries" at the beginning of the session. The Assembly probably met in two houses,² and Bozman thinks that the new organization of the government may have been inaugurated on the first day of the Assembly. The session lasted until April 21, when the Governor dissolved the House. The assessment of charges of the Assembly shows that Kent County was to pay a sixth part of the charges.³ The levy for St. Mary's, of which all but Greene approved, was to be made by two freemen from every hundred of the county in October. Bretton, who probably acted as clerk of the Assembly, on April 16 in the House delivered Hatton

¹ 3 Md. Arch., Coun., 229. Davis's Day-Star, pp. 40, ff. discusses this Assembly. The date of meeting was April 13, New Style. He says that Colonel John Price of the Council, a Protestant, and John Mannsell of the Lower House, a Roman Catholic, "were in the habit of making a signet mark," and queries whether they could write.

² 2 Bozman, 348. Bacon's laws. Davis's Day-Star, p. 140, gives good reason to believe that the Assembly sat in two houses, and suggests that Fenwick, who received an extra allowance, may have been speaker.

³ 1 Md. Arch., Ass., 237, 238.

two more imperfect record books and some loose papers, all the records of the Province.⁴ Besides this we know nothing of the proceedings of this, the most famous of Maryland's Provincial Assemblies, save what is to be learned from the laws it passed and from letters,⁵ one sent Lord Baltimore and signed by all the Councilors and burgesses present on the last day of the session, and the other written by Baltimore to Stone on August 26, 1649. From these we learn that Hatton carried with him to Maryland a body of sixteen laws, to which Baltimore had affixed his great seal and which he wished proposed to the Assembly for their consent.⁶ He also, by the commission to the Governor and Council, signed and sealed by him on August 12, 1648, declared his assent⁷ to these laws, which "are so just and reasonable" that Stone, by letter dated February 20, 1649, declared they ought "upon due consideration" to be "well liked of by well affected men." If the sixteen laws should all be passed, then Baltimore "declared his disassent" unto all laws heretofore passed, except the attainder of Claiborne.⁸ The Assembly's letter recited the miseries and calamities of the Province, especially under Ingle's "plundering time," referred to the services of Baltimore's friends, and defended Mrs. Brent, whom the Proprietary had blamed for meddling with his estate. She "deserved favor and thanks rather than bitter invective." The members next expressed surprise that Baltimore censured them for protesting against the laws of Leonard Calvert's last Assembly, and defended that protest. They also expressed surprise that objection was made to their taking a few cows from the Proprietary's stock and distributing them, in accord with Leonard Calvert's promise, among those men "who had ventured and hazarded their fortunes, lives, and estates in the defence, recovery, and preservation" of the Prov-

⁴ 3 Md. Arch., Coun., 230.

⁵ 1 Md. Arch., Ass., 238, 262.

⁶ 3 Md. Arch., Coun., 220.

⁷ The assent was only in case the laws were enacted within twelve months. 3 Md. Arch., Coun., 221.

⁸ 3 Md. Arch., Coun., 221.

ince.⁹ They objected to the new and "strait conditions of Plantation," making the place "desolate of spiritual comfort," and to the heavy exactions the Proprietary wished to make upon them, who had already paid sixty thousand pounds of tobacco for the recovery and defense of Maryland, a sum more than all the recovered estates would have brought at auction. They were loyal to the Proprietary and believed that the misunderstandings arose largely because of their distance from him. The people were at present too illiterate and void of understanding and comprehension to give a mature and wise discussion of the laws Baltimore sent over, and, after reading them over and debating them, they found them "long and tedious," containing clauses that, in prudence, they could not as yet with safety adopt for perpetual laws. They needed much more time for debate upon them and the crop was pressing. Baltimore had directed that none of these laws should be "recorded by us and enacted by the Lieutenant General" unless the whole body were received without alteration, but some parts should be altered. Therefore the Assembly had not meddled with his body of laws at all, but had reflected on such things as might give Baltimore most satisfaction and comply with his purposes,¹⁰ which they understood to be four, viz., (1) "That the country may be preserved with

⁹ 2 Bozman, 360. The Assembly wrote, asking how Baltimore could suppose it "fit and necessary that those your loyal friends should be deprived by law of their dues for so great a service done and effected by them," and how he could ask that they should be required to pay "themselves a levy upon themselves," meaning probably, that on these soldiers, now become citizens, would fall part of the tax. Baltimore, in his reply of August 20, 1649, states that a general assessment is the only just way of paying public dues, and that soldiers must expect to pay their part thereof. 1 Md. Arch., Ass., 270.

