

utes had been broached in many other plantations. One or two instances will suffice for illustration. In 1692 the Assembly of South Carolina passed an Act authorizing the judicial officers of the colony to execute the Habeas Corpus Act—an Act passed some years later than the settlement of Carolina. This the Proprietors disallowed, however, declaring that all laws of England applied to the colony, and holding that it was therefore unnecessary to re-enact that famous statute in their Province. "By those gentlemen's permission that say so, it is expressed in our grants from the Crown that the inhabitants of Carolina shall be of the King's allegiance, which makes them subject to the laws of England."

Here we have a proprietary Province, of a constitution analogous in so many respects to Maryland, in controversy over this same matter; but the parties we find taking exactly opposite positions from that which they assumed, respectively, in Maryland. However, the Proprietors here receded from their position, and, in 1712, approved an Act which adopted the English common law and such statutes as were deemed applicable to the Constitution of the Province.¹⁸ A somewhat similar law was passed in North Carolina, in 1715.

Of more direct bearing upon the course of events in Maryland is the experience of her northern neighbor, Pennsylvania, where legal controversies similar to that which we have to follow in Maryland were taking place just a few years before 1722. The efficacy of the English statute law, in comparison with that of local legislation, came up in connection with the unwillingness of the Quakers to take an oath, and their claim that an affirmation was equally valid for legal proceedings.¹⁹

More closely analogous to the issues developed in Maryland, however, was the evolution of the courts of judicature in Pennsylvania. In the course of a contest between Governor

¹⁸ McCrady E. *The History of South Carolina under the Proprietary Government*, pp. 247-8, 517ff. Reinsch, *English Common Law*, pp. 49-50.

¹⁹ Shepherd, W. R.: *History of Proprietary Government in Pennsylvania*, Columbia University Studies in History, Economics and Public Law, Vol. VI., pp. 351-369.