

William Bladen of Annapolis,
1673?-1718:
“the most capable in all Respects”
or
“Blockhead Booby”?

by
C. Ashley Ellefson

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For Phebe Jacobsen

24 March 1922 - 19 April 2000

“No man can judge what is good evidence on any particular subject, unless he knows that subject well.”

George Eliot

Middlemarch

“Brack: But it has been very much praised, I hear.

“Lövborg: That was what I wanted; so I put nothing into the book but what every one would agree with.

“Brack: Very wise of you.”

Henrik Ibsen,

Hedda Gabler

Tomb & Inscription
of William Bladen
St. Anne's Church, Annapolis MD



Courtesy of
Historic Annapolis Foundation

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C. Ashley Ellefson

Cortland, New York

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A Note on Use of Dates

Until 1752 England continued to use the Julian Calendar, which was introduced by Julius Caesar in 46 B. C. and in which the new year began on 25 March, while many of the countries on the European Continent were using the Gregorian calendar, which was decreed by Pope Gregory XIII on 24 February 1582 and in which the new year began on 1 January. Thus until 1752, when it adopted the Gregorian Calendar, England was operating under what is called the “Old Style,” while the continental countries were using what is called the “New Style.” January of 1694 in England was January of 1695 on the continent.

Therefore whenever I refer to a date from 1 January through 24 March I indicate both years, as in 12 January 1697/8.

Foreword

This little essay on William Bladen began as an appendix to a book-length manuscript I am writing on Thomas Macnemara, which in turn began as an appendix to a book-length manuscript I am writing on benefit of clergy in colonial Maryland. The more I found out about Macnemara's having to plead benefit of clergy in 1710 in the death of Thomas Graham, the clearer it became that the provincial justices were trying to railroad him to his death,¹ and believing that it was important to find out more about him I decided to add an appendix in which I could say more about the case than I could say in the text. The appendix kept getting longer, however, and after dividing it into two parts and then four I decided to lay the manuscript on benefit of clergy aside and do one on Macnemara, since I would be able to finish it quickly and soon get back to benefit of clergy. That was sometime before 1990.

As I learned more about Macnemara's career in Maryland from his arrival in 1703 until his death in 1719 it became clear that while he was one of the best lawyers in the province — and possibly the very best —, was respectable enough to become clerk of the lower house, naval officer of Patuxent, attorney for Maurice Birchfield as the surveyor general of customs, and procurator or proctor of office for Jacob Henderson as the ecclesiastical commissary of the Western Shore,² and was popular enough with the voters and the most prominent men of Annapolis to become a common-councilman, an alderman, then mayor of that city and then an alderman again,³ higher authority — Governor John Seymour and Governor John Hart, and between their administrations the council — were untiring in their determination to rid themselves of this man who seemed never to lose his enthusiasm for challenging the powerful. Apparently trying to force him out of the province, they prosecuted him almost constantly and deprived him of his practice on four separate occasions.

And in 1710 the provincial justices, fully backed by the council, tried to murder him judicially.⁴

It also became clear that William Bladen, attorney general and loyal courtier to authority, was Macnemara's chief tormentor, though he could not have acted without the instigation or the approval of his benefactors. To understand the relationship between the two men I had to know more about Bladen, and so I decided to add an appendix on him to the manuscript on Macnemara. Again, however, the appendix kept getting longer, and since the manuscript on Macnemara was already becoming very long I decided to make the appendix on Bladen a separate piece.

Considering these two men together, along with Seymour and Hart and the members of the council, it soon becomes clear that what scanty information historians have provided about them requires radical reconsideration. Neither Thomas Macnemara nor William Bladen was the man historians have portrayed. Macnemara was not the villain whom his enemies created⁵ and whom historians have painted,⁶ and Bladen was not the paragon whom historians have presented.⁷

This book, along with the manuscript on Thomas Macnemara, is an effort to correct the record.

Foreword

¹ For Thomas Macnemara's having to plead benefit of clergy in the death of Thomas Graham, see Chapter 6, "Attorney General," at Notes 79-88.

² The ecclesiastical commissaries, one to supervise the Anglican clergy on each side of the Chesapeake Bay, were the representatives of the Bishop of London in the province. These commissaries were not the same as the commissaries-general, of whom there might be one but were often two or three men holding the same office jointly, or the deputy commissaries, of whom there was one for each county. Edith E. MacQueen, "The Commissary in Colonial Maryland," *Maryland Historical Magazine*, XXV, No. 2 (June 1930), pp. 190, 195; Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953), pp. 39-40, 40-41, 130-132.

While Edith E. MacQueen usually refers to this official as an "ecclesiastical commissary" (MacQueen, "The Commissary in Colonial Maryland," pp. 190, 192, 194, 197, 198), she also calls these commissaries bishops' commissaries. *Ibid.*, p. 192. She refers to the office of the commissary-general as the "judicial office of commissary." *Ibid.*, p. 198.

For the ecclesiastical commissary, see also Nelson Waite Rightmyer, *Maryland's Established Church* (Baltimore: The Church Historical Society, 1956), pp. 37-48, 55, 63-72, 77-81, 83-84; Carol van Voorst, *The Anglican Clergy in Maryland, 1692-1776* (New York: Garland Publishing, Inc., 1989), pp. 26-59.

Robert Beverley mentions the ecclesiastical commissary in Virginia. Robert Beverley, *The History and Present State of Virginia*, ed. David Freeman Hawke (New York: The Bobbs-Merrill Company, Inc., 1971), p. 124.

The procurator or proctor of office was the legal representative of the ecclesias-

tical commissary in religious matters. For the procurator or proctor of office as an attorney, see Henry Campbell Black, *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern* (6th edition; St. Paul: West Publishing Co., 1990), p. 1207, under both “procurator” and “proctor.”

³ For Thomas Macnemara as **clerk of the lower house**, see *Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore: Maryland Historical Society 1883-1972), XXIX, 350-351, 391-392, 394-395; XXXIII, 53-54; Owings, *His Lordship's Patronage*, p. 138; as **naval officer of Patuxent**, *Md. Arch.*, XXXIII, 170-171; Owings, *His Lordship's Patronage*, p. 159; as **attorney for Maurice Birchfield**, Chancery Record 3, pp. 335, 336, 339, 380, 416; as **procurator or proctor of office**, Jacob Henderson's Visitation of the clergy, 4 December 1717, in William Stevens Perry, ed., *Historical Collections Relating to the American Colonial Church* (5 vols. in 4; Hartford: The Church Press, 1870-1878; reprinted New York: AMS Press, 1969), IV, *Maryland*, pp. 92, 95; as **alderman**, *Md. Arch.*, XXXVI, 531; as **mayor**, 1719, c. 17, *Md. Arch.*, XXXVI, 529; Provincial Court Judgment Record, Liber V. D., No. 2, p. 360. The aldermen of Annapolis were chosen from among the members of the common council, and the mayor was chosen from among the aldermen. Charter of Annapolis, in Chancery Record 2, pp. 598-599; Elihu S. Riley, *“The Ancient City.” A History of Annapolis, in Maryland, 1649-1887* (Annapolis: Record Printing Office, 1887), p. 88.

⁴ Provincial Court Judgment Record, Liber P. L., No. 3, pp. 231-234, 257, 258, 398-400; The National Archives (PRO), *Calendar of State Papers: Colonial Series* (40 vols.; Vaduz: Kraus Reprint Ltd., 1964), XXVI, No. 101.i; Council of Maryland to Board of Trade, 18 July 1712, The National Archives (PRO), Colonial Office 5, Vol. 720, pp. 123-127 (photocopy in Library of Congress), and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVII, No. 16; Provincial Justices to Board of Trade, 18 July 1712, TNA (PRO), Colonial Office 5, Vol. 720, pp. 127-128, and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVII, No. 16.i.

⁵ Council of Maryland to Board of Trade, 18 July 1712, TNA (PRO), Colonial Office 5, Vol. 720, pp. 123-127, and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVII, No. 16; Provincial Justices to Board of Trade, 18 July 1712, TNA (PRO), Colonial Office 5, Vol. 720, pp. 127-128, and TNA (PRO), *Calendar*

of State Papers: Colonial Series, XXVII, No. 16.i.

⁶ Very little work has been done on either Thomas Macnemara or William Bladen. Except for Beatriz Betancourt Hardy's exuberant and I believe unfair "'A most Turbulent and Seditious person': Thomas Macnemara of Maryland," *Maryland Humanities* (Baltimore: Maryland Committee for the Humanities), Issue Number 72 (January 1999), pp. 8-11, what has been done on either man consists of brief mentions in studies on other subjects. For the harsh views of Macnemara, see also Aubrey C. Land, *The Dulanys of Maryland: A Biographical Study of Daniel Dulany, the Elder (1685-1753) and Daniel Dulany, the Younger (1722-1797)* (Baltimore: Maryland Historical Society, 1955; reprinted Baltimore: The Johns Hopkins Press, 1968), pp 7-8, 8-10, 14-16, 16-17, 28, 30, 30-31, 33, 34-35, 41, 46, 54, 210; Aubrey C. Land, *Colonial Maryland: A History* (Millwood, N. Y.: KTO Press, 1981), pp. 108, 125-127 (page 126 is a portrait of Daniel Dulany the Elder); Carl Bode, *Maryland: A Bicentennial History* (New York: W. W. Norton & Company, Inc., 1978), pp. 17-18; Alan F. Day, *A Social Study of Lawyers in Maryland, 1660-1775* (New York: Garland Publishing, Inc., 1989), pp. 50, 106, 130, 132; John E. Douglass, "Between Pettifoggers and Professionals: Pleaders and Practitioners and the Beginnings of the Legal Profession in Colonial Maryland, 1634-1731," *The American Journal of Legal History*, XXXIX, No. 3 (July 1995), pp. 376-377, 378-379; Herbert L. Osgood, *The American Colonies in the Eighteenth Century* (4 vols.; New York: Columbia University Press, 1924; reprinted Gloucester, Mass.: Peter Smith, 1958), III, 6, 10.

⁷ For historians' complimentary comments on Bladen, see Chapter 7, "Bladen the Man," at Notes 105, 107, 108, 110, 111.

1. Introduction: The Turbulent Seventeenth Century

When William Bladen arrived in Maryland, apparently in the spring of 1692 a few weeks after his nineteenth birthday,¹ the colony was still reeling from its latest crisis: the Revolution of 1689, when a group of Protestants deposed the Catholic Lord Baltimore and set up their own government. This Revolution was only the latest eruption in a history of grumbling disorder interrupted regularly by periods of sometimes bloody chaos that had plagued the province since its founding in March of 1634.²

First came Baltimore's battle with William Claiborne, from 1635 into 1638, over Kent Island, which ended in the conquest of the island for Baltimore and in the assembly's passing a bill of attainder against Claiborne.³ Claiborne, however, was never caught but survived to continue to harass the proprietor.⁴ The early battle over Kent Island was followed closely by Ingle's Rebellion, "the plundering time," in which in 1644 Claiborne reconquered Kent Island and Richard Ingle captured the capital, St. Mary's City.⁵ In August of 1646 Baltimore regained the government, and by April of 1647 he had recovered Kent Island.⁶ On 16 April 1647 Governor Leonard Calvert pardoned eleven men who had submitted themselves to the proprietor's government for all "Crimes of Rebellion" committed in the province at any time before that date,⁷ and on 4 March 1647/8 Governor Thomas Greene issued a general pardon for all crimes committed by Marylanders, except for those of Richard Ingle, from 14 February 1644/5 to 16 April 1647. Anyone from outside the province who had participated in the rebellion could also receive a pardon if he acknowledged his sorrow by 29 September, the day of the next feast of St. Michael the Archangel.⁸ Finally, in 1650 the assembly passed "An Act of Oblivion" by which it pardoned

anyone who had participated in the rebellion between 15 February 1644/5 and 5 August 1646 except Ingle and John Darford “and such others of the Isle of Kent” whom Leonard Calvert had not already pardoned.⁹

On 30 January 1648/9 the Puritans in England murdered Charles I,¹⁰ and in Maryland on 15 November 1649, after Greene and his council proclaimed Charles II king, Greene issued another general pardon, this one for all crimes committed by Marylanders since the last general pardon.¹¹ With the Puritans in power in England,¹² however, Claiborne was still a danger, and in April of 1650 the assembly provided that anyone who assisted, abetted, or countenanced him in his opposition to the proprietor’s right to and dominion over the province would suffer death and the confiscation of his estate.¹³

Claiborne’s prospects had, in fact, improved, and the assembly’s forbidding co-operation with him turned out to be futile. Under a commission from the Puritan Council of State in England, a force led by Claiborne and Richard Bennett took over the government of the colony in 1652,¹⁴ repealed the act prohibiting any co-operation with Claiborne,¹⁵ repealed Baltimore’s act by which the assembly provided religious freedom for all Christians in the province,¹⁶ and expressly prohibited Catholics from practicing their religion.¹⁷ They also denied Catholics the right to vote or to serve in the assembly.¹⁸ They confirmed their political power in the Civil War of 1655 and emphasized the dangers of resistance by shooting four prisoners.¹⁹

When in 1655 Baltimore appealed to Oliver Cromwell, the protector on 2 November referred the issue to Bulstrode Whitelocke and Sir Thomas Widdrington,²⁰ two members of the Committee for Trade and Plantations.²¹ Their report on 31 May 1656²² must have been favorable to Baltimore, who on 10 July 1656 somewhat prematurely commissioned Josias Fendall as governor of Maryland.²³ On 31 July the Council of State, on the petition of Richard Bennett and Samuel Matthews “as Agents for Virginia and the rest of the Plantations in the Bay of Chesapeak [*sic*],” referred the report, together with some unidentified papers and “the Representation of the Governors [*sic*] and Assembly of Virginia,” to the Committee for Trade and Plantations. That body, after considering the papers and taking testimony from Baltimore, Bennett, and Matthews, recommended that Bennett and Matthews make some proposals for settling the dispute and for preventing future disturbances in Maryland. The two men made their proposals; at the request of the Committee

Baltimore gave his response to them; Bennett and Matthews were satisfied; on 16 September the Committee reported to Cromwell; and Cromwell promised Baltimore “a dispatch with all convenient Expedition.”²⁴

The dispatch was slow in coming, however, and on 17 December 1656, the Council of State referred the whole matter to “the Committee of the Council for Foreign Plantations,” which was to consider all of the documents, interview the parties, and consider as well the proposals of the Lord Deputy, who was Cromwell himself and who also became a member of the committee.²⁵ Again, because of the “great affaires” of the officials in England, there was a long delay, and finally on 30 November 1657 Baltimore, Bennett, and Matthews, thanks to the friendly endeavors of Edward Diggs, finally signed an agreement by which Baltimore would get his province back.²⁶ By 27 February 1657/8 the agreement had arrived in Maryland,²⁷ and on 24 March 1657/8 Fendall received the submission of the Puritans there.²⁸

In order to recover his province Baltimore agreed not to prosecute the rebels and to allow them to keep their land, and by promising never to permit the repeal of the “Act concerning Religion” he guaranteed that any Christian would have freedom of conscience.²⁹ In spite of these concessions his return to power did not make the province any less volatile.³⁰ During the next thirty years the Protestant majority,³¹ more out of economic and political ambition than religious fervor,³² became increasingly unhappy with Baltimore’s control.

Two years after receiving the submission of the Puritans Fendall, in a rebellion that is named after him, betrayed Baltimore. On 12 March 1659/60 the delegates, champing at the participation of the upper house in the government, declared themselves to be the sole governing power and “the highest court of Judicature” in the province. Apparently the delegates were acting with Fendall’s encouragement: on 20 June 1660 the masters of two ships from London swore that in the spring of 1659/60 Fendall raised a faction against Baltimore’s government and tried to establish a commonwealth.³³ Fendall along with two members of the upper house, Thomas Gerrard and Nathaniel Utie, agreed to sit with the delegates with Fendall as president. Thus the upper house was dissolved, and Fendall accepted a commission as governor from the delegates.³⁴ In July of 1660 Charles II ordered Sir William Berkeley, the governor of Virginia, to help restore Baltimore to his jurisdiction and rights under his charter,³⁵ but in October Governor Philip Calvert, Baltimore’s half-

brother,³⁶ was able to recover the province³⁷ without Berkeley's help.³⁸ On 27 November 1660 he issued a pardon for anyone in Charles County who had participated in the mutiny and sedition, except Josias Fendall and John Hatch, and who would immediately submit to Baltimore's government.³⁹ When Fendall submitted two days later Calvert and his council ordered him jailed until further orders.⁴⁰ Fendall and Hatch were released on bonds that they gave on 30 November and 8 December, however, and on 28 January 1660/1 Calvert warned them to appear according to those bonds at the next provincial court.⁴¹

On 8 and 9 February 1660/1 John Jenkins, who in February and March of 1659/60 attended the assembly as delegate from Charles County,⁴² allegedly raised a mutiny in that county in order to rescue Fendall and Hatch from Fendall's house, where by then they were prisoners under guard,⁴³ but the attempt was unsuccessful. At the provincial court on 27 February Fendall and Gerrard were indicted for mutiny and sedition, immediately pleaded guilty and begged Calvert's pardon,⁴⁴ and were sentenced to banishment and the forfeiture of their estates. After they petitioned Calvert and his council — the same four men who had sentenced them plus two⁴⁵ — for mercy the next day, however, Calvert pardoned them with the provision that neither could ever again vote or hold office in the province. Fendall had to pay fifty pounds sterling and Gerrard one hundred pounds sterling and five thousand pounds of tobacco as alternatives to forfeiting their estates, and both also had to give security for their good behavior.⁴⁶ In April of 1661 a petit jury at the provincial court acquitted Jenkins and eleven others of mutiny and sedition after the grand jury refused to indict a thirteenth suspect.⁴⁷ The acquittals, according to Governor Calvert, were contrary to the law, and he asked the assembly for a law to provide against such mischief in the future.⁴⁸ The delegates, though, either unconvinced or obstinate or both, voted that those indicted for mutiny and sedition be cleared.⁴⁹

On 18 May Nathaniel Utie also received a free pardon,⁵⁰ but John Hatch had to wait longer for such favor. On 28 February, the same day on which Fendall and Gerrard received their pardons, Hatch also petitioned for mercy, but Calvert and his council instead fined him two thousand pounds of tobacco and cask, gave him one year to settle his affairs and leave the province, and required him to give security for his good behavior in the meantime.⁵¹ When however on 28 November 1661 he told Governor Charles Calvert and his council that he had not been able to dispose of his

estate and asked that he be allowed to remain in the province Calvert revoked the sentence of banishment, apparently with no limit on the right to vote or hold office.⁵²

John Jenkins' acquittal was not the end of his problems. On 9 January 1661/2 Calvert and his council had information that Jenkins, who had been outlawed for raising the mutiny in Charles County in the previous February,⁵³ had appeared again in the province. The council ordered his arrest along with that of Christopher Russell, in whose house he had allegedly been seen, and at the same time ordered that Josias Fendall, in whose house Jenkins had also allegedly been seen, be confined to his house until further notice. Arthur Turner, who was suspected of supporting Jenkins and his accomplices in the alleged mutiny, would be jailed unless he could find two adequate sureties to guarantee his good behavior in the future.⁵⁴

The Protestant majority still lusted after control, and Governor Charles Calvert's arrogance denied him the ability to see where boundless competing ambitions might lead. Calvert, the son of the proprietor,⁵⁵ and the upper house appear to have missed no opportunity to lord it over the delegates, who were overwhelmingly Protestant.⁵⁶ When on 15 April 1669 the delegates asked to see a copy of the charter the upper house refused the request with the flimsy excuse that the lower house was sitting "in a howse neere adjoining to the house of Assembly" rather than in its usual place, which it had no right to do without the consent of the governor. After the delegates with Calvert's permission adjourned to another house they got to see the charter.⁵⁷ When the next day the delegates asked the members of the upper house whether there was anyone in the province who could confirm bills that both houses had passed so that the laws could not be revoked without the consent of both houses, the upper house responded that nobody in the province had such power but that the proprietor reserved that right for himself.⁵⁸ Thus the proprietor could disallow laws any time he chose, no matter how long they had remained in force, unless he had specifically given his assent to them.⁵⁹

The delegates, not satisfied with those responses, kept up the pursuit, and Calvert and the upper house continued to play into the hands of the dissidents. When on 20 April 1669 the delegates complained to the upper house that there was no one in the province to give the proprietor's final assent to the laws that the assembly passed; that the proprietor disallowed laws to which the governor had assented; that in violation of the charter the previous year's taxes had been raised without the

consent of the lower house; that privileged attorneys were a grievance to the country; that sheriffs seized tobacco from merchants and others under the pretense that they were seizing the tobacco for debts owed to the government; that officers were being created and were exacting fees exceeding those allowed by law; and that “vexatious Informers” were a public grievance, Calvert and the upper house exposed themselves again when they responded with a combination of denial, justification, and contempt.⁶⁰ Then, after three delegates appeared to tell the members of the upper house that they were “very willing and ready to go about the Country’s Business”⁶¹ the governor sent the chancellor, the same Philip Calvert who had been governor earlier and who was Charles Calvert’s uncle,⁶² and some other members of the upper house to the lower house with the threat that the upper house would do no more business with the delegates until they expunged from their Journal their “mutinous & seditious” complaints, which were “an Arraignment” of the proprietor, the governor, and the council — which, of course, was also the upper house. The delegates resisted, but finally on the twenty-seventh they agreed to remove the first three articles from their grievances and requested that the upper house eliminate from its own Journal the words “Mutinous & seditious.” The upper house agreed to the request.⁶³

Later in 1669 Calvert went to England,⁶⁴ and when he returned to the province late in 1670 he created further unease when he issued an order, dated 18 December 1670, by which instead of allowing all freemen to vote, as had been the case in the past, he limited suffrage to those freemen who had at least fifty acres of land or a personal estate of at least forty pounds sterling.⁶⁵ In 1671 he again risked the resentment of the delegates when he issued a new charter for St. Mary’s City, by which he allowed the city two delegates to the lower house in order to get his allies Thomas Notley and John Morecroft, who had been rejected by the voters of St. Mary’s County, elected to the lower house.⁶⁶ He managed to get Notley elected Speaker, and, as he told his father, now that he had got Notley into the Speaker’s chair he was resolved to keep him there.⁶⁷

In an action that appears to reflect either Calvert’s laziness or the depth of his contempt for the delegates, or both, on 29 May 1674 he refused to tell them what laws the proprietor had approved since 1659. In response to their query he would say only that he knew of no laws to which the proprietor had assented except those that could be found in the body of laws.⁶⁸ That was no answer at all. By this time all

laws included the statement that they were *enacted* by the proprietor with the consent of the two houses of the assembly,⁶⁹ but if the proprietor himself had actually assented to a law it could be repealed only with the consent of the assembly, while any law to which he had not specifically given his assent he could disallow at any time.⁷⁰ Two years later, after Calvert had become third Baron Baltimore⁷¹ but was still in the province, he and the assembly did agree on what laws should be permanent,⁷² but from 1681 through 1684 the issue of permanent laws would create major disagreement.⁷³

Continuing to try to increase his influence in the lower house, in 1676 Baltimore again stirred up trouble when he decided that of the four delegates elected to the lower house from each county he would select only two to appear at the assembly in May. When the delegates protested, Baltimore gave in but required that all delegates take an oath of loyalty to himself and his heirs and successors,⁷⁴ and four delegates for each county sat in the lower house during the sessions of 1678 and 1681 and the first session of 1682.⁷⁵

The dissatisfaction in the province continued. In June of 1676 Baltimore went again to England,⁷⁶ and in August a group from Calvert County led by William Davis or Davyes, Giles Hasleham, and John Pate drew up a statement complaining of excessive taxation, the frequent meetings of the assembly, the property requirement for voting, the equality of the poll tax for rich and poor, and the requirement of the oath of fidelity to the proprietor. When on 3 September sixty men, at least some of them armed, met in pursuit of their demands and refused to disperse in what was called the “Insurrection at the Clifts [clefts]” they were defeated, and Davis and Pate were hanged.⁷⁷ Governor Thomas Notley⁷⁸ and his council published “A Remonstrance of the true State of the Province,” in which they justified themselves in everything and threatened “by the sword of Justice [to] lopp off . . . [any] rotten members” who became a danger to “the whole,”⁷⁹ thus demonstrating, in this year of Bacon’s Rebellion in Virginia,⁸⁰ that they had learned nothing from the disturbance.

In a protest to the king later that year — a “Complaint from Heaven with a Huy [hue] and crye and a petition out of Virginia and Maryland” — the Protestants, with Josias Fendall again probably their leader, with effusive rhetoric charged among other things that Baltimore was trying with the help of the French from Canada and the Indians of Maryland to bring about the absolute ruin of the king’s loyal subjects

there. The proprietor and his deputies were concentrating the offices of the province into the hands of Catholics; they were intimidating the delegates; they were oppressing the population with high taxes; they were claiming people's land without any just reason; and they were requiring an oath of fidelity to Baltimore himself. The protesters asked the king to take over the province, but, like the earlier protest, this one too got nowhere.⁸¹

Since the hanging of Davis and Pate, Governor Notley informed the proprietor in a letter of 22 January 1676/7, the people had been much amazed and appalled. The province was peaceful. The collapse of Bacon's Rebellion in Virginia gave Notley reason to hope that the peace would continue in Maryland as well, but while he believed that to maintain the peace in Virginia the current officials would have to be replaced he apparently was unable to see any similar necessity in Maryland.⁸²

Baltimore returned to the province sometime between 26 October 1678 and 8 January 1678/9⁸³ but did not call another assembly until, beset with problems with the Indians,⁸⁴ August of 1681.⁸⁵ Before that assembly met, however, he ordered the arrest of Josias Fendall and John Coode, who, he told the Earl of Anglesey in a letter of 19 July 1681, were "two Rank Baconists"⁸⁶ who allegedly from 26 March through 10 July 1681 had tried to raise a mutiny against him.⁸⁷ On 17 July George Godfrey led a group of thirty men to try to free Fendall, but instead Godfrey was captured himself.⁸⁸

All three men were tried at the provincial court for November of 1681. In Fendall's case the petit jury returned a special verdict in which it found that he was "guilty of speaking severall seditious words without force or practice" and that if the court considered him guilty of violating the act of assembly⁸⁹ they did also, "or else not." After considering the case overnight the justices, all of whom were members of the council,⁹⁰ decided that Fendall had committed "as great a breach of the Act as possible . . . [could] be without force," fined him forty thousand pounds of tobacco, and ordered that he be confined at his own expense until he paid the fine. After he paid the fine he would be banished him from the province forever.⁹¹ By 26 March 1682, according to Baltimore in a letter to William Blathwayt, Fendall was living in Virginia.⁹²

A petit jury that included eight of the same men who tried Fendall acquitted Coode,⁹³ who had once been chief justice of the St. Mary's County court⁹⁴ and who

was and would continue to be a delegate from St. Mary's County.⁹⁵ Against Godfrey, who at the time of his attempted rescue of Fendall was a justice of the peace of Charles County and lieutenant in the militia,⁹⁶ the same jury that would try Coode returned a special verdict in which it found that Godfrey was "guilty of speaking many mutinous and seditious words and striveing as much as in him lay to raise a mutinous Company to fetch" Fendall out of prison and that if the justices found him guilty of violating the act of assembly on which he was indicted they also found him guilty "or else not." The justices, again after considering the case overnight, decided that Godfrey was guilty and sentenced him to death,⁹⁷ but on the petition of Godfrey's wife Baltimore commuted the sentence to life imprisonment.⁹⁸

Apparently the difference between Fendall's crime and Godfrey's is that while Fendall at this point was all talk and no action — he spoke the seditious words, according to the petit jury, "without force or practice" — Godfrey according to the jury had not only spoken mutinous and seditious words but also had tried "to raise a mutinous Company" to rescue Fendall.

Baltimore kept the pot boiling. By April of 1681 he had begun his attack on Christopher Rousby, a Protestant and the collector of Patuxent,⁹⁹ whose position he allegedly wanted for one of his relatives¹⁰⁰ and whom he called an insolent, impudent, profane, lewd, debauched, pernicious, and even treasonous knave.¹⁰¹ At the same time he attacked Nicholas Badcock, who was also a Protestant and surveyor and comptroller general of Maryland¹⁰² and whose position he allegedly wanted for his step-son.¹⁰³ Badcock soon died — "about August 1681"¹⁰⁴ —, but Rousby went to England to defend himself, was cleared, and retained his position.¹⁰⁵ Baltimore got a reprimand, an order that he reimburse the Crown for £2500 it had lost by his harassment of Rousby and Badcock, and what was in effect a warning from the king that if he did not obey the acts of trade and navigation *quo warranto* proceedings would be started for the vacating of his charter.¹⁰⁶ Baltimore submitted with "unspeakable griefe and affliction" at the king's high displeasure but tried to explain away what he did not deny.¹⁰⁷

Faced with rebellion in the province and in the midst of a quarrel with the king's collector, Baltimore chose this time to pick another fight with the delegates. Determined to maintain if not to increase his power, when on 27 June 1681 he issued the proclamation for summoning the assembly to meet on 16 August he disallowed

the act of 1678 for electing delegates and ordered that after the dissolution of the present assembly only two delegates would be elected from each county.¹⁰⁸ This policy, effective from the second session of 1682, continued for the rest of the first proprietary period.¹⁰⁹ While Baltimore could claim that this was a matter of economy in hard times,¹¹⁰ and thus try to make it appear that he was doing the population a favor, it also might reduce the possibility that those who opposed him most vigorously would be elected and, even if they were elected, would cut in half the number of his potential opponents in the lower house.

In spite of Baltimore's claims, the real issue was power. Both he and the delegates wanted to control elections. During the session of the assembly of August and September of 1681 the two houses fought for a week over a bill on elections, with the delegates offering to accept only two delegates from each county in return for Baltimore's allowing the Speaker, instead of the proprietor or in his absence his governor, to order the secretary of the province to issue writs for the election of delegates to fill the vacancies of those who had died or were otherwise disabled from sitting in the house during the sitting of the assembly.¹¹¹ The upper house drew up a new bill providing for two delegates from each county without any provision for the Speaker's issuing warrants for writs of election,¹¹² but the delegates stood firm,¹¹³ and no bill was passed.¹¹⁴ This quarrel was inextricably entwined with an equally divisive battle over whether the vacancies in the current house should be filled in order that there be four delegates from each county and, if so, whether the Speaker or Baltimore himself should order the secretary to issue writs to fill those vacancies.¹¹⁵ Baltimore finally agreed to issue the warrants for writs of election to bring the membership to four delegates from each county with the understanding that four delegates would sit only for the duration of this assembly. The delegates accepted that.¹¹⁶

While this agreement was still fresh in the delegates' minds Baltimore on 6 September 1681 issued an ordinance in which he repeated that after the dissolution of the present assembly each "County, City, Borrough, or Towne Corporate" would elect two delegates to the lower house. In case of a vacancy during the life of an assembly the commissioners of the peace, the sheriff, or the surviving delegate from the constituency could inform the secretary, who would issue a writ of election for the chancellor to seal. The qualification for voting or holding office would be a

freehold of at least fifty acres of land or a visible personal estate of at least forty pounds sterling,¹¹⁷ a requirement that Baltimore had already established in 1670.¹¹⁸ On the last day of the session Baltimore pointed out again that he had disallowed the “Act for Electing and Summoning Delegates” of 1678,¹¹⁹ thus reminding the delegates once more that their having four delegates from each county applied only to this assembly and not to future elections.

During this session the delegates were also at odds with the upper house on what should be done about the danger from the Indians,¹²⁰ and, disgusted with the delegates for their contentiousness and obviously worried about their influence, Baltimore probably did nothing to ingratiate himself with the Protestant population when in a “declaration” on 8 October 1681 he reviewed the dangers from the Indians and the sins of the delegates during the previous session of the assembly, claimed that they were more interested in their imaginary privileges than in the safety of the people and in protecting them from plunder and that they would rather “see their brother or father murdered . . . then [*sic*] to stirr one foote to his Defence or expend one penny for his protection,” and warned the voters against electing such traducers of the government and governors in the future.¹²¹ At the beginning of the next session — 1-12 November 1681 — the delegates asked for and received a copy of that declaration,¹²² but since the records of the lower house for that session have not survived we do not know what they did with it.

Whether because of Baltimore’s outburst or for other reasons, the unusually short sessions of 1-12 November 1681¹²³ and 25 April to 13 May 1682¹²⁴ appear to have been fairly calm, but Baltimore was still worried about criticism. On the last day of that second session he revealed his insecurity when after hearing some “Malicious evill Reports of some Disaffected Persons” with some aspersions on himself and his government he asked the members of the two houses to sign a document that he had had drawn up with fulsome praise of himself for his allowing all Marylanders all of the privileges of the Magna Charta, the free practice of the Protestant religion, and equal access for Protestants to all offices in the province. He very well knew that the aspersions against him were most notoriously false, and he wanted the inhabitants of the province to know it also. When Philemon Lloyd, the Speaker of the lower house,¹²⁵ asked him whether the delegates would be signing the declaration as private persons or as delegates, since if they were to sign it as delegates

they would have to consult together as a house “before they could do any thing therein,” Baltimore prorogued the assembly until October.¹²⁶

Later Baltimore did get the signatures of twenty-five Protestants. Since the three members of the council, the attorney general, and the nineteen delegates who held other offices — most were county justices — were dependent on the proprietor,¹²⁷ however, they had no alternative but to sign if they wanted to keep their jobs. Though their signatures therefore meant nothing, the declaration was included in the record of the council with no indication that all but two of the twenty-five signers were officials dependent on Baltimore for their positions in the province.¹²⁸

When on 26 October 1682 the assembly met with only two delegates from each county Baltimore in his opening speech reminded them that in order to save money he would continue to summon only two delegates from each county and then expressed concern solely about relations with the Indians.¹²⁹ The delegates, however, were more interested in establishing the assembly’s control over elections. Claiming that their constituents had instructed them to restore the four delegates from each county, they suggested that they had found a way to comply with what they called Baltimore’s good intentions and at the same time to satisfy their constituents and wrote up a bill providing that two, three, or four delegates be elected from each county, depending on the wishes of the freeman of each county. At the same time, though, they somewhat inconsistently suggested to Baltimore that the freemen would elect only as many delegates as he desired. Having “most humbly presented . . . [their] so reasonable Desires” they had no doubt of Baltimore’s gracious condescension.¹³⁰

The delegates’ artful optimism was wasted, and when Baltimore continued to express his determination to decide by himself alone the number of delegates from each county¹³¹ the delegates, no doubt trying to establish a precedent for their control of elections, wrote up a new bill providing for only two delegates from each county.¹³² The upper house, however, considered a bill on elections needless because by his ordinance of 6 September 1681¹³³ Baltimore had already settled the issue by providing for exactly that.¹³⁴ The upper house did not bother even to send the second bill back to the delegates, even though they asked for it twice,¹³⁵ but rather held it hostage for the delegates’ passing a bill to establish towns.¹³⁶

The delegates did nothing to improve relations with Baltimore and the upper

house when after the upper house on 4 November 1682 claimed that the two houses together legally represented the freemen of the province they voted unanimously three days later that the deputies chosen by the freemen of the province were the only representative body of the freemen and then in a separate vote suggested that the public should not be charged with the expenses of the members of the upper house.¹³⁷ The upper house responded with unusual patience that all they had meant was that they were a part of the body politic of the province without whose assent no laws could be passed and, admitting that they were no more than tools of the proprietor while he was in the province, added that they expected directions from Baltimore concerning the bill on elections.¹³⁸

During the session of the assembly of October and November 1683 the two houses after several exchanges were unable to agree on a bill on elections even though the upper house in effect promised to accept such a bill if the delegates would accept one for establishing towns.¹³⁹ The delegates finally got their bill on elections back from the upper house after having to ask for it for a third time,¹⁴⁰ then drew up a new bill, passed it, and sent it to the upper house.¹⁴¹ The upper house rejected it and again drew up a bill of its own.¹⁴² Each house insisted on its own bill,¹⁴³ and though the delegates after a lecture from Baltimore¹⁴⁴ agreed to the bill establishing towns¹⁴⁵ the two houses in the end were unable to agree on a bill on elections.¹⁴⁶ Probably no bill on elections had ever had a chance of passage, since the proprietor was unlikely ever to accept a precedent that would encroach on what he considered his prerogative.

If the bills on elections and towns generated a lot of heat, it was the issue of perpetual laws that sent Baltimore over the edge. During the session of 16 August to 17 September 1681 the delegates' bill "for Confirmation of the Laws of the Province" failed, apparently because they included a provision that would have denied Baltimore's right to disallow without the consent of the lower house the laws passed during the session of 1678.¹⁴⁷ The delegates' appeal directly to Baltimore did no good¹⁴⁸ except to extract his promise that in the future he would approve or disallow laws immediately when he was in Maryland and that when he was outside the province his assent or disallowance would be published there within eighteen months.¹⁴⁹ The first half of this promise was of course no concession, since no law could pass at all without the consent of the executive — who was Baltimore himself

while he was in the province.

During the session of 1 to 12 November 1681 the upper house on information that some of the delegates were doubting that there were any perpetual laws in the province asked for a conference,¹⁵⁰ but the delegates claimed ignorance of any such discussions and saw no necessity of a conference unless the upper house found other reasons for it.¹⁵¹ The upper house insisted on the conference, “lett the reason be what it will,”¹⁵² and the conference was held.¹⁵³ All that assembly managed to accomplish on the issue, however, was to pass an act temporarily reviving some laws¹⁵⁴ and another act repealing two others.¹⁵⁵ In its first session of 1682 the assembly passed another reviving act,¹⁵⁶ and in its second session of that year it passed another still.¹⁵⁷

Almost as though they were deliberately seeking a confrontation with Baltimore, the delegates during the session of 2 October to 6 November 1683 laid down a challenge to his prerogative even more extreme than the one of two years earlier. When the upper house drew up a bill “Ascertaining the true force and Validity of the Laws” of the province,¹⁵⁸ the delegates proposed an amendment by which they would have denied Baltimore the power to disallow laws that his governors had signed before this session except those that he had already disallowed.¹⁵⁹ Presumably that would add stability to the law, and certainly it would reduce Baltimore’s power. The upper house, dependent on Baltimore and with Baltimore in the province, could not accept that;¹⁶⁰ the delegates refused to give in;¹⁶¹ and the bill got nowhere.

Frustrated with the delegates now for more than two-and-a-half years, Baltimore again revealed his impatience when in his opening speech to the two house at the beginning of the session of 1-26 April 1684 he said that he hoped that he would “see noe more irregular and unparliamentary way of proceedings in either of the houses.”¹⁶² Surely he was not referring to the upper house, which he controlled, and the clerk of the lower house probably provided a hint of the delegates’ reaction when he ignored this offensive wording by recording only the “purport” of Baltimore’s speech rather than writing out the whole of it.¹⁶³

Baltimore was about to leave for England,¹⁶⁴ and before he left he wanted the assembly to settle what were the temporary and what were the perpetual laws of the province.¹⁶⁵ The two houses during this session did in fact spend a lot of time trying, but if the delegates could not abolish Baltimore’s power to disallow earlier laws they wanted at least to write into law a severe limit on the time he and his heirs had to

accept or to disallow an act after the governor approved it. In their bill¹⁶⁶ they suggested twenty months;¹⁶⁷ the upper house countered with three years;¹⁶⁸ the delegates argued that they were allowing the proprietor more time than he had promised in 1681;¹⁶⁹ Baltimore refused to accept the twenty months;¹⁷⁰ and after “a long and Serious Debate” the delegates voted to proceed no further.¹⁷¹ Thus again the assembly was unable to pass a bill “ascertaining the true force and validity of the Lawes of . . . [the] Province”¹⁷² and instead passed a reviving act to continue fifty laws.¹⁷³

After enduring the resistance of the delegates for two-and-a-half years Baltimore decided to get tough. At the end of the session of 1684 he announced that he would disallow all of the acts of the session of 1678, when Thomas Notley was governor, except those that with his assent had been continued, confirmed, or revived since his return to the province, that in the future all members of the assembly would have to take an oath of fidelity to him according to law,¹⁷⁴ and that no delegate could appear before him in the upper house with his hat on.¹⁷⁵ He disallowed those laws, he announced in his proclamation of disallowance on 5 May 1684, because “several doubts and disputes” had occurred concerning the uncertainty of the laws of the province because he had not publicly declared his assent or dissent to them.¹⁷⁶

While Baltimore might have acted precipitously and possibly even foolishly, and while his disallowance of the laws of 1678 would do nothing to clear up any uncertainty about the laws of the province, for three reasons the disallowance must have done very little or nothing to increase confusion in the province. In the first place, the laws that the assembly made perpetual by its act of 1676¹⁷⁷ would still be in force. Second, the disallowance would have no effect on the laws that the assembly passed in 1681, 1682, 1683, and 1684, while Baltimore was in the province. Finally, the disallowance actually applied to only a few of the acts of 1678.

Six of the eighteen laws of 1678 had been revived five times each while Baltimore was in the province and thus were excepted from the disallowance.¹⁷⁸ One act had been revived in 1681 and then repealed in the same year when the assembly passed a new act to replace it.¹⁷⁹ Another act had expired and had been replaced in 1681.¹⁸⁰ One act the proprietor had already disallowed in 1681.¹⁸¹ Two of the laws had become obsolete.¹⁸² Thus the disallowance did not apply to any of these eleven laws.

Of the seven remaining laws, three private acts Baltimore ordered the assembly to pass again during its next session and promised to confirm them.¹⁸³ That the assembly ignored Baltimore's order¹⁸⁴ is no reflection on him. Three other laws the assembly did not consider important enough to restore during its next session, which was held late in 1686, or in 1688,¹⁸⁵ the last session before Baltimore lost the province.

Even Baltimore's disallowance of the eighteenth act of 1678, the "Act for Repeal of certain Laws,"¹⁸⁶ was not likely to cause any serious problems. By that act the assembly repealed eighteen laws. Two acts had already been repealed before 1678.¹⁸⁷ The repeal of a third one Baltimore had already disallowed in 1681,¹⁸⁸ and so now he was only disallowing its repeal again. Six of them the assembly had made perpetual in 1676,¹⁸⁹ and therefore with the disallowance of the repealing act they would simply go back into effect. Five acts had been replaced by new acts,¹⁹⁰ and therefore their repeal, and the disallowance of that repeal, did not matter. One act the assembly enacted in 1676 for only one year,¹⁹¹ and therefore it had expired by 1678. One act, for the relief a widow and her children, the assembly passed in June of 1676 for a flat three years,¹⁹² but apparently about 1678 the widow remarried¹⁹³ and therefore the relief was no longer necessary. One act the assembly passed in 1676 for three years or until the end of the next session, whichever came first,¹⁹⁴ and thus by the time Baltimore in 1684 disallowed its repeal it had long since expired.

If the disallowance of the repealing of these seventeen acts made little or no difference in the province, neither did the disallowance of the repealing of the eighteenth act, an act of 1676 "for Reviving of certain Laws of . . . [the] Province."¹⁹⁵ This act revived twenty-nine laws, but since it revived them for three years or to the end of the next session of the assembly, whichever came first, those that were not revived later had already expired. Most of those acts, however, had been revived several times while Baltimore was in the province, and twenty-one of them were revived during the session of 1684,¹⁹⁶ the session at the end of which Baltimore disallowed all of the laws of 1678.