¹⁰ 18 Fund Pubs., 117, calls attention to the facts that of the twelve acts passed by the Assembly he vetoed three, and that two of the nine he approved were acts relating to the marking of hogs and planting of corn, which Baltimore clearly did not send over, so that the remaining seven must have been among the sixteen laws, viz: concerning religion, against counterfeiting the great seal, against sedition, against purchasing lands from the Indians, against fugitives, against kidnapping Indians, and against laying a tax on tobacco exported.

peace and defended and governed with justice;" (2) "that some competent support may be raised" to Baltimore; (3) that a "stock of cattle may be raised again" for the Proprietary; and (4) that all should be satisfied who had concurred to the regaining and conserving of our country. To accomplish these ends, they first chose from Baltimore's laws those which seemed "most conducing to confirm a long desired and settled peace among us," and they then added such others of their own as they considered "most necessary and best suitable" to present conditions.¹¹

They had passed a law for the support of the Proprietary which granted him for seven years a custom of ten shillings on every hogshhead of tobacco laden on any Dutch vessel to be exported to any port not his Majesty's,¹² provided that half this revenue were paid toward satisfying just claims touching the late recovery of Maryland. This shows how the Dutch were absorbing the carrying trade, which absorption led to the navigation act of 1651. In the next two years there should be raised for Baltimore a bull and sixteen cows, in consideration of his former stock of cattle having been distributed and disposed of toward the defense of the Province.¹³ This grant was conditioned upon the Proprietary's ratifying, within the two years, the disposition already made of his estate toward the satisfaction of the soldiers and of other charges for the recovery of Maryland. This refers of course to the carrying out of the promises alleged to have been made by Leonard Calvert. Little of Baltimore's personal estate had been lost since the Rebellion. The safety of the Province then hung "upon so ticklish a pin" that, unless such disposition had been made, "the

¹¹ 1 Md. Arch., Ass., 241, 252. 2 Bozman, 362.

¹² This act is proof that no news of the death of Charles I had reached the Province.

¹³ They claim that this is one third more than the stock numbered before; 1 Md. Arch., Ass., 242. In order to prevent trouble concerning the cattle distributed to the soldiers, the Assembly enacted that no cattle which belonged to Baltimore's estate at Calvert's death should be transported out of the counties, or have their owners changed, until the Proprietary's pleasure were known. 1 Md. Arch., Ass., 253.

absolute ruin and subversion of the whole Province, inevitably, would have followed."

On April 29, 1650, Stone, Greene, Captain John Price, John Pile, Hatton, Vaughan, Robert Clark, Fenwick,¹⁴ Bretton,¹⁵ and George Manners¹⁶ signed a statement which was confirmed by the Assembly that they, as members of the Assembly of 1649, meant by the words, "touching the late recovery and defense of the Province," that the act should satisfy only the claims of "the soldiers who came up in person with Governor Calvert, deceased, out of Virginia and those other, who were hired into the fort of St. Ingoes', for the defence and preservation of the Province and other just arrears incurred during that time in the said fort."¹⁷ This list of signers is the only list of names of members of this Assembly known to me. The committee on the levy has the additional names of Richard Banks,¹⁸

