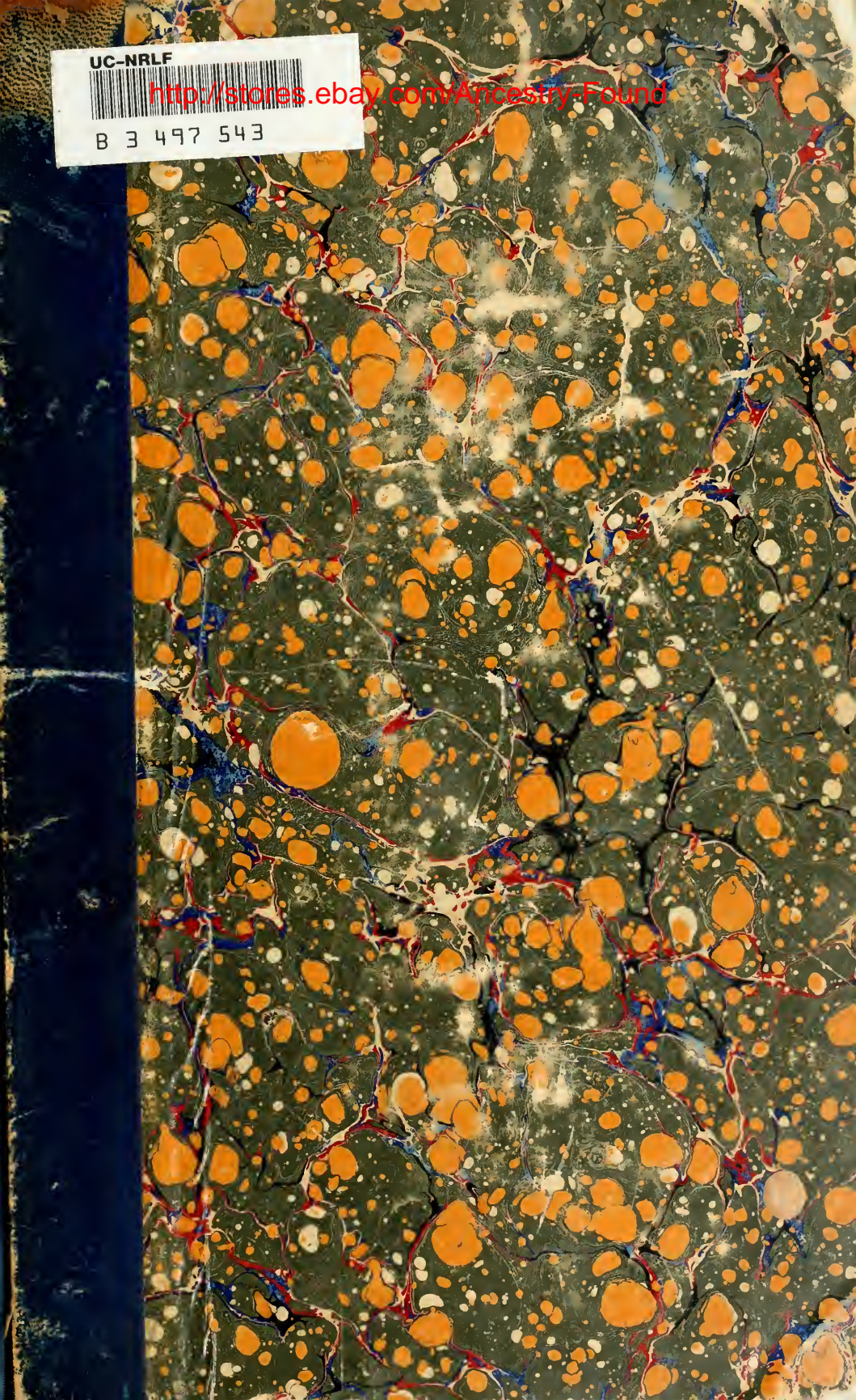


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PAPERS

RELATING TO THE

Early History of Maryland:



BY

SEBASTIAN F. STREETER,

LATE RECORDING SECRETARY OF THE MARYLAND HISTORICAL SOCIETY.

Baltimore, January, 1876.



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Second - Publication, No. 9.

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BALTIMORE, JANUARY, 1876.

P R E F A C E.

THE Tracts composing this Publication were prepared by the late SEBASTIAN F. STREETER, for many years the Recording Secretary of the Maryland Historical Society. Through the courtesy of his widow, they are published by that Society under the supervision of its Committee of Publication. It is possible that, if Mr. Streeter had lived, his indefatigable zeal and industry might have filled some of the gaps in the biographical notices, and have detected inadvertencies in his composition which he would have desired to correct; but the Committee have thought it due to him, and best in all respects, to print the papers as they were left by him at his death, and they have taken no other liberty with his work than that of adding a few notes by way of explanation.

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THE FIRST ASSEMBLY.

BY the Charter of Maryland, the Proprietary was empowered, "for the good and happy government of the Province, to ordain, make, and enact laws, whether pertaining to the public state of the Province or the private utility of individuals, by and with the advice, assent, and approbation of the freemen or the greater part of them or of their delegates or deputies," who were to be called together by him for the framing of laws, when and as often as need should require, and in such form as to him should seem most expedient.

Whether, in the instructions which Leonard Calvert undoubtedly brought with him, for his guidance in the administration of the government, there was any authority for assembling the colonists at a proper period, to consider such laws as might be suitable to their condition, cannot now be ascertained; since those instructions, as well as the greater part of the papers illustrative of the first steps of the enterprise, are no longer extant. There is reason for believing, however, that no

such power was then conferred.⁽¹⁾ On the 4th of September, 1634, a new set of instructions was transmitted by the Proprietary to his brother and the Commissioners who aided him in the management of the Colony, of which the eighth article only remains, in which they were directed to seize and imprison Capt. Claiborne, if he still continued his opposition, on the ground of his stirring up the Indians against them,⁽²⁾ and to take possession of his plantation on the Isle of Kent, if possible. Among the other articles, there may have been one, authorizing Leonard Calvert to call an Assembly, whenever he might deem it expedient, but this cannot be asserted on any existing authority.

For nearly a year after their arrival, the colonists were too busily engaged in establishing themselves in their new homes, in embellishing the wigwams, relinquished to them by the Indians, building log-houses, erecting a fort, clearing the land, preparing for a harvest, conciliating the natives, and attending to other matters connected

(1) I draw the inference from the fact, that the Assembly which was held in February, 1635, was certainly unacceptable to his Lordship; as he refused his assent to its proceedings; and his subsequent course showed that he thought it proper for them to await his authority to hold a session, and then, to act only upon such laws as he should prepare, and transmit for their consideration. This was evidently not the case with the first Assembly.

(2) This charge, as may be seen by a reference to the examination of the Chief of the Patuxents, was false, if the savage's own testimony is to be taken.

with their actual subsistence and personal comforts, to think much of the abstractions of the law, or the necessity of adopting a civil and criminal code for their guidance and government. But a community, even of but two hundred persons, composed of elements so miscellaneous, could hardly continue long together, without being reminded by the misconduct of the wayward, and the positive offences of the vicious, that some other restraints would be needed among them, more stringent and severe than the reproofing force of public opinion. Accordingly, we find, that, on the 26th of February, 1635, just eleven months after they had taken formal possession of their new territory, the colonists were called together in general Assembly. Of their proceedings at this interesting session, the first, in fact, held in Maryland, not a line of regular record remains; and had it not been for a casual reference to one of its acts, contained in a bill passed by a subsequent Assembly, we should never have known that such a session had been held.

From the bill referred to, we learn, that, "by an Act of generall Assemblie, held at St. Maries, on the six and twentieth day of February, 1634,⁽¹⁾ among other wholesome lawes and ordinances then made and provided for the welfare of the Province, it was enacted, that the offenders, in all murthers

(1) 1635, New Style.

and felonies should suffer such paines, losses, and forfeitures, as they should or ought to have suffered in the like crimes in England." This is all the account we are now able to give of the proceedings of that which was actually the first Assembly held in Maryland.

The acts passed at this Assembly were duly transmitted to his Lordship in England, for his consideration and approval, and must have been received by him about the middle of April; but, though in the highest degree unacceptable to him, either in their origin or matter, he appears to have allowed two years to pass by, before positively expressing his disapprobation and disassent or veto, and making an effort to supply, in such manner and form as he deemed most proper, a code of laws for the government of his Colony and to supply their place. During the intervening time, it is probable that the colonists were governed by the code which they had themselves formed, and which they would naturally take for their guidance until the disassent of the Proprietary was distinctly and formally expressed.

By the 15th of April, 1637, Lord Baltimore had completed his arrangements for re-organizing the government of the Province, and prepared a commission, in which the powers of his brother as Governor and Lieutenant General, were detailed and defined, and John Lewger, an old friend and

classmate, and a convert from Protestantism to Catholicism, was appointed Secretary. This commission contained a clause, authorizing the Governor to assemble the freemen or their deputies at St. Mary's, upon the five and twentieth day of January next ensuing, and then and there to signify to them his disassent to all the laws by them heretofore, or at any time made within the Province, and to declare them void; and further, to shew them the draught of said laws or ordinances for the good government of the Province, as he should, before that time, transmit to his Lieutenant; with his assent to their enactment, and authority to publish them under the great seal, in case the freemen or their [deputies, in Assembly, should approve of the code proposed. He likewise conferred on his brother power to adjourn and dissolve the Assembly to be called, and to call when, and as often as he should think fit, and to dissolve other Assemblies, and to propound and prepare other wholesome laws and ordinances for the government and well ordering of the people, to be assented to and confirmed by himself, if on view and mature consideration thereof, he should find them deserving of approval. The proceedings of the Assembly, called by Leonard Calvert in consequence of this authorization, I propose to give, precisely as they stand on the original record, with such explanatory notes

as may serve to illustrate and explain the proceedings. Though not, in truth, the first Assembly held in Maryland, it is the first of which we have a detailed account; and is the only document by which we can be introduced to the whole body of freemen, then forming that little community, or can become acquainted with the difficulties which they experienced in establishing themselves, and the spirit in which they began to lay the corner stones of their civil, social, and legal structure.

Mr. Lewger, the newly appointed Secretary, was most probably the bearer of the commission, in which the Governor was instructed to hold a session of the General Assembly, and, with his family, arrived at St. Mary's, on the 28th of November, 1637. By the close of the next month, publication of the intended meeting had been made, and all the freemen of the Province invited, either personally, or through their representatives, legally chosen, to be present at, and to participate in the deliberations of the Assembly. Some attempt at civil divisions had already been made. The thirty miles of territory which they had, at their first landing, bought of the natives, had been called Augusta Carolina; but it did not long retain that designation. All the settlements were regarded as forming the County of St. Mary's; and different localities, as they became sufficiently populous to entitle them to

the dignity, were designated *hundreds*. St. Mary's Hundred, therefore, included the dwellings and plantations within the limits and in the vicinity of the town; St. George's Hundred, took in the settlers who had established themselves on the west bank of the river of the same name; Mattapanient, was the name of a settlement, not yet numerous, on the Patuxent river, and not styled a hundred; and Kent Island had been but recently reduced to subjection, and placed under the government of Capt. George Evelin, as its Commander. To him was addressed the following warrant, which will serve to shew that the full privilege of freemen, as members of the Colony, was offered to the inhabitants of Kent, as also the form of the summons, and the principle on which the Governor proposed to organize his Legislature. A special order, it will be observed, is first directed to Commander Evelin, to be personally present, without election by the freemen, but by virtue of his Lordship's summons; so that he, with others called in a similar way, might be regarded as representatives of the Proprietary, rather than the people. He was next required to call all the freemen together within a given time, and "to endeavor to persuade such and so many as he might think fit, to repair personally to the Assembly." This direction was probably given on account of the excited state of feeling

known to exist among many of the inhabitants, and the opportunity which his acquaintance with them would give, of inducing the most favorably disposed among them, to unite in the deliberations, and thus identify themselves with the Colony. To all the rest of the freemen, he was to give full power either to be present at the session themselves, or to choose as many burgesses as they pleased, to act as their representatives. The document reads as follows:

WARRANT TO CAPT. EVELIN, TOUCHING THE GENERALL
ASSEMBLY.

After my hearty commendacons, &c., whereas my deare brother the Lord Proprietarie of this Province, hath by his Commission to me directed in that behalfe, bearing date at London, in the Realme of England, the 15th day of Aprill, 1637, appointed a generall Assembly of all the freemen of this Province, to be held at this towne of St. Maries, on the five and twentieth day of January next: These are therefore in his Lordship's name to will and require you, (all excuses sett apart), to make your personall repaire to the ffort of St. Maries, on the said five and twentieth day of January, then and there to consult and advise of the affaires of this Province. And further, to will and require you, at some convenient time when you shall thinke fitt, within 6 daies after the receipt hereof, at furthest, to assemble all the freemen inhabiting within any part of your iurisdiction; and then and there to publish and proclaime the said generall Assembly; and to endeavour to perswade such and so many of the said freemen as you shall think fitt, to repaire personally to the said assembly, at the time and place prefixed; and to give free power

and liberty to all the rest of the said freemen, either to be present at the said Assembly if they please, or otherwise, to elect and nominate such and so many persons as they or the maior part of them, so assembled, shall agree upon, to be deputies or burgesses for the said freemen, in their name and steed to advise and consult of such things as shal be brought into deliberation in the said Assembly; and to enter all the severall votes or suffrages upon record; and the record thereof and of whatsoever you shall doe in any the premisses, to bring along with you, and exhibite it at the day and place prefixed, to the Secretary of the Province for the time being. And for so doing, this shalbe your warrant. Given at St. Maries this 30th day of January,⁽¹⁾ 1637.

Similar writs of summons to appear in person were doubtless directed to several other gentlemen of the Province, as well as to the freemen generally, directing them to make their personal appearance, or to elect others to act as their deputies or burgesses. If we may judge from the record, there was no disposition among the people to give to one individual the power of acting for many through a public election; yet, exercising a private choice, many of the freemen summoned, who did not find it convenient to attend, gave a "proxie" to some one of the members to act for him, so that one person in fact represented a considerable number of freemen, and the result was the same, as though all for whom he acted had united to choose him

(1) So reads the record; but it is evidently a clerical error for *December*; the entries preceeding and following it being of that date; and the Assembly besides, being called for the 25th of January.

their burgess. Thus, on the opening, of the session, besides their own votes, the Governor presented proxies for five persons; Secretary Lewger, for two; Captain Evelin, for four; William Lewis, for five; Capt. Cornwaleys, for one; and Mr. Philpott, for all the freemen of the Isle of Kent. In some cases, however, in regard both to inhabitants of the Colony and of the Island, the proxies were afterwards withdrawn, and individuals appearing in person, either took their seats as members, or transferred their proxies to other persons. The only burgesses mentioned on the record, are two from the Isle of Kent, who, singularly enough, did not make their appearance until the very last day of the session, in time to shew their willingness to unite themselves with the Marylanders, and to join with the body of the House in signing and approving the laws which had been agreed upon during the session. The presence of one of them also is a significant indication that he had made his peace with the authorities, after violent opposition; for he had been charged with the crimes of sedition and piracy, and a warrant had at one time been issued for his arrest.

With this statement of the circumstances that preceded the call of the Assembly, of the civil divisions of the Colony, and of the principles on which the members were chosen, I proceed to give

the record of their proceedings, precisely as they were entered by the hand of the Secretary, who had then but a short time held his office, and who probably then, for the first time officiated in that capacity in a legislative body. The entries are in the cramped and peculiar hand of that period, deciphered with difficulty, except by those familiar with old manuscripts, and the spelling, such as was in vogue in those days, when the form of our language was far less settled than at present. I have followed, in every particular, the orthography, though not always the contractions, of the original. The book in which the record is contained, is the oldest remaining relic of the first days of the Colony, and as such, deserves to be preserved with a religious care. It is unpagged, and I can therefore make no references to the parts where the original entries may be found.

No state house had at that time been erected, nor was it indeed, until after some years, that the Colony was able to purchase a building for the purpose, and even then, a portion of it was leased out as an ordinary or tavern. In this respect, however, her neighbor, Virginia, was no better off; for, several years after this date, the legislators of that Colony complained that they had "too long made their laws in an ale house!" It was probably in the fort, that the members convened, and there on Thursday, the 25th of January, commenced the proceedings, the records of which follow.

THE GENERALL ASSEMBLY HELD AT ST. MARIE'S,

And began on the 25th day of January, 1637.⁽¹⁾

THE ACTS OF THE FIRST DAY.

The Lieutenant Generall taking his place; came and appeared personally

Capt: Thomas Cornwaleys Esq., one of the Counsell of this Province.

Capt: Robert Wintour Esq., one of the Counsell of this Province.

Mr John Lewger, gent., Secretary, and one of the Counsell of this Province.

Capt. Robert⁽²⁾ Evelin, gent., Commander of the Ile of Kent.

Mr Thomas Greene, gent.

Mr William Bretton, gent.

Capt Henry Fleete, gent.

Mr Robert Philpott, one of the Counsell of the Ile of Kent, gent.

Mr William Brainthwaite, gent.

Mr John Wyatt, gent.

Mr Robert Clerke, gent.

Richard Garnett, senior, of Mattapanient, planter.

Justinian Snow, of St Marie's hundred, planter.

Marmaduke Snow, of St. Marie's hundred, planter.

Francis Rabnett, of the same hundred, planter.

Serg't Robert Vaughan, high Constable of St George's hundred.

James Baldrige, Sheriff of St. Marie's County.

Francis Gray, of St Marie's hundred, planter.

James Cauther, of St Marie's hundred, planter.

(1) 1638, New Style.

(2) This is a mistake for "George." Robert was the name of his father and also of his younger brother.

William Lewis, of St Marie's hundred, planter.
 Thomas Franklin, of St Marie's hundred, planter.
 Thomas Nabbs, of St George's hundred, planter.
 Serg't Thomas Baldrige, of St Marie's hundred, planter.
 Edward Fleete, of St Marie's hundred, planter.
 Robert Percy, Marshall.
 John Price, of St Marie's hundred, planter.
 Thomas Morrison, of St. George's hundred, planter.
 Thomas Stent, of St George's hundred, planter.

After, were summoned to appeare by vertue of writts to them directed :

Mr Thomas Cop- ley Esq.	} of St Marie's hun- dred. gent: of the same hundred	{ Robert Clerke gent. appeared for them, and excused their absence by reason of sickness.
Mr Andrew White		
Mr John Altham		

Joseph Edlow Anum Benum	} of Mattapanient, planters. the Lieutenant generall exhibited his proxie for them severally.
Nicholas Hervey	
William Broughe	

Randall Revell, of St George's hundred, cooper.	the Lieutenant g'n'rall exhib- ited his proxie for him.
--	--

The freemen of the Ile of Kent.	Mr Robert Philpott aforesaid, exhibited his proxie for them.
------------------------------------	---

Roger Moy ; of St George's hundred	} planters {	{ Serg't Robert Vaugh- an, aforesaid, exhib- ited his proxie for them severally.
John Wortly ; of St George's hundred		
Robt Nicholls; of St Marie's hundred		

James Courtney Davie Wickliff Ralph Beane Thomas Charington	} of St George's hundred, planters.	{ Captaine Robert Evelin exhibited his proxie for them severally.

Henry Lee of St George's hundred, planter,	}	John Lewger, Secretary, exhibited his proxie for them severally.
John Norton, of St. Marie's hundred, planter		

John Halfthead, of St Marie's hundred, brickmason.	Justinian Snow exhibited his proxie for him.
--	--

Robert Wiseman	} of St Marie's hundred, planters.	{ William Lewis exhibited his proxie for them severally.
Davie Oderoft		
William Edwine		
Henry James		
John Smithson		

John Hillierd	} of St Marie's hundred planters	{ Francis Rabnett exhibited his proxie for them.
Christopher Martin		
Robert Smith		

Thomas Passmore, of St Marie's hundred, carpenter.	James Cauther exhibited his proxie for him.
--	---

John Medley, of St Marie's hundred, planter.	Capt. Thomas Cornwaleys exhibited his proxie for him.
--	---

Henry Bishopp	} of Mattapanient, planters.	{ Richard Garnett, senior, exhibited his proxie for them, severally.
John Bryant		
Richard Lusthead		

Nathaniel Pope, of St Marie's hundred	} planters	{ but they made not appearance nor proxies.
Henry Weed, of St Marie's hundred,		
John Medcalfe, of St Marie's hundred,		
John Courtis, of St George's hundred		
John Davis of St Marie's hundred		
John Richardson, of St George's hundred		
Thomas Hebden, of St George's hundred		

Then was proclaymed that all freemen omitted in the writts of summons, that would clayme a voyce in this Generall Assembly, should come and make their clayme.

Whereupon clayme was made by,
John Robinson,⁽¹⁾ carpenter, and was admitted.

Then were certaine orders established by generall consent,
to be observed during the Assembly, viz.

ORDERS.

Imprimis, the Lieutenant Generall, as President of the Assembly, shall appoint and direct all things that concerne forme and decency, to be observed in the same; and shall command the observance thereof, as he shall see cause, upon paine of imprisonment or fine, as the house shall adjudge.

Item, every one that is to speake to any matter, shall stand up and be uncovered, and direct his speech to the Lieutenant Generall, as President of the Assembly. And if two or more stand up to speake together, the Lieutenant Generall shall appoint who shall speake.

Item, no man shall stand up to speake to any matter untill the partie that spake last before have sate downe, nor shall any one speake above once to one bill or matter at one reading, nor shall refute the speech of any other with any uncivill or contentious termes, nor shall name him but by some circumlocution. And if any one offend to the contrary, the Lieutenant Generall shall command him to silence.

Item, the house shall sitt every day at eight of the clock in the morning, and at two of the clock in the afternoone.

Item, the freemen assembled at any time to any number above ten persons, at the houres aforesaid, or within one houre after, shalbe a house to all purposes.

Item, every one propounding any matter to the house, shall digest it first into writing, and deliver it to the Secretary to be read unto the house.

And it was ordered by the house that these orders should be sett up in some publike place of the house, to the end all men might take notice of them.

(1) There was another John Robinson in the colony, a barber.

ACTS OF THE SECOND DAY: BEING 26TH JANUARY.

Between the houres of eight and nine in the morning.

ASSEMBLED

The Lieutenant Generall.	John Lewger	Robert Philpott
Capt. Tho: Cornwaleys	Thomas Greene	William Brainthwaite
Capt. Robt Wintour	John Wyatt	Richard Garnett
Capt. Geo. Evelin	Robert Clerke	Justinian Snow
Francis Rabnett	Thomas Francklin	Marmaduke Snow
John Robinson	James Baldridge	Robert Percy
William Lewis	Edward Fleete	Serg't Vaughan.

SUMMONED

Thomas Hebden, and Capt: Tho: Cornwaleys exhibited his proxie for him.

John Richardson, and Capt: Robt Evelin exhibited his proxie for him.

Mr Thomas Copeley	{ and Robt Clerke made answer for them that they desired to be excused from giving voices in this Assembly; and was admitted.
Mr Andrew White	
Mr John Altham	

John Preece, and Francis Rabnett exhibited his proxie for him.

Nathaniel Pope, and John Lewger, Secretary, exhibited his proxie for him.

John Medcalfe, and William Lewis exhibited his proxie for him.

SUMMONED.

Thomas Morrison	Mr Bretton	} amereed for not appearance.
Henry Weed	Capt. Fleete	
John Courtis	James Cauther	
Thomas Nabbs	Thomas Stente	
John Davis	Thomas Baldridge	

Francis Gray. { John Robinson desired in his behalfe, that his proxie might be expected till the afternoone, and was admitted.

Then came Edward Bateman,⁽¹⁾ of St. Marie's hundred, ship carpenter, and claymed a voyce as freeman, and made Mr John Lewger, Secretary, his proxie.

Likewise claymed Roger Oliver, mariner; and made Mr William Brainthwaite his proxie.

Likewise claymed Zachary Mottershead, gent;⁽²⁾ and was admitted to a vote in the house.

(1) Edward Bateman died about the 9th of April, 1638, when an inventory was made of his goods.

(2) Mr. Mottershead died soon after the close of the session, and, on the 6th of April following, James Baldrige was appointed to administer on his estate. The inventory made is worth preserving, as shewing the extent of the wardrobe and possessions of one at least of the few who, in those early days of the colony, wrote themselves, "gentlemen:"

"Inventory of goods and chattels of Zachary Mottershead, gent., late of St Maries, deceased."

Item, 2 écoates.....	100
" 3 shirts.....	60
" 4 towells and 1 pillowber.....	20
" 1 doublett, 2 pr stockings, 2 linings.....	12
" 7 bands, 2 capps, 4 pair of cuffs, 3 pr boothose and 1 handkerchiefe.....	40
" 2 brushes, 1 rule, 16 gold buttons.....	10
" 7 bookes.....	12
" 1 pr of boots and spurres.....	12
" 1 hatt and capp.....	30
" 1 gunne and 2 locks.....	60
" 1 bedd, 2 pillows and 1 rugg.....	80
" 1 wastecoate.....	8
" 1 chest.....	30
" 1 looking glasse, 1 pewter pott, 1 candlestick...	6
" 1 shirt.....	16
" 1 suite of clothes.....	20

516 lbs of tob.

Acet delivered by James Baldrige Aug. 29th 1638.

Reckoning tobacco at three pence per pound, the estate of Mr Mottershead reached the sum of £6-9sh. sterling.

Came John Langford,⁽¹⁾ of the Ile of Kent, gent. high Constable of the said Island, who had given a voice in the choice of Robert Philpott, gent. to be one of the Burgesses for the freemen of that Iland; and desired to revoke his voice, and to be personally present in the Assembly; and was admitted.

Then it was ordered that any member of the house, not appearing at the houres appointed, should be amerced 20 l. of tobacco for every such default. But, for this present meeting, such as did appear, though tardie, should be pardoned the amercement, but for the rest, who appeared not, it should stand.

Then were read out of the draught of Lawes transmitted by the Lord Proprietor, the twelve first Acts of the said draught; and were severally debated by the house.

Between the houres of two and three in the afternoone of the same day.

ASSEMBLED

The Lieutenant Generall	John Wyatt	Richard Garnett
Capt Tho: Cornwaleys	Robert Clerke	Robert Percy
Capt: Robert Wintour	Justinian Snow	
Capt: George Evelin	Marmaduke Snow	Sergt Vaughan
Mr John Lewger, Secre-		
tary	Francis Rabnett	Zachary Motters-
Mr Thomas Greene		head
Mr William Bretton	Thomas Nabbs	William Lewis
Mr Philpott	James Baldridge	
Mr Langford ⁽¹⁾	Edward Fleete	

(1) Mr Langford afterwards became Surveyor General of the Province, and was highly esteemed by the Proprietary, of whose rights, he was ever an ardent vindicator. When Leonard Strong, as agent for the people of Providence in Maryland, put forth a pamphlet in London, entitled, "Babylon's Fall in Maryland," in which he professed to give a fair account of the difficulties that had arisen in the Province, Mr Langford,

SUMMONED

John Robinson; { and Justinian Snow exhibited his proxie
for him.

William Brainthwaite { and the Lieutenant generall exhib-
Roger Oliver, mariner { ited his proxie for them severally.

John Davis { and Francis Rabnett exhibited his proxie
Thomas Stente { for them severally.

Thomas Franklin, and Edward Fleete exhibited his proxie
for him.

Thomas Gray, and Justinian Snow exhibited &c

Thomas Baldrige, and James Baldrige ex ———

James Canther amerced for not appearance.

Thomas Boys of St. Marie's hundred, mariner, claymed a
voice as freeman, and made his proxie Francis Rabnett, and
was admitted.

Thomas Morrison { and it was answered for them, that they
John Courtis { could not come for want of passage over
Capt. Fleete { St. George's river; and was admitted.

Henry Weed, { and it was answered for him, that he was
absent out of the Province in Virginia,
{ and his amercement was remitted.

Likewise the amercement was remitted to William Bret-
ton, Thomas Nabbs, John Davis, for the same reason as the
first.

Likewise, upon petition made by Thomas Stente and
Thomas Baldrige, alledging the necessity of important busi-
ness, the amercement was remitted for non appearance in the
morning.

Then were the Acts read through, and severally debated
in the reading. And the Lientenant adjorned the house untill
Monday morning at 8 of the clock.

styling himself a "gentleman, and servant to the Lord Baltimore," pub-
lished a reply, entitled "a just and cleere Refutation of a false and scan-
dalous Pamphlet," entitled "Babylon's Fall in Maryland, &c," in
which he zealously vindicated the course pursued by his patron, and en-
deavored to throw the blame of the disturbances and bloodshed in the
colony on the Independents from Virginia, to whom an asylum had been
given in Maryland. Both pamphlets were published in 1655.

ACTS OF THE THIRD DAY: BEING 29TH JANUARY
1637.

Between the houres of 9 and 10 in the morning.

ASSEMBLED

The President	Sergt Vaughan
Capt: Cornwaleys	Capt. Henry Fleete
Capt Geo. Evelin	Justinian Snow
Mr Lewger, Secretary	Francis Rabnett
Mr Thomas Greene	James Baldrige
Mr Clerke	Edward Fleete

SUMMONED

		Mr William Bretton	} and Capt Fleete ex- hibited his proxie for them sev- erally.
		John Courtis	
		Thomas Nabbs	
Capt Robt Wintour	} amerced	Mr. John Wyatt and Mr Clerke exhibited his proxie for him. Zachary Mottershead and Capt Cornwaleys exhibited his proxie for him.	
William Lewis			
Thomas Maurice			
Richard Garnett			
Mr Philpott			
Mr Langford			
Marmaduke Snow, and his brother rejoyned for him and was andmitted.		Robert Percy, and Mr Lewger exhibited his proxie for him.	

Upon occasion of some warrants granted out against some freemen that had made proxies, a question was moved in the house, whether freemen, having made proxies during the Assembly, might be arrested before the Assembly were dissolved. And Captaine Cornwaleys and James Baldrige were of opinion that they might; but the rest of the house generally conceived that after the writts issued for summoning

the Assembly, no man having right to repaire unto the Assembly might be arrested, until a convenient space of time after the dissolution of the said Assembly, for his repaire home.

Came into the house Edmond Parrie⁽¹⁾ of the Ile of Kent, planter, and desired to revoke his proxie given to Mr Philpott, and was admitted to a place and voice personally.

John Fleete of St George's hundred, planter, claymed voice and place as a freeman; and was admitted, and made his proxie Capt: Henry Fleete.

Then was proposed whether the Lawes formerly read should be read againe in the house, or putt to the vote without further reading.

Capt: Cornwaleys gave his opinion, that they should expect a more frequent house.

Capt: Fleete gave his opinion that they should be read againe.

With them agreed	{	Mr Clerke Sergt Vaughan Edward Fleete Edmond Parrie	}	being in all, 18 voices, with their proxies.
------------------	---	--	---	---

On the contrary, that they should be put to the vote immediately, agreed by

The President Capt: Evelin Mr Lewger Mr Greene Mr Snow Francis Rabnett James Baldrige	}	being in all, 33 voices.
---	---	--------------------------

Then were the Lawes putt to the question, whether they should be received as Lawes or no.

(1) *Edmond Parrie or Parry* was originally a servant of Claiborne & Clobery; and when Evelin took the control of the Island, he *sold* him the balance of his time for three hundred pounds of tobacco a year.

Affirmed by

The President }
Mr Lewger } being 14 voices.

Denied by all the rest of the Assembly, being 37 voices.

Then question being moved what Lawes the Province should be governed by, it was said by some that they might do well to agree upon some lawes till we could heare from England againe. The President denying any such power to be in the house, Capt. Cornwaleys propounded the lawes of England. The President acknowledged that the Commission gave him power in civill causes to proceed by the lawes of England: and in criminall causes likewise not extending to life or member, but in those he was limited to the lawes of the Province. There could be no punishment inflicted on any enormous offenders, by the refusall of these lawes.

Whereupon the Commission was produced and examined, and upon the reading of it, it appeared that there was no power in the province to punish any offence deserving losse of life or member, for want of lawes. To this they answered, that such enormous offences could hardly be committed without mutinie, and then it might be punished by martiall law.

Betweene the houres of two and three in the afternoone of the same day.

ASSEMBLED

The President	Sergt Vaughan	Edmond Parrie
Capt: Cornwaleys	James Baldrige	Justinian Snow
Capt: Evelin	Capt: Fleete	Mr Clerke
Mr Lewger	Francis Rabnett	Edward Fleete
Mr Greene	Mr Philpott	
Richard Garnett	Mr Langford	

Capt: Wintour, and it was answered that he was sieke, and could not passe the river and was admitted.

Marmaduke Snow, assoyned by his brother, and admitted.

Thomas Maurice } excused himself that he could not gett
passage, and desired to be remitted all the
former amerciaments, and was admitted.

James Canther }
William Lewis } amerced.

Then was propounded that the house would consider of some lawes to be sent up to the Lord Proprietor. And the President advised that they would chuse some Committees to prepare the draught of them, and then the house might meete for confirming of them; and in the meane time, every one might follow their other occasions.

Soe being putt to the vote how many Committees should be appointed for that purpose, they agreed that five should be chosen.

Then was it putt to every one to name his five. And there were ten in election, whereof,

		voices	
The President	} had	38	} voices
Capt: Cornwaleys		54	
Capt: Wintour		45	
Capt: Evelin		48	
Mr Lewger		22	
Mr Greene		17	
Capt: Fleete		8	
Mr Snow		31	
Mr Clerke		7	
Mr Baldrige		8	

So the 5 Committees were { The President
Capt. Cornwaleys
Capt Wintour
Capt Evelin
Mr Snow

And because Cap. Wintour was absent and sicke, it was agreed that if he could not assist at the Committee himselfe, he should name any other in his place.

Then was it considered for how long to adiorne the house. And it was thought fitt to adiorne it till the 8th day of February following, at 8 of the clock in the morning.

And because the Court was to be held in the meane time, that is to say, on the 3d of February, that therefore the privilege of parliament should be void untill the Court were past; and all freemen might be arrested, as if no Assembly were.

And so the house brake up.

[This adjournment took place on Monday; and, on the following Saturday, February 3d, the Court, referred to in the last resolution, was held. To this Court, the writs that had been prepared on the 30th of December for the arrest of certain parties on Kent island on civil and criminal process, were made returnable; but, instead of the bodies of the parties, the officers had only to return a vexatious account of obstructions in the discharge of their duties, violence offered to themselves by the inhabitants, and the absolute rescue of some of the principal offenders from their custody, even after their arrest.

These outrages were too much for the patience of Governor Calvert. He had hoped that the people of Kent had given up all thoughts of further opposition, and would be willing quietly to submit to the extension over them of the laws of the Province; but finding that his attempt had only aroused a

more determined spirit, and an excitement which had reached the point of resistance to the officers of the law, he determined to adopt a decided course, to make the disaffected feel that he had the power to subdue them, and to make a stern example of the most violent and rebellious. His resolution was taken ; but it did not interfere with the session of the Assembly, which was held, according to adjournment, as the following record will show.]

ACTS OF THE FOURTH DAY, BEING 8TH FEBRUARY, 1637.

Between the hours of 9 and 10 in the morning.

ASSEMBLED

President	Henry Fleete	Thomas Maurice	Edward Fleete
Mr Hawley(1)	Robert Vaughan	Thomas Philpott(2)	James Cauther
Capt. Cornwaleys	James Baldridge	John Langford	Mr Greene
Capt. Wintour	Francis Rabnett	Robert Clerke	William Lewis
Capt. Evelin	Justinian Snow		
Mr Lewger, Secretary			

SUMMONED.

Richard Garnett and Robt Clerke exhibited his proxie for him.

Marmaduke Snow and Justinian, his brother, exhibited his proxie for him.

Edmond Parry amerced.

Richard Lustheed desired to revoke his proxie, and was admitted, and made Rob^t Clerke his proxie.

(1) This was Mr Jerome Hawley, one of the counsel of the Province, and a relative of Lord Baltimore. This name is not on the list of those present at the opening of the session, and he was probably unable to attend before, on account of absence in Virginia, of which colony he had been appointed Treasurer. See the chapter entitled "the First Commissioners," for some details respecting his life.

(2) Probably a mistake, for "Robert."

The Committee reported to the house, that they thought fitt to read the former draught of lawes againe, and to putt them to the vote the second time, in regard there was found a great deale of misunderstandinge of them among the free-men, which made them to refuse them.

And it being putt to the vote of the house, whether they should be read againe or no, it was affirmed by 48 voices, and denied by 21 voices.

Then was an order made by generall consent of the house, that all bills propounded to the house for lawes, should be read 3 times, on 3 severall daies afore they should be putt to the vote.

Then were the draught of lawes read throughe the second time. And twenty bills propounded by the Committee were read the first time.

Capt. Cornwaleys desired it might be putt to the vote of the house, whether these Lawes, at the third reading, should be voted severally, or the whole body of them together. And that they should be voted altogether, was affirmed by thirty two voices, denied by 37.

In the afternoone of the same day, betwene the houres of two and three.

ASSEMBLED

President	Capt Evelyn	Francis Rabnett	Robt Clerke
Mr Hawley	William Lewis	Justinian Snow	Edward Fleete
Capt. Cornwaleys	Capt. Fleete	Thomas Morris	James Cauther
Capt. Wintour	Robt Vaughan	Robt Philpott	Andrew Chap- pell
Mr. Lewger, Secretary	James Baldrige	John Langford	Cyprian Tho- roughgood
	Francis Gray	John Robinson	Anthony Cot- ton
			John Halsehead

SUMMONED,

Edmond Parrie amereed
Mr Greene and Capt: Cornwaleys exhibited his proxie
for him.

Then came Francis Gray, John Robinson, and John Halfehead, and revoked their proxies to Justinian Snow; and appeared personally.

Anthony Cotton ⁽¹⁾	}	came and claymed voices as free-
Andrew Chappell ⁽²⁾		
Cyprian Thoroughgood ⁽³⁾		
		men, and were admitted.

The house being sate, the President declared that he thought it fitting to adiorne the house for a longer time; till the lawes which they would propound to the Lord Proprietor were made ready, which some would take a care of, and in the meane time, the company might attend their other businesses &c.

Capt: Cornwaleys replied they could not spend their time in any businesse better then in this for the countries good: and one of the planters demanded the reason why it should be adiornd, and said they were willing to leave their other businesse to attend it.

The President replied, he would be accomptable to no man for his adorning of it.

Then Capt. Cornwaleys moved that at least a Committee might be appointed, that should take charge of preparing the Lawes, till the house meet againe. And, being putt to the house, they agreed that three Committees should be appointed; then, every one nominating severally his 3 Committees, the President had 46 voices; Capt: Cornwaleys had 56 voices; Capt. Evelin, 44 voices; Mr Lewger 31 voices; Mr Snow had 5 voices, and Captaine Fleete, 4 voices.

Then was it ordered that priviledge of parliament men for their persons should not be allowed till the next meeting of the Assembly.

(1) He was a resident of St. Mary's, and a planter.

(2) By ozeupation, a mariner. He was part owner of the pinnace Frances, in which he traded to New England. He died about February 28th, 1640.

(3) Mr. Thoroughgood, is called in a letter written from St. Mary's, May 27th, 1634, "his Lordship's trader on the river Patuxent."

Then the President adiorned the house till the 26th of February.

The announcement of the President that he intended to adjourn the House, evidently took the members by surprise, and his refusal to assign a reason for such a procedure seemed uncourteous; but, in fact, considering the plan he had in view, he could not well have done otherwise. He had determined to make an expedition in person to the Isle of Kent, to reduce the people to submission by military force, the preparations for which and its accomplishment required the adjournment of the Assembly for a time, yet secrecy made it necessary for him to conceal his purpose; and besides, a session of the Court was to be held, to prepare certain important indictments, which were to be made the basis of a part of his operations. The Court day was the 12th, and supposing that a fortnight would be sufficient for the accomplishment of his purposes and his return, he fixed the day for re-assembling on the 26th of February.

The day of adjournment was Thursday. On the following Monday, a Court was held, of which the following were the proceedings, as given in an attested copy from the records, transmitted to England, and now in the State Paper Office, London.

AT A COUNTY COURT HOLDEN AT S^r MARIES ON Y^e
12th FFEBR 1637.⁽¹⁾

before { the Leutenant generall
Captaine Robert Wintour Esq.
John Lewger: gent. Secretary of the Province.

The Sheriff returned for the grand Enquest, 24 ffremen, viz.

Thomas Greene gent	Xpofer Martin
Marmaduke Snow	Thomas Nabbs
Ffrancis Rabnett	John Courtis
John Pricc	Thomas Morris
Henry James	Thomas Baldrige
Andrew Chappell	Nathaniel Pope
John Robinson	Robert Vaughan
Henry Bishop	John Smithson,
Thomas Ffranelin	Robert Percy
John Medley	James Canther
Francis Gray	Rainold Ffleete
John Halfehide	Isaac Edwards

Who appeared, and chose for their foreman, Marmaduke Snow. And were sworne truely to enquire and true presentment to make of all such bills as should be given them in charge in behalfe of the Lord Proprietor, according to the evidence.

Then were sworne to give true evidence

Captaine Thomas Cornwaleys Esq
Cutbert Ffenwick gent
Anthony Cotton mariner
Edward Ffleete } planters
William Lewis }
John Nevill mariner.⁽²⁾

(1) 1638, O. S.

(2) The occupations are not given in the original record, but were in the copy transmitted to England and preserved in the State Paper Office.

Then were delivered two bills to the Jurors. The one of this tenor.

Lett Inquest be made for the Lord Proprietor, if in the river of Pocomoque on the Eastern shore, on the three and twentieth day of Aprill in the yeare of o^r Lord 1635. Thomas Cornwaleys Esq and one of the Com^{rs} of this Province with divers other persons of the company and servants of the said Thomas Cornwaleys, being in two pinaces, called the St. Helen, and the St. Margaret, in the peace of God of o^r Sovereaigne Lord the king and of the said Lord Proprietor; Ratcliff Warren, commonly knowen by the name of Lieutenant Warren, Richard Hancock, Robert Lake with divers others to the number of fourteene persons or thereabouts, not having the peace of God before their eyes, but being seduced by the malicious instigation of the divell, and of malice premeditated, in one pinace belonging to William Cleyborne of the Ile of Kent gent, with force and armes, that is, with gunnes and pistolls charged, swords, and other weapons, upon the day aforesaid in the place aforesaid upon the two pinaces aforesaid, feloniously, and as pyrates and robbers an assault did make, and upon the said Thomas Cornwaleys and his company divers gunnes charged with powder and bullets did shoote and discharge, and them the said Thomas Cornwaleys and his company in bodily feare of their life did putt, and one William Ashmore of St Maries Apprentice, in the pinace aforesaid the day and yeare aforesaid at the place aforesaid, did shoote and wound in his brest on his left side, neare his left pappe, of which wound the said William Ashmore instantly died. And if the said William Cleyborne did encourage, instigate, and abett the said Leuten^t Warren to make and attempt the said assault upon the pinace aforesaid, or upon any other the pinaces, boats, or vessells, belonging to St. Maries. And if the said William Cleyborne did by a speciall warrant or commission under his hand, commaund, warrant and authorise the said Lieutenant Warren to seise, take, and carry away any the pinaces or other vessells be-

longing to St. Maries: contrary to the peace of o^r Sovereigne Lord the King his crowne and dignity; and contrary to the peace of the said Lord Proprietary, his domination and dignity.

And the Inquest returned upon the back side;—
“a trew bill.”

No copy was transmitted to England of the second of the two bills presented to the Grand Jury; but there yet remains on the provincial record a portion of it, in connection with the first. Unfortunately, however, by the carelessness of the clerk, the principal part of it is merely a repetition of the first, giving us only the name of the principal offender, but leaving us in the dark, as to the precise nature of his offence. The entry in the provincial record, is as follows:

“The other Bill, of this tenor:

Lett Inquest be made for the Lord Proprietor of this Province, if, in the harbor of Great Wighecomoco in the Bay of Chesapeack, on the tenth day of May in the yeare of our Lord one thousand six hundred and thirty five, Thomas Cornwaleys Esq. and one of the Commissioners of this Province, Cutbert Fenwick, and John Hollis, servants of the said Thomas Cornwaleys, being in the good pinace called the St. Margaret, in the peace of God and of our Sovereigne Lord the King, and of the said Lord Proprietor, Thomas Smith of the Ile commonly called Kent, gent: Philip Tailor, Thomas Daffill, and Richard Hancock,”—(here the bill continues in the words of the other indictment, underscored to the end; and an entry in the margin informs us that “all that followes lined is entered by mistake of the one bill for the other.”

On this also, the Inquest endorsed the words, “a trew bill,” and the Court adjourned, or rather its members resolved themselves into a Council, in that capacity to discuss and prepare measures growing out of their plans and previous action. The result of their deliberations is expressed in the following entry made at the conclusion of their sitting:

By the Governor and Counsell this 12th of Febr. 1637.

The Govern^r and Counsell, taking into consideration the many pyracies, insolencies, mutinies and contempts of the government of this Province formerly committed by divers of the inhabitants of the Ile of Kent, and that the warrants sent lately into the said Iland under the great seal of the Province for apprehension of some malefactors and for to compell others to answere their creditors in their lawful suits of debt or accompt, were disobeyed and contemned, and the prisoners rescued out of the officers hands by open force and armes, and being now newly informed that divers of them, to meinteine and protect themselves in their said unlawfull and rebellions acts, did practise and conspire with the Sasquisahanoughes and other Indians against the inhabitants of this colony: have thought it fitt that the Governor should saile in person to the said Ile of Kent and take along with him a sufficient number of freemen, well armed, and there by martiall law (if it shalbe necessary), reduce the inhabitants of the said Iland to their due obedience to the Lord Proprietor, and by death, (if need be), correct mutinous and seditious offenders who shall not (after proclamation made) submitt themselves to a due course of justice. And for his better assistance therein, it was thought fitt and so ordered, that Captaine Thomas Cornwaleys Esq. and one of the Counsell of this Province, should goe along with the Governor, and

be aiding and assisting to him to the uttermost of his power, for the command of the forces, according to such directions as he shall receive from the Governor during this expedition.

Signed

LEONARD CALVERT

JEROME HAWLEY

JOHN LEWGER.

