

and others filed a protest against the allegation that attorneys had charged excessive fees in the past, and deprecated the restriction upon the freedom of the attorneys and clients to agree as they pleased. A new act<sup>1</sup> modified the limitations without settling the controversy, and the limitations were continued in force until 1729. All the statutes met with the proprietary's dissent. A further act in the year 1729<sup>2</sup> also received his dissent.

### 9. THE SUPPLY OF LAW BOOKS

The purchase of law books for the colonies of which Burke spoke in his speech on conciliation with America was not then a recent development. There are many evidences of a substantial supply in Maryland at the end of the seventeenth century. Mention has been made of the requirement that the courts keep at hand copies of Dalton's *Country Justice* and the English statutes, and in 1723 Hale's *Pleas of the Crown*, Hawkins' *Pleas of the Crown*, and Nelson's *Justice* were added to the list.<sup>3</sup> But some individuals were much better supplied. In 1695, when consulted by the governor and council,<sup>4</sup> the lawyers asked time to refer to the authorities, and in the Appendix to this volume authorities they used will be found cited. In the provincial court in that same year, an attorney, in support of a plea in abatement to a suit in assumpsit, invoked "att least fourty Authoritys in Pointe," perhaps without producing them, only to have one judge ask, out of man's original innocency, how the plaintiff should come by his debt if that plea was good.<sup>5</sup> Harris and McHenry, who had collected private notes of arguments made, show the use of authorities, both abridgments and early English reports, in considerable number in 1718;<sup>6</sup> Stephen Bordley, a son of Thomas Bordley, accumulated a law library which gave him some fame; and William Cumming, clerk of the Court of Appeals from 1719 until the time of the discontinuing of this record, and thereafter a practicing attorney, made his will in March 1749, when he was, as he said, "Advanced in years, this 55th year of my age," and in it left to a son, "all my law books, wishing that he may make a good use of them."<sup>7</sup> Inventories of the estates of later lawyers include collections which were large even in comparison with private libraries of the nineteenth century.<sup>8</sup> Local precedents were found in part

<sup>1</sup> Act 1725, ch. 22, *Archives*, XXXVI, 586.

<sup>2</sup> Ch. 22, *ibid.*, XXXVI, 483.

<sup>3</sup> *Ibid.*, XXXIV, 546, 654.

<sup>4</sup> *Ibid.*, XX, 314, 438 etc.

<sup>5</sup> *Post*, p. 51.

<sup>6</sup> *Gresham v. Gassaway* (1718), 1 Harris & McHenry, 34. These reporters appear to have made up reports of cases to the year 1744 with the aid of the notebooks of Daniel Dulany, the elder, which had been preserved by the son. See 2 Harris & McHenry, 365.

<sup>7</sup> MSS. Liber D. D. no. 7, transcribed Liber no. 28, fol. 301, Land Office.

<sup>8</sup> For instance, the law books of Thomas Jenings (d. 1796), MSS. Liber J. G. no. 4, fol. 285, Office Register of Wills, Anne Arundel County, Annapolis.