¹⁴ A sketch of Fenwick's life is given in Davis's *Day-Star*, 207. He died about the year 1655, his will being dated March 6, 1654-1655. In it he gives legacies to Fathers Starkey and Fitzherbert. He married twice. By his first wife, whose name is unknown, he had Thomas, who died young, Cuthbert, Ignatius, and Teresa. In 1649 he married Jane, widow of Robert Moryson of Kecoughtan, *i. e.*, Hampton, Va., the sister of William Eltonhead. She died in 1660, leaving issue Robert, Richard, and John. Davis gives extensive extracts from her will, showing that she had negro and Indian servants. One negro slave was to be free as long as he paid a hog's-head yearly to the church and continued a member of it. If he left the communion he should become the church's slave forever. The family has always been numerous and prominent in Maryland. Among its members have been: Ignatius Fenwick, who sat in the Provincial Convention of 1776, Athanasius and James, who sat in the Senate of Maryland, Enoch, President of Georgetown College, Edward, Roman Catholic Bishop of Cincinnati, and Benedict, Roman Catholic Bishop of Boston. Many have been priests.

¹⁵ William Bretton (Davis, *Day-Star*, 224) came to Maryland with his wife Mary, daughter of Thomas Nabbs, about 1637. He founded a Roman Catholic Chapel in 1662 which was maintained by devout men of Newtown and St. Clement's hundreds. About 1651 he married Mrs. Temperance Jay, and had a son and a daughter.

¹⁶ George Manners (Davis, *Day-Star*, 231), died in 1651, leaving sons, William and Edward, and daughter, Barbara, and giving a red cow calf to the church.

¹⁷ *I Md. Arch., Ass.*, 299.

¹⁸ Captain Richard Banks came in 1646 and married Margaret Hatton, the widow of the secretary's brother (Davis, *Day-Star*, 233).

Philip Connor,¹⁹ Richard Brown,²⁰ Walter Pakes or Peake.²¹ Mr. Thomas Thornborough²² and John Mannsell²³ were paid for twenty-one days' attendance. Davis²⁴ assumes that we have, in these sixteen names, all of the members of the Assembly, and that seven were of the Council, viz., Stone, Greene, Price, Pile, Clark, Hatton and Vaughan, the last named being the only one from Kent. Philip Connor was the only Kentish burgess. Davis states that Greene, Pile and Clarke, of the Council, and Fenwick, Bretton, Manners, Mannsell, Peake and probably Thornborough of the burgesses were Roman Catholics, but the question as to the religion of the members loses its importance when we remember that the famous toleration act which they passed took its initiative from the Proprietary's act.

The Assembly asked that Baltimore's requests be made "with as little swearing as conveniently may be," for "an occasion is given to much perjury, when swearing becometh common." "Oaths little prevail on men of little conscience." Further they insisted that all accusations of disloyalty against William Thomson,²⁵ "your Lordship's old servant," were false, and they asked that Baltimore send "no more such Bodies of laws, which serve to little or no other end than to fill our heads with suspicious jealousies and dislikes

¹⁹ Philip Connor (Davis's Day-Star, 220) came to Maryland about 1645, was not removed from his commissionership when the Puritan commissioners visited Kent Island, and later became commander of the county. He died about 1660, leaving a large estate. He had a son, Philip.

²⁰ Davis's Day-Star, 229, cannot identify Richard Brown.

²¹ Walter Peaks came about 1646, resided in Newtown hundred, married Frances ———, and left children, Peter, Mary, and Margaret. He was born in 1609, and was hanged in 1668 for the murder of William Price while he was drunk. *1 Md. Arch., Ass., 237.*

²² Thomas Thornborough (Davis's Day-Star, 242) appeared in the Province in 1642.

²³ John Mannsell came to Maryland as early as 1637 (Davis's Day-Star, 237), and was one of the smaller planters. He died intestate about 1660, leaving a son John.

²⁴ Day-Star, 134.

