

quatuor menses id facere distulerint) posse decernimus; inhibentes omnibus et singulis Archiepiscopis, Episcopis aliisque ecclesiarum praelatis et locorum ordinariis, ac quibusvis aliis potestatibus ecclesiasticis et saecularibus, illis nihilominus mandantes, ne ipsos Socios aut eorum domos, ecclesias aut collegia hujusmodi ad aliquorum requisitionem ex propria eorum voluntate, si id in Domino expediens fuerit, aedificare volentes, quoquomodo in hujusmodi constructionibus impediant, perturbent aut molestent. . . .

## B.

*As to the persons of the members, with relation to this property: ibid.* . . . Ipsamque Societatem et universos illius Socios et personas illorumque bona quaecumque ab omni superioritate, jurisdictione, correctione quorumcumque Ordinariorum eximimus et liberamus, ac sub Nostra et praefatae Sedis protectione suscipimus. . . . Nec ullis praelatis contra aliquem de praedicta Societate vel contra alios, eorum causa, aliquam excommunicationis, suspensionis vel interdicti sententiam, contra ejusdem Societatis privilegia per Nos concessa (quorum interpretationem Nobis et Apostolicae Sedi reservamus) ferre liceat; et, si tulerint, eo ipso irrita nulliusque roboris vel momenti sit et esse censeatur.<sup>13</sup>

*Paul III., Bull of October 18, 1549: Licet debitum.—Cf. No. 131, 3, note 5.*

## No. 62. 1728, 12th and 17th February.

White Marsh: devise of James Carroll. *The name "White Marsh" for "Carrollsbury" <sup>14</sup> does not appear either in the designation of the property at large or in the descriptions and plats of any particular parcels. Some thirty years after James Carroll's time that name had somehow become familiar with the Fathers; and it designated apparently the whole or a part of that division of the estate, which lay in Prince George's Co., to the west of the Patuxent (Carrollsbury, etc.), and not Fingaul, Carroll's residence, which with other subdivisions lay to the east, in Anne Arundel Co. A notice of this benefactor's death is the first entry on the inside cover of the old Record book, L. 1, in the Md.-N. Y. Province Archives; and it is followed by a similar record of the Father Robert Brooke, S.J., mentioned before, another distinguished benefactor.<sup>15</sup>*

<sup>13</sup> Compare No. 139, Marechal, 26 November, 1826, to Cardinal Della Somaglia: a quotation from this Bull.—Cf. also History, I. § 5, p. 164, on the absolute juridical rights of the regular Orders.

<sup>14</sup> This property [White Marsh], formerly known by the name of Carrollsbury, was received from James Carroll, etc. *General Archives, S.J., Maryl. Epist. 6, ii.: the Charles Neale—Benedict Fenwick Memorial, 22 November, 1822, addressed to the General, p. 20.* Cf. No. 184.

<sup>15</sup> No. 42, note 9.

A. . . . C . . . roll died on y<sup>e</sup> 13th of Ju- . . . -ctor Hv- -s  
Miss<sup>ns</sup>

*James Carroll died on the 13th of June, 1729, at Annapolis, in the house of his godson, Charles Carroll.<sup>16</sup> The part decayed in the record should probably be filled up in this manner:*

*James Carroll died on the 13th of June, 1729, insignis benefactor Hvys Missionis.*

1728, February 12.

## B.

In the Name of God, Amen. I, James Carroll of Fingaul in All Hallows Parish, Ann Arundel County, being thro' the Mercy of God in perfect health, do declare what follows to be my last will and testament. . . .

I desire and appoint one thousand pounds sterling of the produce aforesaid be applied towards the education of my nephew and heir apparent Anthony Carroll, my brother Daniel Carroll's only son, to be laid out in the manner hereinafter mentioned. . . . In case my aforesaid nephew shall dye or prove unsusceptive of learning, or prove incorrigible, or want application in any of the courses aforesaid before he attains to twenty-one years, then it is my will and [I] do require my executors to discontinue the application of money to his education; or, if he prove vicious, to also discontinue. In such cases it is my will that the money designed for his education be applied to the education of my nephew James Carroll, son of my brother Michael, if he shall not exceed sixteen years of age at my death. . . .

*It was this article of Mr. James Carroll's will, taken in conjunction with the accompanying dispositions about these two heirs, Anthony and James, becoming eventually joint executors, that occasioned the violent anti-Catholic agitation in Maryland of 1750 and many subsequent years, one of the acting executors having become a defaulter, and in self-defence casting up to these heirs their character of recusants and priests. Both of them at this time had become Jesuits.*

*After various items and legacies, the will proceeded to the immediate benefactions in favour of the Society. These were put by the testator under cover of the name of Charles Carroll, Esq., his cousin and godson, the faithful friend of the Order, father of Charles Carroll of Carrollton, and one of the acting executors, who is carefully to be distinguished from his namesake, the defaulting executor, Charles Carroll, surgeon, of Annapolis.*

<sup>16</sup> K. M. Rowland, Charles Carroll of Carrollton, i. 15.