The mustering of his forces and the preparations for his expedition occupied much more time than the Governor had anticipated, so that the day appointed for the re-assembling of the House came round, and found him only on the eve of starting,⁽¹⁾ yet so absorbed in the cares attendant upon such an enterprise, that it was impossible for him to attend the session or preside over its deliberations. He had however, provided for such a contingency by the following proclamation, prepared a day or two before, by which in case of his absence, Mr. Lewger was empowered to hold or adjourn the Assembly, as he might think best:

To all people to whom these presents shall come, I, Leonard Calvert, Esq. Lieutenant Generall of the Province of Maryland, send healtbe in the Lord God everlasting. Whereas this present Generall Assembly begonne on the 25th day of January last past, and by severall adiornements continued untill the eighth day of this instant moneth of February, was then adiorned untill the 26th of this instant moneth; now designing at this present to make an expedi-

(1) There is an entry of the appearance of Capt Cornwaleys at Court on the 25th of February, and a copy of a recognizance made before Leonard Calvert on the 26th.

tion in person unto the Ile of Kent, and doubting lest some accident might hinder my returne to St Marie's afore the said day, whereby the Assembly would of it selfe be dissolved for want of power to assemble: Know ye therefore, that in case of such my absence, I have authorized and deputed, and doe hereby appoint, authorize, and depute Mr John Lewger, Secretary, in my name and place to hold and continue the said Assembly at the day appointed, and to give voice for me to all and onely such things as he shall thinke fitt, also to adiorne or dissolve the said Assembly, as he shall see cause, and to do and performe all other things belonging to the said Assembly as amply to all intents and purposes as I my selfe might doe if I were personally present.

LEONARD CALVERT.

The members came together on the 26th only to be adjourned by Mr. Lewger to the 5th of March, as the following proceedings will shew:

ACTS OF THE FIFTH DAY, BEING THE 26TH OF FEBR. 1637.

Betweene the houres of 8 and 9.

ASSEMBLED.

Mr John Lewger, Secretary,	Thomas Hebden
Capt. Rob ^t Wintour	Christopher Martin
Edward Bateman	John Price
John Halfehead	John Richardson
Rob ^t Percie	John Hill

SUMMONED.

Mr Thomas Greene
Nathaniel Pope

John Hill came and claymed a voice as freeman, and was admitted.

Ordered and agreed that priviledge of Parliament should suspended till the next meeting.

And the house was adioined till the fifth of March next.

On the 5th of March, the Governor was still absent, and the Secretary therefore adjourned the House a second time, naming the 12th of March as the day for re-assembling.

ACTS OF ASSEMBLY ON THE 5TH MARCH 1637.

Betweene the houres of 8 and 9 in the morning.

ASSEMBLED.

Mr Secretary	Francis Gray	Zachary Motters-
Mr Greene	Rob ^t Percy	head
Mr Sheriff	Nathaniel Pope	
Christopher Martin	Thomas Baldridge	
John Hillierd	Edward Bateman	

And Mr Secretary adioined the house till the 12th of March following, and the house ordered that priviledge of Parliament should be suspended till the next meeting.

On the 12th, Governor Calvert and his party had returned from a successful expedition, having brought the Kent islanders to submission, punished some malcontents on the island, and brought others prisoners with him to St. Mary's, to be tried by the tribunals there. The Assembly was therefore held by him in person.

ACTS OF ASSEMBLY THE TWELFTH OF MARCH, 1637.

Betweene the houres of 9 and 10 in the morning.

ASSEMBLED

The President	John Wyatt	John Robinson
Capt. Cornwaleys	Marmaduke Snow	John Price
Capt. Wintour	Thomas Nabbs	John Halfehide
Mr Secretary	Anthony Cotton	Robt Smith
Mr Greene	Francis Gray	John Medley
Mr Sheriff	Rainold Fleete	Isaac Edwards
Edward Fleete	Francis Rabnett	John Courtis
John Smithson		William Lewis

SUMMONED

Andrew Chappell	Robt Vaughan	James Cauther
Cyprian Thoroughgood	William Lewis	Francis Rabnett

Robert Clerke, and John Wyatt exhibited his proxie for him.

The 20 Bills formerly read, were read againe the seconde time, and priviledge of Parlament was affirmed.

ACTS OF ASSEMBLY ON THE 13TH OF MARCH, 1637.

Betweene the houres of 9 and 10 in the morning.

ASSEMBLED

The President	James Cauther	Mr Sheriff
Capt: Cornwaleys	Anthony Cotton	John Wyatt
Capt: Wintour	Robt Vaughan	Zachary Mottershead
Mr Secretary	Edward Fleete	Francis Rabnett
Cyprian Thoroughgood	William Lewis	Marmaduke Snow
Cuthbert Fenwick	Rainold Fleete	Mr Greene

SUMMONED

James Courtney	}	and Rob ^t Vaughan exhibited his proxie for them.
David Wickliff		
Ralphe Beane		
Andrew Chappell		
Francis Gray	}	and Capt: Cornwaleys exhibited his proxie for them.
John Robinson		
John Courtis		
Thomas Nabbs		

Mr Thomas Greene appeared
 Francis Rabnett appeared
 John Halfehide appeared
 Isaac Edwards appeared
 Thomas Maurice appeared

Cuthbert Fenwick⁽¹⁾ claymed a voice as freeman, and was admitted.

Then were read the first time fourteene Bills, that is to say :

1. Ordering the payment of tobaccos.
2. For services to be performed for mannors and freeholds.
3. For assurance of titles.
4. For the liberties of the people.
5. For swearing allegiance to our Sovereigne Lord the King.
6. For descending of land.
7. For succession to the goods of the deceased, intestate.
8. For publique Ports.

(1) In the indictment against Thomas Smith, Cuthbert Fenwick is mentioned, as, at the date of Smith's offence, May 10th 1635, a "servant" of Capt. Cornwaleys. He must have served out his time before this period, and so far improved his fortunes and position, as to be able to take the title of "gentleman;" an assumption, which, in those days, would not have been tolerated, unless there had been, on the part of the claimant, some right, by birth, education, and former circumstances, to the title. He was a planter; and enjoyed the confidence of his fellow colonists, and on various occasions, was employed on special business, connected with the interests of the Proprietary. He died about October, 1661, leaving five sons, Cuthbert, Ignatius, Robert, Richard, and John.

9. Touching Genrall Assemblies.
10. For the Probate of wills, &c.
11. For civill causes.
12. For payment of debts contracted out of the Province.
13. For limiting the times of service.
14. For punishment of ill servants.

ACTS OF ASSEMBLY ON THE 14TH MARCH, 1637.

Betweene the houres of 8 and 9 in the morning.

ASSEMBLED.

The President	Cyprian Thoroughgood	Rainold Fleete	James Cauther
Capt. Cornwaleys	Sergt Vaughan	Francis Rab-	Thomas Maurice
		nett	
Mr Secretary	Zachary Mottershead	John Halfehide	Edward Fleete
Mr. Greene	Cuthbert Fenwick	William Lewis	Christopher
			Thomas
John Wyatt	Mr Sheriff	Isaac Edwards	Richard Loe

SUMMONED

Anthony Cotton, and amerced.

Marmaduke Snow, and Francis Rabnett exhibited his proxie for him.

Then came Christopher Thomas, of the Ile of Kent, and claymed voice as a freeman, and was admitted.

Likewise, claymed Richard Loe,⁽¹⁾ and was admitted.

Then were read the second time the fourteene former Bills.

Then were read the first time, three Bills, that is to say :
For criminall causes.

For attainer of William Cleyborne, gent.⁽²⁾

For corne measures.

(1) Richard Loe died about August, 1638 or 9.

(2) It will be observed that this act for the attainer of Claiborne preceded the trial and conviction of his friend, Thomas Smith. It was based on the bill found by grand jury on the 12th of February, indicting him, as the instigator of the opposition to the colonial government, which the authorities of Maryland chose to characterize as sedition, piracy and murder.

The bill will be found, in full, at the end of this chapter.

ACTS OF ASSEMBLY ON THE 14TH OF MARCH 1637.

Betweene the houres of 2 and 3 in the afternoone.

The President	Zachary Mottershead	
Capt. Cornwaleys	Robert Percy	Edward Fleete
Mr Secretary	Cuthbert Fenwick	Thomas Francklin
Mr Greene	Rainold Fleete	William Lewis
John Wyatt	Thomas Maurice	Sergt Vaughan
James Cauther	Richard Loe	Francis Rabnett
Christopher Thomas	Anthony Cotton	John Halfehide
John Nevill	Isaac Edwards	Cyprian Thoroughgood.

Mr Greene, amereed for tardie appearing, and John Wyatt and Cyprian Thoroughgood.

John Nevill claymed voice as freeman, and was admitted.

Then was Thomas Smith called to the barre, being indicted of pyracie; and Mr Secretary made himselfe Attorney for the Lord Proprietor, and read his Lordship's warrant in that behalfe. Then did the Attorney putt in the Indictment, and

arraigned
demanded that the prisoner might be *brought to triall* upon his indictment.

And the Indictment being read, he pleaded, not guilty.

Then the Attorney informed the house upon the indictment, and produced the depositions of John Jarbison and Arthur Brooks; and the prisoner pleaded all he had to say in his defence, and the Attorney replied to it. And when the prisoner had no more to alledge for himselfe, he was demaunded whether he would challenge any in the house that were to passe upon him, and he challenged none. Then they gave their votes and he was found

Guilty by	not guilty by
Richard Loe	John Halfehide.
Robert Percy	
Thomas Francklin	

Francis Rabnett		} gave no vote either way, be- cause they were not present at all the evidence.
Edward Fleete	Mr Greene	
James Cauther	Cyprian Thoroughgood	
John Nevill	John Wyatt	
Anthony Cotton		
Thomas Maurice		
Rainold Fleete		
Isaac Edwards		
William Lewis		
Zachary Mottershead		
Sergt Vaughan		
Christopher Thomas		
Cuthbert Fenwick		
Thos Cornwaleys		
The President.		

Then was sentence pronounced by the President, in the name of all the freemen in these words :

Thomas Smith ;—you have beene indicted of felonie and pyracie. To your indictment you have pleaded not guilty, and you have been tried by the freemen in this Generall Assembly, who have found you guilty, and pronounce this sentence upon you ;—that you shalbe carried from hence to the place from whence you came, and thence to the place of exequution and shalbe there hanged by the neck till you be dead ; and that all your lands, goods, and chattells shalbe forfeited to the Lord Proprietor, saving that your wife shall have her dower. And so, God have mercy on your soule.

The judgment affirmed, and approved by speciall consent by word of mouth by,

Capt Cornwaleys	Anthony Cotton
Cuthbert Fenwick	John Nevill
Christopher Thomas	James Cauther
Sergt Vaughan	Edward Fleete
Zachary Mottershead	Francis Rabnett
William Lewis	Thomas Franelin
Isaac Edwards	Robert Percy
Reinold Fleete	Richard Loe
Thomas Morris (Maurice?)	

Then did the prisoner demand his clergy ; but it was answered by the President that clergy could not be allowed in his crime, and if it might, yet now it was demanded too late, after judgement.

Then departed out of the house, Capt. Cornwaleys, Cutbert Fenwick, William Lewis, John Nevill, Anthony Cotton, Edward Fleete, and Cyprian Thoroughgood.

Then was the house moved by the Attorney to enquire of the death of William Ashmore, Rateliff Warren, John Bellson, and William Dawson ; and the house having heard the evidence of Cyprian Thoroughgood, John Nevill, Cutbert Fenwick, and Edward Fleete, did find that the said Rateliff Warren, John Bellson, William Dawson, with divers others, did assault the vessells of Capt: Thomas Cornwaleys and his company feloniously and as pyrates and robbers, to take the said vessells ; and did discharge divers peices charged with bulletts and shott, against the said Thomas Cornwaleys and his company ; whereupon, and after such assault made, the said Thomas Cornwaleys and his company, in defence of themselves and safegard of their lives, not being able to flie further from them, after warning given to the assailants to desist from assaulting them at their owne perill, did discharge some gunnes upon the said Rateliff Warren and his company ; of which shotts, the said Rateliff Warren, John Bellson, and William Dawson died ; and so they find that the said Thomas Cornwaleys and his company did lawfully and in their own necessary defence, kill the said Rateliff Warren, John Bellson, and William Dawson ; and doe acquitt the said Thomas Cornwaleys and his company of the death of the said Rateliff Warren, John Bellson, and William Dawson.

And they further find that the said Rateliff Warren, and his company did discharge their gunnes against the said Thomas Cornwaleys and his company, and did kill the said William Ashmore, being one of the company of the said Thomas Cornwaleys, as felons, pyrates, and murtherers.

ACTS OF ASSEMBLY THE 15TH MARCH 1637.

Betweene the houres of 9 and 10 in the morning.

ASSEMBLED

The President	Mr Sheriff	Cutbert Fenwick	William Lewis
Capt. Cornwaleys	Cyprian Thorough- good	Anthony Cotton	Christopher Thomas
Mr. Secretary	John Wyatt	James Cauther	Isaac Edwards.
Mr. Greene	Sergt Vaughan	Edward Fleete	
Robt Clerke	Reinold Fleete	Francis Rabnett	

SUMMONED

Capt: Wintour amerced.

John Nevill

Richard Loe and made proxie Capt. Cornwaleys.

John Halphide and made proxie Capt Cornwaleys.

Then were read the 2nd time the 3 former bills, for criminal causes, measures, and attainder of William Cleyborne.

Then was read the first time, 1 bill confirming the sentence against Thomas Smith.

ACTS OF ASSEMBLY THE SAME DAY.

betweene the houres of 2 and 3 in the afternoone.

ASSEMBLED

The President	John Wyatt	Anthony Cotton
Capt. Cornwaleys	Cutbert Fenwick	Francis Rabnett
Mr Secretary	Rainold Fleete	William Lewis
Mr Sheriff	John Nevill	Isaac Edwards
Robt Clerke	Edward Fleete	
Capt Wintour	amerced	
Cyprian Thoroughgood	made his proxie	Robt Clerke.

Sergt Vaughan }
James Cauther } made proxie Francis Rabnett

Mr Greene made proxie Capt. Cornwaleys.

Christopher Thomas amerced.

Richard Garnett made proxie Tho: Cornwaleys.

Then were read the first time, { For Fees.

a bill } For payment of forfeitures.

Then was fined to the Lord (Proprietor) Thomas Baldrige,

40 l. of tob.

“ “ “ “ “ plaintiff 40 l. of tob.

for striking of Isaac Edwards.

ACTS OF ASSEMBLY ON 16TH MARCH 1637.

Between the hours of 8 and 9 in the morning.

ASSEMBLED

The President

Sergt Vaughan

Anthony Cotton

Capt. Cornwaleys

Edward Fleete

Isaac Edwards

Mr Secretary

Robt Percv

Robt Clerke

Mr Greene

Francis Rabnett

William Lewis

Mr Sheriff

Reinold Fleete

John Wvatt

Richard Thompson⁽¹⁾ of the Isle of Kent, gent, claymed
voice as freeman and was admitted.

Capt. Wintour }
John Nevill } amerced.

Christopher Thomas }
Cutbert Fenwick } made proxie Tho: Cornwaleys.

(1) Richard Thompson was one of the earliest inhabitants of Kent island, having been one of those who aided Claiborne in forming his settlement there in 1631. He was, I believe, a cousin of Claiborne. He was a native of Norwich in England, where he was born about the year 1613; and was, therefore, at this time, about twenty-five years of age. His relative still retained a strong influence over him; and through his sympathy for and attachment to him, Thompson several times in after years, renounced his fealty to Lord Baltimore and engaged in plots and rebellion.

Then was read the first time the bill for supportation of the Lord Proprietor.

Then was read the second time the Acts	{	Confirming the sentence
		against Tho. Smith.
		For Fees
		For payment of forfeitures.

Then was read the third time the Bill for dividing of the Province; and passed.

"	"	"	" for bounding of Mannors, and passed.
"	"	"	" for assigning of mannors, and passed.
"	"	"	" for the order to be observed in assigning of mannors, and passed.
"	"	"	" for the peopling of mannors, and passed.
"	"	"	" for supporting of mannors, and passed.
"	"	"	" for settling of the glebe, and passed.
"	"	"	" against the aliening of mannors, passed.
"	"	"	" for Baronies, passed.
"	"	"	" for assigning of freeholds, passed.
"	"	"	" formeintaining the Lord Proprietor, passed.
"	"	"	" for the demesnes of the Lord Proprietor, passed.
"	"	"	" for building of the towne passed.
"	"	"	" for erecting of a Fort passed.
"	"	"	" for planting of corne passed.

Then was read the third time the Bill for restraint of liquors
 passed.
 “ “ “ “ for military discipline
 passed.
 by generall consent, not one voice dissenting.⁽¹⁾

ACTS OF ASSEMBLY, THE SAME DAY,

Betweene the houres of 2 and 3 in the afternoone.

ASSEMBLED

The President	Edward Fleete	Robert Percy
Capt. Cornwaleys	Sergt Vaughan	Francis Rabnett
Mr Secretary	John Wyatt	Robt Clerke
Mr Greene	Reinold Fleete	William Lewis.
Mr Sheriff	Anthony Cotton	
Mr Thompson	Isaac Edwards	
Capt Wintour	} amerceed	
John Nevill		

Then was read the third time the Bill

for ordering the payment of tobaccos ;	passed.
for services to be performed for mannors and free-	
holds ;	passed.
for assurance of titles to land ;	passed.
for the liberties of the people ;	passed.
for swearing allegiance to our Sovereigne &c. ;	passed.
for descending of land ;	passed.
for succession to the goods of the deceased intestate ;	passed.
for publique ports ;	passed.
touching Generall Assemblies ;	passed.

(1) Here follows an entry, that may have belonged to the house, acting as a Court.

“ Robt. Clerke, (in behalf of Mr Copley) entred a Caveat into the Court against the Administrator of John Bryant, for 50 barrells of Corne.”

for the probate of wills ;	passed.
for civill causes,	passed.
for payment of debts contracted out of the Province ;	passed.
for limiting the times of service ; suspended till next day.	
for punishment of ill servants ;	passed.
for the attainder of Wm. Cleyborne ;	passed.

ACTS OF ASSEMBLY, 17TH MARCH, 1637

Betweene the houres of 8 and 9 in the morning.

ASSEMBLED

President	Robt Clerke	Edward Fleete
Capt. Cornwaleys	John Wyatt	Reinold Fleete
Mr Secretary	William Lewis	Sergt Vaughan
Mr Greene	Francis Rabnett	Mr Thompson
Mr Sheriff		James Cauther
Capt Wintour		Anthony Cotton
Capt Evelin made his proxie the Lieutenant generall		
John Nevill made his proxie Robt Clerke.		

Then was read the third time the Bill

for limiting the times of service ;	passed.
for criminall causes ;	suspended till Monday.
for corne measures ;	passed.
confirming the sentence against Thomas Smith; ⁽¹⁾	passed
for fees ;	passed.
for payment of forfeitures ;	passed.

Then was read the second time the Bill for supportation of the Lord Proprietor.

Then, upon a question moved touching the resting of servants on Satturdaies in the afternoone, it was declared by the house that no such custome was to be allowed.

(1) Smith was afterwards executed.

ACTS OF ASSEMBLY ON THE 19TH MARCH, 1637

Between the hours of 9 and 10 in the morning.

ASSEMBLED.

The President	Robert Vaughan	Reinold Fleete
Capt. Cornwaleys	William Lewis	Anthony Cotton
Mr Secretary	Francis Rabnett	Cutbert Fenwick
Capt. Evelin	Edward Fleete	John Robinson
William Broughe	John Wyatt	Francis Gray
Robt Clerke	John Halfhide	Richard Loe
Mr Sheriff		

Isaac Edwards made proxie Capt. Cornwaleys, and was denied.

Mr Greene made proxie Capt Cornwaleys, and was denied

Then was read the third time the Act for Treasons; and passed.

	Capt:	} negat: to one part of it.
	Clerke	
for capitall felonies ;—passed;—	Wyatt	
	Fenwick	
	Low	

allowing clergy to some capitall felonies ; passed.
for arbitrary punishment of some enormous offences ; passed.
for punishment of certain crimes in the County Court; passed.
for punishment of lesser crimes ; passed.

for support of the Lord Proprietor ; passed. denied by	{	Sheriff
		Vaughan
		Rein: Fleete
		Edw: Fleete
trade denied by {	{	Robinson
		Halfhide
		Loe
		Gray

A question here being moved (about) the criminall lawes,
whereby the Jury was to asseſſe the fine to the Lord, as well

as the recompence to the partie, it was declared that the Court or Judge should impose the fine; and the Jury should assest the recompence to the partie.

And the house was adorned till Saturday morning; being the 24th of March following.

ACTS OF ASSEMBLY ON THE 24TH OF MARCH

ASSEMBLED

The President	William Lewis	John Robinson
Capt. Cornwaleys	Francis Rabnett	Thomas Hebden
Mr Secretary	John Wyatt	(1) Henry Crawly, of the Ile of Kent
Robert Clerke	John Hulfehide	(2) Thomas Bradnock } Burgesses of
Mr Sheriff	Francis Gray	(3) Edward Beckler } the said Ile
Thomas Franklin	Anthony Cotton	

In the morning one part, and in the afternoone the residue of the Lawes, as they were faire ingrossed, were read in the house, and after the reading of them, the Governor signed them, and so did the rest of the house. And so the house dissolved.

(1) Mr. Crawley died about the 2nd of April, 1640, when an inventory of his effects was made.

(2) *Thomas Bradnock* was one of the earliest settlers of Kent island, having come from Virginia, and for many years, though occasionally promising obedience to Lord Baltimore's government, connected with the opposition so strenuously made to the regular authorities, and a leader in the rebellious movements, about the year 1646. He became finally convinced that his opposition was worse than useless, professed himself friendly to the government at St. Mary's, and was ultimately made High Sheriff of the Island. His education must have been limited, as he was unable to write his name. He died about the 23rd of May, 1662.

(3) *Edward Beckler* was one, against whom, in company with John Boteler and the unfortunate Thomas Smith, a warrant of arrest had been issued on the previous 30th of December, for sedition, piracy, and murder;—but who had been rescued from the hands of the officers. At the time of Calvert's reduction of the island, and capture of Smith, Beckler must have made his submission, or in some way cleared himself, or he would not have dared, after the example made of Smith, to shew himself at St. Mary's. Yet, it is asserted, in a deposition made in Virginia in 1640, that he was afterwards hung.

Of all the acts of this busy and interesting session, thus fairly engrossed, read, and signed by the Governor and the members of the House on the last day of its meeting, not one remains on the records preserved in the archives of the State. The titles of the laws passed, alone remain to shew the subjects which engaged the attention of our earlier legislators. But in the State Paper Office, in London, there is still to be found one of the most interesting of these laws, the act for the attainder of William Claiborne, which was copied from the records by Secretary Lewger, during the controversy which arose with that noted individual, and transmitted to England; by which means, it has been preserved, and remains, the only specimen of the legislation of that early period, and a full exponent of the grounds on which the members professed to base their severe sentence of attainder and confiscation of property, upon Capt. Claiborne. That gentleman, it may be remarked, was, at the very period of the proceedings of the Assembly against Smith and himself, in the presence of the king in England, with a petition, setting forth the wrongs inflicted upon him by the Marylanders, and particularly in the collision, which cost him the lives of several of his friends, and for the results of which he was stigmatised as an instigator of felony and piracy. He was most favorably received, and encouraged to hope for a grant, which

would have given him a considerable portion of Lord Baltimore's territory; but, ten days after the date of these final proceedings at St. Maries, a meeting of the Lords Commissioners of Plantations at Whitehall, decided in favor of Lord Baltimore's rights over Kent island, declared it inexpedient to confirm the grant proposed by his majesty, and left Claiborne without hope of redress. Soon after this disappointment, his fortunes were still further shaken, and his prospects clouded, by the publication of the act of attainder, recently passed by the Assembly of Maryland. The act was to the following effect:

“Saint Maries. In the house of generall Assembly, on the 24th Marth, Anno Domini, 1637,—was read the fourth time, a Bill of the tenor and effect following, viz:

An act for the attainder of William Cleyborne, gent.

WHEREAS, William Cleyborne, gent., is notoriously knowen to have committed sondry contempts, insolencies, and seditious acts against the dignity, government, and domination of the Lord Proprietarie of this Province, and to have conspired and contrived sondry mischeivous machinations and practices with the Indians of these parts, to the subversion and destruction of this Colony, and the people thereof: and to have used and exequuted sondry magistraticall and regall powers

and jurisdictions, within this Province, and upon the inhabitants of the same, by levying of souldiers, appointing Leutenants and other Officers, imprisoning and otherwise punishing of offenders, and by granting lettres of reprisall and Commissions for the exequution of justice upon the vessels and goods of the Lieutenant generall of this Province, and of the people inhabiting this colony of St Maries, without any authority or Commission for the same, from our Sovereigne Lord the King, or from the Lord Proprietary of this Province, or from any other Prince or State whatsoever: And whereas, by an Act of generall Assemblie held at St Maries on the six and twentieth day of February, 1634,⁽¹⁾ among other wholesome lawes and ordinances then made and provided for the welfare of this Province, it was enacted, that the offenders in all murthers and felonies should suffer such paines, losses, and forfeitures as they should or ought to have suffered in the like crimes in England. Since the making of which Act, that is to say, on the three and twentieth day of Aprill, 1635, the said William Cleyborne hath not onely continued his said insolences, mutinies, and contempts against the Lord Proprietary and the government of this place, but hath instigated and commanded sundry persons to committ the greivous crimes of pyracie and murther, (which)⁽²⁾

(1) 1635 N. S.

(2) The manuscript illegible here.

pyracie and murther is lawfully indieted by a grand Enquest of foure and twenty freemen of this Province; and since, and after the committing of the same pyracie and murther, hath fledd and withdrawen himself out of the Province,⁽¹⁾ whereby he cannot be attainted of the said crimes by any ordinary course of iustice;—We the freemen assembled in this present generall Assembly, considering the premises and the necessity of exemplary iustice to be inflicted on such notorious and insolent rebels and disturbers of the peace and safety of the inhabitants of this Province, and for the terror of like offenders in time to come, doe request your Lordship that it may be enacted, and be it enacted by the Lord Proprietary with the advice of the freemen of this present generall Assembly, that the said William Clayborne be attainted of the crimes aforesaid, and that he forfeite to the Lord Proprietarie all his lands and tenements which he was seized of on the said three and twentieth day of April, in the year 1635. And that he forfeite to the said Lord Proprietary all his goods and chattells, which he hath within this Province at this present.

(1) Claiborne remained on Kent Island, and within the Province, more than two years, after the alleged acts of piracy and murder, for the instigation of which he was condemned, during which time the Marylanders might have arrested him, had they chosen to make the attempt. He had been gone ten months, when the act of attainder was passed, and there is no evidence that his departure was secret, or his intention of seeking redress in England unknown. See the particulars, in "the First Commander of Kent Island," pages 4-9.

And the aforesaid Bill, being engrossed in parchment, was approved and signed by the Lieutenant generall, and all the ffreemen assembled.⁽¹⁾

ALPHABETICAL LIST

OF THE MEMBERS OF THE ASSEMBLY OF 1638,

With their Occupations and Places of Residence.

A.

Altham, John,	Priest,	St. Mary's Hundred.
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B.

Baldrige, James, Sheriff of St	Mary's Co.	"	"	"
Baldrige, Sergt. Thomas,	Planter,	"	"	"
Bateman, Edward,	Ship Car-			
	penter,	"	"	"
Beane, Ralph,	Planter,	(St. George's Hundred.)		
Beekler, Edward,	(Planter,)	Isle of Kent.		
Benum, Anum,	Planter,	Matapanient.		
Bishopp, Henry,	Planter,	Matapanient.		
Boys, Thomas,	Mariner,	St. Mary's Hundred.		
Bradnox, Thomas,	(Planter,)	Isle of Kent.		
Braintwaite, William,	Gentleman,	(St. Mary's Hundred.)		
Britton, William,	Gentleman,	(St. Mary's Hundred.)		
Broughe, William,	Planter,	Matapanient.		
Bryant, John,	Planter,	Matapanient.		

(1) To this copy is appended the following attestation. "This is a true Copie of the Record of the Acts of the generall Assembly, touching the aforesaid Bill."

Ita testar John Lewger, Secretary.

State Paper Office, Board of Trade, Virginia, No. 2, page 126.

C.

Calvert, Leonard,	Governor,	St. Mary's Hundred.
Cauther, James,	Planter,	St. Mary's Hundred.
Carington, Thomas,	Planter,	St. George's Hundred.
Chappell, Andrew,	Mariner,	(St. Mary's Hundred.)
Clerke, or Clarke, Robert,	Gentleman,	(St. Mary's Hundred.)
Cornwaleys, Capt. Thomas,	Councillor,	(St. Mary's Hundred.)
Cepley, Thomas,	Priest,	St. Mary's Hundred.
Cotton, Anthony,	Mariner,	(St. Mary's Hundred.)
Courtis, John,	Planter,	St. George's Hundred.
Courtney, James,	Planter,	St. George's Hundred.
Crawley, Henry,	Planter,	Isle of Kent.

D.

Davis, John,	Planter,	St. Mary's Hundred.
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E.

Edlow, Joseph,	Planter,	Matapanient.
Edwards, Isaac,	(Planter,)	(St. Mary's Hundred.)
Edwin, William,	Planter,	St. Mary's Hundred.
Evelin, Capt George,	Gentleman,	Kent Island.

F.

Fenwick, Cuthbert,	Gentleman,	(St. Mary's Hundred.)
Fleete, Capt. Henry,	Gentleman,	St. George's Hundred.
Fleete, Edward,	Planter,	St. Mary's Hundred.
Fleete, John,	Planter,	St. George's Hundred.
Fleete, Reinold,	(Planter,)	(St. George's Hundred.)
Franklin, Thomas,	Planter,	St. Mary's Hundred.

G.

Garnett, Richard, sen.	Planter,	Matapanient.
Gray, Francis,	Planter,	St. Mary's Hundred.
Greene, Thomas,	Gentleman,	(St. Mary's Hundred.)

H.

Halfhead, John,	Brickmason St. Mary's Hundred.
Hawley, Jerome,	Councillor, (St. Mary's Hundred.)
Hebden, Thomas,	Planter, St. George's Hundred.
Hervey, Nicholas,	Planter, Matapanient.
Hilliend, John,	(Planter,) (St. Mary's Hundred.)
Hill, John,	Planter, St. Mary's Hundred.

J.

James, Henry,	Planter, St. Mary's Hundred.
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L.

Langford, John,	Gent. and High Sheriff Isle of Kent.
Lee, Henry,	Planter, St. George's Hundred.
Lewger, John,	Secretary, (St. Mary's Hundred.)
Lewis, William,	Planter, St. Mary's Hundred.
Loe, Richard,	(Planter,) St. Mary's Hundred.
Lusthead, Richard,	Planter, Matapanient.

M.

Martin, Christopher,	Planter, St. Mary's Hundred.
Medcalfe, John,	Planter, St. Mary's Hundred.
Medley, John,	Planter, St. Mary's Hundred.
Morris, Thomas,	Planter, St. George's Hundred.
Mottershead, Zachary,	Gentleman, St. Mary's Hundred.
Moy, Roger,	Planter, St. George's Hundred.

N.

Nabbs, Thomas,	Planter, St. George's Hundred.
Neville, John,	(Mariner,) (St. Mary's Hundred.)
Nicholls, Robert,	Planter, St. Mary's Hundred.
Norton, John,	Planter, St. Mary's Hundred.

O.

Oderoft, Davie,	Planter,	St. Mary's Hundred.
Oliver, Roger,	Mariner,	St. Mary's Hundred.

P.

Parrie, or Parry, Edmund,	Planter,	Isle of Kent.
Passmore, Thomas,	Carpenter,	St. Mary's Hundred.
Perey, Robert,	Marshal,	(St. Mary's Hundred.)
Philpott, Robert,	Gentleman,	Isle of Kent.
Pope, Nathaniel,	Planter,	St. Mary's Hundred.
Price, John,	Planter,	St. Mary's Hundred.

R.

Rabnett, Francis,	Planter,	St. Mary's Hundred.
Revell, Randall,	Cooper,	St. George's Hundred.
Richardson, John,	Planter,	St. George's Hundred.
Robinson, John,	Carpenter,	(St. Mary's Hundred.)

S.

Smith, Robert,	Planter,	St. Mary's Hundred.
Smithson, John,	Planter,	St. Mary's Hundred.
Snow, Justinian,	Planter,	St. Mary's Hundred.
Snow, Marmaduke,	Planter,	St. Mary's Hundred.
Stent, Thomas,	Planter,	St. George's Hundred.

T.

Thomas, Christopher,	(Planter,)	Isle of Kent.
Thompson, Richard, or Thomson	Gentleman,	Isle of Kent.
Thoroughgood, Cyprian,	(Planter,)	(St. Mary's Hundred.)

V.

Vaughan, Robert,	High Con- stable,	St. George's Hundred.)
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W.

Weed, Henry,	Planter,	St. Mary's Hundred.
White, Andrew,	Priest,	St. Mary's Hundred.
Wickliff Davie,	Planter,	St. George's Hundred.
Wintour, Capt. Robert,	Councillor,	(St. Mary's Hundred.)
Wiseman, Robert,	Planter,	St. Mary's Hundred.
Wortley, John,	Planter,	St. George's Hundred.
Wyatt, John,	Gentleman,	(St. Mary's Hundred.)

[The occupations and places of Residence enclosed in parentheses are inferential, but are probably generally correct.]

RECAPITULATION.

The whole number of colonists, present or represented, during the entire session, the proceedings of which have been given in the preceding pages, appears to have been ninety. Of these, fifty-six, as nearly as can be ascertained, were from St. Mary's hundred;—eighteen from St. George's;—seven from Mattapanient, and nine from the isle of Kent. Their official stations and occupations were as follows: Governor, one;—Secretary, one;—Sheriff, one;—Marshall, one;—priests, three;—gentlemen, ten;—Councillors, three;—carpenters, two;—ship carpenter, one;—brickmason, one;—cooper, one;—mariners, five;—planters, forty-eight;—occupations not given, twelve. Of these last, the greater part were undoubtedly planters,

as well as many of those, who are set down to other occupations;—so that the agricultural interest may be said to have been decidedly predominant in the House.

BIOGRAPHICAL NOTICES

OF THE FREEMEN REFERRED TO IN THE PROCEEDINGS.

Leonard Calvert, “Lieutenant Generall,” came over with the first expedition. It seems strange that the name of George does not appear on the list. He was certainly in the province, as late as the 20th of June, 1633, when he was present at a conference with the chief of the Patuxents, relative to Claiborne’s alleged intrigues; but, after this, no trace of his name or presence remains. I have found, in examining the old records of Virginia, reference to the settlement of the estate of “George Calvert, *physition*, deceased,” about October, 1640;—and I have no doubt, that, for some reason, not now to be explained, he left the Maryland settlement, and took up his residence in Virginia. Leonard died at St. Mary’s, on the 9th of June, 1647.

Capt. Thomas Cornwaleys came over with the first expedition, and brought with him five servants.

See chapter, entitled "The First Commissioners," for the particulars of his life. He left the province in June 1659, to take up his residence in England.

Capt. Robert Wintour came into the province, January 12th, 1637 or 8, bringing with him five men servants, and a boy aged fifteen years. According to the "Relation of Maryland, published in September, 1635, there were in the first expedition, Edward and Frederick Wintour, sons of the Lady Anne Wintour," but whether this Robert was a brother or a relative, I do not know. The name of neither of them appears on the list of members. Perhaps the author of the Relation was mistaken in the name of one of them. Capt. Wintour resided in St. George's hundred. He was ill during the session, and died soon after its close. Secretary Lewger administered on his estate, Sept. 4th, 1638.

Secretary John Lewger arrived at St. Mary's, Nov. 28th, 1637, in the ship *Unity* of the Isle of Wight, with his wife, Ann, his son John, nine years of age, Martha Williamson, Ann Pike, and Mary Whitehead, servants; Benjamin Cobbie, Philip Linnie, Thomas Hursdon, and Robert Serle, a boy aged twelve years. He served the colony faithfully for many years in the capacity of Secre-

tary, but having lost his wife, returned to England, where he died in the year 1665, from exposure, during his philanthropic efforts to relieve the citizens of London, who were suffering under the ravages of the plague. See the chapter, entitled "The First Secretary," for a particular notice of his life and services.

Capt. Robert Evelin. This is a mistake for *George*. Robert was the name of a brother; but *George* was the Commander of the Isle of Kent. He came to that island as the agent of Cloberry & Co. of London, Claiborne's partners, in November, 1636, superseded Clairborne, and, after the departure of the latter for England in May, 1637, was the means of bringing the island under the sway of Calvert. See the chapter entitled, "The First Commander of Kent Island,"⁽¹⁾ for details of his proceedings in Maryland. He left the colony about June, 1638, and does not appear to have returned.

Mr. Thomas Greene. The name of Henry Green is contained in the list of the members of the first expedition. This may be a mistake for *Thomas*;—at all events, the latter came over very soon after the first settlers, if not with them. He was for some time highly esteemed; was one of the Coun-

(1) Heretofore printed by this society as "Fund Publication No. 2 "

cil; and after the death of Leonard Calvert, acted as Governor, till the appointment of Capt. Stone. By his subsequent misconduct, he lost the favor of the Proprietary and the respect of the people, was removed from the Council, and prohibited from holding office in the province.

Mr. William Bretton came into the Province in January, 1637 or 8, bringing with him his wife, a son four years old, and three servants. He was an inhabitant of St. George's Hundred. A William Britton, probably the same person, was, in 1640, and for nearly twenty years after, Clerk of the Assembly.

Capt. Henry Fleete was a member of the Virginia colony, and engaged in trading for furs with the Indians in the Potomac river, when Leonard Calvert arrived, having three boats employed in that traffic.

In a letter written in London, in 1627,⁽¹⁾ occurs the following passage: "Here is one whose name is Fleet, newly come from Virginia,⁽²⁾ who, being lately ransomed from the Indians, with whom he hath long lived, till he hath left his own language, reporteth he hath oftentimes been within sight of the South Sea; that he hath seen Indians besprinkle

(1) June 8th. To Rev. Joseph Mead.

(2) Printed "Venice;"—but evidently a mistake for Virginia.

their paintings with powder of gold;—that he had likewise seen rare precious stones among them, and plenty of black fox, which of all others, is the richest fur.” It seems quite probable that the person thus referred to, was no other than the subject of this notice, whose connection with the colony of Virginia, if our surmise be correct, is thus traced back to a period seven years before his encounter with the pilgrims of Maryland, and whose familiarity with the Indian tribes and intimate acquaintance with their tongue, is accounted for by his long detention as a captive among them, and subsequent intercourse with them in the way of trade. There is additional reason for believing the two persons to be the same, in the fact, that the party referred to in the above quotation was evidently disposed to assert all that was true, and perhaps a little more;—a trait which seems, on one or two occasions, at least, in the colony, to have belonged to the character of Capt. Fleete.

Governor Calvert, before fixing on a place for settlement, determined to make an excursion up the river, as well to survey the natural advantages presented by its higher parts, as to treat with and pacify the principal chiefs residing upon its shores, some of the most warlike of whom were already in arms, and preparing to resist what they regarded as a hostile encroachment on their territory. During this excursion, the Governor fell

in with Capt. Fleete, who, with his three boats, was then engaged in trading along the river, and after making known to him his objects and the powers with which he was clothed, proposed that he should continue his traffic under the auspices and license of the Lord Proprietary, forming with him and a few of the principal members of the Colony a company for the prosecution of the trade in furs. Fleete accepted the proposition, united himself to the expedition, and, in the character of interpreter, was exceedingly useful in introducing him to the chief of the powerful tribe of Pascataways, and the heads of other tribes on both banks of the river, with whom he was intimate and popular, and whose language he used with great facility.

Through his advice, Calvert was lead to seek a site for his settlement nearer the mouth of the river, and was conducted by him to the stream afterwards called the St. Mary's, and introduced to the chief of the Yawocomocoos, of whose intention to forsake their village, he was apprised. To him therefore is due the honor of fixing the site of the first settlement in Maryland proper.

Fleete and Claiborne, as members of the same Colony and engaged in the same pursuit, appear to have been amicably disposed towards each other; yet the union of the former with the Maryland Colony, the aims and interests of which were in direct opposition to the claims and projects of the

latter, must, for the time, have tended to estrange them, and to make the one a competitor of the other. Yet, according to the account given in the document, usually recognized, as "Father White's Journal,"⁽¹⁾ Fleete, though at first very friendly to the Colony, afterwards, seduced by the sinister counsels of Claiborne, became its most bitter enemy, and endeavored to stir up the neighboring savages against them.

It is difficult to reconcile this assertion with the known position of Fleete for several years after in the Colony, and with facts, which, instead of countenancing such a view, prove Fleete to have been in opposition to Claiborne, and to have been the means of throwing an unfounded imputation on him of having attempted to excite the savages to acts of hostility against the Marylanders. It will be recollected that the Colonists within a few weeks after their landing, were alarmed at a sudden change in the deportment of the Indians, who, from a frank, open, trusting intercourse, changed suddenly to coldness and reserve. The first step of the people was to finish their defences;—their next, to inquire into the cause of this sudden distrust on the part of the Indians, who had previously been so hospitable and trust-

(1) Ille initio nobis perfamiliaris, deinde *Clayborni* cujusdam sinisteris seductus consiliis, infensissimus effectus, indigenarum animos, quâ arte potest, adversum nos accendit. Hist. Socy's Fund Publication, No. 7, page 35.

ful. The insinuations and hints of Capt. Fleete turned the suspicions of the Colonists against Claiborne;—and measures were immediately adopted for holding a conference with the king of the Patuxents and other chiefs, to investigate the matter. The meeting was held on the 20th of June, 1634, and there were present four of the principal members of the Virginia Colony, George Calvert, and Frederick Winter, and some others on the part of the Marylanders, and Capt. Claiborne in person. Capt. Fleete did not make his appearance.

After the interpreters had been sworn, the chief of the Patuxents was informed that they had come to inquire respecting a statement made by Capt. Fleete to the Governor of Maryland, and the lives of some of their people depended on his testimony. He then answered their interrogatories, and in the course of his replies, denied that Capt. Claiborne had ever spoken to him against the Marylanders, or attempted to induce him to injure or attack them. The other chiefs gave a similar testimony. The chief further asserted that, in an interview at St. Mary's, Capt. Fleete had asked him whether Capt. Claiborne had not spoken with him against the Colony, and he had told him that nothing of the kind had occurred. He therefore, indignantly, declared that Fleete was a liar; and, if he were present, he would tell him so to his face. Upon his expressing his surprise that they should place

any confidence in such a man, the Virginia Commissioners replied that "the gentlemen of Yawocomoco did not know Capt. Fleete, as well as they of Virginia, because they were lately come." Then the Indians present said, that when they came to speak with Capt. Fleete, all the lies would rebound upon him, and lie upon him as high as his neck, and at last break it. Another of the Indians then testified that Fleete had told him to tell Claiborne, that "the great men of Pasbehayes, (Virginia,) would kill him, and it was useless for him to try to escape, for if he fled to Kent Island or among the Indians, he was commissioned to take him, and he would do so." He furthermore said, that Fleete had cautioned him not to go on board Claiborne's boat, for if he did, he would be taken prisoner.

Such was the result of the investigation; by which it appears, that Fleete was no friend to Claiborne; that he endeavored to sow distrust of him in the minds of the savages, and that the statements he had made relative to the charges by the Indians against Claiborne were positively contradicted by them, and the lie broadly thrown upon Capt. Fleete. To this must be added the significant excuse of the Virginia Commissioners, that the Marylanders *did not know Capt. Fleete as well as they did*, or they would not have placed so much reliance on his assertions.

Yet, whatever may have been the failings of Capt. Fleete in this particular, his experience as a trader, his knowledge of the Indian tongues, and his intimacy with and influence over the natives, rendered his services important and his presence essential in the new Colony, with which he remained, and to the upbuilding of which he largely contributed. Even the Virginians, whose Colony he had left to unite himself to that of Maryland, were well aware that they had lost a useful and important member; and notwithstanding the slur their Commissioners had cast on his veracity, were anxious to avail themselves of his known influence with the savages and his skill as an interpreter. On one occasion, when there were strong apprehensions from the natives, and an interpreter was wanted, either to accompany an expedition or to treat with a refractory tribe, an extraordinary measure was resorted to, hardly in accordance with the friendly feelings professed by the Governor for the new settlement.

On the plea that "the instant danger and necessity of the Colony exacteth this so strict a course," a warrant was issued by the Governor and Council of Virginia, on the 11th of May, 1636, authorizing Lieut. Richard Popely to proceed in a vessel, "with the first fair wind and weather into the Chesapeake Bay, and into a river or creek thereof, *in pursuit and inquiry of Capt. Henry Fleete*, and to apprehend

him and bring him a prisoner to the Governor." It is doubtful whether the agent succeeded in his mission; but, if he did, and Capt. Fleete accompanied him to Virginia, he did not prolong his stay beyond the contingency which immediately called for his presence, and returned to St. Mary's, as his fixed habitation. He established himself in St. George's Hundred, on the west side of the St. George's river, and devoted himself mainly to the prosecution of the beaver trade with the Indians, in which the Proprietary, Leonard Calvert, Justinian Snow, and others, were interested with him.

In the Assembly of 1638, he appears to have been present as a member summoned by special writ on behalf of the Proprietary, and was punctual in his attendance, until the adjournment and expedition to Kent, after which his name appears no more on the list of members. He did not participate, therefore, in the trial and condemnation of Thomas Smith, nor in the subsequent proceedings, including the attainder of Claiborne. His brothers, Edward and Reinold were in attendance to the end of the session, and united in the decision against Smith and voted for the attainder.

About the time of the commencement of the Assembly, suit was brought by Mr. Lewger, against Capt. Fleete, in the name of the Lord Proprietary, for his moiety of one hundred weight of beaver, borrowed by the captain of Mr. Snow, the factor of

the trading company, and never returned. The justice of the claim was at first denied, but judgment was afterwards confessed in the amount of thirty-three pounds, and the dispute was settled.

In June following, he received a special license, authorizing him to trade with the Indians of the Colony, for furs, corn and the usual articles of traffic with the savages, yet, on account of his difficulty with his partners, or from some other cause, he appears not long after to have left the Colony, and returned to Virginia.

In a summons to the freemen of St. George's Hundred, to elect burgesses to represent them at an Assembly to be held on the 25th of February, 1639, they are required to assemble on the 21st of February "at the house where Capt. Fleete lately dwelt," which shews that he had then removed from his residence in that hundred, and the fact that he was not present at the session then held, either as a special member or burgess, strengthens the surmise that he had left the Colony. Edward probably went with him; but Reinold remained, for a time at least, as he was the defendant in a cause tried before the Assembly.

On the 30th of June, 1640, we find an entry on the record of the Court at James City, to the effect that "negroes, runaways, have stolen Capt. Henry Fleet's boats," and Edward Fleet and others have been sent to recover them, if possible. This would

seem to fix him and his brother once more as residents of Virginia.