²⁵ He was a Roman Catholic. *1 Md. Arch., Ass., 243.* Neill, *Terra Mariae*, 78, thinks that this was the Puritan clergyman, later of Braintree, Mass., who is described in Mather's *Magnalia*, but Baldwin's Calendar shows that he died in the next January in Md.

of that which verily we understand not." "Rather we shall desire your Lordship to some short heads of what is desired." If such are sent, they will give him "all just satisfaction." The Assembly's letter has well been styled²⁶ "for the most part respectful, wise, temperate, and just." Baltimore's conduct in replying seems to have been shortsighted and tactless, as was much of the English dealing with the colonies. In his answer, dated August 26, 1649,²⁷ he charged the failure to adopt his sixteen acts to "subtile suggestions" of some who should have assisted in promoting a good correspondence, rather than have raised "jealousies, or discontents between us and the people." He stated that he was informed that the chief exceptions against the laws were the words, "Absolute Lord and Proprietary," the title given by the charter. The words, "royal jurisdiction," were "stumbled at" in the act for recognition of the charter and in the oath of fidelity. It was a bad time to force such words on the men of Maryland, when the mother country was Commonwealth, not Kingdom.

In the same answer Baltimore stated that Leonard Calvert had no right to dispose of his brother's personal estate without the consent of Lewger, which consent was never given, and that Calvert's acts were done with the expectation of making up again out of the customs what was disbursed out of the Proprietary's estate, and so the law of 1646-7 was passed. But after Calvert's death, not only a "pretence of an illegal engagement of his" was used to despoil Baltimore, but also the payment of the three customs was rejected by the Assembly.²⁸ One feels that the Proprietary has some right to complain, but his way of doing so is not such as would win an opponent.

Twelve acts were passed at this session, and all of them, save two marked expired, were confirmed by Baltimore's declaration²⁹ through Philip Calvert in August, 1650. The

²⁶ 2 Bozman, 367.

²⁷ 1 Md. Arch., Ass., 262-272. 2 Bozman, 366.

²⁸ 1 Md. Arch., Ass., 268.

²⁹ 1 Md. Arch., Ass., 244.

two that expired related to the better securing of the Province against the Indian enemy in 1649, and provided for the smith or armorer. This⁸⁰ tradesman should take specialty of creditors, and this being shown at the secretary's office on denial of payment, he should have execution granted at once with judgment. This law was to secure the smith's pay for preparing arms for unexpected occasions. By the other law it was enacted that on the last three days of every month from April to September during 1649 the freemen of each hundred should meet at a place selected by their militia commander, who was appointed by the Governor, and there, in folkmoot, should make such plans as they judged meet for the defense of the hundred during the next month. Every one must make due provision of arms and ammunition and must not stir from his plantation unarmed, even to go to church. The law determined how alarms should be given.

The Assembly reenacted⁸¹ the provision that every taxable person planting tobacco must plant two acres of corn, imposed a penalty on the stealing of hogs, and directed each man to bring in and have recorded his marks of hogs and other animals. All these acts, which we have considered hitherto, had probably their origin in the Assembly.

The acts imposing severe punishment for counterfeiting the Proprietary's great seal,⁸² for declaring void any purchases of lands from the Indians without taking out grants from Baltimore, and for the punishment of "seditious speeches and practices"⁸³ without force and rebellious practices with force" against the Proprietary were probably taken from the sixteen laws sent out from England. These speeches, etc., included such as "tended to divert the obedience of the people from the Lord Proprietary," and included also the "publishing, establishing, or advancing of

⁸⁰ 1 Md. Arch., Ass., 253, 255. 2 Bozman, 365.

⁸¹ 1 Md. Arch., Ass., 251. 2 Bozman, 359.

⁸² 1 Md. Arch., Ass., 247-249. A new great seal had just been sent to Maryland. 2 Bozman, 356. See C. C. Hall's Great Seal of Md., 23 Md. Hist. Soc., Fund Pubs., and his article in 2 Md. Hist. Mag., 47.

⁸³ 1 Md. Arch., Ass., 249, 250. 2 Bozman, 357.

any other right or title to the propriety or dominion of this Province" than Lord Baltimore's. We have left for the end three laws whose origin is uncertain. One of these punished fugitives, indentured servants, and fugitive debtors, and such as should help them to escape.³⁴ The second forbade the kidnapping and sale out of Maryland of any friendly Indian, or the delivering of arms or ammunition to any Indian, without special license from the Governor. The third of these laws and the one which heads the statute book for this session is the famous act "concerning religion."