*Md.-N. Y. Province Archives, N, 169-172, several old copies, much corroded, of the will and codicil.—Stonyhurst MSS., a great volume of "Wills, S.J., etc.;" "Wills of Externs," No. 10. The will is printed in K. M. Rowland's Life of Charles Carroll of Carrollton, ii., Appendix C, pp. 380-389, among other Carroll wills of 1718, 1780, 1825.*

*This is the will about which, as about other bequests and purchases, it was contended later, that the property was never meant for the Society, nor ever rightfully appropriated by the Jesuits; that it was a trust for other parties, not yet indeed in America, nor as yet in existence, nor ever connected by birth or business with the actual donor or the vendors antecedent, nor claiming to be heirs and assigns of Thorold, Attwood, or Greaton, but still claiming a right to be substituted for the donees of one hundred years before.<sup>19</sup>*

## No. 63.

1728-1776.

Subsequent history of James Carroll's legacies to his nephews, Anthony and James, both Jesuits. *The education of James Carroll, Jun., son of Michael, was provided for by his uncle's will. Particulars of his expenses at St. Omer's appear in the English procurators' accounts. He entered the Society in 1741, and died at Newtown in Maryland as a Jesuit missionary in 1756, at the age of 39. Anthony, the heir-at-law of James Carroll, Sen., entered the Society in 1744, at the age of nearly 22. He had been educated at St. Omer's, and thenceforward had large remittances sent to him by Mr. Charles Carroll, from which or from other funds in his name there were provided regular annuities for his sisters, Mrs. Margaret Biggs and Mrs. Mary Ashton; as well as appropriations for the benefit of St. Omer's, nearly £400 being assigned to that purpose at one time, 8th May, 1754. His nephew Ashton, a Jesuit, the future Father Ashton of Maryland, was provided with an annuity in 1765. Then in 1772 Father Anthony sent a power of attorney to Father John Ashton in Maryland, enabling him,*

A. 1772, May 2.

by all lawfull ways and means to recover and receive . . . from the executors of the last will and testament of his . . . late uncle, James Carroll, late of Fingaal in Allhallows Parish in Ann Arundel County in Maryland . . . all such sum or sums of money as now is . . . owing and

<sup>19</sup> No. 115, § 32: Notorium est namque omnibus illud [*praedium White Marsh*] fuisse non ita pridem ipsorum [S.J.] bonae fidei commissum a pio donatore Jacobo Carroll ad generalem ecclesiae Marylandensis utilitatem. *Marechal, 19 August, 1820, to Card. Fontana, Prefect of the Propaganda.*

payable for principal and interest upon and by virtue of a legacy of one thousand pounds bequeathed unto him, the said constituent, by his late uncle in and by his last will and testament.

*Two years later, after the Society had been suppressed, he made some arrangement regarding a £28 sterling life annuity of his charged to the account of the old St. Omer's College now transferred to Bruges, and conducted still by his ex-Jesuit brethren. This was on the 23rd of April, 1774. With this benefaction of Mr. Anthony Carroll the following resolution probably was strictly connected. It was passed at the first congress of the English ex-Jesuits, who set the Maryland ex-Jesuits the example of forming themselves into a Body of Clergy acting through a Chapter.*

1776, May 6.

B.

Die Lun. Maii 6, 1776 . . . 46. Resolved that the sum of £250 be paid to Mr. Ant. Carroll, in full of all demands upon the [London] office, contained in a petition presented by him to this assembly.

*Then, voyaging to Maryland in the same spring, he "happily finished a business he had to settle in these parts," as Father Farmer expressed it,<sup>20</sup> and returned to spend the rest of his life in England, where he died by violence, London, 5 Sept., 1794.*

*English Province Archives, Ledger B, pp. 29, 30, Anthony Carroll, 1753-1769. Ledger Wn, Maryland Accounts, pp. 95-108, Mr. Ant. Carroll, 1748-1754. Ledger College Day-book E, 1731-1735.—Ibid., MSS. Ex-Jesuits, etc., vol. 2, ad init.; Acts of the 1st Congress, April 29, seq., 1776.—Md.-N. Y. Province Archives, (b) White Marsh, certificate of the Lord Mayor of London, etc., on behalf of Mr. Anthony Carroll of the City of Exeter of the county of Devon, Gentleman, executing and delivering a Letter of Attorney hereunder annexed, in favour of Mr. John Ashton of Elkridge, in the Province of Maryland, Gentleman, 2nd May, 1772.—Stonyhurst MSS., MS. B, iii. 15, No. 12, similar power of attorney to Mr. Thomas Berington, 23rd of April, 1774.*

## No. 64.

1729, June 19; 1737, June 16; 1805.

