

That Jamaica was alleged to be a conquered country caused upon other occasions, some of which we shall notice later, considerable difficulty in determining the legal system of the island. The decision, it seems, is adverse to the extension of English laws, though the judges did not lay stress on the distinction between common and statute law.

A clearer statement appears in the opinion of the Attorney-General, West, rendered in 1720, in which he said :

“ The common law of England is the common law of the plantations, and all statutes in affirmance of the common law, passed in England antecedent to the settlement of a colony, are in force in that colony, unless there is some private Act to the contrary; though no statutes, made since those settlements, are thus in force unless the colonists are particularly mentioned. Let an Englishman go where he will, he carries as much of law and liberty with him as the nature of things will bear.”<sup>6</sup>

Nine years later, in connection with the dispute in Maryland, Sir P. Yorke, then Attorney-General, gave an opinion on the same subject, which affords an interesting comparison with that of West.

“ Such general statutes as have been made since the settlement of Maryland, and are not by express words located either to the plantations in general or to this Province in particular are not in force there, unless they have been introduced and declared to be Laws by some Acts of Assembly of the Province, or have been received there by a long uninterrupted usage or practice which may impart a tacit consent of the Lord Proprietary and of the people of the colony that they should have the force of a law there.”<sup>7</sup>

The modification here evident was without doubt a reflection of the agitation in Maryland to which we shall devote extended discussion hereafter.

---

<sup>6</sup> Chalmers' Opinions, Vol. I., pp. 194-195.

<sup>7</sup> Chalmers' Opinions, Vol. I., p. 206. Also in Calvert Papers (MS.) No. 52, p. 14. Chalmers dates this March 9, 1729. The Jamaican controversy referred to below had been settled in the meantime; while the controversy in Maryland had reached its height.