

Then follows comment upon the words of the judges' oaths, with criticism of their indefiniteness, which gives to the judges an arbitrary power to select the statutes which are suitable. If the rule of law be uncertain, life, liberty, and property are jeopardized. "Usage." in the judges' oath, must mean the general or particular customs of England received in the Province of Maryland."

The last illustration of Eversfield's ideas that we shall now present consists of a discussion of the common law of England and its application to Maryland.

"The common law of England binds the people of Maryland so far forth as it is receiv'd] by the express or tacit approbation of the Legislature and not otherwise, for the common law, notwithstanding

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early market whereby they can afford to undersell the English merchants in the like commodities with sufficient gain to themselves [:] moreover they import foreign commodities in lieu [?] of them to their respective colonies at a very cheap rate and pay little or no duties either for their imports or exports, which are advantages and privileges the English colonies want for they pay dear for their lands, high duties for their exports, large prices for their imports, are under obligation to land their staple commodities in some port of Great Britain before they can be exported to foreign markets where by the expense of a double voyage and late markets they're undersold by the French and their commodities vend'd scarce pay for the clothing and feeding of the slaves that make them. And so small a share of the produce comes to the masters of such slaves that were it not that they rais'd their own provisions and made some coarse cloth for their families in some places they could scarce subsist [:] and the merchants at home having the disposal of their commodities frequently defraud them of part of their small gains and send them goods in exchange at a very dear rate to the no small impoverishment of the poor planters and their families, whereby their condition is far worse than that of the French vassalls in the Plantations, and tho' they may have the name of liberty yet the French have it in reality [:] notwithstanding the great boast of it among them by such who either understand not the nature of it or if they do for their own private gains study to deceive the populace with the phantom of it under a most specious name and artfull sophistry capable of being invented by the most horrid Machavalian policy [sic]."

For this very pessimistic outburst no specific date is given; but the connection with the Statutes controversy, the suggestion of economic depression, and the thinly veiled reference to Dulany's agitation indicate that it is probably to be placed not much after 1732.

If this hypothesis is correct, the boldness of expression, as well as the facts stated are rather significant.

<sup>22</sup> Eversfield Volume, pp. 276-280.