Father George Thorold's two wills. *Both wills make mention of Thorold's own manor, but do not say what he did with the proceeds. The second of 1737 which was operative in the future, created an entail that was never intended and exposed the property to an escheat in 1805.*

1729, June 19.

A.

Maryland Ss.

In the Name of God, Amen. I, George Thorold . . . do make this my last will. . . . In primis, whereas I've formerly sold the maner of

<sup>20</sup> *Md.-N. Y. Province Archives, 1775, June 13, Ferd. Farmer, Philadelphia, to (. . . ?).*

A large loan of nearly £2000 sterling, placed by the Province at the disposal of the mission, was never repaid.<sup>14</sup> Father Attwood had thought of calling upon the Catholic flock for some contributions. The Provincial Turberville did not approve of the suggestion (1728).<sup>15</sup> The Provincial Corbie reaffirmed this principle of maintaining financial independence (1759), though, in the encumbered state of Province affairs, he threw out two alternatives, one being a gentle threat.<sup>16</sup> He said that the "flourishing mission" might find itself decaying for want of new men if it did not pay for their outfit and voyage; or else it might "be found necessary to levy charitable contributions upon those for whose help and assistance they [*the new men*] are procured."<sup>17</sup>

As to losses by the South Sea Scheme, the correspondent of Lord Townsend was not misinformed. What with investments badly made, and the dilapidation of property through the Popish Plot and the anti-Catholic Revolution, "we have lost," wrote the Provincial Turberville in 1727, "near £30,000 since the Popish Plot, and are daily losing; which in a short time will make us incapable to serve our neighbor. Mr. Kennets [*the procurator's*] office ruined unless he can redress it."<sup>18</sup>

<sup>14</sup> Documents, I. No. 54.

<sup>15</sup> *Ibid.*, No. 51. Cf. No. 59, Bishop Carroll's review of the situation.

<sup>16</sup> It was this Jesuit principle, a peremptory one, of financial independence which made the French donors of land for the Order, in Canada, state explicitly that, in consequence, they attached no conditions hampering their beneficence. See *supra*, §§ 140-145, *passim*.

<sup>17</sup> *Ibid.*, No. 56.

<sup>18</sup> Engl. Prov. Arch., Thorpe's *Extracts*, 1727, Turberville to Sabran, May.—There is an elegy running through the extracts of correspondence: "1721. No news here but misery and confusion occasioned by the South Sea. God send us well out of it. May. E. Gage to Ebersson." Forty years later: "Mr. Corbie's [*the Provincial's*] outgoings exceed his incomes by above £1000 p. ann. How long, pray, can he go on at this rate, and what will become of his family? He makes his procurator's heart bleed to think of it. 11 Spt. 1761. P. [*Poynts*()], *the procurator*." This was the Provincial Corbie who made the backsliding mission of Maryland take her share of her own burdens. See Documents, I. No. 56.

Owing to the South Sea investment, the London college alone, consisting of thirteen Fathers, eight in the city and five outside, found its means reduced from 1625 *scudi* annually—the interest of funds and the allotment of Jesuits' life annuities—to 54 *scudi*; that is, from about £28 annual allowance for the maintenance of each Father to about £1. (*Anglia, Catal.* 3, *seu rerum*, 1723, where, however, the number in the college is distinctly said to be 26. Foley, *Collectanea*, I. clxiv., reports thirteen, as living on those funds; the rest, he says, lived upon the alms of the Catholics.)

The reason for such investments as that of the South Sea is given in a document of about 1800, written by Father William Strickland, London procurator at that time. Speaking of the past, he says: "An idea in those times pretty generally prevailed that moneys belonging to religious uses were not secure in the English funds, or on any securities in this country; and the consequence was that foreign securities were eagerly sought for; and, when found, the money was placed on those securities. By the failure of these securities very considerable sums were lost." (Engl. Prov. Arch., P. memorandum book, pp. 2, 3. Strickland is speaking of the Lavalette affair.)