Yet, all connection between him and the Maryland Colony was not severed; for, on the 18th of June, 1644, while Leonard Calvert was in England, and the government of Maryland was in the hands of Capt. Brent, and at a time when the Marylanders as well as the Virginians were on the alert to repel the assaults of the exasperated tribes, and to deal them a severe blow, if possible, Capt. Flecte appears to have been on service in Maryland, instead of Virginia, and to have been sent on a tour of duty among his old friends, the Pascatoways.

The Susquehanoeks, the implacable enemies of the Colony, it had been ascertained, had made arrangements to send a delegation of chiefs to Pascatoway, professedly to agree on terms of peace with that tribe and the English, but in reality, it was feared, to unite the Indians in a general plan of slaughter, such as had just been successfully carried out (April 18th) in Virginia, under the lead of Opechancanough; and it was deemed necessary to have a force there to countenance the Pascatoways, hold the Susquehanoeks in check, and make use of negotiation or force, as seemed most advisable, to bring the savages to terms.

No man, in respect to experience, knowledge of Indian character, familiarity with the language and personal influence, was so well fitted to con-

duct such an affair as Capt. Fleete; and for some cause, he seems to have been at hand, at this critical moment, to give the Colony the benefit of his courage and experience. A commission and instructions were therefore drawn, authorizing him to take with him at least twenty men, and repair to Pascatoway, there to make a treaty with the Susquehanocks, if he deemed expedient, on the conditions of hostages to be given, captured arms to be returned, satisfaction for plunderings to be made, a present to the Governor, and any other terms honorable to themselves and their confederates, the Virginians; or, otherwise, to seize or kill the chiefs, and prevent the Pascatoways from treating with the common enemy, or taking any step without the assent of their queen, then residing at St. Mary's.

This commission and the accompanying instructions were prepared by Secretary Lewger, without the authority of Governor Brent; in consequence of which, he suspended him from the office of Councillor, and revoked all appointments granted to him during his rule; and perhaps countermanded the order for the expedition.

Whether Capt. Fleete went up to Pascatoway, is not known. The Virginians were at the same time actively engaged in making war upon the Indians in all directions, and Capt. Claiborne had made a most successful expedition against the Pamunkies,

the tribe of Opechancanough, scattering and destroying them, and cutting down their corn. In the midst of these movements, Capt. Fleete became involved in some difficulty, probably of a political character; for at a Court held on the 20th of August, he was required to put in security "to appear at James City at the next Quarter Court, to answer such matters as might be alleged against him by the attorney general." Whatever the charge might have been, it did not affect the confidence reposed by Governor Kemp, (who was acting in place of Governor Berkeley, then absent in England,) in his good will and fidelity;—for, a fortnight afterwards, (Sept. 3rd,) it was concluded by the court to be too late in the year to make an effective attack on the Rappahanocks, but the discussion of a future expedition was postponed to the October Court, "at which Capt. Claiborne, Argoll Yeardley and Capt. Henry Fleete were desired to be present, in order to give their particular informations to the Governor and Council, concerning that service." Capt. Fleete was accordingly present; and not only complied with the request of the Governor and Council, but responded to a requisition (Oct. 15) "to put in his answer, within six days, to the information exhibited against him, on his Majesty's behalf, on the penalty of one hundred pounds sterling." His offence was evidently one against the royal party in England; and the

terms of the charge shew that he was most probably on the side of Parliament; but what was its precise nature we have no means of ascertaining.

The attention of the authorities was at this time absorbed in devising measures for the effective defence of the Colony against the Indians under Opechancanough, and his confederates. This powerful chief, instead of having been captured by Sir William Berkeley and killed while his prisoner, before his departure for England, in the summer of 1644, as the historians of Virginia uniformly state, was yet alive and at large, inspiring the whole body of natives with sentiments of aversion for the English, and stimulating them to new outrages and assaults. It was therefore deemed advisable to call an Assembly, which met at James City on the 17th of February, 1645.

This body passed acts, appointing the last Wednesday in every month as a day of fasting and humiliation, "to the end that God might avert his heavy judgments from the Colony," and the 18th of April as a day of thanksgiving for their deliverance the year preceding from the savages. Laws were also passed, requiring every fourteen tithable⁽¹⁾ persons in the Colony "to set forth, completely furnish and maintain," one soldier to serve against the Indians, and providing for the erec-

(1) All negro men and women, and all other men from the age of sixteen to sixty, were adjudged tithables.

tion of three forts; one at Pamunkey, to be called Fort Royal;—one at the falls of James river, to be called Fort Charles;—and a third on the ridge of Chickahominy, to be called Fort James.⁽¹⁾ After the session, it was decided by a council of war (March 10th) to send to each fort sixty men, provisioned for three months, with one piece of ordnance for each station; and to be ready by the 25th of March; but an extreme scarcity of corn, particularly in the northern counties, greatly obstructed their preparations. In this strait, Capt. Fleete, “as a fit person, acquainted with the language of the Indians, and accustomed to intercourse with them,” was publicly authorized (April 5th) “to trade with the Rappahannocks, or any Indians, not in amity with Opechancanough,” to obtain a supply of corn.

Thus matters continued for two months, when, quite unexpectedly, Sir William Berkeley, on the 7th of June, returned from England, and resumed his functions, which had been so faithfully administered during his absence by Mr. Kemp. On Monday, the 16th, he met his Council, and found, from the matters that came before him, that he had resumed no seat of leisure or repose. A letter from one Margaret Worleigh was read, then a

(1) The next year, for the defence of the inhabitants on the south side of James river, and as a check upon the savages in that quarter, a fort was erected on the Appomattox, and called Fort Henry, and garrisoned by forty-five men.

prisoner in the hands of Opechancanough, in which she proposed, by authority of that chief, a redemption of the captives in his hands, and a negotiation for a treaty of peace; whereupon it was ordered that Opechancanough be treated with for the redemption of the prisoners, and required to redeliver them, with the arms and ammunition he had taken, to the English, and that a cessation of hostilities be agreed upon, during the continuance of the negotiations. It was likewise agreed that a letter should be sent to Margaret Worleigh, informing her that the Governor would soon be at Rickahock, the Indian name of Fort Royal, on the Pamunkey river, in compliance with Opechancanough's proposal, and desired the chief, within two days after the receipt of the letter, to send to that station twelve of his principal councillors, to confer with the Governor on the subject of a restitution of prisoners, and of a treaty of peace. As a guide for the Governor's party, and an interpreter in the negotiations, Capt. Fleete was ordered to attend the Governor on the following Monday, at the Middle Plantation, his estate, not far from James City.

If the proposed conference was held, of which we have no record remaining, it produced no peaceful results. Hostilities between the natives and the English raged more furiously than ever, and all considerations gave way to the necessity of holding

Opechancanough and his confederates in check. A session of the Assembly, which was to have been held on the 1st of October, was put off to the 19th of November, on account of an expedition, organized by the Governor, and to be led by himself in person; the soldiers of the three forts, with the exception of a few left behind to keep guard, were ordered to rendezvous at Kequotan on the 4th of October, and great hopes were entertained that a severe blow would now be given to the savage foes of the Colony. In such an expedition, Capt. Fleete would be an essential agent, and his services were doubtless called in requisition. Its details are unfortunately lost; but we know that it was by no means so effective as had been anticipated, since it still left the prime contriver of mischief at large, and plotting against the lives of the Colonists;—nor could it have been of long duration, as Governor Berkeley returned to James City, in time to take his place as presiding officer over the Assembly that began its session on the twentieth of November.

Many of the enactments of this session had reference to the peculiar position of the Colony, surrounded as it was by merciless enemies, and exhausted by a protracted struggle. The lieutenants of the counties were empowered to prevent persons from hunting or travelling alone, and exposing themselves “to the slaughter of the enemy;” the

tonnage duty on ships arriving was raised to half a pound of powder and three pounds of lead for every ton; the usual poll tax was abolished, as "insupportable for the poorer sorte;" and a property tax substituted, of four pounds of tobacco on every hundred acres of land, the same on every three year old cow; thirty-two pounds, on horses, mares, and geldings; four pounds on each breeding sheep, two on each goat, and twenty on every tithable person; the exemption of ten persons to each Councillor from taxation was withdrawn, and an attempt made to establish a mint, to issue coin to take the place of tobacco, and supply a colonial currency.

After a short session, the Assembly was prorogued to the first of March, at which time the members again came together. An act was now passed, authorizing the erection of a fort at the falls of the Apomattox, to be called Fort Henry, and to be garrisoned by forty-five men, for the defence of the inhabitants on the south side of the James river, and to overawe the Indians in that quarter; and also the organization of an expedition against the Nansimum Indians and other neighboring tribes. But the most important enactment of the session, was one made in response to the representations and propositions of Capt. Fleete, in reference to putting an end to the Indian war.

This act recites that the Governor, Council and Burgesses, having maturely considered the vast expenditures of the Colony in carrying on the war, and the impossibility of further revenge by reason of their dispersion through the forests in small parties, and believing that a peace, honorably obtained, would conduce to the well being and advancement of the Colony, authorized the raising of a party of sixty men, to be commanded by Lieut. Francis Poythers, in case hostilities should arise; but, on all emergent occasions and in the negotiation of a treaty of peace, to act with their commander, under the advice of Capt. Henry Fleete. Furthermore, Capt. Fleete, "according to his undertaking and propositions made to the Grand Assembly," was to "make ready his barque, boat, and shallop, victuals, and men for the managing of the said vessels for the space of six weeks, with three hundred pounds of powder and twelve hundred pounds of shot or bullets for the sixty men, at his own proper costs and charges; as also such nails, axes, hoes, spades, and other necessities for the service as occasion might require, the charge of which, to be borne and defrayed by the public levy." The force designated was ordered to meet at Kequotan, well appointed, on the 20th of April. Capt. Fleete, for his labor and disbursements was to have fifteen thousand pounds of tobacco, to be paid out of the next levy; with the proviso, how-

ever, that, if he did not succeed in effecting the proposed pacification with Opechancanough or his Indian allies, he should bear all the expenses of the expedition, without any consideration or satisfaction from the Colony; and, in case a peace could not be concluded, he and Lieut. Poythers should build a fort, at some convenient point on the Rappahannock river, and hold themselves subject to such further directions as might be given them by the Assembly, Governor, or Council.⁽¹⁾

Capt. Fleete must have been very sanguine of success, and have had at command some extraordinary means of holding communication with Opechancanough, and as he believed, of exerting an influence over him, to have been willing to assume all the risk and expense of the proposed expedition, in case he should fail to bring the chief to satisfactory terms. The credit of capturing Opechancanough has always been assigned to Sir William Berkeley; but if the honor of this exploit is not immediately due to Capt. Fleete, which I am rather inclined to believe, he is certainly entitled to the credit of the preliminary movements that placed the English in communication with the chief, made them acquainted with his haunts, and opened the way for that successful expedition, which soon after placed the aged but inveterate enemy of the Colony in the hands of the Governor.

(1) Hening, Vol. 1, p. 318.

The public spirit and enterprise of Capt. Fleete, at this critical moment, when the authorities were discouraged, the people desperate, and the future dark, are also deserving of all praise. Within a short time Opechancanough was a prisoner, the combination of the Indians broken, the hopes of the Colonists revived, and a prospect of peace presented to their delighted imagination, and this, as I conceive, mainly through the instrumentality of Capt. Fleete.

The old chief, though bending under the weight of nearly a hundred years, bore himself with the port and dignity of one accustomed to command, and Governor Berkeley was thinking of sending him over to England, when the malice or cruelty of a sentinel ended the captivity and the life of the prisoner by a musket shot in the back.

With him died the courage and the opposition of the natives, whose hostility he had so long cherished, and whose onslaughts he had so perseveringly led. A new chief succeeded him, whose policy was as pacific and cringing as that of his predecessor had been bloody and bold; and the first act of an Assembly called early in October following, perhaps principally for this very purpose, was the solemn ratification of a treaty of peace with Nicotowance, the newly chosen king, by which he relinquished his royal birthright, consented to hold his dominion from the king of England, (then

beginning to tremble on his throne,) placed himself under the protection of the Colony, and bound himself and his successors to pay an annual tribute to the English, and his people to hunt and fish within such limits, in the direction of the Colony, as they might prescribe.

Peace having been thus secured, retrenchment of the heavy expenses entailed by the Indian hostilities became the especial object of consideration. Fort Henry, on the Appomattox, with six hundred acres of land around it, was granted to Capt. Abraham Wood, on condition that he would maintain there for three years ten men, who, with himself were exempted from taxation;—Fort James, on Chickahominy, was granted to Lieut. James Rolfe, with four hundred acres, and similar privileges, on condition of maintaining there six men for the same time; Fort Royal, or Rickahock, on the Pamunkey, with six hundred acres, was granted to Capt. Roger Marshall, to be guarded by ten men, and inducements were offered to persons to settle in the vicinity of Fort Charles, on the James river. The inhabitants of Chicacoan or Northumberland, who had never borne their share of the expenses of the war, were heavily assessed, and the collection of their levy given to Mr. Poythers, Fleete's companion in the last expedition, now made a captain, and a member of the Assembly. No mention is made on the existing record of any grant or testi-

monial of obligation to Capt. Fleete, although the office of interpreter to the Colony was at this time created, with a salary of four thousand pounds of tobacco yearly, and bestowed upon Capt. John Flood.⁽¹⁾ It is by no means improbable, at a period when party spirit ran as high in the Colony as it did in England, where royalists and commonwealth's men regarded each other with deadly hate, that Capt. Fleete's political predilections made him obnoxious to the Governor, and that no public favor was therefore wasted on him.

One of the conditions of the treaty with Nicotowance had been, that, while the Indians should give up to the English the whole of the neck of land included between the York and James rivers, from the falls of both rivers down to Kequotan, (now Hampton,) no whites should intrude upon the land on the north of the Rappahannock; but with this arrangement the Colonists did not long remain contented. Representations were made to the Governor and Council that many of the inhabitants were in a distressed condition, in consequence of occupying barren and overwrought lands, and that their cattle and swine were suffering for want of sufficient range; and an act was passed by an Assembly held in October, 1648, authorizing those persons desirous of removing to the north of the Charles and Rappahannock rivers, to take up

(1) Hening, Vol. I. p. 328.

patents for lands for those places, and to remove thither with their families after the first of September, 1649.

Under this law, several of the Colonists took up lands on the north side of the Rappahannock river, and among them, there is reason to believe, was Capt. Fleete. The population gradually increased, and in a short time, though at what precise date is not now known, the district within which he had established himself was legally recognized under the name of Lancaster county.

Affairs in England had in the meantime come to a crisis;—Charles had been beheaded; the Parliamentary party prevailed, and royalty was trodden in the dust;—and as soon as the government at home could be settled, an expedition was prepared for reducing to subjection the rebellious Colonies, especially the Barbadoes and Virginia. This was successfully accomplished by a naval force that arrived in March, 1652, the commander of which, in conjunction with Richard Bennett and Capt. William Claiborne, now prominent members of the Colony, was appointed a Commissioner to bring the people to submission. The Assembly acknowledged the supremacy of Parliament, Governor Berkeley was displaced, royalism thrown into the shade, and a new Assembly called, which at once (April 30) chose Bennett Governor and Claiborne Secretary of State. In the record

of this session, Lancaster county is for the first time mentioned.

By these political changes, Capt. Fleete was once more brought to notice, and into public life.

In the session of the Assembly, held in November and December, 1652, he sat as a representative from Lancaster county, with Mr. William Underwood. His activity and enterprise were evidently unabated; and in Claiborne, his old friend and competitor, now Secretary of State, he found a fitting and equally energetic companion. Not satisfied with their past labors and present honors, they desired to explore a new field of action, and jointly petitioned the Assembly for powers to make discoveries towards the south and west. An order was in consequence passed, authorizing Col. William Claiborne and Capt. Henry Fleete, with their associates, "to discover and enjoy such benefits and trades for fourteen years as they shall find out in places where no English have ever been and discovered, nor have had particular trade, and to take up such lands by patents, proving their rights as they shall think good." What were the proceedings of the parties under this authority, or whether they pushed their explorations to the south and west, we are unable to state.

Capt. Fleete soon found his services required nearer home. The Indians of Lancaster county, on the Rappahannock, and of Gloucester county,

north of York river, formed about the same time, began to feel the encroachments of the English, and complained so strongly of the narrow limits into which they were crowded, that an act was passed, requiring the Commissioners of the counties to see that sufficient space was assigned to the several tribes, and all grounds of complaint removed. These precautions came too late. The exasperated savages became insolent and were guilty of outrages, that led the people of Lancaster, Northumberland and Westmoreland counties to apprehend an intended war, and the subject was laid before the Assembly, then in session, (Nov. 1654.) The result was an act authorizing the three counties to raise one hundred and seventy men, to rendezvous on the first of February following at a convenient place on the Rappahannock, and to be led by Major John Carter to the settlement of the aggressors, for the purpose of demanding satisfaction for the injuries received. Capt. Henry Fleete and David Wheatliff were ordered to attend the expedition as interpreters, and the Governor was authorized to determine whether there should be peace or war with the offending tribe, after receiving from Major Carter a report of his proceedings.

From this point we lose sight of Capt. Fleete in the records and memoranda of the times. We leave him, as we found him twenty years before, acting as an agent to facilitate the intercourse

between the natives and the whites, but in this case in a less pacific relation than when he accompanied Leonard Calvert to propitiate the chiefs of the Potomacs, the Pascataways, and the Yaocomo-coes, and persuaded the latter to give up their grounds and habitations to the new comers, and relinquish to them a portion of their territory. The same process was gradually going on in the region where he had taken up his residence; sometimes with the entire assent of the natives and a form of sale, sometimes by means of the basest fraud, and occasionally after an outburst of indignation from the aggrieved savages, whose natural manifestation of impatience only cost them additional acres of their soil. Thus the white man's dwelling usurped the place of the red man's wigwam;—the plantation of the former spread over the hunting ground of the latter, and with the exception of a few stragglers, the tribes that had once ruled undisputed over those fertile districts, were known no more in the land, excepting as the imperishable monuments of nature, the rivers and mountains, retained here and there a trace of their names.

Capt. Fleete probably closed his active career on or near the banks of the Rappahannock. In his latter days, besides the settlers who gradually gathered around, making the region so recently a wilderness alive with a vigorous population, he

numbered among his not very distant neighbors, (as even remote settlers were called in those days,) some of those with whose names and persons he had been familiar during his residence in Maryland. The Brents settled not far from him; Capt. Giles Brent having obtained a grant of land in Westmoreland county in 1654,⁽¹⁾ and Margaret, his sister, noted for her energetic and summary proceedings in Maryland during the disturbances, and subsequently to Leonard Calvert's death, having taken up a tract in Lancaster the year following;⁽²⁾—Col. Claiborne was the owner of a plantation of five thousand acres in the adjoining county of Northumberland, and ultimately established himself on a tract granted to him on the Pamunkey river, which had been the scene of one his severe contests with the Indians, the region around which was soon after erected into a county, in the designation of which he perpetuated the name of his beloved island, and called it New Kent;—and many of the original inhabitants of Maryland, either from dissatisfaction with the management of affairs in that Colony, or on account of their participation in rebellious movements, distributed

(1) Capt. Brent's patent was given by Gov. Bennett, Nov. 27th, 1654, and his grant consisted of 1,518 acres. This name is still preserved in that region, applied to a Point that projects into the Potomac. See Orders of Gen. Court of Va. from 1654 to 1659, p. 107.

(2) The grant to Margaret was made by Gov. Digges, after Gov. Bennett's departure for England, and bears date Sept. 4th. 1655.

themselves along the southern bank of the Potomac, forming considerable settlements at Chica-coan, in Northumberland county, nearly opposite to St. Mary's, and in other places.

With such surroundings, Capt. Fleete probably passed the remainder of his days. He was an active man, a useful citizen, a shrewd trader, an excellent interpreter, and contributed his full share towards laying the foundations of the Colony of Maryland and building up the Colony of Virginia; yet, like too many of the old pioneers of our first settlements, his name is nearly forgotten, the place of his burial is unknown, and his descendants, if he has any, are ignorant how much reason they have to be proud of the labors of their ancestor, who, with his brothers, was the first to fix the name of Fleete on the records of the two States.

Mr. Robert Philpott.

William Brainthwaite was a relative of the Calverts. The precise time of his arrival is not given. He was made Commander of Kent Island, April 22nd, 1638, in place of Capt. Evelin.

John Wyatt.

Robert Clerke is designated in the entry stating his arrival, as "servant to Mr. Copley." He came

over in the same ship with Mr. Lewger, and was probably a business agent, or what their reports term, "a temporal co-adjutor." He was at first engaged in trading with the savages, generally on account of Mr. Copley, and afterwards was made Surveyor General, and one of the Council. During the troubles in the Colony, from 1650 to 1658, his course, in reference to issuing grants of land, brought upon him the displeasure of the Proprietary, and he was removed from office; but he was afterwards forgiven and restored. He died about the 6th of September, 1664.

Richard Garnett arrived August 8th, 1637, with his wife, and son Richard, and a maid servant.

Justinian Snow was one of the early Colonists, and largely and successfully engaged in trade and agriculture. He died in 1639, possessed of a considerable estate, the inventory of which, "taken in the presence of Giles Brent, Esq., one of the Council of this Province," was delivered into Court, on the 24th of May, of that year.

Marmaduke Snow, a brother of Justinian, though mentioned here as a member in January, 1638, is referred to in the Colonial records, as having "come into the Province, in April, 1638." His name is on the list of those present in the Assem-

bly on the 13th of March; so that he could not have come over for the first time in the month following, nor could he have gone on a voyage to England and returned. The date of his arrival should probably be 1636. He was made administrator of the estate of his brother, April 24th, 1639, but became temporarily deranged, and the administration was transferred to his brother-in-law, Thomas Gerard, surgeon.

Francis Rabnett.

Serg't Robert Vaughan received his commission, appointing him "high constable of St. George's Hundred," on the 5th of January, 1638, at which time he was a resident of that hundred. He afterwards removed to Kent Island, the people of which sent him as a burgess to the Assembly of July, 1642. It was by him that the motion was made, at the opening of that session, to form an Upper and Lower House, the Governor, Council, and special delegates composing the former, and the burgesses the latter; but it was defeated by Governor Calvert's opposition. He was appointed Commander of the island in April, 1647, after Leonard Calvert had reduced the rebellious inhabitants to submission, but had some difficulties with Mr. Greene, while he acted as Governor, and was severely reproved by Governor Stone in 1652,

for his irregular proceedings in granting lands. The people of Kent also complained of his administration. At the time when the Province was under two rival Governors, and an Assembly was held by the Protestant or Parliamentary party at Patuxent in September, 1657, Capt. Vaughan was present as a representative from Kent Island, where he still continued to reside, though in rather reduced circumstances. He was a Protestant, as may be inferred from his signature to a document originating from the Protestants of the Province, April 17th, 1650.

James Baldrige was an active and efficient member of the Colony. Though entered here as "Sheriff of St. Mary's County," his commission bears date January 29th, four days after the opening of the session, when he gave bonds to the amount of one thousand pounds of tobacco, faithfully to discharge the duties of his office.

Francis Gray is, in another part of the records, styled a "carpenter." He was a Protestant, and one of the parties who, in July following, had some controversy with William Lewis, a zealous Catholic, respecting injurious speeches concerning Protestant ministers and books, for which the latter was fined by the Governor and Council.

James Cauther was only able to make his mark, thus,—I C. He was by no means peculiar in this; for many of the Colonists could not write their names.

William Lewis is the party referred to in the notice of Francis Gray. He was hot-headed and over zealous, but well meaning, and an efficient citizen. As a leader in daring expeditions he was quite popular. He was on the side of Governor Stone, in his quarrel with the Independents of Ann Arundel, in 1655, and barely escaped with his life.

Thomas Franklin.

Thomas Nabbs, with his wife and daughter Mary, arrived in 1637. The daughter was married to Mr. William Bretton.

Thomas Baldrige was probably a brother of James, the Sheriff of St. Mary's. He seems to have been of a somewhat pugnacious disposition, as he was fined 80 lbs. of tobacco by the House, on the 15th of March, "for striking Isaac Edwards."

Edward Fleete was a brother of Capt. Henry Fleete, as was also Reinold, mentioned in subsequent proceedings, and John, who, on the third

day of the session appeared and claimed voice as a freeman, was admitted, and made his brother his proxy.

John Price was distinguished for energy and courage. He was early connected with the military service of the Colony, and rendered especial service at the time when Leonard Calvert regained possession of the government, in 1647, at which time he held the rank of captain. On account of his "knowledge and great abilities in military affairs, and great fidelity in that occasion of the late insurrection and rebellion begun by that notorious villian, Richard Ingle and his complices,"—(so reads the commission,) he was made Muster Master General of the Province by the Proprietary on the 12th of August, 1648. He subsequently rose to the rank of Colonel, and was in the battle of the Severn, under the command of Governor Stone, on the 25th of March, 1655, and was one of those taken prisoner by the infuriated Independents under Capt. Fuller, and sentenced to death by a council of war, but released on the earnest petition of the women and soldiers of the Ann Arundel party. He afterwards became a member of the Council, and held other responsible public offices. He was a Protestant; probably, of the Church of England.

Thomas Morrison. This is a mistake for *Morris*.

Thomas Stent.

Thomas Copley arrived in the Province on the 8th of August, 1637, accompanied by Mr. John Knolls, and bringing with him a considerable number of servants. Notwithstanding his title of "Esquire," Mr. Copley was a Jesuit priest, and Mr. Knolls, or Knowles, was a lay brother of the order. The latter lived but a short time after his arrival, dying on the 24th of September. The former, notwithstanding his priestly office, seems to have been much engaged in business, and did not neglect the worldly interests of himself and companions. In presenting claims for lands, according to the conditions of plantation, proportioned to the number of persons brought over by him, he included the names of "Mr. Andrew White" and "Mr. John Altham," who were also Jesuit priests, and who had come over with the first Colonists. According to the specifications of his claims, there came with White and Altham, in 1634, twenty-eight servants, for whom he was entitled to 6,000 acres of land; and with him came nineteen, for whom and himself he claimed 4,000 acres, making 10,000 in all. He was also engaged in sending out goods for trade with the Indians through the agency of Robert Clarke and others,

either for the profit to be drawn from the trade, the support of the mission, or as a means of bringing the missionaries in contact with the natives, learning their language, and facilitating their conversion. On this day it appears that Mr. Copley, with Fathers White and Altham, excused themselves from attendance, through Mr. Clarke, on the plea of sickness;—the next day, with a commendable disinclination to mix in the controversies to which legislation might give rise, they preferred a request to be excused from serving in the Assembly, which was granted. The time of Mr. Copley's decease I have not been able to ascertain.

Mr. Andrew White and *Mr. John Altham*, though styled "gentlemen" in the record, were in reality, as indicated in the notice of Father Copley, priests. Their lives and labors are sketched with some particularity in the chapter entitled "the First Missionaries." Father White died in London on the 29th of September, 1655,⁽¹⁾ or on the 27th of December, 1656,⁽²⁾ O. S. Father Altham died in the Colony, on the 5th of November, 1640.

Joseph Edlow, or Edloe.

Anum Benum.

Nicholas Hervey.

(1) Dodd.

(2) Oliver.

William Broughe was a Protestant, and was living in April, 1650.

Randall Revell came into the Province in the capacity of a servant, but became, in after years, a man of considerable prominence. He was one of the first to settle on the Eastern Shore, near the southern boundary, and participated in the controversies that arose in consequence of the violent proceedings of Col. Scarborough in vindication of the claims of Virginia to that territory. He made his mark,—R. R.

Roger Moy.

John Wortley.

Robert Nicholls.

James Courtney.

Davie Wicliff.

Ralph Beane was a Protestant. He was afterwards engaged in trading between Maryland and Virginia.

Thomas Charington or *Carrington*, became bailiff of Capt. Evelin's Manor of Evelinton. He died

about August 23d, 1642; at which time an inventory of his effects was made, in the presence of Cuthbert Fenwick and Richard Gardyner.

Henry Lee.

John Norton.

John Halfhead was a Protestant; and was living in April, 1650.

Robert Wiseman afterwards removed to Matapanient, where he was residing December 3d, 1642.

Davie Odcroft.

William Edwin was a Protestant. Two days after this Assembly broke up, March 26th, he obtained a license to marry, and probably married Mary Whitehead. He was living in April, 1650.

Henry James.

John Smithson.

John Hillierd or *Hilliard.*

Christopher Martin was by trade a tailor. He died about the 8th of October, 1641, at which time letters of administration on his estate were granted to his widow, Eleanor.

Robert Smith.

Thomas Passmore.

John Medley.

Henry Bishopp.

John Bryant was killed at Mattapanient on the 31st of January, two days after the temporary adjournment of the House, by the fall of a tree which he was engaged in cutting down. See the chapter entitled "The First Inquest." Richard Garnett was made administrator of the estate, March 24th, 1637-S.

Richard Lusthead died about August 23d, 1642, on which day an inventory of his goods was taken, and Capt. Cornwaleys was made administrator.

Nathaniel Pope was an agent or overseer for Leonard Calvert. When the Governor was driven out of the Province, and was preparing his expedition to regain his place, in 1646, Pope was an

active agent, travelling frequently between St. Mary's and Kequotan, (now Hampton,) in Virginia, where Calvert remained, watching his time. Pope, however, did not escape some imputations of double dealing and treachery, in reference to his dealings with the Kent Islanders, to whom he was sent as a mediator, after the Governor had regained possession of St. Mary's.

Henry Weed, or perhaps *Wood*, died about December, 1642.

John Medcalfe.

John Courtis, or *Curtis*.

- _____
John Davis.

John Richardson.

Thomas Hebden was by trade a carpenter.

II.

THE FIRST COMMISSIONERS

OR

COUNCILLORS.

ON the first organization of the government, in Maryland, at least two persons, Jerome Hawley, Esq. and Capt. Thomas Cornwaleys, were designated, under the title of Commissioners, to advise and assist the Governor in his management of affairs, with whom it is quite probable, George Calvert was likewise associated, until circumstances induced him to withdraw from the Colony and take up his residence in Virginia.

This form of administration continued until the 28th of November, 1637, when Mr. Lewger arrived, bringing a commission by which the government was re-organized; the office of Lieutenant General or Governor, continued to Leonard Calvert; the duties of Secretary, Register of the Land Office, Collector of the Customs and Receiver of the quit rents, were united in the person of Mr. Lewger, and the latter, together with Hawley and Cornwaleys, the former Commissioners, made members of the Council of the Province, which superseded the original Commission.

These gentlemen, among the most prominent of those who embarked in the enterprize, and the most effective agents in the establishment of the Colony, in whom the Proprietary reposed such especial confidence, that he made them the prime advisers of his brother, both in his first organization of the government, and in the second commission which he sent for its modification, are richly deserving of particular notice at the hand of the historian of Maryland; and it is greatly to be regretted that more copious illustrations cannot now be given of their origin, personal characteristics, and varied experience in life. Such materials however, as could be gathered by careful examination of the earliest colonial records and other collateral sources, I have endeavored to combine, in such a manner as to give some idea of the character and public services of these honored members of the first colonial company that set foot on the shores of Maryland.

JEROME HAWLEY Esq.

The Hawleys were either related to,⁽¹⁾ or closely connected by ties of confidence with, the Calverts.

(1) In the account of the voyage of the first colonists, attributed to the pen of Father White, the expedition is said to have tarried twenty days at the Barbadoes, "then under the control of *a relative* of the Governor." The chief officer on the island at that time, was, if I mistake not, a Mr. Hawley; and hence the inference of relationship made in the text.

When Lord Baltimore was making his preparations for sending away his first expedition, the difficulties and obstructions attendant upon which have been detailed in the chapter entitled "The First Colonial Expedition," he was assisted in his arrangements, and particularly in the temporary disposal of those who had engaged to accompany Leonard Calvert, by Mr. Gabriel Hawley. The delays unavoidable in an expedition, the departure of which depended upon the favorable concurrence of wind and tide, compelled Mr. Hawley to contract for the maintenance of a portion of the colonists on land; and a considerable number were therefore placed with three persons, James Clements, John Herring, and John Smith, to be "entertained," at the rate of one shilling for each colonist per day, until the sailing of the vessels.

On the 22d of November, the expedition set sail, but, unfortunately, Mr. Hawley was not able to discharge other obligations, not to mention that incurred for the board of the colonists, and, by some of his impatient creditors, was lodged in the Fleet prison. No place could be more unfavorable for prompt liquidation of debts than this, and Clements and his companions made application to Lord Baltimore for payment of their demands, as Hawley had directed them to do; but were met with a denial of his personal responsibility, and a direction to present their claim to Hawley, whose

business it was to pay it. In this dilemma, the parties took the most direct course for justice, and went to the Privy Council with the following petition :

“To the right honorable the Lords and others, of his Majesties most honorable Privy Counsell :

The humble petition of James Clements, John Herricke, and John Smith, plaintiffs, against Lo: Baltimore and Gabriell Hawley, his deputy, defendants.

Most humbly shewing that whereas Gabriell Hawley, his Lordship's deputy, did entertayne men and women for Maryland, part of Virginia, and billeted them in the severall houses of your petitioners at XII d the day : See it is, that the said Gabriell Hawley, just upon the poynt of the shippes setting saile, took the men soe entertayned from your said severall petitioners, and pretended the Lo: Baltimore, his Master, would give your petitioners good satisfaction. But they being thus taken away, and your petitioners moveinge his Lordship for their severall payments, which amounts in all to 60 li. or thereabouts, (besides some other pertinent charges), hee the said Lord Baltimore (for what reasons your petitioners cannot conceive, though they doubt, the worse), assigns them over for payment to the said Gabriell Hawley, who is now a prisoner in the Fleet, from whom they cannot expect to have it.

They therefore humbly pray that your Lordships will be favorable pleased to take it into your Lordships considerations, and to take order that your petitioners may receive satisfaction before my Lord Baltimore's departure, whose ship is already falne downe, or else it may trench much upon their losse and ruine. And your petitioners, as in humble duty bound, shall dayly pray &c.⁽¹⁾”

(1) State Paper Office, London, “America, West Indies, and Maryland.” Referred to, also, in the *Peabody Abstracts*, in the collections of the Md. Historical Society.

The above paper, besides exhibiting one of the thousand embarrassments to which Lord Baltimore was subjected, shows that Gabriell Hawley was prominently concerned in the organization of the first colonial expedition. He had probably undertaken to supply a certain number of emigrants, and, in his endeavor to do so, had become involved in expenses, which he had not anticipated or could not meet, and for the payment of which, he referred his creditors to Lord Baltimore, who did not consider himself legally bound to satisfy their demands. How the claim was disposed of, we are not informed.

One of the most prominent among those engaged to accompany the first expedition was JEROME HAWLEY, whom, in the absence of any positive information on the point, I am inclined to regard as the son, or a near relative of Gabriel Hawley, Lord Baltimore's agent, alluded to in the preceding petition. Two days before the sailing of the expedition, Nov. 20th, 1633, in view of the dangers of the enterprise and the uncertainty of life, he made his will, naming as his executors, William Hawley, of Grossmont, in the county of Monmouth, Arthur Dodington, groom of the privie chamber to the queen's majesty, and Lewis Hele, of the Inner Temple, London, Esq. The selection of these parties shews that his associations were with persons of good position in his own country,

and that he was himself a man of education and refinement. His nomination by Lord Baltimore, also, to act as one of the Commissioners of the Colony, proves the confidence placed by his Lordship in his talents and good judgment. It is not improbable that he had been a student of the Inner Temple, together with the gentleman whom he named as one of his executors, and that Lord Baltimore looked to him, as one acquainted with English law and precedents, to advise his brother on such points as might occur for adjudication, and to develop the germs of the legal code, to be gradually adopted in the Province. He embarked with the Governor, participated in the dangers and trials of the voyage, aided in the first reconnoissance of the country on the Potomac, and was one of those who, with appropriate civil and religious ceremonies, united in taking possession of the ground selected as the site of the first settlement, and christening it by the name of ST. MARY'S. Here, with his wife, Eleanor, and possibly some children, he established himself, and zealously applied himself to the work set before him as a colonist, and to the discharge of the duties that devolved upon him, as one of the Governor's principal advisers.

The almost entire want of records illustrating the course of events in the Colony at that early period, renders it impossible to give a full account

of the administration, so far as Mr. Hawley had an agency in its management. The only official act in which he was a participant, to which we can now refer, is the correspondence and discussions that originated in Claiborne's unwillingness to relinquish his claim to Kent Island, his refusal to recognize the authority of the Maryland Colony, and the complaints made to the Governor and Council of Virginia, relative to the alleged efforts by Claiborne to arouse in the minds of the natives feelings hostile to the new Colony. Neither he, nor Capt. Cornwaleys, nor the Governor, was present at the examination of the Chief of the Patuxents and other principal men among the savages, made on the 20th of June, 1634, which fixed the lie on Capt. Fleet, from whom the charge had originated; but that duty was assigned to George Calvert and Lieut. Frederick Wintour. Notwithstanding that report, the Governor and Commissioners sent letters to the Proprietary, giving an account of Claiborne's conduct, and adhering, as would seem, to their assertion of his tampering with the Indians, in the face of the positive denial of the natives, and their angry impeachment of the veracity of Capt. Fleet.

On the 4th of September, Lord Baltimore directed a set of new instructions "to his brother, Leonard Calvert, and others, his Lordship's Commissioners for the Government of Mariland," of

which, the eighth article only is extant. It is in the following words: "That if possibly they can, without notable prejudice to their owne Collony, for want of sufficient strength to defend themselves, and that Capt. William Claiborne, at the arrivall of these Instructions, continue his unlawfull courses and have not submitted himself unto his Lordship's Patent, they seize upon his person and detaine him close prisoner at St. Maries, upon that accusation against him in Capt. Fleete's examination, and that other they have found since against him; for which, his Lordship conceiveth by his former behaviors there will not be wanting cause enough on his parte. That they likewise take Possession if they can, of his Plantation in the Isle of Kent, till upon notice given thereof, to his Lordship, they have further directions what to do with him."⁽¹⁾

Before these instructions could have reached Maryland, unless the vessel bringing them had immediate dispatch and a very short passage, the Governor and Commissioners laid a complaint before the Governor and Council of Virginia, charging Capt. Claiborne "with evil practices with the Indians, to the subversion of both colonies," on which he was arrested and detained until they

⁽¹⁾ The old record says, "he and the deponent, &c. sent to England;" but Claiborne himself was certainly in Virginia, in April and May, 1635, and his presence and proceedings can be traced through 1636 up to May, 1637, when he voluntarily went to England.

could produce their witnesses. On the 8th of December the Commissioners were prepared to substantiate their charges, and their witnesses were examined at James City, and reports of the facts elicited at the examination were forwarded to England.⁽¹⁾ Claiborne, however, could not be seized, according to his Lordship's instructions, nor was the Maryland Colony yet strong enough to take possession of Kent Island, so long as the general feeling of the inhabitants was favorable to Capt. Claiborne and the government of Virginia, and opposed to the assumptions of the Maryland Colony.

A session of Assembly followed, February 26th, 1635, of which Hawley must have been a member, the debates and acts of which, with one exception,⁽²⁾ are lost to us; but, in consequence of which, or of the deliberations of the Commissioners, it was determined to have recourse to more active measures against the Kent Islanders, and all who persisted, in spite of repeated prohibitory proclamations, in trading with the Indians within the limits of the Colony, without obtaining from the Governor a license for the same.

An expedition was accordingly organized, under the command of Capt. Cornwaleys, to sweep the Bay and rivers included within the boundaries of

(1) State Paper office, Board of Trade, Virginia, No. 2, p. 125. Endorsed on the outside, "Vera copia;—Lord Baltimore's Instructions to his Brother L: Calvert, ag't Capt Wm Claiborn."

(2) See "The First Assembly," p. 7.

the province of all interlopers, and capture their boats and merchandise. The particulars of this expedition are given in the sketch of Capt. Cornwaleys's life and services in the Colony. It is sufficient to say here, that besides seizing several of Claiborne's trading vessels, Capt. Cornwaleys had a skirmish with a party of the Kent Islanders in the Pocomoke river, on the 26th of April, in which he lost one man and killed three and wounded three more of his opponents; and on the 10th of May, came in collision, in the Great Wicomico river, with a party commanded by Mr. Thomas Smith, one of Claiborne's adherents, which, three years afterwards when Smith had fallen into the hands of the Marylanders, was made the ground of a charge against him of felony and piracy, for which he was tried before the Assembly,⁽¹⁾ then in session, condemned, and executed.

These proceedings, though they greatly crippled the resources of Claiborne, did not break down his spirit nor drive him from his settlement; but led him to draw up a petition immediately after the killing of his men and the capture of his vessels by the Marylanders, setting forth the grounds of his complaints and accusing the Governor and Commissioners of having grievously persecuted him, disregarded the king's injunctions to leave him unmolested, slain his men, hindered his trade,

(1) See "The First Assembly," p. 43.

and "accused him unjustly of many crimes, and conspired against him, to remove him, to his utter undoeing." This petition was forwarded to England in May, 1635, with a letter to the Secretary of State, but whether it was ever acted upon there, does not appear. The plantation on Kent Island was, however, still maintained, and Claiborne persisted, mostly on his own resources, in continuing his traffic with the natives, in defiance of the laws and proclamations made and published at St Mary's.

So matters stood until the middle of May, 1637, when, having been superseded in his charge of the establishment on Kent Island, by the appointment of Capt. Evelin by his partners to act as their agent, and having been requested by them to come to England, to confer with them, and give a statement of their affairs, Claiborne left the Island and took passage for the mother country. The particulars connected with this transaction are detailed in the chapter entitled "The First Commander of Kent Island."⁽¹⁾ The result of Evelin's administration was, his own conversion to the cause of the Marylanders, his manœuvres to bring the Islanders over to his way of thinking, his taking up a large tract of territory on his own account in Maryland, and at his earnest instigation, the seizure by Governor Calvert, of the Island, by a secret and unexpected attack at night.

(1) Historical Society's Fund-Publication, No. 2.

It was in the midst of these negotiations and active efforts, that Mr. Lewger arrived, with the commission already referred to, by which he was appointed Secretary, and Mr. Hawley and Capt. Cornwaleys were made members of the Council, instead of Commissioners, as they had before been styled.⁽¹⁾ In compliance with the directions of his Lordship, contained in that commission, an Assembly was called for the 25th of January following, the proceedings of which, are detailed in the chapter entitled "the First Assembly." [Page 5, of this publication.]

At the opening of that Assembly Mr. Hawley was not present, neither is his name among those of parties summoned to appear, for whom proxies were presented. The names of Capt. Cornwaleys, Mr. Secretary Lewger, and Capt. Robt. Wintour, are given, as of the Council; so that Governor Calvert had, either by special instructions, or by the exercise of powers not defined in his last commission, added another member to the Council. The reason for the omission of Mr. Hawley's name in the list of members, lies in the fact that he had

(1) This accounts for the fact that the entries in the venerable book, which is the oldest remaining record of colonial proceedings, commence in date, in December, 1637. The book was probably furnished by Mr. Lewger himself, and in it, he made his first entries as Secretary of the province. If the Governor and Commissioners kept a record of their proceedings, as they undoubtedly did, it was most likely in another book, which, unfortunately, has not escaped the ravages of time, or the reckless destruction incident to periods of civil dissension and to official neglect.

recently been appointed his Majesty's Treasurer of Virginia, and was probably then absent at James Town, in the discharge of his new duties. Yet, he does not seem to have relinquished his connection with the Maryland colony, nor to have resigned his office of Councillor; as he was present during at least one day's deliberations of the Assembly, and participated in an important act of the Council, during the temporary adjournment of that body.

On the fourth day of the session, (Feb. 8th,) Mr. Hawley made his appearance, when his name was recorded next to that of the Governor, indicating the high respect in which he was held, though without the designation, "one of the Council." This omission, however, is no evidence that he had ceased to be a member of the Council, as the entries on that occasion were all merely of names, without the titles of honor, appended in the record of the first days session.

It was on that day, that some sharp discussion arose between the President and others relative to an adjournment for the purpose of preparing laws to be proposed to the Lord Proprietary, which resulted in the appointment of a committee of three to attend to that duty;—the Governor, Capt. Cornwallays and Capt. Evelin. Mr. Hawley does not appear to have participated in the debate, nor even to have been a candidate for the honor of being one of the committee; which he would undoubtedly

have been, had he been as closely identified as formerly with the interests and government of the colony. This is the only day of the session on which he appears to have been present, as his name is not found on the record of any subsequent day's proceedings.

Yet he did not at once leave the Colony, for his name is found attached to an important public document, bearing date the 12th of February, four days after his presence in the Assembly. On that day, a meeting of the County Court was held, at which presided as judges, Governor Calvert, Capt. Wintour, and Secretary Lewger and before whom the grand inquest which found bills against Thomas Smith and others concerned in the collision with Capt. Cornwaleys in the Bay in April 1635, and against Wm. Claiborne as aiding and abetting the same, made its return. Mr. Hawley's name is nowhere found in the proceedings of this Court, but, to the proclamation issued by the Governor and Council on the same day, announcing his intention of invading the Island of Kent, and reducing its refractory inhabitants to obedience by military force, if necessary, the signature of Jerome Hawley is found attached. We may presume, therefore, that, though he did not think himself authorized to act as one of the judges in the County Court, he did not hesitate to give his approval to the proposed measures of the Governor, intended

to establish his authority over the Kent Islanders, and punish their past contempts of his government.

His stay at St. Mary's must have been brief; for on the 20th of March following he was at James City, whence he addressed letters to Sir Francis Windebanke, detailing the proceedings in a recent session of the Assembly. Shortly after the despatch of these documents, the authorities were startled by the arrival of a Swedish man-of-war, the "Key of Calmar," accompanied by a tender, the "Griffin," the Commander of which announced his design of establishing a settlement on the Delaware, under the auspices of Queen Christina, a commission from whom he held to that effect, and by whose Chief Councillors he had been provided with men and means to carry out his design. No protest appears to have been made by Governor Harvey against this proposed occupancy of territory claimed as belonging to England; and, after remaining ten days to refit, the expedition sailed, and actually established itself, (in spite of the remonstrances of the Dutch, who maintained a small fort there), on the west side of the river, and on territory which, according to the terms of the Maryland charter, had been granted by the king of England to Lord Baltimore.