Thus while Baltimore's disallowance of the laws of 1678 must have created less confusion than historians have assumed,¹⁹⁷ the disallowance of laws that the assembly had passed five-and-a-half years earlier could be interpreted as a revocation of his promise in 1681 that in the future he would approve or disallow laws immedi-

ately when he was in Maryland and that when he was outside the province his assent or disallowance would be published there within eighteen months.¹⁹⁸ Technically the disallowance was not a violation of his promise, since that applied only to laws passed in the future, but he had asserted his prerogative, and, though since the records of the assembly for the session of 1686 have not survived¹⁹⁹ we have no evidence of the immediate reaction of the delegates to the disallowance, that is the way the rebel Associators claimed to interpret it later. The disallowance of laws that the proprietor himself for some time had “personally acted and governed by” is one of their complaints in their declaration of 25 July 1689,²⁰⁰ and in their articles against him later they complain that he had assumed the power to assent to or disallow laws that were made while he was outside the province whenever he pleased,²⁰¹ that he had disallowed laws that were “made and consented to by sufficient authority,” and that he had assumed the power “to dispense with laws made by his owne personall assent” while he was in the province.²⁰²

When Baltimore went back to England in May or June of 1684²⁰³ he left the council, and therefore the upper house, dominated by Catholics and his own relatives.²⁰⁴ Tension soon increased when George Talbot, a Catholic, president of the council, surveyor general of Maryland, and a cousin of the proprietor,²⁰⁵ on 31 October 1684 killed Christopher Rousby, collector of Patuxent²⁰⁶ and one of Baltimore’s favorite enemies,²⁰⁷ aboard a ship on the Patuxent River, and the members of the council made it appear that they were trying to help Talbot escape punishment. The captain of the ship refused to surrender Talbot to authorities in Maryland but took him to Virginia instead,²⁰⁸ and on 31 January 1684/5 the Committee for Trade and Plantations decided that he should be sent to England for trial by a special commission for murder.²⁰⁹ Talbot, however, escaped and returned to Maryland,²¹⁰ where Baltimore’s officials allegedly allowed him to live undisturbed²¹¹ in spite of the efforts of Lord Howard of Effington, the governor of Virginia, to get him back.²¹² By 20 April 1685 he had surrendered to authorities in Maryland,²¹³ hoping to have his trial there.²¹⁴ The members of the council were also suspiciously anxious to have him tried at the provincial court,²¹⁵ where they would be the justices.²¹⁶ If they could not control the petit jury sufficiently to get an acquittal for their colleague Baltimore could pardon him,²¹⁷ though Baltimore assured the authorities in England that Talbot would be disposed of as the king thought fit.²¹⁸ At the insistence of the Committee

for Trade and Plantations²¹⁹ Baltimore ordered him returned to Virginia to be taken back to England for trial,²²⁰ but at the request of Rousby's brother the Committee for Trade and Plantations on 26 August 1685 ordered instead that Talbot should be tried in Virginia at a special court of oyer and terminer.²²¹ He was convicted and sentenced to hang,²²² but James II had already ordered that if he was convicted he should be reprieved until the king's pleasure was known,²²³ and on 15 April 1687 he appeared before the governor and council of Virginia with the king's pardon with the condition that he be banished from the king's dominions.²²⁴

Talbot's pardon for the murder of Rousby could have done nothing to mollify the Protestant dissidents, and their hope of peaceably rising to dominance in the government of the province was all but extinguished when the birth of a son on 20 June 1688 to Mary of Modena, the wife of James II, assured a Catholic succession in England.²²⁵ By 3 October 1688 William Joseph, an arrogant and doctrinaire Catholic, had arrived as governor of Maryland,²²⁶ and on instructions from Baltimore, who had got them from the king through the Privy Council,²²⁷ Marylanders on 11 October in St. Mary's City and County and on 1 November in the rest of the counties celebrated the birth of the Catholic prince.²²⁸ Baltimore also ordered the council to send him by its very first opportunity an address from the most substantial inhabitants of the province for him to present to the king. The eight members of the council and "about" ninety of what they called the best inhabitants of the province did sign an address in which they enthusiastically expressed their pleasure at the arrival of the Catholic prince and pledged their loyalty to James II.²²⁹

Having to celebrate the birth of a Catholic prince was bad enough for the Protestant Marylanders, but at his first meeting with the assembly Joseph offended them further by tracing the divine right to rule from God through the king and the proprietor to himself, by harshly reprimanding Marylanders for their immorality and drunkenness,²³⁰ and by demanding that each member of the assembly to take an oath of fidelity to Baltimore.²³¹ The delegates resisted taking the oath,²³² but after Joseph prorogued the session on the seventeenth²³³ they finally took the oath as private citizens rather than as delegates.²³⁴ The assembly convened again on the nineteenth,²³⁵ but until the upper house reminded them ten days later²³⁶ the delegates did nothing about Joseph's suggestion that the assembly pass an act of thanksgiving for the birth of the Catholic prince to be celebrated every year on the tenth of June during

the life of the prince.²³⁷ By the next day they had a bill ready, and the bill did pass.²³⁸ Much as the Protestants in the lower house might have resented it, they could hardly have dared to resist. Such resistance would have been an affront not to a mere proprietor but rather to the king himself.

In November of 1688 William of Orange invaded England, and in December James II escaped to the Continent.²³⁹ The messenger Baltimore claimed to have sent to Maryland with an order to proclaim William and Mary king and queen died, according to Baltimore, on the way,²⁴⁰ and when Governor Joseph was slow to proclaim the new monarchs²⁴¹ the politically ambitious Protestants, led by John Coode, Kenelm Cheseldyne, Nehemiah Blakiston, and Henry Jowles, saw their chance.²⁴² Joseph had already handed them an additional excuse for action when on 19 January 1688/9 he called in all of the public arms of the province, which would be repaired and then redistributed only to those who would faithfully serve the king, the proprietor, and the country.²⁴³ In the middle of March, suspiciously soon after Joseph called in the public arms, rumors arose of a Catholic plot to incite the Indians to kill all of the Protestants;²⁴⁴ soon after that Coode and his fellow conspirators formed the Protestant Association;²⁴⁵ on 1 August Joseph and four members of the proprietary council signed the articles of surrender to the rebels;²⁴⁶ and the Association were in charge.²⁴⁷ They opened the first session of their Convention on 22 August.²⁴⁸

Not all Protestants were happy with the change, and more than 227 of them were concerned enough to sign petitions of protest criticizing Coode and his allies and asking William and Mary to return the province to Baltimore.²⁴⁹ Beyond that, in a separate petition forty-three additional Protestants from Calvert County joined twenty-five of the 104 men who signed the other petition from that county to tell the king that they would elect no delegates to the assembly that the rebels were calling but rather would wait until lawful authority arrived in the province from England.²⁵⁰ Even though 441 other Protestants, in addition to the justices and grand jurors of Kent County, allegedly signed petitions supporting the Revolution²⁵¹ — there were charges that some of the signatures were forged²⁵² —, the dissent of more than 270 of their fellow Protestants was enough to worry the rebels, and they found it necessary to justify themselves by sending a long list of charges against Baltimore to England.²⁵³

Thus when Governor Lionel Copley arrived in Maryland “shortly before 6 April 1692”²⁵⁴ to take over the government from the Associators he found a three-way political division in the province. There were the Catholics, and there were two sets of Protestants.²⁵⁵ Those Protestants who had protested the Revolution, which was more economic and political than Protestant,²⁵⁶ might be as dangerous to the people in power as the rebels insisted the Catholics were. No doubt aware of the earlier threats to the reigning authority in the province, not only from actual rebellions but also from the intractability of some delegates, what Copley and his successors and their supporters needed to guarantee the maintenance of order in their own image — to guarantee, that is, that the faction in power would remain in power and thus have sole access to the fruitful offices at the governors’ disposal and first crack at the thousands of acres of available land — was a cadre of intensely political officials and courtiers who would place party over principle.

Conditions in the province were perfect for the arrival of an ambitious nineteen-year-old anxious to make his way in the world.

1. Introduction: The Turbulent Seventeenth Century

¹ David William Jordan, "The Royal Period of Colonial Maryland, 1689-1715" (Ph. D. dissertation: Princeton University, 1966), pp. 78-79. But see also Appendix A, "William Bladen's Birth and His Arrival in Maryland."

² Charles M. Andrews, *The Colonial Period of American History* (4 vols.; New Haven: Yale University Press, 1934-1938), II, 287; David William Jordan, *Foundations of Representative Government in Maryland, 1632-1715* (Cambridge: Cambridge University Press, 1987), p. 11.

For the history of Maryland before 1689, see Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 1-137; J. Thomas Scharf, *History of Maryland from the Earliest Period to the Present Day* (3 vols.; Baltimore: J. B. Piet, 1879; reprinted Hatboro, Pa.: Tradition Press, 1967), I, 53-301; John V. L. McMahon, *An Historical View of the Government of Maryland, from Its Colonization to the Present Day* (Baltimore: F. Lucas, Jr. Cushing & Sons, and William and Joseph Neal, 1831), pp. 1-236; Robert J. Brugger, *Maryland: A Middle Temperament, 1634-1980* (Baltimore: The Johns Hopkins University Press, 1988), pp. 1-40; Aubrey C. Land, *Colonial Maryland: A History* (Millwood, N. Y.: KTO Press, 1981), pp. 3-90; Matthew Page Andrews, *History of Maryland: Province and State* (Garden City, N. Y.: Doubleday, Doran & Company, Inc., 1929), pp. 1-193; Matthew Page Andrews, *The Founding of Maryland* (Baltimore: The Williams & Wilkins Company, 1933) (to 1694); Donald Marquand Dozer, *Portrait of the Free State: A History of Maryland* (Cambridge, Md.: Tidewater Publishers, 1976), pp. 33-140.

Newton D. Mereness, *Maryland as a Proprietary Province* (New York:

Macmillan Co., 1901; reprinted Cos Cob, Conn.: John E. Edwards, Publisher, 1968), is organized by topics, but his "Introduction," pages 1-45, is a very brief review of the history of the province to 1692.

John Leeds Bozman's *The History of Maryland, from Its First Settlement, in 1633, to the Restoration, in 1660, with a Copious Introduction, and Notes and Illustrations* (2 vols.; Baltimore: James Lucas & E. K. Deaver, 1837), is for the reader with a lot of leisure. Starting with Columbus, Bozman does not get to Maryland until the last fourteen pages of his first volume.

James McSherry's *History of Maryland* (Baltimore: Murphy, 1848; edited and continued by Bartlett B. James (Baltimore: The Baltimore Book Co., 1904)), pp. 5-146, is completely inadequate, "a rehash of Bozman and McMahon." "An Introduction to the Author," p. 2 (in reprint of 1968). Clayton Colman Hall's *The Lords Baltimore and the Maryland Palatinate: Six Lectures on Maryland Colonial History* (Baltimore: Nunn & Company, 1904), pp. 1-124, is brief and inadequately documented.

³ *Archives of Maryland*, hereafter *Md. Arch.*, (72 vols.; Baltimore: Maryland Historical Society, 1883-1972), I, 16, 18, 21; III, 16-44, 65-67, 68-70, 71-73, 75-77, 78-84, 88-89, 92-93; IV, 21-23, 281; 1637/8, No. 30, *Md. Arch.*, I, 23-24.

For the battle over Kent Island, see also Andrews, *The Colonial Period of American History*, II, 302-307; Scharf, *History of Maryland*, I, 99-120; McMahon, *An Historical View of the Government of Maryland*, pp. 6-8, 12, 14-17; Mereness, *Maryland as a Proprietary Province*, pp. 12-18; Bozman, *The History of Maryland*, II, 32-33, 34-35, 43-44, 60-63, 64-66, 68-76, 169-170; Andrews, *History of Maryland*, pp. 42-60; Andrews, *The Founding of Maryland*, pp. 94-112; Dozer, *Portrait of the Free State*, pp. 51-56; Bernard C. Steiner, *Beginnings of Maryland* (Baltimore: The Johns Hopkins Press, 1903), pp. 9-15, 23-24, 43-65, 71-74, 81-85, 86, 86-90; J. Herbert Claiborne, "William Claiborne of Kent Island," *William and Mary College Quarterly*, Second Series, I, No. 2 (April 1921), pp. 73-99; John Herbert Claiborne, *William Claiborne of Virginia: With Some Account of his Pedigree* (New York: G. P. Putnam's Sons, 1917).

Possibly the best treatments of Claiborne's battle with the Baltimores are Nathaniel Claiborne Hale, *Virginia Venturer: A Historical Biography of William Claiborne, 1600-1677. The Story of the Merchant Venturers Who Founded Virginia*

and the War in the Chesapeake (Richmond: The Dietz Press, Incorporated, 1951), pp. 130ff., and J. Frederick Fausz, "Merging and Emerging Worlds: Anglo-Indian Interest Groups and the Development of the Seventeenth-Century Chesapeake," in Lois Green Carr, Philip D. Morgan, and Jean B. Russo, eds., *Colonial Chesapeake Society* (Chapel Hill: The University of North Carolina Press, 1988), pp. 47-98.

⁴ At the assembly for February and March of 1638/9 an act confirming the sentence of William Claiborne was introduced but apparently never passed. *Md. Arch.*, I, 39; Thomas Bacon, *Laws of Maryland at Large* (Annapolis: Jonas Green, 1765), for 1638.

⁵ *Md. Arch.*, I, 238-239, 270-271, 301; III, 161, 162, 164-168, 170-171, 173-176, 179, 180-183, 195, 205, 214-215, 216-217, 221, 244, 245-248, 249-250, 252-253, 254-255, 292; IV, 372, 375-376, 435, 458-459, 513; Timothy B. Riordan, *The Plundering Time: Maryland and the English Civil War, 1645-1646* (Baltimore: Maryland Historical Society, 2004); Andrews, *The Colonial Period of American History*, II, 308-309.

For Ingle's Rebellion, see also Scharf, *History of Maryland*, I, 145-150; McMahon, *An Historical View of the Government of Maryland*, pp. 17, 201-202; Mereness, *Maryland as a Proprietary Province*, pp. 19-22; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 47-48; Bozman, *The History of Maryland*, II, 270-271, 286-290; Andrews, *History of Maryland*, pp. 79-85; Andrews, *The Founding of Maryland*, pp. 113-121; Russell R. Menard, "Maryland's 'Time of Troubles': Sources of Political Disorder in Early St. Mary's," *Maryland Historical Magazine*, LXXVI, No. 2 (June 1981), pp. 136-138; Bernard C. Steiner, *Maryland During the English Civil Wars*, Part II (Baltimore: The Johns Hopkins Press, 1907), pp. 32-38, 48-63, 78-79.

Paul F. Liston, Mark Zimmerman, and John B. Brady, *The Plundering Time: the Hardships of Southern Maryland Catholics in Colonial Times* (Washington: Abbeyfeale Press, 1989), is very short (thirty-two pages, including several pages of illustrations) and therefore too general to be of any scholarly use.

⁶ *Md. Arch.*, III, 182; Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953), p. 116; Scharf, *History of Maryland*, I, 193-194, 194; Bozman, *The History of Maryland*, II, 303-304; Andrews, *History of Maryland*, pp. 85-87.

⁷ *Md. Arch.*, III, 182.

⁸ *Ibid.*, p. 195; IV, 441-442.

⁹ 1650, c. 24, *Md. Arch.*, I, 301.

¹⁰ Godfrey Davies, *The Early Stuarts, 1603-1660* (2nd edition; Oxford: The Clarendon Press, 1959), pp. 156-159; Michael B. Young, *Charles I* (New York: St. Martin's Press, 1997), pp. 168-172.

¹¹ *Md. Arch.*, III, 244.

¹² Davies, *The Early Stuarts, 1603-1660*, pp. 160-260.

¹³ *Md. Arch.*, I, 278, 279; 1650, c. 4, *Md. Arch.*, I, 287-288.

¹⁴ *Md. Arch.*, III, 264-266, 271-272, 275-276, 311-313; 1654, No. 1, *Md. Arch.*, I, 339-340: "The Act of Recognition"; Bernard C. Steiner, *Maryland Under the Commonwealth: A Chronicle of the Years 1649-1658* (Baltimore: Johns Hopkins Press, 1900; reprinted New York: AMS Press, 1971), pp. 53-84.

¹⁵ *Md. Arch.*, I, 351-352.

¹⁶ *Ibid.*, p. 351. Baltimore's "Act concerning Religion" is 1649, c. 1, *Md. Arch.*, I, 244-247.

¹⁷ 1654, No. 4, *Md. Arch.*, I, 340-341: "An Act concerning Religion."

¹⁸ Richard Bennett and William Claiborne, "Commission for the Administration of Justice in the Province of Maryland . . .," 22 July 1654, *Md. Arch.*, III, 313.

¹⁹ Andrews, *History of Maryland*, pp. 127-129; Andrews, *The Founding of Maryland*, pp. 241-243; Steiner, *Maryland Under the Commonwealth*, pp. 84-101. The four who were shot were William Eltonhead, a member of Governor Stone's council, Captain William Lewis, John Legatt, and John Pedro. Virlinda Stone, "Letter to Lord Baltimore," in John Langford, "A . . . Refutation of . . . Babylon's Fall in Maryland . . ." (1655), in Clayton Colman Hall, ed., *Narratives of Early Maryland* (New York: Charles Scribner's Sons, 1910), p. 266; John Hammond, "Leah and Rachel, or, the Two Fruitfull Sisters Virginia and Mary-Land" (1656), in *ibid.*, p. 305; Scharf, *History of Maryland*, I, 221; Steiner, *Maryland Under the Commonwealth*, p. 100.

²⁰ *Md. Arch.*, III, 324.

²¹ *Ibid.*, pp. 320, 324, 333; *Dictionary of National Biography*.

²² *Md. Arch.*, III, 324; Steiner, *Maryland Under the Commonwealth*, p. 107.

²³ *Md. Arch.*, III, 323-324; Owings, *His Lordship's Patronage*, p. 117.

²⁴ *Md. Arch.*, III, 324-325; Scharf, *History of Maryland*, I, 226; Bozman, *The History of Maryland*, II, 537.

²⁵ *Md. Arch.*, III, 330-331.

²⁶ *Ibid.*, pp. 332-334.

²⁷ *Ibid.*

²⁸ *Ibid.*, I, 369-371; III, 334-340. For the Puritans' control of the province in the 1650s, see also Andrews, *The Colonial Period of American History*, II, 318-322, 323; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 55-57; Scharf, *History of Maryland*, I, 210-229; McMahon, *An Historical View of the Government of Maryland*, pp. 204-212; Mereness, *Maryland as a Proprietary Province*, pp. 22-26; Bozman, *The History of Maryland*, II, 429-563; Andrews, *History of Maryland*, pp. 113-133; Andrews, *The Founding of Maryland*, pp. 229-244; Dozer, *Portrait of the Free State*, pp. 98-101; Daniel R. Randall, *A Puritan Colony in Maryland* (Baltimore: N. Murray, Publication Agent, Johns Hopkins University, 1886), pp. 26-40; Denis M. Moran, "Anti-Catholicism in Early Maryland Politics: The Puritan Influence," in *Records of the American Catholic Historical Society of Philadelphia*, LXI (1950), pp. 148-154.

²⁹ *Md. Arch.*, III, 325, 333-334; Steiner, *Maryland Under the Commonwealth*, p. 113.

³⁰ As will become clear below, my view of the period in Maryland from 1660 to 1689 Maryland is quite different from that of Lois Green Carr, in "Sources of Political Stability and Upheaval in Seventeenth-Century Maryland," *Maryland Historical Magazine*, LXXIX, No. 1 (Spring 1984), pp. 44-70. "Nearly thirty years of mostly peaceful development after 1660 were interrupted by the overthrow of proprietary government in 1689" *Ibid.*, p. 44.

³¹ *Md. Arch.*, V, 133.

³² See Note 256 below.

³³ *Md. Arch.*, III, 387.

³⁴ *Ibid.*, I, 388-391; III, 391; Bacon, *Laws of Maryland at Large*, note under 1659; Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiver-son, eds., *A Biographical Dictionary of the Maryland Legislature, 1635-1789*, hereafter *Biographical Dictionary* (2 vols.; Baltimore: The Johns Hopkins University Press, 1979, 1985), I, 23, Note 1.

³⁵ *Md. Arch.*, III, 387-388, 394-395.

³⁶ Owings, *His Lordship's Patronage*, p. 117.

³⁷ *Md. Arch.*, III, 391-392, 392.

³⁸ *Ibid.*, pp. 397-398.

³⁹ *Ibid.*, p. 395. Apparently the resistance to Baltimore's government was centered in this instance in Charles County, where Fendall and Hatch both lived. *Biographical Dictionary*, I, 313, 422.

⁴⁰ *Md. Arch.*, III, 396-397.

⁴¹ *Ibid.*, pp. 399-400.

⁴² *Ibid.*, I, 382.

⁴³ *Ibid.*, XLI, 447-450.

⁴⁴ *Ibid.*, III, 408, 409; XLI, 427-229. J. Thomas Scharf says that Fendall and Gerrard were tried and found guilty of treason but gives no source (Scharf, *History of Maryland*, I, 268), and I have found no record of a trial. In the proceedings of the provincial court their submissions come immediately after their indictments. *Md. Arch.*, XLI, 427-429.

⁴⁵ *Ibid.*, III, 405; XLI, 413, 417, 422, 424.

⁴⁶ *Ibid.*, III, 405-407, 408-409.

⁴⁷ *Ibid.*, XLI, 447-450.

⁴⁸ *Ibid.*, I, 402.

⁴⁹ *Ibid.*, p. 403.

⁵⁰ *Ibid.*, III, 419.

⁵¹ *Ibid.*, p. 408.

⁵² *Ibid.*, p. 442. For Fendall's Rebellion, see also Owings, *His Lordship's Patronage*, p. 117; Andrews, *The Colonial Period of American History*, II, 322-323; Scharf, *History of Maryland*, I, 266-268; McMahon, *An Historical View of the Government of Maryland*, pp. 212-214; Mereness, *Maryland as a Proprietary Province*, pp. 26-28; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 57-59, 120; Andrews, *History of Maryland*, pp. 134-135; Andrews, *The Founding of Maryland*, pp. 248-249; Francis Edgar Sparks, *Causes of the Maryland Revolution of 1689* (Baltimore: The Johns Hopkins Press, 1896), pp. 31-36.

⁵³ For the outlawry of John Jenkins, see *Md. Arch.*, XLI, 470, 476, 492, 509,

511. Since Jenkins had already been acquitted for his alleged participation in the mutiny, the outlawry appears clearly to be a case of double jeopardy.

⁵⁴ *Md. Arch.*, III, 445; XLI, 509. I have not found the disposition of this order.

⁵⁵ Owings, *His Lordship's Patronage*, p. 117.

⁵⁶ Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, chart on p. 79.

⁵⁷ *Md. Arch.*, II, 159.

⁵⁸ *Ibid.*, p. 161.

⁵⁹ See Note 70 below.

⁶⁰ *Md. Arch.*, II, 168-169, 173-177.

⁶¹ *Ibid.*, p. 177.

⁶² Owings, *His Lordship's Patronage*, pp. 117, 122.

⁶³ *Md. Arch.*, II, 177-184; Andrews, *The Colonial Period of American History*, II, 338-339; Sparks, *Causes of the Maryland Revolution of 1689*, pp. 46-48; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 106-107.

This outcome might have been the result of an unrecorded compromise, since just before the delegates resolved on the twenty-seventh to remove the first three grievances from their Journal the Speaker and "some Members of the Lower House" appeared in the upper house and "presented a Paper as from themselves not from the House, which not Coming from the House was not thought necessary to be recorded." *Md. Arch.*, II, 183. The record of the exchange survives in the Journal of the upper house.

⁶⁴ *Md. Arch.*, V, 54; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, p. 108.

⁶⁵ *Md. Arch.*, V, 77-78; Andrews, *The Colonial Period of American History*, II, 339-340; David W. Jordan, "Elections and Voting in Early Colonial Maryland," *Maryland Historical Magazine*, LXXVII, No. 3 (Fall 1982), pp. 245-248; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 82-83.

⁶⁶ *Md. Arch.*, LI, 383-390 (especially p. 389), 393; Sparks, *Causes of the Maryland Revolution of 1689*, p. 53; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, p. 87. The first charter of St. Mary's City, which Charles Calvert issued on 3 November 1668, did not provide for representation in the lower house. *Md. Arch.*, LI, 567-570.

⁶⁷ Governor Charles Calvert to Cecilius, Lord Baltimore, 26 April 1672, *The Calvert Papers, Number One: With an Account of Their Recovery, and Presentation to the Society*, Maryland Historical Society Fund Publication No. 28 (Baltimore: John Murphy & Co., 1889), pp. 264-265.

⁶⁸ *Md. Arch.*, II, 373-374.

⁶⁹ See for example the laws passed during this session, in *ibid.*, pp. 386-417.

⁷⁰ *Md. Arch.*, VII, 152, 160, 298; Sparks, *Causes of the Maryland Revolution of 1689*, p. 57; Michael G. Kammen, "The Causes of the Maryland Revolution of 1689," *Maryland Historical Magazine*, LV, No. 4 (December 1960), pp. 301-302.

⁷¹ Owings, *His Lordship's Patronage*, p. 117.

⁷² 1676, c. 2, *Md. Arch.*, II, 542-551.

⁷³ See Text below at Notes 147-202.

⁷⁴ *Md. Arch.*, II, 507-508; V, 137-138; VIII, 225; Andrews, *The Colonial Period of American History*, II, 340; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, p. 89.

⁷⁵ *Biographical Dictionary*, I, 27-28.

⁷⁶ Owings, *His Lordship's Patronage*, p. 117.

⁷⁷ *Md. Arch.*, V, 143, 153; VIII, 225; XV, 127-130, 131-132, 344; Andrews, *The Colonial Period of American History*, II, 343-344; Sparks, *Causes of the Maryland Revolution of 1689*, pp. 67-69; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 118-119.

⁷⁸ For Notley's commission, see *Md. Arch.*, XV, 132-135.

⁷⁹ *Ibid.*, pp. 137-140.

⁸⁰ Thomas Jefferson Wertenbaker, *Torchbearer of the Revolution: The Story of Bacon's Rebellion and Its Leader* (Princeton: Princeton University Press, 1940); Wilcomb E. Washburn, *The Governor and the Rebel: A History of Bacon's Rebellion in Virginia* (Chapel Hill: The University of North Carolina Press, 1957).

⁸¹ *Md. Arch.*, V, 134-152; Andrews, *The Colonial Period of American History*, II, 345, 347-348; Sparks, *Causes of the Maryland Revolution of 1689*, pp. 69-73; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 119-120.

⁸² *Md. Arch.*, V, 152-154.

⁸³ *Ibid.*, XV, 207, 211.

⁸⁴ *Ibid.*, V, 280-281; XV, 212-213, 217-223, 235-243, 280-288, 289-307, 313-314, 353-373; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 122-123. For problems with the Indians during Baltimore's absence, see *Md. Arch.*, XV, 120-121, 125-126, 142-144, 145, 162-163, 171-172, 175-176, 178-180, 184-185, 190-191, 191-192.

⁸⁵ *Md. Arch.*, VII, 109-110; XV, 378-379. The problems with the Indians continued. See Note 120 below and *Md. Arch.*, XVII, 9, 11-12, 19-29, 29-30, 38.

⁸⁶ *Md. Arch.*, V, 281. The Earl of Anglesey was Lord Privy Seal. Sir George Clark, *The Later Stuarts, 1660-1714* (2nd edition; Oxford: The Clarendon Press, 1955), p. 461.

⁸⁷ Though the indictments against Fendall and Coode are quite different from each other, the words "mutiny" and "sedition" appear in both of them. *Md. Arch.*, V, 313 (Fendall), 330 (Coode).

⁸⁸ *Md. Arch.*, XV, 400-404, 409, 411. The figure of thirty men comes from Godfrey's indictment. *Ibid.*, V, 333.

⁸⁹ Apparently all three of these men were tried under 1649, c. 4, *Md. Arch.*, I, 248-249, made perpetual by 1676, c. 2, *Md. Arch.*, II, 548.

⁹⁰ *Md. Arch.*, V, 312-313, 329; *Biographical Dictionary*, I, 27.

⁹¹ *Md. Arch.*, V, 301, 312-328 (transcript of Fendall's trial); XV, 244-249, 388-391; XVII, 31-33, 46, 48, 52, 55-56, 64-65, 66, 118-119, 121-122, 272-273, 274. The record of Fendall's trial is particularly detailed since Baltimore had John Llewellyn, who was the clerk of the council and who could take shorthand, sit with the clerk of the provincial court during the trial because Fendall had always been considered "a subtile cunning person" (*ibid.*, V, 311) and Baltimore wanted to protect himself against accusations that "upon groundles [*sic*] jealousies and bare suspicions . . . [he] had committed six or seaven [*sic*] Protestants." *Ibid.*, p. 312.

⁹² *Md. Arch.*, V, 351. William Blathwayt was secretary to the Lords of Trade from 1679 to 1696 and Surveyor and Auditor General of Plantation Revenues from 1680 to 1717. Gertrude Ann Jacobsen, *William Blathwayt: A Late Seventeenth Century English Administrator* (New Haven: Yale University Press, 1932), Chapters 5, 6, and 11.

⁹³ *Md. Arch.*, V, 301, 328-332 (transcript of Coode's trial); VII, 112-113, 115-116, 119, 135-136, 136-138, 138-139, 139; XV, 391, 392, 399; XVII, 30, 44.

⁹⁴ *Ibid.*, XV, 255, 256-259.

⁹⁵ *Ibid.*, VII, 261, 268, 299, 302, 303, 313; *Biographical Dictionary*, I, 27. For John Coode, see David W. Jordan, "John Coode, Perennial Rebel," *Maryland Historical Magazine*, LXX, No. 1 (Spring 1975), pp. 1-28.

⁹⁶ *Md. Arch.*, V, 334; XV, 382, 385, 400, 404.

⁹⁷ *Ibid.*, V, 332-334 (transcript of Godfrey's trial); VII, 393; XV, 400-404, 407, 409, 411; XVII, 29, 31, 47, 66. Godfrey's trial occurred on 14-15 November, Fendall's on the fifteenth and sixteenth, and Coode's on the sixteenth.

⁹⁸ *Md. Arch.*, V, 334; XVII, 67, 69-70, 79. In the record Baltimore refers to the commutation as a pardon (*ibid.*, V, 334), as does the record of William Boarman's application to the upper house for compensation for keeping Godfrey in custody. *Ibid.*, VII, 393.

For this "rebellion" of 1681, see also Andrews, *The Colonial Period of American History*, II, 349-350; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, p. 123; Sparks, *Causes of the Maryland Revolution of 1689*, pp. 80-81.

⁹⁹ Owings, *His Lordship's Patronage*, p. 179.

¹⁰⁰ *Md. Arch.*, V, 286, 289, 291, 295; The National Archives (PRO), *Calendar of State Papers: Colonial Series* (40 vols.; Vaduz: Kraus Reprint Ltd., 1964), XI, No. 328.i.

¹⁰¹ *Md. Arch.*, V, 274-276, 278, 278-280, 280, 292-295; TNA (PRO), *Calendar of State Papers: Colonial Series*, XI, Nos. 129, 151, 151.i, 267, 312, 325, 328.i, ii.

¹⁰² Owings, *His Lordship's Patronage*, p. 179; *Md. Arch.*, V, 276-278, 279-280, 290, 291; TNA (PRO), *Calendar of State Papers: Colonial Series*, XI, Nos. 120, 129, 166, 328.ii.

¹⁰³ *Md. Arch.*, V, 286, 288, 292; TNA (PRO) *Calendar of State Papers: Colonial Series*, XI, No. 328.ix.

¹⁰⁴ *Md. Arch.*, V, 288, 290; Owings, *His Lordship's Patronage*, p. 179.

¹⁰⁵ *Md. Arch.*, V, 286-299, 301, 306-307; TNA (PRO), *Calendar of State Papers: Colonial Series*, XI, No. 328; Owings *His Lordship's Patronage*, p. 179.

¹⁰⁶ *Md. Arch.*, V, 304, 304-306, 343-344, 344-346; TNA (PRO), *Calendar of State Papers: Colonial Series*, XI, Nos. 317, 321, 403.

¹⁰⁷ *Md. Arch.*, V, 363-369; TNA (PRO), *Calendar of State Papers: Colonial*

Series, XI, No. 507 (pp. 232-233).

¹⁰⁸ *Md. Arch.*, XV, 378-379. The disallowed act is 1678, c. 3, *Md. Arch.*, VII, 60-63.

¹⁰⁹ *Biographical Dictionary*, I, 29, 30.

¹¹⁰ *Md. Arch.*, VII, 333-334; XV, 378-379.

¹¹¹ *Ibid.*, VII, 119-120, 120-121.

¹¹² *Ibid.*, p. 121.

¹¹³ *Ibid.*, pp. 121-122.

¹¹⁴ *Ibid.*, pp. 122, 123-124, 125-126, 126-127, 133.

¹¹⁵ *Ibid.*, pp. 114-115, 117-119, 120, 121-122, 124, 126, 127, 128-130, 131-133.

¹¹⁶ *Ibid.*, pp. 133-135.

¹¹⁷ *Ibid.*, XVII, 15-17; Andrews, *The Colonial Period of American History*, II, 341; Jordan, "Elections and Voting in Early Colonial Maryland," pp. 248-249.

¹¹⁸ *Md. Arch.*, V, 77-78; LI, 133-134, 174-175, and Note 65 above.

¹¹⁹ *Md. Arch.*, VII, 188.

¹²⁰ *Ibid.*, pp. 110-111, 123, 124, 135, 141, 142, 149-151, 152, 154-155, 155, 159, 162, 163-165, 165, 166, 168, 170-171, 172-173, 174, 175, 177, 179-180, 183, 184.

¹²¹ *Ibid.*, XVII, 37-42, especially pp. 39, 41.

¹²² *Ibid.*, VII, 219, 221.

¹²³ *Ibid.*, pp. 219-244.

¹²⁴ *Ibid.*, pp. 259-321.

¹²⁵ *Biographical Dictionary*, I, 27.

¹²⁶ *Md. Arch.*, VII, 314.

¹²⁷ One of the signers, John Llewelin, was neither a delegate nor held any other office, and one, James Mills, was a delegate but held no other office. Of the three members of the upper house who were present (*Md. Arch.*, VII, 307) and who did not sign the document, two were Calverts and the third, Vincent Lowe, was related to the Calverts through his sister's marriage to the proprietor himself. For the offices of the signers, see the biographies in *Biographical Dictionary*. For the issue of the signings, see also Sparks, *Causes of the Maryland Revolution of 1689*, pp. 87-88.

¹²⁸ *Md. Arch.*, V, 353-355. The document is dated 13 May 1682, the last day of the session and the same day on which Baltimore asked for the signatures.

In December of 1696 Governor Francis Nicholson would imitate Baltimore's tactic. *Md. Arch.*, XX, 574-578, and Chapter 3, "Placeman," at Notes 66-74.

¹²⁹ *Md. Arch.*, VII, 333-335.

¹³⁰ *Ibid.*, pp. 345, 345-346, 407-408.

¹³¹ *Ibid.*, pp. 355, 416-417.

¹³² *Ibid.*, pp. 360, 418.

¹³³ *Ibid.*, XVII, 15-17.

¹³⁴ *Ibid.*, VII, 360, 530.

¹³⁵ *Ibid.*, pp. 365, 380, 430. The upper house did not send the first bill on elections back to the delegates until they asked for it, either. *Ibid.*, p. 359.

¹³⁶ *Ibid.*, pp. 385-386, 433-434. For the discussion of the bill on elections, see also *ibid.*, pp. 354, 413-414, 425, 428. For the discussion of the bill for the advancement of trade, which would have established towns, see *ibid.*, pp. 343, 349-352, 359-360, 364, 365-366, 368-369, 372-373, 377, 379-380, 385-386, 409-411, 412, 419, 420, 421-422, 422-424, 426, 427, 428, 429.

¹³⁷ *Ibid.*, pp. 354, 373, 419.

¹³⁸ *Ibid.*, pp. 377, 428.

¹³⁹ *Ibid.*, pp. 451, 458-459, 459-461, 462-463, 539-540, 541-542, 545-546.

¹⁴⁰ *Ibid.*, pp. 450, 530.

¹⁴¹ *Ibid.*, pp. 452-453, 479-480, 480, 488, 530, 533, 533-534, 535, 564, 575.

¹⁴² *Ibid.*, pp. 470, 474, 489, 558, 559, 573.

¹⁴³ *Ibid.*, pp. 484, 486-487, 490-491, 494, 558, 570, 574, 575, 578, 580-581.

¹⁴⁴ *Ibid.*, pp. 491-493.

¹⁴⁵ *Ibid.*, pp. 516, 520, 583; 1683, c. 5, *Md. Arch.*, VII, 609-619.

¹⁴⁶ For the very confusing consideration of the bills for advancing trade and on elections in 1683, see also: **on elections:** *Md. Arch.*, VII, 461, 463-464, 466, 478, 487, 496, 505-506, 513, 563, 583, 487, 489; **on trade:** *ibid.*, pp. 461, 462, 465-466, 467, 467-468, 468-469, 469, 473-474, 479, 480-481, 490, 507, 536, 537, 538, 539, 540-541, 543, 544, 547-549, 549, 550-553, 553-554, 554, 557, 563-564, 565, 566-567, 579, 583, 584, 586, 590; **on both:** *ibid.*, pp. 488, 493-495, 503-504, 539, 547, 575, 576, 580-581.

¹⁴⁷ *Md. Arch.*, VII, pp. 152, 152-153, 160-161, 175, 178, 178-179, especially p. 160, bottom.

- ¹⁴⁸ *Ibid.*, pp. 181-182.
- ¹⁴⁹ *Ibid.*, p. 182; XIII, 40.
- ¹⁵⁰ *Ibid.*, VII, 227, 228-229.
- ¹⁵¹ *Ibid.*, p. 228.
- ¹⁵² *Ibid.*
- ¹⁵³ *Ibid.*, pp. 228-229.
- ¹⁵⁴ *Ibid.*, pp. 229-230, 230-234, 234-236, 236-237, 237-239, 240, 243; 1681, c. 11, *Md. Arch.*, VII, 245-247.
- ¹⁵⁵ 1681, c. 12, *Md. Arch.*, VII, 247.
- ¹⁵⁶ 1682, c. 8, *Md. Arch.*, VII, 327-330.
- ¹⁵⁷ 1682, c. 12, *Md. Arch.*, VII, 435-438.
- ¹⁵⁸ *Md. Arch.*, VII, 505-506, 589, 590.
- ¹⁵⁹ *Ibid.*, pp. 508, 592.
- ¹⁶⁰ *Ibid.*, pp. 509-510, 593, 594-595.
- ¹⁶¹ *Ibid.*, pp. 510, 512, 596.
- ¹⁶² *Ibid.*, XIII, 5.
- ¹⁶³ *Ibid.*, pp. 53-54.
- ¹⁶⁴ Baltimore left for England sometime between 24 May and 24 June 1684. *Ibid.*, XVII, 268, 269, 270.
- ¹⁶⁵ *Ibid.*, XIII, 4-5, 9-10, 53-54, 69.
- ¹⁶⁶ *Ibid.*, p. 56.
- ¹⁶⁷ *Ibid.*, pp. 40, 100.
- ¹⁶⁸ *Ibid.*, pp. 34, 35, 38, 94, 97.
- ¹⁶⁹ *Ibid.*, pp. 38, 97.
- ¹⁷⁰ *Ibid.*, pp. 40, 100.
- ¹⁷¹ *Ibid.*, p. 100.
- ¹⁷² For other entries relating to the issue of temporary and perpetual laws and this bill, see *ibid.*, pp. 5-8, 11-20, 23, 24, 28, 29, 30-32, 33, 57, 58-66, 66-67, 71-75, 76-80, 81-83, 84, 85, 87, 87-88, 88-89, 91, 92, 93.
- ¹⁷³ 1684, c. 6, *Md. Arch.*, XIII, 123-126.
- ¹⁷⁴ 1650, c. 29, *Md. Arch.*, I, 304-306, made perpetual by 1676, c. 2, *Md. Arch.*, II, 548. The act includes the oath of fidelity to Baltimore.
- ¹⁷⁵ *Md. Arch.*, XIII, 49-50, 108-109. For the proclamation of disallowance, see

ibid., V, 405-406; XVII, 261. For the issue of wearing a hat before the proprietor when he was sitting in the upper house, see *ibid.*, XIII, 81. For the dispute between the two houses about swords and hats in 1682, see *ibid.*, VII, 348, 349, 353, 356, 414-415, 416.

¹⁷⁶ *Md. Arch.*, V, 405-406; XVII, 261. For Baltimore's order that this proclamation be drawn up, see *ibid.*, XVII, 253-254.

The records of the two houses disagree on exactly what Baltimore said at the end of the session of 1684. According to the record of the upper house he would disallow all of the laws of 1678 except those that "since his arrivall [he] had formally assented unto" (*Md. Arch.*, XIII, 49), while according to the record of the lower house he would disallow all of the laws of 1678 except those that he had "not before this time Disassented too." *Ibid.*, p. 108. The record of the lower house also has Baltimore say that he was acting because of the disputes that had arisen "concerning the validity" only of the acts to which Notley had assented, while in his proclamation he stated that he was acting because "doubts and disputes" had arisen "concerning the uncertainty of the Lawes of . . . [the] Province for want of . . . [his] Assent or dissent thereunto publickly declared and made knowne." *Ibid.*, V, 405-406; XVII, 261.

¹⁷⁷ 1676, c. 2, *Md. Arch.*, II, 547-551.

¹⁷⁸ 1678, c. 5, "An Act regulating Ordinaries, and limiting the Number of them within this Province," *Md. Arch.*, VII, 65-68; 1678, c. 6, "An Act for Election of Sheriffs," *Md. Arch.*, VII, 68-70; 1678, c. 7, "An Act for the better Administration of Justice in the County Courts of this Province," *Md. Arch.*, VII, 70-71; 1678, c. 8, "An Act for Appeals, and regulating Writs of Error," *Md. Arch.*, VII, 71-73; 1678, c. 10, "An Act for keeping a Register of Births, Marriages and Burials, in each respective County," *Md. Arch.*, VII, 76-77; 1678, c. 11, "An Act imposing a Penalty on all such, who shall dispose of Tobacco, seized and received by the Sheriff, and others," *Md. Arch.*, VII, 77, all revived by 1681, c. 8, *Md. Arch.*, VII, 214-216; 1681, c. 11, *Md. Arch.*, VII, 205-207; 1682, c. 8, *Md. Arch.*, VII, 327-330; 1682, c. 12, *Md. Arch.*, VII, 435-438; 1684, c. 6, *Md. Arch.*, XIII, 123-126.

¹⁷⁹ 1678, c. 15, "An Act for reviving and confirming certain laws of this Province," *Md. Arch.*, VII, 82-85, revived by 1681, c. 8, "An Act for reviving certain Laws within this Province," *Md. Arch.*, VII, 214-216, and then repealed by 1681, c. 12, "An Act for the Repeal of certain laws." *Md. Arch.*, VII, 247.

¹⁸⁰ 1678, c. 2, “An Act for the ordering and regulating the Militia of this Province, for the better Security and Defence thereof,” *Md. Arch.*, VII, 53-60, replaced by a new act with the same title. 1681, c. 1, *Md. Arch.*, VII, 188-195; Bacon, *Laws of Maryland at Large*, under 1678, c. 2.

¹⁸¹ 1678, c. 3, “An Act directing the Manner of electing and summoning Delegates and Representatives to serve in succeeding Assemblies,” *Md. Arch.*, VII, 60-63, disallowed 27 June 1681 by proclamation. *Md. Arch.*, XV, 378-379; Bacon, *Laws of Maryland at Large*, under 1678, c. 3.

¹⁸² 1678, c. 17, “An Act for Payment and Assessing the public Charge of this Province,” *Md. Arch.*, VII, 87-104, and 1678, c. 18, “An Act for Punishment of Edward Husbands, for Menacing and Cursing this Assembly,” *Md. Arch.*, VII, 104-105, in which the assembly deprived Husbands the right to practice as a physician in Maryland and ordered him to appear at the next provincial court for allegedly trying to poison the governor and the members of the assembly and to give sufficient security to guarantee his good behavior in the meantime. The delegates refer to this act as a bill of attainder. *Md. Arch.*, VII, 50. For the issue, see also *ibid.*, pp. 42, 43, 46. Husbands had already been whipped on his bare back for refusing to ask the forgiveness of both houses on his knees for “menacing & cursing” the assembly. *Ibid.*, pp. 49, 50. By 8 September 1681 Husbands had fled the province. *Ibid.*, pp. 157, 160. For more on Husbands, see *ibid.*, LXVIII, xix-xx, and Index.