Among gifts of land made to the mission of Maryland by persons not belonging to the Order, three fall under our notice. One was very ample. The estate of White Marsh, 2000 acres in Prince George county, was devised to the Society by James Carroll (February, 1728, O.S.). This gentleman was a cousin and godfather of Charles Carroll, second of the Maryland line bearing that name. The devise in favour of the Fathers named by him was effectual; and the land-sharks of the time seem to have left it alone. But the dispositions which he made in favour of his two nephews, Anthony Carroll and James Carroll, were not so fortunate in the event. Both of these nephews became Jesuits. The two executors were Charles Carroll, Esq., the cousin and godson just named, and Dr. Charles Carroll, of Annapolis, surgeon, also a cousin of the testator. This latter gentleman defaulted, having already abandoned the Catholic Church; and the suit instituted by Charles Carroll, Esq., joint executor, against the defaulting surgeon led to the violent anti-Popery agitation of 1750-1756.<sup>19</sup> Besides this donation of White Marsh, the most valuable of all the Jesuit estates in Maryland and Pennsylvania, there was a gift (1758) of over 800 acres from Mr. Joseph Gates, who was called by Father Thomas Digges, "the Baltimore County Saint."<sup>20</sup> Another conveyance, that of a small property, 115 acres, was made at Deer Creek, in Harford county, by Thomas Shea (1764).<sup>21</sup> Matters of less consequence we omit here.

§ 212. The allocation of considerable money to the service of the Jesuits in 1740 and 1744 seems to show a trend of policy at the time, as if, England becoming more and more impracticable, the English Jesuits and their friends were looking towards America, and especially Pennsylvania, for a fair field of ministerial work in the future.

About 1734, the Jesuit Joseph Greaton had opened a Catholic chapel in Philadelphia.<sup>1</sup> This Father was a convert, who had been ordained in the English seminary of Valladolid. A petition of

<sup>19</sup> Documents, I. Nos. 62, 63.—*Infra*, § 220.—If, at the moment of the devise, the property of White Marsh escaped intact the anti-Popery spirit of 1729, it still showed in the sequel how lynx-eyed people were to detect any flaw in a title. An ill-worded will of Father Thorold's in 1737 had the effect in 1805 of vacating almost all the Jesuit titles to real estate; so that an act of the Maryland legislature (January 28, 1807) was necessary to amend the technicality, and re-establish the title as it was in equity. (*Ibid.*, Nos. 64, C; 165.)

<sup>20</sup> *Ibid.*, No. 66.

<sup>21</sup> *Ibid.*, Nos. 73, 84, A.B.

<sup>1</sup> Cf. *Researches*, xvi. 59-106, M. I. J. Griffin, "Rev. Joseph Greaton."

first under a confidential trust through Charles Carroll, and then, by a codicil, directly and without disguise, to "the said George Thorold, his heirs and assigns for ever."<sup>12</sup>

The appearance of Indians or French anywhere on the borders provided an occasion, always snapped at, for an agitation against the Papists. As Nicholas Spencer, secretary of Virginia, had written at the time of the Orange Revolution, there were always unruly and disorderly spirits seizing every chance in affairs to raise the cry of religion—evil members, who desired to fish in disturbed waters.<sup>13</sup> Any disturbance in Great Britain served the same purpose. Thus on the young Pretender's campaign in Scotland (1745, 1746) any charge could be hung against the Papists at the other end of the world, in Maryland.

Father Richard Molyneux, superior of the mission, was supervising the development of Pennsylvania affairs in 1744, at the same time when a treaty was being negotiated between the colonies and the Indians, at Lancaster, in Pennsylvania. In the following year, 1745, the Jesuit church of St. Mary's was opened there. The same year was the date of the young Pretender's enterprise. These circumstances were enough for all kinds of tales: that Molyneux, "the Principal of our Jesuits" was at Lancaster, and was an agent of the French to prevent a treaty of the Six Nations with the English; that, being charged in the provincial court with treasonable practices, he "was so conscious of his guilt" as to beg for liberty to leave the province; that the judge himself remanded the case, which was taken up by the council; and the council, "having examined him privately, discharged him without any publick mark of resentment." All this showed to evidence the dark guilt of the Jesuit Principal, as some one gravely informed the Earl of Halifax. These and similar matters were so serious that Lord Halifax asked the informant several questions; he declared "that this affair demanded the attention, not of the Board of Trade only, but even of the whole legislature"; and that "he made no doubt of the facts represented to him."<sup>14</sup> To

<sup>12</sup> Documents, I. No. 62, C, E.

<sup>13</sup> P. R. O., *Cal.*, viii. § 92; April 27, 1689.