THE ACT CONCERNING RELIGION.

This famous act, which crystallized into words of law what had been the policy of Baltimore and his officers from the first settlement, was probably sent over in part among the sixteen laws and added to by the Assembly before they enacted¹ it. There was no idea of the separation of church and state, but merely of toleration of all kinds of Christians. The preamble states that "in a well governed and Christian commonwealth, matters concerning religion and the honor of God ought in the first place to be taken into consideration and endeavored to be settled."² The act seems to have been made up of two bills welded together, as a second preamble occurs in the middle of the act and the tone of the second part is far more liberal than that of the former one. The second part also contains phrases identical with those found in the Governor's oath³ sent over to Stone with the sixteen acts. These considerations make it practically certain that the credit for the passage of the act belongs rather to the Proprietary than to any part of the colonists, whose credit is rather that they followed the initiative of the shrewd

³⁴ 1 Md. Arch., Ass., 249. Andrew Ousamazinah, Fenwick's servant, excepted. 2 Bozman, 358.

¹ Baltimore on August 16, 1649 (1 Md. Arch., Ass., 263), wrote that in one of his sixteen acts there was a provision for "freedom of conscience." C. C. Hall has made the best analysis of the law, which I largely follow. Lords Baltimore, Lecture III.

² 1 Md. Arch., Ass., 244. 2 Bozman, 350.

³ 3 Md. Arch., Coun., 210.

and tolerant-minded Baltimore. Comparing this act with the conduct of Roman Catholic and Protestant at the time, in Europe, in Canada, in New England, and in Virginia, we gain an idea of how far Baltimore was in advance of his age when he caused religious freedom to be established in the Province. Hall has caught⁴ the true meaning of Baltimore's policy and writes: "We see in this the act, not of an apostle of truth or of one who stood as the exponent of a principle hitherto unthought of, but rather that of a man who was governed by a broad spirit of fairness and liberality, by a far-sighted statesmanship and who, as the work of his life and his dealing with his Province amply show, having accepted and adopted a principle far in advance of the spirit of his age, adhered to it unswervingly, enforced it impartially." Charles, third Lord Baltimore, was the eldest son, and as Governor of Maryland during the latter part of Cecilius's life may best have known his father's views. In answering queries of the Lords of the Committee of Trade and Plantations as to the religious condition of the inhabitants, he said he thought such census would be unwise,⁵ and added, "That, at the first peopling of this Province by my father, albeit he had an absolute liberty given to him and his heirs to carry thither any persons out of any of the dominions that belonged to the crown of England, who should be found willing to go thither, yet, when he came to make use of this liberty, he found very few who were inclined to go and seat themselves in those

⁴Lords Baltimore, 90. B. T. Johnson, 18 Fund Pubs., 147, thought that Father More, English Provincial of the Jesuits, might have drafted the bill. See Remsen's Address at the Unveiling of the Blashfield Mural Painting in the Courthouse of Baltimore City.

⁵5 Md. Arch., Coun., 267. G. Petrie's Church and State in Early Md., 10 J. H. U. Studies. 22 Cath. World, 299. R. H. Clark in Mr. Gladstone and Md. Toleration. Cardinal Manning, Vatican Decrees in their Bearing on Civil Allegiance, p. 88 (N. Y. ed.). W. H. Gladstone, Vaticanism, p. 96; "The measure was really defensive; and its main and very legitimate purpose plainly was to secure the free exercise of the Roman Catholic religion." 1 Bancroft, U. S., Ch. VII. Gladstone (Preface 8), Rome and the Newest Fashions in Religion. 10 Am. Cath. Quar. Rev., 659, Md. and the Controversies as to her Early History, by John G. Shea.