Mr. Hawley's interest in the Colony, his wish to retain the occupancy of the coast exclusively in the hands of the English, and a desire to communicate

some matters bearing upon the efficiency of his office and his personal interests, led to the preparation and despatch, on the 8th of May, 1638, of the following letter to Secretary Windebanke:

Right Hon^{ble}

Uppon the 20th of March last I took the bouldness to present you with my letters, wherein I gave only a tuch of the business of our Assembly, referring yo^r Hono^r to the generall letters sent by Mr Kemp from the Governor and Councell. Since which tyme heare arrived a Dutch shipp with comission from the yong Queene of Sweaden, and signed by eight of the Cheife Lordes of Sweden, the coppe whereof I would have taken to send to your Honour, but the Captayne would not permitt me to take any coppe thereof, except hee might have free trade for tobacco to carry to Sweaden, which being contrary to his Majestys instructions, the Governor excused himselfe thereof. The shipp remayned heare about 10 days to refresh with wood and water, during which tyme the Master of the said shipp made knowne that bothe himselfe and another shipp of his company were bound for Delaware Baye, which is the confines of Virginea and New England, and there they pretend to make a plantation and to plant tobacco, which the Dutch do also already in Hudson's river, which is the very next river Northard from Delaware Baye. All which being his Majestys territorys, I humbly offer the consideration thereof unto your Honour, and yf his Ma^{tie} shalbe pleased to thinke uppon any course either for removing them and preventing others from seating upon his Majesties territorys, I humbly conceive it may be done by his Majesties subjects of these parts making use only of some English ships that resort heather for trade yearly, and be no charge at all to his Majestic.

I am not yet able to give your Honour so good an accompt of the estate of his Majesties revenewe heare as I desire, in

regard it was late in the yeare before I arrived, and the business of our Assembly hath taken up all my tyme hetherto, but by the next returne of shipping I shall endeavor to bring things into better order than heretofore they have bein, and by that tyme I hoape to make it appeare that your Honour hath done his Majestie service in giving him notice of the estate of his revenue in these parts; which although I cannot now say it will be great, yet I presume it is so farr considerable as that his Ma^{tie} will not think it fitt to be lost; for I doubt not but it will serve to defray the pension which his Ma^{tie} is pleased to allowe the Governour yearly, which is £1000 pr ann: yf his Majestie be pleased to imploye itt that waye, and I hoape to improve it dayly, as new comers do encrease the plantation, besides his Majesties customes from hence wilbe much better understood then heretofore they have bein.

Since my coming to the place of Treasurer, I have decerned some underhand oppositions made against me, but littell hath appeared in publick, therefore I can not particularly laye it to any man's charge. And because I finde that it chiefly aims at the hindering me in making any benefitte of my place (whereof I assure your Honour I have not yet made the value of five pound towards my charges) I doe therefore make it my humble sute unto your Honour that you wilbe pleased to move the King in my behalfe and procure His Majesties warrant for my fees, to the effect of this I send enclosed, which being added to your former favours, will much encrease my obligations to your Honour and I shall still remayne

Your Honours much devoted servant,

JEROME HAWLEY.⁽¹⁾

JAMES TOWNE in

Virginia 8 May 1638.

(1) From Broadhead's Collection of Documents.

Within this despatch in the State Paper Office, was enclosed the form of a warrant from the king, granting to Jerome Hawley, Treasurer of Virginia, power to appoint deputies for viewing tobacco, and to receive as his lawful fee, one pound of tobacco for every hundred weight of the same, viewed by him or his deputies, but whether this was a form transmitted by the petitioner or a warrant drawn by authority of the king, in compliance with his petition, we cannot say.

Even if intended, however, for transmission to Virginia, it probably never enured to the benefit of the applicant, as it could not have been received in the Colony, before the time of his decease. This took place early in August, 1638, about three months after the transmission of the letter just quoted; and from the "surgeon's bills," mentioned in the administrator's accounts, an inference may be drawn that his death was caused by some accidental injury.

By his will, before referred to, made at the time of leaving England, he had appointed residents of the mother country his executors;—but, probably in consideration of the fact that they were too far distant to settle the estate without great delay and consequent prejudice to the heirs and creditors, the administration was put (Aug. 14) into the hands of his friend and fellow Councillor, Capt. Cornwaleys.

From the oldest remaining colonial record book, the following return of the administrator, is taken,

and is not without its interest, as shewing the amount of Mr. Hawley's estate, and containing the names of some of the earlier colonists, to say nothing of the light it throws upon the financial condition, at that time, of some few, whose debts it was found necessary to mark down as "desperate."

The accmpt of Thomas Cornwaleys Esq. for the administration of the goods of Jerome Hawley, late of St. Maries, Esq. deceased, delivered into the Court the 20th April, 1639.

Thomas Cornwaleys debtor to the estate of
Jerome Hawley, as followeth :

	£	s.	d.
To goods received as per Inventory.....	849	06	9
to a debt received of Thomas Hebden.....	003	12	6
to a debt received of John Dandie.....	003	13	3
to a debt received of John Wyatt.....	000	17	0
to a bill from Cyprian Thoroughgood.....	005	07	0
to a bill from Anthony Cotton.....	008	17	6
to rec ^d from Capt: Evelin & Company, a debt of 1824 [£] tob.....	022	16	0
	894	06	0 ^d

to desperate debts upon bills as followeth :

	£	s.	d.
from Thomas Bradnock and Richard Purli- vant; 1500 [£] tob.....	018	15	0
from William Medcalfe 500 [£] tob.....	006	05	0
from Ed. Comins & Tho: Pott, 800 [£] tob.....	010	00	0
from Rob ^t Philpott, and Laurence Mollock, 777 [£] tob.....	009	14	6
from Wil: Coxe and John Smith, 450 [£]	005	12	6
	050	07	0

Totall.....944[£] 13'

Per Contra	Cred ^r	£	s.	d.
By expended for funerall charges.....		005	00	0
by paid the tailor for mourning clothes.....		003	00	0
by paid in Surgeons bills.....		005	00	0
by housekeeping defrayed 40 daies.....		005	00	0
by paid the praisers for their paines.....		004	04	0
by paid Mr. Lewger for a debt due to Tho: Cullamore.....		002	00	0
by paid ditto for a debt due to himselfe.....		001	00	0
by paid Leonard Calvert, Esq. for a debt due to him.....		001	06	0
by paid Robert Percy for watches.....		001	05	0
by paid John Halfthead for work done.....		002	15	0
by paid Randall Revell for worke.....		000	15	0
by paid Anthony Smith for watches.....		001	04	0
by 3 bb ^{rls} corne paid to Will: Lewis.....		001	04	0
by paid my selfe for a debt due upon special- ties and accompt.....		410	00	0
by paid to the Lord Baltimore upon judgement,		254	04	4
by paid Andrew Chappell upon judgement....		012	00	0
by paid Edward Brent for wages.....		015	00	0
by paid Christopher Plunkett for wages.....		005	00	0
by paid John Cook for wages.....		009	00	0
by paid Richard Hill for wages.....		014	00	0
by paid Cyprean Thoroughgood upon judge- ment.....		005	07	0
by paid Anthony Cotton upon judgement.....		015	10	0
by paid Richard Gardmett upon judgement....		012	10	0
by expended in suits and Court fees.....		008	10	0
by so much allowed for my paines.....		010	00	0
by paid Capt. Evelin and Company for wages of Edmond Deering.....		002	02	0
by paid Thomas Copley Esq. in part of a debt recovered by judgement.....		087	09	8
by bills of desperate debts delivered to the said Mr. Copley towards further satisfaction of his debts.....		050	07	0
		944	13	

On which a formal discharge was granted, of *plene administravit*, and “on the 3rd of January 1640, and exemplificat of the accompt, sent unto England, under the Great Seale.”

CAPT. THOMAS CORNWALEYS.

Among the noblemen who frequented the Court of King James, and, though Roman Catholics, were honored with some public employments, was one, to whom I am inclined to refer the paternity of the stout hearted, earnest, and public spirited fellow Commisioner of Mr. Hawley,—Capt. Thomas Cornwaleys. Identity of name, however, and of religious faith, is the only ground I have at present for supposing Sir Thomas Cornwallis to have been the father of the sturdy colonist, who needed no blazonry of rank and no factitious honor from the merits or bravery of ancestors to enhance the influence of his own sterling qualities, or enforce the respect which his constant zeal and devotion to the public good were ever calculated to foster.

Our knowledge of Capt. Cornwaleys goes no farther back than the list of emigrants published in September, 1635, in which his name appears, in conjunction with that of Mr. Hawley, as one of the Commissioners of the new province, about to be peopled, and a companion of Governor Calvert in his first voyage to Maryland. The Proprietary

and the Governor were fortunate in obtaining the aid of such a man. He was a host, himself. He was one of those individuals, whose presence is desirable in any community, but all important in a colonial enterprise, who, self-confident, cool in the hour of danger, firm, frank, and determined, make their mark in a community, and become, without special effort on their own part, formers of public opinion, and centres to which all eyes turn, in cases of emergency and doubt. As Mr. Hawley, according to my surmise, was qualified to superintend the legal development of the new state, so Capt. Cornwaleys, from his bravery and knowledge of tactics, was fitted to develop its offensive and defensive energies, so likely to be called into action, in the midst of savage and treacherous tribes, and from his firmness and keen perception of what was due to the people, prepared to vindicate their claims to political right and social privilege.

Capt. Cornwaleys at once became a marked man in the Colony. His office of Commissioner placed him in a position the next in rank to the Governor; but he needed no official prestige to hold him up. His sound common sense made his opinions respected and his arbitration sought for; his respect for the rights of the people made him popular, his intrepidity and military skill made him at once the leader of the armed forces of the

Colony, and his individuality was so distinctly established, that, though there were several other persons in the Colony, who bore the same military title, it was only when alluding to him in particular, that the expression "*the* Captain" was used.

After the landing at St. Mary's, it became necessary and was but a prudent act, although the neighboring tribe was friendly, to erect a fortification for defence in cases of emergency, and a work was commenced, probably under the superintendence of "the Captain." The labor was proceeding slowly, as a portion of the colonists were employed in preparing dwellings and planting maize, when a change in the deportment of the savages excited general alarm, and induced the colonists to turn their united energies to the completion of their fort. This was soon done; and within about two months from the time of landing, the settlement was defended by a fort on which were mounted "one good piece of ordnance," and four pieces appropriately called "murtherers," and seven other pieces of ordnance were in readiness for mounting.⁽¹⁾ The people then devoted themselves to the work of conciliating the Indians, which was soon accomplished, and their inter-

(1) Letters from Maryland, May 27th, 1634, contained in a "Relation of the successful beginnings of Lord Baltimore's Plantation," published in 1634.

course restored to its old footing of mutual confidence, and freedom from apprehension.

Inquiries were now made as to the cause of this sudden estrangement of the natives, and, through the representations of Capt. Fleete, the impression was created that it had arisen from the attempts of Claiborne to mislead the natives as to the character of the Marylanders, and his efforts to induce them to fall upon and destroy the settlement. Measures were at once adopted for holding a conference with the chiefs of the different tribes, and on the 20th of June, the king of the Patuxons, with several other chiefs, met a joint commission composed of delegates from both the Maryland and Virginia colonies. Capt. Claiborne was also present. Interrogatories were solemnly put to the chiefs whether Capt. Claiborne had ever spoken against the Marylanders or incited them to their destruction, and were as solemnly answered in the negative, while Capt. Fleete, from whom the charge proceeded, was stigmatized as a liar. The proceedings of the Marylanders after this interview, and their adherence to the assertion of Claiborne's guilt in this particular, have been detailed in the account of Mr. Hawley.

Capt. Cornwaleys was a zealous defender of the rights of the Proprietary, and, whatever may have been his opinion as to Claiborne's intrigues with the Indians, he considered his resistance to the

authority of Leonard Calvert wholly unjustifiable, and his defiant course deserving of prompt rebuke and punishment. He was, therefore, quite ready, after the close of the session of Assembly in February, 1635, to unite in active measures for putting a stop to his unlicensed traffic, by the seizure of his vessels and goods, and, if necessary, the arrest of his confederates. By the middle of April, two pinnaces, the *St. Helen* and *St. Margared* were made ready, and manned with a sufficient force, and, commanded by Capt. Cornwaleys, sailed for a cruise in the Bay. Some of Claiborne's trading vessels were soon fallen in with, and their masters being found unprovided with Maryland licenses, they and the goods on board were seized as lawful prizes. On the 23rd of April, Cornwaleys had reached in his cruise the Pocomoke river, when an encounter took place between his vessels and one from Kent Island, which resulted in the shedding of blood, and the loss of life on both sides. The seizure of several of their boats, on the traffic of which they relied for a supply of corn, had reduced the Islanders to great straits for the want of that essential article of food; and after deliberation, Lieut. Ratcliff Warren, the second in command on the Island, was sent in a pinnace manned by fourteen armed men, professedly to demand why, in violation of the king's commands, they had captured their boats and interrupted their trade,

and to require a restitution of their vessels and their goods. This is the representation of the Kent Islanders:—but they were regarded by the Marylanders whom they found in the Pocomoke river, as approaching them with hostile intent, and were therefore warned not to approach. The warning was disregarded, and in consequence, a fire was opened, (though by which side it is impossible to tell, as each party charged the other with being the assailant), and one man was killed on the side of the Marylanders, and of the Kent Islanders, three were wounded and three killed, among whom was Lieut. Warren. Thus was one of the first meetings of the rival parties on the waters of the Chesapeake, stained with blood. It does not appear that the surviving comrades of Warren were taken prisoners by Cornwaleys;—they probably returned with their wounded and dead to the Island, while he and his party continued their cruise down the bay.

On the 10th of May, the Captain encountered, in the Great Wicomico river, which was, in fact, within the boundaries of Virginia, another boat belonging to Kent Island, commanded by Thomas Smith, with which there was some collision, though no bloodshed; after which, the expedition returned to St. Mary's. While these events were going on in the Bay, a revolution had taken place at James City, Governor Harvey having been removed from

his place by the Council and people, on account of his oppressions, and Francis West put in his place; so that when Claiborne went down to Elizabeth City to obtain some assistance, he found the Governor deposed, and Harvey preparing to sail for England with Commissioners, appointed by the Assembly called for the purpose, to lay the complaints of the colonists before the king, and justify their apparently rebellious act. Claiborne prepared a petition representing the hardships of his own case, and forwarded it by the same vessel which carried the deposed Governor, and which, about the middle of May, set sail for London,⁽¹⁾ where it belonged.

Capt. Cornwaleys, as will be seen by the foregoing narration, was the first one of the Maryland Colony who struck a direct and forcible blow against the Kent Islanders, intended to put a stop to their trade in the Bay and its tributary rivers, and check their independent proceedings. The attempt was only partially successful. Claiborne succeeded in obtaining assistance in Virginia, and, though much crippled by the hostile action of the Marylanders, by his personal influence and efforts, unaided by his partners in London, succeeded for

(1) De Vries, on his return from planting a colony of Dutch in Guiana, touched at James City, and, on his way up, saw off Point Comfort, on the 17th of May, a London ship, having on board Governor Harvey. See his *Voyages*, quoted by Brodhead in his *Hist. of New York*, vol. 1., p. 254.

nearly three years in maintaining himself upon the Island, and in prosecuting an uncertain traffic with the natives, who were generally friendly to him.

During these three years, we know nothing positively concerning the pursuits or public services of Capt. Cornwaleys. As Commissioner of the Colony, he must often have been called on for his aid and counsel, and in periods of uncertainty or danger was looked to as a trusted leader. The arrival of Capt. Evelin at Kent Island, late in the year 1636, put a new face upon affairs, and changed the relations between the two settlements. Evelin soon became a convert to the justice of Lord Baltimore's claim, and, by consequence, a traitor to Clobery & Co. his principals, and an enemy to Claiborne, and ultimately succeeded in superseding him in the command. Claiborne, in May, 1637, went to England. Evelin at once brought all his influence to bear, and finally induced the somewhat reluctant Governor Calvert, to organize a force, and take possession of Kent Island, in the name of his brother, the Lord Proprietary. In this expedition, there can be little doubt that Cornwaleys was an active and efficient leader, as his known hostility to Claiborne's aims, and his zeal in behalf of the Maryland Colony, would naturally lead him to take a prominent part in such an enterprise. The expedition was fully successful, and Kent Island

was irrevocably severed from the jurisdiction of Virginia, freed from the control of Claiborne and his partners, and united in government and dependence, to the Colony at St. Mary's.

This was the last public service, of importance, performed by Capt. Cornwaleys, in his capacity of Commissioner. In the midst of these turmoils, arrived Secretary Lewger, (Nov. 28th, 1637), bringing a new commission, in which the Captain was retained as an adviser of the executive, but under the new title of COUNCILLOR, in conjunction with Mr. Hawley and the Secretary.

In compliance with the instructions contained in his Lordship's new commission, an Assembly was called to meet at St. Mary's, on the 25th of January, 1638, the full proceedings of which are elsewhere detailed, but to which it is necessary again to refer, for the purpose of indicating the course pursued by Capt. Cornwaleys, in particular, during the session. He was present at the opening, and took his place, as one of the Council, as well, probably, as by virtue of a special writ, directed to him by the Governor, requiring his attendance. His seat was next to that of the Governor, then acting as President of the Assembly, which marks him as the second personage in the Province, by public recognition. He held one proxy, or authority to vote, for a freeman not present, on the day of opening, and, during the course of the session,

twelve others, besides two, which were offered to him, on one occasion; but which, by a vote of the House, for some unknown reason, he was forbidden to accept. On no day of the session, which lasted, with several adjournments, from the 25th of January to the 24th of March, was he absent from his place, excepting on occasions when he was away from St. Mary's, engaged on important public service; and in all the proceedings he was found prompt, earnest, and decided, and watchful of the rights and interests of the people. ;

The first occasion on which he is found expressing an opinion, is on the third day of the session, when the question was mooted, whether freemen, who had given proxies to others to act for them in the Assembly, were entitled to exemption from arrest, under privilege of parliament, during the continuance of the session. Cornwaleys maintained, that, by delegating their power to vote, they deprived themselves of the right to exemption from arrest, thus aiming to abridge the extent of official privilege; but the majority of the members took a different view of the subject, and decided that all who had a right to attend, even though they constituted others their representatives, were entitled to privilege of parliament, not only during the session, but for as long a time before and after, as would suffice for their travel to their respective homes.

The question then came up, whether the body of laws, transmitted by the Proprietary for their acceptance, and which had been read through and discussed the day before, should be read again, or at once put to the vote. Cornwaleys advocated a postponement until a larger number of freemen could be present, and Capt. Fleete proposed that the laws should be read again; but the majority, including the Governor and Secretary, voted in favor of immediate action. The result shewed that the anxiety of the greater part to act upon the laws arose from no feeling of favor towards them; for no sooner was the question put, "whether they should be received as laws or no," than the Governor and Secretary Lewger found themselves the only affirmative voters, controlling with their own fourteen "voices," while all the rest of the members, holding thirty-seven votes, were on the negative side.

An inquiry was then made, by what laws the Province was to be governed. Some proposed to pass certain enactments, to be in force, till they could hear from England; but the President emphatically denied that there was in the House any power to originate laws. Capt. Cornwaleys suggested the laws of England; to which Calvert replied, that his commission gave him power to act in civil cases by the laws of England, but in criminal cases, he was restricted to the laws of the .

Province; so that, by their rejection of his Lordship's code, no power was left to inflict punishment on "enormous offenders." A reference to the commission shewed that, without laws of the Province, there was no power to punish offences involving the loss of life or member; but this difficulty was met by the suggestion that offences entailing such penalties, could hardly be committed without mutiny, in which case, they could be punished by martial law. This suggestion seems to have settled the difficulty for the time, as the discussion there ended.

In the afternoon of the same day, a proposition having been made in the House to consider of some laws to be sent to the Proprietary, Calvert advised the selection of a committee to prepare a draught, and report to the House when ready; the members, in the mean time, having opportunity to attend to their private concerns. The proposal was favorably received, and five members were chosen to serve on this committee. There were ten candidates, and it is sufficient evidence of the high esteem in which Cornwaleys was held in the House, that he received fifty-four votes, the highest number cast for any of the candidates. Capt. Evelin received forty-eight votes; Capt. Wintour, forty-five; Governor Calvert, thirty-eight, and Mr. Justinian Snow, thirty-one; so that they were declared the committee.

It was then proposed to adjourn: and the 8th of February was fixed as the day of re-assembling; but, as the Court was to meet in the intermediate time, the privilege of parliament was dissolved, that there might be no obstruction to the course of justice. There was an especial reason for thus abrogating the privilege of parliament, since the coming Court, which was to be held on Saturday, the 3d of February, was the one to which various writs sent to Kent Island, on the 30th of December, preceding, for the arrest of a considerable number of persons for debt, and other misdemeanors and crimes, were made returnable; and if this course were not adopted, all freemen, who had a right to sit in the Assembly, including the parties against whom warrants had been issued, would, according to the recent decision of the members themselves, be exempt from arrest. The records of the proceedings of that Court have not been preserved; but we know from subsequent acts, that, however willing the members of the Maryland Colony may have been, to lay aside their official aegis, and submit to the regular course of the law, the parties under warrant on the Isle of Kent, were far less tractable, and not only resisted the officers of the law, but rescued several persons in their custody and threatened their lives. It is not likely, therefore, that any other return was made by the officers to this

Court, than an account of their failure to arrest the parties named in the warrants, and of the severity with which they had themselves been handled.

The Court having finished its session, the House, according to the terms of its adjournment, re-assembled on Thursday, February 8th. It was at this meeting that Mr. Hawley, the fellow-Councillor of Cornwaleys was present, and the only one he was probably able to attend, during the session. It had been agreed by the committee, during the recess, to propound a second time the laws prepared by the Proprietary, since there appeared to be a general misapprehension among the freemen, as to their nature and provisions; and the House, without hesitation, acceded to the proposition, first adopting an order that all laws proposed should be read three times, and on three different days, before being put to the vote. His Lordship's draught of laws was then read through the second time, and after them, for the first time, twenty bills prepared and proposed by the Committee. Here, Capt. Cornwaleys raised the question, whether his Lordship's laws, at the third reading, should be voted upon singly, or the whole body of them together, and it was decided in favor of the former, by a vote of thirty-seven to thirty-five. This vote seems to have disposed of his Lordship's code; for no attempt appears to have been made, to bring it to a third reading.

In the afternoon, when the members had assembled, the Governor declared his intention to adjourn the House again, for the purpose of preparing the laws to be proposed to the Proprietary, which some of the members could take care of, while the others attended to their own concerns. This announcement took the House by surprise, and the proposal to adjourn them as well as the attempt to take the appointment of the committee on the laws out of their hands excited considerable feeling.

Capt. Cornwaleys promptly replied, that they could not spend their time in any business better than in what concerned the good of the province;— and another of the members demanded the reason of the adjournment, and declared that the members were perfectly willing to leave their private concerns, and attend to the public business.

Governor Calvert coolly replied that he was accountable to no man, for his resolution to adjourn the House.

Capt. Cornwaleys suggested that at least a committee should be appointed, as before, to take charge of the preparation of the laws, during the intermission, which was agreed to; and the number fixed at three. Six candidates were named, of whom, Capt. Cornwaleys had fifty-six votes; Governor Calvert, forty-six, and Capt. Evelin, forty-four; they were therefore declared the committee,

and the House was adjourned to the 26th of February, first again withdrawing the privilege of parliament.

Though Governor Calvert's sudden avowal of his determination again to adjourn the House, and his refusal to give any reasons for so unexpected a measure seemed strange and discourteous, there were, in fact, reasons which made a temporary adjournment quite necessary, but yet, which, from motives of public policy, it was not prudent to declare, especially in open Assembly.

The truth was, the reports laid before the Court recently held, as to the state of feeling and the proceedings on Kent Island had given him great uneasiness, and had finally convinced him of the necessity of a visit in person to the Island, and of a severe chastisement of those who had boldly dared to set the laws and authority of the Colony at defiance. Upon this he had decided; but it could not be carried out without adjourning the Assembly, which was promptly done; and, as secrecy was also essential to the success of his movement, he refused to give his reasons for that step, at the risk of being regarded as harsh and overbearing.

His course was decided on. On the Monday after the adjournment, (Feb. 12th) a County Court was held, over which he presided, assisted by Capt. Wintour and Secretary Lewger; Capt. Corn-

waleys not being on the bench, for a reason which will be seen hereafter. The first business was to organize a Grand Jury of Inquest, of twenty-four freemen, who chose Marmaduke Snow for their foreman, and took the usual oaths. Before this jury were summoned and sworn to give true evidence, Capt. Cornwaleys, Cuthbert Fenwick, gent., Anthony Cotton, mariner, Edward Fleete and William Lewis, planters, and John Nevill, mariner; after whose examination, the jury found a true bill against all those Kent Islanders, as felons, pirates, and robbers, who, in the collision with Capt. Cornwaleys and his men in the Pocomoke river, three years before, had killed one of his party, and against Capt. Claiborne as having instigated and abetted said criminals, and authorized, by a special warrant, Lieut. Ratcliff Warren to capture and carry away vessels belonging to St. Mary's; also, another bill for piracy, against Thomas Smith, for the part taken by him in the encounter between a boat under his command and one under Cornwaleys, in the Great Wicomoco river, on the 10th of May, 1635, a fortnight after the other collision.

The business of the Court being over, its presiding officers reorganized themselves as the Council of the Province, and passed an order, in which, after reciting the insolences, mutinies, and contempts of which the people of Kent Island had

been guilty, their resistance of officers and rescue of prisoners, and their recent conspiracies with the Indians against the Colony, it is declared fit that the Governor, with a sufficient number of freemen, well armed, shall repair to the Island, and by martial law, if necessary, reduce the inhabitants to obedience, and punish by death, if need be, mutineers, who refuse to submit themselves to a due course of justice; "and, for his better assistance herein," are the closing words, "it was thought fit, and so ordered, that Capt. Thomas Cornwaleys, Esquire, and one of the Council of this province, should go along with the Governor, and be aiding and assisting to him, to the uttermost of his power, for the command of the forces, according to such directions as he shall receive from the Governor during the expedition." This was followed by a proclamation from the Governor, announcing his intended absence on an expedition to the Isle of Kent, and authorizing the Secretary, in case circumstances should prevent his return by the day fixed for the re-assembling of the House, to hold the Assembly, or adjourn or dissolve it, as he might deem fit.

The expedition then sailed under the actual command of Capt. Cornwaleys, though nominally under that of the Governor, and spent about three weeks in reducing the inhabitants to submission. The details of their operations we are

not able to give; we can only say that the measures adopted were effective, and they returned about the 10th of March, bringing with them as a prisoner, Thomas Smith, one of the parties against whom a warrant of arrest had been granted for piracy, but who had been rescued from the officers, and against whom a new indictment had been found by the grand jury, just before the expedition sailed.

During their absence, the Assembly had met on the 26th of February, according to adjournment, and had been adjourned by Mr. Lewger to the 5th of March; and on that day had again come together, but, the Governor and Capt. Cornwaleys being still absent, was further adjourned to the following Monday, the 12th inst. By that time, the expedition had returned, and the session was re-opened by the Governor in person, attended by his faithful aid and Councillor, Capt. Cornwaleys.

The attention of the Assembly was immediately directed to the subject of the laws to be enacted, and the twenty bills originally read, were now read a second time. The next day, fourteen new bills were read for the first time. The day after, (Wednesday, March 14th,) the fourteen bills were read a second time, and three new ones were read for the first time, one of which was for the attainder of William Claiborne. The bill may be found

in full in the chapter entitled "the First Assembly."⁽¹⁾ It will be sufficient to say here, that it charged him with mutinies and contempts, and with having instigated the parties who had been found by the grand jury guilty of piracy and murder; and, on the plea that he had withdrawn himself from the province, whereby he could not be attainted of those crimes by the ordinary course of justice, the Assembly attainted him by enactment, and ordered the forfeiture of all the property he possessed in the province in 1635, and at the time of the enactment.

In the afternoon of the same day, an additional part of the same drama was enacted. Thomas Smith, the accused party in the second indictment, found by the grand jury on the 12th of February, was brought up for trial before the House, now acting in the capacity of a High Court of Justice, on the charge of piracy. The particulars of the trial are given in the account of the proceedings of the Assembly.⁽²⁾ Our present purpose merely requires us to note the fact that he was pronounced guilty by eighteen members, eight of whom had been members of the grand jury that found the indictment, and six of whom, including Capt. Cornwaleys, had formed the whole body of witnesses, on whose testimony the indictment was founded. One member only, who, also had been

(1) page 54.

(2) page 43.

on the grand jury, had the independence to declare the prisoner not guilty, and three others, one of whom had been on the jury, declined voting, on the ground that they had not been present to hear all the evidence. Thus the fate of poor Smith was sealed;—sentence of death was pronounced on him by the Governor, the judgment was affirmed by those who had pronounced him guilty, and he was in due time, after a bill had been passed approving the sentence, led to execution.

Immediately after the removal of the prisoner, Capt. Cornwaleys and his five associate witnesses, who had been the antagonists of the condemned, who had testified against him before the grand jury, sat as his judges, and united in his condemnation, left the House. Secretary Lewger, acting as attorney, then moved that the House inquire respecting the death of Lieut. Warren and the others of the Kent Islanders who were killed by Cornwaleys's party in the encounter of April 1635; when, the parties who had retired having been singly recalled, excepting Capt. Cornwaleys and one other, on their own testimony, it was decided that Cornwaleys and his party were assaulted by the persons slain, acting as pirates, robbers, and murderers; and, in self defence had lawfully killed their assailants. Thus ended this singular trial, so remarkable in all its features, and the first on record in the annals of Maryland. The whole

procedure was unusual; and the agency of Capt. Cornwaleys and others, in acting in the case, in so many different capacities, apparently illegal and unjust; and forms one of the few cases in which his sound judgment and honesty of purpose seem to have been warped by prejudice or inclined to approve a questionable procedure, by the pressure of extraordinary circumstances.

The main business of the session was now pushed rapidly forward. The various enactments that had been proposed, were read in succession and passed; among others, one "for capitall felonies," from one part of which, it appears the Captain dissented. A bill for the support of the Lord Proprietary also met with considerable opposition, having been wholly objected to by eight out of nineteen members, and opposed, as to one clause respecting trade, by Cornwaleys and three others.

This was on Monday, March 19th, when the active legislation of the Assembly was brought to an end, and, in order to give time for the engrossment of all the bills passed, the House adjourned to the following Saturday. On that day, which was the last of the year, according to the mode of reckoning then in use, the members came together, and having heard their new code read from the fairly engrossed copies on parchment, signed them with the Governor, the Assembly was dissolved, and they returned to their respective homes.

The year 1638, proved in many particulars, one of trial to the Colonists, not the least severe of which was the prevalence of disease, which swept away many of the most valuable of their number, and among them a considerable proportion of those who had participated in the proceedings of the Assembly, just described. "We have this year," wrote the pious Fathers, in their report of their proceedings to the head of their order at Rome, "rendered every aid to the sick and the dying, who have been very numerous and much scattered. We have buried many, and baptized not a few." Among those whose condition called for the consolations of these devoted missionaries, was Jerome Hawley, the friend and fellow Councillor of Capt. Cornwaleys, who, a few months after the adjournment sunk under the influence of disease, and was consigned to the grave. The duty of settling the estate of his deceased friend, devolved upon Cornwaleys, and was faithfully discharged. The manner in which it was performed may be seen by a reference to his account of administration, appended to the notice of Mr. Hawley.⁽¹⁾ He received his letters of administration on the 2nd of August, 1638, made his return, after encountering much trouble in the settlement of the estate, on the 20th of April, 1639, and on the third of January following, a statement of the account, under the great seal of the province, was sent to England.

(1) Page 122.

The general reliance on Capt. Cornwaleys's abilities and trustworthiness, and the large resources of his character, were abundantly proved in the varied employments he was called upon to fill in the Colony, during this eventful year. The confidence of the Proprietary in his public spirit and devotion to the Colony was shewn, in appointing him to advise with and assist his brother in the government; the reliance of the people on his integrity and business tact, was manifested in his selection in numerous instances for arbitrations and the settlement of estates; the Governor's estimate of his military skill and resolution, was shewn in requiring his attendance on the expedition to Kent, and of his administrative abilities, by leaving the government in his hands in May, while he was absent for a time from the Province, on a visit to Virginia. As a legislator, he had proved his firmness, and his single purpose to act only for the public good, in the course of the session that ended in March; and his impartiality and superiority to mere religious prejudices were admirably displayed in his investigations into the case of the Protestant servants of William Lewis, in July of the same year. These, it will be remembered, complained that their master had abused the ministers of their religion, and were sustained in their complaint, by the infliction of a fine upon Lewis, who was convicted of having

violated the provisions of a proclamation, forbidding disputes on topics tending to create factions in religion.⁽¹⁾

The next service of Capt. Cornwaleys, which we have to record, is his participation in the important proceedings of an Assembly held early in the following year. Lord Baltimore had been duly apprised of the rejection by the preceding Assembly of the code of laws prepared by him, and had received a draught of the bills which the members had originated, and transmitted for his acceptance and assent. His Lordship saw, from the spirit manifested by the colonists in two successive sessions, that to insist on his absolute right to originate laws would only engender a controversy, that would embitter the feelings of the people towards him, and retard the progress of the Colony; he therefore wisely determined to waive his claim to the initiative, and to concede to the Marylanders the right to legislate for themselves. Without giving his approval to the code already prepared, however, he transmitted to his brother full power, (August 21, 1638), to assent in his name to such laws, made by future Assemblies, as he might deem necessary, provided they had the assent of the majority of the freemen or their deputies, were as nearly as possible agreeable, and not contrary,

(1) See the proceedings in this case in full in APPENDIX A, at the end of this monograph.

to the laws of England, and were finally to be subject to the approval or veto of the Proprietary.

This important paper was probably entrusted to Mr. Giles Brent; who, with his brother Fulke, his two sisters, Margaret and Mary, and a number of male and female servants, arrived at St. Mary's on the 22d of November, 1638. Governor Calvert at once determined to call an Assembly, as the Province was still without laws, and writs were issued for the election of burgesses from the different Hundreds, to appear at the fort of St. Mary's, on the 25th of February following. (1639.) The purely democratic principle recognized in the formation of the preceding Assembly was thus discarded, and the representative system adopted, with the privilege, however, to those who declined to vote for any burgess, themselves to appear and act in person. Special writs were likewise directed to Capt. Cornwaleys, to Mr. Giles Brent, who had been chosen a member of the Council, to his brother, Mr. Fulke Brent, to Mr. Thomas Greene, and to Mr. John Boteler, of Kent Island, who had been a sturdy opponent of the Colony, but whose hostility had become somewhat tempered, and whose good will it was desirable to secure.

On Monday, February 25th, the President and Secretary, with the gentlemen just named, excepting Mr. Boteler, and the burgesses from the dif-

ferent Hundreds and from Kent, assembled at the fort at St. Mary's; but after shewing their credentials, removed to the manor house of St. John's, as a more convenient place for holding the session. Besides those specially called, there were two burgesses from St. Mary's Hundred, two from St. George's, two from St. Michael's, one from Matapanient, and two from the Isle of Kent, besides two freemen from St. Mary's, who, after the organization, claimed seats as not having assented to the election of the burgesses from that hundred, and were at once admitted. The whole number present was seventeen; of whom eleven were to be regarded as immediately representing the people, while the remaining six took their seats, either by official right, or in virtue of the special call they had received from the Governor.

The action of this Assembly was varied and important; but it is no part of my plan to follow out its proceedings in detail. Suffice it to say, that its enactments laid the foundation of the religious, civil, and social organization of the Province. To "holy church" was guaranteed "all her rights and liberties;" to the Proprietary, "all his rights and prerogatives;" to the people, "their rights and liberties according to the Great Charter of England," to their sovereign a qualified allegiance, as measured by the abridged oath prescribed to be taken by the colonists; crimes and misdemeanors

were defined, and their penalties, in some cases terribly severe, established; courts were established and their jurisdiction settled; inferior officers provided for and oaths of office prescribed; a military organization determined on; in short, the whole machinery of government planned and prepared to be set in motion.

Nor was the action of the Assembly confined merely to legislation; but, like the preceding, it assumed also from time to time the functions of a Supreme Court, for the trial of both civil and criminal cases. In the latter, one John Richardson, an indented servant, was charged with absconding or "stealing himself," and taking with him goods belonging to his master. This was a high misdemeanor in those days. He was found guilty, and condemned by the House "to be whipped three several times." The opinions rendered by the different members afford some insight into their character. Mr. Greene was in favor of *hanging* the culprit; the Brents voted for whipping him "very severely;" the Captain, that "he should be whipped, provided he was sorrowful for his fault;" and the Governor, that he should be "laid in irons and whipped three several times severely," which was probably carried into effect. The important proceedings of this Assembly were concluded on the 19th of March.

By the 20th of the following month, Capt. Cornwaleys was prepared to give in his account of administration on the estate of Mr. Hawley, the settlement of which had been attended with much trouble on account of the numerous claims against the deceased, the greater part of which were settled only by legal suits and the recovery of judgment. He was himself, it appears, a creditor to the amount of more than £400 sterling, which, on application to the Court, and through the testimony of the widow to the justice of his claim, he was authorized to appropriate from the assets in his hands. There were parties also in England, who were interested in the impartial adjustment of the estate, so that, on account of this business and other matters claiming his attention, Capt. Cornwaleys came to the determination to visit England.

It must have been on account of this resolution, and the consequent preparations necessary for his departure, that the Captain did not participate in a movement against the Eastern Shore and other Indians, who had shewn signs of hostility, set on foot not long after the adjournment of the Assembly. Up to this time, the Captain had been looked to as the main reliance of the colonists in case of an encounter with the natives or other enemies; but now, Mr. Giles Brent, who had been made Treasurer of the Province, in addition to his ap-

pointment as one of the Council, was appointed (May 29th,) Captain of the military forces, next in rank to the Governor, and directed to train the inhabitants in martial exercises, and closely to inspect their arms and ammunition. Strict injunctions were likewise issued that no defensive weapons should be sold to the Indians, and parties were sent to punish the marauding Maquantequats, while the old friends of the Colony, the Patuxents, were, by public proclamation, (Jan. 24th, 1640), declared under the protection of the English, and all persons were forbidden to offer them violence.⁽¹⁾

(1) Less than six months, after this, the tie that had long bound the Colonists and the strong tribe of the Pascataways together, was strengthened by the formal reception of Chilomaeon, the chief of that tribe, with his family, and one of his principal councillors, into the bosom of the Catholic Church. On the 5th of July, the ceremony of baptism was performed with solemn ceremonials, at Kittamaquund, the chief settlement of the tribe. There, in the presence of the Governor, Secretary Lewger, and other prominent members of the Colony, the rite of baptism was celebrated by Father White, who had been the principal instrument of the conversion of the chief, aided by Father Altham, who had come from Kent Island for the purpose, and Father Brock, the Superior of the Mission, who had come from Mattapany, the station on the Patuxent. A chapel of bark, after the Indian fashion, had been erected, expressly for the occasion. Chilomaeon received the baptismal name of Charles; his queen was called Mary; and an infant daughter was christened by the name of Ann. Mosorecoques, the chief's principal councillor, was baptised as John, and his infant son, was christened by the name of Robert. In the afternoon, the chief and his wife were married after the Catholic ritual, and a great cross, in honor of this solemn and interesting occasion was prepared, and erected in a conspicuous place, with the personal aid of the zealous Governor, Secretary and others, and with appropriate ceremonies. Early the following year, the chief sent his young daughter, to be educated among the English, and prepared for baptism. Both Fathers White and Altham were attacked by severe illness, immediately after those ceremonies, and were obliged to resort for treatment to St. Mary's. There Father Altham died on the 5th of November, after a faithful min-

It was in the midst of these warlike preparations, which disturbed the quiet of the long peaceful St. Mary's, (about January 3d, 1640),⁽¹⁾ that Capt. Cornwaleys left for England, to behold, in his native country, a more fearful spectacle; the hand of brethren raised against brethren, the blood of a victim demanded by an infuriated and increasing party, the first fierce tokens of the outbreak of open civil war. Of his personal proceedings in England, we have no knowledge beyond the fact, that he must have been subjected to some charges in regard to the fidelity of his administration on Hawley's estate, since, on the 4th of May, 1640, Secretary Lewger, "at the request of Capt. Cornwaleys, Esq., by his letters out of England," as the record hath it, made affidavit that the certificate bearing the great seal of the Province, and Governor Calvert's letter, were authentic; that the former "agreed with the public records, and that the record was made according to the very truth of the judgments severally rendered against said Corn

istry. Father White, after a tedious sickness, thought himself sufficiently convalescent to return in February following to his station, but found his zeal had led him to miscalculate his strength, and soon suffered a relapse, from which he slowly recovered. He was ultimately enabled to resume his pious work, but the Superior, Father Brock, sank under the cares, exposures, and privations of his position, and died on the 5th of June, 1641.

(1) It was on this date, according to the original record, that a certificate of his administration of Mr. Hawley's estate was given to Capt. Cornwaleys, or sent into England. It was either taken by him, or he was already there.

waleys without any fraud or collusion on his part or any other." It is not improbable, also, that he may have met during his sojourn abroad, his old antagonist Claiborne, who, in the latter part of the year 1640, visited England, to institute a suit against Clobery & Co. for the adjustment of his claims against them for advances made during the partnership, as well as to urge his claims at Court for some compensation, on account of the losses he had sustained through the course pursued by Lord Baltimore and his agents.

During the summer of that year, he was busily engaged in adjusting his affairs, preparatory to his visit to England, and received large grants of land from the Governor and Council of Virginia, on the ground of great public services rendered that Colony. The two Colonies were then on terms of harmonious intercourse, and acts of official courtesy occasionally passed between them. The records of the Quarter Court of Virginia for June 4th of that year, shew that "information had been received of two servants run away from Maryland, one belonging to Marmaduke Snow, the other to Governor Calvert." The decision of the Court, shews rather a questionable deference to rank than an impartial regard to justice; for orders were immediately issued that the servant claimed by Mr. Snow should be returned upon due proof of ownership; the other, to the Governor, "*with all*

speed,” and without the trouble of a similar investigation. Another adjudication of the same Court, I may be allowed to quote, as an amusing illustration of the principles on which decisions were made in those days, and of the broad application of the *lex talionis* to the Indians, on account of an offence by one of their number. “Whereas,” says the record of a Court held at James City, June 23rd, 1640, “Arthur Price hath complained to this Board that he hath lately had stolen from him by an Indian, one gun, one pair of breeches, and one shirt, the Court hath ordered that said Arthur Price shall have power to detain in his custody the next Indian who shall come to his house, and confess himself acquainted with said Indian, who stole said breeches, gun, and shirt, until they be brought back by the Indian, who stole the same.”⁽¹⁾

Emboldened by the interchange of courtesies between Governors Wyatt and Calvert, and the Councils of the two Provinces, Claiborne, a month or two before his departure, determined to make an effort to recover, if possible, something from the wreck of his fortunes in Maryland, and on the 8th of August, made Mr. George Scovell, an old friend and one of his first companions in the attempt to settle Kent Island, his attorney to collect and recover all sums of money debts, cattle, and tobacco debts due him from any inhabitant of that Prov-

(1) Virginia Records.

ince. Scovell made application to the Governor and Council not only for power but for their aid to recover any portions of Claiborne's estate found in the hands of the inhabitants, professing at the same time ignorance by what right they had come into their possession. The Governor and Council replied, (Aug. 21,) that such property as Capt. Claiborne left in the Province, had been forfeited to the Proprietary, by an act of Assembly of March 24th, 1638, attainting him for the crimes of piracy and murder; and informed the petitioner, if he would inform them of any property which had escaped the forfeiture of that act, it should be seized for his Lordship's use; but if he had acquired property within the Province since that date, the law of the Province would give him entire freedom to recover it, without any special action of the Council, and when that had been done, they would take such order upon the subject, as justice might require. If, as is asserted, Lord Baltimore never assented to the acts of the Assembly of 1638, and if, as is undeniable, that assent was essential to the legality of those acts, it would be difficult to show on what just grounds the authorities of Maryland could have based their claim to hold Claiborne's property, or that his attorney had not a sufficient justification for his procedure. The rebuff that Claiborne met with in this case, however, may have been well offset by the flatter-

ing proofs of regard given to him at the same time by the authorities and people of Virginia, and by the marks of confidence then and not long after, bestowed on him by the king. He went soon after to England, and if Cornwaleys beheld him there, it was not as the struggling, almost despairing trader, expelled from his trading station, deprived of his vessels and goods, and attainted in his absence by act of Assembly as a pirate and a murderer, but as a respected member of the older Colony, honored for his enterprise, esteemed for his intelligence, well received at Court, and so entirely trusted by the king, that he was ready to make him Treasurer of the Colony of Virginia, and to confirm him in that high and responsible office, for life.

Before the return of Capt. Cornwaleys to Maryland, it was deemed advisable to hold another Assembly. The number of hundreds had now increased to six;—St. Mary's, St. George's, St. Michael's, Mattapanient, and St. Clement's, besides the Commandership of the Isle of Kent, from each of which, one or two burgesses were elected, and several of the principal gentlemen of the Colony, were called by special writ. Though Cornwaleys was out of the Province, a course was adopted in regard to him, which shews the high position he held in the Colony, and the anxiety of the Governor to shew a respectful regard for him,

even while absent. A special writ was directed (Sept. 19) to Cuthbert Fenwick, who had been left by the Captain his attorney, to the following purport.

“Whereas we have appointed to hold a general Assembly at St. Mary’s, on Monday, the 12th of October next, at which Assembly we could have wished to have had the presence and advice of our trusty Councillor, Thomas Cornwaleys, which being not to be presumed upon, by reason of his absence, yet, nevertheless, for the great respect we bear unto him, and out of our care that so great a member of our Province may have his attorney there, to take care of such things as may concern him, therefore we do hereby authorize you to repair personally to the said Assembly, there to have place, voice, and seat, as our said Councillor’s proctor or attorney, during his absence.”

On the proceedings of this Assembly, it is not necessary to dwell, except to mention one of its acts intended “to provide against sudden accidents in the government,” by the terms of which, in case the Lieutenant General should die or be absent from the Province, without naming any one to supply his place, the first Councillor of State, residing at St. Mary’s, was empowered to exercise the vacant office until the return of the Lieutenant General, or the appointment of another by the Proprietary. The effect of this act would have been to make Capt. Cornwaleys from his position in the Council, the Governor of the Province during the absence, or in case of the death of

Leonard Calvert, provided he were, on the occurrence of such an event, a resident of St. Mary's.