<sup>14</sup> Md., N. Y. Prov. Arch., C. No. 63, §§ 5, 6, "Memorial to the Earl of Halifax"; and letter thereupon, London, February 25, 1752, to the representatives of Calvert, Ann Arundell, Prince George and Charles Counties.—The writer is a Maryland busybody, who has seized on the Popish evil to cater for the post of provincial agent, which ought to be established in London, and for which he is clearly approving himself. (Cf. *Researches*, ix. 42.) The name of the busybody is given in a letter of G. Carroll of Carrollton to his father, 1760. Mr. Calvert had told him that "one Brooks had brought over and presented to my Lord Halifax a memorial, loaded

adventurers who laboured with enterprise under the anti-Popish obsession, the state of Papist oppression under which all Protestants groaned was obvious.

After the Lancaster affair, a great proclamation was issued by Governor T. Bladen (July 3, 1746) against Jesuits and Popish priests, who were seducing his Majesty's good Protestant subjects from their allegiance. In due course, Governor W. Gooch was also to the fore with his proclamation against priests who penetrated into Fairfax county, Virginia.<sup>15</sup> The turmoil in Maryland was so threatening that, two months after Bladen's proclamation, Father Molyneux made an assignment of all the real and personal estate which the Society possessed in Maryland, for the consideration of £1000 currency. The friend to whom he confidentially entrusted the property under this formality was Mr. John Lancaster (September 9, 1746).<sup>16</sup>

Assignment of all the Jesuit property in Md., 1746.

§ 220. Here followed a period of years, signalized by violent anti-Catholic and anti-Jesuit persecution, from 1750 till 1756. Writing in 1760 after the events, Charles Carroll, second of the name, said to his son Charles of Carrollton, who was then a young man of twenty-two studying law in Europe: "From what I have said I leave you to judge whether Maryland be a tolerable residence for a Roman Catholic. Were I younger I would certainly quit it." In any case, he said, he was ridding himself of his real property, that his son might be freer to leave the colony with ease.<sup>1</sup> What had happened was a drama which only Maryland was in a position to enact; for that plantation alone had an influential and well-to-do body of Catholics. It showed the same will to do by them as all the other colonies were doing on a scale much smaller, for want of ampler material to exploit.

Charles Carroll himself, whom we shall name the Squire, gave the immediate occasion for this crowning episode in Maryland religious history, by calling into court Charles Carroll, a surgeon of Annapolis. But the remote occasion was a question about the property of two Jesuits, one the heir at law, the other legatee, of James Carroll, their uncle, the same who had devised his estate of White Marsh to the Society

The Jesuit principals in the Carroll case.

with the deepest and most severe complaints of [against] the R.C. [Roman Catholics], and Proprietary family" (*Md. Hist. Magazine*, x. 255. See *infra*, p. 547, note 5).

<sup>15</sup> *Supra*, p. 515.

<sup>16</sup> Documents, I. No. 80.

<sup>1</sup> Rowland, i. 43; July 14, 1760.

in 1729.<sup>2</sup> These two young men, Anthony and James Carroll, were also executors under the will; but, during their minority, or their absence in Europe, their executorship was discharged by the Squire and the Surgeon, all these parties having the same family name, and being closely related.<sup>3</sup> The Jesuit legate, Father James Carroll, returned to Maryland from Europe in 1749.

In the name of the Jesuit Carrolls, who were the principal executors, the Squire caused a bill of complaint in chancery to be filed against himself and the Surgeon, for the execution of their trust during twenty years of administration. He made his own separate answer to the bill, stating that the Surgeon had demurred to give an account of his trust, and had offered to "lump the account" by paying £420 sterling, in acquittance of his obligations. The Squire averred that such a sum was about one-third of what the Surgeon owed; and that, in any case, "he would not accept £1000 nor lump the account," but would insist upon a particular return of receipts and disbursements.<sup>4</sup> In presence of Daniel Dulany, commissary general, who was resorted to as referee by the parties,<sup>5</sup> the Surgeon had retorted on the Squire, that the latter "was fishing for the Society of Jesuits; and that he might stretch the string on the lion's skin till it broke." The commissary wrote in a letter to the speaker of the lower house: "I understood this to be an allusion to the Penal Laws." Dulany's disapproval of such cavilling had only elicited from the Surgeon the expression of a sensitive and refined apprehension. "I remember," said the commissary in the same letter, "the Doctor mentioned his being apprehensive of incurring a Praemunire, if he paid the money to Mr. James Carroll's legatees; to which I answered that I did not doubt but he had discretion enough to act safely."<sup>6</sup>

In his anxiety to extract from the referee Dulany an opinion which would suit himself, the Surgeon had sent him beforehand a secret protocol of the advice to be given: "I must request you will make this an ingredient towards giving such. I am appointed executor by the will, (which may be proper for you to see,) during the minority of Mr. Carroll's nephews only, who are now taken into orders and are

<sup>2</sup> *Supra*, p. 495.