¹⁸³ *Md. Arch.*, XVII, 253-254. These acts were two acts for the naturalization of five people (1678, c. 12, *Md. Arch.*, VII, 78-79, and 1678, c. 13, *Md. Arch.*, VII, 79-80) and one for the confirmation of a widow’s late husband’s purchase of a plantation. 1678, c. 14, *Md. Arch.*, VII, 80-82.

¹⁸⁴ Bacon, *Laws of Maryland at Large*, under 1686. Finally in 1695 the assembly specifically confirmed these private acts of 1678 as well as “all other Private Acts whatsoever” that it had ever passed. 1695, c. 15, *Md. Arch.*, XIX, 215.

¹⁸⁵ 1678, c. 1, “An Act for keeping Holy the Lord’s Day,” *Md. Arch.*, VII, 51-53; 1678, c. 4, “An Act for the due Recording of all the Laws of this Province, in the Secretary’s Office,” *Md. Arch.*, VII, 63-65; and 1678, c. 9, “An Act for limiting the County Clerks Fees within this Province,” *Md. Arch.*, VII, 73-75.

For the acts of 1686 and 1688, see *Md. Arch.*, XIII, 129-144, 210-227; Bacon, *Laws of Maryland at Large*, under 1686 and 1688.

¹⁸⁶ 1678, c. 16, "An Act for Repeal of certain Laws," *Md. Arch.*, VII, 85-86.

¹⁸⁷ 1649, c. 5, "An Act against Fugitives," *Md. Arch.*, I, 249-250, repealed by 1676, c. 2, *Md. Arch.*, II, 543; 1661, c. 11, "An Act concerning the Killing [of] Wild Cattle," *Md. Arch.*, I, 418-419, repealed by 1663/4, c. 3, *Md. Arch.*, I, 486.

¹⁸⁸ 1650, c. 27, "An Act prohibiting the Transportation, or Sale of his Lordship's Ordnance, Ammunition, Goods, Cattle, &c.," *Md. Arch.*, I, 303-304, repeal disallowed 17 September 1681. *Md. Arch.*, VII, 188.

¹⁸⁹ 1646, c. 2, "An Act touching Judicature," *Md. Arch.*, I, 210; 1647, c. 5, "An Act touching Pagans," *Md. Arch.*, I, 233; 1649, c. 7, "An Act touching Hogs and marking of Cattle," *Md. Arch.*, I, 251; 1663/4, c. 5, "An Act imposing a Penalty on all such who shall dispose of Tobacco, seized and received by the Sheriff, and others," *Md. Arch.*, I, 489; 1663/4, c. 6, "An Act for the Explanation of that Clause in an Act made by Capt. William Stone, the 21st April 1649, touching Hogs, and marking of Cattle," *Md. Arch.*, I, 503-504; 1666, c. 10, "An Act empowering the Governor and Council, to make War or Peace, with any Indian Enemy, beyond the Bounds of this Province," *Md. Arch.*, II, 136, all made perpetual by 1676, c. 2, *Md. Arch.*, II, 548-549.

¹⁹⁰ 1650, c. 33, "An Act concerning the Registering of Births, Marriages and Burials," not included in published *Md. Arch.*; 1662, c. 3, "An Act concerning proceedings at Law," *Md. Arch.*, I, 448; 1674, c. 22, "An Act against profaning the Sabbath Day," *Md. Arch.*, II, 414-415; 1676, c. 8, "An Act providing for the Security and Defence of this Province," *Md. Arch.*, II, 557-560; 1676, c. 10, "An Act concerning Ordinary Keepers," *Md. Arch.*, II, 360-361.

¹⁹¹ 1676, c. 12, "An Act against the Exportation of Corn," *Md. Arch.*, II, 561-562.

¹⁹² 1676, c. 22, "An Act for the Relief of Ann Cawood, Widow, and her Children," *Md. Arch.*, II, 563-564.

¹⁹³ According to a family tree on GenCircles Ann Cawood married Dr. John Wynne of Poplar Hill, St. Mary's County, about 1678. Posted by Ann S. Bernard in July 2003: <http://www.gencircles.com/users/asbernard/1/data/6267.html>. [Visited 7 October 2003]

¹⁹⁴ 1676, c. 15, "An Act to prevent the unnecessary Delay of Execution," *Md. Arch.*, II, 562-563.

¹⁹⁵ 1676, c. 1, *Md. Arch.*, II, 555-557.

¹⁹⁶ The reviving acts are 1678, c. 15, *Md. Arch.*, VII, 82-85; 1681, c. 8, *Md. Arch.*, VII, 214-216; 1681, c. 11, *Md. Arch.*, VII, 245-247; 1682, c. 8, *Md. Arch.*, VII, 329-330; 1682, c. 12, *Md. Arch.*, VII, 435-438; 1684, c. 6, *Md. Arch.*, XIII, 123-126.

¹⁹⁷ For a view different from the one I present here, see Kammen, "The Causes of the Maryland Revolution of 1689," p. 301.

¹⁹⁸ *Md. Arch.*, VII, 182; XIII, 40.

¹⁹⁹ *Ibid.*, XIII, "Preface."

²⁰⁰ *Ibid.*, VIII, 102-103.

²⁰¹ In an order of 8 November 1677 to Governor Thomas Notley Baltimore provided that Notley could approve laws to be in effect only until Baltimore or his heirs disallowed them. *Md. Arch.*, XV, 157-158. It might have seemed to the delegates that Baltimore was returning to that policy, as the rebels claimed to believe.

²⁰² *Md. Arch.*, VIII, 215-216.

²⁰³ See Note 164 above.

²⁰⁴ *Md. Arch.*, XVII, 247-250, 426-429, 430-431; Owings, *His Lordship's Patronage*, p. 118; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, p. 129. For the recommissioning of most of these men on 23 July 1688, see *Md. Arch.*, VIII, 41-42.

²⁰⁵ *Ibid.*, V, 427; Owings, *His Lordship's Patronage*, pp. 118, 171, 179; Lois Green Carr and David William Jordan, *Maryland's Revolution of Government, 1689-1692* (Ithaca: Cornell University Press, 1974), p. 147.

²⁰⁶ Owings, *His Lordship's Patronage*, pp. 118, 171, 179.

²⁰⁷ *Md. Arch.*, V, 274-276, 278-280, 286-295.

²⁰⁸ *Ibid.*, pp. 428-429; XVII, 298-300, 301-303, 304-306, 322, 324, 328-334, 336-337; TNA (PRO), *Calendar of State Papers: Colonial Series*, XI, Nos. 1963, 1963.i-iii, vi, 2068.

²⁰⁹ *Md. Arch.*, V, 429-430; TNA (PRO), *Calendar of State Papers: Colonial Series*, XI, Nos. 2063, 2064.

²¹⁰ *Md. Arch.*, V, 436, 439, 453; XVII, 340-341, 342-343, 344-346, 347-348; TNA (PRO), *Calendar of State Papers: Colonial Series*, XII, Nos. 82, 154.

²¹¹ *Md. Arch.*, V, 436; XVII, 346, 355-357, 364, 371, 381-382, 451; TNA (PRO), *Calendar of State Papers: Colonial Series*, XII, Nos. 136, 154.

²¹² *Md. Arch.*, XVII, 371, 377-378; TNA (PRO), *Calendar of State Papers: Colonial Series*, XII, Nos. 230, 239.

²¹³ *Md. Arch.*, V, 439; XVII, 369-370, 373-374; TNA (PRO), *Calendar of State Papers: Colonial Series*, XII, No. 281.

²¹⁴ *Md. Arch.*, XVII, 410; TNA (PRO), *Calendar of State Papers: Colonial Series*, XI, Nos. 1963.iv, 2035; XII, No. 629.

²¹⁵ *Md. Arch.*, XVII, 370, 373-374, 375, 377-378, 385-386, 391-392; TNA (PRO), *Calendar of State Papers: Colonial Series*, XI, Nos. 1963.ii, iv.

²¹⁶ For the provincial court, see *Md. Arch.*, XVII, 250-252, 431-432. For the council, see *ibid.*, pp. 426-429, 430-431; *Biographical Dictionary*, I, 29, 30.

²¹⁷ Charter of Maryland, Paragraph VII. The charter can be found in Andrews, *History of Maryland*, pp. 924-929.

²¹⁸ *Md. Arch.*, V, 439; XVII, 455.

²¹⁹ *Ibid.*, XVII, 410; TNA (PRO), *Calendar of State Papers: Colonial Series*, XII, No. 317.

²²⁰ *Md. Arch.*, XVII, 410-412, 425-426.

²²¹ *Ibid.*, V, 453; TNA (PRO), *Calendar of State Papers: Colonial Series*, XII, Nos. 332, 341, 342, 406, 576. Rousby's brother was probably Paul Rousby. *Ibid.*, No. 136.

²²² *Md. Arch.*, XVII, 475-480 (Talbot's trial); TNA (PRO), *Calendar of State Papers: Colonial Series*, XII, Nos. 629, 671, 773.

²²³ TNA (PRO), *Calendar of State Papers: Colonial Series*, XII, Nos. 426, 576, 671.

²²⁴ *Md. Arch.*, XVII, 480-483; TNA (PRO), *Calendar of State Papers: Colonial Series*, XII, No. 757; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 130-131. Clayton Colman Hall, in *The Lords Baltimore and the Maryland Palatinate*, p. 120, and Francis Edgar Sparks, in *Causes of the Maryland Revolution of 1689*, p. 97, say that Baltimore got the pardon for Talbot, but neither includes a source of his information.

²²⁵ Clark, *The Later Stuarts, 1660-1714*, p. 107.

²²⁶ *Md. Arch.*, VIII, 41-44; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, p. 132.

²²⁷ *Md. Arch.*, VIII, 40-41, 58.

²²⁸ *Ibid.*, pp. 44-45, 58-60; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, p. 132.

²²⁹ *Md. Arch.*, VIII, 40, 59-60.

²³⁰ *Ibid.*, XIII, 148-150.

²³¹ *Ibid.*, p. 153. For the whole of Joseph's offensive speech, see *ibid.*, pp. 147-153.

²³² *Ibid.*, pp. 154-156, 156-163.

²³³ *Ibid.*, p. 163.

²³⁴ *Ibid.*, pp. 163-164; Carr and Jordan, *Maryland's Revolution of Government, 1689-1692*, p. 30; Bernard C. Steiner, *The Protestant Revolution in Maryland*, in *Annual Report of the American Historical Association for the Year 1897* (Washington: Government Printing Office, 1898), pp. 286-288.

²³⁵ *Md. Arch.*, XIII, 163.

²³⁶ *Ibid.*, p. 184.

²³⁷ *Ibid.*, p. 152.

²³⁸ *Ibid.*, pp. 185, 185-186, 191; 1688, c. 1, *Md. Arch.*, XIII, 210.

²³⁹ Clark, *The Later Stuarts, 1660-1714*, pp. 136-143.

²⁴⁰ *Md. Arch.*, VIII, 67-69, 112-114, especially p. 114; Andrews, *The Colonial Period of American History*, II, 372n.; Carr and Jordan, *Maryland's Revolution of Government, 1689-1692*, pp. 51-52.

²⁴¹ *Md. Arch.*, VIII, 109, 112.

²⁴² For the "Protestant" Revolution in Maryland, see Scharf, *History of Maryland*, I, 302-341; Sparks, *Causes of the Maryland Revolution of 1689*; Steiner, *The Protestant Revolution in Maryland*, pp. 281-353; Carr and Jordan, *Maryland's Revolution of Government, 1689-1692*; Kammen, "The Causes of the Maryland Revolution of 1689," pp. 293-333. For the leaders, see Carr and Jordan, *Maryland's Revolution in Government, 1689-1692*, p. 73. The leaders can also be determined from the many documents concerning the Revolution that are included in *Md. Arch.*, VIII, 99-229.

²⁴³ *Md. Arch.*, VIII, 56-57, 65.

²⁴⁴ *Ibid.*, pp. 70-87, especially pages 77-78, 84-85.

²⁴⁵ J. Thomas Scharf says that the Protestant Association was formed in April of 1689. Scharf, *History of Maryland*, I, 309. Scharf's note here is "Chalmers, p.

373,” by which he appears to mean George Chalmers, *Political Annals of the Present United Colonies, from Their Settlement to the Peace of 1763* (London: Printed for the Author, 1780; reprinted New York: Burt Franklin, 1968). Chalmers’ citation is to “Bacon’s Laws, 1689,” but in *Laws of Maryland at Large* Bacon has nothing on the formation of the Association. See end of section on 1688 (p. 77).

²⁴⁶ *Md. Arch.*, VIII, 107-108.

²⁴⁷ Carr and Jordan, *Maryland’s Revolution of Government, 1689-1692*, pp. 46-179; McMahon, *An Historical View of the Government of Maryland*, pp. 239-242.

²⁴⁸ *Md. Arch.*, VIII, 117; Owings, *His Lordship’s Patronage*, p. 118; Carr and Jordan, *Maryland’s Revolution of Government, 1689-1692*, p. 65; *Biographical Dictionary*, I, 31.

²⁴⁹ *Md. Arch.*, VIII, 128-137, 212-214. The petition from Baltimore County in the *Archives* has thirty-one signatures with the notation “with diverse more.” *Ibid.*, pp. 135-137.

²⁵⁰ *Ibid.*, VIII, 110-112, 130-132. Francis Edgar Sparks generally discredits these petitions in opposition to the rebels by saying that “a large part [*sic*] of the signatures . . . were those of office-holders under the Proprietor who had now lost their offices” (Sparks, *Causes of the Maryland Revolution of 1689*, pp. 107-108) and concludes that while the leaders of the revolution “have been abused as rogues and law-breakers, . . . they were really patriots” who “cannot have been a set of rascals and profligates.” *Ibid.*, p. 108. Bernard C. Steiner presents a view much less favorable to the rebels. Steiner, *The Protestant Revolution in Maryland*, pp. 281-282, 302-303, 335, 345, 346-347, 349, 350, 351-353.

²⁵¹ *Md. Arch.*, VIII, 137-147.

²⁵² *Ibid.*, VIII, 213.

²⁵³ *Ibid.*, pp. 215-220. For the Associators’ earlier justification of their rebellion, see *ibid.*, pp. 101-107. For those justifications, see also Sparks, *Causes of the Maryland Revolution of 1689*, pp. 102-107.

²⁵⁴ Owings, *His Lordship’s Patronage*, p. 119; Jordan, “The Royal Period of Colonial Maryland, 1689-1715,” pp. 73-74.

²⁵⁵ In Bernard C. Steiner’s “The Royal Province of Maryland in 1692,” *Maryland Historical Magazine*, XV, No. 2 (June 1920), pp. 125-168, there is no intimation of the intricate political relations of the time. Rather his piece is little more than

a summary of the legislation that the assembly passed that year.

²⁵⁶ Economic and political concerns dominate the complaints against Baltimore. *Md. Arch.*, VIII, 215-220. In an excellent article Richard A. Gleissner says flatly that “Whatever else motivated Protestant planters in 1689, religion was not among the causes of Baltimore’s overthrow.” Richard A. Gleissner, “Religious Causes of the Glorious Revolution in Maryland,” *Maryland Historical Magazine*, LXIV, No. 4 (Winter 1969), p. 341. Gleissner also points out that “there is reason to believe that most of the revolutionists were at least nominal Anglicans, that is *paid allegiance to the smallest Protestant sect.*” *Ibid.*, pp. 329-330. Emphasis added.

Michael Kammen appears to agree that the Revolution was more economic and political than Protestant. “What issues can be isolated as of a distinctly religious nature? Very few.” Kammen, “The Causes of the Maryland Revolution of 1689,” p. 312.

Carr and Jordan say that the “overthrow of the proprietor . . . was the work of a small group primarily intent on increasing its own power but able to play on real anxieties and grievances perhaps heightened by long-continued hard times.” Carr and Jordan, *Maryland’s Revolution of Government, 1689-1692*, p. 222.

2. Jump-Start to Fortune

During the twenty-six years after he arrived in Maryland William Bladen provided a living example of how a young immigrant with the right character and connections could achieve great prosperity and prominence. Bladen got most of his wealth from the fees from at least seventeen separate offices that he held, many of them, obviously, at the same time, though his abortive career as a contractor building shoddy buildings must also have provided him with a generous return. Missing no opportunity to make money, Bladen for a time was also the publisher to the province, but he made little profit out of that enterprise, and he soon lost interest.

Born in Yorkshire on 27 February 1672/3, Bladen had arrived in Maryland by the summer of 1692¹ and got an early start on his official career. While he studied law at the Inner Temple,² his coming from a well-known family no doubt helped him more than his education did. One of his grandfathers was Sir William Fairfax of Steeton, Yorkshire,³ whose mother was the daughter of Edmund Sheffield, Earl of Mulgrave.⁴ His younger and only brother, Martin, was comptroller of the mint, a director of the Royal African Company, a member of Parliament for thirty years, and with twenty-nine years of service on the Board of Trade sat longer on that body than any other person in its history and was one of its most active members. He was also one of the envoys to France in 1719 and 1720.⁵

Bladen was fortunate not only in his lofty birth. Coming from the same area of Yorkshire as Governor Lionel Copley, he might have known the future governor before he ever left England.⁶ Possibly arriving in Maryland on the same ship that brought Copley “shortly before 6 April 1692,”⁷ the voyage would have given the ambitious young Bladen time to ingratiate himself with the governor. If he was not

already a favorite before he arrived in Maryland he quickly became one. Copley not only hired him as his clerk to manage all of the legal affairs of his family as Copley commanded him⁸ but also helped to get him started in public business.

Bladen's first official work in Maryland was clerical. At the end of the session of the assembly of 10 May through 9 June 1692, when he was just over nineteen years old and had been just over a month in the province, the delegates allowed him sixteen hundred pounds of tobacco for clerical work that he had done during the session,⁹ and in October of 1692 Copley and his council awarded him four thousand pounds of tobacco for transcribing some of the laws of the province.¹⁰

Other assignments followed fast. In January of 1692/3 or thereabout Nehemiah Blakiston as collector of North Potomac¹¹ commissioned Bladen, still not twenty years old, to press men to unload the *Margaret of London*, "then under seizure." Bladen impressed one Stephen Blachford, a servant of Henry Denton, the clerk of the lower house and of St. Mary's County¹² and soon to be clerk of the upper house and the council,¹³ who "took . . . [Blachford] away without any discharge." Soon after that Bladen impressed Blachford again, and Denton took him away again. For causing this trouble Copley and his council on 9 March 1692/3 recommended that Sir Thomas Lawrence, principal secretary of the province,¹⁴ remove Denton as clerk of St. Mary's County and of the lower house.¹⁵ Lawrence, however, was not likely to oblige his ambitious enemy Copley,¹⁶ and Denton not only kept his positions¹⁷ but went on to better things.¹⁸

On 8 April 1693 Copley commissioned Bladen, barely twenty years old, along with Major Nineon Beale and William Nuthead, the printer to the province,¹⁹ to search Sir Thomas Lawrence's "Lodging Room & Closet" and seize any papers they could find there, seal them in a bag, and take them forthwith to Copley for his inspection²⁰ after Copley had Sir Thomas arrested for allegedly "associating & confederating with Countenancing aiding & cherishing & abetting" William and Mary's "open & professed as well as private and Secret Enemies."²¹

Nothing much came of this battle between Copley and Lawrence over political power and money, although Lawrence did spend some time in custody,²² and in five months Copley was dead.²³

On the same day that he commissioned Bladen, Beale, and Nuthead to search Lawrence's lodging — 8 April 1693 — Copley also commissioned Bladen along

with Captain John Davis and William Asquith to arrest the Catholic Peter Sayer and Thomas Smith, a Catholic priest who had allegedly come from Canada as a spy and for “other trayterous and treasonable designs intents and purposes” and had stayed in Sayer’s house, and to search Sayer’s house for any “mutinous seditious trayterous or treasonable papers writings or pamphlets” that might be evidence of their betraying William and Mary or their conspiring with their enemies. The three men could unlock or, if Sayer and Smith refused to give them keys, “break open and search all Chests trunks Cabinets tables doors or other private & Suspected places.” They were to seize all suspicious papers and deliver them along with Sayer and Smith to Copley, and they could require the assistance of anyone whose help they needed.²⁴

What happened to Smith does not appear, but when Sayer appeared under bond at the provincial court in May the justices required him to enter a new bond of five hundred pounds sterling, with probably two sureties of £250 sterling each, to guarantee his appearance at the next provincial court and his good behavior in the meantime.²⁵ On 25 August, however, after hearing three depositions against Sayer for his alleged seditious comments about King William, the English Parliament, the Protestant religion, and Governor Copley and for his allegedly drinking the health of the deposed King James II, Copley and his council ordered the sheriff of Talbot County to arrest him and have him before the provincial court in October.²⁶ By the time the provincial court met in October Copley was dead, and though Sayer did appear at that court²⁷ — the same court at which the twenty-year-old Bladen was admitted as an attorney there²⁸ — there were no further proceedings against him.²⁹

By the time Copley died on 9 September 1693³⁰ Bladen had acquired enough status to catch the eye of Francis Nicholson soon after he became governor on 26 July 1693.³¹ In a hint of things to come, Nicholson appointed him one of the committee to inspect the provincial records when the capital was moved from St. Mary’s City to Annapolis sometime after 6 November 1694 but before 28 February 1694/5³² even though Bladen was one of the seventy men who in a petition on 13 October 1694 gave Nicholson a long list of reasons why he should not to agree to move the capital.³³

Such assignments must have been pretty heady stuff for an ambitious young man who was barely into his twenties, and William Bladen was well on his way to prosperity in his adopted land.

2. Jump-Start to Fortune

¹ For Bladen's birth and for his arrival in Maryland, see Appendix A, "William Bladen's Birth and His Arrival in Maryland."

² Alan F. Day, *A Social Study of Lawyers in Maryland, 1660-1775* (New York: Garland Publishing, Inc., 1989), p. 183n., citing E. Alfred Jones, *American Members of the Inns of Court* (London: The Saint Catherine Press, 1924), p. 21; Joseph H. Smith and Philip A. Crowl, eds., *Court Records of Prince Georges County, Maryland, 1696-1699* (Washington: The American Historical Association, 1964), p. xxxi; Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiverson, eds., *A Biographical Dictionary of the Maryland Legislature, 1635-1789*, hereafter *Biographical Dictionary* (2 vols.; Baltimore: The Johns Hopkins University Press, 1979, 1985), I, 136.

³ *Dictionary of National Biography*, entry for Martin Bladen, William Bladen's younger brother; *Biographical Dictionary*, I, 136.

⁴ Christopher Johnston, "Bladen Family," *Maryland Historical Magazine*, V, No. 3 (September 1910), pp. 297-298, corrected in Christopher Johnston, "Bladen Family," *ibid.*, VIII, No. 3 (September 1913), p. 303.

⁵ *Dictionary of National Biography*, II, 616-617; Charles M. Andrews, *The Colonial Period of American History* (4 vols.; New Haven: Yale University Press, 1934-1938), IV, *England's Commercial and Colonial Policies*, pp. 106, 293-294, 296n., 299, 300, 306; Evarts Boutell Greene, *Provincial America, 1690-1740* (New York: Harper & Brothers, 1905; reprinted New York: Frederick Ungar Publishing Co., 1964), p. 169; Oliver Morton Dickerson, *American Colonial Government, 1696-1765: A Study of the British Board of Trade in Its Relation to the American Colonies, Political, Industrial, Administrative* (Cleveland: A. H. Clark Co., 1912;

reprinted New York: Russell & Russell, Inc., 1962), pp. 35n., 37-38, 60, 62-63n., 63n., 144-145, 157, 188-189, 287; *Biographical Dictionary*, I, 136; The National Archives (PRO), *Calendar of State Papers: Colonial Series* (40 vols.; Vaduz: Kraus Reprint Ltd., 1964), XXXI, Nos. 318, 321, 409, 417, 420, 423, 429, 432, 438, 443.i.

⁶ Copley came from Wadworth, and Bladen came from Steeton. For Bladen, see *Dictionary of National Biography* under Martin Bladen. For Copley, see Annie Leakin Sioussat, "Lionel Copley, First Royal Governor of Maryland," *Maryland Historical Magazine*, XVII, No. 2 (June 1922), p. 165.

Steeton and Wadworth are only about forty-three-and-a-half miles from each other, and therefore it is not impossible that the two families did know each other and that Copley deliberately brought the Bladen with him as a sort of protégé.

My thanks to John Brooker, Special Collections Assistant, J. B. Priestley Library, University of Bradford, Bradford, West Yorkshire, for providing me with the distance between Steeton and Wadworth, and to Susan Caton, Customer Support Assistant in the Department of Arts, Heritage & Leisure: Libraries, Archives & Information Service, Bradford, West Yorkshire, for sending me a very helpful map of that area.

⁷ Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953) p. 119. David Jordan says that "apparently [Bladen] came over with the governor." David William Jordan, "The Royal Period of Colonial Maryland, 1689-1715" (Ph. D. dissertation: Princeton University, 1966), pp. 78-79. Emphasis added.

⁸ Provincial Court Judgment Record, Liber T. L., No. 1, pp. 357-358; Jordan, "The Royal Period of Colonial Maryland, 1689-1715," pp. 78-79; *Biographical Dictionary*, I, 136.

⁹ *Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore: Maryland Historical Society, 1883-1972), XIII, 416; Hester Dorsey Richardson, *Side-Lights on Maryland History, with Sketches of Early Maryland Families* (2 vols.; Baltimore: Williams and Wilkins Company, 1913), II, 16; Lawrence C. Wroth, *A History of Printing in Colonial Maryland, 1686-1776* (Baltimore: The Typothetae of Baltimore, 1922), pp. 18-19.

¹⁰ *Md. Arch.*, VIII, 404; Richardson, *Side-Lights on Maryland History*, II, 16.

¹¹ *Md. Arch.*, VIII, 470; Owings, *His Lordship's Patronage*, p. 180. In January

of 1692/3 Nehemiah Blakiston was also chancellor of the province and commissary general as well as receiver of North Potomac and Pocomoke. Earlier he was collector of Patuxent, and he was governor of the province from August of 1690 until Lionel Copley's arrival sometime before 6 April 1692. Owings, *His Lordship's Patronage*, pp. 107, 108, 119, 123, 130, 178, 179.

¹² *Ibid.*, pp. 138, 145.

¹³ *Ibid.*, pp. 136, 137.

¹⁴ *Ibid.*, p. 127.

¹⁵ *Md. Arch.*, VIII, 470-471.

¹⁶ David W. Jordan, "Sir Thomas Lawrence, Secretary of Maryland: A Royal Placeman's Fortunes in America," *Maryland Historical Magazine*, LXXVI, No. 1 (March 1981), pp. 24-27.

¹⁷ Owings, *His Lordship's Patronage*, pp. 138, 145.

¹⁸ Henry Denton later became clerk of the council, the upper house, and the high court of appeals, naval officer of Annapolis, and register of the admiralty court. *Ibid.*, pp. 52n., 136, 137, 162. The clerkship of the high court of appeals was not separated from that of the council and the upper house until 16 July 1707. *Ibid.*, pp. 51, 109.

¹⁹ Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, pp. 3-11.

²⁰ *Md. Arch.*, VIII, 501, 503-504.

²¹ *Ibid.*, p. 500. In 1693 William and Mary were not yet secure as king and queen of England. Many people were still hoping for the return of the Catholic James II (Nesca A. Robb, *William of Orange: A Personal Portrait* (2 vols.; New York: St. Martin's Press, 1962-1966), II, 314-315, 341, 378-381; Sir George Clark, *The Later Stuarts, 1660-1714* (2nd edition; Oxford: The Clarendon Press, 1955), pp. 183-185, 240-243), and the success of the Protestants in Maryland depended on the success of the Protestants in England.

²² *Md. Arch.*, VIII, 501; Jordan, "Sir Thomas Lawrence, Secretary of Maryland," pp. 24-27.

²³ Lionel Copley died on 9 September 1693. Owings, *His Lordship's Patronage*, p. 119.

²⁴ *Md. Arch.*, VIII, 503-504.

²⁵ Provincial Court Judgment Record, Liber D. S., No. C, p. 204. The record

does not say that Sayer had two sureties, but the wording is “and his suretys in Two hundred and ffifty Pounds Sterling a piece.” With Sayer’s bond at five hundred pounds sterling, three or more sureties of £250 sterling each would have been unusual. Information about Sayer’s earlier bond does not appear.

²⁶ *Md. Arch.*, VIII, 560-653.

²⁷ Provincial Court Judgment Record, Liber D. S., No. C, p. 327.

²⁸ *Ibid.*, p. 326.

²⁹ *Ibid.*, pp. 323-412.

³⁰ Owings, *His Lordship’s Patronage*, p. 119.

³¹ *Ibid.*

³² *Md. Arch.*, XIX, 198; XX, 197-200. In October of 1694 the assembly provided that the capital should be moved to Annapolis, then known as “Anne-Arrundell Towne,” after the end of the next session of the provincial court, which would meet in St. Mary’s City on 6 November 1694. 1694, c. 29, *Md. Arch.*, XXXVIII, 23-25. The first session of the assembly to meet in Annapolis met on 28 February 1694/5. *Md. Arch.*, XIX, 119, 127.

Others who received payment for work on the records are Garrett Van Swearingen, George Plater, John Pollard, and Stephen Blatchford. *Ibid.*, pp. 196, 197, 198-199, 199. William Holland and Robert Mason received payment for transporting them. *Ibid.*, p. 202.

This was the fall of 1694 and the winter of 1694/5, and sometime before 29 February 1695/6 Bladen married Garrett Van Swearingen’s daughter Anne. *Ibid.*, XX, 365, 402-403. See Chapter 3, “Placeman,” at Notes 46-51, and Appendix B, “William Bladen and Letitia Loftus: A Voyage in Search of a Wife and an Exercise in Genealogy.”

³³ *Md. Arch.*, XIX, 71-75. Van Swearingen and Blatchford had also signed the petition.

3. Placeman

Having done good service for Governor Lionel Copley, William Bladen had also got off to a good start with Francis Nicholson.¹ Further favor would follow. On 9 May 1695, when he was only twenty-two, he became clerk of the lower house,² and from that time until his death on 9 August 1718³ he was never without an office. For most of the rest of his life he held at least seven.⁴

Three of his offices Bladen held for very short periods. He was deputy collector of Annapolis for something over five-and-a-half months, from 20 October 1697 until sometime after 4 April 1698;⁵ principal secretary of the province for only seven months, from 16 April until 19 November 1701;⁶ and clerk of the prerogative office for only about ten months, from 14 August 1699 until sometime in June of 1700.⁷

Three other offices Bladen held for less than three years. He was clerk of indictments of Prince George's County for two years, from 17 June 1696 to 28 June 1698;⁸ clerk of St. Mary's County for about two-and-a-half years, from sometime before October of 1695 until April of 1698, when he resigned to become clerk of the council, the upper house, and the high court of appeals;⁹ and clerk of the lower house of the assembly for two years and eleven-and-a-half months, from 9 May 1695¹⁰ until 26 April 1698, the day he was appointed clerk of the council, the upper house, and the high court of appeals.¹¹

Other offices, however, Bladen held for longer periods. He was clerk of the high court of appeals for nine years and two months, from 26 April 1698, when he also became clerk of the council and the upper house, until July of 1707, when the clerkship of the high court of appeals was separated from the clerkship of the council;¹² commissary general or judge of probate for nine days short of ten years, from 18 August 1708 until his death on 9 August 1718;¹³ deputy auditor and surveyor

general for about twelve years and four months, from 19 August 1703 until December of 1715;¹⁴ and attorney general for just over thirteen years and eight months, from 4 December 1704 until his death.¹⁵

Bladen held four of his other offices even longer. He was clerk of the council and of the upper house for about eighteen-and-a-half years, from 26 April 1698 until October of 1716;¹⁶ naval officer of Annapolis for just over nineteen years and four months, from 22 March 1698/9 until just before his death;¹⁷ and surveyor and searcher of Annapolis for more than twenty years and seven months, from 24 December 1697 until his death.¹⁸

Bladen's tenure in three other offices is uncertain. On 21 October 1698 Governor Nicholson and his council appointed him register of the vice-admiralty court for the Western Shore, and he was already register of the vice-admiralty court for the Eastern Shore.¹⁹ He was still register of the Western Shore on 28 August 1703.²⁰ By 22 November 1698 he was the register of the free school in Annapolis,²¹ a position he still held on 6 November 1713.²²

Obviously Bladen held more than one office at the same time. Once he embarked on his profitable career in permanent offices, the only time he held only one office was for the approximately five months from 9 May 1695, when he became clerk of the lower house,²³ until sometime before October of 1695, when he also became clerk of St. Mary's County.²⁴

Though the evidence is contradictory, it appears clear that the job of clerk of the lower house opened up for Bladen at this point because Nicholson decided that it would. According to the copy of the Journal of the lower house that was sent to England, on the first day of the session that began on 8 May 1695²⁵ the Speaker, Robert Smith,²⁶ informed the delegates that Nicholson "had removed their clerk for misconduct." The delegates responded that they were willing to continue Cleborne Lomax as their clerk until Nicholson "should signify his crime," but with no further explanation the delegates the next day appointed Bladen as their clerk, Nicholson approved him, and he took the necessary oaths.²⁷

The original Journal of the lower house tells a different story. The record for the eighth says nothing about the clerk,²⁸ but first thing the next morning Lomax told the delegates that since as clerk of Charles County he had other business that might prevent his attending the lower house he would like them to dismiss him as their

clerk. The delegates granted his request, and then in the contest between Bladen and Robert Goldsborough for the job they elected Bladen by a majority.²⁹

That, however, is not the story that Edward Boothby and James Smallwood told when they accompanied Bladen before Nicholson and the upper house to take the required oaths. The delegates had understood, they told Nicholson, that he was dissatisfied with Lomax's proceedings as their clerk and that therefore the delegates had chosen Bladen to replace him and had sent them to request Nicholson's approval of their choice. Nicholson did approve the choice and administered the loyalty oaths and the oath of secrecy to Bladen.³⁰ Back in the lower house the delegates admitted Bladen as their clerk and dismissed Lomax, and he "departed the house."³¹

The process has all of the ear-marks of Nicholson's manipulation to get his own man into the job.³² When the assembly met on 20 September 1694³³ Nicholson had been in the province for less than two months,³⁴ and when he asked the members of the upper house who had the right to appoint the clerk of the lower house they responded that although under the proprietor there had been some disagreement over the issue Baltimore had appointed those clerks. Nicholson then asked the members of the upper house to recommend a suitable person to him; they recommended Cleborne Lomax; Nicholson appointed him;³⁵ and the next day the delegates accepted him.³⁶ By the time the capital was moved from St. Mary's City to Annapolis the following winter, however, Bladen had already made a favorable impression on the self-serving governor,³⁷ and what Nicholson called Cleborne Lomax's misconduct might have been simply that he was not William Bladen.³⁸ Forcing the change in clerks, of course, also gave Nicholson the pleasure of asserting his power.

At first the delegates resisted the change, saying that they would retain Lomax as their clerk until Nicholson "should signify his crime," but before the lower house met the next morning the opposition of a majority of them had collapsed, apparently after they had worked out a way for Lomax to save face. He would not resign, but he would ask the delegates to dismiss him because he was busy as clerk of Charles County. Still some of the delegates resisted and voted for Goldsborough, and Bladen was elected only by a majority.³⁹

If all of that sounds suspicious, what happened next makes it sound even more so. When Lomax "departed the house" on 9 May he did not rush back to Charles County to busy himself as clerk there. Instead, the next day he became clerk of the

Committee of Accounts,⁴⁰ which continued to work until the twenty-first,⁴¹ the day before the session ended.⁴² Thus Lomax must have remained in Annapolis for the entire session, except possibly for that last day. During the next session, which met in October, Lomax again had the leisure to go to Annapolis and again was the clerk of the Committee of Accounts.⁴³ This time he must have remained there at least from the seventh through the eighteenth, the days on which the committee met.⁴⁴ Again the session ended the next day.⁴⁵

Barely started on his long career of office-holding, Bladen might have created some suspicion about his loyalty to the Anglican Church by marrying the wrong woman.⁴⁶ On 29 February 1695/6 Nicholson and his council ordered that the sheriff of St. Mary's County summon one Mr. Hall, a priest living at St. Inigoes in that county,⁴⁷ to appear before them on 1 April 1696 to explain by what authority he married Bladen and Anne Van Swearingen,⁴⁸ who was a Catholic.⁴⁹ When Hall appeared he produced a license from Thomas Davies, the minister of William and Mary Parish in St. Mary's County, as well as the act of the assembly for the publication of marriages in the province, which required that all marriages be performed according to the ritual of the Church of England.⁵⁰ After some debate Nicholson and his council dismissed Hall from further attendance.⁵¹ While in colonial Maryland Protestants' marrying Catholics might not have been all that uncommon,⁵² Bladen's ambition no doubt made it all the more necessary for him to prove that he was above suspicion.

Bladen's marriage to a Catholic did him no harm, and on 17 June 1696, at the age of twenty-three, he added the job of clerk of indictments of Prince George's County⁵³ to his positions as clerk of the lower house and clerk of St. Mary's County.

Apparently Bladen thought that his position as an official of the Prince George's County court gave him rights that ordinary people did not have. After Thomas Pringle at the Prince George's County court for August of 1696 complained that Bladen had taken his horse without his permission and had ridden it to Annapolis, the justices ordered Bladen to pay Pringle two hundred pounds of tobacco.⁵⁴

Such a misuse of other people's property did not affect Bladen's burgeoning career. He not only remained clerk of indictments until 28 June 1698, when William Stone replaced him,⁵⁵ but also continued his accumulation of more profitable offices.

Soon after he became clerk of indictments of Prince George's County Bladen might also have got beaten up. At the Prince George's County court for August of 1696, the same court at which Thomas Pringle complained about Bladen's taking his horse without his consent, the grand jury returned two indictments against Matthew Mackeboy, one for getting drunk on 24 June 1696, the second day of the June court,⁵⁶ and the other for assaulting Bladen on that same day. The grand jury refused, however, to indict Mackeboy for swearing several profane oaths that day.⁵⁷

The justices quashed one of the indictments against Mackeboy and dismissed the other after Mackeboy submitted to their judgment.⁵⁸ Which outcome applies to which indictment does not appear.

Like other ambitious people of the province, Bladen knew that his future depended on his loyalty to the Crown. When after Queen Mary died on 28 December 1694⁵⁹ the Catholics conspired to assassinate William III in the hope that with the help of an invasion from France they could return James II to the English throne,⁶⁰ he was one of the hoard of 566 civil officials and military officers who on 2 December 1696 signed a declaration of loyalty to William that included some of the wording of the Association, a loyalty oath for which Parliament provided early in 1696.⁶¹ The signers congratulated William on his escape from the "horrible intended Conspiracy" against him, declared their loyalty to him as the lawful king of England, and promised to support and defend his government to their utmost "against the late King James." They would pray that God would lengthen his days and continue him among them "in all happiness to the Joy of . . . [his] people and the Terrouer of . . . [his] Enemies" and that his terrestrial glory on earth would be succeeded by the glory of eternity.⁶²

If Bladen was to fulfil his ambitions, however, he had to prove his loyalty not only to the distant king but also to the local governor. Possibly because of his arrogant effort to reform everything he found in the province as well as because of his lack of tact and candor, Francis Nicholson soon found himself very unpopular with a vocal proportion of the population,⁶³ whom, of course, he considered seditious if not worse.⁶⁴ Charges of his acting illegally, including his demanding gifts or part of the profits in return for appointing people to office, multiplied, and by December of 1696, when he had been in the province for a year-and-a-half⁶⁵ — long enough to have learned some diplomacy if he had been capable of learning —, he found it

necessary to arm himself with a series of at least ten depositions and one declaration, signed by a total of eighteen officials, attesting to his honesty and lawfulness.⁶⁶

Given the pressure that the officials must have felt to support Nicholson if they wanted to keep their positions, their statements are not convincing.⁶⁷ Beyond that, only three of the eleven members of the council who were in the province at the time⁶⁸ — the very people who would have had the most contact with Nicholson and so would have known him best — vouched for his honesty, and these three used only a declaration rather than a deposition to state that he had never asked them to do anything illegal, as though they did not want to perjure themselves by swearing. Their statement is the only one of the eleven that was not made under oath, even though in the margin of the record of the council it is identified as an “Oath of some of the Council.”⁶⁹

There is an additional cause for suspicion. While it is always possible that Nicholson “carefully collected depositions from people throughout the government attesting that he had never required anything illegal of them as the rumors were charging,”⁷⁰ it appears more likely that rather than collecting the depositions and the declaration Nicholson created them. The similarity of the wording of the documents makes it appear that Nicholson dictated them, or at least had a clerk write them up on his instructions and for his approval, and that the officials simply swore to what was placed before them — or in the case of the three members of the council simply declared that what was in the statement was true.

The clincher, however, appears to be the oath of George Plater, the attorney general and receiver of Patuxent and formerly receiver of North Potomac and Pocomoke, formerly collector of Patuxent, and future naval officer of Patuxent.⁷¹ After Plater’s oath Henry Wriothlesley, the clerk of the provincial court,⁷² noted that “Then Came the above Named George Plater Esq & made Oath upon the holy Evangelist that the Contents aboves^d is [*sic*] the Truth” and signed his name.⁷³ Plater might have brought the oath with him, but the wording makes it appear more likely that Wriothlesley had it waiting for him.