It may also be stated as an illustration of the policy of the two neighboring colonies, in regard to their principal staple, that an act was passed by the Maryland Assembly for the appointment of sworn viewers or inspectors of tobacco, and for the destruction by burning of such as was declared by them unsound, and an attempt was made, without success, to obtain the passage of a law for stinting or limiting the quantity of tobacco to be planted by any person in Maryland. To both of these propositions, Governor Calvert avowed his opposition, but the former was carried, notwithstanding his vote against it. This, it may be observed, is the first inspection law of Maryland on record. In the month of January preceding, the Assembly of Virginia had held a session, at which, on the ground, that "tobacco, by reason of the excessive quantities planted," had become so low in price the planters could not subsist by it, it was enacted that the crop of that year should be inspected by sworn viewers, and not only should the rotten and unmerchantable be burned, but with a view to raising the price, one-half of the good also. For the next two years, but 170 pounds,⁽¹⁾ stripped and

(1) The act estimates the amount which would thus be prepared for market, at 1,300,000 pounds; which shews that the number of producers in the Colony at that time, was 7,647.

smoothed, were to be made by each individual. In addition to this, a kind of general bankrupt law was passed, according to which creditors were to be satisfied with forty per cent. of their dues, contractors were exempted from performing more than half their tobacco contracts, and debtors were not to pay above two-thirds of their debts while the "stint" continued. Yet at the same time, persons were allowed to export to New England or other neighboring Colony, the seventh head of all neat cattle, and, "because of the great plenty of provisions," tavern keepers were directed to charge but twelve pence for a meal or a gallon of beer, instead of six pounds of tobacco, or eighteen pence in money, as before.⁽¹⁾ In Maryland, there would seem to have been a less abundant supply of provisions, since its Assembly passed an act prohibiting the exportation of corn.

The Virginia Assembly had passed one act requiring all the members of that Colony, excepting negroes, to be furnished with arms and ammunition, and another making it felony for any inhabitant to trade with the Indians for either of those articles. Both colonies were in fact at this time alarmed at the hostile bearing, and even aggressions of some of the more warlike tribes. That of Maryland, was annoyed by the petty depredations of some of the smaller tribes in its

(1) Hening, Vol. I, p. 229.

vicinity, and driven to adopt measures of precaution against the inroads of the formidable Sasquesahanocks on the north, and of the Wicomeses and Nanticokes, on the east, who were under the influence of the former tribe. The people of Kent Island were much exposed, and suffered from a sudden attack. Governor Calvert thereupon issued a proclamation, (July 10th, 1641), declaring, as they were obliged to stand on their guard against the Indians, any person who harbored a savage to be amenable to martial law, and authorizing the people of Kent to shoot any Indian that should make his appearance on the Island. Whether Capt. Cornwaleys had yet returned from England, does not appear, but if not, the absence of so trusted a leader and adviser, under such circumstances, must have been severely felt.

Besides these local cares, Governor Calvert was engaged in negotiations with Governor Wyatt, of the Virginia Colony, relative to an interchange of trade, and other matters equally pertaining to the interests of both colonies. On this account, though he had summoned an Assembly to meet on the 29th of October, he was unable to be present at that time, owing to the necessity of making a visit to James City, and the meeting was postponed by the Secretary, to the 20th of March following. On his return, (January 12th, 1642,) the Governor issued his proclamation, directing

the election of burgesses for a session to commence on the 21st of March, and sent out as usual several special writs of summons, one of which, directed to Thomas Cornwaleys, Esq., shews that the staunch friend and brave defender of the Colony, was again at his post.

For some reason not now known, but as we may presume, on account of some manifestation of discontent among the freemen, some of whom strongly sympathized with the Parliamentary party in England, Governor Calvert saw fit three weeks before the time appointed for the opening of the session, to proclaim that all the freemen of the Colony were invited to appear, either in person or by proxy, and participate in the deliberations of the Assembly, thus changing from the representative principle of organization, legalized by a recent law, to the democratic basis.⁽¹⁾ On the appointed day, forty-eight members appeared, among whom was Capt. Cornwaleys; thirty absentees were represented by proxies in the hands of those present, and two additional delegates held proxies for all the freemen of Kent Island.

The very first act of the House was, to declare

(1) It may be that all the freemen were summoned, because the new conditions of plantation and other communications from the Proprietary had been received and were to be acted on, and rendering it advisable to have the attendance of the whole body of the freemen. This was the course adopted on the receipt of the new commission for modifying the government some time after.

that it could not be *adjourned* or *prorogued* without its own consent. The power of *dissolution* was not denied. The next day a bill for an expedition against the Indians was introduced; but this also was made the means of manifesting some distrust on the part of a majority of the members in regard to the Governor and Council; for, immediately after the first reading, it was voted "that it was not to be left entrusted to the discretion of the Lieutenant General and Council." Their hesitation on this point, however, probably arose rather from economical than political views, since it is manifest the colonists were under great apprehensions lest the commencement of hostilities should involve them in debt beyond their ability conveniently to pay. In the afternoon of the same day came in a petition, the particulars of which shewed that the religious firmament was not altogether cloudless; the "Protestant Catholics," or Episcopalians of St. Mary's, complaining of Mr. Thomas Gerard, a Roman Catholic, that he had taken away the key of their chapel, and removed the books from it, and asking for redress. The case was duly heard on both sides. What was the defence offered by Mr. Gerard, is not recorded, but it did not satisfy the House. He was found guilty of a misdemeanor, ordered to restore the books and key to the place from which he had taken them, to relinquish all title to them, or the

house, and pay a fine of five hundred pounds of tobacco towards the maintenance of the first minister that should arrive. If Mr. Gerard was proprietor of the building in question, the decision of the House depriving him of his property, in punishment for a misdemeanor, seems to have been tyrannical and unjust. The only new enactment by this Assembly, was one granting to the Lord Proprietary one subsidy of fifteen pounds of tobacco per poll, for every inhabitant of the Province, male and female, children under the age of twelve years excepted, as some testimony of the gratitude of the colonists, and a small contribution towards the expenses incurred in their behalf, proportioned to "the young and poor estate of the Colony." On finishing their business, the members attempted to carry out the assumption contained in their first act, by appointing, themselves, another Assembly, to begin on the first of June, but Calvert put an unceremonious end to all their anticipations on this point, by simply dissolving the House.

About this time arrived in the Colony certain new conditions of plantation, drawn up by the Proprietary on the 10th of November preceding, by one of the articles of which, any person claiming proportions of land by virtue of previous conditions, and neglecting to pass a grant of such lands, when assigned, within one year after the

assignment, was to forfeit all right to such lands forever. Urged, perhaps, by these new articles, Capt. Cornwaleys now turned his thoughts towards the location of the lands which had become due him, by the terms of previous conditions of plantation. On the first voyage, he had brought with him five able bodied servant men, for whose transportation he was entitled, by the first conditions, to two thousand acres of land. Since the year 1635, and on his late return to the Colony, he had brought over fifteen more servants, for whom, by later conditions, he was entitled to three thousand acres of land. He therefore, presented to the Governor his claim for the quantity of land; and the following order was immediately issued, (March 7, 1642) to the Colonial Surveyor.

“Lay out some time before Michaelmas next, at furthest, (Sept. 29) 4,000 acres of land in any part of Patowmack river, upward of Port Tobacco Creek for Capt. Cornwaleys, Esq. and bound it with the most natural bounds as near as you may to the figure of a parallelogram: And for soe doing, this shall be your warrant.”

Where the other thousand acres were located, I have not ascertained, nor do I know what steps were taken by him to settle and improve his grant. Had he taken up his residence on his tract, and had Capt. Claiborne personally improved a grant obtained by him from the Virginia authorities, these old antagonists would have found themselves

near neighbors; since on the 20th of June, 1640, Claiborne had obtained a favorable response to his petition for three thousand acres of land, "at the town of Patomack, bounded on each side by the place where the fort was formerly built by the English, anno, 1622," and probably but a short distance from the spot where Cornwaleys's tract was situated. This region was already beginning to be covered with the settlements of the English. A missionary station had been established by the fathers at Pascatoway,⁽¹⁾ the young princess of which was under the tuition of the English at St. Mary's, and Robert Evelin, with other colonists, had seated themselves in the vicinity; while settlers were also clustering around the Indian town of Potupaco,⁽²⁾ the people of which had been converted, and were very friendly to the English.

The region around the Pascatoway, was still too much of a frontier, and exposed to the assaults of hostile bands of the natives, to be a safe or attractive spot for settlers in general. The fierce Sasquesahanocks, who had ever been foes to the Colony, and hated all the pale faces, took occasion, as they followed the war path towards their savage enemies of the south, or the back settlers of Virginia, to

(1) Still called by the same name, in the S. W. part of Prince George's County.

(2) Now corrupted into Port Tobacco, in Charles County, about twelve or fifteen miles in a direct line south of Pascatoway, or Piscataway.

strike a blow at the unprotected Marylanders, or organised expeditions with the express purpose of surprising the frontier plantations, murdering their occupants and plundering their dwellings. One of the Pascatoway settlements was, at this juncture, attacked, the inhabitants murdered, and a large amount of plunder carried away. Even the missionaries, devoted and fearless as they were, began seriously to think of abandoning their station, and establishing themselves at Potupaco, which was less exposed to the ravages of this cruel and ever active tribe. On the east also, the savages had begun their bloody work, and eight of the colonists had fallen under the tomahawk, and their dwellings had been given to the flames, while even the peaceful Patuxents, so long the friends of the Colony, shewed signs of an aggressive and hostile spirit.

This was, indeed, a trying time for Leonard Calvert. In addition to savage hostility without, there was dissatisfaction and discontent within; but he manfully faced the difficulties of his position, and prepared to meet the coming storm. He issued a proclamation, (June 23rd) requiring the inhabitants to provide themselves with guns, powder, and shot, and to go around to church and chapel; and forbade them to admit an Indian into their houses, to fire three guns in succession within a quarter of an hour, or to go any considerable

distance from home without a fixed gun and a charge at least of powder and shot.

On the same day, he commissioned William Blount, Esq., to be a Captain of the soldiers of St. Mary's county, and sent orders to Robert Evelyn, to take command of, and train the settlers in and near Pascatoway; and shortly after, sent Father Roger Rigley to the great men of Patuxent and the adjacent tribes, over whom his sacred labors had given him considerable influence, to demand the surrender of such Indians as had been guilty of theft or other trespasses upon the neighboring settlements. He then summoned an Assembly to meet on the 18th of July, and to consist of burgesses from each hundred, besides delegates specially called. It was at the opening of this session that Robert Vaughan, a member from Kent Island proposed that the burgesses should form a separate body by themselves, and have a distinct vote, for which there was a good reason, in the fact that the Governor, Council, and special delegates outnumbered the burgesses, and if they acted in unison, could always control the vote of the House;—but the Governor refused his assent to the important modification, which however, afterwards became the law of the Province.

The essential business of the session, an expedition against the Indians, was then brought forward, but met with the most decided opposition from the

members; whereupon, the Governor informed them that it was not his purpose to ask their advice or consent that an expedition should be organized, for that power, by the provisions of the charter, rested with him alone; he merely wished to know what assistance they would give, in case he should think fit to go against the savages. Secretary Lowger moved that a levy of twenty pounds of tobacco per head be laid to defray the charges of "a march," as it was called, but the subject was postponed to the next day, and was not acted upon during the session. Other matters of public interest engaged their attention, and the session closed on the 1st of August.

The backwardness of the burgesses did not change the determination of Calvert to punish and subdue the hostile Indians. On the 18th a commission was issued to Cornwaleys, who is justly characterized by Bozman as "the guardian genius of the Colony," to levy men for an expedition, and command them. A letter was next addressed to Sir William Berkeley, who had become Governor of Virginia in January or February of this year, detailing the aggressions of the savages; and on the score of their having been encouraged by the Virginians' neglecting to avenge the murder of several of their colonists, called on him to furnish one hundred men, well armed and equipped, to meet an equal number of the Maryland forces at

Kent Island on the first of October, and unite with them in inflicting a severe chastisement on their insolent and merciless enemies. As a further precaution, Mr. Henry Bishop was authorized to take command of the fort at Patuxent, which was to form a rendezvous of the inhabitants of that district in case of danger; and a proclamation was issued, (August 28th), "for the purpose of reducing the inhabitants living weakly dispersed in several plantations to some places of better strength, in case of any sudden inroad of Indian robbers and pillagers"; and indicating the strongholds, within prescribed districts, to which women and children should be taken for safety and protection. Finally, the Governor publicly proclaimed the Sasquesahanocks, Wicomeses, and Nanticokes "enemies to the Province, (Sept. 13th) and as such, to be reputed and proceeded against."

In the midst of these warlike preparations, the attention of the Governor was temporarily occupied with the reorganization of the government, made necessary by the arrival of a new commission and new conditions of plantation, prepared in England, in November of the preceding year. A session of the Assembly was deemed expedient, and on the 22d of August, the day before he wrote his letter to Sir William Berkeley, Calvert issued a proclamation to that effect, again adopting the democratic principle, and requiring every freemen inhabiting

within the Province to be present at St. Mary's, on Monday, the 5th of September, either in person or by proxy. The time of rendezvous at Kent Island was fixed for the 1st of October, on the supposition that before that date the session would be ended, and there would be time sufficient to organize and concentrate the Maryland forces.

The day before the opening of the session, (Sept. 4th), the new commission was passed under the Great Seal of the Province, and publicly proclaimed at the fort of St. Mary's, and the next day the same formality was gone through with, in regard to a special commission appointing Col. Francis Trafford, Esq., Thomas Cornwaleys, Esq., John Lewger, Esq., William Blount, Esq. and John Langford, Esq., members of the Privy Council of the Province.

These formalities were probably deemed necessary to the legal organization of the House, under the new commission. The session was at once opened, when it appeared that one hundred and eighty-two freemen were entitled to seats, of whom eighteen only were actually present. Seventy-six freemen had paid no attention to the summons, and appeared neither in person nor by proxy. Eighty-eight had given proxies to different persons among the eighteen present, among whom Capt. Cornwaleys held fifteen for freemen of St. Michaels, whence I conclude that he was then a

resident of that Hundred.⁽¹⁾ Owing to this singular state of the representation, the Kent Islanders were decidedly in the ascendant; and their delegate, Capt. Brent, formed the standing or peripatetic majority of the House. Not a measure could be passed without his assent. His consciousness of his power was shewn in the first measure brought before the House.

An act had been passed at the last session, forbidding the transportation of any one in debt, or obnoxious to justice, or of any servant, without a pass from the chief judge of the county; and declaring that a pass should be granted to no one who had not first set up in some public place, a notice of his intention to leave the Province, at least five days before making application, one of which to be a Sunday.⁽²⁾ This act was regarded by many of the freemen, and particularly by the Kent Islanders, as trenching upon their rights. Captain Brent, therefore, by special instruction, opened the proceedings, by moving, "as from the inhabitants of Kent," that it might be declared by

(1) I give these numbers on the authority of Bozman, but there is some mistake about them; for he afterwards speaks of a vote on the same day in which there were "38 negative and 100 affirmative voices," or thirty-two more than he has set down as the whole number entitled to vote in person or by proxy. Perhaps the last vote was in an afternoon session, and other freemen had come in. I have not been able to inspect the original record.

(2) A similar act was passed by the Virginia Assembly in March of the subsequent year.

the House, whether the inhabitants may freely, without leave, depart from the Province, not being indebted or obnoxious to justice.

The Governor replied that he did not consent that the matter should be decided by or in the House, and adjourned the session to the afternoon.

The next morning, Mr. Brent proposed the question whether the House had the power to decide upon the right of a freeman to leave the Province, if not indebted or obnoxious to justice.

Governor Calvert refused to put the question to the freemen, to determine thereof as judges of the matter in debate.

Mr. Lewger expressed the opinion that the right to act upon the question could not be legally denied to the House; and after some discussion, the Governor deemed it expedient to declare that it was the common right of the people to leave the Province at their pleasure, unless indebted or obnoxious to justice, or some transcendent cause for the safety of the people made their detention necessary. The last clause did not satisfy the members, and a protest against it was entered by some of them, which drew from the Governor on the last day of the session an answer, cancelling the obnoxious clause.

The proceedings of the first day indicated but little harmony between Governor Calvert and the

members, and a dissatisfaction of feeling, in which even Capt. Cornwaleys, so long the staunch friend and faithful adviser of Calvert, appears to have participated. Among the first bills reported by a committee to the House, was one authorizing an expedition against the Indians; for defraying the expenses of which a levy of a certain number of pounds of tobacco per poll was authorized. By a law of Virginia, passed in the Assembly of January, 1640, every member of the Council, including the Governor, was, with ten of his servants, exempted from all levies, excepting those for church dues; and, probably with a view to establishing a similar precedent in his own case, Calvert, on the reading of the bill, demanded the insertion of a clause exempting himself and servants from the levy.⁽¹⁾ The proposition was negatived by a decided vote; one hundred "voices" having been given against it, ninety of which were cast by Mr. Brent and Capt. Cornwaleys, by means of the proxies in their hands. Before the close of the session, however, Brent and the other opponents of the proposition, saw reason to recede from

(1) Bozman supposes that Calvert desired an exemption for himself and servants from the levy of soldiers to be made for the proposed expedition; which I think was not the case. It was from the tax to be levied to meet the expenses to be incurred, that he at first asked, on the ground of official right or privilege to be exempted; though the bill, finally passed, after giving him permission to lead forth an expedition, and enlist every third man, says that neither he nor his apprentices are to be reckoned in any hundred *to any purpose* of the act.

the ground they had taken, and united with the rest of the members in conceding to the Governor the privilege he had claimed. The Captain alone, firm in adhering to his convictions, doubted the policy of allowing official favor so wide a sweep, and avowedly "by reason of the clause exempting the Governor's servants," refused to countenance the bill, and cast his own vote and that of his fifteen proxies of St. Michael's Hundred, against it. The act as passed empowered the Governor, or any Captains under him, to organize an expedition against the Sasquesahanocks, or such Indians as had committed the late outrages, and to take out of every hundred every third man able to bear arms; but excepted him and his apprentices from being reckoned in any hundred *for any purpose* contemplated in the act. It seems to have given him, therefore, an exemption not only from taxation to sustain the expedition, but also from the obligation of serving in a campaign, of which, in the first words of the act, he was named as the possible leader.

Another subject of disagreement now arose in the discussion of the powers conferred on the Governor, by the provisions of an act providing for officers. This had been construed as giving him power to compel a freeman to serve in such office as he was pleased to bestow, provided a reasonable fee was allowed. Captain Cornwaleys and Captain

Brent, offered a determined opposition to the re-enactment of this law, on the ground that "it was unnecessary, that it gave away their liberties,—was unlimited in point of Sheriff's recognizance and the number of offices to be imposed, and, in fine, against common right and decency,—compelling men to be hangmen." Though there was in reality no good ground in the provisions of the bill for such opposition, Calvert met their objections in a temperate, conciliatory spirit, and consented that the Sheriff's recognizance might be fixed at ten thousand pounds of tobacco, or thereabouts, and that a special exception should be made in regard to the office of hangman. Even this concession did not prove satisfactory, and the bill, through the opposition of Cornwaleys, Brent, and two other members, was defeated. After passing several other acts, and among them one empowering the Governor to press vessels, men, provisions, arms, ammunition, or anything necessary for defence, at the usual rates, and to charge the same upon the inhabitants, and guaranteeing a support, at the public expense, to all disabled in the service; the House adjourned.

Though Calvert believed an expedition against the maurauding Indians was almost essential to the existence of the Colony, and pressed his plan with unfaltering earnestness, a variety of circumstances interposed to obstruct and thwart his de-

sign. The letter addressed by him to Governor Berkeley late in August, did not reach James City until the 5th of October, when it was at once laid before the Council. That body, on mature consideration, decided to return answer, that it was "impossible to comply with his request, as many of the inhabitants were about to remove to new plantations, and were hardly able to get arms and ammunition to defend themselves; and those remaining upon the old plantations, not having a supply of military provisions, besides the heavy hand of God's visitation upon the plantations generally, of which few were recovered."⁽¹⁾ The resources of the Maryland Colony were so scanty that it seemed almost an act of folly to attempt the organization of an expedition against a tribe so powerful, with means so limited, and the people, moreover, were disinclined to encounter the hazard and exposure, incident to a winter campaign, and dismayed at the load of debt which threatened to accumulate in case of an Indian war, were much more strongly disposed,

"—— to bear the ills they had,
Than fly to others, that they knew not of."

All that Calvert could do for the time, therefore, was to put a bold face on the matter, and issue a proclamation, (Jan. 16th, 1643) avowing his deter-

(1) Virginia Records.

mination, "by all possible care and diligence, to provide that the Colony be put in safety, not only from all danger of the Indians, but from fear of any," and authorizing the inhabitants to kill any Indian, who should shew himself, on land or water, without a white flag, within a district bounded by a straight line drawn from the Patuxent to the Potomac.

Whether the spirit of opposition displayed by Brent and Cornwaleys in the Assembly, originated in personal or political feelings cannot now be ascertained. Whatever may have been its origin, it did not prevent Governor Calvert from bestowing upon them responsible public appointments, or them from giving their services to the Colony, when called upon. One exception must be made from this statement, in the case of Capt. Cornwaleys, who, when called upon, a short time after the adjournment of the Assembly, (Sept. 16) to take the oath of a Councillor, according to the requirements of the last commission, "absolutely refused to serve in that capacity or to take the oath." The reasons of this extraordinary procedure are not given, but, taken in connection with his course in the Assembly, it affords strong grounds for the inference, that the friendly relations between the Captain and the Governor had been disturbed, and that he considered himself aggrieved by some action either of the Proprietary or his brother.

Late in the year (Dec. 16th) Mr. Brent had been appointed Commander of Kent Island, then for the first time recognized as a county, where he had, in September, 1640, received a grant of one thousand acres of land, under the title of the Manor of Kent Fort; and he seems to have made no difficulty about accepting the honor. On the same day, a proclamation was issued, calling 'an Assembly of the freemen on the third of February following; but on the first of February, public notice was given that the session would not be held. One reason for this, probably, was the Governor's earnest desire to strike a blow at the savages, and his belief, that a gathering of the Assembly at that time would interfere with the raising of forces. He had been for some time in correspondence with the Captain on the subject, who had finally consented to take the command of the expedition, and a week before the release of the freemen from attendance on the Assembly, (Jan. 23d, 1643) had received a formal commission for that service. The people were by no means as zealous on this point as the Governor, and had shown themselves backward about enlisting; but the name of Capt. Cornwaleys was a tower of strength, and with a view of re-assuring and urging forward the people, Calvert, as soon as the commission was signed, put forth the following proclamation :

“ By the Lieutenant General.

WHEREAS I understand of divers jealousies and fears abroad in the Colony, touching the Indians and the expectation of a great charge and hindrance this year either in making a march upon them, or in guarding against them, to the disanimation of the people and foreslowing their usual diligence and alacrity in proceeding in their labors for the next crop, for remedy whereof, and to assure them of what consideration is had of their safeties and ease, I have thought fit to publish and declare hereby, that all possible diligence is and shall be used for the furnishing the country with ammunition, and that, as soon as conveniently may be, there shall be an expedition set forth against the Indian enemies of this province, at the sole charge of his Lordship, (excepting the persons of the soldiers to make the expedition withall, for whose service the country shall be charged), and that Capt. Cornwaleys is appointed and hath undertaken to go as general of the said expedition, to whom I have given all purchase⁽¹⁾ that shall be made upon the enemy during the said expedition, to be by him disposed of for the encouragement of volunteers, that shall set themselves forth, and serve at their own charge, and for the reward of his soldiers, as he shall find them to deserve; and further, for the greater encouragement and relief of those that shall go on this service, I will use all circumspection that may be, that the said expedition shall be so made, and (by God's help) performed, that it shall be no considerable hindrance to any one's crop, and that the debts of those whose present abilities will not reach to the satisfying of their creditors without grievous pressure and disabling them for their necessary subsistence for the future, I will use means with their creditors, (if they be inhabitants of this province), to forbear until the next year, which I have already assurance of from some of the chiefest. Given at St. Mary's, 23rd January, 1642.”⁽²⁾

(1) Plunder.

(2) 1643, N. S.

Three days after the publication of this paper, (January 26) the authority given ten days before to slay any Indian coming within certain lines, was revoked, with the exception of any known to be Sasquesahanocks or Wicomeses, and public notice was given that a treaty of peace was in negotiation between the authorities and the Nanticokes, formerly declared enemies to the Province, for perfecting which, a truce of six weeks had been agreed upon, during which time, they were to be under his Lordship's protection. As for the excepted tribes, no mercy was to be shewn to them, and every effort was made to bring the military force of the Colony to bear against them. But there were too many obstacles to be surmounted. The people were lukewarm and discontented; there was in Maryland, as in Virginia, a great scarcity of arms and ammunition; means for defraying the expenses of the expedition were not forthcoming, and, possibly, there was not entire sympathy and mutual confidence between the Governor and the officer whom he had named to the command. In this strait, Calvert resolved entirely to relinquish his design, and announced, (April 8th) his purpose, in the following proclamation :

“Whereas, by a proclamation, bearing date at St. Mary's, the 23rd January last, upon certain hopes then presumed upon of means to go a-march upon the Susquehanahs, I did declare to the Colony, that there should be an expedition set

forth at his Lordship's charge, with other things therein contained, which means not being yet found answerable to my hopes, I do think fit to advise further of the intended expedition, and therefore do hereby annul and revoke the said proclamation, and the obligations therein undertaken on his Lordship's behalf, and all powers and commissions therein given touching the said expedition, until I have further considered thereon."

Notwithstanding the plea for relinquishing the expedition and cancelling the commission to Capt. Cornwaleys, of want of means, and a desire of further time to consider the subject, the principal motive seems to have been the sudden determination of the Governor to go to England; for, three days after the above proclamation, he gave public notice of his intention, appointed Mr. Brent to act with full powers as Governor during his absence, and sailed from St. Mary's. Whatever might have been the want of cordiality between the Captain and him, it did not prevent their participating in a business transaction, the details of which it is not now easy to understand, but the result of which must have increased the dissatisfaction of the former with the measures of the Proprietary. Leonard Calvert, Mr. Lewger and Mr. Langford, after some negotiation, determined to purchase, in the name and for the use of the Lord Proprietary, the chapel of St. Mary's, (probably the Episcopalian place of worship), with other buildings and land adjoining, and, in payment for

the same drew bills on his Lordship for the sum of two hundred pounds sterling, payable in England, to the order of Capt. Thomas Cornwaleys, whose name it appears was for some reason made use of, although the purchase was not made from him. With these bills went forward one, drawn by Captain Cornwaleys, on Thomas Gerard, for thirty, and another on Edward Harris, for ten pounds sterling, payable to Leonard Calvert. That on Lord Baltimore, he refused to pay, on the plea that there were "certain mistakes in the business," which he proposed to rectify, on a visit which he designed making to his Colony in the coming January; and the two latter, being in some way dependent on the former, were likewise protested and left unpaid. In the mean time, he prohibited (July 14th, 1643,) his officers in Maryland, from listening to any complaint or pronouncing any judgment on the subject, but to suspend all proceedings until his arrival in the Province. This summary and extra judicial proceeding was certainly not calculated to remove any feeling of dissatisfaction entertained by the Captain, and in that period of growing jealousy of the exercise of prerogatives and absolute powers, was impolitic, to say the least. Besides, it came with an ill grace from one whose representative had sworn in the presence of Cornwaleys, immediately after Leonard Calvert's departure, (April

15th), not only "to maintain all the interests and royal jurisdictions" of the Proprietary within the Province, but "to do equal justice to the poor and to the rich after his cunning, wit and power, according to the laws, and to delay nor to deny to any man right or justice."

Though Cornwaleys was evidently on friendly and familiar terms with Governor Brent, he was not named on the commission of Privy Councillors, appointed immediately after the administration of the official oath above referred to. But though prevented by circumstances from availing himself of the Captain's services in that capacity, he promptly secured his co operation in a sphere of action, where his judgment and military skill would enable him to render the Colony most effective service. The departure of Leonard Calvert caused no interruption in the design to chastise the savage invaders of the Province. Scarcely had he lost sight of its shores, when a commission was issued by Brent to Cornwaleys, (April 17) appointing him Captain general of a force to be led against "the Susquehanoughes or other Indians" who had been concerned in the late outrages, to take, if necessary, every third man to make up the number required, and to lead forth the expedition at such time and in such manner as he should deem fit. And yet, the very next day, the Council, on the plea of the difficulty, and

indeed the impossibility of organizing an expedition for the present, determined to raise a company of ten good marksmen, and post them, as a garrison, fully armed and equipped, upon Palmer's island, in the mouth of the Susquehannah, to keep an eye on the movements of the formidable tribe, whose fort was a few miles above the falls of that river, on the eastern bank, and prevent their war parties from coming down the bay to assault and ravage the unprotected frontiers of the Colony.

From the time when the English first landed at St. Mary's, and took the Yaocomocoes, the Patuxents, the Pascataways, and other neighboring tribes under their protection, reässuring the disheartened natives, and offering a barrier to the progress in that direction of the conquests and plunderings of the Sasquesahanocks, they had been the objects of the hatred and the uncompromising hostility of this fierce and warlike tribe, and, from time to time, were made to feel the bitterness of their hate, through sudden inroads and the quick blow of the tomahawk. At one time, reinforced with a portion of the Wicomeses, a tribe of the eastern shore that owned their sway, they came in canoes down the bay, and, landing on Kent Island, robbed or murdered the most exposed inhabitants; or moving swiftly up the Patuxent, made deadly assaults on the planters scattered along the neck formed by that river and the Potomac; at another, their

fierce war parties, painted and prepared for deeds of blood, followed the path in a southwesterly direction over the upper waters of the Patapsco, and, suddenly emerging from the woods, fell upon the defenceless planters who had ventured to push their settlements even to the head of the Pascato-way. No place seemed secure from their attacks, no mercy was to be expected when they made their appearance.

It is no matter of wonder, therefore, that a man of strong sympathies and of public spirit, like Capt. Cornwaleys, should have his feelings moved and his anger aroused at the tales of cruelty and wrong inflicted by these murderous foes, or that he should burn with a desire to retaliate upon them the blows they had given and inflict a chastisement, which should teach them to respect the lives and property of the colonists. He accordingly determined to throw his own personal popularity into the scale, and, casting aside all dependence on the law which authorized a compulsory enlistment of men to form the expedition, to rely entirely upon volunteers who were willing to undertake the service, from their confidence in his courage and capacity, and a regard for the safety of the Province. It was necessary that his plan should receive the seal of official approbation, which was most willingly granted by Governor Brent, in the following form :

“Whereas we are informed of your propenseness to go a march upon the Sesquihanowes, and that several volunteers, to a considerable number, are willing and desirous to be led out by you upon such a march upon certain conditions treated and agreed between you and them, We, approving very well of such your and their forwardness for the vindication of the honour of God and the Christian and the English name, upon these barbarous and inhuman Pagans, do hereby authorize you to levy all such men as shall be willing to go upon the said march, and to lead and conduct them against the Sesquiha-nowes or other Indian enemies of the province, in such time and manner as you shall think fit.”

When and in what manner the Captain carried out his design against the Indians, the scanty colonial records of that time do not inform us; but, from a publication made a few years after,⁽¹⁾ on an entirely different subject, we are enabled to glean a few facts, which throw a faint light upon his proceedings. The author, after stating that the Swedes, then settled on the Delaware, and by no means favorably disposed towards the English settlements, had sold arms and ammunition to the Indians, asserts that they had hired out three of their soldiers to the Sasquesahanocks, who training the tribe to the use of arms and to European tactics, had led them into Maryland and Virginia, and assisted them to take the chief of the Poto-macks prisoner and to subdue eight Indian tribes in Maryland, that had been civilized and subjected

(1) Plantagenet's "New Albion," printed in 1648.

to the English crown. He then goes on to say, that, "of the Susquehanocks, there are not now of the naturals left, above one hundred and ten, though, with their forced auxiliaries, the *Ithonadoes*⁽¹⁾ and *Wicomesees*, they can make two hundred and fifty," and, after some disparaging but unjust expressions in relation to their courage, adds;—"these two hundred and fifty, having surprised in the reeds and killed three Englishmen, with the losse of one of theirs, Capt. Cornwallis, that noble, right valiant and politic soldier, losing but one man more, killed with fifty three of his, and but raw and tired, Marylanders, twenty-nine Indians, as they confessed, though compassed round with two hundred and fifty." Yet this severe chastisement, did not, it seems suffice; for on July 18th, another commission was issued to the Captain to lead an expedition "against the Susquihanowes or any their aiders and confederates," the result of which, if ever made, is not upon record. Either that, or a subsequent expedition must have ended disastrously; for in a set of instructions issued in June of the next year to Capt. Fleete, who was to go up to Pascatoway fort with a strong party, to negotiate with a deputation of the Susquehanocks, who were to be there, one article especially directed him to obtain the restitution of "as much as he could get of the arms and other goods lost or

(1) Oneidas, perhaps.

left in the last march upon them, at least the two field pieces."

From this time, for a period of more than nine years, the name of Capt. Cornwaleys appears in no commission, nor in connection with any of the important events that occurred within that excited and stirring season. Leonard Calvert returned from England in September, bringing with him a new commission for his own office and that of the Council, from the latter of which the name of Cornwaleys was excluded; and it seems most probable that some settled dislike had arisen between the parties, which prevented the Proprietary and the Governor from bestowing on him any mark of confidence, and led him resolutely to hold himself aloof from all intercourse or correspondence with them, and to confine his attention to his personal affairs. I infer, therefore, that during this period, he was engaged in improving his plantation in St. Mary's county, still known as Cornwaleys's Neck, and in enterprises which called him occasionally into England, so that he had little opportunity of participating, or manifesting an interest in the progress of events in the Colony.

Richard Ingle, originally master of a tobacco ship trading to the Colony, and charged in January, 1644, by Governor Brent, with high treason against his majesty, but escaping from St. Mary's with the loss of his vessel, reappeared in February,

1645, with a force sufficiently large to expel Calvert and obtain control of the Province. Calvert returned in December of the next year with a force gathered in Virginia, and regained his sway over a people who had been discontented under his previous rule, yet were happy to return to it, after the severities of Ingle and his adherents; Calvert died just as he had completed the reduction of the Province, (June 7th, 1647;) a Protestant Governor and Secretary were appointed; a large Protestant immigration from Virginia was encouraged; several sessions of the Assembly were held, at which important acts recognizing the principles of religious toleration, and modifying the principles of the government were passed; the control of the Province was taken from Lord Baltimore's officers, (March 29th, 1652,) by Richard Bennett and William Claiborne, acting as Commissioners of Parliament, and given to others, but soon after restored to Governor Stone; a firm treaty of peace was at last negotiated by the Commissioners with his old antagonists, the Susquehannocks, and yet, it does not appear that the Captain, in any one of these important events, was consulted by the actors, or in any way endeavored to put himself prominently forward in connexion with them. Nothing, it would seem, but deep disgust at some real or fancied injury, or absence from the Colony, during a considerable portion of this period, could

have led one of so bold and active a temperament, to so entire a disregard of public and pressing events.

Although the pacification effected by the commissioners freed the Colony from one formidable enemy, it did not extend to the other tribes, some of whom, especially those of the eastern shore pursued the people of Kent and the frontier settlers with augmented hostility. Several circumstances seemed to conspire at that period to stimulate the natives to action, and to tempt them to aim an effective blow at those who were encroaching upon their hunting grounds, and occupying acre after acre of their territory. Recent occurrences, by which two parties in the Province were placed in antagonism, the reduction of the people to the rule of Parliament, and the want of sympathy between the new comers, of the Independent church at Providence on the Severn, and the Episcopalians and Catholics at St. Marys, did not escape the knowledge of the watchful savages; besides which, there was a general uneasiness and embittered feeling, among all the tribes along the coast, which shewed itself in fierce assaults from the Maryland tribes, made self-confident and doubly insolent, by the wreck of an English and the capture of a Dutch vessel in the Bay, which had thrown into their hands a large supply of arms and ammunition.

Upon the people of Kent, as the nearest and most unprotected, the weight of savage vengeance fell most severely. No longer dependant upon the uncertain bow, but trained to the use of fire-arms, and abundantly provided with powder and shot, the Indian prowled around the exposed plantation, turned upon the white man his own deadly weapon, and with unerring aim, marked his unsuspecting victim. Three persons in succession, thus fell before an unseen enemy. The last was Mr. Francis Hunt,⁽¹⁾ who, on the 20th of October, 1652, was killed and stripped near his own house. Emboldened by the supineness of the people, the Indians began to shew themselves by day, and kept the inhabitants in a continual fever of alarm by their firings and occasional attempts at night, so that the advanced settlers forsook their plantations, and many of the panic-stricken people determined to leave the island.

In this strait, the inhabitants deputed a committee of their most respected citizens to proceed to St. Mary's with a petition, depicting in strong colors their desperate situation, and calling upon the Governor and Council, "seriously to weigh and consider their deplorable condition, and take some speedy course for the suppressing of those heathens, and avenging of guiltless blood, and the

(1) I am indebted for this name to the researches of the late Geo. L. Davis, Esq.

preservation of their lives, with their wives and children." Governor Stone at once responded to the call, and not contented with the advice of the members of his Council merely, invited several gentlemen to be present, whose sound judgment and experience in Indian warfare particularly qualified them to advise in such an emergency. Among these, was Capt. Thomas Cornwaleys; and here again, after a long disappearance from the stage, he comes forward, in his old character of trusted adviser, and one of the firm bulwarks of the colony.

The Court record for November 25th, 1652, says, "the Governor and Council, now present, together with Thomas Cornwaleys, Esq., and others, whose advice and assistance was desired in this case of great concernment, have ordered that sufficient forces be speedily raised for a march against the eastern shore Indians, and for that purpose, every seventh man throughout the province is to be pressed for the service, councillors, and other public officers, excepted." The six persons not drafted, were to supply the seventh with provisions, arms, and ammunition, and all were to rendezvous at the Isle of Kent, by the 30th of December, where they were to be commanded, not by the veteran Cornwaleys, but by Captain William Fuller, the principal military man among the Independents and Parliamentarians of the Prov-

ince, and a resident on the Severn, among the Puritanic settlers, the greater part of whom had removed from Virginia in 1649.

It is quite possible that Cornwaleys from previous hard service, ill health, or wounds received in past expeditions was no longer able to act as leader; but it is also probable that policy dictated to Stone the appointment of Fuller; in addition to which, it ought to be observed that he was nearest to the proposed scene of contest, was popular among the people in that quarter, from whom a considerable part of the force was expected to be drawn, and better qualified to control the forces and direct the expedition than a stranger and an inhabitant of another part of the Colony.

A few days after, a commission was issued by Governor Stone to Capt. Fuller, "in the name of the keepers of the liberty of England, and by virtue of powers entrusted to him by the right honorable the Lord Baltimore, Lord Proprietary of the Province," appointing him commander of the proposed expedition, but this, like many others zealously planned in preceding years, was destined to fall through, owing to obstacles which rendered it impossible to collect a sufficient force for the purpose. Capt. Fuller acknowledged the receipt of his commission, on the 13th of December, and assured Governor Stone that it was far from him to slight the power God had set over him, and for

himself, he was willing, then and at any time, to do him and the country all possible service; but the people of those parts were wholly disaffected, "not to the thing, but to the time of year," apprehending being frozen up in the rivers, and, from the want of necessaries and provisions, suffering more from exposure than from the assaults of the savages. Furthermore, the Indians of the western shore had become aware of the design, even before the issuing of the commission, and it was idle to hope for success in an expedition against enemies forewarned, and therefore, forearmed. As for the inhabitants of Kent, whose earnest petition had been the principal cause of the movement, he promised, if weakness of body did not prevent, to make them a visit, advise with them, and assist them as occasion might offer, with men or otherwise. On the receipt of this letter, Governor Stone, (Dec. 18th) issued a proclamation, declaring that "he had upon serious consideration of intelligence from Capt. Fuller, and of the soldiers' great want of apparel and other necessaries, at that unseasonable time of the year," thought fit to abandon all idea of an expedition for the present, and directed those who had assembled to return to their homes.

For more than five years from this date, a period marked by civil dissensions, change of government, and bloodshed within the Province, and a despe-

rate struggle on the part of Lord Baltimore, in England, to obtain the control of his Colony and the restoration of his own officers, we look in vain for the appearance of one who had, in the earlier days of the Colony, been the first to uphold the rights of the people, prompt to oppose injustice, and among the most eager to repel aggression.

Among the articles agreed on at the rendition of Virginia, to the Commissioners for the Parliament, just before the reduction of Maryland, in March, 1652, was one, engaging that Virginia should be restored to her ancient limits, and her people should seek from Parliament a new Charter against any who had entrenched upon their rights. The tendency of this was to invalidate the Charter of Maryland, and to make of no avail all that Lord Baltimore had done during nearly twenty years. He at once went before the committee of Parliament to which the subject was referred and vindicated his claims, where he was soon confronted by Samuel Matthews, and afterwards by Governor Bennett, one of the Commissioners sent over by the Virginians, to press their claims to a new Patent, and anxious to justify the course pursued in Maryland, and shew Lord Baltimore's unworthiness to retain jurisdiction over that Province. The contest was not confined to the committee rooms; a war of pamphlets was continued for several years, and zealous advocates on both

sides warmly urged the rights of their own party and the wrongs of which their opponents had been guilty.

In the midst of these private controversies, Cromwell violently dissolved the Long Parliament, (April 20th, 1653,) and with it the committee to which the subject had been referred; assembled another, (July 4th,) which also took up the case, to lay it down, when it voluntarily surrendered its powers, after an ineffective session of five months; and finally took upon himself the title of Lord Protector of the Commonwealth, and laid down a new platform of government.

Information of this change in the form of the supreme government, was received in Maryland, early in May, 1654, and the Lord Protector was proclaimed by Governor Stone, with the firing of cannon, a proclamation of pardons, and other tokens of respect. But the spirit of jealousy and dissatisfaction was already abroad. The people of the Patuxent and Severn rivers, and of Kent Island, strongly objected to the terms and tenor of an oath of fidelity to his Lordship, required of those who had claims for lands; but Stone, by order of the Proprietary, insisted that they should take it or forfeit their lands; and furthermore, by command of Lord Baltimore, refused to issue writs in any other name than that of the Lord Proprietary. Petitions were sent to Bennett and

Claiborne, who, in consequence, came into the Province in July, 1654, and finding Stone determined to adhere to the course he had begun, compelled him to resign, and placed the government in the hands of ten Commissioners, at the head of whom was Capt. Fuller, after which they returned to Virginia, and Bennett went, as agent to England, as already mentioned, to assist Matthews in prosecuting the claims of Virginia before his Highness, the Lord Protector.

Thus affairs remained until March, 1655, when the receipt of a cutting reprimand from the Proprietary aroused Stone, induced him to resume his title and official functions, as Lord Baltimore's Governor, to gather an armed force and make a demonstration against the people of Providence, which resulted in a fight in which Stone was utterly defeated, many of his men slain, and several afterwards executed by the victors. The Province after this remained for sometime under the control of Capt. Fuller and his party, though occasionally disturbed by the plots of Capt. Josias Fendall, in behalf of the Proprietary, to whom he finally sent a commission (July 10th, 1656,) to act as his Governor, in place of Capt. Stone, and soon after sent over his brother Philip, (Nov. 7th,) to act as Secretary of the Province. The people were thus under a divided rule; the one part recognizing the authority of Capt. Fuller, and his fellow-com-

missioners, residing mostly at Providence; the other, recognizing Fendall, Philip Calvert, and the Councillors at St. Mary's, as the lawful rulers of the Colony.

In June, 1657, Fendall went to England, leaving the control of affairs at St. Mary's, in the hands of Dr. Luke Barber; and during his absence a session of the Assembly was held at Patuxent, (Sept. 24th,) under the auspices of the Parliamentary party, the members of which, of course, came only from the counties recognizing their control. The only name on the list familiar to us under the Proprietary rule, is that of Robert Vaughan, who appeared as a representative from the county of the Isle of Kent. While this session was going on in Maryland, Lord Baltimore, and the agents of Virginia, were busily engaged in London in discussing the terms of a compromise, in which they were aided by the presence of Governor Fendall, recently arrived from Maryland, and Governor Digges, sent over the preceding year by the Assembly of Virginia, to aid Bennett and Matthews in their negotiations. The result was an agreement made between the parties on the 30th of November, on the basis of a report made by the Commissioners, or committee for trade in September of the year preceding, by which his Lordship promised, in case the opposition party in Maryland would relinquish all claims to authority, give up

the records and great seal, and obey his officers in future, to forget past controversies, to grant them their lands, with a modified oath of fidelity; in which the clauses objected to by them were omitted; to allow those who wished to leave the Province, a year's time for so doing; and never to consent to the repeal of the law assented to by him in 1650, granting freedom of conscience to all persons in the Province, professing to believe in Jesus Christ.

On the 26th of February, 1658, Governor Fendall landed at St. Mary's bringing with him the articles of agreement, duly authenticated, together with a set of instructions, prescribing the course to be pursued by him in various important particulars. One of these, shews, in a most gratifying manner, that if there were any cause of coldness between his Lordship and his old servant, he still held his character in high respect, and placed full confidence in his honor and judgment. Governor Fendall had received directions to perform certain acts, but he was required to proceed in every case with the aid and advice of Philip Calvert, then Secretary of the Province. By the last clause of his instructions, it was especially provided, that in case the Secretary should die or be absent from Maryland, or otherwise prevented from acting, then the Governor should act with the advice and approbation of Capt. Thomas Cornwaleys, in lieu

of Philip Calvert, and in case of attestations of grants being required, the Captain and two others of the Council should sign and seal them; the effect of which nomination was, to make Capt. Cornwaleys, provisionally, Secretary of State.

Letters were dispatched, immediately after Fendall's arrival at St. Mary's, to Capt. Fuller and his associates, requesting them to meet him, Secretary Calvert, and Capt. Thomas Cornwaleys at St. Leonard's, on Patuxent on the 18th of March, in order to act upon the articles of agreement, and transfer the government according to stipulations. The invitation was complied with, and after a discussion of several days' duration, in which Capt. Cornwaleys acted as assistant, and perhaps mediator, both parties agreed upon terms of accommodation, varying somewhat from the original articles; Capt. Fuller and his associates signed an agreement to obey the authorities appointed by the Lord Proprietary, and handed over the government to Josias Fendall, as his Lordship's only true and authorized representative. On the 24th of March, 1658, therefore, the Province was once more restored to the hands of its rightful Proprietary, and Captain Cornwaleys, after twenty years of varied experience in the toils, hardships, and vicissitudes of colonial life, had the satisfaction of crowning his active and useful labors, by a participation in the negotiations which consum-

mated that measure, and of receiving from the friend of his early days a recognition of his claims to his gratitude and respect, in his appointment, in case of necessity, to discharge the functions of the second official station in the Province.

