

vision, as better than no bill at all. The usual act for the relief of sundry "languishing prisoners" for debt was passed and will be discussed in another section (pp. lxxvi-lxxviii). There was considerable difference of opinion between the two houses as to whether or not certain individuals should, or should not, be afforded relief, with the resulting exchange of messages (pp. 247, 252). The law providing for the publication of the Session Laws and the Votes and Proceedings of the Lower House by Jonas Green, was identical with previous similar acts (pp. 238-241).

*Breaking entail by common recovery.* An act to "aid defective common recoveries" was passed at this session. This was a device to circumvent the law of entail, and as weakening primogeniture had social significance. Conveyance of land under common recovery was effected under a legal fiction by which entail might be doctored and a good title be thus given a purchaser to entailed land. A fictitious tripartite suit for common recovery was in Maryland instituted in the Provincial Court, and by judgment of the court the entail might be broken and a good title by the purchaser thus secured. The steps in the fictitious suit by which judgment to this end might be secured are too involved in legal verbiage to be entered into here. The preamble to the act shows, however, that, prior to its passage, title by common recovery in Maryland was subject to the English laws on recoveries as amended by the Act of 29 Charles II; and that numerous conveyances under common recovery to various lands had been made in the Province, but in many instances these were so defectively drawn, that the titles were, therefore, questionable. This act was passed to validate such defective instruments as had been made in the past or might be made thereafter (pp. 252-253).

*The alienation fee.* At this session, a bill supplementary to the act of 1714 for quieting possessions, enrolling conveyances, and securing the estates of purchasers, was introduced in, and passed by, the Lower House. After sundry trifling amendments had been added on the floor of the latter house it was passed by the Upper House and became a law. There was no provision in the act to require the payment of the alienation fee to the Proprietary (pp. 171, 181, 185, 186, 233-335). A bill with the same title, which at the November-December, 1763, session, was passed by the Lower House, amended by the Upper House, and then rejected in the house of its origin because of these amendments, figures rather inconspicuously in the journals of the two houses at that time, but was a matter of no little concern to the Proprietary interest (*Arch. Md.* LIX; lxviii). Both these bills required that all papers affecting the titles to land be recorded in a court of record. As the bill passed the Lower House in 1766, however, it made no provision for the payment, before a conveyance might be recorded, of the alienation fee, a land transfer tax which it had been necessary to pay to the Lord Proprietary since the establishment of the Province. The payment of this fee was objectionable to the Lower House, and its leaders felt that if a new recording act could be passed in which no mention of an alienation fee were made, this might be a first step towards its elimination. The Proprietary had directed the Governor and the Council not to assent to any bill which did not include a specific requirement that a fee