<sup>3</sup> John Diggs and Francis Hall were likewise appointed in the will as substitute executors, but their names do not appear in the litigation.

<sup>4</sup> The will had it, speaking only of a residue: "standing debts, money in England, bills of exchange remitted, tobacco remitted or to be remitted or housed, lands, mortgages and bills of sale, or other securities" (Rowland, ii. 384).

<sup>5</sup> Apparently January 21 or 22, 1750.

<sup>6</sup> May 28, 1751.—The statute of Provisors or Praemunire is chiefly 16 Ric. II. c. 5.

priests. 2. Whether a recusant or priest can be an executor? If not, what right has Mr. Carroll to call me to account; or who shall have the residue of the estate?"<sup>7</sup> That is to say, Squire Carroll as a recusant, and the Jesuit heirs as priests had no standing in law to be executors, and to call on the Surgeon for an account. What remained of the Jesuit nephews' property, as goods not to be accounted for, should lapse to the Surgeon, as first occupant of a vacant estate. Dulany's answer to this subreptitious attempt was given by word of mouth. As he informed the speaker of the lower house, transmitting at the same time the Surgeon's extraordinary letter: "I wrote no answer, but told Dr. Carroll that I would not make the ability or disability of the legatees any ingredient in my opinion"; and he disowned in the most solemn terms what the Surgeon was reported to have said in the lower house, that "I told him in private conversation, he would be in danger of a Praemunire, if he paid the money." In Dulany's written opinion delivered to the parties,<sup>8</sup> and subsequently published by the Squire as part of an "Advertisement," the commissary's legal advice practically left the defaulting Surgeon in the grip of the law.

The lie of the case, which became a public issue in 1751, was perfectly clear. Jesuits and Catholics were to have no standing in law, that the defaulter might stand on his feet; and his speculation was to be protected and maintained out of a proper regard for the Statute of Provisors—albeit the provisions made by the Surgeon for lining his own nest had not been precisely the Papal provisions for ecclesiastical benefices, contemplated in Plantagenet law.<sup>10</sup>

The Surgeon himself had acquired a standing. Once a Catholic, he had become a renegade, whether as an antecedent to his speculation, or, more probably, as a necessary consequence. On Easter Monday, April 11, 1748, he had been "unanimously" elected a vestryman of St. Ann's parish, Annapolis; and, during his three years of service, he attended the vestry

<sup>7</sup> Cf. *supra*, p. 161; the Virginia harpy, Joseph Bridger, fastened on this article of Stuart and Orange manufacture.

<sup>8</sup> January 21, 1750.

<sup>9</sup> January 22, 1750.

<sup>10</sup> This turn of larceny into religion was not new either in British or in Roman history. In the Martyrology for July 30 is commemorated the case of St. Judith, a lady of Cappadocia, who demanding her property from a man of influence, and making an appeal in court against the robber, was met by him with the exception that she was a Christian, and had no right to a hearing. The judge ordered her to offer incense as a pagan, and qualify herself. As a Christian she refused, and was cast into the fire. This is religious history in miniature. Indeed, St. Augustine makes out much imperial history likewise to be only a story of grand larceny (*latrocinium*): "*Remota justitia, quid sunt regna nisi magna latrocinia?*" (*De Civ. Dei*, iv. 4.)

The defaulter's title by occupancy.

The defaulter's titles to respect.

meetings with great assiduity. The date of his relinquishing the responsible office, in 1751, coincided with that of the legal process against him as a defaulter, and also with the date of a vestry order, that the depleted congregations of the Anglican Church in Maryland should be replenished with all kinds of persons.<sup>11</sup> It coincided also with another event in the Surgeon's career. He was returned as an honourable member of the provincial assembly; and, at the critical moment in 1751, he sat there as a legislator, with the immunities due to an honourable man. Anti-Popery was now on the flood, swelling with a strong tide in the legislative chamber. The affections of the assembly warmed to the defaulter as to one of themselves; to a persecuted man, as engaging the tenderer sympathies of their nature; to an anti-Papist and anti-Jesuit, as embodying the only religion which they knew.

§ 221. On May 22, 1751, the committee of grievances represented to the honourable lower house the growth of Popery in the province; the education of Catholic children in foreign Papist institutions; the return of many such as priests and Jesuits, who, said they, "here live together in societies, propagating with great industry and zeal"; and the existence of houses belonging to such, "with public Mass houses." Worse than that, these Jesuits teach youths, hold tracts of land and plantations, extend to the back parts of the province, where French and German and other foreigners are. Altogether, the inconveniences, "which must attend this spreading evil, are to many for us to enumerate. Therefore we humbly submit them to the consideration of your honourable House."