From this point, but few memoranda remain upon record, by which to trace the public services or the private and personal fortunes of this truly meritorious member of the first colonial company that occupied the territory of Maryland, under the auspices of the Proprietary. He was, at this period, not unwilling to increase his estate, as we find him, on the 16th of August following the transfer of the government, obtaining the survey of one thousand acres of land in Kent County, on the east side of Bacon bay, to which he gave the appropriate name of "Cornwaleys's Choice."⁽¹⁾

Here, in fact, ends the story of his personal connection with the colony. After twenty-five years of persevering labor, which had been rewarded by the accumulation of a handsome estate, of honesty and promptitude in his private dealings, and firmness and courage in his public services, which had won for him the favor and respect of the people, he prepared, with the general regret of the colonists to return to England, there to take up his residence, and to make his grave in the land where

(1) From a very old Rent Roll of Kent County, discovered by Geo. L. Davis, Esq., to whom I am indebted for the memorandum.

his forefathers had lived, labored, and been buried. Leaving his ample estate under the control of Mr. Richard Hotchkkeys, empowered to act as his sole attorney for its management, he sailed on the 2d of June, 1659, from the scene of his long continued labors, and left, never more to return, the Colony, to the upbuilding and strengthening of which he had been so able and faithful a contributor. To his home in his native country, to his new life, and his English fireside, with its contrast of comfort and refinement to his humble abode in the wilds of Maryland, it is not in our power to follow him; neither can we record the day when a stout-hearted, earnest man finished his career on earth, or copy the epitaph that admiring friends, who could not have known half his virtues, engraved upon his tomb.

There are a few entries on the colonial records, subsequent to his removal to England, which shew that the management of his estates from a distance was not unattended by inconveniences, and that, in one case at least, he had sufficient reason to complain of the ingratitude of one whom he had befriended, to bring him before the general Assembly in the character of a petitioner for redress, and a vindicator of that character for fairness and honesty which he had won by his dealings in the Colony, and which he was determined not to lose through misrepresentation and deceit.

At a meeting of the Council held at Resurrection Manor, on the 12th of December, 1659, Mr. John Abington appeared as a petitioner on behalf of Capt. Cornwaleys, and represented that, since the departure of the Captain, his attorney in the province, Mr. Hotchkeys, had died, and before his death, by an instrument dated October 15th, 1659, had appointed the petitioner to execute the same power; that he had also been named by Cornwaleys, in a letter to Hotchkeys dated in England July 27th, as his agent to receive tobaccos for him; but the debtors now refused to make payment to him, as not sufficiently empowered to collect dues to the estate. He, therefore asked an order from the Board, and such action as would tend to the settlement of the revenues and the preservation of the property of his principal. The Council at once acted upon the petition, and framed a resolution, giving Mr. Abington full power to receive dues, and pay debts and expenses, and do all things necessary for the management of Capt. Cornwaleys's estate in the Province.

A few months before leaving Maryland, the Captain purchased a plantation belonging to John Nicholls, one of the colonists, whom he had frequently befriended, but who, through misfortune or ill-management, had become involved in debt. At the same time, at his earnest solicitation and as an act of kindness, he consented, though he had no

need of her services, to take as an indented apprentice, the daughter of Nicholls, who was so poor that he could not support his family.

The arrangement was made, and Cornwaleys left the Colony. He afterwards returned on a visit, during which no complaint was made in reference to the condition or treatment of the child, but on the 11th of February, 1662, Nicholls presented a petition to the Council, representing that his daughter had been made an apprentice at the earnest entreaty of Cornwaleys, who had promised she should wait on his wife only and be used like his own child; instead of which she had been retained in the Province, and treated like a slave. The case was referred to a jury, who, on *ex parte* evidence, no witness having been called in Cornwaleys's behalf, decided that the complaint of Nicholls was well founded, and that the indenture should be cancelled.

Information of these proceedings was in due time conveyed to Capt. Cornwaleys, who was too tenacious of his rights, and too jealous of any imputations against his character for fairness and honesty to permit the matter to pass unnoticed. In September, 1663, a session of the Assembly was held at St. Mary's, over which Charles Calvert, the eldest son of the Proprietary presided as Governor, and at which were present, as burgesses from St. Mary's, William Calvert and Thomas Notley. A

day or two after the opening, these two gentlemen appeared before the Upper House, bearing the following petition from Capt. Cornwaleys, which received immediate attention :

To the Hon^{ble} the Lieutenant Generall and Chancellor, with the rest of the Councell assembled in the Upper House of parliament, and to the gent. of the Assembly, for the Province of Maryland.

The humble petition and Complaynte of Tho: Cornwallis Esq., one of the first and chiefe Adventurers for the planting and inhabiting the foresaid Province.

Sheweth

That whereas the Complainant, as itt is well knowne, hath, att his greate Cost and Charges, from the first planting of this Province, for the space of twenty eight yearss, been one of the greatest Propagators and Inereasers thereof, by the yearely transportation of servants, whereof divers have been of very good Ranck and Quallity, towards whome and the rest he hath alwayes been soe carefull to discharge a good Conscience, in the true performance of his promise and obligations, that he was never taxed with any breach thereof, though itt is also well knowne and he doth truly aver itt, that the Charge of soe greate a family as he hath always mayntayned, was never defrayed by their labor :

Now, soe itt is, that the complainant, intending to returne out of this Province into England, with his wife, there to reside, and to leave the management of his affayres within this province with Richard Hotchkeyes and Mrs. Anne Tilney, one John Nicholls an Inhabitant of this Province, who had been long and much indebted to the Complainant, and from yeare to yeare forborne by him, without ever takeing one penny of him for the damage of non payment, being growne very poore and unable by his labor to pay his debts and mayntayne himselfe, wife, and children, did some two or three moneths before the Complainant's departure for

England in the yeare 1659, sell the Complainant his plantation, And more to lessen his Charge, did by the mediation of the said Richard Hotelkeyes, Anne Tilney, and others earnestly importune the Complainant and his Wife to take his eldest daughter, named Hester, being about 10 or 11 years old, an Apprentice for five yeares, which the Complainant refused; and yett at last, by the earnest sollicitation of the said Nicholls himselfe and others in his behalfe, and in commiseration of his poore estate and the said child's, who was in a very poore condition for want of clothes, as well Linnen as woolen, did condescend to accept her for seaven yeares; And accordingly, an Indenture was drawne, signed, and sealed by the said Nicholls, and his daughter, in the presence of the said Hotelkeyes and John Abington without any other condition, than what was conteyned in the said Indenture. And whereas, in a petition to this honourable Courte, the 11th of February, 1661, itt is falsely alledged by the said Nicholls that the Complainant did earnestly press him for his said daughter, promising she should doe nothing else but wayte upon his wife, who, itt is well knowne, wanted noe attendants, of farr better fashon, and was shortly intended, to goe for England with the same mayd she brought with her, with noe Resolution, as was well knowne to the said Nicholls, of returning againe into this Province; and to bee at the charge of transporting or keepeing such a rude, raw, ill bred childe for or in England, where servants of all sorts may be had on easier tearmes, is altogether improbable; yet how, otherwise, she should doe nothing else but wayte upon his wife, or that he the said complainant should take as much care for her as his owne childe, which is also sworne by his confederate, Edward West,—he humbly desires this honourable Court to take into their serious consideration, as alsoe the last clause of the said Nicholls his petition, wherein he craves that his daughter may not be made a slave, a tearme soe scandalous that, if admitted to be the condition or tytle of the apprentices in this Province, will be soe destructive as noe free borne Christians will ever be induced to come over servants.

Of all which falsetyes the said Nicholls and West were soe conscious, as the Complainant hath reason to believe, that they waded the judgment of this honourable Bench, to whome it solely and properly belonged to take cognizance of what is Lawe or Equity, and craved a jury, to whome by the Lawes of England and Maryland itt belongs to take cognizance only of such matters of fact, and consequently, the Indenture being proved or confest, must have found for the defendant; for, were the legallity or equity of Bonds or Covenants, when proved or confest, to be decided by a weake and ignorant jury, the Complainant under a favorable correction, humbly offers itt to the judicious consideration of this Courte, what need would there be of lawyers to dispute doubtful cases, nor of learned judges to determine them; but only to sitt as eyphers to confirm ignorant and illegall verdicts. And whereas, there is no other witness produced by the said Nicholls, to prove his false suggestions but the foresaid Edward West, whose misdemeanours towards the Complainant when he was last in this Province is soe notorious that itt needs not be repeated, though, upon his humble submission, itt was forgiven him by the Complainant, whose servant he had been;—that he alsoe lives in the said Nicholls his house and, as the Complainant is informed, had a designe to marry his said daughter:

In consideration of all which premises, with the illegality of the verdict, wherein the Complainant without ever being heard or any witness in his behalfe examined is asperst upon record with fraud and deceit, which he abhorrs, and is in his conscience altogether innocent, having att that tyme, as is well knowne, neere twenty servants to mayntayne, and had noe need of soe useles a servant to increase his charge; but only in charity to the said childe and her father, who, in three yeares tyme never challenged any such promise as he now suggests of the Complainant nor att his last being in Maryland ever complayned to him of her imployment or keeping, which was yett noe other then as one of his ordinary mayd servants, as doubtless he would have done had there been truth in the oath or allegation made in his absence to this

honorable Court, to whome in parliament or Chancery by the lawes, customes, and usages of England and this Province, itt belongs to relieve the injured against surreptitious judgments, nothing being more common in this nation then reversing of judgments upon writts of error in the equity or legallity of the proceedings, which being evident in the fore-said verdict, he humbly prayes it may be vacanted, and the order thereupon reversed, whereby your petitioner may have his reputation vindicated, the servant or sattisfaction for her tyme restored to the right owner, the abused servants and apprentices of this Province righted, by all which, if the said Nicholls or any other person finde themselves aggrieved, the Complainant is ready to answer any Bill that shall be exhibited legally against him, provided he have notice and sufficient tyme given him for itt, and will putt in sufficient security to stand to the judgment of this honorable Court, for all damage that shall be adjudged against him, provided the plaintiff may doe the same, whereby he may know how to gett such sattisfaction for unjust molestation and slander, as the Courte shall award.

And he shall praye &c.

After the reading of this petition, it was ordered by the Upper House, that it be endorsed, "let justice be done," and sent to the Governor for his signature, after which, the Captain was required, either by himself or his attorney, to come before the House and assign errors in judgment, and Nicholls was summoned by a writ of *scire facias*, to hear the errors assigned. Mr. Notley appeared as Cornwaleys's attorney, and gave in his errors, to which Nicholls was required to give in an answer on Monday, September 26th; but failing to make his appearance on that day, the House

decided that the cause of Capt. Cornwaleys ought to be tried again, and ordered that the whole case be brought before the Provincial Court of December 8th, 1663, sitting as a Court of Chancery. Whether the case came up at that time, or how it was decided, the remaining records do not inform us; but we cannot doubt, if the transaction was then fairly investigated, that the verdict was such as to vindicate the well-earned reputation of the punctilious complainant, for fairness and honorable dealing.

Of him, I find no further trace on the record; and presume he passed the closing years of his life in England. Of the family he left behind, if any, I have been able to obtain no certain information. "Wm. Cornwaleys" was one of the witnesses to a will made in the county of St. Mary's, on the 24th of April, 1678, but whether he was a son or a relative of the Captain, I am unable positively to say. That he was a son is not improbable. There is no will in St. Mary's county or on record, that I am aware of, that may be referred to to shew the time and place of his death, and the manner in which his property was disposed of. So disappear the generations, and so are dispersed the worldly goods of those who, in their day, have done their fellows good service. But their good deeds survive them. The remembrance of their virtues will not die

out. In the present case, "*stet nominis umbra.*" As the men of the past had reason to respect the man himself, so those of the present, on a recapitulation of the deeds of his active and useful life as shadowed forth in this crude sketch, will pay a merited tribute of honor to the name of CORNWALEYS.

APPENDIX A.

NOTE TO PAGE 148.

*The Processe against William Lewis, Francis Gray,
Robert Sedgrave &c.*

On Sunday the first of July, William Lewis informed Capt: Cornwaleys that certaine of his servants had drawen a petition to Sir John Hervey; and intended at the Chappell that morning to procure all the Protestants' hands to it; whereupon the Captaine, (calling unto him Mr Secretary), sent for Rob^t Sedgrave, (one of the parties informed of) and examined him thereof, who confessed he had drawen a writing and delivered it to Francis Gray; who, being likewise examined, had the writing in his bosome, and delivered it to the Captaine. The writing was of this tenor.

"Beloved in our Lord &c.

This is to give you notice of the abuses and scandalous reproaches which God and his ministers doe daily suffer by William Lewis, of St. Maries, who saith that our Ministers are the Ministers of the divell; and that our books are made by the instruments of the divell, and further saith that those servants which are under his charge, shall keepe nor read any booke which doth appertaine to our religion within the house

of the said William Lewis, to the great discomfort of those poor bondmen which are under his subjection, especially in this heathen country, where no godly minister is, to teach and instruct ignorant people in the grounds of religion. And as for people which cometh unto the said Lewis or otherwise to passe the weeke, the said Lewis taketh occasion to call them into his chamber, and there laboureth, with all vehemeney, craft, and subtlety, to delude ignorant persons.

Therefore we beseech you, brethren in our Lord and Saviour Christ Jesus, that you who have power, that you will doe in what lieth in you, to have these absurd abuses and the rediculous crimes to be reclaymed, and that God and his ministers may not be so heinously troden downe by such ignominious speeches; and no doubt but he or they which strive to uphold God's ministers and word, he shalbe recompeneed with eternall joy and felicity, to reigne in that eternall kingdome, with Christ Jesus, under whose banner we fight forevermore."

(All which words aforesaid, which bath been spoken against Wm. Lewis, the parties hereunder written wilbe deposed when time and opportunity shalbe thought meete.)

Christopher Carnoll, Ellis Beache, Ro. Sedgrave, and others which hereafter may be brought forth.

And, being further examined touching the intent of the writing, Francis Gray said that he was not acquainted with the writing, till it was delivered (it) to him by Rob^t Sedgrave, and that he had not as yet read it; and that Rob^t Sedgrave desired him to publish it to some of the freemen, and to the intent onely to procure them to ioine in a petition to the Governour and Counsell of this Province for the redressing of those grievous (wrongs) which were complained of in the writing.

Whereupon, the Captaine willed them to attend againe in the afternoone, and to bring security for their answering the matter at the Court; and in the meane time, to demeane themselves quietly and soberly. And in the afternoone, the

Captaine and Mr. Secretary bound them over with two sureties, to answer it at the next Court.

On Tuesday, 3rd July, the Sheriff was commanded by warrant from the Governor, to bring William Lewis, Rob^t Sedgrave, Francis Gray, Christopher Carnoll and Ellis Beach into the Court, where were present, the Governor, the Captaine, and Mr. Secretary.

The Governor demanded of Rob^t Sedgrave whether that were his writing; and he confessed it. He demanded further touching the intent of the writing; and he answered as afore; and being demanded who moved or advised them to that course, he said that himselfe and Francis Gray, being much offended with the speeches of William Lewis, Francis Gray did wish him to draw a writing to some of the freemen, and he would procure them to ioine in a petition to the Governor and Connsell, which the said Rob^t Sedgrave did accordingly the next day; but Francis Gray wished him to keepe it till he had spoken to Mr. Copley; which was on Saturday, the last of June; and on Sondag morning, meeting Mr. Francis Gray at the Fort, he asked him whether he had spoken with Mr. Copley; who said he had, and that Mr. Copley had given him good satisfaction in it, and blamed much William Lewis, for his contumelious speeches and ill-governed zeale, and said it was fitt he should be punished; and Francis Gray asked him for the writing, and putt it up, and were going with it to the chappell, when the Captaine called them in by the way.

And Francis Gray, being examined, confessed that he did wish him to draw a writing, to be delivered to 2 or 3 of the freemen, and his reason was, because the said servants had no knowledge what to doe in it, nor could so well goe to the Governor to move for redresse as the freemen could.

Then were the complaints contained in the writing against William Lewis, taken into examination.

And, touching the first, Ellis Beach did depose that William Lewis, coming into the roome where Francis Gray and Rob^t Sedgrave were reading of Mr. Smith's Sermons, Will: Lewis said that the booke was made by the instrument of the divell.

And Rob^t Sedgrave, being demanded whether William Lewis spake in generall of Protestant's books, or of that booke in particular, said he could not well remember whether he spake of books in generall.

And William Lewis, being putt to his answeare, confessed that, coming into the room where they were readinge of a booke, they read it aloud to the end he should heare it; and that the matter, being much reproachfull to his religion, viz. that the Pope was Antichrist, and the Jesuits, Antichristian ministers, &c., he told them that it was a falsehood and came from the Devill, as all lies did; and that he that writt it, was an instrument of the divell, and he would approve it; and further he said not.

Touching the second, it was deposed by two witnesses, that William Lewis said of their ministers, (*inucndo*, the Protestants), were the ministers of the divell.

Touching the third, Rob^t Sedgrave said at first that William Lewis did forbid them to use or have any Protestant books within his house; which being denied by William Lewis, and that he had expressly given them leave to use or have books, so they read them not to his offence or disturbance in his own house, and that he spake onely touching that booke then in reading, Rob^t Sedgrave said that he was not certaine whether he forbad them that book onely, or all other books.

And Richard Duke, (a witsesse produced by Francis Gray, and a Protestant), being sworne, said that William Lewis said that Francis Gray should not read that booke in his house, nor no such base fellowes as he was; but no more or further, as he heard.

Then was Christopher Carnoll and Ellis Beach examined upon oath; and they likewise testified touching the forbidding of that booke, but not any further, as they heard.

Then was it alledged by William Lewis, that the intent of the writing was to combine the Protestants together, and to send a petition under all their hands to the Governor and Counsell of Virginia, that they would send hither for William Lewis, and proceed against him for a traitour. And this he

offered (to prove) by one there present, that heard James Thornton say, that they declared such their intent, in his hearing. But this being refused by the Governor, as an insufficient proof, and the partie himselfe demanded, that heard the words; it was answered that he was gone out a trading, the day before. Whereupon the Governor thought fitt to deferre their triall and censure till the witsnesse could be produced in Court; and in the meane time, willed Mr. Secretary to deliver his censure touching the complaints against William Lewis.

And Mr. Secretary found him guilty of an offensive and indiscreete speech in calling the author of the booke an instrument of the divell; but acquitted him from that he was charged withall in the writing, that he used that speech touching Protestant ministers in generall. He likewise found him guilty of a very offensive speech in calling the Protestant ministers, the ministers of the divell. He likewise found him to have exceeded, in forbidding them to read a booke otherwise allowed and lawful to be read by the State of England; but he acquitted him of the accusation that he forbad his servants to have or use Protestant books in his house. And because these his offensive speeches and other his unseasonable disputations in point of religion tended to the disturbance of the publique peace and quiett of the colony, and were committed by him against a publique proclamation sett forth to prohibite all such disputes; therefore, he fined him 500 weight of tobacco to the Lord of the Province; and to remaine in the Sheriff's custodie untill he found sufficient sureties for his good behaviour in those kinds in time to come.

The Captaine likewise found him to have offended against the publique peace, and against the proclamation made for the suppressing of all such disputes, tending to the cherishing of a faction in religion; and therefore fined him likewise 500 lbs. to the Lord of the Province; but, for his good behaviour, thought fitt to leave him to his owne discretion.

The Governor concurred wholly in his sentence with Mr. Secretary.

And so the Court brake up, and William Lewis was committed to the Sheriff.

Afterward, he found security for his good behaviour, and was bound as followeth :

3. July, 1638. William Lewis, John Medcalfe, and Richard Browne, acknowledge themselves to owe unto the Lord Proprietarie 3000 wt. of tobacco, to be paid unto the said Lo : Proprietary, or his heires or officers, on the tenth of November next, in case the said William Lewis shall offend the peace of this colony or of the inhabitants thereof by injurious and unnecessary arguments or disputations in matter of religion ; or shall use any ignominious words or speeches touching the books or ministers authorized by the State of England.

Signed

Recogn. coram me

JOHN LEWGER, Secretary.

WILLIAM LEWIS

JOHN MEDCALFE

RICHARD BROWNE

III.

THE FIRST CATHOLIC SECRETARY.

(JOHN LEWGER.⁽¹⁾)

The control of the Colony on its arrival and for some time after, was vested in Leonard Calvert, acting as Governor, assisted by Mr. Jerome Hawley and Capt. Thomas Cornwaleys, under the title of Commissioners. Such was the form of the government during nearly four years, within which time, it does not appear that such an officer as a Secretary was known, nor is there a single record of that period left, to inform us who acted in that capacity, or what were the particular measures adopted by those who had the management of the Colony.

Three years having elapsed since the landing of the first settlers, and opportunity having been given within that period to ascertain the defects of the first organization of the government, Lord Baltimore determined to make some alterations, retaining his brother as Governor, changing the designation of the Commissioners to that of Councillors, and appointing a Secretary, (as was the

(1) In "Chillingworth's works," this name is spelled Lewgar; but in the colonial records of Maryland, it is uniformly written Lewger.

custom in Virginia,) to keep a record of the proceedings of the Governor and Council, and to discharge certain other functions compatible with his office. The place required talents, education, judgment, and, as the government was then organized, a conformity to the Roman Catholic faith; all of which qualifications were abundantly found in a college companion and friend of the Proprietary, and one who was willing to try his fortunes in the new settlement.

JOHN LEWGER was born in London, in the year 1602. At the age of fourteen, he was admitted a commoner of Trinity College, in Oxford, and on the 25th of November, 1619, took the degree of Bachelor of Arts. He afterwards devoted himself to the study of divinity, and became a Bachelor in the Faculty in 1632, about which time, he received the gift of a handsome benefice in the county of Essex.

The great topic of discussion at this period among scholars and theologians, was, the comparative credibility of the doctrines of the Church of England and the Church of Rome; and the cause of the latter was openly and zealously sustained by the priests, who, since the marriage of the king to a Catholic princess, had been allowed a larger liberty than the laws of the realm conceded or than had been granted in the earlier years of the reign of James. Among the most forward and success-

full of these, was a Jesuit, who went under the name of John Fisher, but whose real name was Percey; and who, by his ready wit, and dialectic skill made himself famous as a disputant, and one of the most successful in winning converts to the Church of Rome.

One of the Fellows of Trinity College at that time, was William Chillingworth, one of Mr. Lewger's most intimate friends, a man of fine abilities, a poet, much given to discussions on nice theological points, an acute reasoner, and no mean mathematician. His vanity, his zeal, or his love of disputation prompted him to measure weapons with Fisher; and the result was, his finally acknowledging himself a convert to the Roman Catholic faith, on the grounds, that there must be some infallible judge in matters of faith, and that such infallibility rested, if any where, in the Church of Rome.

He therefore left Oxford, and went over to the college of the Jesuits, at Douay, to pursue his investigations. There he prepared a statement of the reasons or "motives" that had induced him to join the Catholic communion. His conversion excited great interest in the English Church, and Dr. Laud, then Bishop of London, opened a correspondence with him, the arguments of which were of sufficient force to make him repent of the step he had taken. According to the statement of the

Catholics "he spent some time in the noviceship, with a view of entering the order, but could not master his passions so far as to comply with the rules of a strict life. For he was of no meek and winning spirit, but high and conceited, and consequently, unfit for a religion that required meekness and obedience." Whatever may have been the reason, he made no long stay at Douay, but in the year 1631, returned to England, and retiring to Oxford, devoted himself with great zeal and industry to a re-examination of the questions between the Roman and the English Church. Three years of patient study brought him to the conclusion that the claims of Catholicism were unfounded; and about the year 1634, he wrote a paper in confutation of the "motives," which he had formerly made public, as the grounds of going over to the Church of Rome. His return to Protestantism caused as great a sensation as his former abandonment of the English Church, and engaged him in controversies, in which he shewed himself a close reasoner, and a bold, unshrinking advocate of what he believed to be the truth.

When his friend Chillingworth went over to the Church of Rome, Lewger was, or soon after became a beneficed divine of the Church of England; but the example of a man whose attainments and honesty of purpose he held in so high respect, made a deep impression on his mind. To satisfy

himself, or to obtain arguments with which to draw back his friend from the maze of error into which he believed he had fallen, he began himself a thorough investigation of the subject, at the end of which he came to a similar conclusion with Chillingworth, and felt himself compelled to acknowledge the Church of Rome as the only true Church. Not the least effective among the means of his conversion, it is said, were the "motives" put forth by Chillingworth, soon after his conversion. With this change in his views, Mr. Lewger could no longer continue his connection with the Church of England; he therefore resigned his benefice, acknowledged his conversion, and publicly united himself to the Roman Church. These circumstances attracted to him the attention of Cecil, Lord Baltimore, with whom he had been a fellow-commoner at Oxford, who, soon after his conversion, made him a member of his family, and treated him with high consideration.

But just as Lewger was entering the door of the Catholic Church, Chillingworth had made up his mind to retire; so that he, by whose reasons the other had been brought to enter that fold, had convinced himself that they were weak and unsatisfactory, while the one who had prepared to arm himself with arguments to recal his friend to the true way, found himself constrained to follow and continue in the path, from which he had desired to

rescue him. The two friends became therefore, on religious subjects, antagonists and disputants; the more earnest that one had all the zeal of a new convert, the other the firmness and dogmatic spirit, arising from a conviction that he had thoroughly mastered both sides of the question, and knew he was in the right. Several letters passed between them, and some formal disputations were held, in the former of which, it must be acknowledged that Chillingworth appears to have had the advantage in point of frankness and temper, and from the latter of which, as is usual in such cases, each party retired, firmly convinced with his friends, that he had had the best of the argument.

It was at this period that Lord Baltimore had decided upon the modification of the government of his Colony, already alluded to; and, on looking around for a suitable person to fill the new office of Secretary, he could find no man better adapted to discharge its functions, or on whom he was more willing, from all considerations, to bestow it, than on Mr. Lewger. The appointment was therefore tendered to him, and accepted.

On the 28th of November, 1637, Mr. Lewger arrived in the Province, accompanied by his wife, Ann, his son John, and several servants,⁽¹⁾ and

(1) According to one entry, the names of these servants were Martha Williamson, Ann Pike, Mary Whitehead, Benjamin Cobby, Philip Lin-

bringing with him a commission from the Lord Proprietary, bearing date the 15th of April preceding, by which Leonard Calvert was continued Governor, and himself appointed Secretary of the Province, Register of Grants of Land, Collector of the Customs, and Receiver of rents, and, with Jerome Hawley and Capt. Cornwaleys, made a member of the Council.

He found the little Colony in a state of excitement, growing out of the determination of the Governor, at the repeated solicitations of Capt. Evelin, to reduce the Kent Islanders to obedience by force; but without delay passed the new commission, according to instructions from his Lordship, under the great seal of the Province, and was formally inducted into office as SECRETARY OF MARYLAND.

With a view to the performance of that part of his official duty prescribed by the general commission, Thomas Hurston and Robert Serle, a boy, twelve years of age. Another entry gives the additional names of Christopher Mordland, John Jones, Ann Norris, Humphrey Chaplin, Hugh Nash, Bartholomew Slater, William Stiles, Deborah ———, Ann Eggesfield, John Hatch, John Askue and Ann Reynolds. For the introduction of these servants, he was entitled, according to the last conditions of plantation, to about two thousand five hundred acres of land. In fact, however, two at least of these had not been brought over by Mr. Lewger. John Hatch and John Askue, (or Ascue,) were originally servants of Claiborne and Cloberry, on Kent Island, and were transferred to Mr. Lewger, by Capt. Evelin. A deposition made in Virginia, in 1640, says "the said Evelin sold in London, to one Owen Phillips for 30 li. sterling, the said *John Hatch*, Andrew Baker and Thomas Baker, but the said Phillips never had but one of the said servants, which he recorded in a Court in Maryland; for the said Evelin had formerly made them over to Mr. Lewger, Secretary of Maryland." The same paper says *Ascue* was carried over to Maryland by Evelin.

sion, and requiring him to keep a record of the acts of the Governor and Council, of grants of land, and of such proceedings as it was necessary to preserve, Mr. Lewger had taken care to provide himself with a substantial, well bound volume, to serve that purpose. To his care in this particular, as well as the accidental preservation of the greater part of that record, when others have been lost or destroyed, we are indebted for the only memoranda remaining of public measures at that period, and of private transactions, so far as they were connected with the legal practice of the Colony. The greater part of its miscellaneous entries are in the precise and peculiar hand writing of the Secretary, and shew that he was particular in endeavoring to keep an accurate record, and to preserve memoranda of the most important affairs that came within the scope of his official notice. A few of the leaves at the commencement of the book may possibly be missing; and the first entries are of the date of December, 1637, at which time the Governor had succeeded in reducing Kent Island to submission, and had made Capt. Evelin its Commander. It is for this reason that writs of attachment against parties on the Island at the suit of Clobery & Co., are found among the first entries, as Evelin, their agent, since the departure of Claiborne for England, was now a member of the Colony, one of its officers, and pledged to sustain and enforce its authority over the Island.

Early in January, the freemen were summoned to attend an Assembly, to be held at St. Mary's, on the 25th. The day before the session commenced, Mr. Lewger was appointed a Justice of the Peace for the county of St. Mary's, and Commissioner in causes testamentary, and to grant letters of administration; and the entries in his record book shew that there was considerable business of that nature to be transacted.

At the opening of the session he was present, and appears to have acted as clerk of the Assembly, since the account of the proceedings is in his hand writing, and contained in his book of records. In the occasional discussions that occurred during the session, especially where a question of official right or policy arose between the Governor and the members, Mr. Lewger, as would naturally be expected, was on the side of the former; and in one or two instances, he and Calvert alone voted against the remainder of the House. On the question as to the adoption of the code of laws proposed by the Proprietary, in particular, the Secretary and the Governor cast the only affirmative votes given, and were opposed by all the other members.

In the balloting for members of a committee, on the third day of the session, to draught a body of laws during the adjournment, Mr. Lewger stood the sixth on the list, having received twenty-two votes; but five other members having received a

larger number, were declared elected. At the session of February 8th, also, when the Governor had announced his intention a second time to adjourn the House, and it had been decided to appoint a committee of three to attend to the preparation of the laws, Mr. Lewger stood fourth on the list of candidates, having received thirty-one votes; but Governor Calvert, and Captains Cornwaleys and Evelin, were chosen.

In the County Court held on the 12th, a few days after the adjournment, Mr. Lewger sat as one of the Judges, and participated in the proceedings by which bills were found against Lieut. Ratcliff Warren, and his assistants, for their assault upon Capt. Cornwaleys and his company, on the 23d of April, 1635; and charging Capt. Claiborne with being the instigator of that attack; and against Thomas Smith, and others, for a piratical demonstration against Capt. Cornwaleys and his companions, in the Great Wicomoco river, on the 10th of May of the same year.

On his departure for Kent Island, with the expedition designed to reduce the rebellious inhabitants to submission, Governor Calvert authorized Mr. Lewger, by public proclamation, to hold the Assembly in his stead, in case he should not return in season to preside. The Secretary, therefore, met the members on the 26th of February, and the 5th of March, but only to adjourn them,

and continue the suspension of the privilege of Parliament. On Monday, the 12th of March, the Governor had returned, and the session was regularly resumed.

On the morning of the following Wednesday, a bill for the attainder of William Claiborne, gentleman, was introduced, and read for the first time; and in the afternoon, Thomas Smith, the object of one of the indictments found by the grand jury on the 12th of February, and who had been seized by Governor Calvert, during his recent expedition to Kent, was called to the bar to answer to the charge of piracy committed in May, 1635, contained in that indictment.

Mr. Lewger, on the appearance of the prisoner, produced a warrant in his Lordship's name, authorizing him to act as his attorney in the case; and, after the reading of the indictment, demanded that the accused should be put on his trial. This was done, and the prisoner plead not guilty to the charge of piracy brought against him. No demand appears to have been made by him for counsel, nor was any one assigned him by the House to act in that capacity, but he was left to make and manage his own defence. The Prosecutor explained the particulars of the indictment, and sustained the charge by the depositions of two witnesses; the accused made such defence as he could, and was answered; when, after liberty



given him to challenge any of the House, who were to pass upon him, which he declined using, the question of his guilt was left to their decision, and decided almost unanimously against him. Sentence of death was thereupon passed on him by the Governor, in arrest of which, he demanded benefit of clergy; but this was refused on the ground that clergy could not be allowed in case of conviction for piracy, and if it could, he had cut himself off from that mercy, by delaying his demand until after the rendition of judgment.

Mr. Lewger concluded his services in this case by moving an inquiry into the acts of Capt. Cornwaleys and his companions, which had resulted in the death of Ratcliff Warren, and two others of the Kent Islanders, in April, 1635; and it was decided by the House, that those parties were legally killed by Cornwaleys and his company, acting in self-defence. They were therefore exempted from blame, and the unfortunate Smith was in due time made to suffer the penalty of death, for daring to maintain the rights of the Kent Islanders to continue their trade in the Bay, and resisting Capt. Cornwaleys in his attempt to put an end to further traffic, by seizing the boats and goods of those engaged in trade with the Indians without license from the authorities of Maryland. Mr. Lewger continued his services as member and

clerk of this Assembly, to its adjournment, which took place on Saturday, March 24th, 1638.

A week after the close of the session, Governor Calvert made arrangements to visit Virginia, perhaps on business connected with the recent capital sentence upon Smith, and the attainder of Claiborne, and the confiscation of their estates; and on Sunday, April 1st, he executed an instrument stating his purpose to be absent for a while from the Province, and appointing "his respected friend Mr. John Lewger, to be in his place and stead, Lieutenant General of the Province during his absence, and no further or longer." How long the government remained in the Secretary's hands, in virtue of this instrument, we are not informed; probably, however, but a short time. The administration of affairs in Virginia, at this period, was in the hands of Sir John Harvey, who, though deposed and sent home by the Council in April, 1635, had been re-instated by the king, and, notwithstanding his great unpopularity, was kept in power till November, 1639. During his whole administration, from the first arrival of the Maryland colony, Harvey had manifested the most friendly feeling, and had taken so much pains to shew his good will to the Colony, that Lord Baltimore expressed his sense of obligation in a letter, and endeavored to obtain from the king a special acknowledgment under his own hand,⁽¹⁾ directed to

(1) Instructions to Sir Francis Wyat, given early in 1639.

Sir John, for the aid and encouragement he had extended to Leonard Calvert and the new settlers. The Governor, therefore, often found it convenient to visit Virginia, as well to obtain Governor Harvey's advice upon difficult points, as to devise measures for establishing harmonious relations and an interchange of trade between the two colonies.

On one point, however, the differences between the greater part of the people of the two settlements, were too fundamental to admit of compromise or conciliation. The leaders in the Maryland Colony were Roman Catholics, yet, in view of the fact that some of their number, particularly the servants, were members of the Church of England, whom, by the terms of their charter, they were bound to protect, but with whom, unpleasant controversies on points of faith were likely to arise, a proclamation was early put forth forbidding all disputations on such subjects, as "tending to the opening of a faction in religion," and "the disturbance of the public peace and quiet of the Colony;" while the authorities of the Virginia Colony were, by specific instructions from the king, bound to maintain the worship of the Church of England, both for themselves and the people, and to "suffer no invasion in matters of religion."⁽¹⁾

(1) Letter of Cecilius Calvert, (probably to Secretary Windebanke,) dated Sept. 15th, 1634. S. P. O., London.

The Protestants of St. Mary's seem to have enjoyed, without restriction, the privilege of a chapel, though it does not appear that they were supplied for sometime with an ordained clergyman. The laity, however, were apparently zealous, and most probably, some one of the most devout and best educated of their number, officiated, so far as a layman could do so, by the canons of the church. The Roman Catholics also were very active during the year 1638, and in the summer, some of the over zealous professors on both sides, stirred up a feeling of jealousy, which, had it not been promptly put down by the action of the Secretary and his associates, might have been productive of the most serious consequences.

On the morning of Sunday, July 1st, William Lewis, of St. Inigoes, informed Capt. Cornwaleys that some of his servants had drawn up a paper, the object of which was to combine the Protestants together, for the purpose of petitioning Sir John Harvey and the Council of Virginia, to send to St. Mary's, and demand the surrender of Lewis into their hands, to be proceeded against as a traitor to the State of England, on the charge of having spoken disrespectfully of the clergy of the Establishment, and forbidden his servants to read the authorized publications of divines of the English Church. This was startling information; but the Captain took up the affair at once, and the subse-

quent proceedings shewed that Mr. Lewis had made a stronger accusation than he could maintain, and that the Protestants of St. Mary's could find ample protection and full measure of justice, without going beyond their own borders.

Having heard Lewis's story, Captain Cornwaleys sent for Secretary Lewger, and calling in Robert Sedgrave and Francis Gray, the parties principally compromised by the charge made by Lewis, as they were passing his house, on their way to the chapel, stated the accusation against them. Sedgrave acknowledged that he had prepared a paper and given it to Gray, who, in fact had it then in his bosom, and delivered it to the Captain. It proved, on perusal, to be a kind of appeal to parties not named, accusing Lewis of scandalous reproaches against the ministers of the Church of England, of forbidding the servants under him to read any book, pertaining to that faith, and of laboring with great craft and subtilty to delude ignorant persons, and bring them over to the Catholic religion. They besought, therefore, them who had the power, to do what in them lay, to put a stop to such abuses, and prevent the ministers of God from being insulted by such ignominious epithets.

Gray, on being interrogated as to the nature and objects of the paper, stated that he had not as yet read it; but that it had been handed to him by Sedgrave, with the request that he would commu-

nicate it to some of the freemen, that they might be induced to petition the Governor and Council for the redress of the grievances, complained of in the appeal. He and Sedgrave were then dismissed, with injunctions from the Captain, to appear again in the afternoon, and give security for their appearance at Court, and in the mean time, to conduct themselves soberly and discreetly. The security was given in the afternoon, as required.

On the following Tuesday, the parties interested, with several witnesses, were summoned before the Governor, the Captain, and Mr. Secretary, sitting as a Court. By the examination of Sedgrave, it appeared that he had drawn the writing at the suggestion of Gray; that he had met Gray, the preceding Sunday morning at the fort, who told him he had represented the matter to Father Copley, and that he had condemned the contumelious language and ill-governed zeal of Lewis, and said he deserved to be punished. He had then, at the request of Gray, given him the paper, and they were on their way to the chapel, when Capt. Cornwaleys called them in, and interrogated them on the subject. Gray did not deny that he had wished the writing drawn, which he had proposed to hand to some of the freemen, as better qualified to make a proper representation to the Governor, and to ask redress, than the servants.

The examination of several witnesses shewed that Gray and Sedgrave were reading a book in which the Pope was termed anti-Christ, and the Jesuits, anti christian ministers, when Lewis came into the room; and, irritated at these harsh expressions, retorted that the assertions were false:—that the Protestant ministers were ministers of the devil:—and he would not have that book read in his house. Lewis offered to prove that the intent of the paper was to form a combination of the Protestants, and to petition Sir John Harvey for aid and protection, but, not being able to produce his witness, who had gone on a trading expedition, the Governor deferred the trial of Sedgrave and his associates, on that charge, till the witness could be produced in Court, and called on Mr. Lewger to give his opinion in the case before them.

The Secretary pronounced Mr. Lewis guilty of an offensive and indiscreet speech, in calling the author of the book read in his house, an instrument of the devil:—of a very offensive speech in calling Protestant ministers the ministers of the devil:—and to have exceeded in forbidding the reading of a book, allowed to be read by the State of England, and, because these offensive speeches and his other unseasonable disputations on religious topics tended to the disturbance of the public peace and the quiet of the Colony, and were in violation of a public proclamation, put forth to prohibit such disputes.

sentenced him to pay a fine of 500 lbs. of tobacco to the Proprietary, and to remain in custody until he found security for his good behavior in these particulars, for the future. The Captain coincided in substance with this opinion, and the Governor entirely, and the required security was given. It is generally said that converts from one faith to another, are usually the most violent of any towards the professors of the doctrines they have repudiated; but Mr. Lewger, by his decision, shewed his exemption from undue prepossessions, and his sense of the importance of preventing religious discussions and recriminations in the Colony, and of conceding to the Protestants of St. Mary's those rights and privileges guaranteed to them by the "State of England."⁽¹⁾

While the Protestants of the Colony were thus asserting, and the Catholic authorities were readily conceding their right to enjoy their religious opinions unmolested, Lord Baltimore, in England, had decided to bestow on the colonists a larger legislative liberty, than he had at first been disposed to grant. This was the time when the king's advisers were pushing the English nation to the extreme of discontent by their oppressive and illegal exactions; when John Hampden was nobly though unsuccessful

(1) Although the details of this transaction are given in full in the Appendix to the preceding Monograph, p. 212, yet it was deemed not improper to give this resumé of it in this place, on account of the important part borne in it by Mr. Lewger, the subject of this sketch.

fully asserting the right of the subject and a limit to the royal prerogative, and Charles was so insanely busied in fixing the liturgy and the forms of the church in Scotland, that he did not see the throne of England was beginning to slide from under his feet. Lord Baltimore took the hint that fell unheeded on the ear of his royal master, and in a brief communication to his brother, dated at London, on the 21st of August, virtually relinquished the claim to the initiative in legislation he had previously made, and authorized his brother to assent to such laws as he might think proper that had been passed by the Assembly, reserving to himself the right of ultimate veto, if he saw fit to exercise the power.

On the receipt of this important concession, late in the year, Leonard Calvert determined to call another Assembly, and in the exercise of the privilege conceded by his brother, to commence the legislative organization of the Colony, which had so long been prevented by the dispute between the Proprietary and the Assembly, as to priority of right in the proposal and enactment of laws. The representative principle was adopted as the basis of organization of the House, the 25th of February, 1639, was fixed upon as the day for opening the session, and the people of Kent Island and the different Hundreds, were called upon to elect each two or more burgesses to represent them.

Secretary Lewger acted as judge of the elections in each of the Hundreds, and made returns of the burgesses chosen. The freemen of Mattapanient assembled at his house at St. John's, on Tuesday or Thursday, and deposited their votes; those of St. Michael's Hundred, met him on the following Monday, the 18th of February, at St. Inigoes' house; those of St. Mary's, at his own house on the next day, and those of St. George's Hundred, at the house where Capt. Fleete had resided, on Thursday, the 21st. The returns shewed two burgesses chosen for Kent; two for St. Mary's; two for St. George's; two for St. Michael's, and one for Mattapanient, besides five gentlemen summoned to attend by special writ.

On Monday, the 25th, the nine "delegates," four of the special members,⁽¹⁾ and the Governor and Secretary, fifteen in all, assembled at the Fort of St. Mary's, but immediately removed, probably for greater comfort, to St. John's, the mansion of the Governor, on the outskirts of the settlement. The full proceedings of this body, which in fact gave the first outline of what was intended to be the civil, legislative, and religious policy of the Colony, cannot be given here. It must suffice to

(1) Mr. John Boteler, of Kent Island, originally one of Claiborne's friends and supporters, but at this time an officer under Leonard Calvert, was the one of those who had been summoned by special writ, that did not attend. Though he may have accepted Governor Calvert's appointment, he was still friendly to Claiborne.

say, that the very first act was to guaranty to "Holy Church," all her rights and liberties; the next, to pledge the allegiance of the colonists to their sovereign, though by the exaction of an oath of allegiance that would not have been accepted in England; the third, to guaranty to the Proprietary all his rights and prerogatives, and the fourth, to assure to the people all their rights and liberties, according to the provisions of Magna Charta. The remaining enactments provided for the organization of Courts and the administration of justice; defined crimes with a more than Puritanic strictness,⁽¹⁾ and prescribed punishments of terrible severity; provided for military discipline; regulated production and trade; imposed customs; directed the construction of a water mill and the building of a town house, and ordained that "the Lieutenant General and Secretary, (or his deputy,) with gentlemen summoned by special writ, and

(1) Swearing, which was defined to be "profane adjuration by God, or some holy creature,"—drunkenness, or "drinking to excess, to the notable perturbation of any organ of sense or motion,"—working on the Lord's day, or days adjudged by the church to be holy, and eating flesh in Lent, or on days when it was prohibited by the laws of England, were made punishable by fine or public whipping; burglary, robbery, polygamy, sacrilege, sorcery, petit treason, &c., were punishable with death;—in petit treason, the execution of a man to be by drawing and hanging; of a woman, by burning; and in sorcery, blasphemy, and idolatry, by burning. In cases of manslaughter, malicious trespass, forgery, beating the governor, judges or jurors, receiving stolen goods, stealth of one's self, &c., the offender was to be hung; unless he could read "clerk-like," when the penalty was to be commuted to loss of the hand, burning in the hand or forehead with a hot iron, and forfeiture of lands, the second offence to be capital.

one or two burgesses out of every hundred, at the choice of the freemen," should hereafter be adjudged and constituted an Assembly.

In the session of the year preceding, an act had been brought forward "for the support of the Lord Proprietary" which was opposed in all its details by eight of the members, and by Capt. Cornwaleys and three others, so far as regarded one clause, relating to trade, yet it passed, notwithstanding their opposition. In the present Assembly, a bill was proposed for regulating trade with the Indians; but so unpopular were all restrictions upon this traffic, that after reading the first clause, it was rejected by the votes of all the members, except the Governor, the Secretary, and Capt. Cornwaleys, who appears to have changed his opinion on the subject, or to have seen reason to withdraw his opposition.

A few days after, another bill with the same title was introduced, but on the reading of the title, was at once objected to, as having been already rejected. Secretary Lewger replied that it was a new bill, though with the same title as the former; and that the members could not judge whether they would hear it a second time, until it had been first read. A member declared the procedure contrary to form and the orders of the House; but Mr. Lewger denied the correctness of his construction, and the members settled the dispute by deciding that the

bill should be read, and the member might then offer such objections as he pleased. The objectionable features had evidently been changed; for the bill met with no opposition, but was read a second time and engrossed. This act, after reciting the original right of the crown to restrict trade with the Indians, based upon possession through first discovery, the transfer of that right to Lord Baltimore by his letters patent, the proclamation made immediately after the first landing of the Colony, forbidding trade with the Indians without license, the consequent difficulties with the Kent Islanders, and the decision of his Lordship's exclusive right to the Indian trade, made by the Privy Council, April 4th, 1638, declares the willingness of the freemen to aid his Lordship in the maintenance of his rights and privileges, "in expectance of the like protection and assistance from him, of and for the maintaining and defending of all their rights and liberty." They, therefore, enact, that no non-resident shall come within the limits of the Province for purposes of trade with the savages, without first obtaining a license, on pain of confiscation of vessel and goods;—while the inhabitants are permitted to trade a few beaver skins for articles of personal use, without restriction; and may at any time obtain license for larger traffic, on certain conditions intended to guard against the enhancement of the price of corn.