Like the other officials, Bladen did what he had to do. On 12 December 1696 he solemnly declared under oath that as clerk of the lower house, clerk of St. Mary’s County, and clerk of indictments of Prince George’s County he had never received any orders from Nicholson to do anything for or to the prejudice of any person or

persons whatsoever, nor had Nicholson given him any advice or instruction except to be diligent in his duty to dispatch the business of the country. He had never so much as thought of giving any of the profits or perquisites of his offices to Nicholson or of giving him any gift or present for conferring those offices on him, “so help me God and his holy word.”⁷⁴

Having proven his loyalty not only to William III but also to Francis Nicholson, Bladen continued to prosper. Clearly he had none of Cleborne Lomax’s purported qualms about being able to hold more than one job at once. On 20 October 1697 he added a fourth responsibility to his offices of clerk of the lower house, clerk of St. Mary’s County, and clerk of indictments of Prince George’s County when he took the oaths as deputy collector of Annapolis.⁷⁵ On 24 December 1697 he added a fifth job when Edward Randolph, the deputy auditor and surveyor general of Maryland,⁷⁶ appointed him surveyor and searcher of Annapolis,⁷⁷ but on 12 January 1697/8 Nicholson and his council ordered Randolph to revoke his commission as deputy collector of Annapolis and commission him surveyor of Annapolis.⁷⁸ In spite of that order Bladen would combine the job of deputy collector of Annapolis with that of surveyor and searcher of Annapolis at least until sometime after 4 April 1698.⁷⁹

While Bladen was accumulating all of these jobs he was also busy in a dispute between Governor Nicholson and Robert Mason, the sheriff of St. Mary’s County. On 21 October 1697 Nicholson ordered George Muschamp, the collector and receiver of the king’s customs in the district of Potomac, to inspect all of Mason’s books of accounts and papers and to seize anything relating to John Coode, the “Perennial Rebel.”⁸⁰ Muschamp’s response on 13 November 1697 made it appear to Nicholson that Mason had secretly corresponded with Coode and had tried to help him collect his debts even though those debts should have been used to pay the £439.10.11 sterling that Coode owed to the Crown. Mason had allegedly acted in spite of Nicholson’s proclamation of 17 December 1696 forbidding anyone to help Coode in any way.⁸¹

In order that the king would recover as much as possible of what Coode owed him, therefore, Nicholson ordered Muschamp and George Plater, the attorney general and receiver of the king’s revenue in the district of Patuxent, again thoroughly to search Mason’s books of accounts and papers, to seize any that concerned Coode, to employ some trustworthy person to collect any debts owed to Coode, and to issue

process against — that is, to sue — anyone who refused to pay. Plater was also to order Mason to appear before Nicholson in Annapolis with all possible speed to answer for his alleged conspiring with Coode. Bladen, who would carry the order to Plater and Muschamp, would assist them in all of these matters and would examine the records of the St. Mary's County court to see whether there were any attachments there against Coode's estate, as there appeared to be from Coode's account with Mason. Bladen would also try to determine whether Coode owed any tobacco to any public officials and if so how much.⁸²

After somebody — apparently Nicholson — at a meeting of the council on 12 January 1697/8 produced a letter that Mason had written to Coode on 10 December 1697 and that made it clear that in violation of Nicholson's proclamation there had been a private correspondence between the two men, Nicholson ordered his Majesty's lawyers to prosecute Mason.⁸³ On 4 April 1698 Nicholson finally dismissed Mason as sheriff of St. Mary's County,⁸⁴ and at the provincial court in September of 1698 the justices fined him four thousand pounds of tobacco after he pleaded guilty to the charge of failing to arrest Coode, abetting, cherishing, entertaining, and corresponding with him, and combining with Coode, Philip Clarke, Gerrard Slye, and unnamed others to spread false rumors about Nicholson.⁸⁵

Bladen continued to ingratiate himself with the governor. On 4 April 1698, the last day of the session of the assembly, he appeared before Nicholson and the upper house and agreed that he would swear to the "Extravagant discourse" he had heard from Philip Clarke, the leader of the opposition to Nicholson in the lower house,⁸⁶ as well as to what Elisha Hall, a delegate from Calvert County,⁸⁷ had told him about Clarke's behavior relating to that body.⁸⁸ On the ninth Bladen swore before Nicholson and his council that on the night of 2 April Clarke told him that he wondered why Nicholson "did not keep old Randolph with him" since Randolph was a good scholar,⁸⁹ and that if Nicholson "had advised with him" — Clarke — he, Clarke again, could have got the assembly to do anything Nicholson wanted it to do and that the last session could have been much shorter than it was. Bladen swore further that he had reported Clarke's comments to John Hammond, William Hemsley, and several other delegates.⁹⁰

Clarke's comments might have seemed innocent enough to anyone except a

man like Nicholson, a violent authoritarian⁹¹ who could tolerate no hint of criticism⁹² and who might even have been mentally unbalanced,⁹³ but Clarke had allegedly said other things, too. At the provincial court in September of 1698 the justices sentenced him to six months in prison and a fine of six thousand pounds of tobacco after a jury found him guilty of defaming Nicholson.⁹⁴ Early in September Clarke, with the conventional flattery of the governor and sorrow for his offense, petitioned Nicholson for pardon and forgiveness,⁹⁵ but Nicholson kept him in jail. Afraid that Clarke would be dangerously convincing to the people who visited him, on 26 October Nicholson, in order “to prevent . . . [Clarke’s] subtle insinuations,” ordered Richard Beard, the sheriff of Anne Arundel County,⁹⁶ to keep a guard at the jail to prevent people from talking to him.⁹⁷ Finally, after considering the petition of seven members of his council, twenty delegates, three provincial justices, and the sixteen grand jurors at the provincial court for November,⁹⁸ Nicholson released Clarke on the seventeenth. Clarke had to give security of five hundred pounds sterling, with one surety of the same amount, to guarantee his appearance at the provincial court for May of 1699 and his good behavior in the meantime.⁹⁹ He also had to give security of twelve thousand pounds of tobacco, again with one surety, to guarantee his payment of six thousand pounds of tobacco to Henry Lowe, the sheriff of St. Mary’s County, to defray “Severall publick Charges” that resulted from his arrest.¹⁰⁰

Nicholson also used Bladen as an informant against Thomas Smithson, the Speaker of the lower house.¹⁰¹ His signing a new commission for Bladen as clerk of the lower house on 22 February 1697/8,¹⁰² two weeks before the next session opened,¹⁰³ might have been a ploy to invalidate Bladen’s previous oath of secrecy, which every clerk of the lower house had to take,¹⁰⁴ so that he could see what he could find out about what happened there after the assembly met but before Bladen renewed his oath.

If that was Nicholson’s object, it worked. On 15 April 1698 Bladen was called once more before Nicholson and his council and was asked what charge Smithson had given to the Committee of Aggrievances and whether he had charged that committee before Bladen had taken the oath of secrecy.¹⁰⁵ Bladen, who had taken the oath three days after the Committee of Aggrievances was appointed, could without violating his oath answer that Smithson had charged the committee before he took the oath,¹⁰⁶ and therefore he could swear that Smithson had charged it to enquire why

the levy was higher under the Crown than it had been under the proprietor.¹⁰⁷

Smithson's implication that the proprietor had governed the province more economically than the Crown did was just one more frustration for Nicholson, whose conflict with the delegates was constant,¹⁰⁸ and at the end of the session he indulged his arrogance again in a tough lecture to Smithson and the other delegates.¹⁰⁹ Bladen did not include Nicholson's lecture in the records of the lower house.¹¹⁰

All of those endorsements of Nicholson's probity in December of 1696 must not have done much to improve his reputation, since early in 1698 there was some suspicion that either he or someone in his council had ordered Bladen to alter some things in the records of the lower house or to leave some things out. On 5 April 1698, the day after the most recent session of the assembly ended,¹¹¹ Nicholson and his council sent for Bladen and swore him to answer truthfully whether Nicholson or any of his council had ever at any time ordered him to alter anything in the Journal of the lower house or to leave anything material out of the journals he sent to England. Bladen swore that nobody had ever ordered him to do such things except to leave out private petitions that had nothing to do with any public business. Nicholson then delivered to Bladen a copy of the Journal of the lower house, which he had just demanded that Smithson deliver to him, and ordered that it be one of the journals that Bladen send to England.¹¹²

Like the earlier depositions and the declaration of the officials vouching for Nicholson's rectitude, all of that has a very suspicious appearance, since the despotic Nicholson might not have wanted the authorities in England to know everything that was happening in the province and especially since by November of 1698 he openly claimed the right to control the contents of the Journal of the lower house.¹¹³ And later, as governor of Virginia, he was accused of altering the minutes of his council there.¹¹⁴

Bladen might or might not have been telling the truth when he swore that nobody had ordered him to alter the Journal or omit anything important from it. Still early in his career, still running over with ambition, and no doubt well acquainted with Nicholson's vile temper, he could hardly have avoided the knowledge that it would be safer for him to commit perjury before Nicholson and his council than to challenge the power-hungry governor. His confirming that Nicholson's alleged

machinations had actually occurred would have ended his career on the spot, while perjury for the benefit of the governor could do him no harm. He was not likely to be prosecuted, since ultimately it was the governor who decided who would and who would not be prosecuted in the province. He could order the attorney general, George Plater,¹¹⁵ to bring no action, and if Plater had the temerity to defy him he would soon find himself out of a job and Nicholson could halt the prosecution simply by ordering a *nolle prosequi*¹¹⁶ or by granting a pardon.

Beyond that, Bladen must have realized that the consequences of challenging the vindictive Nicholson could have been much more serious than simply losing his offices and his chances for advancement. Nicholson might have interpreted any disagreement as calling him a liar, as the equally vindictive John Hart did with Thomas Macnemara in 1717,¹¹⁷ and might have prosecuted him under the “Act against Divulgers of false News,”¹¹⁸ as he was about to prosecute Philip Clarke, Gerrard Slye, and Robert Mason under that act. Thus Bladen might not only have lost his future but might also have been fined and jailed, as Clarke and Slye were,¹¹⁹ or at least fined, as Mason was.¹²⁰

Of course perjury was also a sin, but the Anglicans of colonial Maryland did not take their religion very seriously except to use as a hammer against the Catholics.¹²¹

While the record of the council is very confusing, possibly because Bladen wrote it up after the death of the previous clerk, Henry Denton, and had only Denton’s notes to go by¹²² — or possibly because the issue involved Bladen himself —, it might have been especially important for him at this point to assure Nicholson of his loyalty because his own loose tongue might have got him into what could have been serious trouble. On the same day on which he obediently informed on Thomas Smithson —15 April 1698 —, his mother-in-law, Mary Van Swearingen, swore before Nicholson and his council that sometime earlier Philip Clarke told her that Bladen would be turned out of his position as clerk of the lower house because he had said, apparently to Cecilius Butler and Thomas Sewall, “that half of the People of the Country . . . [were] Bought & Sold.” The use of such language, according to Clarke, was “Reckoned as a very great Grievance.” Butler and Sewall “were said” to have complained to Henry Lowe, the sheriff of St. Mary’s County,¹²³ but Clarke concluded that Bladen would remain clerk because “they [Nicholson or the delegates or both] could not tell where to get such another.”¹²⁴ Apparently still speaking of

Bladen but possibly referring to himself, Clarke added that he, Clarke, “would get him [Bladen or Clarke] to be Clerk provided [that] he would Submit himself & be sorry for what he had done.”¹²⁵ When Mary Van Swearingen was asked why she thought nobody else in the company heard Clarke say these things she responded that Clarke had spoken solely to her, that he might have spoken softly, and that the people who were present might have been drinking before the conversation occurred.¹²⁶

Bladen’s careless tongue did him no serious harm, and he did not have to wait long for his reward for his loyalty to Nicholson and his evidence against Clarke and Smithson. On 26 April 1698 Nicholson appointed him clerk of the council, clerk of the upper house, and clerk of the high court of appeals.¹²⁷ Later he told the Board of Trade that there was such a great scarcity of good clerks in the province that he was “almost forced to make according to the proverb Bricks without straw” and that since he had found Bladen “the most capable in all Respects” he had promoted him from clerk of the lower house to clerk of the council.¹²⁸

At the same time that Bladen got his three new jobs he gave up not only the clerkship of the lower house but also the clerkship of St. Mary’s County,¹²⁹ and thus he went from four jobs to five.

Bladen continued to prosper. On 28 June 1698 William Stone replaced him as clerk of indictments of Prince George’s County¹³⁰ and he was back to four jobs again, but sometime before 21 October 1698 he became register of the vice-admiralty court of the Eastern Shore¹³¹ and so was back to five. On that day Nicholson made him register of the vice-admiralty court of the Western Shore,¹³² and so he had six jobs again. By 22 November 1698 he had added a seventh by becoming clerk of the free school in Annapolis.¹³³

When on 2 January 1698/9 Nicholson turned the government of the province over to Nathaniel Blakiston he recommended that the new governor retain those officials he had appointed, particularly William Dent and William Bladen, “whom he had always found very Loyal to his Majesty and ready in their duty.”¹³⁴ Blakiston not only took Nicholson’s advice but also advanced the favorite further. On 22 March 1698/9 Bladen added the position of naval officer of Annapolis to his other seven jobs,¹³⁵ and on 14 August 1699 he added a ninth job when he became clerk of the prerogative office.¹³⁶ In June of 1700 he went back to only eight jobs when he

resigned as clerk of the prerogative office,¹³⁷ but when Thomas Lawrence Jr., the principal secretary of the province, died of a fever on 15 April 1701¹³⁸ Bladen might not have waited even for the body to cool before he applied to Blakiston for that lucrative position. In a letter on that same day Blakiston informed the Council of Trade and Plantations of Lawrence's death and of Bladen's application and recommended Bladen, who, he added, was a gentleman who for the past ten years had faithfully served the Crown in several positions, including clerk of the lower house and clerk of the council as well as positions in customs. If he thought that Sir Thomas Lawrence himself would apply for the job, however, he would altogether desist from recommending anybody else.¹³⁹

The next day — 16 April 1701 — Blakiston commissioned Bladen principal secretary,¹⁴⁰ giving him nine jobs again. It turned out, however, that Lawrence did want the fees from that office, and in spite of the lobbying of Bladen's father and others in England¹⁴¹ Bladen went back to eight jobs when on 19 November 1701 Lawrence superseded him as principal secretary.¹⁴²

Bladen, less than gracious in the loss of this bountiful position, was now Lawrence's enemy. Later he allegedly would conspire with Governor John Seymour to get Lawrence's entire income from the province for himself,¹⁴³ and if he could not do that he would, according to Lawrence, still try to make as much money from the office as he could. In a letter to the Council of Trade and Plantations on 18 January 1705/6 Lawrence complained that Bladen as clerk of the upper house was charging him for copies of the journals of the upper house that Lawrence had to examine and send to the Council of Trade and Plantations. Bladen's justification was that he already provided one copy of the Journal of each session of the upper house to be kept among the records of the secretary's office. Apparently that was the only copy that Bladen was willing to provide for nothing. Lawrence asked the Council of Trade and Plantations to order Bladen to provide him or his deputy with copies and duplicates of whatever journals of the upper house he had to examine and send to England.¹⁴⁴ The winner in this dispute has not appeared.¹⁴⁵

On 19 August 1703 Bladen added a ninth office once more when on the death of Edward Randolph he became deputy auditor and surveyor general.¹⁴⁶ After 28 August 1703 there are no more records of Bladen as register of the two vice-admiralty courts,¹⁴⁷ but even if he had lost or given up those offices he still had seven left.

John Seymour, who took over the government of the province on 12 April 1704,¹⁴⁸ appears to have been as infatuated with Bladen as Lionel Copley and Francis Nicholson had been. On 4 December 1704 he gave this risen star an eighth job — or possibly a tenth — when he made him attorney general.¹⁴⁹ Explaining that decision and asking for a salary for Bladen, in a letter of 3 July 1705 he told the Council of Trade and Plantations that for a long time Bladen had served the government most exactly and faithfully in the several offices he had held. He believed that it was highly reasonable that the queen should “command the best services of her subjects” but that they should not suffer for their service as Bladen was suffering because in Maryland the attorney general received no salary, as, according to Seymour’s information, those in the rest of the colonies did, and because as attorney general Bladen had no access to “the large fees usually given by criminals.” Therefore he hoped that the queen would direct him to settle an adequate salary, not exceeding one hundred pounds per year, on that office, to be paid out of either fines and forfeitures or some other of the queen’s income from the province.¹⁵⁰ The salary, of course, would be in addition to the fees that Bladen got as attorney general.¹⁵¹

The Council of Trade and Plantations supported Seymour’s application. In a letter of 9 November 1705 it told Sir Charles Hedges, Secretary of State for the Southern Department,¹⁵² that it had “had a very good character of” Bladen from Seymour as well as from others and thought that he deserved the salary of one hundred pounds sterling that Seymour proposed, to be paid out of the revenue raised in Maryland.¹⁵³ Finally in a letter of 4 February 1705/6 the Council of Trade and Plantations told Seymour that he could settle such a salary on Bladen.¹⁵⁴ Apparently, however, Bladen never managed to collect that salary, and thus as attorney general he received only his fees and possibly a daily allowance for attending the meetings of the council.¹⁵⁵

In July of 1707 Bladen went back to seven jobs when the clerkship of the high court of appeals was separated from that of the council,¹⁵⁶ but on 18 August 1708 he added an eighth job again when he was sworn commissary general or judge of probate.¹⁵⁷

Bladen held at least seven of these eight offices for just over seven years and three months, from 18 August 1708, when he was sworn commissary general or judge of probate,¹⁵⁸ until December of 1715, when he either resigned or was replaced

as deputy auditor and surveyor general.¹⁵⁹ The eighth job, register of the free school in Annapolis, he retained at least until 6 November 1713 and probably longer.¹⁶⁰ He continued to hold the six or seven remaining offices for ten months, but he went back to four or five when in October of 1716 he resigned as clerk of the council and clerk of the upper house.¹⁶¹ Just before his death on 9 August 1718 he resigned as naval officer of Annapolis,¹⁶² but when he died he was still surveyor and searcher of Annapolis, attorney general, commissary general or judge of probate,¹⁶³ and possibly register of the free school in Annapolis.

In addition to monopolizing all of these offices Bladen served as clerk for several committees of the assembly,¹⁶⁴ and he practiced law not only in the provincial court,¹⁶⁵ where he was attorney general,¹⁶⁶ and in the Prince George's County court, where early in his career he was clerk of indictments,¹⁶⁷ but also in the Anne Arundel County court, where in March of 1709/10 the justices fined him and Wornell Hunt one hundred pounds of tobacco each for failing to attend court,¹⁶⁸ the Cecil County court,¹⁶⁹ and the chancery court.¹⁷⁰

On 16 August 1708, when Bladen already had seven jobs and the same day on which Governor John Seymour commissioned him commissary general or judge of probate for an eighth,¹⁷¹ Seymour also named him one of the six original aldermen of Annapolis under the that city's first charter.¹⁷² Under the second charter, which Seymour issued on 22 November 1708 after an unknown number of the residents of the city and then the delegates protested the earlier one,¹⁷³ Seymour again appointed Bladen an alderman,¹⁷⁴ and apparently he remained one for the rest of his life.

Bladen was also a delegate to the lower house for a very short time. Under the first charter of Annapolis he and Wornell Hunt, whom Seymour had appointed the recorder of the city,¹⁷⁵ were elected delegates to the assembly that met on 27 September 1708,¹⁷⁶ and they participated in the proceedings of the assembly¹⁷⁷ until they were unseated when the delegates on 2 October unanimously resolved that Seymour had no "Power to grant the Charter in Manner and fform as it . . . [was] granted."¹⁷⁸ Under the second charter Thomas Bordley replaced Bladen as the second delegate from Annapolis in the assembly that met on 29 November 1708.¹⁷⁹ The lower house would not admit Bordley and Hunt until after the act confirming the charter was passed,¹⁸⁰ however, and since Seymour did not sign the bill until the last day of the session¹⁸¹ Annapolis was not represented in the lower house until the session that met

on 25 October 1709.¹⁸²

By 4 April 1704 Bladen was also a vestryman of St. Anne's Parish in Annapolis,¹⁸³ though his attendance at its meetings might have been spotty. He was not present at the meetings of 12 June 1705 and 3 February 1705/6,¹⁸⁴ the only two meetings for which the attendance was noted during his lifetime.

Finally, somewhere along the line Bladen became a colonel in the militia.¹⁸⁵

The delegates did not approve of one man's holding so many offices. In response to a report of their Committee of Aggrievances on 2 November 1709 — when Bladen was surveyor and searcher of Annapolis, clerk of the council, clerk of the upper house, naval officer of Annapolis, deputy auditor and surveyor general, attorney general, commissary general or judge of probate, and register of the free school in Annapolis¹⁸⁶ — they resolved that it was a grievance that several places of profit in the province were held by one person. The “Offices would be better officiated and Business better done and sooner dispatched,” the delegates believed, if separate people held those offices and if each office provided sufficient income to support the official. The delegates went on to complain that it was very discouraging to the other men in the province who were well qualified to hold office that less deserving people who were “not qualified according to Law” held those places of profit and that many times one person held several offices.¹⁸⁷ The delegates asked for a conference.¹⁸⁸

When the delegates' complained about office-holders who were “not qualified according to Law” they must have been referring to the requirement that except for officials who were directly commissioned by the Crown or those who already held office no person could hold office in the province until he had lived there for three years.¹⁸⁹ To whom they might have been referring in this complaint is unclear.¹⁹⁰

The delegates' complaint that one person held several places of profit, however, must have been directed primarily at Bladen. When they made that complaint on 2 November 1709 there appears to have been very little pluralism in the holding of the most important offices of the province. While Bladen held those eight offices, most other officials held only one appointive office or sometimes two, maybe three.¹⁹¹ Bladen was the one who was benefitting most from the pluralism.

The delegates might have been all the more willing to attack Bladen because

by this time they had had more than enough of his shoddy work as the contractor on the new prison in Annapolis and on the new statehouse. On the last day of their previous session — 17 December 1708 — they had given him until the beginning of this session of the assembly to correct the deficiencies in the jail and to finish the statehouse.¹⁹² Whether he corrected any of his inadequate work on the jail does not appear, but a week after their complaint about pluralism — on 9 November 1709 — they ordered him “to make good the Shingling” on the new statehouse and to make the roof “tight & good,” paid him off,¹⁹³ and would hire others to finish the work that he should have done.¹⁹⁴

The delegates’ complaint about pluralism did no more good than their many complaints about Bladen’s shoddy work on the jail and the statehouse had done.¹⁹⁵ The upper house agreed to a conference,¹⁹⁶ but when the four members of the upper house and the eight delegates¹⁹⁷ met the next day at Philemon Lloyd’s house they agreed only that it was an aggrievance if any person combined the office of chancellor, commissary general, secretary, sheriff, or clerk of a county court with “any other Office or Place of Profit” and as a remedy suggested only that the lower house request the council to redress the grievance to whatever extent it could.¹⁹⁸ Since Bladen was commissary general, the grievance did apply to him.

The council did nothing to reduce the employment and therefore the income of its favorite factotum, however, and almost five years later little had changed. On 2 July 1714, when Bladen was still commissary general, one of the offices that the conference committee in November of 1709 specifically mentioned,¹⁹⁹ and also still held at least six of the other seven offices that he held on 2 November 1709,²⁰⁰ the Committee of Aggrievances of the lower house quoted the delegates’ message to the upper house in 1709 and then complained that multiple office-holding was still a grievance and that “some Redress ought to be sought.”²⁰¹

Again it appears that the complaint was directed primarily at Bladen. While on 2 July 1714 he still held his seven or eight offices, most other officials still held only one or sometimes two, again maybe three.²⁰²

The next day the delegates sent the report to Governor John Hart, who had arrived in the province only about five weeks earlier,²⁰³ with the flattering assurance that they had such proofs of his justice that they had no doubt that he would speedily redress the grievance.²⁰⁴

The delegates' confidence in Hart was misplaced, and the upper house merely referred consideration of the report to the next session of the assembly.²⁰⁵ Neither during its short session of 5 to 9 October 1714²⁰⁶ nor later, however, did the assembly do anything about multiple office-holding, and Bladen continued to hold at least seven of his eight offices until he was replaced as deputy auditor and surveyor general in December of 1715.²⁰⁷ He might also have continued as clerk of the free school in Annapolis. He continued to hold these six or seven offices until October of 1716, when he resigned as clerk of the council and clerk of the upper house;²⁰⁸ he held four or five offices until he resigned as naval officer of Annapolis just before his death;²⁰⁹ and he held his remaining three or four offices until he died.²¹⁰

As the two complaints of the delegates imply, Bladen's multiple responsibilities required more time, energy, commitment, knowledge, and possibly intelligence than he possessed. Prohibited by instructions from the Crown after 1699 as well as by law after 1704 from hiring deputies for any of his offices²¹¹ and thus having to do all of the work himself or through hired assistants, he bungled his jobs as clerk of the upper house, the council, and the high court of appeals and as attorney general. Some of the records of the upper house are incomplete,²¹² and apparently after January of 1716/7 Bladen was very careless about making or preserving a record of the proceedings of the council. On 19 May 1719, more than nine months after Bladen's death, John Hart informed members of the upper house of the very great misfortune that the proceedings of the council for about thirteen months at the end of Bladen's period as clerk were not to be found and asked them to inquire into the records.²¹³ Some of those records had survived in the copies Bladen sent to Baltimore and Guilford, but they are very sparse.²¹⁴

Bladen also failed to record some of the proceedings of the high court of appeals,²¹⁵ and, finally, as attorney general his work was far from exemplary.²¹⁶

Still, convinced that he was doing more work than he was getting paid for, Bladen was not timid about asking the lower house for special allowances in addition to his annual salary of twenty-four thousand pounds of tobacco — twelve thousand as clerk of the council and the same amount as clerk of the upper house²¹⁷ — and the fees he received from his various offices. The delegates responded favorably only twice.

When he became clerk of the council Bladen had to complete the records of

Henry Denton, the previous clerk, and on 5 November 1698 he asked the lower house for five thousand pounds of tobacco for bringing the records up to date. He also asked for four thousand pounds of tobacco for four months' salary while he was clerk of the lower house. When the delegates considered the request later they were informed that Bladen and Thomas Grunwin, the attorney for Denton's widow, had agreed that Bladen should have five thousand pounds of tobacco out of the salary that she still had coming to her for Denton's services. The delegates confirmed the agreement and ordered the Committee of Accounts to allow Bladen that amount.

That agreement cost the delegates nothing, but neither did Bladen's other request. Immediately after confirming the agreement between Bladen and Grunwin they rejected his request for the four thousand pounds of tobacco for salary while he was clerk of the lower house. The record does not make it clear whether Bladen was asking for additional money or for salary that he had never received.²¹⁸

In May of 1700 Bladen was more successful. The Committee of Accounts allowed four hundred pounds of tobacco to "M^r W Bladens man for Ingroseing,"²¹⁹ which means that Bladen would not have to pay his assistant himself.

In 1704 the members of the upper house unsuccessfully tried to get Bladen some fees for private bills that the assembly had passed. On 28 September they reminded the delegates that on private bills the lower house had not provided any fees for the clerk of the upper house, who had "as great [a] Burthen of the Business of this Assembly as any other Clerk."²²⁰ The delegates had provided fees on private bills for their own clerk,²²¹ but they replied that though they respected the clerk of the upper house they could not find that he had ever been allowed any fees on private bills. They hoped that the upper house would not press the matter any further but would join them in a hearty endeavor "to dispatch the Weighty Matters in hand,"²²² and the upper house dropped the issue.²²³

In 1707 the upper house again requested an additional allowance for Bladen, but again he did not get it. In a message to the delegates on 10 April the upper house pointed out that the clerk of the council had always been supplied with paper, pens, ink, wafers, and wax at the public expense²²⁴ but that in nine years as clerk of the council and the upper house Bladen had had only one allowance, of six pounds in May of 1704.²²⁵ At that time also, according to the members of the upper house, the delegates had agreed that Bladen should have an assistant clerk.²²⁶

The upper house requested that since the delegates had given their own clerk an extra allowance because of the several sessions of 1704²²⁷ they not forget the clerk of the upper house, whose trouble and service was even greater than that of the clerk of the lower house, since he had “finished his Number of Journalls of the Long Sessions Compleat” while the clerk of the lower house had provided only one Journal.²²⁸

The delegates immediately considered the message and decided that the salary of the clerk of the upper house was sufficient to support that office and that therefore Bladen should have no further allowance.²²⁹

In 1712 Bladen tried again. On 6 November he asked the lower house for “an Allowance for Paper, Wax, Wafers, Pens &^{ta}” that he had used as clerk of the council since 1704, but the again delegates rejected his petition.²³⁰

A year later the delegates refused to pay for Bladen’s assistant clerk. On 9 November 1713 the members of the upper house informed the delegates that they had noticed that in the Journal of the Committee of Accounts the delegates mentioned the person the upper house had provided as an assistant to help its clerk during that session and wondered why the delegates would refuse to provide him a suitable allowance for that service. No session of the assembly, according to the members of the upper house, had ever refused such an allowance before.²³¹

The delegates were not convinced. They knew of no session during which the clerk of the council had been allowed an assistant, and such an allowance would be a new imposition on the country. Business had “not met with much Dispatch” during the current session, and the delegates hoped that the upper house would not detain the Journal of the Committee of Accounts because of the delegates’ omission of an allowance for the assistant clerk but that it would return the Journal so that the two houses could get on with levying taxes. If there were any small mistakes in the Journal the committee that would apportion the levy could correct them.²³²

The members of the upper house, clearly perturbed, were surprised that the delegates would claim that the business of the session had not met with suitable dispatch from them and that the delegates would surmise that they would detain the Journal of the Committee of Accounts for any trivial reason. They had not seen the Journal until Saturday noon — this was Monday, apparently in the morning —, and it seemed unreasonable that the delegates would limit the time they had to examine

and consider it. It was just as much their duty as that of the delegates to see that the allowances in the Journal were just and correctly computed, and they could not but resent the delegates' treatment of them.

The members of the upper house considered themselves to be the proper judges of their own business. Knowing that the business of the assembly would be very considerable during the current session, they had directed their clerk, who had long served the province and who was "much indisposed in his Health,"²³³ to hire an assistant. In spite of the delegates' assertion, they found that in former sessions of the assembly the clerk of the upper house had been allowed such an assistant. Accordingly they had sworn Benjamin Tasker, who had served them diligently, and therefore they hoped that the delegates would provide him some satisfaction. The clerk of the upper house himself did not claim any reward.

If the delegates would inspect the Journal of the Committee of Accounts for 1704, the members of the upper house concluded, they would see their mistake in claiming that the clerk of the upper house had never been allowed an assistant. They hoped that they would have no further occasion to press the delegates in the matter.²³⁴

The upper house did not point out that Benjamin Tasker was William Bladen's son-in-law,²³⁵ but everybody must have known that anyway.

One illustration did not seem like much evidence of the claim that no session of the assembly had ever before denied payment to an assistant clerk of the upper house, and the delegates would not give in. They did not consider the very long session of 1704 to be a precedent, and they still could not agree to an allowance for Bladen's assistant clerk. They had corrected the errors in the Journal according to the recommendations of the upper house and hoped for its assent so that a committee could apportion the levy, and they had appointed five of their members for that purpose. They hoped that the committee could meet the next morning.²³⁶

The upper house submitted, accepted the Journal of the Committee of Accounts, and appointed two of its members to meet with the five delegates when and where the delegates decided.²³⁷

A year-and-a-half later Bladen had better luck, possibly because Hart and the upper house adopted the unusual tactic of being civil. On 5 May 1715 the delegates pointed out to the upper house that by an act of 1704 the amercements in the provincial and county courts were to be used as the governor and his council thought fit but

since they did not know how the ameracements had been used asked Hart to provide them with an account of them.²³⁸ Hart and the upper house responded that while Francis Nicholson was governor the ameracements were settled on Henry Denton, the clerk of the council and of the upper house, that after Bladen succeeded Denton he had received those ameracements only twice — once while Nathaniel Blakiston was governor and once under John Seymour —, that the amounts were so small that it was hardly worth the trouble and charge of collecting them, and that Bladen would be glad to provide an account of what he had received. The delegates were satisfied with that response,²³⁹ and when on the thirty-first Bladen petitioned them that since this had been a long and tedious assembly²⁴⁰ he had had “great Toil and Fatigue in dispatching the Publick Business” and had had to employ an assistant clerk they reimburse him for that expense, they allowed him three thousand pounds of tobacco.²⁴¹

Finally, on 18 July 1716 Bladen got additional help when the members of the upper house approved of Otho Coursey as their assistant clerk.²⁴² Bladen would resign in October.²⁴³

While the delegates more often rejected than granted Bladen’s petitions for extra money while he was clerk of the council and of the upper house, they were more generous to him during the less than three years he was their own clerk.²⁴⁴ On 16 May 1695, seven days after he became clerk of the lower house, the Committee of Accounts allowed him thirty-eight hundred pounds of tobacco for making a copy of the laws to send to England, two journals, which must mean the Journal of the lower house, and two copies of the “Court house act,” and for inspecting the records of the province when they were moved from St. Mary’s City to Annapolis.²⁴⁵ During the session of 3 to 19 October 1695 the Committee of Accounts granted him four thousand pounds of tobacco as clerk of the lower house and an additional six thousand pounds of tobacco for work that he had done since the end of the last session of the assembly.²⁴⁶ On 2 May 1696 the delegates allowed him five thousand pounds of tobacco for making five duplicates of “the last Journalls” as well as transcripts of several letters and addresses because he had borne the cost of that work, and they granted him another five thousand pounds of tobacco for his attendance and service during this session and for the Journal of the session that he had to provide for the secretary’s office.²⁴⁷ On 8 July 1696 they granted him another two thousand pounds

of tobacco for his services to the beginning of that session,²⁴⁸ and, finally, during the session that ended on 4 April 1698 they allowed him an assistant clerk for special services.²⁴⁹

All of this, of course, was in addition to Bladen's annual salary of twelve thousand pounds of tobacco.²⁵⁰

Surely few officials in Maryland during the first two decades of the eighteenth century were busier than William Bladen was. Unable after 1699 to hire a deputy for any of his many appointive positions,²⁵¹ he either had to do the work in those offices himself or supervise hired assistants. Still not busy enough, he also tried his hand as a publisher and as a contractor. Over-extended but apparently insatiable, he was a failure in those jobs, too.

William Bladen's Offices

	Offices of Profit	From	Until
1.	Clerk of Lower House	9 May 1695	26 April 1698
2.	Clerk of St. Mary's County	By October 1695	26 April 1698
3.	Clerk of Indictments — Prince George's County	17 June 1696	28 June 1698
4.	Deputy Collector of Annapolis	20 October 1697	After 4 April 1698
5.	Surveyor and Searcher of Annapolis	24 December 1697	Death: 9 Aug. 1718
6.	Clerk of Council	26 April 1698	October 1716
7.	Clerk of Upper House	26 April 1698	October 1716
8.	Clerk of High Court of Appeals	26 April 1698	July 1707
9.	Register of Vice-Admiralty Court of Eastern Shore	By 21 October 1698	?After 28 Aug. 1703
10.	Register of Vice-Admiralty Court of Western Shore	21 October 1698	After 28 Aug. 1703
11.	Clerk of Free School in Annapolis	By 22 November 1698	After 6 Nov. 1713
12.	Naval Officer of Annapolis	22 March 1698/9	Shortly before death: 9 August 1718
13.	Clerk of Prerogative Office	14 August 1699	June 1700
14.	Principal Secretary of Maryland	16 April 1701	19 November 1701

	Offices of Profit	From	Until
15.	Deputy Auditor and Surveyor General	19 August 1703	December 1715
16.	Attorney General	4 December 1704	Death: 9 Aug. 1718
17.	Commissary General or Judge of Probate	18 August 1708	Death: 9 Aug 1718
	Non-Profit Offices	From	Until
18.	Alderman — Annapolis	22 November 1708	?Death: 9 Aug. 1718
19.	Delegate to Lower House	22 September 1708	2 October 1708
20.	Vestryman — St. Anne's Parish, Annapolis	By 4 April 1704	?Death: 9 Aug. 1718
21.	Colonel — militia	Unknown	Death: 9 Aug. 1718

Most of these offices are listed in Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiverson, *A Biographical Dictionary of the Maryland Legislature, 1635-1789* (2 vols.; Baltimore: The Johns Hopkins University Press, 1979, 1985), I, 136.

3. Placeman

¹ See Chapter 2, “Jump-Start to Fortune,” at Notes 31-33.

² *Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore: Maryland Historical Society, 1883-1972), XIX, 172; Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953), p. 138.

³ Donnell M. Owings gives both 1 August 1718 and 7 August 1718 as the date of Bladen's death (Owings, *His Lordship's Patronage*, pp. 130, 133-134, 182), but Owings' “Supplement to *His Lordship's Patronage*” at the Maryland Historical Society consistently has 7 August. Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiverson, eds., *A Biographical Dictionary of the Maryland Legislature, 1635-1789*, hereafter *Biographical Dictionary* (2 vols.; Baltimore: The Johns Hopkins University Press, 1979, 1985), I, 136, also use 7 August as the date of Bladen's death.

Following the Parish Register, St. Anne's Parish, Annapolis, 1708-1785, p. 39, Christopher Johnston says that Bladen was *buried* in Annapolis on 9 August 1718 (Christopher Johnston, “Bladen Family,” *Maryland Historical Magazine*, V, No. 3 (September 1910), p. 298; Christopher Johnston, “Bladen Family,” *ibid.*, VIII, No. 3 (September 1913), p. 303), but Bladen's tomb on Church Circle in Annapolis has 9 August 1718 as the date of his death rather than of his burial.

Since neither in *His Lordship's Patronage* nor in the “Supplement” does Owings' provide a source for 7 August as the date of Bladen's death, and since in the files on William Bladen and his son Thomas Bladen in the State Archives' Legislative History Project there is nothing to indicate that he died on the seventh, I will use 9 August 1718, the date on his tomb, as the date of his death.

I thank Dr. Gregory A. Stiverson, former President of the Historic Annapolis Foundation, and Patricia Blick, former Director of Preservation Services Historic Annapolis Foundation and now General Manager of the Annapolis History Center, for taking and sending me photographs of Bladen's tomb; Lynne McAdam, former Webmaster and Director of Electronic Publications at the Maryland State Archives, for checking the files on William Bladen and Thomas Bladen in the Legislative History Project for citations on William Bladen's death; and Francis O'Neill, Reference Librarian at the Maryland Historical Society in Baltimore, for checking the "Supplement to *His Lordship's Patronage*" for such citations. I also thank Emily Oland Squires, Director of Biographical Research at the State Archives, for sending me the file on William Bladen from the Legislative History Project.

⁴ Carroll T. Bond justifies Bladen's holding his multiple offices, not all of which he mentions, by saying that "Scarcity of clerks, and possibly other conditions, rendered it necessary that a capable man fill more than one office, sometimes many offices, at the same time." Carroll T. Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729* (Washington: The American Historical Association, 1933), pp. xxxiv-xxxv. What "other conditions" Bond was referring to he does not say.

Later Bond says that "the scarcity of men of the needed ability made it necessary to have William Bladen, who . . . was already encumbered with work in other offices, take upon himself the work of clerk" of the high court of appeals as well. *Ibid.*, pp. xxxv-xxxvi. In November of 1709 the delegates to the lower house disagreed: they believed that in the province there were plenty of qualified men to make such pluralism unnecessary. *Md. Arch.*, XXVII, 388, 425, and Text below at Note 187.

⁵ *Md. Arch.*, XXIII, 257, 362, 380, 407.

⁶ Owings, *His Lordship's Patronage*, p. 127.

⁷ *Ibid.*, p. 143.

⁸ Joseph H. Smith and Philip A. Crowl, eds., *Court Records of Prince George's County, Maryland, 1696-1699* (Washington: The American Historical Association, 1964), pp. 7, 347.

The clerk of indictments was the county prosecutor. C. Ashley Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763* (New York: Garland Publishing, Inc., 1990), pp. 147-148.

⁹ Owings, *His Lordship's Patronage*, pp. 135, 136, 145.

¹⁰ *Ibid.*, p. 138; *Md. Arch.*, XIX, 143, 172; XXIII, 384, 386.

¹¹ Bladen was appointed clerk of the council on 26 April 1698 and was sworn the next day. Minutes of Council of Maryland, The National Archives (PRO), *Calendar of State Papers: Colonial Series* (40 vols.; Vaduz: Kraus Reprint Ltd., 1964), XVI, No. 407 (pp. 184, 185). This appointment does not appear in the record of the council in the *Archives*. *Md. Arch.*, XXIII, 416-431.

Donnell M. Owings has Bladen leaving the clerkship of the lower house on 4 April 1698 (Owings, *His Lordship's Patronage*, p. 138), but that date was the last day of the most recent session of the assembly (*Md. Arch.*, XXII, 70, 146), and probably Bladen remained clerk of the lower house until he was actually appointed clerk of the council, the upper house, and the high court of appeals. But see Note 122 below.

¹² Owings, *His Lordship's Patronage*, pp. 109, 135, 136.

¹³ *Ibid.*, p. 130.

¹⁴ *Ibid.*, p. 178.

¹⁵ *Ibid.*, pp. 133-134.

¹⁶ *Ibid.*, pp. 136, 137.

¹⁷ *Ibid.*, p. 162.

¹⁸ *Ibid.*, p. 182.

¹⁹ *Md. Arch.*, XXV, 12, 15.

²⁰ *Ibid.*, p. 165.

²¹ *Ibid.*, p. 37. For further references to Bladen as register of the free school in Annapolis, see *ibid.*, XXIV, 49, 82.

²² *Ibid.*, XXIX, 298.

²³ See Note 10 above.

²⁴ Owings, *His Lordship's Patronage*, p. 145.

²⁵ For the beginning of the session, see *Md. Arch.*, XIX, 141, 171.

²⁶ *Ibid.*, p. 171.

²⁷ Journal of House of Burgesses of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XIV, No. 1809; Minutes of Council of Maryland in Assembly, *ibid.*, No. 1810.

Donnell M. Owings has Cleborne Lomax remaining clerk of the lower house

only until 1 March 1694/5. Owings, *His Lordship's Patronage*, p. 138. That is the date of the end of the previous session of the assembly. *Md. Arch.*, XIX, 124, 136.

²⁸ *Ibid.*, pp. 171-172.

²⁹ *Ibid.*, p. 172.

³⁰ *Ibid.*, p. 143. The oaths that officials had to take are the oaths of allegiance or obedience, abhorrency or supremacy, and the Test, and after 1702, the oath of abjuration. People who took the oaths also had to subscribe — sign — the oath of abjuration and the Test. By the oath of allegiance or obedience the subject swore allegiance to the current king or queen or, in the case of William and Mary, to both; by the oath of abhorrency or supremacy he swore that he abhorred, detested, and abjured the doctrine that a prince who was excommunicated could be deposed or murdered by his subjects and declared that “no foreign Prince, Person, Prelate, State, or Potentate” had any authority in England or later in Great Britain; and by the oath of abjuration he swore that he believed that the Protestant sovereign was the lawful sovereign, renounced any allegiance to the Stuarts, and swore that he would defend the Protestant succession to the Crown against the Stuarts as well as against any other “traitorous Conspiracies.”

By subscribing the Test the subject declared that he did not believe in the doctrine of transubstantiation, that is, the belief that the bread and the wine in the communion service actually became the body and blood of Christ.

The oaths are printed in 1 George I, stat. 2, c. 13, in Danby Pickering, *The Statutes at Large* (109 vols.; Cambridge: Joseph Bentham and Others, 1762-1869), XIII, 189-190, and in 1716, c. 5, *Md. Arch.*, XXX, 614-615, and the Test is printed in 25 Charles II, c. 2, in Pickering, *The Statutes at Large*, VIII, 392, and in 1716, c. 5, *Md. Arch.*, XXX, 615, as well as in *Md. Arch.*, XIX, 30, 46, 51. A longer form of the Test is printed in *ibid.*, XXV, 68.

The oaths of allegiance or obedience and supremacy or abhorrency are also written out in 1 William and Mary, session 1, c. 1, in Pickering, *The Statutes at Large*, IX, 1-3; 1 William and Mary, session 1, c. 8, par. 12, in *ibid.*, p. 9; and *Md. Arch.*, VIII, 69; XX, 3, 390.

For the oath of secrecy that Bladen took on 14 March 1697/8, see *Md. Arch.*, XXII, 83. For earlier oaths of secrecy of clerks of the lower house, see *ibid.*, VII, 261, 448, 525; XIII, 260, 362.

³¹ *Md. Arch.*, XIX, 172.

³² While it is dangerous to believe anything that Francis Nicholson's enemies said about him, after the death of Henry Denton, the clerk of the council and the upper house, in April of 1698 (Owings, *His Lordship's Patronage*, pp. 136, 137), John Coode Sr. claimed that Nicholson had had him killed. On 22 July 1698 Nicholson and his council heard an affidavit in which William Taylard of St. Mary's County swore that at Gerard Slye's house "not long since" he had heard Coode say that Nicholson "had caused . . . Denton . . . to be put out of the way because he was a material Evidence" against the governor. The council summoned Dr. Robert Jones, who had attended Denton during his last illness, to swear to what he believed was the cause of Denton's death. That same day Jones swore that he believed that Denton's death was caused by a malignant fever. *Md. Arch.*, XXIII, 470, 476-476.

Still Nicholson's character, as illustrated in this chapter, would indicate that he was not above a little manipulation to replace a clerk. See also David W. Jordan, *Foundations of Representative Government in Maryland, 1632-1715* (New York: Cambridge University Press, 1987), pp. 190-206.

³³ *Md. Arch.*, XIX, 25.

³⁴ Nicholson assumed office in Maryland on 26 July 1694. Owings, *His Lordship's Patronage*, pp. 119-120.

³⁵ *Md. Arch.*, XIX, 25-26, 29, 31-32.

³⁶ Journal of House of Burgesses of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XIV, No. 1329. The original Proceedings of the lower house for the session of 20 September to 18 October 1694 are missing. William Hand Browne, "Introduction" to *Md. Arch.*, XIX, ix.

³⁷ *Md. Arch.*, XIX, 198; XX, 197-200; Chapter 2, "Jump-Start to Fortune," Notes 31-33.

