

therefore also by the Lord Proprietary, with the advice and consent of the Assembly, ordered and enacted (except as in this present act is before declared and set forth) that no person or persons whatever within this Province professing to believe in Jesus Christ shall from henceforth be anyways troubled, molested, or discountenanced for, or in respect to, his or her religion nor in the free exercise thereof within this province, or the islands thereunto belonging, nor in any way compelled to believe or exercise any other religion against his or her consent, so that they may be not unfaithful to the Lord Proprietary or molest or conspire against the civil government."⁴¹

The intolerations of the Toleration Act, with its heavy penalties for blasphemy and its requirement that one's Christianity, indeed one's religion, had to be Trinitarian, are said to have been tempered by the character of the above-quoted paragraph and the actual situation in the colonies. The necessity for a belief in Christianity discriminated against the Jews, and the order for submission to a civil government, against the Quakers; however, there were few Jews in Maryland at that time and the Quakers' chief difficulty seems to have been in the oath requirements, which were relaxed in 1688 and abolished in 1702.⁴² Still the law was narrow and strict, the freedom it granted more negative than positive.

The historical significance of the "Act Concerning Religion" has probably been overemphasized—it was far less liberal than the policy advocated by the Lords

⁴¹ 1 ARCHIVES 244 (1883).

⁴² PETRIE, *supra* note 20 at 37.

Baltimore ever since the *Ark* and the *Dove*.⁴³ Religious freedom had been the common law of Maryland from its foundation in 1634,⁴⁴ as is clearly evidenced by the instructions given Leonard Calvert, the oath required of the governor, the ordinance of 1639 and the record in the courts of a strong enforcement of the principle of toleration. However, the changing character and growth of Puritanism in England and the existence of a Protestant majority in the legislative assembly by 1648⁴⁵ had its effect on the young Maryland settlement. It seems safe to say that the "Act Concerning Religion" was in reality a compromise between the liberal practices of the colonists and founders prior to its passage and the intolerance of the element about to seize control during the impending interregnum of Oliver Cromwell.⁴⁶

CROMWELL AND THE PURITANS

1651-1658

After several decades of persecution in Virginia, the Puritans were invited by Lord Baltimore (II) to come to Maryland, under a promise of absolute freedom of worship. At first only a small number accepted the opportunity, but when in 1649 the Virginia assembly

⁴³ For the concurring view, see IVES, *supra* note 7 at 228.

⁴⁴ RILEY, *supra* note 7 at 49.

⁴⁵ *Inventory of the Church Archives of Maryland*, *supra* note 20 at 11. "As the political complexion of the mother country changed, the complexion of Maryland changed with it." W. MARNELL, *THE FIRST AMENDMENT* 139 (1964).

⁴⁶ Andrews, *Separation of Church and State in Maryland* 167 (1934); BROWNE, *supra* note 20 at 137. It has been suggested that one purpose of the Act was to attract more Catholics to the colony. See T. GAMBRALL, *EARLY MARYLAND: CIVIL, SOCIAL, ECCLESIASTICAL* 109ff. (1893).