Two days later, Squire Carroll, who had not the franchise of

<sup>11</sup> *Md. Hist. Magazine*, ix. 169: "March 5, 1750-1. . . . Present, The Rev. Mr. Malcolm, Rector, Mr. Thomas Worthington, Dr. Charles Carroll, Dr. Alexander Hamilton. . . . The Vestry ordered, That an Advertisement should be set up by the church wardens, relating to the Statutes of England and Laws of this Province, which oblige all persons to attend the public worships of God." This pious industry was well intentioned, that of engaging people to fill empty pews; but it was rather of the "sweating" kind, for the wages were so low, being none other than an escape from the operation of penal laws. Still, the defaulter's kindly vestry practised self-restraint; it issued only an Advertisement. Ancient Barbados had been more zealous, when it sent out a press-gang of "constables, churchwardens and sidesmen" twice every Sunday, to search the taverns and ale-houses; to relieve tipping backsliders of five shillings' alms for the use of the poor; or else to use another alternative with these backsliders, who would not pray or doze in pews, nor pay the five shillings fine. The gang, which made its rounds in taverns and ale-houses instead of saying its prayers, was authorized to sweep such prayerless sinners into the stocks of the market place, and keep them there in contemplation for four hours; during which time, we may be certain, the reforming culprits did not pray in the right way. See *supra*, pp. 100, 101.

sitting as an honourable member and explaining the case inside, affixed an "Advertisement" to the state-house door outside.<sup>1</sup> This paper contained the relevant matters. There was "The Hon<sup>ble</sup> Daniel Dulany Esq., his Opinion"; as also a few paragraphs by the Squire himself on the outcome of the conference before Dulany, and on the bill in chancery now preparing, to "be shortly filed by one of the legatees of James Carroll, to bring Dr. Carroll and Mr. Carroll to a fair account." The house forthwith resolved that the said Advertisement contained scandalous and malicious reflections upon its own proceedings, and upon an honourable member of its own body—the defaulting Surgeon. It was ordered that the Squire should be taken into custody by the sergeant. It was moved that the Advertisement should be stigmatized as "false." Fifteen said Aye to this; twenty-seven said Nay. The conception of truth was not yet extinct. Then twenty-two voted that the Squire should be thrown into the public gaol; but twenty-eight voted No. Squire Carroll made a kind of apology, without retracting anything. Here began depositions taken in this year (1751), and several following years, to the damage of Father Wappeler and other Jesuits, about whom we should learn not a little, if the deponents told the truth or knew it. The depositions were largely filled with the usual nonsense of anti-Popery.

At once, in the same May, 1751, the house drafted a bill and then passed it, for rescinding the suspending act of Queen Anne, and putting in full force all the provisions of William III.'s anti-Popery act.<sup>2</sup> The rewards provided in the said act were to be paid by the public treasury to any one "who shall apprehend any Popish bishop, priest or Jesuit," and shall prosecute the said felon unto conviction, for "saying Mass, or exercising any other office or function of a Popish bishop, priest or Jesuit within this province."<sup>3</sup>

At the same time an humble address was presented by the worthy burgesses to his Excellency Samuel Ogle, Governor of

<sup>1</sup> May 24, 1751.

<sup>2</sup> 11 & 12 Gul. iii., c. 4.—This suspending act had already been despatched by Governor Hart's assembly (*supra*, p. 486). Here, as in the Brooke case (p. 527), it seems to be still alive. Many circumstances go to show that, in cases of their own history and law, Maryland people enjoyed the benefit of what grand juries used to express as "Ignoramus."—Governor Sharpe likewise kept safely within the nebulous folds of history when he spoke to John Sharpe (October 10, 1756) of "the Penal Statutes, which by an act of Assembly made long since are declared to extend to this Province" (Georgetown Coll. MSS., as *infra*, p. 550, note 16).

<sup>3</sup> Passed, lower house, June 1, 3; passed upper house, June 3; deferred till last day of July next, June 8, 1751.

The province's grievances against Jesuits.

The arrest of Squire Carroll.