³⁸ I have not discovered what Cleborne Lomax's alleged offense was supposed to have been. The records of the council provide no clue as to why Nicholson removed him as clerk of the lower house and appointed Bladen in his place. *Md. Arch.*, XX, 218-234.

³⁹ *Ibid.*, XIX, 172.

⁴⁰ *Ibid.*, pp. 174, 194.

⁴¹ *Ibid.*, pp. 194-208.

⁴² *Ibid.*, pp. 167, 193.

⁴³ *Ibid.*, p. 258.

⁴⁴ *Ibid.*, pp. 258-275.

⁴⁵ *Ibid.*, pp. 238, 258.

⁴⁶ Historians of Maryland have often accepted the claim that before he came to Maryland William Bladen was married to Letitia Loftus, daughter of Dudley Loftus, Vicar-General of Ireland, and therefore that Anne Van Swearingen was his second wife, but Beverly Ann's research makes it appear that there are problems with such a suggestion. See Appendix B, "William Bladen and Letitia Loftus: A Voyage in Search of a Wife and an Exercise in Genealogy."

⁴⁷ Mr. Hall must have been Father John Hall, a Jesuit priest of St. Inigoes. Thomas Hughes, *History of the Society of Jesus in North America: Colonial and Federal* (4 vols.; New York: Longmans, Green, and Co., 1908-1917; reprinted Westmead, England: Gregg International Publishers Ltd., 1970), *Text*, II, 683; Beatriz Betancourt Hardy, "Papists in a Protestant Age: The Catholic Gentry and Community in Colonial Maryland, 1689-1776" (Ph. D. dissertation: The University of Maryland, 1993), pp. 601-602.

St. Inigoes was a Jesuit manor in St. Mary's County. Michael James Graham, "Lord Baltimore's Pious Enterprise: Toleration and Community in Colonial Maryland, 1634-1724" (Ph. D. dissertation: The University of Michigan, 1983), p. 111.

⁴⁸ *Md. Arch.*, XX, 365. The identification of Anne Van Swearingen as "M^{rs} Ann Vansweringhen" in the record (*Md. Arch.*, XX, 365) might lead people to believe that she was a widow, but the reference to her as "Mrs." does not mean that she had been married before. An obsolete use of "Mrs." is "a conventional title of courtesy before the surname or before the given name and surname of an unmarried woman." *Webster's Third New International Dictionary of the English Language Unabridged* (1981). If Anne, the daughter of Garrett and Mary Van Swearingen, had been a widow she would no longer have been Anne Van Swearingen but rather would have had a different last name.

One entry in Family Tree Maker has Anne Van Swearingen born in "New Amstel, New Castle, Delaware," in 1679 and marrying William Bladen on 19 February 1695/6. <http://familytreemaker.genealogy.com/users/o/l/s/Geraldine-A-Olschki/GENE3-0001.html>. [Visited 11 March 2003] Another entry has her born "Bet.

1679-1680 in St. Mary's, Maryland or New Amstel, Delaware [*sic*]” but has the same date of marriage. <http://familytreemaker.genealogy.com/users/c/a/m/John-Mark-Campbell/GENE2-0003.html#CHILD7>. [Visited 11 March 2003]

While web-sites, like books, without citations are notoriously unreliable, if these sites are correct Anne Van Swearingen must have been barely seventeen, if that, when she was married. Bladen would have been not quite twenty-three.

⁴⁹ Alan F. Day, *A Social Study of Lawyers in Maryland, 1660-1775* (New York: Garland Publishing, Inc., 1989), p. 183.

⁵⁰ Since by the “Act for the Publication of Marriages” of 1692 the assembly provided that marriages could be performed only by a minister, pastor, or magistrate and that all marriages had to be performed according to the liturgy of the Church of England (1692, c. 14, *Md. Arch.*, XIII, 450-451), the “license” that Hall produced from the minister Thomas Davies might mean that Bladen and Anne Van Swearingen were married first in an Anglican ceremony and then in a Catholic one.

The records of the assembly for May of 1696, the first session after Bladen's marriage, are not entirely clear, but they appear to support that conclusion. When on 1 May 1696 it was proposed in the upper house, apparently by Francis Nicholson, that

a Law be made that what Priests hereafter come into the Country be Obliged to produce their Orders in such a time and that they presume not to marry any Protestant to a Papist without receiving a Certificate from some minister of the Church of England of such Protestant being married by a Minister of the said Church first,

(*Md. Arch.*, XIX, 290), the delegates resolved the next day that “the Laws . . . had Sufficiently Provided therefore.” *Ibid.*, pp. 303, 339-340. On the ninth the delegates resolved further, “As to Priests marrying Protestants to Papists,” “that the Romish Priests Complying with the Laws of . . . [the] Province be Tollerated to Marry persons applying themselves to them therefore.” *Ibid.*, pp. 316, 361. That might make it appear either that a Catholic priest could perform a marriage even if one of the parties was a Protestant, provided that he had satisfied the other provisions of the law, or that the requirement that a Protestant and a Catholic who wanted to be married by a Catholic priest had to be married in a Protestant ceremony first had already been established.

⁵¹ *Md. Arch.*, XX, 402-403. The record of the council includes no details of the discussion of Bladen's marriage.

⁵² Hardy, "Papists in a Protestant Age: The Catholic Gentry and Community in Colonial Maryland, 1689-1776," pp. 84-85.

⁵³ Smith and Crowl, eds., *Court Records of Prince George's County, Maryland, 1696-1699*, p. 7. In their "Introduction" Smith and Crowl say that Bladen was sworn as clerk of indictments of Prince George's County in May of 1696 rather than in June (*ibid.*, p. xxxvi), but his commission is dated 17 June 1696. *Ibid.*, p. 14.

⁵⁴ *Ibid.*, p. 22.

⁵⁵ *Ibid.*, pp. xxxvi, 347.

⁵⁶ *Ibid.*, pp. 6-7.

⁵⁷ *Ibid.*, pp. 24, 25.

⁵⁸ *Ibid.*, pp. 38-39.

⁵⁹ Nesca A. Robb, *William of Orange: A Personal Portrait* (2 vols.; New York: St. Martin's Press, 1962, 1966), II, 363. Sir George Clark, *The Later Stuarts, 1660-1714* (2nd edition; Oxford: The Clarendon Press, 1955), p. 184, has Mary dying in 1695, but he is dating in the New Style. The *Dictionary of National Biography*, XII, 1239, 1248, uses Old Style.

⁶⁰ Robb, *William of Orange: A Personal Portrait*, pp. 369-393; Clark, *The Later Stuarts, 1660-1714*, pp. 184-185.

⁶¹ By the Association, Parliament required all officials to "profess, testify, and declare" that William III was the lawful king of England and "mutually promise and engage to stand by and assist each other to the utmost" in their power "in the support and defence of his Majesty's most sacred person and government" against James II "and all his adherents." In addition, they had "freely and unanimously" to oblige themselves that if William III should "come to any violent or untimely death (which God forbid)" they would "unite, associate and stand by each other, in revenging the same upon his enemies and their adherents" and would support and defend the Protestant succession as provided by Parliament in 1 William and Mary, session 2, c. 2. 7-8 William III, c. 27, in Pickering, *The Statutes at Large*, IX, 442-448.

For 1 William and Mary, session 2, c. 2, see *ibid.*, pp. 67-73.

After William died on 8 March 1701/2 ("Table of the Regnal Years of English Sovereigns," in *Sweet & Maxwell's Guide to Law Reports and Statutes* (Toronto:

The Carswell Company, Limited, 1929), p. 63), Parliament repealed the Association and replaced it with the oath to Queen Anne and the Protestant succession. 1 Anne, stat. 1, c. 22, in Pickering, *The Statutes at Large*, X, 461-465.

⁶² *Md. Arch.*, XX, 538-546. There are 648 names on the declaration, but since some of these men signed both as civil officials and as military officers seventy-four apparently signed twice and four appear to have signed three times.

⁶³ *Ibid.*, XIX, 464-466, 467-468; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 190-206. For some illustrations of Nicholson's arrogance, see *Md. Arch.*, XIX, 471; XXII, 70-71, 179-182, 243-244, 245.

⁶⁴ *Ibid.*, XXIII, 374-379, 379-380, 501-502.

⁶⁵ Again, Francis Nicholson assumed the office of governor of Maryland on 26 July 1694. Owings, *His Lordship's Patronage*, pp. 119-120.

⁶⁶ *Md. Arch.*, XX, 574-578.

⁶⁷ Later as governor of Virginia Nicholson was accused of "procureing flattering addresses from packed Grand Jurys" and then rewarding the jurors "with places of honour and proffit in the Government . . ." TNA (PRO), *Calendar of State Papers: Colonial Series*, XXII, No. 247 (p. 95).

⁶⁸ *Biographical Dictionary*, I, 33-34.

⁶⁹ The three members of the council who signed the declaration in favor of Francis Nicholson were John Addison, John Courts, and Thomas Brooke. *Md. Arch.*, XX, 575.

The declaration of the three members of the council is the only one of the eleven statements that is not followed by a notation that it was sworn to and that is not signed by Henry Wriothlesley, the clerk of the provincial court.

I thank Dr. R. J. Rockefeller, former Director of Reference Services at the Maryland State Archives in Annapolis, for checking the wording of this entry in the published *Archives of Maryland* against that in the original record.

For Henry Wriothlesley as clerk of the provincial court, see Owings, *His Lordship's Patronage*, p. 140.

⁷⁰ Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, p. 199.

⁷¹ Owings, *His Lordship's Patronage*, pp. 133, 159, 177, 178, 180. Receivers, collectors, and naval officers were all involved in collecting proprietary or royal

revenues. *Ibid.*, pp. 7, 9, 21, 59, 63-67, 92.

⁷² *Ibid.*, p. 140.

⁷³ *Md. Arch.*, XX, 578.

⁷⁴ *Ibid.*, pp. 574-575. Nicholson's depositions and the declaration in his favor did not end the criticism of him. *Ibid.*, XXIII, 374-379; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 199-206, and Text below at Notes 85, 112.

⁷⁵ *Md. Arch.*, XXIII, 257.

⁷⁶ Owings, *His Lordship's Patronage*, pp. 94n., 94-95, 178.

⁷⁷ *Md. Arch.*, XXIII, 346-347, 356; Minutes of Council of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XVIII, No. 287; Owings, *His Lordship's Patronage*, p. 182.

⁷⁸ *Md. Arch.*, XXIII, 380.

⁷⁹ *Ibid.*, p. 362, 407; Minutes of Council of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XVI, No. 334 (p. 158); *ibid.*, XVIII, No. 287.

⁸⁰ *Md. Arch.*, XXIII, 266. For John Coode, see David W. Jordan, "John Coode, Perennial Rebel," *Maryland Historical Magazine*, LXX, No. 1 (Spring 1975), pp. 1-28.

⁸¹ For Nicholson's proclamation, see *Md. Arch.*, XX, 563-564.

⁸² *Md. Arch.*, XX, 561-562; XXIII, 332-334, 345-346.

⁸³ *Ibid.*, XXIII, 379-380. By ordering his Majesty's lawyers to prosecute Mason, Nicholson must have been referring to both George Plater, the attorney general (Owings, *His Lordship's Patronage*, p. 133), and William Dent, the solicitor general. *Md. Arch.*, XX, 237, 310, 386; XXIII, 482, 483, 498; Francis Nicholson to Council of Trade and Plantations, 13 March 1696/7, TNA (PRO), *Calendar of State Papers: Colonial Series*, XV, No. 798. On 22 October 1698 Dent would become attorney general after Plater resigned to become naval officer of Patuxent. Owings, *His Lordship's Patronage*, p. 133.

For Mason's letter to Coode, see *Md. Arch.*, XXIII, 345-346.

⁸⁴ *Md. Arch.*, XXIII, 406.

⁸⁵ Provincial Court Judgment Record, Liber I. L., pp. 63-65. The indictment against Mason in this case has him remaining as sheriff of St. Mary's County until June of 1698. *Ibid.*, p. 63.

⁸⁶ Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 198-202, 204-205, 208.

⁸⁷ *Md. Arch.*, XXII, 77.

⁸⁸ *Ibid.*, p. 70; Minutes of Council of Maryland in Assembly, TNA (PRO), *Calendar of State Papers: Colonial Series*, XVI, No. 350.

⁸⁹ Randolph was Edward Randolph, deputy auditor and surveyor general of the province. Owings, *His Lordship's Patronage*, pp. 94-95, 178.

⁹⁰ *Md. Arch.*, XXIII, 411.

⁹¹ On 11 July 1698, on the accusation of Gerard Slye, Nicholson admitted that he had beaten John Coode "when he was drunk & made a Disturbance at Divine Service" and afterward affronted Nicholson in Nicholson's own house, but he added that he had a note from Coode begging his pardon. Nicholson admitted further that he had caned "one Captain Snowden," who came armed into his presence and allowed his men "to fight with drawn Swords & did not endeavour to part & quell them." When Slye added that Nicholson had also beaten one Burroughs, Nicholson's response was "what if he had," since Burroughs was his servant and his cook. *Md. Arch.*, XXIII, 452.

For examples of allegations of Nicholson's violence and lust for power even to tyranny in Maryland, see TNA (PRO), *Calendar of State Papers: Colonial Series*, XVI, Nos. 508, 508.i, 601, 601.i, and in Virginia, *ibid.*, XXII, Nos. 247, 270, 371, 628.ii (a, b), and Stephen Saunders Webb's excellent "The Strange Career of Francis Nicholson," *The William and Mary Quarterly*, Third Series, XXIII, No. 4 (October 1966), pp. 513-548. "Tyranny" is Webb's word for Nicholson's ambitions. *Ibid.*, p. 521. He is very brief on Nicholson in Maryland. *Ibid.*, pp. 533-534.

⁹² Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 190-206.

⁹³ TNA (PRO), *Calendar of State Papers: Colonial Series*, XXII, No. 247 (pp. 93-94); Webb, "The Strange Career of Francis Nicholson," pp. 524, 526.

⁹⁴ Provincial Court Judgment Record, Liber I. L., pp. 52-57.

⁹⁵ *Md. Arch.*, XXIII, 531.

⁹⁶ *Ibid.*, XXII, 212, 412; XXIII, 173, 330, 447, 450, 460, 461, 473, 512, 526.

⁹⁷ *Ibid.*, XXV, 20.

⁹⁸ *Ibid.*, pp. 39-40. The list of grand jurors in *ibid.*, p. 40, corresponds with the

list of grand jurors at the provincial court for November of 1698. Provincial Court Judgment Record, Liber I. L., p. 142.

⁹⁹ *Md. Arch.*, XXV, 31-32; Jordan, "John Coode, Perennial Rebel," p. 24. Michael Miller became Clarke's security.

In the records of the provincial court for May of 1699 there is no evidence of Philip Clarke's appearance. Provincial Court Judgment Record, Liber W. T., No. 3, pp. 1-65. He died sometime before 29 June 1699 (*Md. Arch.*, XXII, 368), and therefore possibly he was either already dead or too sick to appear.

¹⁰⁰ *Md. Arch.*, XXV, 32-33. Elias King of Kent County was Clarke's surety on this bond.

After Philip Clarke's death William Dent, the attorney general (Owings, *His Lordship's Patronage*, p. 133), sued his estate on behalf of the king for fifteen thousand pounds of tobacco on this bond and recovered twelve thousand pounds of tobacco and an unstated amount in costs. Provincial Court Judgment Record, Liber W. T., No. 3, pp. 491-493.

¹⁰¹ *Md. Arch.*, XXII, 6, 75-76.

¹⁰² *Ibid.*, XXIII, 384, 386.

¹⁰³ This session of the assembly opened on 10 March 1697/8. *Ibid.*, XXII, 3-6, 75.

¹⁰⁴ For the oath of secrecy of the clerk of the lower house, see Note 30 above.

¹⁰⁵ *Md. Arch.*, XXIII, 417.

¹⁰⁶ The Committee of Aggrievances was appointed on 11 March 1697/8 (*ibid.*, XXII, 81), and Smithson probably charged it then or the next morning. Bladen took the oath of secrecy on the fourteenth. *Ibid.*, pp. 12, 83.

¹⁰⁷ *Ibid.*, pp. 417-418.

¹⁰⁸ Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 190-206.

¹⁰⁹ *Md. Arch.*, XXII, 70-71.

¹¹⁰ *Ibid.*, p. 146.

¹¹¹ *Ibid.*

¹¹² *Ibid.*, XXIII, 408.

¹¹³ *Ibid.*, XXII, 179, 184-185, 243, 251.

¹¹⁴ TNA (PRO), *Calendar of State Papers: Colonial Series*, XXII, No. 371 (p.

158).

¹¹⁵ Owings, *His Lordship's Patronage*, p. 133.

¹¹⁶ The *nolle prosequi* was simply an order not to prosecute a suspect or a defendant. Henry Campbell Black, *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern* (6th edition; St. Paul: West Publishing Co., 1990), p. 1048. The prosecuting attorney entered the *nolle prosequi*, but since the governor controlled the attorney general the governor could decide who would and who would not be prosecuted.

¹¹⁷ Chancery Record 3, 397-400; *Md. Arch.*, XXXIII, 127-130.

¹¹⁸ By the "Act against Divulgers of false News" of 1692, when Lionel Copley was governor, the assembly provided that since "many Idle and busy headed People . . . forge[d] and divulge[d] false rumours and Reports to the great disturbance of the Peace" of William and Mary and the people of the province, anyone who "forge[d] or devulge[d] [*sic*] any false reports tending to the trouble" of the province would face prosecution "if the thing related . . . [was] materiall" and if he would not "produce . . . his Author." On conviction he would be fined no more than two thousand pounds of tobacco. If it appeared to the court that he had maliciously invented and published the reports he would also have to give security for his good behavior.

But unfavorable reports might be dangerous to authority even if they were true, and despite the title of the act it contained no provision to protect the person who spoke the truth against the governor or the other officials. Instead, the assembly provided that anyone who was convicted of "Maliciously and advisedly" writing, speaking, or otherwise expressing, publishing, or declaring "any words sentences or other thing or things to the defaming or scandall" of the governor would be jailed for six months without bail or mainprise and would be fined no more than ten thousand pounds of tobacco. Anyone who was convicted of "maliciously & advisedly" writing, speaking, or otherwise expressing, publishing, uttering, or declaring "any words sentence[s] or other things to the scandall" of members of the council, judges, justices, or other principal officers "in relation to their severall Office or Offices" would be jailed for three months without bail or mainprise and would be fined not more than five thousand pounds of tobacco. 1692, c. 5, *Md. Arch.*, XIII, 439-440.

In the seventeenth and eighteenth centuries truth was not a defense in criminal

cases of slander or libel, though it was a defense in civil cases. Sir William Blackstone, *Commentaries on the Laws of England* (10th edition; 4 vols.; London: Printed for A. Strahan, T. Cadell, and D. Prince, 1787), III, 125-126; IV, 150-153.

Mainprise is “the delivery of a person into the custody of” someone who will be responsible for his appearance in court. *Black’s Law Dictionary* (6th edition), p. 953.

An earlier, less severe act against divulgers of false news is 1671, c. 4, *Md. Arch.*, II, 273-274.

¹¹⁹ Provincial Court Judgment Record, Liber I. L., pp. 52-57 (Philip Clarke), 57-63 (Gerard Slye).

¹²⁰ *Ibid.*, pp. 63-65. For the prosecutions against Clarke, Slye, and Mason, see Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, pp. 198-202.

It might have been Francis Nicholson’s abuse of the “Act against Divulgers of false News” that the delegates were referring to when on 21 July 1699 they argued that the law should be repealed since “Because of its Great Latitude” it was “very Lyable to be abused.” They added that they knew of several examples of such abuse. Nathaniel Blakiston and the upper house agreed. *Md. Arch.*, XXII, 351, 352-353, 448-449, 449.

In 1707 the delegates rejected a bill “against divulging of ffalse news” (*ibid.*, XXVII, 11, 70, 73), and in 1708 the members of a conference committee of the two houses unanimously opposed such a law because they could not “find any Law to restrain such Reports but that . . . [would] expose innocent Persons to the Malice of Informers.” No such law was passed. *Ibid.*, pp. 212, 216.

For Robert Beverley’s allegations of Francis Nicholson’s abuse of a law of Virginia that made it a crime to speak disrespectfully of the governor, see Robert Beverley, *The History and Present State of Virginia*, ed. David Freeman Hawke (New York: The Bobbs-Merrill Company, Inc., 1971), pp. 45-46.

¹²¹ See for example John Seymour’s and John Hart’s fulminations against the Catholics during their tenures as governors of the province. *Md. Arch.*, XXV, 241-242, 268-269; XXVI, 44-46; XXXIII, 119-123, 202-206, 299-300, 368-369, 479-485, 568-574.

¹²² Owings, *His Lordship’s Patronage*, p. 136. In a letter of 20 August 1698

Nicholson told the Board of Trade that Denton had died before he was able to write up the Journal of the council and that he, Nicholson, had had “a great deal of difficulty in compleating” the record from Denton’s minutes. *Md. Arch.*, XXIII, 489. Yet Bladen signed that record.

In the process of leaving the clerkship of the lower house to become the clerk of the upper house, the council, and the high court of appeals, Bladen signed the record of the lower house for the session that ended on 4 April 1698 (*Md. Arch.*, XXII, 146), called himself the clerk of the council when he signed the record of the council for 15 April 1698 (*ibid.*, XXIII, 420), but was not appointed clerk of the council until 26 April 1698 and was sworn the next day. Minutes of Council of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XVI, No. 407.

¹²³ *Md. Arch.*, XXIII, 406, 447.

¹²⁴ By saying that “they could not tell where to get such another,” Philip Clarke might of course have been referring to Bladen’s ability, but he might also have been referring to Bladen’s ambitious loyalty to Nicholson. If “they” refers to the delegates, they still would have to find a clerk who pleased Nicholson as much as Bladen did.

¹²⁵ Here, however, Clarke might have meant any one of three things: that he could become clerk himself if he apologized to Nicholson for his alleged “Extravagant discourse”; that he could see that Bladen would retain the clerkship if he apologized to Nicholson for his allegedly saying that “that half of the People of the Country . . . [were] Bought & Sold”; or that he could see that Bladen would retain the clerkship if he — Bladen — apologized to him — Clarke — for swearing to Clarke’s alleged “Extravagant discourse” before the upper house on the fourth.

¹²⁶ *Md. Arch.*, XXIII, 419-420.

¹²⁷ Minutes of Council of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XVI, No. 407; Owings, *His Lordship’s Patronage*, pp. 135, 136, 137.

Bladen’s appointment as clerk of the council, the upper house, and the high court of appeals is not included in the records of the council in the *Archives*. The records of the council there jump from 15 April to 4 June 1698. *Md. Arch.*, XXIII, 416-431.

¹²⁸ Francis Nicholson to Board of Trade, 20 August 1698, *Md. Arch.*, XXIII, 489.

¹²⁹ Owings, *His Lordship's Patronage*, pp. 138, 145.

¹³⁰ Smith and Crowl, eds., *Court Records of Prince George's County, Maryland, 1696-1699*, p. 347.

¹³¹ *Md. Arch.*, XXV, 12.

¹³² *Ibid.*, pp. 12, 15.

¹³³ *Ibid.*, p. 37.

¹³⁴ *Ibid.*, p. 44. William Dent had become attorney general on 22 October 1698 (Owings, *His Lordship's Patronage*, p. 133) and previously had been solicitor general. See Note 83 above.

In a letter of 20 September 1699 to Governor Blakiston the Council of Trade and Plantations refers to Dent as both attorney general and advocate general. TNA (PRO), *Calendar of State Papers: Colonial Series*, XVII, No. 798.

¹³⁵ *Md. Arch.*, XXV, 71-72; Owings, *His Lordship's Patronage*, p. 162.

¹³⁶ Owings, *His Lordship's Patronage*, p. 143.

¹³⁷ *Ibid.*

¹³⁸ *Ibid.*, p. 127.

¹³⁹ TNA (PRO), *Calendar of State Papers: Colonial Series*, XIX, No. 339.

¹⁴⁰ Owings, *His Lordship's Patronage*, p. 127.

¹⁴¹ On 11 June 1701 the Council of Trade and Plantations considered Blakiston's letter as well Bladen's petition for the job of principal secretary of Maryland and "some other papers exhibited to the Board by Mr. Bladen's father in favour of his son" (Petition of William Bladen, TNA (PRO), *Calendar of State Papers: Colonial Series*, XIX, No. 520.i; Journal of Council of Trade and Plantations, *ibid.*, No. 530), but by an Order in Council the next day the king appointed Sir Thomas Lawrence to the position. Journal of Council of Trade and Plantations, *ibid.*, No. 583.

¹⁴² *Md. Arch.*, XXV, 117-118; Owings, *His Lordship's Patronage*, p. 127.

¹⁴³ David William Jordan, "The Royal Period of Colonial Maryland, 1689-1715" (Ph. D. dissertation: Princeton University, 1966), pp. 233, 235-240; Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, p. 218; David W. Jordan, "Sir Thomas Lawrence, Secretary of Maryland: A Royal Placeman's Fortunes in America," *Maryland Historical Magazine*, LXXVI, No. 1 (March 1981), pp. 33, 35, 36, 38; Chapter 7, "Bladen the Man," at Notes 101-104.

¹⁴⁴ TNA (PRO), *Calendar of State Papers: Colonial Series*, XXIII, No. 35.

¹⁴⁵ I have not found the response of the Council of Trade and Plantations to Lawrence.

¹⁴⁶ Owings, *His Lordship's Patronage*, p. 178.

¹⁴⁷ *Md. Arch.*, XXV, 165; *Biographical Dictionary*, I, 136.

¹⁴⁸ Owings, *His Lordship's Patronage*, p. 120.

¹⁴⁹ *Ibid.*, pp. 133-134. Carroll T. Bond says incorrectly that Bladen became attorney general in 1707. Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, p. xxxv, Note 2.

¹⁵⁰ TNA (PRO), *Calendar of State Papers: Colonial Series*, XXII, No. 1210 (pp. 551-552); The National Archives (PRO), Colonial Office 5, Vol. 715, No. 87; Vol. 721, p. 18; Vol. 726, pp. 326-327 (photocopies in Library of Congress).

¹⁵¹ In December of 1708, for example, the Committee of Accounts of the lower house allowed Bladen thirty-two hundred pounds of tobacco for prosecuting eight defendants in criminal cases. TNA (PRO), Colonial Office 5, Vol. 716, No. 69.iii (p. 314); "Unpublished Provincial Records," *Maryland Historical Magazine*, XVII, No. 1 (March 1922), p. 53.

¹⁵² Clark, *The Later Stuarts, 1660-1714*, p. 462.

¹⁵³ TNA (PRO), *Calendar of State Papers: Colonial Series*, XXII, No. 1441; TNA (PRO), Colonial Office 5, Vol. 726, p. 337.

¹⁵⁴ TNA (PRO), *Calendar of State Papers: Colonial Series*, XXIII, No. 84 (p. 41); TNA (PRO), Colonial Office 5, Vol. 726, p. 369; *Md. Arch.*, XXV, 210, 320.

¹⁵⁵ *Md. Arch.*, XXV, 320. While Donnell M. Owings says that after 1699 the attorney general received a daily allowance for attending the meetings of the council (Owings, *His Lordship's Patronage*, p. 44), there is a question whether since Bladen as clerk of the council would have to attend its meetings anyway he would receive the daily allowance as attorney general. See *Md. Arch.*, XXII, 436 (Owings' source), and Journal of the Committee of Accounts, December 1708, "Unpublished Provincial Records," *Maryland Historical Magazine*, XVII, No. 1 (March 1922), p. 54.

While Owings implies that the attorney general attended all of the meetings of the council, it appears more likely that he actually attended them only when special occasions made his presence necessary. *Md. Arch.*, XXV, 51, 52, 53, 55, 72, 75, 79, 81, 91, 107, 111, 114, especially 91.

¹⁵⁶ Owings, *His Lordship's Patronage*, p. 135.

¹⁵⁷ *Ibid.*, p. 130. Carroll T. Bond says incorrectly that Bladen became “commissary general of the prerogative court” in 1714. Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, p. xxxv, Note 2.

¹⁵⁸ Owings, *His Lordship's Patronage*, p. 130.

¹⁵⁹ *Ibid.*, p. 178.

¹⁶⁰ Bladen was still register of the free school in Annapolis on 6 November 1713 (*Md. Arch.*, XXIX, 298), but probably he retained that position even beyond that date. On 20 May 1715 he supported the rector, governors, and visitors “of Free Schools” before the lower house in their successful effort to get the assembly to pass “An Act for vesting in the Rector, Governors, and Visitors of Free-Schools, and their Successors for ever, a certain Lot of Land in the City of Annapolis, and an House thereon erected, commonly called the Kentish House; and empowering the said Rector and Visitors more easily to transact the Business of the said Free-Schools.” *Md. Arch.*, XXX, 149, 161, 163; 1715, c. 4, *Md. Arch.*, XXXVI, 498-500.

¹⁶¹ Owings, *His Lordship's Patronage*, pp. 136, 137.

¹⁶² *Ibid.*, p. 162.

¹⁶³ *Ibid.*, pp. 130, 133-134, 182.

¹⁶⁴ *Md. Arch.*, XIX, 412-413, 413, 578; XX, 555; XXIII, 273-274; XXX, 29, 31, 127, 129, 130.

¹⁶⁵ Bladen was sworn as an attorney in the provincial court on 3 October 1693 (Provincial Court Judgment Record, Liber D. S., No. C, p. 326), when he was only twenty years old.

¹⁶⁶ For Bladen as attorney general, see Chapter 6, “Attorney General.”

¹⁶⁷ See Text above at Note 8. Bladen could act as an attorney in civil cases even while he was clerk of indictments of Prince George's County and later attorney general.

¹⁶⁸ Anne Arundel County Court Judgment Record, Liber T. B., No. 2, p. 119.

¹⁶⁹ Cecil County Court Judgment Record, 1692-1698, p. 284.

¹⁷⁰ Chancery Record 2, p. 336.

¹⁷¹ Owings, *His Lordship's Patronage*, p. 130.

¹⁷² First Charter of Annapolis, 16 August 1708, in Chancery Record 2, pp. 590-591; Petition of Inhabitants of Annapolis, 18 November 1708, in *ibid.*, pp. 595-596,

and in Elihu S. Riley, *"The Ancient City." A History of Annapolis, in Maryland, 1649-1887* (Annapolis: Record Printing Office, 1887), pp. 86-87.

¹⁷³ *Md. Arch.*, XXVII, 209-210, 213, 216; Petition of Inhabitants of Annapolis, in Chancery Record 2, pp. 595-596, and in Riley, *The Ancient City*, pp. 86-87.

¹⁷⁴ Second Charter of Annapolis, 22 November 1708, in Chancery Record 2, p. 597, and in Riley, *The Ancient City*, p. 88.

¹⁷⁵ First Charter of Annapolis, in Chancery Record 2, p. 590; Petition of Inhabitants of Annapolis, in *ibid.*, pp. 595-596, and in Riley, *The Ancient City*, pp. 86-87.

¹⁷⁶ *Md. Arch.*, XXVII, 181, 197.

¹⁷⁷ Hunt: *ibid.*, pp. 185, 186, 188, 200, 201, 203, 205, 206, 207; Bladen: *ibid.*, pp. 184, 184-185, 203.

¹⁷⁸ *Ibid.*, pp. 191, 209-210, 213, 216, 218, 219-220, 220-221.

¹⁷⁹ *Ibid.*, pp. 225, 265, 267.

¹⁸⁰ *Ibid.*, pp. 270, 278.

¹⁸¹ *Ibid.*, pp. 260-262, 333-334; 1708, c. 7, *Md. Arch.*, XXVII, 358-360.

¹⁸² *Md. Arch.*, XXVII, 410.

¹⁸³ Ethan Allen, *Historical Notices of St. Ann's Parish in Ann Arundel County, Maryland, Extending from 1649 to 1857, a Period of 208 Years* (Baltimore: J. P. Des Forges, 1857), p. 35.

¹⁸⁴ Parish Register, St. Anne's Parish, Annapolis, 1708-1785, pp. 17, 18.

¹⁸⁵ Owings, *His Lordship's Patronage*, pp. 43, 95, and Index; *Biographical Dictionary*, I, 136.

¹⁸⁶ Owings, *His Lordship's Patronage*, pp. 130, 133-134, 136, 137, 162, 178, 182; *Md. Arch.*, XXIV, 49, 82; XXV, 37; XXIX, 298.

¹⁸⁷ *Md. Arch.*, XXVII, 388, 425.

¹⁸⁸ *Ibid.*, pp. 389, 426.

¹⁸⁹ 1694, c. 1, *Md. Arch.*, XIX, 100-101; 1704, c. 93, *Md. Arch.*, XXVI, 429-430.

¹⁹⁰ In 1708 the assembly agreed that Wornell Hunt could be recorder of Annapolis even though he had not been in the province for three years. 1708, c. 7, *Md. Arch.*, XXVII, 358-360.

¹⁹¹ On 2 November 1709 Robert Hall was clerk of Anne Arundel County and

register in chancery (Owings, *His Lordship's Patronage*, pp. 141, 148); Thomas Collier was naval officer of Oxford and surveyor and searcher of Oxford (*ibid.*, pp. 163, 183); John Rousby II was naval officer of Patuxent and receiver of Patuxent (*ibid.*, pp. 159, 177-178); and Edward Diggs was surveyor general of the Eastern Shore and examiner general. *Ibid.*, pp. 173, 175.

On that date George Muschamp was clerk of St. Mary's County, receiver of North Potomac and Pocomoke, and collector of Patuxent, if he had not already died. *Ibid.*, pp. 145, 178, 180.

I do not include here aldermen, who after the first appointments were elected, or sheriffs or clerks of committees of the assembly, neither of whom I have checked. Sheriffs served for no more than three years (1699, c. 26, *Md. Arch.*, XXII 509; 1704, c. 15, *Md. Arch.*, XXVI, 227; 1707, c. 21, *Md. Arch.*, XXVII, 174; 1710, c.15, *Md. Arch.*, XXVII, 577-578; 1713, c. 1, *Md. Arch.*, XXXVIII, 170; 1715, c. 46, *Md. Arch.*, XXX, 268), and clerkships of committees were temporary.

¹⁹² *Md. Arch.*, XXVII, 333.

¹⁹³ *Ibid.*, pp. 449-450.

¹⁹⁴ For Bladen's shoddy work on the jail and the new statehouse, see Chapter 5, "Contractor."

¹⁹⁵ See again Chapter 5, "Contractor."

¹⁹⁶ *Md. Arch.*, XXVII, 389, 430.

¹⁹⁷ The members of the committee on pluralism from the upper house were William Holland, William Coursey, Thomas Ennalls, and John Hall, and the delegates were Thomas Smithson, Nicholas Lowe, and Robert Ungle of Talbot County, George Gale and Samuel Worthington of Somerset County, Walter Smith of Calvert County, John Salter of Queen Anne's County, and Thomas Bordley of Annapolis. *Ibid.*, pp. 390, 430.

For the constituencies that the delegates represented, see *ibid.*, pp. 409, 410; *Biographical Dictionary*, I, 39.

¹⁹⁸ *Md. Arch.*, XXVII, 390, 431.

¹⁹⁹ *Ibid.*

²⁰⁰ We do not know when Bladen left the registry of the free school in Annapolis. See Note 160 above.

²⁰¹ *Md. Arch.*, XXIX, 428-430.

²⁰² John Rousby II was still naval officer of Patuxent and receiver of Patuxent. Owings, *His Lordship's Patronage*, pp. 159, 177-178. Thomas Collier was still naval officer of Oxford and surveyor and searcher of Oxford. *Ibid.*, pp. 163, 183. John Phelps was naval officer of North Potomac and riding surveyor of Pocomoke. *Ibid.*, pp. 161, 184. John Dansey was receiver of North Potomac and Pocomoke and collector of Patuxent. *Ibid.*, pp. 178, 180.

John Beale, however, was clerk of the secretary's office, of the provincial court, and of Anne Arundel County. *Ibid.*, pp. 140, 148.

The job of the riding surveyor was "to patrol [*sic*] remote areas in quest of smugglers." Owings, *His Lordship's Patronage*, p. 97. See also Margaret Shove Morriss, *Colonial Trade of Maryland, 1689-1715* (Baltimore: The Johns Hopkins Press, 1914), p. 128.

²⁰³ John Hart arrived in Maryland on 29 May 1714. Owings, *His Lordship's Patronage*, p. 120.

²⁰⁴ *Md. Arch.*, XXIX, 380-383, 430-431. The wording in the record of the lower house has "such Professions" of Hart's justice instead of "such proofs."

²⁰⁵ *Ibid.*, pp. 383, 435.

²⁰⁶ *Ibid.*, pp. 451-463, 467-482.

²⁰⁷ Owings, *His Lordship's Patronage*, p. 178.

²⁰⁸ *Ibid.*, pp. 136-137.

²⁰⁹ *Ibid.*, p. 162.

²¹⁰ *Ibid.*, pp. 130, 133-134, 182.

²¹¹ Instructions of 26 August 1691 to Governor Lionel Copley and of 8 March 1693/4 to Francis Nicholson provided that they could not "suffer any Person to execute more Offices than one by Deputy" (*Md. Arch.*, VIII, 276 (Copley); *ibid.*, XXIII, 544 (Nicholson)), but in instructions of 26 June 1699 to Nathaniel Blakiston the Council of Trade and Plantations provided that because deputies might be unqualified or too much inclined to charge excessive fees in order to make up for the "rents" they paid to the officials who held the actual commissions all officials had to "execute their respective offices in their own persons unless in case of sickness or other incapacity." TNA (PRO), *Calendar of State Papers: Colonial Series*, XVII, No. 556, referring to No. 552.

Instructions of 4 May 1703 to John Seymour and of 7 February 1713/4 to John

Hart reflect that requirement with the provision that officials had to execute their offices “in their own Persons, unless in cases of absolute necessity.” Randolph Boehm, ed., *Colonial Office Records, Class 5), Part 4: Royal Instructions and Commissions to Colonial Officials, 1702-1771* (University Publications of America microfilm), Reel 1 of 12, Item No. 21 (p. 468) (Seymour); *ibid.*, No. 189, Paragraph 32 (p. 146) (Hart). The paragraphs in Seymour’s instructions are not numbered.

In 1704 the assembly of Maryland caught up with the instructions to Blakiston and Seymour by providing that any person who had a commission from the Crown to exercise any office in the province would have to live in the province and perform the functions of the office himself rather than through a deputy or deputies, unless he had permission from the Crown. 1704, c. 93, *Md. Arch.*, XXVI, 429-430. The act of 1704 was still in effect when Thomas Bacon published in 1765 (Thomas Bacon, *Laws of Maryland at Large* (Annapolis: Jonas Green, 1765), p. 161) even though the Calvert’s got the province back in May of 1715. Owings, *His Lordship’s Patronage*, p. 114.

This was a change from the act of 1694, when the assembly provided that except for officials who were directly commissioned by the Crown or those who already held office no person could hold office in the province until he had lived there for three years, just as it did in 1704 (see Text above at Note 189), but then in the last clause of the act it provided that no official commissioned by the Crown would have actually to live in Maryland and exercise the functions of his office in person rather than by deputy or deputies. 1694, c. 1, *Md. Arch.*, XIX, 100-101. This appears to mean that a person who was not commissioned directly by the Crown had to live in Maryland for three years before he could hold an office but before Blakiston’s instructions of 1699 could leave the province and continue to hold one office by deputy.

I make this suggestion without a lot of confidence, though a change in the bill of 1694 before it was passed might support it. At a conference that included all of the members of both houses who were attending the session they agreed that the word “ministeriall” be struck out of the last clause of the bill. *Md. Arch.*, XIX, 78, 82. The removal of that word might have made all officials rather than only those directly commissioned by the Crown — “ministeriall” — eligible to conduct one office by deputy rather than in person.

The information on this change comes only from the Journal of the upper house. The Journal of the lower house for this session, which might have helped to clarify the meaning of the clause, has not survived, and the minutes of the Journal of the lower house for 15 October 1694 in the *Calendar of State Papers* are no help: “Certain bills advanced and amended. Several disputed points settled at a conference.” TNA (PRO), *Calendar of State Papers: Colonial Series*, XIV, No. 1414 (pp. 378-379).

I thank Dr. R. J. Rockefeller, former Director of Reference Services at the Maryland State Archives, for checking the wording of 1694, c. 1, *Md. Arch.*, XIX, 100-101, in the published *Archives of Maryland* against the wording in the source used there.

²¹² Examples of Bladen’s inadequacy as clerk of the upper house are that during the session in December of 1704 some of the negotiations concerning the rebuilding of the statehouse do not appear in the records of the upper house (*Md. Arch.*, XXVI, 399, with *ibid.*, pp. 378-379); during the session of 27 October to 14 November 1713 one of the communications of the lower house concerning an additional allowance for Bladen is not included in the records of the upper house (*ibid.*, XXIX, 230-235, 302-303); and, finally, in the quarrel between William Jones and Ann Catherwood over real estate during the session of 17 July to 10 August 1716 not all of the messages between the two houses appear in the records of the upper house. *Ibid.*, XXX, 428-441, 515-563.

These are only illustrations: people who do research in the period will find other items that Bladen failed to record.

²¹³ *Md. Arch.*, XXXIII, 313.

²¹⁴ From 3 June 1715 until October of 1716, when Bladen resigned as clerk of the council and the upper house, we have records of only nine meetings of the council. These occurred on 3 June, 12 July, 13 July, 24 August, 3 September, and 27 December 1715, 13 February 1715/6, and 3 April and 24 April 1716. The records of these meetings take up only thirty-four pages in the *Archives*. *Ibid.*, XXV, 309-342.

From 1698, when Bladen became clerk of the council (Owings, *His Lordship’s Patronage*, p. 136), through 1731 a great many of the records of the council are missing (see *Md. Arch.*, XXV), and obviously Bladen cannot be blamed for anything

that happened after he resigned in October of 1716.

How much of the sparsity of these records while Bladen was clerk results from his carelessness and how much from a later disappearance of the records that he did make there is no way to tell, but regardless of that we do still have those omissions from the records that Bladen wrote up and Hart's complaint that the records for thirteen months at the end of Bladen's clerkship were missing.

The joint committee that the two houses appointed on 2 June 1719 to inspect the public records of the province was not primarily concerned with the records of the council but rather was finally appointed pursuant to the act of 1716 "for repairing the Damages already sustained in the Records of the Land, Secretary's, Commisary's and County Court Offices; and for the Security of the Same Records for the future." *Md. Arch.*, XXXIII, 340, 422, 424.

The act is 1716, c. 1, *Md. Arch.*, XXX, 607-611.

The members of the joint committee to inspect the public records were Samuel Young and Philemon Lloyd of the upper house and delegates Philip Lee of Prince George's County, Charles Wright of Queen Anne's County, Edmond Benson of Anne Arundel County, and Richard Colegate of Baltimore County. *Md. Arch.*, XXXIII, 340, 422, 424.

For the counties the delegates represented, see *ibid.*, pp. 365, 366; *Biographical Dictionary*, I, 43.

²¹⁵ Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp. xxxv-xxxvi.

²¹⁶ See Chapter 6, "Attorney General."

²¹⁷ *Md. Arch.*, XXV, 320; Owings, *His Lordship's Patronage*, pp. 52, 53-54. Apparently Bladen never got the salary of one hundred pounds sterling per year that he was supposed to receive as attorney general. See Text above at Notes 150-155.

²¹⁸ *Md. Arch.*, XXII, 240.

²¹⁹ *Ibid.*, XXIV, 117. To engross means only to write up a bill in its final form for passage. *Black's Law Dictionary* (6th edition), p. 529.

²²⁰ *Md. Arch.*, XXVI, 77, 191.

²²¹ *Ibid.*, pp. 76, 186, 189.

²²² *Ibid.*, pp. 78, 91, 192.

