

Continuing, they urged that precedent was upon their side in other colonies as well; and upon this occasion Keith yielded to their claims.²¹

Thus we see that public sentiment was on the side against extension. In line with this feeling, the Assembly, in 1718, passed an Act definitely extending several English penal statutes, which greatly altered the milder ideals of William Penn's early legislation. The necessity for this, Shepherd suggests,²² was the advantage taken by many law-breakers of the privilege of affirmation instead of swearing oaths. In the passage just cited, the argument was not technically legal, but in the preamble to this Act the Assembly said:

"Whereas it is a settled point that as the common law is the birthright of English subjects, so it ought to be their rule in British dominions; but Acts of Parliament have been adjudged not to extend to these plantations, unless they are particularly named in such acts."²³

Here is a clear-cut statement of the "orthodox" theory as to extension, exactly similar in tenor, it will be noticed, to the opinion of West in 1720, given above. Since it is easy to prove that contact between Maryland and Pennsylvania was continuous, and that the politics of the latter exerted a decided influence on those of the former, it is not unreasonable to suppose that this discussion in Pennsylvania, which occurred when discussion on the same point in Maryland was inactive, had something to do with the revival of the quarrel in Maryland in 1722. This hypothesis is helped by the emphasis that we shall find laid by Dulany and his party on the Commissions of the Judges. It is more remarkable, as the latter argued precisely in opposition to the ideas of the Council in Pennsylvania.

A far more striking analogy appears in the history of Jamaica, to which the case of Blankard vs. Galdy has already led us. We found it there claimed and adjudged that Jamaica

²¹ *Ibid.*, pp. 386-7.

²² *Ibid.*, pp. 388-389.

²³ *Ibid.*, p. 390.