parts, but such as, for some reason or other, could not live with ease in other places and of these, a great part were such as could not conform in all particulars to the several laws of England relating to religion. Many there were of this sort of people, who declared their willingness, to go and plant themselves in this Province, so as they might have a general toleration settled there by a law, by which all of all sorts, who professed Christianity in general, might be at liberty to worship God, in such manner as was most agreeable to their respective judgments and consciences, without being subject to any penalties whatsoever for their so doing, provided the civil peace were preserved. And that for the securing the civil peace and preventing all heats and feuds, which were generally observed to happen amongst such as differ in opinions, upon occasion of reproachful nicknames and reflecting upon each other's opinions, it might, by the same law, be made penal to give any offence in that kind.⁶ These were the conditions proposed by such as were willing to go and be the first Planters of this Province, and, without the complying with these conditions, in all probability, this Province had never been planted. To these conditions, my father agreed and, accordingly, soon after the first planting of this Province, these conditions, by the unanimous consent of all who were concerned, were passed into a law."

This law begins negatively, decreeing death and forfeiture of property as the penalty for blasphemy of God or denial of the Trinity.⁷ "Reproachful" speeches concerning "the blessed Virgin Mary, the Mother of our Saviour,⁸ or the holy apostles, or evangelists," shall be pun-

⁶ Johnson in 18 Md. Hist. Soc. Fund Pubs., 126, disproves Gladstone's statement that the Colonial Act was "an echo" of any events in England.

⁷ Yet Jews lived peacefully in the Province.

⁸ Notice that no other saints are referred to. Langford's *Just and Clear Refutation of Babylon's Fall* tells the story that in a Parliamentary committee some one threw out this reference to the Virgin as an objection to Baltimore, whereupon another said, "Doth not the Scripture say that all generations shall call her blessed?" and the committee said no more. 2 Bozman, 352.

ished by a fine of £5, or whipping and imprisonment during pleasure of the Proprietary if the culprit be unable to pay, for the first offense; by £10 fine, or whipping and imprisonment, for the second offense, and by forfeiture of all property and perpetual banishment for the third offense.

The third section provides that any person who shall, in reproachful manner on occasion of offense, call any one, permanently or temporarily within the Province, "heretic, schismatic, idolator, puritan, independent, presbyterian, popish priest, jesuit, jesuited papist, Lutheran, Calvinist, anabaptist, Brownist, antinomian, Barrowist, round head, separatist, or any other name . . . relating to matters of religion shall pay 10 shillings, half of which shall go to the one taunted." If the offender cannot pay, he shall be whipped and imprisoned until he satisfy the injured party by asking public forgiveness before the magistrate. It is probable that this was never enforced.

