

government, some English Statutes were definitely introduced by Act of Assembly, one of which was the English Act of Toleration²⁰—and at the same time the Lower House came nearer a sensible solution of the difficulty than before; for at their command the Chief Justice, one of their body, drew up a list of statutes which were to be considered as extending to Maryland. But even after this had been revised and supplemented by the wish of others, this list was not legally adopted.²¹ Later, after further resolutions by the Lower House, with no result,²² in 1714 Governor Hart suggested, and the Upper House proposed to the Lower that the Assembly should request some of the Queen's counsel and others most eminent in the law to give their opinions as to what laws of England did extend to Maryland.²³ At this time and in this way the affair might have been brought to a reasonable and successful close—at least in so far as the past was concerned, but the Lower House postponed the matter; then shortly followed the restoration of the Province to the Proprietors, and nothing was done as to the general principle. An Act of 1715, however, required the court of the Judge or Commissary General for Probate of Wills and granting Administrations to proceed “according to the Laws of England now in force, or to be hereafter in force, within twelve months after such laws shall be published in the Kingdom of Great Britain, if pleaded before him, saving in such cases as by this present Act is provided.”²⁴

Such, in outline, was the development of this controversy down to 1722, at which time the latest and most important phase of it added strife over this matter to the many other difficulties of those years. At this point, we may suspend the narrative to inquire as to the principles involved, especially those found upon the side of the English courts, or in the experience of other colonies.

²⁰ Act of 1706, ch. 8. This also introduced the English Statute I, Jac. I ch. II, against bigamy.

²¹ Mereness, p. 266.

²² Mereness, p. 267.

²³ 1714. Upper House Journal (MS.) June 28-29, July 1, 1714. Steiner, Restoration, p. 239.

²⁴ Bacon, Laws of Md. Act of 1715, ch. 39, § 2.