²²³ *Ibid.*, pp. 78-91, 192-216.

²²⁴ A wafer is a disk that imprints the seal on the wax. *Webster's Third New International Dictionary of the English Language Unabridged* (1981).

²²⁵ In the Journal of the Committee of Accounts for May of 1704, in TNA (PRO), Colonial Office 5, Vol. 715, No. 78.i, p. 14, is a payment of £6.1.8 to Bladen, but for what is not noted. This might be what the members of the upper house were referring to.

²²⁶ I have not found the delegates' alleged agreement in May of 1704 that Bladen should have an assistant clerk.

²²⁷ In 1704 there were three sessions of the assembly, from 26 April to 3 May, from 5 September to 3 October, and from the fifth to the ninth of December. *Md. Arch.*, XXIV, 327-408; XXVI, 27-219, 371-412.

On 3 October 1704 William Taylard, the clerk of the lower house, asked for an extra allowance for his extraordinary services during this and the previous session of the assembly and for making duplicates, apparently of the record of the lower house but possibly also of the laws that the assembly passed during this session, at his own charge to send to England. Never before, Taylard claimed, had any clerk done that. Taylard also asked "that the sallary . . . be Advanced for the future to support that office." The delegates referred the request to the next session. *Md. Arch.*, XXVI, 213.

Since the delegates were not likely to pay anybody ahead of time, here Taylard apparently was asking them to increase the salary of the clerk.

On 6 December 1704 the delegates again referred Taylard's proposal "for Advancement of Salary" to the next session (*ibid.*, p. 393), but on the ninth, the last day of the session, on a new petition they ordered that since for several years Taylard had received his salary "in remote Counties on the Eastern Shore" he would in the future be paid in tobacco from the Western Shore unless he was paid in money and that "for some other extraordinary Service he be advanced & allowed" an additional twelve hundred pounds of tobacco "a Journal." *Ibid.*, p. 407.

Later that same day Taylard received an additional grant. Because he was to transcribe "duplicate Transcripts of the Journals" at his own expense and because the one long session of the assembly that year together with the present short one had required him to provide "extraordinary Services for the Public" the delegates granted him an additional three thousand pounds of tobacco. *Ibid.*, p. 408.

Those grants added nothing to Taylard's basic salary, and at their session in May of 1705 the delegates ignored his request for an increase in salary. *Ibid.*, pp. 475-506.

Taylard's having received his salary in tobacco from the Eastern Shore is significant because tobacco from the Eastern Shore was of a lower quality than that from the Western Shore. Lois Green Carr and Russell R. Menard, "Immigration and Opportunity: The Freedman in Early Colonial Maryland," in Thad W. Tate and David L. Ammerman, eds., *The Chesapeake in the Seventeenth Century: Essays on Anglo-American Society* (Chapel Hill: The University of North Carolina Press, 1979), p. 210; Gloria L. Main, *Tobacco Colony: Life in Early Maryland, 1650-1720* (Princeton: Princeton University Press, 1982), pp. 80, 124.

²²⁸ Apparently Bladen's finishing "his Number of Journalls" while the clerk of the lower house "Provided but one Journall" means that while the clerk of the lower house had to write up only one copy of the journal of that house to keep in the province Bladen not only as clerk of the upper house had to write up one copy of the journal of that house for the province but also as clerk of the council had to write up two copies of both journals to send to the Council of Trade and Plantations. See *Md. Arch.*, XXVI, 87.

The long session was the session of 5 September to 3 October 1704. *Ibid.*, pp. 27-219.

²²⁹ *Ibid.*, XXVII, 44, 109.

²³⁰ *Ibid.*, XXIX, 153.

²³¹ *Ibid.*, pp. 229-230, 302.

²³² *Ibid.*, pp. 302-303. This communication does not appear in the records of the upper house.

²³³ The record of the lower house has "now indisposed in his Health." *Ibid.*, p. 306.

²³⁴ *Ibid.*, pp. 231-232, 306-307.

²³⁵ Anne Bladen married Benjamin Tasker on 31 July 1711. Robert Barnes, compiler, *Maryland Marriages, 1634-1777* (Baltimore: Genealogical Publishing Co., Inc., 1975), p. 175; *Biographical Dictionary*, II, 799.

²³⁶ *Md. Arch.*, XXIX, 235, 307. The delegates appointed to the committee to apportion the levy were John Leech of Calvert County, Edward Scott of Kent County,

James Lloyd of Talbot County, Edward Stevenson of Baltimore County, and Henry Peregrine Jowles of St. Mary's County.

For the counties the delegates represented, see *ibid.*, pp. 259, 270; *Biographical Dictionary*, I, 40.

I have not found the recommendations of the members of the upper house on the Journal.

²³⁷ *Md. Arch.*, XXIX, 235. The members of the upper house appointed to the committee to apportion the levy were Charles Greenberry and William Whittington.

²³⁸ An amercement was a payment that was applied to both parties in a civil suit for the privilege of using the courts but more especially to prevent the bringing of frivolous suits. The losing party in a civil suit had to pay both amercements. 1692, c. 55, *Md. Arch.*, XIII, 514-515; *Black's Law Dictionary* (6th edition), p. 81; Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763*, p. 575.

Amercements were thirty pounds of tobacco in the county courts and fifty pounds of tobacco in the provincial court. 1692, c. 55, *Md. Arch.*, XIII, 514-515; 1699, c. 7, *Md. Arch.*, XXII, 466; 1704, c. 75, *Md. Arch.*, XXVI, 358; 1715, c. 41, *Md. Arch.*, XXX, 242.

In their mentioning the settlement of the amercements under Nicholson, Hart and the upper house must have been referring to 1 March 1694/5, when Nicholson and his council, after considering Henry Denton's petition for more money, ordered that he should receive all amercements from the provincial court from 7 July 1691 until the present. *Md. Arch.*, XX, 228-229. On 2 October 1695 Nicholson and his council again granted Denton the amercements from the provincial court since the previous November. *Ibid.*, p. 338. Denton therefore would receive the amercements from the provincial courts that opened on 6 November 1694, 26 February 1694/5, and 13 August 1695. Provincial Court Judgment Record, Liber T. L., No. 1, pp. 120, 209, 269.

In his short tenure as clerk of the council and of the upper house — he became clerk on 28 September 1693 and died in April of 1698 (Owings, *His Lordship's Patronage*, p. 136) — Denton received two additional grants, one of them to be permanent. On 10 July 1696 Nicholson and his council ordered that George Plater, the king's receiver general, pay him an additional annual salary of six thousand pounds of tobacco. The payment was to begin that fall and was to be paid each year

for Denton's maintenance of a deputy according to his request. *Md. Arch.*, XX, 467-468. And on 23 October 1697 Nicholson and his council ordered that Plater, now the receiver of Patuxent, pay Denton nine pounds sterling "out of the fines" to reimburse him for hiring assistant clerks and providing papers and other supplies, but they rejected his petition for the amercements until the king's pleasure was known. *Md. Arch.*, XXIII, 270-271.

The editor of Volume XX of the *Archives* points out that the records it includes are very badly confused and were difficult to organize in chronological order. *Ibid.*, "Preface," p. xiv.

²³⁹ *Md. Arch.*, XXX, 25-26, 121.

²⁴⁰ The session lasted from 26 April to 3 June 1715. *Ibid.*, XXX, 3, 92, 95, 223.

²⁴¹ *Ibid.*, p. 207. Thomas Macnemara, the clerk of the lower house, apparently had more than one assistant clerk during the long session of 26 April to 3 June 1715. *Ibid.*, XXX, 112, 190. It appears that ordinarily the clerk of the lower house did have an assistant. *Ibid.*, XIII, 368, 416; XXII, 61, 133; XXIV, 118, 405; XXVII, 204; XXIX, 240, 262, 311, 412, 413; XXXIII, 375; Journal of the Committee of Accounts, 8 December 1708, in "Unpublished Provincial Records," *Maryland Historical Magazine*, XVII, No. 1 (March 1922), pp. 48, 53.

²⁴² *Md. Arch.*, XXX, 379.

²⁴³ Owings, *His Lordship's Patronage*, p. 136.

²⁴⁴ See Text above at Note 10.

²⁴⁵ *Md. Arch.*, XIX, 198. The assembly held its last session in St. Mary's City from 20 September through 18 October 1694 (*ibid.*, pp. 25-116), and it held its first session in Annapolis on 28 February and 1 March 1694/5. *Ibid.*, pp. 119-138.

The "Court house act" must be 1695, c. 20, *Md. Arch.*, XXXVIII, 63-65, "An Act for the Imposition of Four Pence per Gallon on Liquors imported into this Province," by which the assembly proposed to raise money "for building & repairing Court houses Free Schools Bridewells or such publique Services"

²⁴⁶ *Md. Arch.*, XIX, 266.

²⁴⁷ *Ibid.*, p. 367.

²⁴⁸ Journal of House of Burgesses of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XV, No. 79 (p. 35). That session began on 1 July 1696. *Md. Arch.*, XIX, 381, 403. The grant is not included in the record of the lower house

in the *Archives*. *Ibid.*, pp. 412-414.

²⁴⁹ *Ibid.*, XXII, 61, 131, 135. In the records of the upper house for 9 June 1697 there is an entry that is not clear: “A peticon of M^r W^m Bladen read preferred to the house.” *Ibid.*, XIX, 544. There is no record of this petition in the records of the lower house. *Ibid.*, pp. 579ff.

An archaic meaning of “prefer” is “to put or set forward or before someone: OFFER, PRESENT, RECOMMEND, INTRODUCE.” *Webster’s Third New International Dictionary of the English Language Unabridged* (1981).

²⁵⁰ *Md. Arch.*, XXV, 320; Owings, *His Lordship’s Patronage*, pp. 54-55. According to Owings the fees of the clerk of the lower house did not amount to much. *Ibid.*, p. 55.

²⁵¹ See Note 211 above.

4. Publisher

Early in his career in Maryland William Bladen thought that he might be able to make some money as a publisher, but without training as a printer and unable to hire a good one he was not very successful at the business and soon gave it up.¹

On 30 September 1696 Bladen, already clerk of the lower house,² clerk of St. Mary's County,³ and clerk of indictments of Prince George's County⁴ and still only twenty-three years old, suggested that he establish a printing press in the province. Having "a printing press would be a Great Advantage to . . . [the] province for printing the Laws made every Sessions &c," he told the delegates, and if Governor Francis Nicholson would give him permission to use a printing press he would send for one, "with the Appurtenances," at his own expense.⁵

When Bladen made his proposal, however, the colony might already have had a printer. William Nuthead, considered the first printer in Maryland,⁶ died sometime before 7 February 1694/5,⁷ but his possibly illiterate widow Dinah or Diana moved from St. Mary's City to Anne Arundel County to continue the operation.⁸ When on 5 May 1696 she applied to Nicholson and the upper house for a license to print, the upper house referred the petition to the delegates with the recommendation that it be granted provided that they had no objection to her and that she give appropriate security.⁹ Three days later, apparently anticipating the establishing of Dinah Nuthead's press, on 9 May Nicholson and the upper house requested that the Reverend Peregrine Coney, one of the chaplains of the lower house,¹⁰ print the Thanksgiving sermon that he had preached on the seventh.¹¹

On the thirteenth the delegates approved of Dinah Nuthead's petition provided that Nicholson did not object.¹² He did not, and the next day she gave security of one hundred pounds sterling, with Robert Carville and William Taylard, two gentlemen

of St. Mary's County, as her sureties.¹³ Five days later, on the nineteenth, Nicholson and his council noted that there still was no press in Annapolis,¹⁴ but by 4 July Dinah Nuthead was in business,¹⁵ and apparently she continued to function while Bladen was still waiting to get set up. The last document attributed to her press comes from 29 June 1699.¹⁶ Yet when on 30 September 1696 Bladen suggested to the delegates that having "a printing press would be a Great Advantage" to the province,¹⁷ he would imply that there was no press in the colony.

Bladen's implication, together with Dinah Nuthead's apparently continuing to supply documents for almost three years after Bladen implied that she had gone out of business,¹⁸ opens the possibility that, showing no concern for either her or her two children,¹⁹ he was using his increasing political good fortune to shove her aside. Since he would mislead the delegates later, when in his application for the contract to build the new statehouse after the old one burned on the night of 17-18 October 1704²⁰ he told them that "all the other publick Buildings" in Annapolis had "gone through . . . [his] Hands,"²¹ it is possible that he was exaggerating here, too. Or he might have been sarcastically belittling Dinah Nuthead's work and saying, in effect, that he could do it better.²²

By the time Bladen was ready to begin operating — by 29 April 1700²³ —, Dinah Nuthead's press apparently was no longer in service.²⁴ After Bladen made his proposal on 30 September 1696 she must have known that once he established his press she would be out of business, since on that same day the delegates resolved that if he did establish a press and hire a printer he would have sole benefit of the printing for the province.²⁵ The next day the delegates informed the upper house that they agreed that having a printing press would be a great advantage to the province and humbly desired Nicholson to give Bladen permission to use his press once it arrived.²⁶

The day after that — 2 October 1696 — Nicholson and the upper house did approve, provided that Bladen give security according to the king's instructions to Nicholson.²⁷ By those instructions, dated 8 March 1693/4, William III provided that since great inconvenience might arise "by the liberty of printing" in the province Nicholson should "provide by all necessary Orders that noe person use any Press for printing upon any occasion whatsoever" without his — Nicholson's — special license in advance.²⁸

It would be more than three-and-a-half years before Bladen was ready for business.²⁹ On 29 April 1700 he petitioned the lower house again, and after reading the petition the delegates ordered that he fully explain what he was asking for.³⁰ Apparently, however, he decided to explain to the upper house rather than to the delegates, and on Saturday, 4 May, the upper house recommended the petition to the delegates “for their consideration and encouragement,” since Bladen had “been at Great Charge & trouble in procuring the printing press, Letters, papers, Inck printer &c.” It recommended also that in order to promote Bladen’s press the assembly provide that after 10 September 1700 all writs, except special writs that required “various recitals,” and all bail bonds, letters testamentary, letters of administration, citations, and summonses “&c” had to be printed unless printed copies were not available.³¹

The delegates referred the recommendations for further consideration until Monday,³² when they agreed to give Bladen a monopoly of the printing for the province after 10 September 1700 provided that he give sufficient security to guarantee that he would not print anything other than official documents without a prior license from the governor or someone whom the governor appointed.³³

Three days later, on 9 May — at the same time that he proposed that the assembly hire him to build the new jail in Annapolis —, Bladen suggested to the lower house that in order that every person might easily have a copy of the laws of the province in his own house and therefore would not have to go to the county courthouse to see them the delegates order that he print them and that every county buy one copy, handsomely bound, for two thousand pounds of tobacco. The delegates accepted Bladen’s proposal provided that Governor Nathaniel Blakiston agreed.³⁴ Blakiston did agree, and Bladen did print the laws.³⁵

Bladen’s press, however, was not a good one,³⁶ and his printer, Thomas Reading, was not very good either.³⁷ On 14 May 1701 the delegates resolved that Henry Lowe and John Lowe compare the printed laws to the original copies and speedily report to the house.³⁸ On the seventeenth the two Lowes reported; the delegates summoned Bladen, who as clerk of the upper house³⁹ must have been readily available; and after the Speaker, Thomas Smithson,⁴⁰ informed him that the printed laws contained many errors and that he would have to print a list of those errors for each of the counties he readily concurred and promised to print the lists and send them out

forthwith. The delegates then delivered to Bladen a copy of the errors that the Lowes had found and referred consideration of them to the next session of the assembly.⁴¹

Apparently Bladen never did correct the errors in his printed laws. The next session of the assembly met on 16 March 1701/2,⁴² and on Saturday the twenty-first one of the delegates proposed that Bladen be summoned to appear in the lower house on Monday with a copy of the errors so that the delegates could debate them pursuant to their order of the previous session.⁴³ There is no evidence that Bladen did appear on Monday or at any other time during the remaining two days of the session.⁴⁴ Or, concerning the laws, ever again.

Bladen's venture into publishing was not a success. By the time he paid Thomas Reading's wages and his other expenses he apparently made little profit, and after 1701 he probably had no more to do with it.⁴⁵ Thomas Reading became printer to the province,⁴⁶ though Bladen continued to own his press until his death.⁴⁷

4. Publisher

¹ For William Bladen as a publisher, see Lawrence C. Wroth, *A History of Printing in Colonial Maryland, 1686-1776* (Baltimore: Typothetae of Baltimore, 1922) pp, 18-26, 37. In *The Colonial Printer* (2nd edition; Charlottesville: The University Press of Virginia, 1938), p. 226, Wroth only briefly mentions Bladen.

David D. Hall devotes one paragraph to Bladen in “The Chesapeake in the Seventeenth Century,” in Hugh Amory and David D. Hall, *The Colonial Book in the Atlantic World* (Cambridge: Cambridge University Press, 2000), pp. 63-64.

² Donnell M. Owings, *His Lordship’s Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953), p. 138.

³ *Ibid.*, p. 145.

⁴ Joseph H. Smith and Philip A. Crowl, eds., *Court Records of Prince George’s County, Maryland, 1696-1699* (Washington: The American Historical Association, 1964), p. 7.

⁵ Journal of House of Burgesses of Maryland, The National Archives (PRO), *Calendar of State Papers: Colonial Series* (40 vols.; Vaduz: Kraus Reprint Ltd., 1964), XV, No. 268 (p. 155), for date; *Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore: Maryland Historical Society, 1883-1972), XIX, 466-467, for content.

⁶ Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, p. 3. According to J. Thomas Scharf, however, the Jesuits had a printing press in Maryland before 1655. J. Thomas Scharf, *History of Maryland from the Earliest Period to the Present Day* (3 vols.; Baltimore: J. B. Piet, 1879; reprinted Hatboro, Pa.: Tradition Press, 1967), I, 190. Scharf provides no citation for this information other than saying that “Mr. McSherry” found a copy of a catechism in Indian dialects “in the

archives of the Society at Rome.” “The press was probably destroyed when the missionaries were attacked and their property plundered in 1655 . . .” *Ibid.* I have not traced where this is in McSherry.

⁷ Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, p. 10; Lawrence C. Wroth, “The St. Mary’s City Press: A New Chronology of American Printing,” *Maryland Historical Magazine*, XXXI, No. 2 (June 1936), p. 103.

⁸ Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, pp. 12-15; Wroth, “The St. Mary’s City Press,” pp. 102-108.

Dinah Nuthead could not write, but it is unknown whether she could read. Wroth, “The St. Mary’s City Press,” pp. 107-108.

⁹ *Md. Arch.*, XIX, 306.

¹⁰ *Ibid.*, pp. 335, 367, 368-369. The other chaplain during this session was George Tubman. *Ibid.*, pp. 367, 368-369.

¹¹ *Ibid.*, pp. 313, 316, 362. The Thanksgiving was for William III’s escape from the plot to assassinate him in February of 1695/6. *Ibid.*, p. 362; Sir George Clark, *The Later Stuarts, 1660-1714* (2nd edition; Oxford: The Clarendon Press, 1955), pp. 184-185.

¹² *Md. Arch.*, XIX, 370.

¹³ *Ibid.*, XX, 449; Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, p. 13; Wroth, “The St. Mary’s City Press,” p. 105.

¹⁴ *Md. Arch.*, XX, 431-432; Rod Cofield, “Much Ado About Nuthead: A Revised History of Printing in Seventeenth-Century Maryland,” *Maryland Historical Magazine*, CI, No. 1 (Spring 2006), p. 24.

¹⁵ Cofield, “Much Ado About Nuthead,” p. 24 and Table 1, p. 20.

¹⁶ *Ibid.*

¹⁷ Journal of House of Burgesses of Maryland, T N A (PRO), *Calendar of State Papers: Colonial Series*, XV, No. 268 (p. 155, for date); *Md. Arch.*, XIX, 466-467, for content.

¹⁸ Cofield, “Much Ado About Nuthead,” p. 24 and Table 1, p. 20.

¹⁹ Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, pp. 13, 14.

²⁰ *Md. Arch.*, XXV, 179-180.

²¹ *Ibid.*, XXVI, 393-394. See also Chapter 5, “Contractor,” at Note 80.

²² Lawrence C. Wroth says that “the sense of Bladen’s words makes it manifest

that . . . [Dinah Nuthead's] printing office had closed its doors within five months of its establishment" (Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, p. 18), but apparently Rod Cofield has corrected him. Cofield, "Much Ado About Nuthead," p. 24 and Table 1, p. 20. I use the word "apparently" here on Rod Cofield's suggestion. Personal communication, 19 May 2006.

If Bladen did misrepresent the truth here, as he apparently did, the members of the assembly must have known it, just as they must have known that he was being less than straight with them in 1704 when he was trying to get the contract for building the new statehouse in Annapolis. See Note 21 above.

²³ *Md. Arch.*, XXIV, 22, 44, 60.

²⁴ Cofield, "Much Ado About Nuthead," p. 24. What ultimately happened to Dinah Nuthead's press does not appear. Lawrence Wroth suggests that she might have printed prohibited materials and had her license revoked; she might have been unable to find a competent printer; her press might have failed; or she might have given it up when she remarried. Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, pp. 13-14.

Apparently the press was never very profitable even while Nuthead was alive. "The Nutheads had barely scraped out a living, largely by printing official forms and other jobbing work." Calhoun Winton, "The Southern Book Trade in the Eighteenth Century," in Amory and Hall, *The Colonial Book in the Atlantic World*, p. 225.

²⁵ Journal of House of Burgesses of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XV, No. 268 (p. 155).

²⁶ *Md. Arch.*, XIX, 466-467; Minutes of Council of Maryland in Assembly, TNA (PRO), *Calendar of State Papers: Colonial Series*, XV, No. 269. The wording in the published *Archives* makes it appear that Bladen did not intend to purchase Dinah Nuthead's printing press but rather to import one from outside the province. That, together with Dinah Nuthead's apparently continuing to print, appears to support the possibility that she did not voluntarily give up her business but that Bladen was pushing her aside, though Lawrence C. Wroth suggests the possibilities that she might already have had sold her equipment or that it might have been "too old and worn for use." Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, p. 18. Again Cofield apparently corrects Wroth.

²⁷ *Md. Arch.*, XIX, 467.

²⁸ *Ibid.*, XXIII, 549. The same provision appears in Governor Lionel Copley's instructions of 26 August 1691. *Ibid.*, VIII, 279.

²⁹ James Walter Thomas, in *Chronicles of Colonial Maryland* (Cumberland, Md.: Cushing & Co., 1900; reprinted Baltimore: Clearfield Company, Inc., 1995), p. 68, says that Bladen "took a press to Annapolis and became the public printer of the Province" in 1696. He cites Scharf, *History of Maryland from the Earliest Period to the Present Day*, I, 362, but that is not what Scharf says there. He says instead only that in October of 1696 Bladen petitioned the assembly for permission to establish a printing press in the province. He does not say when Bladen got the press and became the public publisher.

³⁰ *Md. Arch.*, XXIV, 44; Journal of House of Delegates of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XVIII, No. 371. What was in Bladen's petition does not appear, but the recommendations of the upper house, considered immediately below, probably reflect its contents.

³¹ *Md. Arch.*, XXIV, 22, 60. The wording in the record is "and none other made use of they being allways to be had."

³² *Ibid.*, p. 59.

³³ *Ibid.*, pp. 22, 60; Journal of Council in Assembly of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XVIII, No. 396 (p. 231). I have found nothing specific about Bladen's giving security.

³⁴ *Md. Arch.*, XXIV, 83-84; Journal of House of Delegates of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XVIII, No. 418.

³⁵ Douglas P. McElrath, Curator of Marylandia, Rare Books, and the Collection of the National Trust for Historic Preservation for The University Libraries at the University of Maryland in College Park, has obtained for the Library a microfilm copy "of the only complete surviving copy of Bladen's *All the Laws of Maryland Now In Force* (Annapolis, 1700), located in the library of the University of Göttingen in Germany. Although the signature on the title page is faint, it appears that the Göttingen copy belonged either to Bladen himself or his son Thomas." Personal communication from Douglas P. McElrath, 29 October 1999.

³⁶ Lawrence C. Wroth points out that "from whatever source . . . [Bladen] obtained his plant, he was compelled in the end to satisfy himself with a second-hand equipment whereof the types and furniture were notably worn and broken." Wroth,

A History of Printing in Colonial Maryland, 1686-1776, p. 18.

³⁷ *Ibid.*, p. 37; Winton, "The Southern Book Trade in the Eighteenth Century," pp. 224, 225. For Thomas Reading's dedication of the volume of laws to Bladen, see *Md. Arch.*, XXXVIII, 427-428.

³⁸ *Md. Arch.*, XXIV, 182. Henry Lowe was a delegate from St Mary's City, and John Lowe was a delegate from St. Mary's County. *Ibid.*, p. 159.

³⁹ *Ibid.*, pp. 153, 196, 199.

⁴⁰ *Ibid.*, p. 159.

⁴¹ *Ibid.*, p. 198.

⁴² *Ibid.*, pp. 207, 233.

⁴³ *Ibid.*, p. 250. Lawrence C. Wroth does not mention this last reference to Bladen as a publisher. Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, p. 24.

⁴⁴ *Md. Arch.*, XXIV, 251-264.

⁴⁵ Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, pp. 26, 27.

⁴⁶ *Ibid.*, pp. 27-37.

⁴⁷ Inventories, I, 324 (27 November 1718); Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, pp. 21, 37.

5. Contractor

By the end of 1701, when he had lost interest in publishing, William Bladen must have decided that there would be more money in holding multiple offices and in building public buildings. At the beginning of that year he was holding eight offices, and for seven months that year he was the principal secretary of the province as well.¹ Still not making enough money, on 17 May 1701 he got the job of building the new prison in Annapolis² even though he was not the assembly's first choice as the contractor. Instead the assembly chose Richard Hill, a delegate from Anne Arundel County³ and chief justice of the provincial court,⁴ but Hill conveniently died and Bladen got the job. Later he would also become the contractor on the new state-house.

On 15 July 1699 the lower house suggested that the assembly appoint a committee to consider building a new prison in Annapolis and appointed five delegates to serve on it.⁵ The upper house agreed and appointed two members to the committee.⁶

Four days later — on 19 July — the committee recommended the building of a stone prison twenty-five feet long and fifteen feet wide on the inside. The foundation would extend two feet below the surface of the ground and would be “two foot and [a] halfe thick to the first floore,” and the walls would be seven-and-a-half feet high to the plates — the planks or beams that run along the top of the foundation and studs and on which other studs, rafters, or ceiling or floor joists rest⁷ — and “two foot thick from the Top of the sleepers” — the floor joists — “to the Plate.”⁸ Thus the side walls of the prison would be seven-and-a-half feet high and two feet thick; the extra six inches thickness of the foundation would provide space on which the

sleepers could rest; and the upper room would be only a sort of attic with no side walls.⁹

The joists for both floors were to be eight inches square and laid six inches apart, and the floors would be made of two-inch plank trunneled — fastened with wooden pegs — to the joists.¹⁰ The upper floor was “to be over Jetted Six Inches on Each side,” which must mean that the roof would over-hang the outside walls by six inches on all four sides.¹¹

The principal rafters of the prison would be nine inches deep and seven inches wide at the foot — at the eaves — and seven inches deep and five-and-a-half inches wide at the peak, and the small rafters would be five inches deep and four inches wide. The rafters would be “seventeen foot [long] from the plate besides the foot of the Rafter” — which must mean without the over-hang. The roof would be covered with pine plank and shingled over the plank, and the upper room would have a ceiling of one-inch oak plank.

The first floor of the prison would be divided equally into two rooms. The partition, which would be made of “Timber & Planck,” would have no door. Instead each end of the building would have its own door two-and-a-half feet wide and six feet high “in the Clear” — with a clearance, that is, of six feet. The doors would be made of “two Inch Planck well Lined” — fastened together — with one-inch plank and would have “good strong hinges.” The door of the upper room would be at one end of the jail and would also be two-and-a-half feet wide and have a six-foot clearance. Each door would have two locks, one inside and one outside — “the one wthin the other wthout” —, and each door would have an iron bar across it.

Each room on the first floor would have one window two-and-a-half feet high and twenty inches wide and with “Iron Barrs Revetted thorough,” which must mean that the bars would extend through the wooden window frame.¹² The room upstairs would have a window at each end the same size as those on the first floor and also with “Iron barrs Rivitted thorow.”¹³

Both houses approved of the report. On 22 July, the last day of the session, the delegates resolved that with “all Convenient speed” Richard Hill build the prison according to the specifications of the committee on a site that Governor Nathaniel Blakiston should choose. Out of the public revenue of the province the assembly would pay Hill whatever it decided he would reasonably deserve. The upper house

agreed to the resolution.¹⁴

Hill did not get a very quick start, and, in spite of the agreement with Hill, who was still willing to build the prison, Bladen wanted the job. By May of 1700 he might have considered himself a likely candidate because he had got his foot in the door sometime earlier by repairing the old prison.¹⁵ On 9 May 1700, again the last day of the session and at the same time that he proposed that he print “the body of Laws” of the province and that each county pay him two thousand pounds of tobacco for a copy, he told the delegates that if they were willing he would build the prison according to the specifications for £260, one payment to be made when he had raised the walls and the other when he finished it. Aware that the session was coming to a close and anxious to get the contract, he suggested that if the lower house did not have time to contract for the building the delegates could appoint two of themselves to do it. He would readily undertake the construction and “with the blessing of God” it, together with the printing of the laws, would be “Carefully accomplished.”¹⁶

The delegates did have the time, but Bladen’s price was too high, and the delegates stuck with Hill. Immediately after hearing Bladen’s proposal they appointed three of the four delegates from Anne Arundel County¹⁷ to contract with someone who would build the prison according to the specifications for no more than two hundred pounds sterling.¹⁸ Later that same day the delegates resolved that if Blakiston and the upper house agreed Hill, still the fourth delegate from Anne Arundel County,¹⁹ would build the prison “with all convenient Speed” according to the earlier plan except that now they specified that the foundation would be of stone and added that the walls up to the plate would be of brick. Hill would receive £150 sterling for the work.

Blakiston and the upper house did not agree. They insisted instead that the entire prison be built of stone, as the original committee had suggested, and the delegates referred the issue to the three men whom they had appointed to contract for the building.²⁰

Since that exchange occurred on the last day of the session, the assembly could do nothing more for a year. By the time it considered the issue again Richard Hill was dead;²¹ the delegates had decided that a prison built of stone rather than bricks would be appropriate after all and had increased the price they were willing to pay; and Bladen was willing to settle for less than he had demanded earlier.

So Bladen got the job after all. On 17 May 1701, the last day of the following session, the delegates resolved that “by all convenient Speed” Bladen “build and finish a prison” to the specifications on which the assembly had agreed on 19 July 1699 — almost two years earlier. The prison was to be “well and substantially built and finished on some Lott” that Governor Blakiston would choose in Annapolis, and, if the governor and the upper house agreed, Bladen would receive £240 current money²² out of the public stock when he finished the job. The delegates again appointed three of the four delegates from Anne Arundel County²³ to oversee the building of the prison according to the specifications already established.²⁴ Blakiston and the upper house agreed to the proposal with the condition that the men appointed to oversee the work would choose the location of the prison.²⁵

The first site that the three men chose was unfortunate, but either they had worked very slowly or it took officials ten months to recognize its inadequacy. After an unidentified delegate on 23 March 1701/2 suggested that the site was low ground where water commonly settled, which might prove prejudicial to the structure, someone proposed that the prison be built on a more suitable site. The delegates agreed and appointed a committee²⁶ to consult with Richard Beard, the armorer,²⁷ a former sheriff of Anne Arundel County,²⁸ and also a builder himself,²⁹ and report to the house that afternoon.³⁰

The committee did not work that fast. Two days later — on 25 March 1702, still once more the last day of the session — the three men reported that the proposed site was in fact “very ill convenient” and suggested that the prison be built near that site but on higher ground that would be “very convenient.” The delegates immediately directed Samuel Young to advise Bladen that the prison should be built in that place.³¹

Bladen did build the prison, which he completed in 1703, and in September of 1704 the Committee of Accounts allowed him £240 according to the agreement.³²

With or without the blessing of God, Bladen and his sub-contractors did a shoddy job, but it was three years before anyone did anything about it. On 22 September 1706 Governor John Seymour reminded his council that since the insufficiency of the jail in Annapolis had often been mentioned he had with the advice of the council “caused it to be amended & Strengthened.” Josiah Wilson, the sheriff of

Anne Arundel County,³³ had done the work. The council agreed that the work had been very necessary and referred Wilson to the Committee for Laying the Public Levy for payment.³⁴

Thus by sometime before 22 September 1706 the assembly should have had some clue about how inadequate Bladen's work was, but it was another six months before it discovered just how badly he had skimmed on the job. On 31 March 1707, while the assembly was also still trying to get Bladen to finish the new statehouse,³⁵ the upper house read a petition in which Wilson pointed out that the joists and the upper floor of the prison were not strong enough to secure the prisoners and asked the assembly to order that they be strengthened. The upper house sent the petition to the lower house with the recommendation that the work be done.³⁶

The delegates, finally suspicious of Bladen's work themselves, by now needed no prompting from the upper house. The next afternoon, even before they considered Wilson's petition, they appointed a committee³⁷ to inspect the jail and report "forthwith" on its present condition as well as on whether Bladen had satisfied the specifications in his contract.³⁸ The following morning — 2 April — they finally debated Wilson's petition and resolved that Bladen would have to correct any deficiencies in the jail.³⁹

What the committee found was not good. That afternoon it reported that Bladen had constructed the stone-work according to the agreements of 19 July 1699 and 17 May 1701 but that the floor joists were neither as wide nor as deep⁴⁰ as the contract required. Beyond that, the space between the joists varied from eight to twelve inches, while the contract required that they be spaced only six inches apart. Thus not only had Bladen used joists that were too small, but he had used only between half and two-thirds as many as he should have used.

The committee also found that the roof was very defective. The assembly had not specified the distance between the rafters, and Bladen took full advantage of the omission. His work on the rafters was even less acceptable than his work on the floor joists: there were only seven pairs of rafters in the entire roof. Since the prison was supposed to be twenty-five feet long on the inside, with walls two feet thick and a six-inch over-hang on all four sides, the centers of the rafters must have been almost five feet apart. And there was "no Ceiling in the Roof," while by the contract the whole roof was to have a ceiling of one-inch oak plank. Finally, as in the case of

the rafters, Bladen had used only one-third as many ceiling joists and studs as he should have used.⁴¹

To correct all of these problems the committee recommended that between every pair of floor joists already laid another joist six or seven inches square be added and that the planks be well nailed to all of the joists, that a “Purloyne” — a horizontal support — be “well fixed under the Ceiling Joists,”⁴² that two ceiling joists be added between each pair of ceiling joists already in place, that two rafters be added between each pair of rafters already installed, that two studs be added between every pair of studs already in place, and that both storeys of the prison have ceilings of one-inch oak plank well nailed.

After hearing the report the delegates decided that Bladen had not fulfilled his agreement and repeated that he would have to correct the deficiencies in the prison.⁴³

Bladen, who had already received full payment for building the prison, did not rush to the job, and eighteen months later he still had not done the work. During the next session of the assembly — on the afternoon of 30 September 1708 — the lower house sent four delegates⁴⁴ with the sheriff, either Josiah Wilson or John Gresham Jr.,⁴⁵ to see whether Bladen had made the corrections. The sheriff would also show the four delegates the rooms in the jail.

Later that afternoon the committee reported that the deficiencies were “not wholly made good according to the Order of the House” during the previous session. Bladen, who was present as a delegate from Annapolis,⁴⁶ made the excuse that he had been unable to finish the work because oak planks were not available and promised that if the delegates would allow him to use pine planks instead of oak he would finish the job “by all convenient speed.” The delegates did make the concession.⁴⁷

Still Bladen was in no hurry. Two-and-a-half months later he still had not made good on his contract. By this time he had also been working on the new statehouse for almost four years,⁴⁸ and on 17 December 1708, the last day of the session again, the delegates ordered that he have notice that he still had not finished the work on the prison and that the doors and the windows in the statehouse still did not have glass or bolts. They ordered that “he take Care to finish all” — meaning, apparently, both the statehouse and the prison — by the next session of the assembly.⁴⁹

Since the assembly did not meet again until 26 October 1709,⁵⁰ that gave Bladen ten more months. Whether he finished the prison this time does not appear,

but almost eight years after this order, in August of 1716, the delegates discovered still more of his shoddy work. Thomas Reynolds, now the sheriff of Anne Arundel County, complained to the Committee of Aggrievances about the insufficiency of the jail, and on 7 August the committee referred the petition to the lower house.⁵¹ The next morning the delegates resolved that the jail should be repaired at the public charge and then appointed a committee⁵² to view the prison, determine what repairs were necessary, and report to the house the next day.⁵³

The committee did not wait until the next day but reported that same afternoon. Already the prison was “very much decayed.” The wooden work was rotten, and the stone-work, which Bladen was supposed to have extended two feet below the surface,⁵⁴ was laid “Just . . . within the Ground” and was undermined. The committee recommended therefore that the lower floor be replaced with “a floor of lyned white oake Sleepers of Seven Inches deep,”⁵⁵ laid close together and covered with two-inch white oak plank. “Each Side plank [was] to be well spickt [spiked] down to the End of each Sleeper [and] the rest of the plank to be well Trennelled.”

The house accepted the suggestions and contracted with Edward Smith of Annapolis to finish the work by 8 December. On his producing a certificate signed by George Valentine and Thomas Docwra or either of them he would receive twenty pounds current money out of the public stock.⁵⁶ The job must have been a bigger one than Smith had anticipated, since on 6 June 1717 the lower house granted him an allowance of five pounds current money beyond what it had agreed on earlier for his work on the prison.⁵⁷

Still the jail was not satisfactory. On 24 February 1721/2 Henry Lazenby, the sheriff of Anne Arundel County, petitioned the upper house “that a better prison or Conveniency . . . be provided for the Debtors and Criminals” of the county, but after the upper house referred the petition to the consideration of the lower house the delegates only referred it to the next session of the assembly.⁵⁸ On 11 October 1722 Lazenby again petitioned the upper house about the inadequacy of the jail in Annapolis; the upper house again referred the petition to the delegates; and the delegates appointed another committee⁵⁹ to inspect the prison.⁶⁰ The next day the committee reported that it was in a very bad condition. All of the wood-work was very rotten, the stone-work was decayed, and the upper storey was “very insufficient to Confine any person.” The prisoners were in a deplorable condition because of the lack of

“Conveniences.” The delegates resolved that a new prison be built and appointed still another committee⁶¹ “to Consult and Project for the building” of a new one, estimate its cost, and report back.⁶² On the twenty-second they added two delegates to the five already on the committee to confer with workmen about building the new prison,⁶³ but the next day they decided only to repair the old one instead.⁶⁴ Whether the repairs would include a “convenience” in each room, so that the prisoners would not have to live amid their own waste, does not appear.

After complaints by a committee of the lower house during the session of 19 August to 6 September 1731 the Committee of Laws drew up a bill for a new jail, but the delegates only referred it to the next session.⁶⁵ During that session, however, they did not consider the jail.⁶⁶ Presiding in person at the session of 13 March 1732/3 to 12 April 1733 Charles Calvert, fifth Lord Baltimore, told the two houses in his opening speech that it was “not a little Concern” to him that he was obliged to remind them of the bad state of the jails in the province. He had no doubt that the assembly would “take Care to Redress so Unchristian a Grievance.”⁶⁷

In their exclamatory response to Baltimore the next day — 14 March 1732/3 — the members of the upper house pulled out all the stops. “Through a Tender and Generous care for the Prosperity of Maryland,” they told him, not only did he honor the province by being in it but by his gracious speech he had assured them that the purpose of his voyage was to promote its welfare, “A Purpose Worthy of a Lord Proprietary of Maryland! and arising peculiarly” from his “well known kind Disposition . . . for the Happiness of Mankind.” That disposition became all the more conspicuous by Baltimore’s humane recommendation that the assembly consider the bad state of the jails in the province, a recommendation by which he justly secured to himself “the Prayers and good Wishes of the Poor and Distressed, on the one hand, And the Applause of the more happy and Fortunate on the other.”⁶⁸

The delegates were more subdued. On that same day, with a more moderate use of the conventional flattery of anyone in authority than the upper house had used, they told Baltimore only that they would consider the state of the jails and endeavor to correct what was wrong with them.⁶⁹

Words were cheap, but improving the jails or building new ones would require not only a hint of human compassion but also a fair amount of money. The legislators of eighteenth-century Maryland had never been contaminated by compassion,

and they would not willingly sacrifice any of the wealth that they had extorted from the unfortunate to reduce the suffering of others from that same class. Even though debtors had died and others might die because of the conditions in the jail in Annapolis,⁷⁰ and in spite of their promise to Baltimore, on 22 March 1732/3 the delegates rejected the petition of John Welsh, the sheriff of Anne Arundel County, that the assembly consider the state of the prison.⁷¹ Bladen's jerry-built jail lasted until March of 1739/40, when the prison that the assembly at long last provided for in 1736 was finally ready.⁷²

A person who does shoddy work can do a lot of it, and after the statehouse in Annapolis burned down on the night of 17-18 October 1704⁷³ Bladen got the job of rebuilding it.⁷⁴ He did no better than he had done on the jail, and eventually the disgusted delegates canceled the contract with him and hired other men to finish it. By the time that happened, however, Bladen had collected seven hundred of the one thousand pounds sterling he was supposed to have received for doing the job right.

On 5 December 1704 the assembly met as already scheduled,⁷⁵ and the next afternoon the delegates appointed a committee of eight men⁷⁶ to inspect the ruins of the statehouse to determine whether the walls that were still standing were sufficient to rebuild on. The committee would consult any workman it wanted to advise it.⁷⁷ Later that afternoon the committee reported that the walls were "sufficient to be rebuilt upon by sufficient careful workmen," and the delegates unanimously resolved that the statehouse be rebuilt "in the same Form & upon the same Walls as it was before."⁷⁸

Bladen had already applied for the job. As their next piece of business the delegates considered his letter to Thomas Smith, the Speaker of the lower house,⁷⁹ in which he volunteered that if the assembly decided to rebuild the statehouse either on the walls of the old one "or otherwise" he was willing to undertake the construction and would be able to finish it in a very short time. He would give security of four thousand pounds sterling and would be willing to accept such payment as the assembly thought "fitt to agree on as Mony [*sic*] . . . [came] in." Since "all the other publick Buildings . . . [had] gone through . . . [his] Hands," he was "ambitious for serving the Country in this."⁸⁰

That last was quite a claim for a thirty-one-year-old. Annapolis was established

as a town in 1694,⁸¹ when Bladen was twenty-one; the assembly first met there on 28 February 1694/5, the day after he turned twenty-two; and the foundation of the first statehouse there had been laid by 30 April 1696, when Bladen had been in Maryland for barely three years.⁸²

If Bladen's claim sounded extravagant, it might have been because it was not true. Not only had all of the public buildings in Annapolis not "gone through" his hands, but except for the prison he had done very little contracting of any kind for the province. Before he got the contract for the new prison, the only reference to his being involved in any construction for the province comes from May of 1700, when the Committee of Accounts allowed him £0.7.6 sterling "for his Man & horse being prest to goe after the prisoners Escaped & his man for Mending the [old] Prison."⁸³

While everyone must have known that Bladen was being less than candid, he did have the attention of the delegates, who decided that the same committee that had inspected the walls of the old statehouse should negotiate with him about rebuilding it and report his demands as soon as possible.⁸⁴ Whether the delegates had any suspicions about the deficiencies of the prison, which Bladen had finished the previous year,⁸⁵ does not appear. The first official evidence of that shoddy work would not come for another twenty-one-and-a-half months.⁸⁶

Bladen was not as easy to deal with as he had promised. The next morning — 7 December 1704 — the delegates informed the upper house that they were willing to rebuild the statehouse "in as commodious a manner as before" and that they had negotiated with Bladen to do the work. His demands, however, were so great that they could not agree to them. Instead they had appointed the four delegates from Anne Arundel County⁸⁷ "to treat, bargain & agree with such Persons as . . . [would] undertake" the rebuilding and asked the upper house to appoint two of its members to join the four delegates. Finally, they asked that a bill be prepared to give the committee the authority to make the deal.⁸⁸

How much Bladen was asking to rebuild the statehouse does not appear, but since when he finally got the contract he gave security of two thousand pounds sterling on a contract for one thousand pounds,⁸⁹ his offering to give security of four thousand pounds sterling might mean that he was asking two thousand pounds, twice what he eventually agreed to.

