

The probate court of Maryland for the greater part of the colonial period was called the Prerogative Court. Many of the features of the court, notably the terminology, were borrowed from the English Prerogative Court. Unlike the English court which was ecclesiastical, the Maryland court remained a civil court throughout its existence, although there were several attempts to put it under the control of the Bishop of London. The attempt which came closest to succeeding was made soon after Maryland became a royal colony. At that time, a strong effort was being made to establish the Church of England in the Colony. The attitude of the colonists in the matter of the probate office and toward religion in general was expressed by the members of the Upper House of the Assembly when they unanimously agreed, on October 18, 1694, "That a Suffragan Bishop or Commissary Deputed by & invested with such Ecclesiasticall Authority & power by the Right Reverend Father in God The Rt Honoble the Lord Bishop of London as to his wisdom shall seem most Expedient for the Better settling & Regulateing all matters Relateing to Churches and Churchmen which are or shall be Establishd by God Almighty's providence & his paternall care in this province will be most convenient & Necessary, But wee doe further represent unto the said Burgesses of Assembly That the Commissary's office in the Nature of it & by the Just & Honest profits & advantages accruing unto it is a most sutable Employment and a Valuable Encouragement for such Suffragan Bishop or Commissary so to be Deputed by his Lsp: without any charge to be laid upon this province.

"First because that Office being Judiciall & of great importance & Trust in this province in quieting & secureing to the Right owners all Estates of persons Dying Testate or Intestate & for preserveing the fortunes of all the Orphans of Maryland cannot well be Executed but by a person of Integrity and Capacity resideing among us. And Secondly that being a Judiciall office of an Ecclesiasticall nature it ought to be performed by a person Qualified by his knowledge in the Civill Law and may also properly appertain to the same person if he shall have taken any degrees in the Study of Divinity."<sup>1</sup>

<sup>1</sup> *Arch. Md.*, XIX, 92