

duties.<sup>70</sup> Thus the feeling arises that "in the land which Catholics had opened to Protestants, the Catholic inhabitant was the sole victim of Anglican intolerance."<sup>71</sup>

Maryland was returned to the Baltimores in 1715 in the person of 16-year-old Charles Calvert, the fifth Lord Baltimore. His father had publicly converted to the Anglican Church two years earlier and Charles, proclaiming himself Protestant, was not to follow the noble traditions of his lineage. The assembly adopted a resolution expressive of its "deep . . . gratitude that the administration of the province had been finally put upon a wholly Protestant establishment, and expressing the hope that further toleration might not be granted to Catholics."<sup>72</sup> And indeed it was not. Unworthy Protestant clergymen insulted Catholics regularly and subjected them to base indignities. A law was passed which deprived a Protestant widow marrying a Catholic from the custody of her children,<sup>73</sup> and another act declared that any Protestant officeholder who joined the Catholic Church would forfeit his office.<sup>74</sup> In 1718, another act to prevent popery was passed, this one depriving Catholics of their franchise.<sup>75</sup>

It must be pointed out that, with the exception of those laws noted above (which were enacted under the governorship of John Hart [1715-1720]) none

expressly intolerant of Catholicism was passed *after* the proprietorship was restored to the Calverts, who were too preoccupied with political quarrels to deal with religion.<sup>76</sup> However, neither were any repealed, although the Calverts remained in control until the Revolution.

Maryland now had a state church which compelled orthodoxy under penalty of fine and imprisonment. The Blasphemy Act of 1723, as its counterpart in 1692, provided that offenders be bored through their tongues, fined 20 pounds, or imprisoned six months for a first offense; a second conviction of the same crime resulted in being branded on the forehead with a "B" or fined 40 pounds, or be imprisoned 12 months; and a third instance was punishable by death without benefit of clergy.<sup>77</sup>

Maryland now had a state church whose members alone were eligible to vote, hold office and practice a profession. The test oaths accomplished their purpose; to possess what we consider today basic rights of every citizen, in the 18th Century one had to be Protestant.<sup>78</sup>

Maryland now had a state church willing to force dissenters from the commonwealth. A law was on the books which forbade Catholics to bear arms—"a circumstance likely to discouragè life on the frontier."<sup>79</sup> In 1729 another

<sup>70</sup> *Id.* at 410; MARNELL, *supra* note 45 at 69.

<sup>77</sup> Laws of Maryland chs. 1, 13, 16 (1623). See C. ANTIEAU, A. DOWNEY & E. ROBERTS, *FREEDOM FROM FEDERAL ESTABLISHMENT* 17 (1963) and GAMBRALL, *supra* note 46 at 112-13.

<sup>78</sup> Although by 1724 Maryland Quakers were permitted to make an affirmation. S. COBB, *THE RISE OF RELIGIOUS LIBERTY IN AMERICA* 397 (1902).

<sup>79</sup> ANTIEAU, DOWNEY & ROBERTS, *supra* note 77 at 18.

<sup>70</sup> 26 ARCHIVES 289ff. (1906).

<sup>17</sup> 3 G. BANCROFT, *HISTORY OF THE UNITED STATES* 32. Generally, W. RUSSELL, *MARYLAND: THE LAND OF SANCTUARY* 370-88 (1907).

<sup>72</sup> RUSSELL, *id.* at 396. Charles Calvert (fifth Lord Baltimore) then became the first of his family to live in Maryland.

<sup>73</sup> Bacon's Laws, ch. 39, §10 (1715).

<sup>74</sup> *Id.*, (1716).

<sup>75</sup> RUSSELL, *supra* note 71 at 400-02.