Instead of appointing two of themselves to join the four delegates to make a

bargain with someone other than Bladen to rebuild the statehouse, the members of the upper house convinced him that he was asking too much and that if he wanted the job he would have to reduce his price. Immediately after receiving the message from the lower house they adjourned for an hour,⁹⁰ and already that same afternoon, after talking with Bladen off the record, they responded to the delegates' proposal with the proposal of their own. They were "very ready to agree to any Thing" that the lower house proposed, but they thought it better that the assembly agree at once with someone who could start the work immediately. Since the "Cubiloë" — the cupola — was not to be rebuilt, Bladen, "the first proposer," was "willing on better Advice" to rebuild the statehouse for one thousand pounds sterling if the assembly would let him have whatever he could salvage from the old building.⁹¹

Whether the delegates had already unofficially agreed that the cupola was not to be rebuilt, or whether the members of the upper house suddenly sprang this major concession to Bladen on them with this message, does not appear. Up to this point the delegates had mentioned only that the walls of the statehouse would not have to be rebuilt.⁹²

Why the members of the upper house thought that Bladen's being "the first proposer" had anything to do with who should get the work similarly does not appear. They wanted someone who could start the work immediately, and apparently Bladen had assured them that he could. Possibly they thought that since he was the contractor most anxious to do the work he would get it done most quickly. Possibly too they were thinking only in terms of first-come first-served.

It is also possible, however, that the members of the upper house were treating the rebuilding of the statehouse as just another piece of patronage for their clerk and favorite functionary.

Satisfied with the proposal of the upper house — and either not yet aware of or else unconcerned about the deficiencies in Bladen's jail —, the delegates agreed to give him the contract.⁹³ He would build the new statehouse "upon the Walls and ffoundation" of the old one, "Compleat and ffinish all Brick layers Work Carpenters Work Joyners work Plaisterers Work and Glaziers Work," and provide locks and keys

in the same full and ample manner and forme as the said late Stadthouse was built Compleated ffinished and ffurnished at any time before it was burnt the Cubiloë or Terrett [cupola or turret] only Excepted.⁹⁴

Thus the delegates accepted two concessions to Bladen that were not a part of their original thinking. Not only would he not have to rebuild the walls of the statehouse, which was assumed from the beginning, but he would be allowed to salvage what he could from the old building, and he would not have to build a cupola or turret on the new one. The first concession might not have been of any great significance, but the second one was major.⁹⁵

For building the new statehouse Bladen would receive one thousand pounds sterling as well as all of the bricks, iron work, and timber that he could salvage from the old statehouse, which he would have to use in building the new one, and he had to give bond of two thousand pounds sterling to guarantee that he would complete the work in eighteen months.⁹⁶ That would be the middle of June of 1706 and would prove to be far too optimistic: in December of 1708 the delegates were still fighting to get Bladen to complete the work on the statehouse as well as on the prison,⁹⁷ and in November of 1709 they finally gave up on him.⁹⁸

It did not take the delegates as long to find out about Bladen's inadequate work on the statehouse as it had on the jail. Seymour signed the act for rebuilding the statehouse on 9 December 1704, and already by 19 May 1705, while work on the building was still in progress and still sixteen months away from Seymour's reminding his council of Bladen's inadequate work on the jail,⁹⁹ the delegates had evidence of his unacceptable work on the statehouse. On that day, after an unidentified delegate reported that some of the work on the "Window Frames, Door Cases and other Matters" was defective, the lower house appointed a committee¹⁰⁰ to inspect the work and report back to the house forthwith.¹⁰¹

Later that morning the committee, starting off with the least bad news, reported that the part of the frame that was completed appeared to have been done in a workman-like manner and that the door-casings were tolerable except for "a Defect in the Brick work over the Front Porch Doors." The window frames, however, were made of "bad & green" timber, some of which still had the bark on it. When the green wood dried out it would shrink and drop to pieces. Most of the window frames were only sham-wedged,¹⁰² and not one of them was squared.

All of this happened on a Saturday, and after reading the report the delegates ordered that Bladen appear before them on Monday morning.¹⁰³

On Monday morning — 21 May 1705 — the delegates read the report of the

committee again and ordered again that Bladen appear before them. He appeared immediately, and when the Speaker, still Thomas Smith,¹⁰⁴ informed him of the report he “made some Answer” but then, possibly hoping that he could convince people that bad work was good work, requested that the delegates appoint the same men who had already made the inspection to go with him to inspect the work again. The delegates agreed, and the committee left immediately with Bladen to make the second inspection.¹⁰⁵

If Bladen hoped that he could convince the committee that his bad work was good work he hoped in vain. Later that morning the committee reported that it could not change its earlier report, and the delegates resolved that all the window frames already installed be removed and replaced with “good & sufficient Window Frames . . . made of well seasoned Timber.”¹⁰⁶ Apparently the delegates figured that “tolerable” door-casings were as good as they could expect.

What the delegates wanted should have been clear enough, but ten-and-a-half months later the window frames were still inadequate. On 11 April 1706, with only two months to go before the expiration of the eighteen months that the assembly had given Bladen to complete the statehouse, the lower house appointed six delegates¹⁰⁷ to inspect the new building again to determine its condition and whether the work on it had been done in a workman-like manner.¹⁰⁸ This committee, which included three of the men from the previous one,¹⁰⁹ found little or no improvement. On the thirteenth it reported that all except two of the window frames in the first and second stories were altogether insufficient and should be taken out and replaced with new ones “made of good season’d Timber.” Thus Bladen either had not replaced the window frames at all or else continued to use green wood even after the delegates had warned him about it.

But that was not all. The shingling on the roof was not done in a workman-like manner. The roof was already leaking, and in a short time the water would destroy not only the “Timber and Plaistering” but also the entire building. The brick-work over both porch doors should be removed and replaced, and all the plastering in the building should be removed. Finally, the “moultured Bricks” both inside and out should be removed and replaced with new ones.¹¹⁰

The delegates ordered that a copy of the report be delivered to Bladen.¹¹¹

In spite of this damning report, when five days later — on 18 April 1706 — an

unidentified delegate asked whether it would not be reasonable to pay Bladen some part of what he was to receive for rebuilding the statehouse the lower house recommended that if the upper house agreed he be paid five hundred pounds, “being one half” of what he was supposed to have for doing the job. The upper house did agree.¹¹²

More than two-and-a-half years later Bladen still had not corrected the deficiencies in either the statehouse or the prison. On 17 December 1708 the delegates ordered that he have notice that the doors and the windows in the statehouse still had no glass or bolts, that he still had not finished the corrective work on the prison, and that “he take Care to finish all” by the next session of the assembly.¹¹³

Revealing their growing distrust of Bladen, however, the delegates had already decided that not everything could wait. On 14 December, three days before their order to Bladen, they allowed Richard Young nine shillings for acquiring a lock for the back door of the statehouse and for installing it.¹¹⁴ Thus they were paying Young for work that Bladen should long since have completed.

The delegates’ order gave Bladen ten more months, but when the assembly met on 25 October 1709, more than forty months after he was supposed to have finished the statehouse, it was still inadequate. When on 28 October he petitioned the lower house for another two hundred pounds, the delegates referred the request for further consideration.¹¹⁵ Six days later, on 3 November — the day after they got in their job at Bladen by complaining about one man’s holding too many offices¹¹⁶ —, they appointed a committee¹¹⁷ to inspect the statehouse to determine whether Bladen had fulfilled his bargain and to report back to the lower house with all convenient speed. On that day too the delegates again read Bladen’s petition for the additional two hundred pounds and delayed consideration of it until the committee to view the statehouse made its report.¹¹⁸

Time had become Bladen’s greatest ally. On 9 November the committee reported that while Bladen had agreed to build and furnish the statehouse “as well as it was at first,” the members of the committee could not remember, more than five years after the old statehouse had burned and almost five years after Bladen got the contract to rebuild it,¹¹⁹ “what Sort of Work and Furniture was about it.” They did know, however, that the window frames, doors, and door casings of the new statehouse were very slight and that they were “not done Workman like.” The doors did

not have sufficient hinges, and the building was not as well shingled as it should have been.

After hearing the report, the delegates again read Bladen's petition requesting the additional two hundred pounds. Then they called him into the house, read the petition and the committee's report in his presence, and "heard what he had to say" for himself. What Bladen said does not appear, but after he withdrew the delegates debated the petition and decided to pay him the two hundred pounds but also to require him "to make good the Shingling" and make the roof "tight & good." They then called him back into the house; the Speaker, Robert Bradley,¹²⁰ informed him of the resolution; and he readily agreed to do what the delegates asked.¹²¹

Thus Bladen would receive seven hundred of the one thousand pounds he was supposed to get for building the statehouse,¹²² and he never would have to make good all of the deficiencies in his inadequate work.

Unable to remember how the old statehouse was furnished and therefore unsure of what they could demand of Bladen, disgusted that after almost five years he still had not satisfactorily completed the new building, and determined to replace him with someone who could do the work faster and better, the delegates would accept window frames, doors, and door-casings that were "very slight, and not done Workman like" and doors that were hung on insufficient hinges as long as the roof did not leak and they could just get shut of him.

The delegates would find someone else to do the work that Bladen had failed to do. The day after they agreed to pay Bladen the additional two hundred pounds — on 10 November 1709 — they resolved that William Taylard of Annapolis provide the office of the assembly — meaning the office of the lower house¹²³ — with a good new door, well-fitted and with a lock and key, and also furnish it with a table, benches, and separate boxes for holding papers. Taylard, a former clerk of the lower house who was serving temporarily again in place of Richard Dallam,¹²⁴ was to be paid out of the next public levy,¹²⁵ but it was not until 31 October 1711 that the delegates allowed him two thousand pounds of tobacco for this work.¹²⁶

At this point if not earlier Bladen should have forfeited his bond of two thousand pounds sterling for his faithful completion of the statehouse, but there is no evidence that that happened.¹²⁷ Such an action was of course impossible: William Bladen the attorney general was not likely to sue William Bladen the contractor for

his failure to fulfill the conditions of his bond.

A year later the statehouse still needed work. On 31 October 1710 the lower house appointed three delegates¹²⁸ to agree with someone to finish the office of the lower house as well as the other offices in the new statehouse and report their proceedings to the house.¹²⁹ Two days later the committee reported that it had agreed with Cadwallader Edwards to do extensive work in the offices of the lower house, the secretary, and the commissary as well as in the land office and the committee rooms, for a total of twenty-eight pounds, and that same day the delegates ordered Samuel Young, the public treasurer of the Western Shore, to pay Edwards an advance of five pounds “with all convenient Speed.”

Profiting from the delegates’ unfortunate experience with Bladen, the committee was explicit about what Edwards would do. In front of the window in the office of the lower house he would build a “Table Desk” three feet six inches long with a bench the same length. On the full length of the wall on the left going into the room he would build a set of pigeon-holes “as high as the Roof . . . [would] allow,” “eased on the Back,”¹³⁰ and “with good folding Doors on the Front.” On the full length of the right-hand wall going into the room he would build two rows of pigeon-holes eighteen inches long, nine inches deep, and nine inches high.

Against the inside wall of the secretary’s office Edwards would build a long reading desk “from the Bar to the [opposite] Wall for the Books to be layed on.” The desk would be about three feet high, would have a horizontal shelf about nine inches wide, and from the edge of that shelf would have a slanting surface, “Desk fashion,” about twenty inches wide. Above the desk Edwards would build “about three Rows” of pigeon-holes nine inches square. Under this desk there would be a shelf with partitions about eighteen inches to two feet apart. On the outside wall there would be a similar desk and pigeon-holes, “saving the Window Place,” and in the room also there would be a table about seven feet long, two-and-a-half feet wide, and about two feet eight inches high.

Against the inside wall of the land office Edwards would build a desk of the same dimensions as that in the secretary’s office except that it would run the full length of the room. Above the desk there would be one row of pigeon-holes about twelve inches wide and twelve inches high. For this office Edwards would also make a bar, a table the same size as the one in the secretary’s office, and two benches about

seven feet long and of a convenient height.

Within the bar of the commissary's office Edwards would build desks, shelves, and pigeon-holes like those against the inside wall of the secretary's office all around the room, "save Window Room," and two benches like those in the land office. For each of the committee rooms he would build a table ten feet long and two benches of the same length.

All of the tables were to be made "with good substantial turned [legs?]" and each desk for books was to be supported by "a Row of turned Columns." The "whole Work [was] to be Generally well done and Workman like," and Edwards was to finish it by the last day of August 1711.¹³¹

Further profiting from the lessons of the past, the committee priced the work on each room separately. Edwards would receive four pounds for his work on the office of the lower house, eight pounds for the secretary's office, seven pounds for the commissary's office, five pounds for the land office, and two pounds each for the two committee rooms.¹³² Thus not only would Edwards know exactly what he was supposed to do, but the itemizing simplified the delegates' problem of determining how much they should dock him if he, like Bladen, failed to do the work properly.

Apparently Edwards' work was satisfactory, however, since the delegates continued to hire him. On 31 October 1711, exactly two months after his previous contract was to be completed, they ordered that he "make good and sufficient" shutters for all the windows in the statehouse that did not already have them. When the job was finished he would lay his account before the lower house and would be paid by the public.¹³³ Since not all of the windows needed shutters, Bladen must have provided some of them. On this day also the delegates finally ordered their Committee of Accounts to pay William Taylard two thousand pounds of tobacco in full payment for all the work he did for the public in 1709.¹³⁴

Two days later — on 2 November 1711 — the delegates ordered that Edwards "fit up" the naval office and the office of the council according to the directions of Wornell Hunt and Thomas Bordley, the two delegates from Annapolis. This too would be paid for by the public.¹³⁵

The delegates' first order to Edwards makes it appear that he would present an account to the lower house for his work, but a year later — on 1 November 1712 — he only petitioned the delegates asking for an allowance for making the shutters and

for other work that he had done on the statehouse. The delegates appointed a committee¹³⁶ to view what Edwards had done and report what it was worth.¹³⁷ Two days later the committee reported that the work was well done and was worth £45.15.0, which the lower house did allow Edwards.¹³⁸

Still more work would be done on the new statehouse. On 6 November 1712 the delegates pointed out to the upper house that on viewing the several offices that the lower house had “taken Care to fit up” they found that the room provided for the office of the lower house was not convenient. They presumed that considering the size of the office of the council it would be sufficient also for the naval office, and they suggested therefore that what was currently the naval office become the office of the lower house and that the pigeon-holes, desks, and other furniture in the current office of the lower house be moved to the office of the chancery court, which had not yet been furnished. They suggested further that the door of the office of the lower house be removed in order to provide “more Light into the Passage to all the upper Rooms of the Stadt House.”¹³⁹

Since William Bladen was both the clerk of the council and the naval officer of Annapolis¹⁴⁰ this must have seemed to the delegates to be a very sensible arrangement. To the members of the upper house, however, combining a second office with the office of their clerk must have seemed like an affront to their dignity, even though in the old statehouse the naval office and the office of the council shared one room.¹⁴¹ When on 10 November they finally got around to considering the suggestion of the delegates they pointed out that since they could not be sure that the clerk of the council and the naval officer of Annapolis would always be the same person, though that was the case at this time, it might not be appropriate for the naval officer to have access to the office of the council. They thought rather that the clerk of Annapolis and the clerk of the lower house should simply exchange offices, and they suggested that the lower house appoint one or two delegates to join with Samuel Young and John Dorsey from the upper house to view those offices and consider the switch.¹⁴²

While the upper house drew up its reply to the delegates on 10 November, it did not deliver it to the lower house until the thirteenth. The delegates immediately appointed James Lloyd and Daniel Mariartee¹⁴³ to view the offices with Young and Dorsey. After the committee reported that the office of the clerk of Annapolis was very convenient but lacked tables, desks, and other furnishings, the delegates re-

solved that that office become the office of the clerk of the lower house, that it be furnished the same as the office of the clerk of the council was, and that the office of the lower house become the office of the clerk of Annapolis, as the upper house had suggested.¹⁴⁴

Finally, on 15 November 1712 the lower house resolved that Cadwallader Edwards “fit up” what had been the office of the town clerk of Annapolis for the clerk of the lower house. The office should be furnished in all respects like the office of the council already was furnished, with a table, benches, and pigeon-holes. Edwards was to finish the work by 1 April 1713 and would receive out of the public stock seven pounds current money for his work and all materials. When the office was ready the journals and all papers of the lower house would be kept there, and when the clerk of the lower house was not in town the clerk of the secretary’s office would be in charge of those journals and papers.¹⁴⁵

While all of this was going on, the delegates on 11 November 1712 ordered that Amos Garrett and Thomas Docwra, the two delegates from Annapolis,¹⁴⁶ agree with someone to repair and clean the glass windows of the statehouse and to have the work well done by the first of April.¹⁴⁷

For more than a year-and-a-half the office of the clerk of the lower house had no lock. It was not until 26 June 1714 that the delegates ordered Thomas Macnemara, their new clerk,¹⁴⁸ to provide a lock, key, and stud¹⁴⁹ for that office. Macnemara would be paid out of the public stock.¹⁵⁰

Yet, as would appear more than two years later, the office of the clerk of the lower house might have been one of the first to get a decent lock and key. On 2 August 1716 the assembly appointed a committee of three members of the upper house and five delegates¹⁵¹ to inspect the offices of the secretary, the commissary general, and the clerk of Anne Arundel County to determine whether they provided adequate security for the records of those offices.¹⁵² Apparently the committee went beyond its charge, however, and inspected other offices as well. It found that all of the public offices except the chancery office and the land office well furnished for that purpose. The chancery office needed one desk, one table, two benches, and pigeon-holes, built like those in the other offices, and the land office needed more desks for the records that would be housed in that office.

The lack of furnishings, however, was not the worst of the problems in the

statehouse. Both the glass and the shutters of the windows were “much broken” and should be well mended, and the roof leaked on the north side at the head of the stairs. Finally, most of the offices needed good locks and keys.¹⁵³

After considering the report the lower house ordered that the commissioners named in the act for repairing the records of the province, which the assembly was considering and would pass during this session,¹⁵⁴ see that the repairs were made.¹⁵⁵ The upper house agreed,¹⁵⁶ and the delegates informed the upper house that they had entered in the Journal of the lower house an order empowering the commissioners to order the offices to be furnished and the necessary repairs made as the committee to inspect the offices in the statehouse had recommended.¹⁵⁷

Just how much of the work that William Taylard, Cadwallader Edwards, and later workmen did on the new statehouse was work that William Bladen should have done in order to reproduce the facilities of the old one is not clear. By 9 November 1709 even the delegates could not remember what Bladen was supposed to have done,¹⁵⁸ but unless the old statehouse had no tables, benches, desks, or pigeon-holes — a possibility that seems more than remote¹⁵⁹ — Bladen had come nowhere near to honoring his agreement. He had not “built Compleated finished and ffurnished” the new statehouse as the old one had been “before it was burnt the Cubiloe or Terrett only Excepted,” as he had agreed to do.¹⁶⁰ By 9 November 1709 the delegates were disgusted enough with him that they were willing to pay him off, requiring him only to “make good the Shingling” and make the roof “tight and good,” and to get someone else to finish what he should have finished himself almost three-and-a-half years earlier.¹⁶¹

Not only did Bladen fail to complete the work that he had contracted to do, but the work that he did do was inadequate. He did forfeit the last three hundred of the one thousand pounds he was supposed to get for building the new statehouse, but apparently only the delegates’ casual attitude toward the taxpayers’ money allowed them to pay him what they did. When on 10 November 1709 they ousted him in favor of William Taylard and later Cadwallader Edwards and unnamed others it appears to have been less because of the shoddy work he did than because of the work that he had not done at all. They did, after all, accept window frames, doors, and door-casings that were “very slight, and not done Workman like,” and doors that

were hung on insufficient hinges.¹⁶²

If Bladen believed that he could get by with shoddy work on the new prison and the new statehouse it might have been because the assembly had been very relaxed about the proper maintenance of the first statehouse in Annapolis. By 1702 that building, which was less than six years old,¹⁶³ was already in bad shape. On 26 June 1702 the delegates, having information that the statehouse was “Very leaky and out of repaire” and was likely to become worse unless the assembly did something soon, resolved that John Hammond, Samuel Young, and Lawrence Draper or any two of them view the statehouse and hire what workmen were necessary to repair it.¹⁶⁴ The upper house agreed.¹⁶⁵

But the assembly continued to allow the old statehouse to deteriorate. On 29 April 1704, five-and-a-half months before it burned, the lower house appointed three delegates¹⁶⁶ to inspect the statehouse and determine what repairs it needed.¹⁶⁷ Later that day the three men reported that the cupola, where the flagstaff stood, was leaking and that water ran down the flagstaff and into the building. That was the greatest leak that they could find, and the only ways they could think of to prevent it were either to remove the staff and close the hole or else to keep the flagstaff and fill in the hole around the staff with lead. They also found that in most of the offices the plastering and the glazing had to be repaired, and some of the windows needed “small bolts.” One of the back doors needed to be hung; a new step had to be made; the casing of the new front door had to be completed; the stone step had to be repaired; and in the “Lower Rooms” the large wood windows and the plastering had to be mended.

The delegates resolved that Samuel Young and Charles Greenberry, the two inspectors from Anne Arundel County, agree with some workmen to make the repairs “with all convenient Speed” and that an ordinance be drawn up for the concurrence of Seymour and the upper house.¹⁶⁸ The delegates drew up the ordinance, and Seymour and the upper house did agree.¹⁶⁹

If after only six years the old statehouse was already “Very leaky and out of repairs” it might not have been built very well to begin with. Whether it had been well built or not, the assembly apparently had not shown much concern about maintaining it. By the time Bladen got the contract to build the prison in Annapolis

on 17 May 1701 that must have been obvious to him, and by the time he got the contract to build the new statehouse on 9 December 1704 it must have been even more obvious. In his shoddy construction of public buildings, as in his inadequate keeping of the public records and his failure to correct the errors in his printing of the laws of the province, he was only exploiting the addled ethic of his time.

5. Contractor

¹ At the beginning of 1701 Bladen was clerk of the council, clerk of the upper house, clerk of the high court of appeals, surveyor and searcher of Annapolis, naval officer of Annapolis, register of the admiralty court of the Western Shore, register of the admiralty court of the Eastern Shore, and register of the free school in Annapolis. He still had all eight of those jobs at the end of the year, and from 20 April to 19 November 1701 he was also the principal secretary of the province. *Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore: Maryland Historical Society, 1883-1972), XXIV, 49, 82; XXV, 12,15, 37; XXIX, 298; Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953), pp. 127, 135, 136, 137, 162, 182. See also Chapter 3, "Placeman."

² *Md. Arch.*, XXIV, 198-199, 199.

³ *Ibid.*, XXII, 367; Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiverson, eds., *A Biographical Dictionary of the Maryland Legislature, 1635-1789*, hereafter *Biographical Dictionary* (2 vols.; Baltimore: The Johns Hopkins University Press, 1979, 1985), I, 34.

⁴ Provincial Court Judgment Record, Liber W. T., No. 3, pp. 1-3.

⁵ *Md. Arch.*, XXII, 432. The delegates appointed to the committee to consider building a prison in Annapolis were William Harris of Cecil County, William Hutchinsson of Prince George's County, John Worthington of Anne Arundel County, Thomas Hicks of Dorchester County, and John Lowe of St. Mary's County.

For the counties of the delegates, see *ibid.*, pp. 210, 367, 368, 392; *Biographical Dictionary*, I, 34.

⁶ The two members of the upper house appointed to the committee on the

prison were Robert Smith and John Hammond. *Md. Arch.*, XXII, 341.

⁷ *Webster's Third New International Dictionary of the English Language Unabridged* (1981). A stud is a vertical support used in constructing walls. *Ibid.*

⁸ A sleeper is a horizontal support to which a floor is fastened. *Ibid.*

⁹ The suggestion that the second floor of the prison had no side walls contradicts Elizabeth L. Ridout's interpretation in her illustration in Morris L. Radoff, *Buildings of the State of Maryland at Annapolis* (Annapolis: The Hall of Records Commission, 1954), Plate 5. She has the steps at the end of the prison ending the equivalent of about two-thirds of the way up the side wall, which means that the second floor would have had side walls possibly two feet high. Since the foundation was to extend two feet into the ground and was to be two-and-a-half feet thick to the first floor, however, the requirement that the walls be "two foot thick from the Top of the sleepers to the Plate" (*Md. Arch.*, XXII, 440) must refer to the actual thickness of the walls rather than to the height of side walls of the second floor. If "thick" refers to thickness rather than height in the first instance, it probably does in the second instance as well.

Whether or not the side walls did extend for two feet above the second floor, which appears to be doubtful, Mrs. Ridout's steps are out of proportion. She has eighteen steps and nineteen risers — the vertical space between the top surfaces of steps — going to the platform outside the second floor. If each step was six inches deep, which would make it very narrow, the steps would end and the platform begin nine feet into the building. If the walls were two feet thick, the prison would be nineteen feet wide on the outside — fifteen feet inside and two walls two feet thick —, and thus the steps would end and the platform start six inches from the middle of the building. Deeper steps or thinner walls would push the platform and the door to the second floor even farther off center.

Actually thirteen steps and fourteen risers of seven-and-a-quarter inches would be sufficient. The distance to the second floor was to be seven-and-a-half feet to the plate. A plate possibly two inches thick, the eight-inch ceiling joists, and the two-inch second floor would add another foot. Thus the stairway would have to reach 102 inches above the ground. Fourteen risers of seven-and-a-quarter inches would require thirteen steps. Higher risers of course, would require fewer steps.

Since the door was to be two-and-a-half feet wide, the platform outside the

door might be a minimum of three feet wide. With an outside wall nineteen feet long, the middle of the building would be nine-and-a-half feet from the side walls, and a three-foot platform would start eight feet from the outside wall. That eight feet would allow each of the thirteen steps to be just under seven-and-a-half inches deep, which would still make the steps quite narrow.

Risers of ten inches would reduce the number of risers to ten and steps to nine, and therefore each step could be ten-and-a-half inches deep. Risers of nine inches would require eleven risers and ten steps, and thus each step could be nine-and-a-half inches deep.

In any case, eighteen steps and nineteen risers would require that each riser be only about five-and-a-third inches high and each step about the same depth. The shallow steps would make a very difficult stairway to navigate, especially for someone who was trying to conduct a prisoner to the second floor.

¹⁰ A trunnel or treenail or trenail is a wooden peg for joining timbers. *Webster's New World Dictionary of the American Language* (College Edition, 1959).

¹¹ "Jet" means "to project or jut." *Webster's Third New International Dictionary of the English Language Unabridged* (1981).

Mrs. Ridout interprets the wording of the committee to mean that only the roof, not the entire second floor, would over-hang the walls by six inches. Radoff, *Buildings of the State of Maryland at Annapolis*, Plate 5. That appears to be correct.

¹² Though it is difficult to tell for sure, this appears to be Mrs. Ridout's interpretation. *Ibid.* For support of this view, see "rivet," in *Webster's Third New International Dictionary of the English Language Unabridged* (1981).

¹³ *Md. Arch.*, XXII, 440-441.

¹⁴ *Ibid.*, pp. 357, 451; Minutes of Council of Maryland in Assembly, The National Archives (PRO), *Calendar of State Papers: Colonial Series* (40 vols.; Vaduz: Kraus Reprint Ltd., 1964), XVII, No. 673 (p. 358).

¹⁵ *Md. Arch.*, XXIV, 119.

¹⁶ *Ibid.*, p. 83.

¹⁷ James Saunders, Samuel Young, and John Worthington. *Ibid.*, pp. 35, 38, 84; *Biographical Dictionary*, I, 34.

¹⁸ *Md. Arch.*, XXIV, 84; Journal of House of Delegates of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XVIII, No. 418 (p. 244).

¹⁹ *Md. Arch.*, XXIV, 35; *Biographical Dictionary*, I, 34.

²⁰ *Md. Arch.*, XXIV, 87; Journal of House of Delegates of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XVIII, No. 418 (p. 245). No mention of the consideration of this proposal appears in the surviving records of the upper house.

²¹ Richard Hill died sometime before 5 November 1700. *Biographical Dictionary*, I, 442.

²² For current money in Maryland, see John J. McCusker, *Money and Exchange in Europe and America, 1600-1775: A Handbook* (Chapel Hill: The University of North Carolina Press, 1978), pp. 189-201; Clarence P. Gould, *Money and Transportation in Maryland, 1720-1765* (Baltimore: The Johns Hopkins Press, 1915) pp. 21-25; Margaret Shove Morriss, *Colonial Trade of Maryland, 1689-1715* (Baltimore: The Johns Hopkins Press, 1914), p. 105.

²³ Samuel Young, James Saunders, and John Dorsey. *Md. Arch.*, XXIV, 159, 198; *Biographical Dictionary*, I, 35. The fourth delegate from Anne Arundel County was William Holland. *Md. Arch.*, XXIV, 159.

²⁴ *Ibid.*, pp. 198-199.

²⁵ *Ibid.*, pp. 153, 199.

²⁶ *Ibid.*, p. 252. Samuel Young was a delegate from Anne Arundel County, John Whittington from Kent County, and Benjamin Hall from Charles County. *Ibid.*, pp. 233, 252; *Biographical Dictionary*, I, 35.

²⁷ *Md. Arch.*, XXIV, 51, 315-316, 346-347; Owings, *His Lordship's Patronage*, p. 48n. The armorer looked after the public arms in Annapolis and kept them clean and was also responsible for the gun-powder. *Md. Arch.*, XXIV, 51, 152, 300, 303, 304, 315-316, 346-347; Owings, *His Lordship's Patronage*, p. 48.

²⁸ *Md. Arch.*, XXII, 212, 412; XXIII, 173, 330, 447, 450, 460, 461, 473, 512, 526.

²⁹ *Ibid.*, XXIV, 145, 182-183, 185, 186, 188-189, 195, 197.

³⁰ *Ibid.*, p. 252; Journal of House of Delegates of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XX, No. 242 (p. 161).

³¹ *Md. Arch.*, XXIV, 263; Journal of House of Delegates of Maryland, TNA (PRO), *Calendar of State Papers: Colonial Series*, XX, No. 242 (p. 164).

³² From the Journal of the Committee of Accounts in September of 1704:

To M^r William Bladen for building the Publick Prison at Annapolis not being allow'd him last year for the same according to Agreement with the house 240//00//00.

The National Archives (PRO), Colonial Office 5, Vol. 715, No. 87.vi (photocopy in Library of Congress).

³³ Anne Arundel County Court Judgment Record, Liber T. B., No. 1, pp. 167, 355, 399, 411.

³⁴ *Md. Arch.*, XXV, 204. Morris L. Radoff says that this work was done on the old prison (Radoff, *Buildings of the State of Maryland at Annapolis*, pp. 33-34), but the Committee of Accounts' allowing Bladen the £240, the full amount of his contract for building the new prison, in 1704 and noting that he should have had it the previous year (see Note 32 above) indicates that he completed the work in 1703 — according to the resolution of the delegates on 17 May 1701 he was to be paid when he finished the prison (*Md. Arch.*, XXIV, 198) —, that the escape that Radoff mentions, which came in 1705 (Radoff, *Buildings of the State of Maryland at Annapolis*, p. 33), was from the new prison rather than from the old, and that the work that Wilson did was on the new prison.

For the escape, see *Md. Arch.*, XXV, 188-189; Provincial Court Judgment Record, Liber T. L., No. 3, pp. 566-566b.

³⁵ *Md. Arch.*, XXVII, 333. I consider Bladen's building of the statehouse below.

³⁶ *Ibid.*, p. 15.

³⁷ *Ibid.*, p. 79. Edward Blay was a delegate from Cecil County, John Leach and Robert Skinner from Calvert County, and Roger Woolford from Dorchester County. *Ibid.*, pp. 61, 203; *Biographical Dictionary*, I, 37.

³⁸ *Md. Arch.*, XXVII, 79.

³⁹ *Ibid.*, pp. 81-82.

⁴⁰ “. . . not of so large a Scantling” *Ibid.*, p. 83. For “scantling,” see *Webster's Third New International Dictionary of the English Language Unabridged* (1981).

⁴¹ Since the outside walls of the prison were of stone, the reference here must be to the studs in the wall dividing the first floor into two rooms.

⁴² A purlin or purline is a beam that supports rafters. *Webster's New World Dictionary of the American Language* (College Edition, 1959). Here, however, the

members of the committee used the term to mean a horizontal support under the ceiling joists as well as a horizontal support under the rafters. See next note.

⁴³ *Md. Arch.*, XXVII, 82-83. Thus:

We are also of Opinion that to make the said Prison sufficient there be a Joist put in between every one of the Joists already laid of six or seven Inches square that the Plank be well and sufficiently nailed to all the Joists and that there be a Purloyn well fixed under the Ceiling Joists and two good Rafters from the Purloyns to the End of the Joists on both sides [of] the House betwixt each Pair of Rafters already placed. And as many ceiling Joists and two Studs betwixt every Stud already up to be ceiled all round the Roof and under the ceiling Joists with Inch Oak Plank well nailed.

⁴⁴ *Ibid.*, p. 208. Nicholas Lowe was a delegate from Talbot County, Roger Woolford and John Hudson from Dorchester County, and Thomas Covington from Kent County. *Ibid.*, pp. 202, 203, 208; *Biographical Dictionary*, I, 38.

⁴⁵ Josiah Wilson was sheriff at the Anne Arundel County court for September of 1708, while John Gresham Jr. was sheriff at the Anne Arundel County court for November of 1708. Anne Arundel County Court Judgment Record, Liber T. B., No. 1, p. 801; Liber T. B., No. 2, p. 1. Who was the sheriff on 30 September 1708, when the four delegates went with him to view the jail, depends on when Gresham's commission was issued.

⁴⁶ *Md. Arch.*, XXVII, 202. Two days later — on 2 October 1708 — Bladen and Wornell Hunt would be unseated because of the delegates' questioning John Seymour's right to issue the first charter of Annapolis. *Ibid.*, pp. 191, 209-210, 213, 216, 218, 219-220, 220-221; Chapter 3, "Placeman," at Notes 176-178.

⁴⁷ *Ibid.*, p. 208.

⁴⁸ 1704, c. 91, *Md. Arch.*, XXVI, 427-428.

⁴⁹ *Md. Arch.*, XXVII, 333.

⁵⁰ While on 17 December 1708 John Seymour prorogued the assembly until 5 April 1709 (*ibid.*, pp. 262, 334-335), the next session of the assembly did not meet until 26 October 1709. *Ibid.*, pp. 377, 409.

⁵¹ *Ibid.*, XXX, 584.

⁵² *Ibid.*, p. 588. Philip Hoskins was a delegate from Charles County, Matthew Tilghman Ward was a delegate from Talbot County and was the Speaker of the

house, and Josiah Wilson was a delegate from Prince George's County. *Ibid.*, pp. 477, 478, 481, 588; *Biographical Dictionary*, I, 42.

⁵³ *Md. Arch.* XXX, 587, 588. On the question of whether Anne Arundel County should use the jail for nothing or pay an annual rent the delegates resolved that it should pay an annual rent of one thousand pounds of tobacco "for the use of the said Goale after the Repairs thereof made or that they shall not use it." *Ibid.*, pp. 587-588.

⁵⁴ *Ibid.*, XXII, 440-441.

⁵⁵ Here "lyned" apparently means properly aligned.

⁵⁶ *Md. Arch.*, XXX, 590-591. George Valentine was sergeant-at-arms of the upper house during the session of the assembly of 17 July to 10 August 1716, and he also served other functions. According to Governor John Hart and the members of the upper house after Valentine petitioned in July of 1716 for an increase in his salary for conveying "publick packets and letters" he was "a very diligent & industrious Officer residing at the Seat of Government" who gave "his continual Attendance for the dispatch of publick Packetts" and also was "very ready & Serviceable on many other occasions in the Execution of Justice & Service" of the province. The lower house rejected his petition on the grounds that paying Valentine additional money would set a bad precedent for later sheriffs. *Ibid.*, pp. 392, 395, 461, 494, 495, 496-497.

The sheriff was responsible for conveying public documents (C. Ashley Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763* (New York: Garland Publishing, Inc., 1990), pp. 141-143), and thus Valentine, since he lived in Annapolis, must have been employed by a sheriff of Anne Arundel County, who was supposed to pay him.

Thomas Docwra's name does not appear in the index of *Md. Arch.*, XXX, even though he is mentioned on page 591. He was a tanner and a contractor, and he was a delegate from Annapolis from October of 1712 through October of 1714. *Biographical Dictionary*, I, 40, 273.

⁵⁷ *Md. Arch.*, XXXIII, 83.

⁵⁸ *Ibid.*, XXXIV, 288, 316-317.

⁵⁹ *Ibid.*, p. 410. John Ward was a delegate from Cecil County, Daniel Sherwood from Talbot County, Edward Wright from Queen Anne's County, and Thomas

Tolley from Baltimore County. *Ibid.*, pp. 401, 402; *Biographical Dictionary*, I, 44.

⁶⁰ *Md. Arch.*, XXXIV, 339, 410.

⁶¹ *Ibid.*, p. 413. William Watts and Justinian Jordan were delegates from St. Mary's County, Nathaniel Hopkins from Somerset County, John Beale from Anne Arundel County, and Daniel Sherwood from Talbot County. *Ibid.*, pp. 401, 402; *Biographical Dictionary*, I, 44.

⁶² *Md. Arch.*, XXXIV, 412-413.

⁶³ *Ibid.*, p. 433. The added delegates were James Lloyd of Talbot County and Joseph Harrison of Charles County. *Ibid.*, pp. 401, 433; *Biographical Dictionary*, I, 44.

⁶⁴ *Md. Arch.*, XXXIV, 358, 360, 433, 435, 438, 568, 699-700; XXXV, 22, 118, 122.

⁶⁵ *Ibid.*, XXXVII, 313, 315-317, 321, 324. The committee to inspect the jail consisted of Daniel Dulany and John Beale, delegates from Anne Arundel County, and Levin Gale, a delegate from Somerset County. *Ibid.*, pp. 300, 301, 313; *Biographical Dictionary*, I, 46.

⁶⁶ This session of the assembly lasted from 11 July to 8 August 1732. *Md. Arch.*, XXXVII, 369-515.

⁶⁷ *Ibid.*, XXXIX, 2. This message is not written out in the records of the lower house in the published *Archives*.

⁶⁸ *Ibid.*, p. 4.

⁶⁹ *Ibid.*, p. 57.

⁷⁰ *Ibid.*, XXXVII, 287, 315-317, 412, 421, 427-428.

⁷¹ *Ibid.*, XXXIX, 10, 64.

⁷² *Ibid.*, pp. 376, 388-389; 1736, c. 6, *Md. Arch.*, XXXIX, 472-473; Anne Arundel County Court Judgment Record, Liber A. B., p. 446; Radoff, *Buildings of the State of Maryland at Annapolis*, pp. 32-38.

Morris L. Radoff says that Bladen's jail lasted until 11 March 1739 (Radoff, *Buildings of the State of Maryland at Annapolis*, p. 36), but his citation is to the Anne Arundel County court for March 1739/40. The county court met on 13 November 1739 (Anne Arundel County Court Judgment Record, Liber A. B., p. 410), and it met next on 11 March 1739/40. *Ibid.*, p. 446. Radoff's quote comes from that later page. Thus Radoff's date is that of the old calendar, while by the modern calendar the date

would be 11 March 1740.

By 1736 the jail had only two rooms, one above and one below. *Md. Arch.*, XXXIX, 388. Thus either this represents another failure of Bladen to fulfill his contract or else the wall separating the two rooms on the first floor had been torn out.

⁷³ *Md. Arch.*, XXV, 179-180.

⁷⁴ Christopher Johnston says that Bladen “was the architect of the new State house in 1708.” Christopher Johnston, “Bladen Family,” *Maryland Historical Magazine*, V, No. 3 (September 1910), p. 298. Besides having his date wrong, Johnston is dignifying Bladen too much by calling him an architect rather than a contractor.

Lawrence C. Wroth also refers to Bladen as an architect (Lawrence C. Wroth, *A History of Printing in Colonial Maryland, 1686-1776* (Baltimore: Typothetae of Baltimore, 1922), p. 23), as does Donald Marquand Dozer, *Portrait of the Free State: A History of Maryland* (Cambridge, Md.: Tidewater Publishers, 1976), p. 151.

⁷⁵ Morris L. Radoff says that after the statehouse burned on the night of 17-18 October 1704 Governor Seymour called a special session of the assembly in December. Radoff, *Buildings of the State of Maryland at Annapolis*, p. 12. On 3 October 1704, however, Seymour prorogued the assembly until 5 December. *Md. Arch.*, XXVI, 94, 219. On 21 October 1704, three days after the statehouse burned, he issued a proclamation calling for a special session to meet on 21 November, but, because some people whom Seymour does not identify thought that it might be “irregular” to have the assembly meet sooner than on the date to which he had prorogued it, with the advice of the three members of his council whom he was able to consult he decided to allow it to meet as scheduled “rather than run any Hazard of the Legality of the Session.” *Ibid.*, pp. 371-372.

⁷⁶ *Md. Arch.*, XXVI, 392. Edward Dorsey was a delegate from Baltimore County, Samuel Young from Anne Arundel County, Edward Blay from Cecil County, James Philips from Baltimore County, Robert Tyler from Prince George’s County, John Taylor from Dorchester County, John Wells from Kent County, and Joseph Gray from Somerset County. *Ibid.*, pp. 389, 391; *Biographical Dictionary*, I, 37.

⁷⁷ *Md. Arch.*, XXVI, 392.

⁷⁸ *Ibid.*, p. 393.

⁷⁹ *Ibid.*, pp. 389-390.

⁸⁰ *Ibid.*, pp. 393-394.

⁸¹ 1694, c. 8, *Md. Arch.*, XIX, 110-113.

⁸² For the first meeting of the assembly in Annapolis, on 28 February 1694/5, see *Md. Arch.*, XIX, 25, 119, 127. For laying of the foundation of the first statehouse by 30 April 1696, see *ibid.*, p. 285. For Bladen's arrival in Maryland, see Appendix A, "William Bladen's Birth and His Arrival in Maryland."

⁸³ *Md. Arch.*, XXIV, 119. On 20 May 1695 Casparus Herman got the contract for building the first statehouse (*ibid.*, pp. 159, 189; Radoff, *Buildings of the State of Maryland at Annapolis*, pp. 3-4), but by 16 March 1696/7 it still was not finished. *Md. Arch.*, XXIII, 62. By 26 April 1697 Herman was dead (Testamentary Proceedings 16, p. 22; Radoff, *Buildings of the State of Maryland at Annapolis*, p. 7), and Jacob Vangazelo replaced him. *Md. Arch.*, XXIII, 130, 202, 203, 205, 236-237; Radoff, *Buildings of the State of Maryland at Annapolis*, p. 7. Edward Snelling also did some work on it. *Md. Arch.*, XIX, 201.

Nor is there any evidence that Bladen had anything to do with building the church or the school in Annapolis. *Md. Arch.*, XXII, 393; XXIII, 74-75; XXV, 45; 1699, c. 45, *Md. Arch.*, XXII, 556-558; Radoff, *Buildings of the State of Maryland at Annapolis*, pp. 17-22, 23-31.

It appears likely that if these buildings had "passed through" Bladen's hands he would have been mentioned someplace in the records.