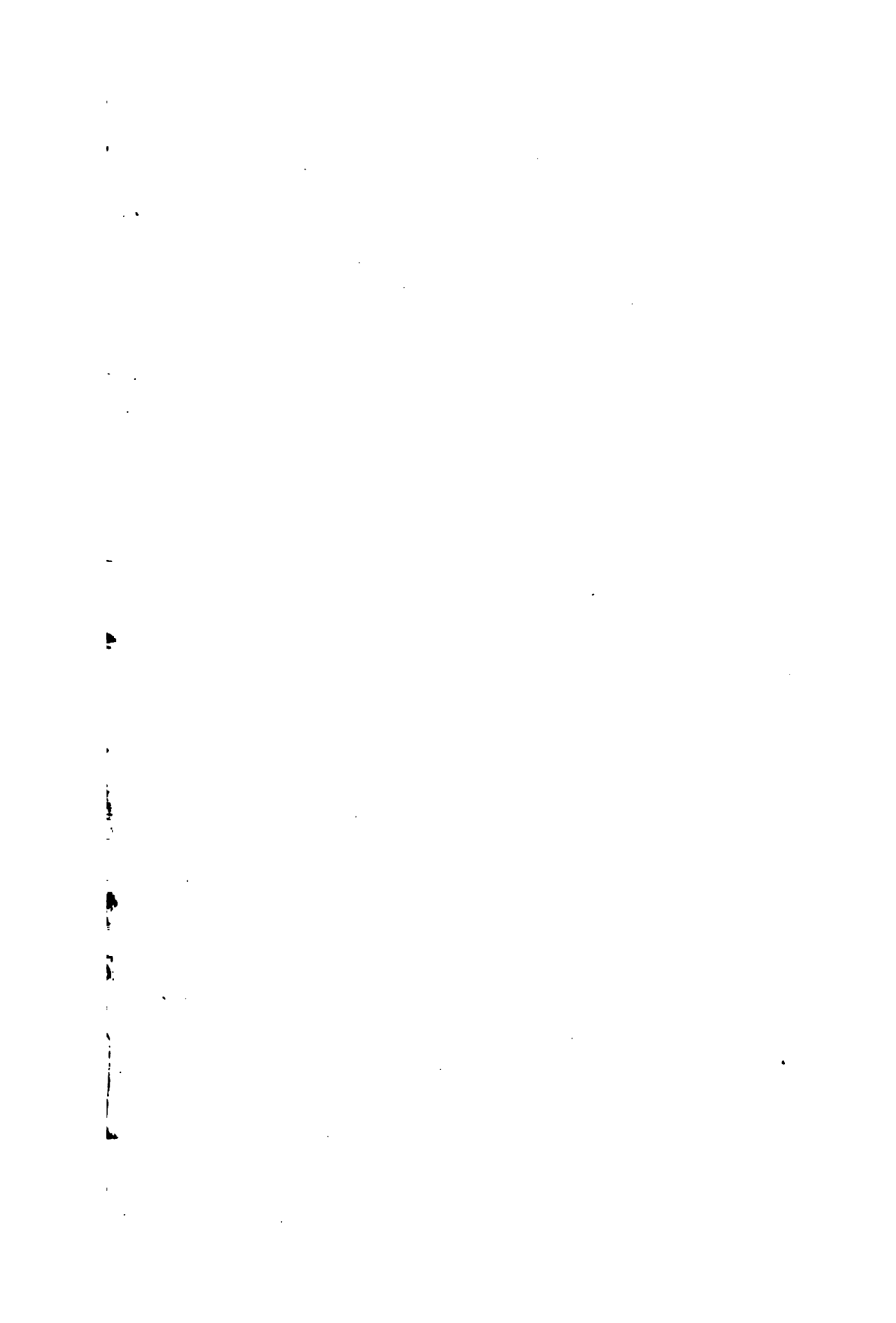
The act next provides punishment for one who profanes the "Sabbath or Lord's Day, called Sunday, by frequent swearing, drunkenness, or by any uncivil or disorderly recreation, or by working on that day when absolute necessity doth not require it." He shall be fined two shillings and sixpence for the first offense; five shillings and tenpence for the third, or imprisoned for the first and second offenses and whipped for each succeeding one, if unable to pay. This clause shows Puritan leanings, and because of its use of the word Sabbath for Sunday, and not for Saturday, has been thought to have been added or amended by the Assembly.⁹