By the proceedings of this session, it was evidently the intention of both the Governor and the Assembly, to give the government, in all its departments, a more formal organization than it had yet had, and to establish their powers on a legal basis. There is no evidence that any official oath had been previously administered to the Governor, or any of the principal officers of the Colony; but now provision was made for the adoption of a regular form of oath, to be taken by the Governor, Councillors, Secretary, Judges, Clerk of Chancery, and the Register of every other Court of record. By one of the enactments, the Secretary of State, for the time being, was empowered to administer the oath to the Governor, who was then, according to the form prescribed, to swear the Councillors, Judges, and other officers. The first clause of all the oaths, bound the party taking it, to bear true faith to the Lord Proprietary, saving allegiance to the crown of England, and to defend him to the extent of his power, in his due rights and jurisdictions. That of the Governor, required him, in addition,

“Ever to procure, as far as he might, the peace and welfare of the people, to none to delay or deny right, but equal justice to administer, in all things, to his best skill, according to the laws of the province.”

The oath of a Judge said :—

“To none will I delay or deny right. Reward of none will I take for doing of justice; but equal justice will ad-

minister in all things, to my best skill, (without fear, favor, or malice of any person,) according to the laws of this province. So help me God."

The oath of a Councillor differed from that of the Governor, only in promising to aid the administration and execution of justice in all things, to his power; to his best skill, to give good and faithful counsel to the Proprietary and his heirs or the Lieutenant General of the Province for the time being; and to keep secret all matters delivered to him as secrets, as became a Councillor to do.

The Secretary, clerks, and registers, in addition to the general engagements of the other oaths, bound themselves to delay to none right in what belonged to their office to do, by the laws of the Province, true record to keep of judgments and other matters to be by them recorded, without falsification or corruption for fear, favor, or malice of any person.

On the 20th of March, the day after the termination of the session, the Secretary, according to the provisions of the bill, and by authority of the Governor, administered to the Governor the oath prescribed for the faithful discharge of the duties of his office;⁽¹⁾ after which Capt. Cornwaleys, Mr.

(1) These facts are sufficient to shew that Mr. Chalmers was in error, when he asserted that in the oath taken by the Governor and Council *between* the years 1637 and 1657, there was a clause, binding them not to molest any one on account of his religion, who professed to believe in Jesus Christ. The oath of 1639, above quoted, is the first on record administered to the Governor and Council; and it most carefully avoids all

Brent, and Mr. Lewger were sworn as Councillors, according to the form prescribed for that office, and the latter gentleman also took his oath as Secretary. An oath of allegiance, provided for by another act of the Assembly, was administered by the Secretary to the Governor, and afterwards by him to the other officers, and the government of the Province was regarded as formally and legally organized.

This was the last Assembly, in which Mr. Lewger officiated as Secretary or Clerk. In the next Assembly held at St. John's in October, 1640, he was present in his official capacity, but Mr. William Britton was appointed Clerk of the House, and continued to discharge the duties of that office, for many years after.

On the first day of the session referred to, Mr. Lewger was again called upon to conduct a capital trial, in which the house acted as a Criminal Court; for we find by the record, that "the Secretary of State issued his writ to the Sheriff of St. Mary's, to have the body of John Dandie, smith, before the House of Assembly at nine of the clock in the morning to answer to such crimes as, on his Lord-

allusion to religion. The same form was certainly in use as late as April 1643, when James Neal took the oath of Councillor, as is distinctly stated, according to the form prescribed in the act of Assembly of March, 1639. If Chalmers meant by the expression "*between 1637,*" *from 1637*, as many have contended, he was clearly mistaken;—if he intended to leave the date unfixed, he has given himself large scope, and afforded ground for false inferences. The prohibition in regard to molesting believers in Christ cannot be found in any commission before that to Governor Stone, in August, 1648.

ship's behalf, shall be objected against him." This John Dandie had been one of the servants employed by Claiborne, Clobery & Co. on Kent Island; but had been brought over by Capt. Evelin, with several others, to St. Mary's, and most probably transferred, for a consideration, to the employment of the Governor. The nature of the crime of which he was accused is no where stated, nor are the details of his trial given, but several collateral circumstances point to the conclusion that he had committed the great offence of absconding from service, or "*stealth of himself*," as it was called in the statute, the penalty for which was death.

On the record of a Court, held at James City in Virginia, on the 4th of June, 1640, stands an entry that "information has been received of two servants run away from Maryland, one belonging to Marmaduke Snow, the other to the Governor. Whereupon, it was ordered that the one claimed by Snow, be returned upon due proof of ownership; the other, to the Governor, with all speed."⁽¹⁾ The fugitive who was thus unhesitatingly restored to Governor Calvert, while his companion was detained for proof of ownership, was, in all probability, John Dandie; and he, for his heinous offence, was soon after his return to St. Mary's, brought before the Assembly at the opening of its session, tried and condemned to death. His

(1) Virginia Records.

sentence, however, was subsequently commuted by the Governor, on the petition of the greater part of the inhabitants of the Colony, to three years' service of the Lord Proprietary; during a part at least of which time, he appears to have held the unwelcome post of *public executioner*.⁽¹⁾

Some of the Indians of the Province at this period began to show signs of settled hostility towards the colonists; and among them, even Maquacomen, the Chief of the Patuxents, who, from the beginning, had manifested a friendly disposition towards the Colony, and of whose conversion to the christian faith, strong hopes had been entertained, began to conduct himself in so suspicious a manner, that Governor Calvert, fearing treachery, withdrew Father White from his mission among the Patuxents, and kept a close watch on the proceedings of the chief. The zealous Father, disappointed of his hopes of a large harvest of souls in that quarter, turned his labors in another direction, and was more successful. After dwelling

(1) The legislation in Maryland against runaway servants was exceedingly severe; and shews the belief of the colonists, that nothing but the sternest penalty would put a stop to their absconding. There is no law of Virginia against runaways, on record, earlier than March, 1643; and that, merely required the delinquent, if caught, to add double the time he had been absent to his regular term of service; and for a second offence, to be branded on the cheek with the letter R., as an incorrigible *rogue*. Running away with piece, powder or shot, and leaving them with the Indians, was punishable with death. Complaints of ill-treatment by masters or mistresses could be made to the Commissioners, and redress obtained.—*See Henning, Vol. I, p. 254.*

nearly a year at Kittamaquund, with the great chief of the Pascataways, he considered him and his family so well indoctrinated in the principles of the Christian faith, as to be fitted for the solemn rite of baptism; and the 5th of July, 1640, was fixed upon for the performance of the ceremony. On that day, in a chapel of bark, built expressly for the occasion, and in the presence of the Governor, Secretary Lewger, and other prominent members of the Colony, the king was baptized by Father White, (assisted by Father Altham), by the name of Charles; his queen, by the name of Mary, and an infant daughter at the breast, was christened Ann. At the same time, Mosorcoques, the king's chief councillor, was baptized by the name of John, and his infant son was christened Robert. In the afternoon, the chief and his queen were united in marriage, with all the display which the colonists present could command, and a great cross borne by the Governor, Secretary, and others, was erected on an elevated place to the sound of solemn chants and the litany of the Church. Many of the natives would have followed the example of their chief, had not Fathers White and Altham been taken suddenly ill, and compelled to leave for St. Mary's to obtain medical advice. Father White subsequently recovered, and returned to his missionary labors; but Father Altham, after a temporary restoration to health, died after an ill-

ness of a few days, on the 5th of November, 1640,⁽¹⁾ a short time after the adjournment of the Assembly, to which I have just referred. Seven months after, (June 5, 1641,) the faithful Father Brock, the superior of the mission, himself sunk under the fatigues and privations to which he was exposed, leaving the devoted Father White, though aged and infirm, still at his post, and as zealous as ever for the conversion of the natives.

But, notwithstanding the zeal and devotion of the Jesuit Fathers, there were some points in their position and proceedings that did not entirely satisfy Lord Baltimore. The state of political and religious feeling in England made him well aware of the absolute necessity of making his colonial policy, in conformity with the provisions of his charter, correspond as nearly as possible to that of the state of England; and he knew there were keen eyes on the watch to take advantage of his first mistep, and proclaim the slightest violation of his charter. The act of Assembly of 1639, granting "to Holy Church all her privileges and immunities," was in direct violation of English statutes, especially so far as it placed the Roman

(1) It is evident that Father Altham was known also by another name. Father Brock, the Superior of the Mission, in a letter dated May 3d, 1641, mentions him by the name of Altham, as having officiated at Pascatoway, with Father White, as having been taken sick at the same time with him, and having died on the 5th of November. The report to the Superior at Rome, of the same ceremony, mentions Father John *Gracner*, as having been the assistant, and as having died on the 5th of November following.

Catholic clergy beyond the civil power, and enabled them to hold and control property, which by the old statute of mortmain, it was unlawful for any religious fraternity or association to do without the assent of the civil authorities of the State. Besides, the Fathers had received from the Indians a gift of a valuable tract of land, and some of the settlers, following their example, were taking up tracts from the native chiefs in person, the effect of which would have been virtually to disown his Lordship's proprietary right to the soil, and to deprive him of those emoluments, by which, in the shape of quit rents and other dues, he expected to pay the expenses of the government, and reimburse himself for his great original expenditures.

To meet these difficulties, Lord Baltimore prepared (Nov. 10th, 1641,) new conditions of plantation, by one of which, in accordance with the English statute, all fraternities and associations, spiritual or temporal, were prohibited from holding lands without the consent of the civil magistrate; and these, accompanied by instructions to his brother, in which a form of oath was prescribed, to be tendered to all who wished to take up land in the Province, were sent over near the close of the year to Maryland.

An Assembly had already been called, to meet on the 21st of March, (1642,) for which the freemen

of the several hundreds had been directed to elect their burgesses;—but, on receipt of the Instructions, and the new Conditions of Plantation, the Governor, by a proclamation issued on the 2nd of March, changed the organization of the House, as was his custom under similar circumstances, and summoned all the freemen without exception to be present at the session, either in person or by proxy.⁽¹⁾

The contents of the new instructions, and some of the provisions of the new conditions of plantation, caused the Governor and Secretary great concern. By preceding acts of Assembly, the immunities of the Church had been distinctly recognized;—but, by the Instructions from the Proprietary, it was evident that he did not intend to countenance a policy, so diametrically opposed to that of the State of England, and one of the clauses of his conditions of plantation, positively excluded all societies, spiritual and temporal, from a participation in its benefits. The Governor and his faithful adviser were in a dilemma. If they followed

(1) Bozman, I think, is in error, in attributing the changes occasionally made by the Governor in the mode of election, from the representative to the democratic principle, to dissatisfaction and republican tendencies among the people. It will be found on examination, that, in every case where the election of Burgesses was suspended and all the freemen were summoned to attend, it was immediately subsequent to the receipt of new conditions of plantation or a new commission, which made it desirable to consult with the larger portion of the freemen, or necessary to re-organize the government. It was for this reason, I believe, that all the freemen were summoned, and not to gratify the caprices of a dissatisfied party.

strictly the instructions of his Lordship, they must encounter the opposition of the clergy and incur the displeasure of the Church;—if they disobeyed him, they violated their official pledges, and placed themselves in an attitude of opposition to his distinctly expressed will. In this strait they determined to seek counsel of their spiritual advisers, and the result of the conference is thus stated in a memorandum still remaining, which I believe to be in the handwriting of Mr. Lewger.

“The Governor and I went to the good men, about difficulties.

1. About putting the statute of mortmain on all lands, Gov. Calvert construed it so as that no man could have an additional grant, except he would accept the statute for *all* his land.

2. One of the good men thought that publishing the conditions of Plantation would not incur excommunication, but thought it might be a mortal sin to propose an act or propose obligations against good manners or piety, or to assent to it.

3. The oath in the instructions to be tendered to such as were to take land, was decided to be against conscience, and to incur excommunication *bullæ cœnæ*, to publish or administer any such oath.

The 5th Article of the new conditions, was, that no society, spiritual or temporal, should be capable of the conditions. If so, the conditions will be stopt from publishing or executing, and nobody will dare to concur to the giving them any life or being, for fear of excommunication, *bullæ cœnæ*.”

The opinions of the Fathers, indicated in the memorandum above quoted, prevailed. By the *bullæ in cena Domini*, the Pope had forbidden,

under pain of excommunication and being left under the wrath of the Almighty, any violation, depression, or restraint, directly or indirectly, of the rights and liberties of the Church of Rome; and, anxious as were the Governor and Secretary to obey the instructions of the Proprietary, they could not muster courage to face the terrible doom held up before them by the Priests, in case they should attempt to enforce the clause of the conditions which curtailed their privileges, or to administer the oath, which they had decided to be "against conscience." All idea of exacting the oath was, therefore, for the present relinquished, and the fifth article was dropped from the conditions, the first four only of which were published in the province.

Nearly at the same time when these discussions were going on in his province, (March 26th,) Lord Baltimore was himself brought before the House of Peers in England on some charge not now known, but which was of sufficient weight to induce the Lords to put him under bonds in the sum of five thousand pounds not to leave the kingdom. Possibly the allegation against him may have had reference to the very state of affairs in his province which he was endeavoring to correct; but be this as it may, his subsequent course showed a determination to do all in his power to remove all grounds of complaint on this score. Propositions

had been made to him relative to sending over two more priests to strengthen the Maryland mission. On the 30th of September he wrote to his brother-in-law, Mr. Peasely, that he "could not, *in prudence*, allow them to go, unless *an agreement* were first made." The next day, Mr. Peasely wrote in regard to the same proposal, "he is resolute that none shall be sent, until he have satisfaction." On the 5th of October, Mrs. Peasely, Lord Baltimore's sister, wrote, "I have been with my brother, but he is inexorable until all conditions be agreed upon between you." A day or two after he relented somewhat, for Mr. Peasely wrote on the 7th to one of the principal Jesuits, "I have just prevailed for the present employment of two of yours as desired, upon confidence and promise that he shall have satisfaction in his just and reasonable demands, and if possible, before their departure. He desires to see and speak with the gentlemen, that he may judge of their disposition and fitness for such a work." The result of the negotiation was the assent of the Jesuits to the following conditions:

"Considering the dependence of the government of Maryland on the state of England, unto which it must, (as near as may be), be conformable, no ecclesiastical person whatever, inhabiting or being within the said province, ought to pretend or expect, nor is Lord Baltimore or any of his officers, (although they be Roman Catholics), obliged in conscience to allow to said ecclesiastics, in said province, any more or other

privileges, exemptions, or immunities for their persons, lands, or goods, than is allowed by his majesty or his officers and magistrates to like persons in England. And any magistrate may proceed against the person, goods, &c., of such ecclesiastic, for the doing of right and justice to another, or for maintaining his proprietary prerogatives and jurisdictions, just as against any other person, residing in said province.—These things to be done, without incurring the censure of *bullæ cænæ*, or committing a sin for so doing.”

Under these conditions the two Fathers were allowed to sail for Maryland, and Lord Baltimore believed he had so arranged matters as to preclude the possibility of any further difficulty on this point; but when they arrived in the province they found so strong a feeling against Lord Baltimore's policy, and the members of their order already there, shewed them so many strong reasons for pursuing a different course, that they relinquished all idea of carrying out the agreement, and adopted the views that had been urged by the “good men” in their conference with the Governor and Secretary. The adoption of this measure, therefore, was for a considerable time delayed.

The Assembly called at the time of the arrival of the new conditions of plantation, (that caused so much discussion, and to the democratic organization of which I have already referred,) met on Monday, the 21st of March, 1642. It consisted of forty-eight members, six of whom held proxies for thirty other freemen; and of two persons from

Kent, who held proxies for all the inhabitants of that island—so that, if the members from Kent acted for as many as were reported at a subsequent session, namely, seventy-three,—the whole number of freemen constructively present was one hundred and fifty-three. The first act of the Assembly was to deny the power of the Governor to adjourn or prorogue the House without its own consent; and the second, to consider a bill for an expedition against the Indians, then become exceedingly hostile, and to vote that the conduct of it should not be left to the discretion of the Governor and Council. These acts indicate some distrust or dissatisfaction on the part of the members towards the Governor and his advisers; but that the feeling did not extend to the Proprietary, is inferrible from the fact that an act for granting a subsidy of fifteen pounds of tobacco for every taxable inhabitant of the Colony, the first yet imposed on the settlers was at the same time passed, professedly “out of their 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 some support to it, so far as the young and poor estate of the Colony will yet bear.”

That the Colony was not exempt from religious jealousies and disputes, is also evident from a peti-

tion from the Protestants, brought before the House on the second day of the session, and read on the third, complaining of Mr. Thomas Gerard, for having taken away the key and the books, belonging to their chapel ; on consideration of which, he was adjudged guilty of a misdemeanor, and sentenced to restore the key and books, and pay a fine of 500 lbs. of tobacco, "towards the maintenance of the first minister that should arrive." This session lasted but for a few days, and, after the passage of a few acts, the House was dissolved.

Up to this time, Mr. Lewger, in addition to his other offices, had held that of Surveyor, having under him Mr. Robert Clarke, as deputy ;—but on the 24th of March, the office was withdrawn from him, and the commission of Surveyor General for life, was conferred on Mr. John Langford ; who had for some time filled the places of sheriff and coroner in the Isle of Kent.

This appears to have been a busy year in the Colony, in the way of legislation ; for scarcely had four months elapsed, from the dissolution of the March Assembly, when a new House assembled according to summons, composed as usual, of Burgesses and gentlemen summoned by special writ. The proceedings of this session, shew a want of harmony between the Governor and the members. Mr. Vaughan, from Kent Island, proposed that the Burgesses and the special members should sit

apart, and form two Houses ; but Governor Calvert refused to entertain the proposition ; a controversy also arose between him and them respecting an expedition against the Indians, which he proposed to organize, but they most decidedly opposed. Secretary Lewger made a motion for a bill imposing a levy of twenty pounds of tobacco, towards defraying the expenses of the proposed expedition ; but the consideration of it was postponed, and the proposition was not afterwards renewed. This session closed on the first of August.

Three weeks after, (August 22,) the Governor issued his proclamation, requiring all the freemen of the Province, to attend, either themselves or by their deputies, an Assembly to be held at St. Mary's, on Monday the 5th of September following. The cause of this so speedy reassembling of the Legislature and change again to the democratic form, was, the receipt of a new commission from the Lord Proprietary, which required the reorganization of the government. A short time after the preparation of his recent new conditions of plantation, (Nov. 18th, 1641,) Lord Baltimore prepared a new commission for his brother, which however, was not immediately transmitted to Maryland. On Sunday, September 4th, the new commission was published at the fort at St. Mary's ; and the next day, Mr. Lewger was appointed a Privy Councillor, in conjunction with Col. Francis Trafford,

Capt. Cornwaleys, William Blount and John Langford. Immediately after, a commission was issued to Mr. Lewger, reappointing him Secretary of the Province, on the ground of the Proprietary's long experience of his abilities and industry, of his good and faithful service in the Colony, and confidence in his wisdom and discretion. The same commission also made him Judge of all causes testamentary and matrimonial, keeper of the acts and proceedings of the Governor and Council, register of lands, recorder, and collector and receiver of all rents, revenues, and customs, due to the Proprietary within the Province.

Immediately after the organization of the government, the session of the Assembly was opened. The session was unfavorable to a large attendance, and only eighteen persons were present, who held proxies for eighty-eight others. Seventy-six were fined for non appearance, either in person or by proxy, and Mr. Giles Brent, holding proxies for seventy-three inhabitants of Kent Island, formed in his own person, the standing majority of the House. An act of the preceding session, requiring a person, before leaving the Colony, to give public notice of his intention, and obtain a pass or permission to depart, was the cause of some controversy between the Governor and the members. Mr. Brent moved, as from the people of Kent, that the House declare whether persons might freely

leave the Province, if not obnoxious to justice. The Governor refused to allow the House to decide the question. The next morning, Mr. Brent again brought up the subject by moving that it be put to the question whether the House had a right to decide upon the subject. The Governor refused to put the question. Mr. Lewger interposed; and speaking to the question, as he intimated, not as a member, but a councillor, declared his opinion that the question was to be put, and could not rightfully be denied; for the House, by usage and precedents, and the writs calling them together for consultation, had the power to decide such matters as were proposed for their consideration. The Governor thereupon reconsidered his hasty decision, and declared that the people were free to leave the province, unless obnoxious to justice, or some transcendant cause made it necessary to overrule for a time the right in particular cases. This was not wholly satisfactory, and the last excepting clause was also finally relinquished by him; and the act rendered similar to one in existence in Virginia. Most of the proceedings of this Assembly, were merely reënactments of the last passed at the last session, the most of which, being enacted only "till the next Assembly," it was necessary to reënact at each subsequent session.

The remainder of the year was occupied in attempts, mostly ineffectual, to check the inroads

of the savage Susquehannocks, and other hostile tribes. In February, 1643, an Assembly was called, and also early in April; but neither appears to have been held. In the middle of April, Governor Calvert embarked for England, leaving the government in the hands of Mr. Giles Brent; to whom, on the 15th, the oath of office was administered by the Secretary, in the presence of Capt. Cornwaleys and Edward Parker. On the same day, he formed his Council, consisting of the Secretary, and the same members as before, with the addition of Mr. James Neale.

The principal difficulties with which the new Governor had at first to contend, arose from the hostile disposition of the neighboring Indian tribes, against which he endeavored to provide sufficient safeguards. Late in December, arrived instructions from the Proprietary, drawn immediately after the arrival of Leonard, in England, (July 14th,) confirming the appointment of Brent as Governor, but forbidding him to assent to laws, or to give grants for lands till he should himself visit the Colony, which he hoped to do by January following. Furthermore, a purchase of the chapel and adjoining lands made by the Governor, Secretary and Surveyor, just before the departure of the former, was declared invalid, and the drafts drawn in consequence of the transaction were allowed to be protested, and the authorities forbidden to

listen to any suit concerning the bills protested until his arrival in the Province. Later in the year, however, finding that Leonard would be detained in England longer than he had expected, and that there was little prospect of his being able to visit the Province as he had proposed, he prepared, (Nov. 18th), and sent to Governor Brent full powers to hold an Assembly, if necessary, assent to laws, and give grants to lands. At the same time he forwarded a commission appointing Giles Brent, John Lewger, James Neale, Thomas Gerard and William Brainthwayte, Commissioners of his Treasury, to receive all rents and dues to him, to look after his neat cattle, and requiring them to notify the people that he should fulfil no contract that was not signed and agreed to by two at least of the Commissioners. With this commission, went forward also instructions to have a full and accurate inventory made of all the cattle and goods belonging to him in the Province, and a statement of all rents payable to him, both to be done under the direction of the Secretary, and forwarded to England by the first opportunity. "For his care and pains in writing of the accounts yearly," and in his Lordship's other affairs in the Province, the Secretary was to have "two steers per annum, with twenty barrells of corn, and the use of six milch kine," he "being at the charge of keeping the said six kine, and of rearing the calves

that come of them till they be weanable, and then to deliver the said calves at his Lordship's farm of West St. Mary's, to be put into his other stock of neat cattle; provided always, that the said Secretary make such provision of fodder and housing for the said cows and calves in his custody for the winter, as the said Commissioners shall find necessary for them." These precise provisions substantiate what his Lordship says in another part of his instructions, that he "did extremely desire to have his stock of neat cattle⁽¹⁾ and sheep to be preserved as much as possible, and that they should not be any way diminished, but when necessity absolutely required it." These documents arrived in the Province early in the subsequent year, and the directions contained in them were undoubtedly promptly obeyed by the Secretary and his fellow-commissioners.

It was at this time that Captain Richard Ingle, the commander of one of the ships trading to the Colony, conducted himself in such a manner, that Governor Brent felt obliged to order his arrest, on the charge of high treason to his majesty; and directed the seizure of his ship. Ingle, however, made his escape, and the Governor was compelled to content himself with a proclamation, requiring

(1) At the time of the settlement of Kent Island, milk was worth twelve pence per gallon; so that cows were considered valuable and desirable property. For a considerable time, there was a law in Virginia, prohibiting the exportation of cattle.

him to surrender himself for trial, and calling on all persons who could disclose any treasonable matter against the delinquent, to come forward and make it known.

Besides these political causes of anxiety, the authorities were greatly harrassed by the hostile spirit manifested by the Indians, the most to be feared of whom, were the Susquehannocks. Finally, about the middle of June, it was ascertained that a party of their principal men was to be at Pascataway, ostensibly, to conclude a treaty of peace with that tribe and the English; but in reality, it was feared to draw them into a general league for the extirpation of the whites. A commission was therefore issued (June 18th, 1644), to Capt. Henry Fleete, purporting to come from the Governor, authorizing him to proceed to Pascataway, with twenty men, and to act according to instructions to be delivered to him by the Secretary. These instructions directed the Captain to make peace, if possible, on certain conditions; or, if he thought best to capture or slay the Susquehannocks, and break off all intercourse between them and the Pascataways, and bore the signature of Mr. Lewger.

Both the commission and instructions, as would appear from subsequent proceedings, emanated from Mr. Lewger, whose assumption of such power can only be explained by the supposition that Gover-

nor Brent was temporarily absent, and that the Secretary thought himself justified, for the well being of the Colony, in sending out Capt. Fleete at once; since the delay of awaiting the return of the Governor, would destroy the hope of advantage that was to be gained only by prompt and decided action. Governor Brent thought differently; and, highly incensed at the Secretary's assumption of his prerogative, issued (Aug. 26th), the following declaration :

“Whereas John Lewger, Esq., one of his Lordship's Council of this province, hath, without any order or authority, derived from his Lordship or his Lieutenant General, presumed of his own hand to counterfeit and deliver unto Captain Henry Fleete a commission for treating a peace with the enemies of this province, the Susquehanowes, and likewise for the making the said Fleete a captain or general, to make war against them or other Indians, and to exercise authority over his company, and to do other acts according to the tenor of his commission, unto which said commission he hath likewise presumed to affix and counterfeit his Lordship's great seal and his Lieutenant's hand, which acts, being of high misdemeanor and offence, and such as require severe animadversion;—These are, therefore, to suspend the said John Lewger, from the said office and dignity of Councillor, and from all other offices and dignities thereupon depending; and I do further hereby revoke all other commissions at any time granted unto him the said John Lewger, by me, as his Lordship's Lieutenant General, for granting out writs, or exercising any other power of judicature within his Lordship's province.”

GILES BRENT.

The deprivation of offices and dignities involved in the Governor's declaration, did not reach Mr.

Lewger's Secretaryship, which was derived from the Proprietary ; but even the former disgrace was but of brief duration ; since Leonard Calvert soon after arrived from England, bringing with him, a new commission as Governor, another naming Mr. Lewger Secretary, Judge of causes testamentary and matrimonial, Attorney General and Register of the land office, besides a third, appointing a new Council board, of which he was also a member. In the Governor's commission was inserted the clause requiring the exaction of an oath of fidelity before giving grants of land, which had been objected to by the Fathers, two years before ; but the commissions to the Secretary and Council were nearly the same as those previously transmitted. They were passed under the great seal of the Province, and published at the fort of St. Mary's on the 18th of September, 1644.

Governor Calvert soon after visited Virginia ; and on his return, issued a proclamation, (Nov. 16) for holding an Assembly on Tuesday the 3rd of December, at which all the freemen were summoned to be present, either in person, or by proxies or burgesses ; and, in case of the Governor's absence from St. Mary's on that day, the Secretary was authorized to prorogue the meeting to such day as he might deem fit. Whether the session was actually held, we have no means of ascertaining, as no record of that date is extant. The

probability is, that no session was then held ; but the Assembly was prorogued to the month of February following ; as the people at St. Mary's were in a state of anxiety, and the Governor's attention occupied, from an attempt about that time made by Capt. Claiborne, to gain possession of Kent Island. Accompanied by his cousin, Richard Thompson, and ten or eleven persons from Virginia, he had landed on the Island and had stirred up a portion of the inhabitants, with six or seven persons recently arrived from Chica-coan, to rise in arms against the established government, and capture the residence of Mr. Brent, or Brent's fort, as it was usually called. An armed party marched under his command, to attack the fort ; but, when they had proceeded about three miles, some of their number began to hesitate, and demanded to see his authority for such a proceeding. He shewed them a parchment and a letter ;—which he said, were a commission and letter from the king ;—but the greater portion of the party were not satisfied of the validity of his authority, and left him ; whereupon, he reëmbarked his men from Virginia, and departed.⁽¹⁾

The proceedings of Claiborne on the Island were made known to the Governor by a party sent out by him to ascertain what was going on ; and on

(1) See deposition of Capt. Thomas Bradnox, made before the Governor and Council, at St. Mary's, December 7th, 1648.

the 1st of January, 1645, a proclamation was prepared, prohibiting vessels from going to Kent to trade, till they had first touched at St. Mary's, declaring William Claiborne and Richard Thompson, enemies of the Province, and forbidding all persons to hold intercourse or correspondence with them, at their peril. On the same day, for what reason we are not informed, Mr. Brent was removed from the commandership of the Island, and William Brainthwayte put in his place. An expedition to the Island was then organized, of the proceedings of which, we have no accounts, but which probably succeeded in apparently reëstablishing order and obedience in the Island.

This accomplished, the Assembly came together, but scarcely had the members organized and passed one act "to enable the Governor to settle a garrison at Pascatoway," and "to defray the expenses of the late expedition to Kent," when several vessels appeared in the harbor, from which an armed force disembarked, (Feb. 14, 1645,) under the command of Capt. Richard Ingle; St. Mary's was taken; many of the members were prisoners; the Governor was a fugitive in Virginia; and the Province in the hands of a force, professing to act, and probably acting, under authority of Parliament. An oath of submission was at once tendered to the inhabitants, which however, the Catholics universally refused to take; and, in consequence of their

obstinacy, some were severely treated, others were either banished or voluntarily left the Province, and the Jesuit Fathers, White and Fisher were seized and transported to England.

Whether Mr. Lewger, amid the general dispersion of those friendly to Lord Baltimore's government, sought refuge with the Governor and others in Virginia, is not certainly known; but it appears to me most probable that he remained behind, as well to endeavor to moderate the angry zeal of the invaders, as to use his efforts towards saving from destruction what he could of the private property of the Proprietary. Some of the members of the Council, certainly remained at St. Mary's, notwithstanding the subversion of the government, and Mr. Lewger may very possibly have been one of these.

At the time when Governor Calvert took refuge in Virginia, Richard Kemp was at the head of the government, in that province, having had the control of affairs, since the departure of Sir William Berkeley, more than six months before, for England. Three days after his expulsion from St. Mary's, an Assembly was commenced at James City, at which Capt. Claiborne was present, then highly popular, on account of a successful expedition led by him against the Pamunkeys, the most dreaded enemies of the Colony, in the summer of the preceding year. He could not, therefore, have participated in the attack upon St. Mary's, or in

the subsequent summary-proceedings of Ingle and his adherents in Maryland.

On the 5th of June, Richard Thompson, obtained permission from the Court at James City to return to his family on Kent Island "in accordance with articles of agreement made with the Governor of Maryland," and, at the same sitting, the Board expressed the opinion that Capt. Claiborne ought for the present to "*surcease* from intermeddling with the government" of that island, so long controverted, as it might involve the Colony in further troubles. Two days after, Governor Berkeley returned, and resumed his place. Governor Calvert appealed to him for aid towards a recovery of his Province; but the Council decided, (Aug. 9) that they could not help him, and advised him "to refer the whole matter to their arbitration." In November, a session of the Assembly was held, during which, no allusion was made to the troubles in the sister colony; but at a second session, held in March following, (1646), it was resolved that Capt. Thomas Willoughby and Capt. Edward Hill, should proceed to Maryland, and require the immediate return of Lieut. Nicholas Stillwell and others, who had secretly conveyed themselves into Maryland or the Isle of Kent. The fact was that Capt. Claiborne, in the interval between the two sessions, had collected a sufficient force, landed on Kent Island, asserted his claims, and, aided by

Thompson, reäsumed the government, as independent of Maryland. His friends asserted, that he acted under a commission from Sir William Berkeley to take possession of the Island, and of such property as he had formerly owned there, and even went so far as to say, that he had that year received a commission to act as Governor of Virginia, if he would have accepted it.

Capt. Hill went into Maryland, in obedience to the act of Assembly, but instead of bringing away Lieut. Stillwell or any of his companions, remained there himself. The people had become thoroughly disgusted with Ingle, and Ingle's men were heartily tired of Maryland. They held the Colony under military rule, occupying a fort built by themselves at St. Inigoes, not far from St. Mary's. That even the Catholics, however, were not then held under severe jurisdiction, seems inferrible from the fact, that, on the 31st of July, 1646, they celebrated at St. Mary's the feast of St. Ignatius, and at night, according to custom, honored the occasion by the discharge of artillery. It is true the noise aroused the military, and so far excited their alarm, that they the next day, instituted a search, and seized all the arms and powder they could lay their hands on; but that the Catholics ventured in such a manner to shew their joy on that occasion, shews that they were not then under any severe apprehensions from their invaders.

At this very time, arrangements were on the tapis, for organizing the government, under the Lord Proprietary. Some of the Council, perhaps Mr. Lewger for one, conceived the idea that Capt. Hill might be made Governor, under that clause of the last commission, which authorized the election of a substitute, in case the actual incumbent were absent out of the Province; and on this ground the proposition was made to Capt. Hill to assume the station. He accepted the offer, overlooking the fact, that the commission required the party thus elected, to be one of the Council, and a resident of the Province, in neither of which particulars was he eligible. A commission was drawn for him, on the 30th of July, purporting to emanate from Leonard Calvert in Virginia, appointing him Governor, authorizing him to take into his possession one-half of all stocks of cattle, rents, fines, &c., belonging to the Proprietary, and one-half thereof, cattle excepted, to appropriate to his own use; and he commenced his rule, probably with the consent of Ingle's party, who were not unwilling to depart, and leave the control of affairs, still in the hands of a Protestant.

But Leonard Calvert had no idea of looking on and seeing his place quietly assumed by another, without making an effort to regain it. He kept up an understanding with his friends at St. Mary's, gradually collected a force at Kequotan, and

awaited a favorable opportunity for reclaiming the seat from which he had been ejected. The moment at last arrived. Governor Hill called an Assembly to meet at St. Mary's, late in December, and they were in full session, when Leonard Calvert, at the head of a strong force, marched into town, took the whole Assembly prisoners, with their Governor at their head, and received the prompt submission of the people.

Forbearance was Governor Calvert's true policy; and he shewed his tact, by recognizing the Assembly that had been called by Hill as a legitimate body, and holding the session which had been interrupted by his invasion. On the 29th of December, sitting with Mr. Lewger and Mr. Greene as an Upper House, he sent for the Burgesses, declared to them that as they were called to legislate, he should respect their persons, and they might continue their labors, he reserving to himself the right, at the end of the session, of impeaching such as had been guilty of any offence, since the last general pardon. Thus the Governor and Secretary were once more in their places, and in the exercise of their legitimate functions, after they had been suspended by the violence of Ingle and his party, for nearly two years.⁽¹⁾

Intelligence of the revolution at St. Mary's was soon conveyed to Kent Island, where Capt. Clai-

(1) It is possible that Mr. Lewger may have acted as Secretary during the five months that Capt. Hill was in power.

borne held sole control, professedly under authority of a commission from the Governor of Virginia. Collecting the people, with about forty persons, who had accompanied him from Virginia, he proposed to them to pass over in boats, attack the fort of St. Mary's, and take Governor Calvert prisoner, which they were at first disposed to do, and commenced putting their provisions on board their boats;—but some of the more prudent, desiring to see the authority under which he acted, he declined shewing it, whereupon they drew back from the enterprise. He then proposed that they should go under the lead of his cousin, Thompson, offering to take them down to Point Lookout in pinnaces, and then to go over to Chicacoan and send them reinforcements; but the people refused, and after a day or two, Claiborne embarked for Virginia, convinced that it was not in his power to prevent Leonard Calvert from extending his sway over the island, as well as the rest of the province. This was accomplished in April, 1647; on the 16th of which month, after reducing the island, Calvert issued a pardon to the principal offenders, for their crimes of rebellion and all other offences, previously committed within the province. On the 9th of June, the Governor, exhausted by the fatigues of his recent efforts, and by his labors in the government of the Colony, died—leaving as his successor, by nomination made before his death,

Mr. Thomas Greene, a member of the Council. To no one was the decease of the Governor more a cause of grief than to Secretary Lewger, who, for ten years, had been closely associated with him in official and personal relations, whose judgment he respected, whose opinion he eagerly sought, and in whose friendship and fidelity he placed unbounded confidence. His death severed one of the strong ties that bound the Secretary to the Colony. Another and a severer blow was one that fell upon him not long after, in the death of his beloved wife, the companion of his wanderings, the sharer of all his anxieties and trials since he had taken up his residence in the new land. The associate of his official labors taken away, the sharer of his domestic enjoyments torn from his side, Mr. Lewger could no longer endure the saddening associations that surrounded him, and turned his longing eyes to the scenes of his native land. Leaving behind him a son, his namesake, and perhaps a daughter, he embarked for England, never again to return to a province which had been largely benefitted by his zeal, his honesty, his judgment, his liberality of opinion, and his earnest efforts to maintain the rights of the people, while he discharged his duty to the Proprietary.

Arriving in England, he again became an inmate of Lord Baltimore's family, in Wild street, London, where his unobtrusive manners, earnest piety,

and extensive learning made him an object of general admiration and respect.

The precise time of his return to England cannot be ascertained; but, as early as the summer of 1649,⁽¹⁾ he was in personal communication with his illustrious friend and patron. From that time he lived a retired life, occupying himself with study and literary pursuits, and in secret acts of piety and benevolence. He is said to have written several tracts in support of the cause of the king, the titles of which are now unknown. One religious work is known to be his, entitled "Erastus Senior," and "Erastus Junior," in which he attempted to prove the invalidity of Protestant consecrations, from an essential defect in the form.⁽²⁾

In the year 1665, when the plague was raging terribly in London, Mr. Lewger, forgetful of himself, went out to comfort and sustain those who were falling victims to the dreadful disease, and in his noble and Christian zeal to aid others, sacrificed his own life. His end was not unworthy of one who had given up old associations from solemn convictions of truth and right; who had left the

(1) In a letter from Lord Baltimore to the Maryland Assembly, dated London, August 26th, 1649, and referring to a letter from the Assembly, dated April 21st, 1649, his Lordship says, "whereas it is alleged in said letter that the said Lewger did join with him (Leonard Calvert) in the engagement of our said stock of cattle for the payment of soldiers, it is much mistaken, *for himself denied it to us here.*"

(2) Dodd's Church History, Vol. 3, p. 164.

refinements and pleasures of a civilized land to bear the blessings of good government and Christian truth, into a new community and a far-off wilderness; and who at last crowned his labors by sublimely disregarding self, and giving forth his last breath, in a benevolent effort to aid and comfort his suffering and dying fellow men. I am not aware, that any of his name survive to be proud of their virtuous and devoted ancestor; but whether this be the case or not, there are many true hearted children of Maryland, who will render a prompt tribute of respect to the memory of JOHN LEWGER, the first Secretary of the Colony, and one of its earliest benefactors.

IV.

THE FIRST MARRIAGE LICENSE.

IN a Colony like that of Maryland, composed mostly of persons advanced in years, who had formed their domestic ties before leaving their native land, it could hardly be expected that the marriage ceremony would be frequently performed, especially during the few first years. Still, wherever human hearts beat, there are human affections; and it is by no means likely, that four years from its first settlement could have elapsed without an occasional inroad from the arch-enemy, whose shaft was surer and more to be dreaded than that of the treacherous savage who prowled around the outskirts of the settlement. Doubtless, the priest had been often in demand, and the authorities had been called on to furnish the needed license for making "one of twain," and there had been festivities and rejoicing, as now and then two of the colonists started on the journey of life together; but if so, no record of the facts exist, no trace of pen by which we can ascertain who were these candidates for the honors of matrimony, nor when their united lives commenced.

But, just four years after the landing of the Pilgrims, we can assert that there was at least one happy, hopeful pair in the Colony. William Edwin, a sturdy planter, loved with an earnest affection, Mary Whitehead, spinster, as females of a certain age and position, were in those times, decorously called, and Mary Whitehead returned his regard. The suitor was no light, false-hearted, deceitful popinjay, pretending the warmest devotion to-day, and cold as an iceberg to-morrow, professing unalterable attachment to a score at the same time and caring for none, but a sincere, single-hearted yeoman, who believed he had found a woman that would be a help meet indeed, and he could lay his hand on his heart and say, he was bound to no other woman ; no lawful impediment existed, to his knowledge, to his marriage with Mary Whitehead.

He therefore made application to Secretary Lewger, who, among his multitudinous official privileges, enjoyed that of issuing marriage licenses. The result was, the following entry upon the colonial record :

26th March, 1638. *Memorandum*, that William Edwin, planter, acknowledgeth himselfe to owe unto the Lord Proprietor one thousand weight of merchantable tobacco, to be paid upon demand, in case the said William Edwin hath pre-contracted himself to any other woman than Mary Whitehead, (spinster) or in case there is any consanguinity, affinity or

other lawfull impediment, to the knowledge of the said William Edwin, why he should not be married to the said Mary Whitehead.

WILLIAM
EDWIN.

William's mode of signing his name was certainly peculiar, and shews no great familiarity with the pen; but this should be no discredit, especially when it is remembered that half the men in the Colony could not sign their names, and some even, who occupied stations of trust and responsibility, were obliged to content themselves with making their mark. What is more to the purpose, his word was good with the honorable Secretary; who, on the strength of his affirmation, (with security), made the following brief entry on his record book:

“March 26th. A licence was granted to William Edwin to marry Mary Whitehead.”

Were they married? Were they prosperous? Were they happy? Did they obey the command contained in the Lord Proprietary's motto, which, however, had a still higher sanction? We may hope so, but have no knowledge.

V.

THE FIRST WILL.

Eighteen months had passed away, since the Governor and his company had landed upon the soil of Maryland, and with solemn religious ceremonies, had erected a rude cross formed from a massive tree, as an evidence that they had taken possession of the country "in the name of their Saviour, and of their sovereign Lord, the King of England."

Within that brief period there had been trial, and sickness, and suffering, and, doubtless, death among the colonists; but who they were that thus dared the perils of the sea, the hardships of a settlement in the wilderness, the hostility of savage tribes, to find a final resting place, far away from the burial places of their kindred, we know not;—"they died and left no sign."

It is interesting to observe, how closely, from the beginning of their social organization, the colonists clung to all the civil and legal forms established by their fathers; and how carefully they obeyed those formalities, which, in matters of life or of death, had been agreed upon as proper or needful in England. Indeed, it is evident that they regarded their severance from the mother

country as only local; they had crossed the ocean to find in some particulars greater freedom than they could enjoy at home, and with the hope of improving their fortunes; but they were still proud of the name and anxious to retain the privileges of English freemen; and all that was good and just and venerable of the English law and constitution, they desired to preserve, and embody in the laws and customs of their own community.

Most of the colonists were poor; too poor, perhaps, to make it necessary to go through the formality of draughting a will. But, where there was property, its disposal according to the wish of the possessor could only be accomplished by an expression of his desires, either written or attested by sufficient evidence; and thus, the formality of preparing a last will and testament became necessary. It was not uncommon in England, at and before that period, for a testator to make his will the medium of expressing his opinions, especially upon religious subjects; and some of the most eloquent and touching passages to be found in our language, and some of the most profound speculations upon the philosophy of life, may be found condensed in a few lines of these old English wills.

One of the earliest specimens of English composition in Maryland, is furnished by a document of this nature; and it must be confessed that for

completeness, distinctness, brevity and point, it is, considering the custom of those times, a model of its kind.

William Smith had, perhaps, been one of the earliest settlers, and had become a cultivator of the soil. He was, as his earnest profession of his faith in the body of his will shews, a Roman Catholic. Life, as he had frequent opportunity of seeing, in an isolated colony, exposed to casualties and inroads from the savage, was uncertain; and he came to the reasonable conclusion, that it was best to take away all occasion for controversy in regard to what he might leave behind him, and to disburden his mind of cares relative to the future, that might interfere with his attention to his higher and more spiritual interests. Therefore, he, or some apt penman in his behalf, prepared the following instrument, which is probably the earliest production of the pen of a secular member of the Colony, now to be found:

19. Feb. (1638.) This day came Anne, late wife of William Smith deceased, and exhibited the last will and testament of the said William Smith, and made oath that it was the true, whole, and last will of the said William Smith; which will followeth, in these words:

The last Will and Testament of Mr. William Smith, made in Augusta Carolina, at St. Maries, in Maryland, anno domini 1635.

In the name of God, Amen. I, WILLIAM SMITH, by the deare goodness of God in health of body and perfect use of judgment, without compulsion or constraint, doe freely order

and dispose of my estate and goods in the manner following: desirous to please Almighty God, the Giver of all good things, and to take away for after times all occasions of strife about those things which I leave here behind me, the better and with more quiett to attend to other higher and more important matters of my soule, for the Eternity she is shortly to enter into.

First, I bequeath my soule into the hands of her Creator, trusting in the precious blood of my Lord and Redeemer, Jesus Christ, that he will bring her into his glory.

Secondly, I bequeathe my body unto the earth from whence it was taken, willingly accepting the death thereof, in union of that sweete Jesus, my Lord, and of all his Saints, as a sacrifice of satisfaction for my sinnes, on which, God have mercy; Amen. And further, I professe that I die a member of the Catholique Romane Church, out of which there is no salvation.

Thirdly, of my temporall goods, I dispose in this manner following: In (the) first place, I give and bequeathe unto my loving wife, Mrs. Anne Smith, fully and entirely, all and every parcell and part of my goods, moveable and immoveable, and whatsoever I now or at my death have or shall have, any way mine or due unto me; foure pounds only excepted, which I leave for the good of my soule, desiring Holy Church to pray for the same. Secondly, I appoint and make the foresaid Mrs. Anne Smith, my loveing wife, alone the full and absolute Executresse of this my last will and testament, to recover, take and order what any way doth, may, or shall apperteine to me, now or hereafter; declaring for her indemnity and quiett possession, that I owe nothing. In witness whereof I put to this, my hand and seale, this 22nd of September, *anno domini*, 1635.

WILLIAM SMITH, 

Sealed and delivered in
the presence of

THOMAS HEATH,
THOMAS STATHAM.

September 21. The said Anne Smith was sworn to exhibit unto the Court a true and perfect Inventory of all the goods and chattells, which were the said William Smith's within this province at the time of his death; and to make a true and perfect accompt of the same, when she should be demanded thereunto.