The Jesuits made felons in Maryland.

in aid of the Protestant taxpayer, was an idea which required as yet two years to mature.<sup>6</sup>

§ 223. Aided and abetted by the people outside, the faction was indefatigable, and cultivated its majority inside. The citizens of Prince George county, in November, 1754, instructed their delegates "to dispossess the Jesuits of those landed estates, which, under them, became formidable to his Majesty's good Protestant subjects in this province; to exclude Papists from places of trust and profit; and to prevent them from sending their children to foreign Popish seminaries, whereby the minds of youth are corrupted and alienated from his Majesty's person and government." In Cecil county, where Bohemia lay, Protestants manifested an anti-Papist zeal for proscription, quite worthy of the Protestant rector of a parish there, the Rev. Hugh Jones.<sup>1</sup>

The faction returned to the charge in the next year, 1755; and passed a bill "to prevent the importation of German Papists, and Popish and Jesuitical priests."<sup>2</sup> This being amended in the upper house was dropped. Another session in the same year<sup>3</sup> showed how the discipline of the political machine was improving. "On motion it was resolved unanimously" that a certain statute, the antiquated law of William and Mary for relieving Protestant dissenters from all penal laws therein mentioned,<sup>4</sup> should be extended to the province of Maryland; and that all the penal statutes therein named should now operate in Maryland, as against Catholics. This was the old artifice of Governor Seymour and his managers. It had been "a blind jump" then, said Seymour; the assembly did not know what it was led into doing.<sup>5</sup> Now this long-forgotten "blind jump" the lower house itself conceived the pleasure of remembering, and trying again, but not blindly. It joined unanimously in an address, which called upon Governor Sharpe to have all the penal laws, enumerated in the said statute of William and Mary, put at once into execution against Papists, throughout the length and breadth of the land.

They addressed the governor. But, at this moment a domestic bereavement befell the honourable house. The embezzler, Charles Carroll Surgeon, died.<sup>6</sup> Regardless of the decent mourning with which the worthy company honoured the

<sup>6</sup> For the sources of this § 222, see *infra*, p. 550, note 16.

<sup>1</sup> *Records*, xxiii. 110, 111, E. I. Devitt, "Bohemia."

<sup>2</sup> February 22, 1755.

<sup>3</sup> 1 *Gul. & Mar.*, c. 18.

<sup>4</sup> *Supra*, pp. 458-460.

<sup>5</sup> June 23, 1755.

<sup>6</sup> September 29, 1755.

memory of the peculator, Charles Carroll the Squire, whose case against him was still pending, filed a bill of revivor against the surgeon's son and heir.<sup>7</sup>

At last, the year 1756 witnessed a brilliant campaign. The faction, which had become very strong, deserved all the success which it won. It had been obstructed steadily by the council and the council's president, the governor. It now broke down the council's obstructiveness by lashing the general public into anti-Papist fury. It brought the governor to his knees by representing him as favouring Papists.

The campaign recalled a scene which we have already described, that of Nevis with its law of blood against Papists; when a certain Mr. Smith careered through the island, posing as a patriot, and swept in a new assembly, composed, said General Fleming, "of persons of the meanest abilities, most desperate fortunes, and most immoral manners by farr, known upon that island."<sup>8</sup> In Maryland, the Protestant clergy were not wanting in such a holy work of zeal. There was that Rev. Mr. Chase, who had led the embezzler's party in the convention of the clergy, and who, as the Rev. Mr. Bacon wrote, seemed to have been suborned by the peculator.<sup>9</sup> Chase appears also to have been the reverend party with whom the relapsing Protestant named Wakeman had been personally acquainted, and with whom Wakeman's description of the Protestant clergy directly squared.<sup>10</sup> Of him Governor Sharpe wrote to the proprietary: "Mr. Chase, rector of St. Paul's parish in Baltimore county, scrupled not to intimate from the pulpit to his congregation, that the state or situation of the Protestants in this province was, at that time, very little different from that of the Protestants in Ireland, on the eve of the Irish massacre."<sup>11</sup>

To shield himself, as well as the auxiliary interests of justice and decency, from the rising storm of fanaticism, Governor Sharpe had called upon all the magistrates of the counties to report about the Papists, coupling them, of course, with negroes. None had

<sup>7</sup> Rowland, i. 25, C. Carroll, July 26, 1756, to his son.

<sup>8</sup> *Supra*, p. 202.

<sup>9</sup> *Md. Hist. Magazine*, iii. 363.—Chase's articles read by Magill, and relating to Popery and Jacobitism, were the very same, says Bacon, "which had been agitated in the Committee of the Agrievances, and drawn up in the very stile and spirit of Dr. Carol [*the Surgeon*]."

<sup>10</sup> *Ibid.*, 375: "By G—d, all he know of our clergy were such a pack of d—m'nd scoundrels, he did not think them capable of leading him any where but to hell."

<sup>11</sup> Ridgely, *Annals of Annapolis*, p. 96, Sharpe, December 16, 1758, to Lord Baltimore.

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