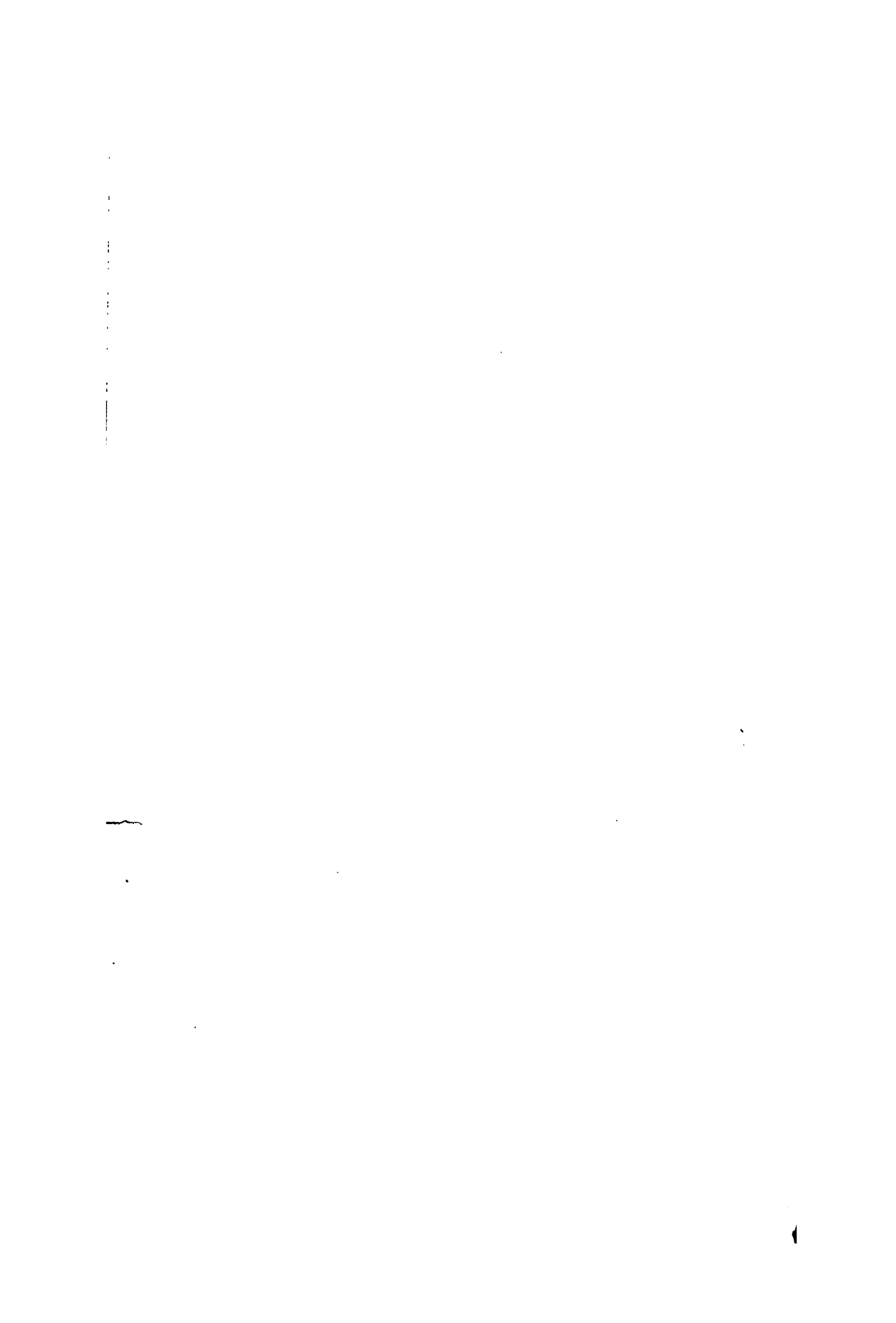
Here ends the first part of the act. The second preamble states that "the enforcing of the conscience in matters of religion hath frequently fallen out to be of dangerous consequence in those commonwealths where it hath been practiced," and that quiet and peaceable government of the Province and "mutual love and amity" among the people are most to be desired. Therefore no person in Maryland

⁹ 2 Bozman, 353. Hall, 77; cf. 1 Md. Arch., Ass., 261.

“professing to believe in Jesus Christ shall, henceforth, be any ways troubled, molested or discountenanced” for his religion, or in the exercise of it, nor shall he be compelled to believe any other religion against his consent. Only he must be faithful to the Proprietary. If any person does molest another Christian for his religion, he must pay him treble damages, and for each offense forfeit twenty shillings, half of which shall go to the injured party, or be punished by whipping and imprisonment during the pleasure of the Proprietary if he cannot pay. Finally, the sheriff is authorized to distrain and seize the goods of any offender against the act. Such are the provisions of the act¹⁰—narrow as compared with our position today, wonderfully broad for the seventeenth century. With this enactment we may well close our study of Maryland during the English Civil Wars. The contention between the Puritans and the Lord Proprietary during the next decade forms another chapter in the history of the Province.

¹⁰ Brantly, in 3 Winsor's *Nar. and Crit. Hist. of Am.*, 534, calls this act “the first law securing religious liberty that ever passed a legally constituted legislature.” See also 37 *New Englander*, 742 (1878), *Reconstruction of the History of the Early R. C. Legislation in Maryland*, with regard to religious freedom.





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