APPENDIX.

LETTER OF CAPTAIN THOMAS YOUNG,

TO

SIR TOBY MATTHEW,

From James Town, Va., July 13th, 1634.

Worthy Sir

On the 16th of May, being Friday, while I was then writing to you from Falmouth, the wind became somewhat fair, and so I gave orders presently to weigh anchor. The wind continued very prosperous almost three weeks, and then we were overtaken by a violent storm at north-east, which lasted three days. In this storm my own ship grew extreme leaky. We rumaged our hold as soon as it was fair, and found one very dangerous leak under her kilson, which we stopped, tho' yet our pump gave us notice that we had other leaks also yet unfound. Thus we continued some nine or ten days; when in another storm our ship both increased her old and sprang fresh leaks. And herein also her forebeam, to which her bowsprit was fastened, cracked clean insunder; and some of her timbers likeways in the hold we found defective. Wherefore I called a consultation of my chief officers of both my ships, wherein, after much debate, it was resolved that for divers reasons it would be very necessary for us to put into Virginia, there to repair our ships, stop the leakes, refresh our men, set up our shallops, which we might there more securely and more speedily do than elsewhere, in regard there we should find both workmen and materials for the purpose ready made, which otherways we must either want, or spend

time to make ourselves. And that, we resolved, was the speediest way for us to proceed with effect in our design.

From this time our leaks increased upon us daily more and more, insomuch that we were now at the pump three or four times in a watch and sometimes more. But God be thank'd, the last of June at night by dead reckoning, being now all of us out, I commanded my master to give order to heave out his lead about ten of the clock at night and he did so, and found ground at fifteen fathom. But this night in regard it was dark, and the wind tacking about to the north-west, we were inforced to lie off to sea, and the 3d of July, towards sunset, we arrived between the Capes which are called Cape Charles and Cape Henry. About one of the clock we came to an anchor, the tide being spent, within three miles of Point Comfort, which is some four leagues from the Capes, and lieth upon the very mouth of James River (whereon standeth a new erected fort, which commandeth that river).

All my men in my own ship are, God be praised, in very good health, tho' my Vice Admiral hath been shrewdly visited with a pestilential fever, whereof about sixty have been sick, and twelve dead thereof; but they are now most of them recovered.

As soon as we were come to an anchor, we desiered a small bark coming out from Point Comfort, which bare with us, and in about half an hour afterwards she came to an anchor close aboard our Vice Admiral. We thought she had been some vessel bound from Virginia to New England, whither the inhabitants of Virginia drive a great trade for Indian corn. I sent my Lieutenant on board her to enquire what she was, and whither she was bound, and withal to learn what I could, both concerning the State of Virginia and Maryland, which is my Lord of Baltimore's Colony, and likeways on what terms these two colonies were; and what correspondence they had one with another, and with the Indians also. When he came aboard he found this bark to be a vessel of Virginia, belonging to one Captain Clayborne, who liveth upon an island within my Lord of Baltimore's territory

called the Isle of Kent. But the Captain was gone aboard our Vice Admiral, and thither my Lieutenant went to him; when, after salutations and some discourse passed to and fro, they fell in talk concerning my Lord of Baltimore's Company, who arriv'd here in March last. He discovered that there was grown great discontent between my Lord's Company and him, which he seemed to excuse as well as he could: tho' even by some words that fell now and then from him unawares, my Lieutenant saith a man might read much malice in his heart towards him. After some two hours my Lieutenant brought Captain Clayborne with him aboard my ship, where he remained till the morning.

By him I understood that the Governor of Virginia, Sir John Harvey, had been in Maryland, at the Plantation there which is called St. Mary's; there to have heard and composed the differences which were grown between those of my Lord's Colony and this Clayborne, and that, that night he was arrived at Point Comfort. That in his company also were Captain Calvert, Governor of Maryland, Captain Cornwallis, Mr. Hawley and others, principal gentlemen of Maryland; and that they were come thither purposely for the composing of those differences; but that he, for his part, purposed not to be there, but to retire himself to his own plantation, under pretence that he went thither to take order for the securing thereof against certain Indians, who had lately, as he understood, killed a man and a boy of his. But I plainly perceived that the principal and main reason of his retreat, was to absent himself from that meeting. I found the man subtile and fair spoken, but extremely averse from the prosperity of that plantation. He alledged that my Lord's Company had accused him to the Governor of Virginia for animating, practising, and conspiring, with the Indians to supplant and cut them off. That the Governor had appointed certain Commissioners of this Colony to join with certain other Commissioners of my Lord's Colony, to examine the truth of that accusation, and that upon their information he purposed to proceed therein according to justice. That accordingly, they had

examined the matter, and had found no grounds for those accusations; and so he conceived that the purpose of their coming was now only to make a reconciliation, but that for his part he purposed not to be there. On the other side, he pretended that heretofore he had born very good correspondence with them, and that he had furnished them with hogs and other provisions, and done them what services were in his power, till my Lord's people had given directions for the taking and surprizing his boats that went to trade, and likewise of his own person. After which discourse he parted with me, telling me (tho' I perceived afterwards he meant it not,) he would meet me at Point Comfort, but he came no more to me.

The next morning I weighed as soon as the tide served, and about eleven of the clock I came to an anchor within Point Comfort, where now I ride. Here I understood that the Governor was passed by, and as soon as I had fitted myself, I took boat, with intention to have waited upon the Governor on shore, but as soon as I was in my boat I descried his barge on the river making towards our ship, so I stood in with him to meet him; but he perceiving me rowing towards him, stood towards my Vice-Admiral, whither also I stood, and got into the ship before him. After I had saluted him, he was pleased to treat me with much courtesy and great affection: to whom I presented his Majesties letters. After he had read them, he assured me that he would in all things most willingly and observantly obey his majesties commands, which I have also found him most effectually and affectionately observe on all occasions wherein I had cause to require his assistance.

In his Company, of my Lord of Baltimore's Plantation, I met only with Captain Cornwallis (for Captain Calvert fell sick by the way and returned), who was come thither purposely to meet with Clayborne, whom I mentioned before.

After some time I took Captain Cornwallis, and told him what discourse had passed between Clayborne and me. He answered me, that this Clayborne had dealt very unworthily

and falsely with him. That he had also labored to procure the Indians to supplant them, by informing them that they were Spaniards, and that they had a purpose to destroy them, and take their country from them. That the Indians had a purpose to have attempted it, had they not been diswaded by one Captain Aflet,⁽¹⁾ who had in former times lived among them, and is now in good credit with them. That Clayborne had contrived divers others malicious plots and conspiracies against them. That some others also of the principal Counsellors of Virginia might justly be suspected to have animated Clayborne to this foul practice. That this conspiracy and practice was proved against Clayborne both by the confession of the Indians and likeways by the confession of Christians taken upon oath. That he himself protested, that if my Lord's Plantation should surprize or take any of his boats, he would be revenged, tho' he joined with the Indians in a canoe. That thereupon the Governor of Maryland complained thereof to Sir John Harvey, the Governor of Virginia, who forthwith took the matter into his consideration; and upon hearing the accusation of the one, and the defence of the other, it was ordered that Clayborne should remain confined, in the hands of one Captain Mathews and Captain Utie, two Councillors of State in Virginia; tho' both of them private friends to Clayborne. Whom he ordered to keep Clayborne from any conference or messages to the Indians; and that they two should forthwith, taking Captain Clayborne along with them, repair to my Lord's Plantation in Maryland, where also two Commissioners, namely, Captain Cornwallis and Mr. Hawley, chosen for that Colony should be coupled with them, and that they should take on both sides interpreters, and from that hour go in company together to the Indians, and examine the truth of this examination. But that Clayborne was not to be present at the examination. And that they should make a true relation of the state of the business to the two Governors, who would expect them in the Plantation of Maryland. But

(1) Fleete.

precisely and expressly ordering them that they should be careful, in no case to suffer any conference to be had with the Indians on either side, either directly or indirectly. But these two Captains, taking along with them Clayborne, went towards Maryland, not with any purport (as it afterward appeared by the sequel) to comply with the Governor's order of Virginia; but having subtilly and sinisterly inveigled into their company two very young gentlemen of my Lord's Colony (whereof one was a younger brother of my Lord's, the other of Sir John Winter's,) with fair words, finding them in a jovial humor, persuaded them to accompany them to the examination of these Indians; and so taking these for my Lord Com^{rs}, instead of going to my Lord's Plantation in Maryland, or giving any notice of their arrival in those parts, they take this advantage, and with these young gentlemen, which they themselves took, and who is in the place of Commissioners, they go directly to the Indians, taking with them also Clayborne, and a servant of his for their interpreter; and there in presence of Clayborne, examine the Indians upon such articles and with such interrogatories as they thought would best serve for Clayborne's advantage, using also the help of the interpreter to frame such answers from the Indians as would best suit with their purposes. When they had done this they put his examination in writing, and after they had themselves signed it, they procured also these two young gentlemen to put their hands also thereunto, as taken before them.

This examination they sent to my Lord's Plantation at Maryland by one of the Council of Virginia (for I should have told you that there went also two other Councellors of Virginia with them, which went without or rather contrary to order), only to countenance the carriage of this plott the better to my Lord's Plantation at Maryland, (where all this while both the Governors remained expecting their coming) and in his company came also one of the Indian Kings, called the King of Patterpunt, procured by them to come hither to justify the truth and impartiality of their proceedings. La-

bouring by this indirect proceeding to clear Clayborne from his crime; and also to incense and exasperate the Indians both against my Lord's people, and against those other Christians also who had inform'd them hereof; suggesting and intimating to them that my Lords were turbulent people, who cared not what false pretences and suggestions they framed to deprive others of their estates, which it was evident they laboured to wring out of the hands both of Indians and Christians also, that so in fine they might become lords of that country. The Governor of Virginia, not finding himself well intreated by them, returned to Virginia, where he made account to find them expecting him, as they sent him word by the messenger I speak of before, they would be at Kecoughta. But when he came thither he found them all gone; so as at that time he could do nothing therein. But he had appointed them a new time for their appearance at James Town.

Concerning his complaint that my Lord's Company would have surpriz'd his boats and him, Captain Cornwallis told me that Cleyborne had been offered all fair correspondence, with as free liberty to trade as themselves, but he refused it; wherefore the Governor gave order to forbid him to trade. That concerning the surprizal of his person, (tho' his carriage towards them very well deserved it) yet it was only a mere supposition and jealousy of his own, without any grounds.

This so far as I can learn, is the true state wherein my Lord of Baltimore's Plantation stands with those of Virginia; which perhaps may prove dangerous enough for them, if there be not some present order taken in England for the suppressing the insolence of Clayborne and his accomplices, and for disjoining this faction, which is so fast linked and united, as I am perswaded will not by the Governor be easily dissevered or overruled, without some strong and powerful addition to his present authority, by some new powers from England. And it will be to little purpose for my Lord to proceed in his Colony, against which they have so exasperated and incensed all the English Colony of Virginia; as here it is accounted a

crime almost as heinous as treason to favour, nay, almost to speak well of that Colony of my Lord's. And I have observed myself a palpable kind of strangeness and distance between those of the best sort in the country which have formerly been very familiar and loving one to another ; only because the one hath been suspected but to have been a well-wisher to the Plantation of Maryland.

The Governor only of Virginia (a gentleman in good faith in my judgment, of a noble mind and worthy heart), out of his care to observe his majesties commands, signified to him by his Royal Letters, and also out of his own good inclinations, hath carried himself very worthily and respectfully towards them ; and is ready on all occasions to give them all the assistance and furtherance that possibly he can, tho' thereby he hath acquired to himself extreme hazard and malice from all the rest of the country, to whom I can find only two of his Council indifferent ; the one of them called Captain Purfree, a soldier, and a man of an open heart, honest, and free ; hating for aught I can perceive, all kind of dissimulation and baseness ; the other an honest and plain man, but of small capacity and less power.

The person on whom the strength and sinews of this Faction depends, is one Captain Matthews, an ancient planter here ; a man of bold spirit, turbulent, and strong in the Faction of the more refractory sort of the Country : and as I have been informed by persons of good credit, a great opposer and interpreter of all Letters and Commands that come from the King and State of England ; apt also to possess and preëccupate the judgements of the rest of his fellow Counsellors, that Letters from the King and from the Lords are surreptitiously gotten, and that the obedience to them may and ought to be suspended till they be warranted by second commands from England, which may issue from thence after the Lords have been informed by them. For that many times the Lords are not sufficiently instructed in the necessities and conveniences of this Government here ; pretending and making them believe, that such kind of disobediencies do

oftentimes become grateful to the State. This gentleman as I hear is lately married to the daughter of one Sir Thomas Hinton, who is lately retired hither into these parts; and he grows, as is conceived, much bolder by this alliance, as hoping by his power to find great strength in England, tho' for my part I conceive he hath but small grounds for those hopes; yet here we have it very confidently and very frequently reported, that a son of Sir Tho^s. Hinton's, who is a Gentleman of the Privy Chamber, is to come over hither Governor.

Sir John Harvey invited me very earnestly, that during the time that my ship was making ready, and my shallop building I would accompany him to James Town, whither he was then going; which I accepted as a favour, partly led thereunto with a desire to see the country; partly also to see the event of my Lord's business; and likewise a little to recruit myself after my long voyage; wherein I thank God I have yet had my health very well. We lay two nights by the way; at a gentleman's house, a planter of the country, one night; and the other most part of it, aboard Sir John's barge.

This country aboundeth with very great plenty. In so much so that in ordinary planters' houses of the better sort, we found tables furnished with pork, kids, chickens, turkeys, young geese, caponets and such other fowls as the season of the year afforded, besides plenty of milk, cheese, butter and corn; which last, almost every planter in the country hath.

The country is very good, the climate pleasant and wholesome. The land fertile enough; and with good husbandry will soon grow into great abundance. And a great trade may quickly be driven here, if good providence and care be taken, which will much advance his Majesties Customs.

While I stay here at James Town, where now I am, I meet daily with several of the best and most understanding sort of the inhabitants of this place; by whom I inform myself as much as I can of the state of this country; and I find really that the present Governor hath carried himself here with very great prudence; hath been extraordinarily dilligent in ad-

vancing and furthering the Colony : a great reformer in the abuses in the Government, especially in the point of justice ; which at his first entrance was full of corruption and partiality. The richest and most powerful opposing and swallowing up the poorer, though now much amended by his care and zeal to justice ; though even in that also he is sometimes overborn by the strength and power of some factious and turbulent spirits of his Council. For here in this place all things are carried by the most voices in the Council ; and they are for the most part joined in a kind of Faction against the Governor ; in so much as they make their publick consultations give strength and authority to their Faction : and it is hard for the Governor to determine or order anything here contrary to their dictations, for they come all hither pre-occupied and resolved to follow and concur with the votes of their leaders. Of this Faction, Captain Matthews of whom before I spake, is the head and chief supporter. This gentleman as I am told, took the boldness publickly, when the King's Letter was delivered and read in favour of my Lord of Baltimore, to question whether they were not surreptitiously procured. And it is vehemently suspected, and they say not without reason, that he hath been the incendiary of all this wicked plott of Clayborne's ; and that he continues to be the supporter and upholder of him, and except my Lord finds some means speedily, and in a very exemplary manner to curb and suppress this man's insolence, he will daily find more and more practices and treacherous conspiracies continued against him. And verily I believe if my Lord could find means ever here to eclipse his power and greatness, or to remove him from hence, the back of this Faction would soon be broken, and this strong knot would untie of itself. Nor is that other instrument of his, of whom I spoke before, namely Clayborne, less carefully to be looked into ; since his practices, tho' they be not so publick as the others' insulencies, yet they are not less dangerous to that Colony ; yea and to the security of the peace of this very Government of Virginia, where I have been informed that some of the Counsellors

have been bold enough in a presumtuons manner to say to such as told them that perhaps their disobedience might cause them to be sent for to England, that if the King would have them, he must come himself and fetch them.

When the Governor came first into this Country, it was in great searcity and want of victuals; in so much as tho' it abounded with tobacco, they starved for want of corn, Nay, they were forced yearly to expect from England great supplies of victuals; in so much as it was the custom to transport hither from England a whole year's provisions for every man they landed here. Though now, at this present, through his care and provident government, the country is not only able abundantly to support itself and 1500 persons more which have landed here this year, but it hath this very year also been able to spare their zealous neighbors of New England 10,000 bushels of corn for their relief; besides good quantities of beans goats and hogs; whereof this country hath great plenty. And it is credibly reported that at this present there are above 5,000 head of beeves here; whose increase the Governor takes great care to preserve and increase, in so much as he suffereth them not to transport any females, but such as through age are grown unlikely to survive the winter. So as in a short time here will be a great trade for beef, hides, tallow, bacon, and goat skins which will greatly increase his Majesties Customs. The swine here are excellent, and I never tasted better in Italy or Spain.

This Country also, at the Governor's first coming hither was utterly destitute of fortification. But he hath erected a very good fort, in a most convenient place called Point Comfort, lying in the mouth of James River; which commandeth the harbor in such sort, as no vessel can pass without a license: in it are mounted 8 pieces of ordnance demi-culverin and saker, and more also he hath to mount there, but wanteth carriages for them.

When the Governor came first hither, he found James River only inhabited, and one other plantation on the eastern side of the Bay; but now he hath settled divers good planta-

tions upon another river, which lieth northerly from James River; and hath caused a strong palisadoc to be builded upon a streight between both rivers; and caused houses to be built on several plains upon the same; and hath placed a sufficient force of men for defence of the same; whereby all the lower parts of Virginia have a range for their cattle near forty miles in length, and most places near twelve miles broad. The palisadoc is very near six miles long, bounded in by two large creeks. He hath an intention in this manner to take also in all the ground between those two rivers, and so utterly exclude the Indians from them; which work is conceived to be of extraordinary benefit to the country, and of no extream difficulty in case he may be countenanced from England in his good endeavors by the State of England, and assisted by the inhabitants here; who for the present are very destitute of all manner of arms and ammunitions for the defence of the Country, which the Governor had given orders to his agent in England to provide out of his own means to the value of £500, and to have sent over. But by raison failed of his payment of his pension from his Majesty, he was disappointed thereof, and the country remained unfurnished, though in extream want thereof. Yet now he is purposed to publish an ediet this winter for the avoiding the like inconvenience hereafter, that no person whatsoever shall transport hither any persons of above fourteen years of age without sufficient provisions of arms and ammunition for a year.

The first autumn of his arrival here, he undertook a very noble interprise: which was to make discovery many days' journey up into the country; wherein he employed two hundred men, well victualled and armed, to go westward towards a nation called the Monachaus, to make enquiry after a silver mine, which is here confidently reported to have been discovered by a Dutchman in the time of Sir Tho.^s Gates his government, but through the wants and extremities of those times neglected. The charge of this business was committed to Captain Matthews, by whose slowness in sitting furth, they were overtaken by the winter and forced to return through

the unseasonableness of the season, without any satisfaction, tho' the probabilities and hopes of his enterprize were great enough, had they been dilligently and carefully pursued by Matthews; and it is a great pity it should so die.

The Governor here hath many good designs for the advancing and furthering of this Plantation, and increasing his Majesties revenue here, which I have not time here to relate; neither will here be opportunity, since I fear I am already grown too tedious. But partly through his own wants, which are great, and partly through the averseness of his Council, who, led away with malice, dislike any propositions of his, how beneficial soever to the country: so choosing rather to deprive themselves of the good that might arise to themselves thereby than that he should be the author of such a benefit to the country. To so great a height is their envy grown towards him.

The charge of this gentleman here is extraordinary, in regard that this seat of James Town hath in it no other place of receipt, but only the Governor's own house, wherein he is continually at excessive charges in his housekeeping, as well in entertaining the whole Council and their retinues which are not small, at all times whensoever any occasions either of the King's or Country's service requires their attendance; and that sometimes for a week or fortnight, nay, sometimes for a month together; which meetings grow daily more and more frequent as the Colony increases in number, and so consequently in business, both for the state and country. This house also is the rendezvous of all sorts of strangers who have any occasion to resort thither, upon any business whatsoever, in so much as the Governor's house is, as it were, a general harbour for all comers which is an incredible charge to him; who, by reason of these extraordinary charges, and the want of his pension from England, exhausts and lessens his own private stock, in so much as he is now enforced to kill even his own draught oxen for the supply of his own house. For my part, I protest I do extremely commiserate the necessities of the gentleman, and the extremities and he is

now in: and, in good faith, I conceive it will be impossible for him to subsist, without some present order be there taken for his relief; for here his yearly charge cannot be less than £1000 per annum, and his revenues little or nothing; nor is it possible for him, the state and dignity of his place preserved, to abate his charge: neither yet will the publick affairs permit him to apply even his own domestic servants to his private weale.

This country is, at this present, full of rumours of wars; for hither the country resorts daily from all parts, with news that the Indians are gathering head. The country is extremely unprovided of all sorts of amunition; which perhaps may give both courage and confidence to the Indians to take this advantage to fall upon them. Tho' yet, on the other side, some report that their purpose is not to break the league with this Colony; but that their designs are more northerly, to supplant a new nation that is lately seated there (which can be no other than my Lord's Colony), and if it should prove so, we may well believe it hath been wholly contrived by the malice and unchristian like policy of this wicked confederacy. God Almighty preserve them from such devilish practices.

This much I thought good to give you account of; and I held myself somewhat obliged thereunto by duty both to God and his Majesty, in whose service I am, not to pass over such foul practices and undutiful proceedings towards his Majesty, and his Ministers in these parts, in silence, without a relation of the truth thereof, or at least so much thereof as I could gather from the most discreet and indifferent persons of the country; wherein I protest I have proceeded indifferently, as a person wholly disinterested in the proceedings either of the one or the other. And I humbly beseech you, if you see fitt, to shew this to my Lord Treasurer, or my Lord Cottington or Mr Sec^y Windebank, to present withal my most humble service to them. And I beseech you also to let my Lord of Baltimore see this; to whom also I present my humble service; that he may take therein what course shall seem best, in his own judgment and prudence.

I hope within these two days to set sail from here. I have nothing else at y^e present, but whatsoever shall occur, by the next opportunity I shall take the boldness to trouble you with the relative. In the meantime, I beseech you pardon me this tedious discourse, which I hope your . . . and love to justice will easily perswade you to do. Sir, I hope by the next you shall hear some good news of good hopes from me concerning my business, which I am resolved most diligently and effectually to follow. Thus, with my most affectionate service to you, I humbly kiss your hands. From James Town Cittie, this 13th July.

Your most affectionate,

humble servant,

THOMAS YONG.

A BRIEF RELATION

Of a voyage lately made by me CAPTAIN THOMAS YOUNG, since my departure from Virginia upon a Discovery, which I humbly present to the Right Hon^{ble} SIR FRANCIS WINDEBANK, Kgt. principal Secretary of State to his Majesty.

The Particulars of all occurrents that happened unto me from my departure out of England till my arrival in Virginia, and likeways what passed while I was there, I sent in a relation to Sir Tobie Matthew, entreating him to present it to your Honour, which I presume is already come to your hands; and therefore I omitt to trouble your Honour with a second repetition thereof, and now intend humbly to give your Honour account of such things as since that time have passed in my voyage.

As soon as I had stopped the leaks of my ship and finished my shallop, I set sail from Virginia the 20th July coasting along the coast from Virginia to the northward, fair by the shore; and the 24th of the same month I made that great bay, wherein I purposed at my departure from England, to make trial for the passage. I came to an anchor that night in the mouth of the bay, and the next morning I entered the same.

This bay is in the mouth thereof six leagues broad, and hath in the entrance thereof twelve fathom water. When I was got into the bay I came to an anchor, and sent my lieutenant in my shallop ashore on the south-west part of the bay to see if he could speak with any of the natives, and to learn what he could of them concerning this bay and the course thereof: who after he had spent most part of the day in searching up and down for the natives returned towards night without speaking with any of them.

The next morning being the 26th, I sailed some ten leagues higher up the bay and then came to an anchor, and again sent out my shallop to see if I could meet with any of those natives; but they returned as they did the day before without speaking with any of them.

The 27th, in the morning, I weighed to proceed yet further into the bay; and after I had passed seven leagues up the bay, my shallop being then on head of me, espied certain Indians on the west side of the bay, to whom they made presently; but the Indians made away from them as soon as they came near the shore. So I sailed along in the midst of the bay, but they coasted along by the shore till about 2 in the afternoon; and then there came an Indian running along the shore, and called to my shallop. The shallop presently made towards him, who stayed till their arrival, but would not come aboard; therefore they landed and went to him, to whom presently came three or four more; at last they persuaded one of them to go on board my ship, and so they brought him to me. I entertained him courteously, and gave him biscuit to eat, and strong water to drink; but the water he seemed not to relish well; I also gave him some trifles, as knives and beads, and a hatchet; of which he was wonderful glad. Then I began to enquire of him (by my interpreter, who understood that language) how far the sea ran; who answered me, that not far above that place I should meet with fresh water, and that the river ran up very far into the land; but that he had never been at the head thereof. He told me further, that the people of that river were at war with a certain nation called the Minquaoes, who had killed many of them, destroyed their corn, and burned their houses; in so much as that the inhabitants had wholly left that side of the river which was next to their enemies, and had retired themselves on the other side, far up into the woods, the better to secure themselves from their enemies. He also told me, that not long since there had been a ship there and described the people to me; and by his description I found they were Hollanders, who had been there trading for furs. Towards night

He desired to be set on shore, which accordingly I commanded to be done.

The next day being the 28th, there came on board my ship an Indian with a canoe, with store of elks, whereof I bought some for a knife and a hatchet ; and whilst I was discoursing with him concerning the river, for now I was entered into the mouth thereof, on a sudden he fell into a great passion of fear and trembling ; I wondered what the matter was, and comforted him and bade him fear nothing : he then shewed me a canoe a good way off, making towards the ship, in which he said were some of the Minquaos, and that they were enemies to him and to his nation ; and had already killed many of them, and that they would kill him also if they saw him, and therefore he desired me to hide him from them ; I told him I would defend him, and that they should not hurt him, and that if they should dare to offer him any violence, I then would kill them ; he seemed very glad to hear me say so, and gave me thanks, but yet was very earnest to be hid from them saying that if they saw him they would watch for him ashore and there murder him. Then I caused him to be put into a cabin between decks, where he could not be seen. The Minquaos rowed directly to my ship, and as soon as they got near her, they made signs for a rope, which was cast out to them, with which they made fast their canoe, and presently came aboard without any difficulty. Our interpreter understood but only some few words of their language, so as we were forced for the most part to gather their meaning by signs, the best we could. They told us they were Minquaos, and that one of them was a King (for so all Indians call them who are most eminent among themselves ; and they are in nature of Captains or Governors of the rest, and have power of life and death, of war and peace, over their subjects : some have 1000, some 500 ; some more, some less), and made signs to us that they were lately come from war with the other Indians, whom they had overcome, and slain some of them, and cut down their corn (which is of the same kind with the corn of Virginia, which they commonly call maiz) ; they brought a good

quantity of green ears thereof with them; and some they presented to me, and others they roasted and eat themselves. I used them courteously, and gave them, each of them, a hatchet, a pipe, a knife, a pair of seissars, for which they were very thankful to me; and then desired to see my trucke. I shew'd them samples. The King desired some of my cloath, but having nothing to give in exchange thereof, I gave him two small peeces, the one of red and the other of blue. They made signs to us, that in about ten days (as we thought, but we were mistaken, for they meant weeks, as we perceived afterwards) they would come to us again, and bring with them great store of truck of beavers and otters; and therefore they desired to know where we would be; so I told them that about that time I would send my shallop to meet them there. So they departed; and as soon as they were gone I called for the Indian, who all this time lay hid in my cabin; who stayed aboard of me till night, and then departed a contrary way to that which the Minquaos went, promising to be with me the next day. Some two days after, I being then gotten some ten leagues up the river, there came to the shore side five or six Indians, and hailed us: I sent my boat for them. When they were arrived, they told me they came to see me from a King who lived not far off; and that if I pleased, to-morrow he would come and visit me. I answered them, he should be wellcome; and so, after they had stayed awhile and refreshed themselves aboard my ship, they departed. The next day we expected him, but he came not: so we departed a little higher up the river; and on the 2d of August the King came aboard at noon, accompanied with about forty or sixty Indians; after he had sat still awhile, which they are wont to do, upon the ground, he then told me I was welcome into the country, and that he came to me with a desire to make peace with me, in regard he understood by an Indian that I was a good man, and that I had preserved him from the Minquaos, who would otherways have slain him, and withall ask'd if we had any truck. He also presented me with two otter skins, and some green ears of corn; ex-

ensing himself that he had no better present for me, in regard the Minquaos had lately harrowed his country and carried much beaver from him and his subjects; and that the rest they had trucked away with the Hollanders who had lately been there. I told him that I was sent thither by a great King in Europe, namely the King of England; and that I came thither to discover that country, and to make peace with them if they desired to embrace it; and that if they would so do, I would defend them from their enemies. He was very joyful to hear this, and desired me to tarry two days there, for he would bring thither another King, which was his father in law, to make peace with me; and another King also, who was his neighbor, and proprietor of that part of the river wherein I then rode. I condescended with him to stay two days. In the meantime, I took possession of the country for his Majesty, and there set up his Majesties arms upon a tree, which was performed with the solemnities usual in that kinds. I enquired of this King how far this river ran up into the country, and whether it were navigable or no. He told me it ran a great way up, and that I might go with my ships till I came to a certain place, where the rocks ran clean cross the river, and that there he thought I could not go over with my great canoes (for so they call all vessels that swim upon the water). I then desired him to lend me a pilot to go up to that place, which he most willingly granted. I presented him with a coat, a hatchet, and a knife; with which he was very well contented. And so after he had stayed some four or five hours, he took his leave.

About some three or four days after, this King returned to me, and in company with him two other Kings, whom I mentioned before, with whom I also made peace. Of the old King I enquired if he had ever been at the head of the river; he answered me, No; but that he had heard that the river ran far up into the land; and that some few days' journey beyond the rocks, of which I spake before, there was a mountaneous country, where there was great store of elks, and that before the war with the Minquaos they were wont to go

thither to hunt them : but he said, that neither he himself nor any of his people had ever been further than those mountains. These Kings prayed me that I would do them the courtesy to stay four or five days with them, because they were certainly informed that the Minquaos would within that time pass over the river to assault them ; wherefore they desired me not to suffer them to pass over. I told them I would at their request stay five days ; and that I would labor to procure them peace ; and that, if their enemies refused the same, that then I would join with them against them ; and that I would lend them soldiers to go to war in company with them : and that I would also, if occasion were, invade the Minquaos in their own country, upon this condition, that they shall renounce all trade and alliance with all other persons, save only his Majesties Ministers and subjects ; and that they should be wholly dependant on him : of which they were very joyful, and accepted the conditions. And so was made a solemn peace. They not long after departed, and it was spread all over the river that I had made peace with them, and that I was a just man, and would defend them against their enemies the Minquaos. Upon the report hereof, some three days after, there came to me messengers with a present from two other Kings, who lived in a lesser river, which falleth into this great river somewhat nearer the rocks. They told me that their Kings desired to make peace with me, according as the other Kings, their neighbors, had done, and that they had some beaver and other skins, which they would truck with me for such commodities as I had. I sent them word, that some three days after I would come up to the mouth of the river, where I would desire them to meet me. And that I would entreat one of those messengers to stay with me till I were ready to go, whom I would send to them as soon as I was arrived, and one of them presently offered himself to stay with me. When the few days were expired, I sent to the former Kings to let them understand that now I had tarried five days expecting the Minquaos, and that seeing they came not, I had sent my shallop to seek them out, but it

was returned without any notice of them, and therefore that I thought they were not in the river; wherefore now I would go up higher in the river to meet with them and the other Kings; whither, if they had any occasion, they should send to me, and I should send to assist them; desiring them withall to send me a pilot to carry me to the rocks. They sent me word they were sorry I was departing from them, nevertheless they hoped I would shortly return thither again, and that if they had occasion they would send to me; and moreover, one of them sent me his brother in company of my messenger, and commanded him to go up along with me, and remain with me till my return again thither, which he did accordingly. As soon as my messengers were come back, I set forward, and arrived at the mouth of the said river: and not long after I was come to an anchor, about eight of the clock in the evening, came the two Kings aboard of me, attended only with some four or five of their principal men; for the rest of their company, in regard it was night, I desired them to leave on shore till the morning. I entertained them aboard all night, and in the morning early, being the 23d of August, the rest of their company came on board. I gave each of them a present, as I had done to the other Kings; which when they had received, first the ancient King and afterwards the younger, called together all their people, and made to them a long oration to this purpose: That we were good people. That we were just. That we were ready to defend the oppressed from the cruelties of their neighbors. That we were loving people, as a testimony whereof they showed the presents I had given them. That we had brought thither such things as they stood in need of, for which we desired only beaver and other skins, whereof they had to spare. That therefore they commanded them to trade lovingly and freely with the people. That they should be careful that no injuries were either publicly or privately done to them. That they should use them as friends and brothers; and that for me in particular they should honour and esteem of me as a brother of their Kings; and that they should be careful to

carry themselves dutifully towards me, with a great deal more compliment than I express. This being done, my company and the Indians fell a trucking; while these two Kings entered into the same league with me which the former had done: and then towards Evening the elder King went ashore, the younger remaining aboard with me.

Thither also came two other neighboring Kings, with whom also I made peace. Here also was the first place where some of their women came aboard our ships. And here, during the space of five days that we tarried, we had continually store of Indians aboard us. One night, about one of the clock in the night, there rose an alarm among the Indians that lay ashore, that the Minquaos were come upon them: the younger King was then aboard my ship, who desired me to receive his people aboard till the morning; which I did, setting a good guard upon them and disarming them. In the morning I found this to proceed from nothing else but their policy to try whether, if occasion were, I would really assist them or no. But howsoever, the King gave me great thanks for my love to him and his people. After I had stayed there some five days, I departed towards the head of the river, and many Indians, as I passed along, came aboard my ships with such commodities as they had; some with furs, some with victuals.

On the 29th of August I had gotten up with my ship as far as I could go with her, for now the water began to be shoaly, so I came to an anchor near to the dwelling of one of the principal Kings of this country; who that same night, hearing I was come to his country, came aboard of me to visit me; with whom also I made peace as with the former. This King and his brother are the greatest travelers that I met among all the Indians in the river; for they have been by land at the lower fort of Hudson's river, and likeways very far up the river beyond the rocks I speak of. On the 1st of September I sent my lieutenant in my shallop up to the rocks, both to sound the water as he went, and likeways to try whether the boats would pass those rocks or no.

The Hollanders of Hudson's river having gotten some intelligence of our being here by the Indians, who in some places live not a day's journey from them, overtook me here, within six hours after I had sent away my lieutenant to the rocks. They came to an anchor close by me. I sent my boat presently aboard them to know what they were, and from whence they came; and to bring the master to me; who soon after came together with his merchant in their own boat. When they were come aboard of me, I sent for them into my cabin, and asked them what they made here. They answered me, they came to trade as formerly they had done. I asked them if they had any Commission from his Majesty to trade in the river or no. They answered they had none from the King of England; but from the Governor of New Netherlands they had. To which I replied, that I knew no such Governor, nor no such place as New Netherland. I told them that this Country did belong to the Crown of England; as well by ancient discovery as likewise by possession, lawfully taken; and that his Majesty was now pleased to make more ample discovery of this river, and of other places also, where he would erect colonies; and that I was therefore sent hither with a Royall Commission under the Great Seal to take possession hereof. I perceived by their countenances that this news struck them cold at heart, and after a little pause they answered me, that they had traded in this river heretofore. I replied that therein they had done his Majesty and his subjects the greater injury. For, supposing as some of the Dutch pretended, that they had by his Majesties leave traded and planted in Hudson's river, yet ought they not to usurp upon other trades and countries of his Majesty without his leave; and since that he is now pleased to make use of this river, either for himself or his subjects, it would be good manners in them to desist. They then desired to see my Commission, which I shewed them; and after they had read it, and considered well thereof, apprehending the power I had if they should trade without licence to make them prizes, they desired me to give them a copy thereof. I answered them that

it was not the custom of England for his Majesties Ministers to give copies of their Commissions. They then desired to know how I would proceed with them, which they hoped would be the better in regard they knew not of my Commission. I told them I would let them know that hereafter, when my lieutenant was returned, which perhaps would be the next morning.

The next day, my lieutenant being returned, I sent for the Hollanders to dine with me; and this day I spent in making them welcome, and after dinner one of their company drank to me, saying, here, Governor of the South River (for so they call this) I drink to you, and indeed confess your Commission is much better than ours: how say you Copeman (who is head merchant), says he, is it not? To whom the Copeman answered, yes indeed, I have not a larger Commission. The next day about 8 of the clock I sent for them to give them an answer, which was this.—That in regard they were subjects of so ancient allies of my prince, and that they were neighbors here, and since they had carried themselves civilly, I had used them with all courtesy that I might lawfully use. That since I had also shewed them my Commission, I made no question but that they knew indifferently well what they had to do. Nevertheless I was willing they might stay at Awisor two days longer, to provide themselves with whatever they should need; and that I would not suffer any thing to be taken from them during their stay. They then asked me if I would command them to be gone. I answered, I command you not to be gone; but you may look into my Commission, and there you may see whether it be lawful for you to visit or trade into any place I shall possess; whereupon they read over the second time that part of the Commission, and then they answered they would be gone: but they desired a note under my hand for their discharge unto their Governor, to shew the cause why they returned without trading. I answer'd it was not the custom of England, and that they had no need of any such note, since they had seen the Commission under the Great Seal; and that I could not

believe but that their Governor would both credit, and be satisfied with their relation. So they parted civilly, tho' very sadly from me. Before the time of two days was expired, they weighed anchor and went down the river. I sent my lieutenant in my pinnace to see them clear of the river, and to watch them least they should do me ill offices with the Indians on their way homewards. In their way down they sometimes went on board of one another, after the manner of the sea; and the merchant of the ship upon some discourse said, that if they had been in possession at my arrival, they would not have removed for all my Commission. And not long after, he said, I would we were in possession of it again; yet if the West India Company had been ruled by me, they had planted this river rather than Hudson's river; and whilst my lieutenant recommended Hudson's river for a good place, he replied, yea so it is, but this is better: and further said, were I sure we should lose this river, I would tell you something that would please you. I gave my lieutenant order, that after he had waisted these Hollanders out of the bay, he should then go and discover all along the coast as far as Hudson's river, and so on towards Cape Cod, to see if there were any probability of a passage through. He accordingly discovered along the coast as far as Hudson's river, where he was overtaken with foul weather and contrary winds; where he endured the storm, till he was forced by the incommodiousness of his vessel, and want of victuals, to return. In this voyage he left two men, which were killed by the Indians, but found nothing worthy of particular relation.

As soon as he was returned, I sent him presently up once more to the falls to try whether he could pass those rocks at a spring tide, which before, he could not do in a neap tide; but it was then also impassable with any great boat; wherefore he returned back to me again, when he saw he could not pass over the rocks. He went up the river side, some five miles above the rocks, to see whether the river were passable or no, who informeth me, is deep and likely to run very far up into the country. Here also is the brother of the King of

Mohiyon, who is the uppermost King that we have met with, who relateth that he hath been in a canoe twenty days journey up the river above the rocks, which he describeth to run north-west, and west north-west. That he was sent thither by his brother there to a King of his alliance; and that there he heard that this river some five days journey higher, issueth from a great lake; he saith further, that four days journey from this river, over certain mountains, there is a great Mediteranean Sea, and he offereth to go himself along in person the next summer, with myself or my lieutenant, to shew us the same. He saith further, that about two days journey above the falls or rocks, the river divides itself into two branches, the one whereof is this wherein we are, and the other tendeth towards Hudson's river, and the farther you go up the river the broader.

I beseech your Honour, give me leave by the way, to give you a short relation of the commodities and situation of this river. This river dischargeth itself into a great bay in the north parts of Virginia, in 39° and almost a half of latitude. The river is broad and deep, and is not inferior to any in the north of America; and a ship of 300 tons burden may sail up within three leagues of the rocks. The river aboundeth with beavers, otters, and other meaner furs, which are not only taken upon the banks of the main river, but likewise in other lesser rivers, which discharge themselves into the greater; whereof I think few rivers of America have more, or more pleasant. The people are for the most part very well proportioned, well featured, gentle, tractable, and docible. The land is very good and fruitful, and withal very healthy. The soil is sandy, and produces several sorts of fruits, especially grapes, which grow wild in great quantities, of which I have eaten six several sorts; some of them as good as they are ordinarily in Italy or Spain, and were they replanted, think they would be far better. Here also grows the fruit which in Italy they call Lazurboli plum; divers sorts of berries, and divers other fruits not known in Europe. The climate is much like that of Italy; and all sorts of fruits

of that country will thrive here exceedingly. The earth being fruitful, is covered over with woods and stately timber, except only in those places where the Indians have planted their corn. The country is very well replenished with deer, and in some parts with store of elks. The low grounds, of which there is great quantity, excellent for meadows, and full of beaver and otter. The quantity of fowl is so great, as can hardly be believed; we took at one time forty eight partridges together, as they crossed the river, chased by wild hawks; I myself sprang in two hours five or six covies in walking of a mile. There are infinite numbers of wild pigeons, black-birds, turkeys and swans, wild geese, ducks, trailes, widgeons, brants, herons, cranes, &c. of which there is so great abundance, as that the river and creeks are covered with them in winter. Of fish here is plenty, but especially sturgeon, all the summer time, which are in such abundance in the upper parts of the river, as that great benefit might be derived by fitting up a fishing for them; for in the spring and beginning of summer the weather is so temperate that they will keep very well. Here are also great store of wild hops, yet excellent good, and as fair as those in England. Here are also divers other things, which with industry will grow excellent good commodities; and for my part, I am confident that the river is the most healthful, fruitful, and commodious river in all the north of America to be planted.

Hither also very lately came the Hollander a second time, sent hither by the Governor of the Dutch Plantation, with a Com^{ma} to plant and trade here. But after much discourse to and fro, they have publicly declared that if the King of England please to own this river, they will obey. And they humbly desire that he will declare to them their limits in those parts of America, which they will also observe.

May it please your Honour,

I have herewith sent to your Honour a relation of the occurrences of my voyage from Virginia, till this bearer, my Lieutenant's departure from me in Charles River (for that name I

have presumed to give the same, in honour of his Majesties name); nevertheless, I thought fit to give your Honour a particular account of my endeavors and purposes concerning the passage, apart: and what reasons I have to hope and prosecute further the discoveries thereof, when I trust your Honour will perceive the great probabilities I have to attain the same.

I passed by the great river, which I mention to your Honour, with purpose to have pursued the discovery thereof till I had founed the great lake, from which I am informed this great river issueth; and from thence I have particular reason to believe there doth also issue some branch, one or more, by which I might have passed into that Mediteranean Sea, which the Indian relateth to be four days journey beyond the mountains; but having passed near fifteen leagues up the river, I was stopped from further proceeding by a ledge of rocks which crosseth the river over, so as I could not get over with my vessel, by reason of the shallowness of the water, which at high water riseth not above a foot and a half over the rocks, and at low water the rocks are discovered five or six foot deep, so that I determined against the next summer to build a vessel which I will launch above the rocks, in which I purpose to go up to the lake, from whence I hope to find a way that leadeth into that Mediteranean Sea; and from the lake, I judge that it cannot be less than 150 or 200 leagues to the North Ocean; and from thence I purpose to discover the mouths thereof, which discharge themselves both into the North and South Seas. But if I shall fail of arriving at the lake, which I am confident I shall not, I will then take with me out of my vessel both workmen and provisions, which shall be portable, for the building of a small vessel, which I will carry those four days journey over land (whereof the Indian speaks in the relation), with a competent number of men, and then I purpose to cut down wood and fit up a vessel upon the banks of that sea, and from thence make my discovery. And I am confident that this which I propose is feasible, for I am informed by the Indian who offereth to ac-

company me, and is and will be in my power, that beyond these rocks there are no more rocks nor falls to hinder my passage, so far as he hath been. This river I conceive to be the most probable place for a discovery thereof, in regard it runneth so far southerly; and I, for my part, shall most willingly undergo all hazards and dangers, and be at much charge for the service of his Majesty and honour of my country: and I hope to give your Honour good satisfaction of my endeavors therein next winter. In the meantime, I humbly desire your Honour to cast me at his Majesties feet, and to be a means that his Majesty may continue his goodness and protection of me, and that I may not be hindered in the prosecution thereof by any persons either abroad or at home; and moreover, that according to his Majesties gracious grant, I may enjoy those trades I discover in my voyage; and that the passage being once found, as I presented it to his Majesty, I may also have the benefit of his Majesties Articles, whereof I nothing doubt, since I have proceeded so cheereely, and do undertake all, without puting his Majesty to any charge: only because I may have occasion to fortify in some few places as I go, and especially on the river where I now am, which is broad, if he will be graciously pleased to lend, if not bestow on me, some ten or twelve pieces of iron ordnance; whereof I wish that some were half culvering, at the least, I shall acknowledge myself infinitely bound to his Majesty; and whether he favour me with this or no, I will yet be sure to serve him, and love him, and venture my life for him, and for the honour of my country, with the same alacrity; and will, by God's grace, both live and die an honest man. To your Honour I am most particularly bound for your great favours and dispatch, and will think myself happy in being able to do you ever all humble service; and so I most humbly Kiss your Honour's hands this 20th of October, 1634, from Charles River, Delaware.

Your Honour's most humble
and most obedient Servant,

THOMAS YONG.



NOTE.

Capt. Thomas Young, the Author of the foregoing letter and "relation," was an uncle of GEORGE EVELIN, The First Commander of Kent Island. He projected discoveries, and the planting of Colonies, and early in 1633, made earnest application to the King and Ministry for secret orders to proceed upon his expedition. His suit seems to have been favorably entertained, and the commission that he solicited to have been promised. But time wore on and it was not issued, and, in April, 1634, he again made "humble suit to Secretary Windebank, to hasten the despatch of his Majesty's letter on the behalf of Mr. Young and his nephew, Mr. Evelin," (Robert, the brother of George,) "which is to be patent" &c. This application received prompt attention, and a royal order was issued: "His Majesty having satisfied himself of the fidelity of Capt. Thomas Young, hath employed him, together with his nephew, Robert Evelin of London, gent, whom Mr. Young has chosen to accompany him as his Deputy, into America, on special occasions of his Majesty's service, which his Majesty thinks fit to remain private to himself, and *whereof his Majesty expects speedy and particular accounts from them*: He therefore commands all officers to permit them to pass in all his dominion without hindrance, and to give them help if needed" &c. These papers are thus of the nature of official reports as required by his commission.

H. S.

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