In May of 1701, during the same session during which Bladen got the contract for building the new prison (*Md. Arch.*, XXIV, 153, 198-199), the assembly hired Richard Beard, the armorer (*ibid.*, pp. 51, 315-316, 346-347; Owings, *His Lordship's Patronage*, p. 48n.) and a former sheriff of Anne Arundel County (*Md. Arch.*, XXII, 212, 412; XXIII, 173, 330, 447, 450, 461, 473, 412, 526), to build a storehouse for the public powder. *Ibid.*, XXIV, 186, 188-189, 195, 196, 197; Radoff, *Buildings of the State of Maryland at Annapolis*, pp. 41-42. During that same session it hired Beard to repair and remodel the house that it had purchased from Edward Dorsey to store the arms in. *Md. Arch.*, XXIV, 145, 180, 182-183, 185.

Back on 13 May 1695 the Committee of Accounts allowed Richard Beard one thousand pounds of tobacco "for laying out and Surveying the Town of Ann Arundel." *Ibid.*, XIX, 196.

As Bladen's proposal makes clear, the courthouse and the statehouse were the same building. See also Radoff, *Buildings of the State of Maryland at Annapolis*, pp. 1, 3.

⁸⁴ *Md. Arch.*, XXVI, 394.

⁸⁵ See Text above at Note 32.

⁸⁶ The first indication in the records that Bladen had done a shoddy job on the prison did not come until 22 September 1706. *Md. Arch.*, XXV, 204.

⁸⁷ Samuel Young, Charles Greenberry, Joseph Hill, and Richard Jones. *Ibid.*, XXVI, 378, 396.

⁸⁸ *Ibid.*

⁸⁹ 1704, c. 91, *Md. Arch.*, XXVI, 427-428.

⁹⁰ *Md. Arch.*, XXVI, 378.

⁹¹ *Ibid.*, p. 399. This message does not appear in the Journal of the upper house, where Bladen was clerk. *Ibid.*, pp. 378-379.

⁹² *Ibid.*, 392, 393-394.

⁹³ *Ibid.*, p. 399.

⁹⁴ 1704, c. 91, *Md. Arch.*, XXVI, 427-428.

⁹⁵ Morris L. Radoff says that the cupola was added to the new statehouse sometime before March of 1736, when the Anne Arundel County court directed that Thomas Dobson agree with some carpenter to do some work on the cupola as well as to do some other work on the statehouse and the pillory. Radoff, *Buildings of the State of Maryland at Annapolis*, pp. 14-15. Here Radoff is using the new style dates, so the order of the Anne Arundel County court actually came in March of 1735/6. Anne Arundel County Court Judgment Record, Liber I. B., No. 2, p. 121.

Actually the cupola was added in 1722. During the session of 18 July to 5 August 1721 the assembly agreed that John Caldwell, a delegate from Somerset County (*Md. Arch.*, XXXIV, 199), would re-shingle the roof of the statehouse, add "Dormant Windows like those of the Magazine house," "lay a Good Platform of Cypress Plank[,] and build an handsome Cupiloe . . . with Banisters And a good Flag Staff . . ." for £150 sterling. *Ibid.*, pp. 162-163, 174, 176, 248, 250. Since the assembly did not come to that agreement until the last day of the session, however (*ibid.*, pp. 174, 176, 248, 250), it did not complete the agreement with Caldwell until its next session, that of 20-28 February 1721/2. *Ibid.*, pp. 286, 287, 294-295, 298-

299, 299, 315, 321, 328. During the session after that, on 12 November 1722, the delegates ordered that Samuel Young, the treasurer of the Western Shore, pay Caldwell the remainder of the £150 due to him (*ibid.*, p. 413), and thus the work must have been finished by then, since Caldwell was not supposed to receive final payment until he had completed the work. *Ibid.*, pp. 294-295, 321.

Adding the cupola after the building was finished was a massive undertaking, since all of the rafters had to be cut and re-braced and the joists for the platform had to be added.

In Radoff, *Buildings of the State of Maryland at Annapolis*, Plates 7 and 8, Elizabeth L. Ridout has sketches of the new statehouse after the cupola was added. Apparently she based her sketches of the cupola on Rebecca Key's description of "a handsome cupola" with a bannister and seats for people who wanted to enjoy the view of the city. *Ibid.*, p. 15.

⁹⁶ 1704, c. 91, *Md. Arch.*, XXVI, 427-428. The one thousand pounds sterling might be paid "in Dollars or peices [*sic*] of Eight at four Shillings and six pence."

⁹⁷ *Md. Arch.*, XXVII, 333, and Text above at Note 49.

⁹⁸ *Md. Arch.*, XXVII, 449-450, and Text below at Note 123 and forward.

⁹⁹ *Md. Arch.*, XXV, 204.

¹⁰⁰ *Ibid.*, XXVI, 483-484. Edward Dorsey was a delegate from Baltimore County, Edward Blay from Cecil County, John Leach from Calvert County, and John Waters and John Jones from Somerset County. *Ibid.*, pp. 475, 476; *Biographical Dictionary*, I, 37.

¹⁰¹ *Md. Arch.*, XXVI, 483-484.

¹⁰² I have not found out what "sham-wedged" means, but see *Webster's Third New International Dictionary of the English Language Unabridged* (1981). In any case it must mean that the work was very badly done.

The committee might have meant that the window frames were only "shim-wedged," or shimmed, which might mean that they were held in place only with shims rather than fastened securely.

¹⁰³ *Md. Arch.*, XXVI, 486.

¹⁰⁴ *Ibid.*, p. 475.

¹⁰⁵ *Ibid.*, p. 488.

¹⁰⁶ *Ibid.*, p. 489.

¹⁰⁷ *Ibid.*, p. 591. Edward Blay was a delegate from Cecil County, Robert Skinner and John Leach from Calvert County, John Jones from Somerset County, and William Watts and Peter Watts from St. Mary's County. *Ibid.*, p. 561; *Biographical Dictionary*, I, 37.

¹⁰⁸ *Md. Arch.*, XXVI, 591.

¹⁰⁹ Edward Blay, John Leach, and John Jones were the three members of both committees.

¹¹⁰ "Moulter" is a variant of "molder," which here could mean either that the bricks had decorative designs on them or that they were reduced in size. *Webster's Third New International Dictionary of the English Language Unabridged* (1981). Here it might mean here that they were wedge-shaped for the arcs above the doors and the windows.

¹¹¹ *Md. Arch.*, XXVI, 594-595.

¹¹² The record of the lower house in the *Archives* has one hundred pounds (*ibid.*, p. 613), but that is obviously an error, since five hundred pounds would be one-half of the one thousand pounds that Bladen was supposed to get for the whole job. The record of the upper house has it right. *Ibid.*, p. 554.

Morris L. Radoff has one hundred pounds. Radoff, *Buildings of the State of Maryland at Annapolis*, p. 14.

¹¹³ *Md. Arch.*, XXVII, 333. Morris L. Radoff says that since nothing was said of the statehouse during the session of the assembly that met on 26 March 1707, almost twenty-one months before this complaint, it must have been finished by then. Radoff, *Buildings of the State of Maryland at Annapolis*, p. 14.

¹¹⁴ Journal of the Committee of Accounts, in "Unpublished Provincial Records," *Maryland Historical Magazine*, XVII, No. 2 (June 1922), p. 210.

¹¹⁵ *Md. Arch.*, XXVII, 417. The purpose of Bladen's petition is not noted here, but it becomes clear later. *Ibid.*, p. 449.

¹¹⁶ *Ibid.*, pp. 388, 425, and Chapter 3, "Placeman," at Note 187.

¹¹⁷ *Md. Arch.*, XXVII, 429. John Salter was a delegate from Queen Anne's County, Thomas Robins from Talbot County, Nathaniel Dare from Calvert County, Richard Colegate from Baltimore County, and Philemon Hemsley from Queen Anne's County. *Ibid.*, pp. 409, 410; *Biographical Dictionary*, I, 39.

¹¹⁸ *Md. Arch.*, XXVII, 429.

¹¹⁹ The old statehouse burned on the night of 17-18 October 1704 (*ibid.*, XXV, 179-180), and 9 November 1709 was exactly one month less than five years after John Seymour on 9 December 1704 signed and sealed the bill providing that Bladen would build the new statehouse. 1704, c. 91, *Md. Arch.*, XXVI, 427-428.

¹²⁰ *Md. Arch.*, XXVII, 409.

¹²¹ *Ibid.*, pp. 449-450.

¹²² Five hundred pounds on 18 April 1706, and two hundred pounds on 9 November 1709. *Ibid.*, XXVI, 554, 613; XXVII, 449-450.

¹²³ Although in the upper house on 28 May 1697 someone suggested that the clerk of the lower house should not sign himself clerk of the assembly (*Md. Arch.*, XIX, 513; TNA (PRO), *Calendar of State Papers: Colonial Series*, XV, No. 861 (p. 418)), and the delegates agreed that he should sign himself as clerk of the house of delegates (*Md. Arch.*, XIX, 518), the delegates continued to use the term “assembly” when they mean the lower house. For the interchangeable use of the two terms, see the discussion between the two houses on offices in the statehouse in November of 1712. *Ibid.*, XXIX, 96, 104, 152, 183, 183-184.

¹²⁴ *Ibid.*, XXVII, 458, 461; Owings, *His Lordship’s Patronage*, p. 138.

¹²⁵ *Md. Arch.*, XXVII, 459-460.

¹²⁶ *Ibid.*, XXIX, 57.

¹²⁷ Provincial Court Judgment Record, Index, M-Z; Provincial Court Judgment Record, Libers P. L., No. 1, P. L., No. 2, and P. L., No. 3.

¹²⁸ *Md. Arch.*, XXVII, 536. John Salter and Philemon Hemsley were delegates from Queen Anne’s County, and Thomas Bordley was a delegate from Annapolis. *Ibid.*, pp. 410, 517; *Biographical Dictionary*, I, 39.

¹²⁹ *Md. Arch.*, XXVII, 536.

¹³⁰ While the meaning of “eased on the Back” is unclear, it might mean either that the shelves of the pigeon-holes were higher in back than in front so that they slanted downward slightly or that the back or the pigeon-holes slanted toward the front so that they became progressively less deep from bottom to top.

¹³¹ *Md. Arch.*, XXVII, 542-544. The wording in the record:

All which Tables are to be made with good substantial turned and a row of turned Columns framed under each Book Desk to support them, and the whole Work to be generally well done and Workman like.

Ibid., p. 543.

Something appears to be missing here after “good substantial turned,” but the wording in the published *Archives of Maryland* matches that in the original record. Again I thank Dr. R. J. Rockefeller, former Director of Reference Services at the Maryland State Archives in Annapolis, for checking this for me.

¹³² *Md. Arch.*, XXVII, 543.

¹³³ *Ibid.*, XXIX, 56.

¹³⁴ *Ibid.*, p. 57.

¹³⁵ *Ibid.*, p. 66. For Thomas Bordley and Wornell Hunt as delegates from Annapolis, see *ibid.*, p. 33; *Biographical Dictionary*, I, 39.

¹³⁶ *Md. Arch.*, XXIX, 138. John Leach was a delegate from Calvert County, Roger Woolford from Dorchester County, and Thomas Purnell from Somerset County. *Ibid.*, p. 128; *Biographical Dictionary*, I, 40.

¹³⁷ *Md. Arch.*, XXIX, 138.

¹³⁸ *Ibid.*, p. 142.

¹³⁹ *Ibid.*, pp. 96, 152. In the old statehouse the office of “the Clark of the house of Delegates” was the “Room above the Back porch.” 1697, c. 6, *Md. Arch.*, XIX, 595. If before these suggested changes the office of the clerk of the lower house in the new statehouse was located there, removing the door would allow light to escape, apparently into an upstairs hallway, “the Passage to all the upper Rooms.”

¹⁴⁰ Owings, *His Lordship's Patronage*, pp. 136, 162.

¹⁴¹ 1697, c. 6, *Md. Arch.*, XIX, 595.

¹⁴² *Md. Arch.*, XXIX, 104, 183. While the wording of the message in the records of the upper house is that one or two delegates should go “with the Gentlemen from” the upper house to view the offices (*ibid.*, p. 104), the wording in the records of the lower house is that the one delegate or two should go “with *these* Gentlemen from” the upper house. “These Gentlemen” must refer to Samuel Young and John Dorsey, who delivered the message to the lower house. *Ibid.*, p. 183. Emphasis added.

¹⁴³ James Lloyd was a delegate from Talbot County, and Daniel Mariartee was a delegate from Anne Arundel County. *Ibid.*, pp. 125, 128; *Biographical Dictionary*, I, 40.

¹⁴⁴ *Md. Arch.*, XXIX, 183-184.

¹⁴⁵ *Ibid.*, p. 189.

¹⁴⁶ *Ibid.*, pp. 125, 128; *Biographical Dictionary*, I, 40.

¹⁴⁷ *Md. Arch.* XXIX, 168.

¹⁴⁸ *Ibid.*, pp. 391-392.

¹⁴⁹ Here “stud” might mean the bolt that holds the door in place when it is locked.

¹⁵⁰ *Md. Arch.*, XXIX, 406.

¹⁵¹ *Ibid.*, XXX, 436, 437, 555. William Holland, Samuel Young, and Thomas Smith from the upper house and Robert Tyler of Prince George’s County, James Lloyd of Talbot County, Nathaniel Hynson of Kent County, Thomas Dent of Charles County, and Charles Wright of Queen Anne’s County from the lower house. *Ibid.*, pp. 477, 478; *Biographical Dictionary*, I, 42.

¹⁵² *Md. Arch.*, XXX, 436, 437, 555. Later the upper house and the committee itself have the date of the appointment of the committee as Friday, 3 August 1716. *Ibid.*, pp. 454, 577-578.

¹⁵³ *Ibid.*, pp. 454, 577-578.

¹⁵⁴ 1716, c. 1, *Md. Arch.*, XXX, 606-611.

¹⁵⁵ *Md. Arch.*, XXX, 457-458, 578. The commissioners were Samuel Young, Joseph Hill, Benjamin Tasker, and John Beale. Any two or three of them could act. 1716, c. 1, *Md. Arch.*, XXX, 608.

Samuel Young was a member of the council and the upper house (*Md. Arch.*, XXX, 371); Joseph Hill was a delegate from Anne Arundel County and Benjamin Tasker a delegate from Annapolis (*ibid.*, p. 477); and John Beale was clerk of the provincial court (*ibid.*, p. 490), clerk of the Committee of Elections and Privileges of the lower house (*ibid.*, pp. 484, 487, 500), and clerk of the Committee of Aggrievances of the lower house (*ibid.*, pp. 509, 510, 533, 583-584) as well as clerk of the committee to inspect the statehouse (*ibid.*, pp. 577-578), clerk of the committee to view the prison (*ibid.*, pp. 590-591), clerk of the conference committee on the style of the laws (*ibid.*, pp. 491-492), clerk of the conference committee to decide how much money would be necessary to build a magazine (*ibid.*, p. 594), and clerk of the conference committee to consider the dispute between Governor John Hart and Charles Carroll. *Ibid.*, pp. 600-602.

At this time Beale was also clerk of the secretary’s office and clerk of Anne

Arundel County. Owings, *His Lordship's Patronage*, pp. 140, 148. Earlier he was register in chancery, and later he would be clerk of the council and one of the commissioners of the paper currency office. *Ibid.*, pp. 136, 141, 164.

¹⁵⁶ *Md. Arch.*, XXX, 454, 579.

¹⁵⁷ *Ibid.*, pp. 457-458, 581. The problem of securing the records of the province from the weather, keeping the statehouse in good repair, and repairing the records that had been damaged continued. *Ibid.*, XXXIV, 52-53, 109-110.

¹⁵⁸ *Ibid.*, XXVII, 449.

¹⁵⁹ In 1697 the assembly provided that the rooms in the statehouse “be fitted up with all necessary and Convenient boxes, Shelves Desks and Tables to write on” and that “att the door of every office” there be a bar beyond which only the clerk could pass except “upon urgent and great occasion.” 1697, c. 6, *Md. Arch.*, XIX, 595.

¹⁶⁰ 1704, c. 91, *Md. Arch.*, XXVI, 427-428.

¹⁶¹ *Md. Arch.*, XXVII, 449-450, 459-460.

¹⁶² *Ibid.*, pp. 449-450. More work was done on “the Stadt house hill” in 1719, but probably this work had nothing to do with what Bladen was supposed to have done. On 2 June 1719 the lower house appointed Nathaniel Hynson, Thomas Emerson, and Roger Woolford to “view the Bricklayers & Labourers work done to the Wall, works and Pillars on the Stadt house hill” and report to the house. *Ibid.*, XXXIII, 423.

In the records of the lower house for the next day the clerk, Michael Jenifer, referred to “the walks walls & Pillars of the Stadt house hill,” but the members of the committee referred to “the Wall Works and pears [piers].” The three men reported that they had found that Governor Hart had agreed with Thomas Cook “for the work done next [to] the Magazine for thirty pounds.” They believed that that work would amount to one-third of the brick-work, “so that the whole Brick work” would cost ninety pounds. In addition, the two piers would cost thirty pounds. The delegates agreed that that was acceptable. *Ibid.*, pp. 431-432.

Nathaniel Hynson was a delegate from Kent County, Thomas Emerson from Talbot County, and Roger Woolford from Dorchester County. *Ibid.*, p. 365; *Biographical Dictionary*, I, 43.

¹⁶³ Again, the assembly first met in Annapolis on 28 February 1694/5 (*Md. Arch.*, XIX, 25, 119, 127), and the foundation of the first statehouse there had been

laid by 30 April 1696. *Ibid.*, p. 285. Elihu S. Riley, “*The Ancient City.*” *A History of Annapolis, in Maryland. 1649-1887* (Annapolis: Record Printing Office, 1887), p. 66, follows Ethan Allen, *Historical Notices of St. Ann’s Parish in Ann Arundel County, Maryland, Extending from 1649 to 1857, a Period of 208 Years* (Baltimore: J. P. Des Forges, 1857), p. 27, in saying that the foundation of the first statehouse was laid on 30 April 1696.

¹⁶⁴ *Md. Arch.*, XXIV, 305-306. John Hammond was a member of the upper house (*ibid.*, p. 285), and Samuel Young and Lawrence Draper were delegates from Anne Arundel County. *Ibid.*, p. 295; *Biographical Dictionary*, I, 35.

¹⁶⁵ *Md. Arch.*, XXIV, 291.

¹⁶⁶ *Ibid.*, p. 387. Samuel Young and Charles Greenberry were delegates from Anne Arundel County, and John Salter was a delegate from Kent County. *Ibid.*, p. 356; *Biographical Dictionary*, I, 35.

¹⁶⁷ *Md. Arch.*, XXIV, 387.

¹⁶⁸ *Ibid.*, pp. 388-389. For Samuel Young and Charles Greenberry, see Note 166 above.

¹⁶⁹ *Ibid.*, pp. 345, 390. I have not found the ordinance.

6. Attorney General

If William Bladen's work as a placeman, publisher, and contractor was inadequate, his performance as attorney general was also less than stellar. In spite of his having had some legal education in England,¹ in spite also of his having forty-eight titles of legal works when he died,² and in spite finally of his having practiced law in Maryland since 1693,³ when he became attorney general on 4 December 1704⁴ not only was he unaware of things that he should have known or should have been able to find out but apparently was also quite indifferent about whether he ever did learn those things. When Thomas Smithson, the chief justice of the provincial court, cited a case from Keble's *Reports*⁵ to justify his twice issuing writs to free Thomas Macnemara after Governor John Seymour had ordered him jailed in the dispute that resulted from Macnemara's wife Margaret's complaint that he had mistreated her, Bladen, advising Seymour and his council on 22 December 1707, blithely announced that he neither had the book nor knew the case and then irrelevantly went on to question Smithson's courage and integrity.⁶ Since Seymour himself had led the attack on Macnemara,⁷ such complacency could do Bladen no harm.

Nobody revealed Bladen's deficiencies during his thirteen-and-a-half years as attorney general⁸ more obviously than Thomas Macnemara, who was one of the most competent lawyers of his time but who was very unpopular with Governor John Seymour, Governor John Hart, and the ruling faction of the province, probably less because of his misbehavior or alleged misbehavior⁹ than because of his courage and his willingness to defend other unpopular people — and, one suspects, because of his competence itself amid the crowd of the woeful. During his career in Maryland he was seldom free from the harassment of authority, and as attorney general Bladen was one of his most enthusiastic tormentors.¹⁰

Macnemara exposed Bladen's weaknesses almost every time they met in court in a criminal action. Not only was Bladen unsuccessful in fifteen of the seventeen prosecutions that he brought against Macnemara himself — and only partially successful in the other two¹¹ —, but Macnemara had things to teach Bladen in cases in which he — Macnemara — was the attorney for other defendants as well.

At the Anne Arundel County court for June of 1706 Macnemara thwarted Bladen, who as attorney general could prosecute cases in the county courts, not once but twice. In the first case Bladen tried to prosecute Christopher Vernon, a gentleman, a former clerk of Anne Arundel County,¹² and a former clerk of indictments of that county,¹³ on a presentment from the court for March of 1705/6 but no indictment for allegedly killing a hog belonging to John Noades, but after Macnemara argued that the presentment was insufficient and uncertain the justices agreed with him and discharged Vernon.¹⁴ Probably Macnemara's argument was that for a crime as serious as hog-theft the prosecutor had to have an indictment,¹⁵ which was much more detailed than a presentment was.¹⁶

On the basis of a second presentment from the court for March of 1705/6 Bladen wrote up but did not send before the grand jury a bill of indictment against Vernon for allegedly slandering Jonathan Jones, a planter from Anne Arundel County, by saying that Jones had mis-marked a hog belonging to Noades. Macnemara also got this prosecution dismissed, apparently either because there was no indictment against Vernon because no grand jury had returned one or, more likely, because there was no common-law prosecution for slandering "ordinary" people.¹⁷ While a person could be prosecuted in the common law courts for slandering a peer or an official,¹⁸ others had to have recourse to a civil suit for slander.¹⁹

Macnemara gave Bladen an equally difficult time in the provincial court. After a petit jury at that court for May of 1706 found Thomas Whichaley, a gentleman and lawyer from Charles County,²⁰ guilty of perjury the justices ruled the indictment insufficient and discharged Whichaley after Macnemara argued that Bladen had made two errors in it. He had identified Philip Briscoe and William Herbert, the justices of Charles County before whom Whichaley on 11 August 1703 was supposed to have sworn falsely, as commissioners of the peace rather than as commissioners of oyer and terminer or commissioners for the trial of causes, and he had Thomas Smithson, the chief justice, presiding at the provincial court for May of 1704, where Whichaley

allegedly swore falsely again.²¹

In arguing that Bladen should have identified Briscoe and Herbert as commissioners of oyer and terminer or commissioners for the trial of causes rather than as commissioners of the peace Macnemara might have been pushing his argument to the limit and possibly even beyond. When on 11 August 1703 Whichaley was supposed to have sworn falsely before the two county justices there was only one county commission, which was called a commission of the peace,²² while by the time Whichaley was indicted at the provincial court for September of 1705 Governor John Seymour had begun to issue two county commissions, one called a commission of the peace and the other a commission of oyer and terminer. The commission of the peace provided for the criminal jurisdiction of the county justices, while the commission of oyer and terminer provided for both criminal and civil jurisdiction.²³ Since at the time of Whichaley's alleged perjury there was only one commission, called a commission of the peace, Bladen's identification of Briscoe and Herbert as commissioners of the peace might have been considered perfectly appropriate, and Macnemara might simply have been practicing the fine art of confusion, at which his enemies insisted he was an expert,²⁴ for the benefit of his client.

At the same time, however, since in the 1690s the county commission sometimes was referred to as a commission of the peace and for the trial of causes,²⁵ and since the case in which Whichaley was alleged to have sworn falsely was a civil action, in saying that Bladen should have referred to Briscoe and Herbert as commissioners of oyer and terminer or commissioners for the trial of causes Macnemara might not have been stretching the point as much as at first might appear.

Whether this argument had any influence on the provincial justices there is no way to know. It is possible that they decided that the indictment against Whichaley was insufficient only on the basis of the argument that Bladen had the wrong justice presiding at the provincial court for May of 1704. In that argument Macnemara was on solid ground, since Philip Hoskins had presided at that court.²⁶

At the provincial court for May of 1707 Macnemara frustrated Bladen in three separate cases. In the lustiest of these Bladen could not draw up an adequate bill of indictment against Edward Hammond, a planter and gentleman from Somerset County,²⁷ for unlawfully cohabiting with Enoch Griffen's wife Joan or Jane even though the justices after hearing Macnemara's arguments on a writ of error at their

previous court had just set aside Hammond's conviction and fine of twelve hundred pounds of tobacco at the Somerset County court for March of 1705/6 on an earlier indictment for the same alleged crime.²⁸

At the provincial court for September of 1706 Macnemara listed seven reasons why the provincial justices should set aside the judgment of the Somerset County court. First, he argued, the indictment did not state Hammond's *alias dictus*. That is, it did not include a second identification for him.²⁹ Second, the indictment did not state that Hammond had committed adultery before the minister and the vestrymen of his parish admonished him. Third, the indictment did not mention by name the minister and vestrymen who had admonished Hammond. Fourth, the indictment did not state that Jane Griffen was a lewd woman or that Hammond had lewdly frequented her company. Fifth, Hammond was tried at the same court at which the grand jury returned the indictment against him.³⁰ Sixth, the justices in giving judgment had not entered a *capiatur* against Hammond. That is, they had not ordered that he be held in custody until he paid his fine.³¹ Finally, the justices' judgment that Hammond give security for twelve hundred pounds of tobacco for committing fornication was neither agreeable to the indictment nor warranted by law.

Macnemara's last point must mean that Hammond was unmarried and that therefore while Joan Griffen could be guilty of adultery he could be guilty only of fornication,³² for which the fine was only six hundred pounds of tobacco rather than twelve hundred.³³

Because of those errors "and Many more in the Record" Macnemara asked the provincial justices to reverse the judgment against Hammond. Bladen, who as attorney general took over the prosecution in the provincial court from Samuel Worthington, the clerk of indictments for Somerset County, responded that neither in the record and proceedings nor in rendering judgment had the Somerset County court erred and asked the provincial justices to affirm the judgment. The justices continued the case to the next court in order to have time to think about it, and at the provincial court for May of 1707 they did reverse the judgment of the Somerset County court.³⁴

Bladen would try again. He immediately drew up another bill of indictment against Hammond and sent it before the grand jury, but although Macnemara's tutoring in the reversal of Hammond's earlier conviction should have been a warning

to him he still could not get it right.

In this bill Bladen charged that “Edward Hamond of somersett County Planter otherwise Called Edward Hamond of [blank space] parish in the County af^d Gentleman” in that parish and county on 30 August 1706 as well as “at Divers times since” did “entertain and provide for” Jane Griffen, the wife of Enoch Griffen, even though on 20 August 1706 Walter Evans, a churchwarden of All Hallows Parish in Somerset County, had duly admonished him.

The grand jurors did indict Hammond, and after a petit jury found him guilty and the justices asked him why they should not proceed to judgment on the verdict Macnemara argued that in two ways the indictment was insufficient. First, it did not identify the parish in which Hammond lived, and, second, it did not state that Joan Griffen, with whom Hammond was alleged to have cohabited, was a lewd woman. If she was not a lewd woman, Hammond’s cohabiting with her was no crime.

Again the justices agreed with Macnemara, quashed the indictment, and discharged Hammond “without Day.”³⁵ That meant that he would not have to appear later to answer the same indictment again,³⁶ and apparently Bladen gave up. Both his failure to mention in the second indictment the parish in which Hammond lived, which he could have discovered simply by looking at the indictment from Somerset County,³⁷ and his failure to claim that Joan Griffen was a lewd woman, which he should have learned was necessary from Macnemara’s recent lesson in the first case against Hammond, must mean either that he was very careless or that he did not want to get a conviction that would stick.

At the provincial court for September of 1707 Macnemara also won an acquittal for Joseph Hill, a gentleman and a delegate from Anne Arundel County,³⁸ on the charge of misprision of treason as an alleged accomplice of the alleged counterfeiter and traitor Richard Clarke after Bladen got Hill indicted at that court,³⁹ and, finally, he won an acquittal for Richard Harrison Jr., a gentleman from Calvert County, for allegedly marking a horse that belonged to John Mortemore after Harrison got a *certiorari*⁴⁰ to remove the case to the provincial court and Bladen as attorney general replaced Richard Dallam, the clerk of indictments of Calvert County, as the prosecutor and insisted that Harrison was guilty.⁴¹

All of these failures do not mean that in his legal battles with Macnemara in

criminal actions Bladen was always the loser, but his victories were scarce. William Foreman, however, did pay a price for his alleged crime in spite of Macnemara's efforts. At the provincial court for April of 1705 Bladen sent before the grand jury a bill of indictment in which he charged that in Baltimore County on 26 December 1704 Foreman, a planter, stole, killed, and converted to his own use two barrow hogs⁴² belonging to John Peasley and worth three pounds sterling. The grand jury returned the bill a true bill; a petit jury found Foreman guilty; and when the justices asked him what he had to say for himself he asked for an attorney to offer reasons for a stay of judgment.

Either Foreman chose or the justices appointed Macnemara as his counsel, and Macnemara argued that for two reasons the justices should set the verdict aside. First, the indictment was vicious because according to it the offense was against her Majesty's peace and the act of assembly in that case made and provided, while since the crime was a felony the indictment should have stated that it was against her Majesty's "peace crown and dignity and against the form & effect of the said Act of Assembly" in that case made and provided. Second, the indictment stated that the hogs were of the value of three pounds sterling when it should have stated that they were of the *price* of three pounds sterling.⁴³

This time the justices decided that Macnemara's arguments were insufficient to justify a stay of judgment and sentenced Foreman to an hour in the pillory and to eleven stripes at the public whipping post. They also ordered him to pay Peasley sixteen hundred pounds of tobacco fourfold.⁴⁴

Foreman, understandably, was not anxious to experience the whip and the pillory. When later in the session the justices ordered John Gresham, the sheriff of Anne Arundel County, to return his execution of the judgment against Foreman, Gresham responded that he had not executed the judgment because Foreman had escaped from his custody and had "not been found in his bayliwick till this instant." The justices ordered Gresham to execute the judgment immediately and fined him four pounds sterling for his neglect.⁴⁵ When Foreman appeared at the provincial court for September of 1705 under a recognizance for his appearance and his good behavior in the meantime nothing appeared against him, and the justices discharged him with his fees.⁴⁶

More than thirteen years later Bladen in spite of Macnemara's efforts got a

conviction against Thomas Woodfield for perjury. At the provincial court for September of 1717 he sent before the grand jury a bill of indictment in which he charged that on 5 April 1716 before Bladen himself as commissary general Woodfield, a planter from St. James's Parish in Anne Arundel County, swore to the truth of an account of the estate of Richard Got, whose widow and executrix, Elizabeth, Woodfield had married, even though the account was not true and that therefore Woodfield had "falsly maliciously Voluntarily Corruptly & wickedly of his most wicked Inclination" committed "Voluntary & Corrupt perjury." After the grand jury returned the bill a true bill the justices issued a *capias ad respondendum* for Woodfield's appearance before the provincial court for April of 1718.⁴⁷ At that court Macnemara, appearing for Woodfield, got a continuance until July.

In July Macnemara, whom in May the assembly had disbarred except in cases that he already had underway, provided that he behaved himself properly, and in cases in the chancery court in which he represented the Crown,⁴⁸ entered a plea of not guilty for Woodfield and asked for a trial by jury. The petit jury, however, found Woodfield guilty, and the justices returned him to the custody of Benjamin Tasker, the sheriff of Anne Arundel County, until they could decide what to do with him. Later during that same session they sentenced him to stand one hour in the pillory and required him to give bond of fifty pounds sterling, with two sureties of twenty-five pounds sterling each, to guarantee his appearance at the next court and his good behavior in the meantime. Woodfield did give the security, with Thomas Docwra and Thomas Walker as his sureties, and the justices discharged him with his fees.⁴⁹ When he appeared at the provincial court for September of 1718 the justices again discharged him with his fees.⁵⁰

Bladen had little time to enjoy this victory: he would be dead in less than a month.⁵¹ Macnemara had about thirteen months left.⁵²

It was not only in cases in which Macnemara was the opposing attorney that Bladen exhibited an injudicious carelessness. At the provincial court for October of 1709 he sent before the grand jurors a bill of indictment in which he charged that in Annapolis on 5 July 1709 William Maunder, whom he identified both as a laborer and as a planter, feloniously assaulted Edward Selby, another planter, "Did beat wound and Evilly intreat" him, and then with a gun worth five shillings gave Selby

“Divers Mortall blows wounds and bruises” on his head and sides. Selby languished for fourteen hours and then died. Since Maunders had allegedly acted with malice forethought Bladen charged that he “willfully and feloniously Did Kill and Murther” Selby.

For two reasons it was important that in the indictment for a death the wound or wounds of which the victim died be accurately described and the weapon or other instrument that caused the death be precisely identified and valued. First, if a person was going to be hanged or otherwise punished for the death of another, it was important that the wound or wounds of which the victim died was the one, or were the ones, that the defendant had inflicted on him.⁵³ Second, any instrument that was the cause of a person’s death — or its equivalent value in money — was forfeited to the Crown as deodand.⁵⁴ When the proprietor controlled Maryland the deodand went to him.⁵⁵

After the grand jurors returned the bill a true bill and Maunders pleaded not guilty the court swore a petit jury, but since the justices and Bladen suspected that one of the jurors, Henry Carter, was prejudiced in Maunders’ favor the justices dismissed him and swore one of the bystanders, James Crooke, to the jury in his place. Bladen himself then pointed out that the date of the assault should have been 5 August 1709 instead of 5 July and that therefore he would not prosecute Maunders any further on that indictment. With the entry of the *nolle prosequi* the justices ruled that the jurors were excused from returning any verdict in the case and that Maunders should “Go thereof quiet.”

After the entry of the *nolle prosequi* Maunders asked the justices to clear him by proclamation. When as part of the proclamation the crier announced that if any person could inform either the court or the attorney general of any misdemeanor that Maunders had committed he should come forth and be heard, someone did come forth with information concerning the death of Edward Selby, and therefore the justices ordered Maunders to give security of fifty pounds sterling with two sureties of twenty-five pounds sterling each to appear at the next provincial court to answer what might be objected against him and to behave himself in the meantime. Maunders did give the security, with Wornell Hunt, a lawyer from Anne Arundel County, and Henry Carter, a glazier from the same county, as his sureties, but the justices committed him to the custody of the sheriff of Anne Arundel County until he could

pay his fees. If he could not pay his fees or find sureties to guarantee their payment he would be sold into servitude.⁵⁶

When Maunders appeared at the provincial court for April of 1710 the justices discharged him from his recognizance, and apparently he was never tried for the death of Edward Selby.⁵⁷

In 1712 Bladen's inconsistencies and omissions in his bill of indictment against George Askins in the death of his wife Anne must have been sufficient to justify the reversal of Askins' conviction of manslaughter even if Askins had not alleged that there were also other errors in the record. At the assizes⁵⁸ for Charles County for May of 1708 Bladen sent before the grand jury a very confusing bill of indictment in which he charged that on 24 April 1708 Askins "did . . . feloniously hall [*sic*] and Dragg [Anne Askins] by the Legg on the ground for many Spaces," then knocked her down with the handle of a hoe that he held in his right hand and that was worth two farthings. While she was on the ground Askins allegedly beat, bruised, and struck her on the small of her back with a wooden chair worth six pence sterling and inflicted one mortal wound. With those "Mortall blows stroakes and bruises" Anne Askins languished until 3 May, when she died. Askins was guilty of murder, Bladen charged, because he had attacked his wife with malice forethought.

A petit jury found Askins not guilty of murder but guilty only of the felonious killing of his wife, which was the same as manslaughter.⁵⁹ Since the person convicted of a felony forfeited his property,⁶⁰ the petit jury also inquired into Askins' goods, chattels, lands, and tenements and found that at the time of the killing he had one hundred acres of land, two servants, one mulatto boy, and two cows. When the justices asked him what he had to say for himself he pleaded benefit of clergy,⁶¹ and the justices directed John Frasier, the ordinary or prison-preacher,⁶² to present the Bible to Askins to test whether he could read even though after 1706 a defendant was not supposed to have to read in order to claim his clergy.⁶³ Askins did read, and the justices therefore ordered that he be branded on his left hand.

While with the conviction of manslaughter Askins would lose his goods and chattels and his lands and tenements, his pleading benefit of clergy should have resulted in the recovery of his lands and tenements.⁶⁴ Askins, however, wanted to recover his goods and chattels as well, but that would require that his conviction be reversed. On 9 October 1710 he sued out a writ of *certiorari*, by which the provin-

cial justices directed the assize justices to send them the record of Askins' conviction so that they could consider the case.⁶⁵ Nothing was done on that writ, however,⁶⁶ probably because it was the wrong writ to use. The *certiorari* could be used only before trial.⁶⁷

On 18 June 1711, therefore, Askins sued out a writ of error, by which Edward Lloyd as president of the council and chancellor of the province ordered the assize justices to send the record of Askins' conviction to the provincial court.⁶⁸

At the provincial court for July of 1711 Askins appeared, apparently through Wornell Hunt,⁶⁹ who claimed that Bladen had made five errors in the bill of indictment against him and that there were also three other errors in the record of his case. First, Hunt argued, the record stated that the assizes were held before William Holland and Kenelm Cheseldyne but did not state under which commission they were sitting when they tried Askins "nor what they were Comissionated to do."⁷⁰ Second, the indictment stated that it was returned "by the oaths of the grand Jury" but did not state that the grand jurors "were honest and Lawfull men nor that they were of or for that County." Third, the indictment stated that Askins gave Anne Askins one mortal blow but did not state "that he held the Instrum^t in his hand at the time." Thus he might have hit her with something other than either the handle of the hoe or the wooden chair, the two weapons that Bladen specified in the indictment. That was "very uncertain and not according to President [precedent]."

Fourth, Hunt argued, the indictment stated that Anne Askins languished of mortal blows, strokes, and bruises, while earlier in the indictment the grand jurors alleged that he had given Anne only one mortal blow. Fifth, according to the indictment Anne Askins died of "Divers St[r]okes," but the indictment did not state either the length or the width of the wounds or of which of them she died. Therefore there was no way to know whether the wounds were mortal. Sixth, according to the indictment Askins had beaten Anne Askins "of his Mallice forethought," but the malice forethought was altogether uncertain because the indictment mentioned "three Different and Distinct times," and the jury had "not found when or where Certain" he had killed her.⁷¹

Seventh, Hunt pointed out, the record stated that he was brought to the bar in the custody of the sheriff to answer to the indictment but did not state when, where, or before whom he was brought to the bar. And, finally, according to the record the

petit jury, “tryed & sworn to Speak the truth of and Concerning the premises,” said that Askins was not guilty of murder but was guilty of the felonious killing “but did not Say [it] upon their oaths.”

Like other technical errors that might lead to the reversal of a conviction, these were exactly the sorts of errors that gave the justices fits. Every error was a technical one, and half of them had nothing to do with Askins’ guilt or innocence.⁷² The provincial justices continued the case until October, and in October they continued it until April of 1712, when they reversed the judgment of the assize justices and granted Askins a writ of restitution, by which he would recover his property.⁷³

Since the provincial justices reversed Askins’ conviction, he would recover his goods and chattels. By pleading benefit of clergy he had already recovered his lands and tenements.

William Bladen’s favorite target as attorney general was his arch-enemy Thomas Macnemara, and while in his vendetta against Macnemara he had little success he did at least have the satisfaction of knowing that he was costing his talented tutor a lot of money, time, and concern.

In an action that he brought against Macnemara at the provincial court for April of 1708 for the recovery of four hundred pounds sterling on a bond that Macnemara had entered for his good behavior after his wife Margaret complained of his allegedly harsh treatment of her⁷⁴ Bladen used the wrong writ even though he had been attorney general for more than three years.⁷⁵ At the provincial court for July of 1708 the justices quashed the action after Robert Goldesborough argued for Macnemara, who at this time was disbarred,⁷⁶ that Bladen should have summoned him through a writ of *scire facias* rather than through a *capias ad respondendum*.⁷⁷ Bladen did not try again, possibly because at the provincial court for September of 1707, before Bladen ever brought the action on the *capias ad respondendum*, the provincial justices had ruled that the bond was void and had replaced it with a bond of only one hundred pounds sterling after Macnemara argued that the earlier bond was excessive.⁷⁸

While Bladen was totally frustrated in fifteen of the seventeen criminal prosecutions he brought against Macnemara from 1710 through 1718, in two cases he did have some limited success. In his prosecution of Macnemara and John Mitchell, another gentleman from Annapolis, for the alleged murder of Thomas Graham, a

Quaker merchant from Pennsylvania, after Macnemara shot Graham in a fight aboard Graham's sloop and Mitchell allegedly abetted him, a petit jury at the provincial court for July of 1710 found the two defendants guilty of the far less serious crime of chance-medley,⁷⁹ and even though the provincial justices sent the jurors out a second and then a third time to try to get them to find the two men guilty of murder, or at least of manslaughter, the jurors stood firm. Unable to intimidate the jurors, the justices themselves at their session for October of 1710 illegally raised Macnemara's crime to manslaughter;⁸⁰ he pleaded benefit of clergy; and the justices ordered him branded in the hand. Mitchell, not the nemesis of authority that Macnemara was, received a pardon,⁸¹ as anyone convicted of chance-medley was supposed to.⁸² Probably Macnemara and Mitchell should never have been indicted for murder to begin with: what little evidence exists in the case appears to fit chance-medley or manslaughter better than it fits murder.⁸³

Macnemara went to England to complain.⁸⁴ There the Committee for Hearing Appeals from the Plantations, which was only the Privy Council in one of its many manifestations,⁸⁵ decided that the provincial justices should have discharged Macnemara instead of raising his conviction to manslaughter and recommended that he have a writ of error to remove his case to the high court of appeals of the province. Queen Anne agreed, and she and her Privy Council ordered that Macnemara have the writ of error.⁸⁶ Macnemara did get his writ of error, and in light of the conclusions of the Privy Council Edward Lloyd and the other members of the council of Maryland sitting as the high court of appeals⁸⁷ had no choice but to reverse his conviction.⁸⁸

Unfazed by his failure to get Macnemara hanged for murder, Bladen would soon have another opportunity to prosecute him. This time, however, he had to be satisfied with a lesser allegation. At the provincial court for April of 1711, the first court after the justices railroaded Macnemara into a brand on his hand, Bladen sent before the grand jury a bill of indictment in which he charged that in William Taylard's kitchen loft in Annapolis on 22 December 1710 Macnemara assaulted and attempted to bugger the fifteen-year-old Benjamin Allen. The grand jury returned the bill a true bill. In his anxiety to prosecute Macnemara, however, Bladen had made two serious errors in the bill. He had Macnemara acting feloniously, and he had him acting against "the forms of the Statute" against attempted buggery.⁸⁹ Attempted

buggery, however, was only a misdemeanor,⁹⁰ and there was no written law against it. It was prosecuted instead under the common law.⁹¹

Macnemara had gone to England,⁹² and by the time the provincial court met on 7 October 1712,⁹³ the first trial court after Macnemara returned,⁹⁴ someone must have told Bladen about his errors. At that court he informed the justices of the insufficiency of the indictment, and the justices ordered him to prepare a new one. The grand jury returned the corrected bill against Macnemara a true bill; Macnemara, in what might have been an early plea-bargain, pleaded guilty of the assault but not guilty of the attempted buggery; and the provincial justices fined him fifteen hundred pounds of tobacco for the assault and dismissed the more serious charge.⁹⁵

While Bladen's success in these two cases was clearly less than sensational, in later cases against Macnemara he was even less successful. In addition to the second indictment for allegedly attempting to bugger Benjamin Allen, from October of 1712 through July of 1718 he got ten indictments against Macnemara in the provincial court — six of them in September of 1717,⁹⁶ within four weeks of Bladen's complaining to the justices of Anne Arundel County that Macnemara had called him a "Blockhead booby"⁹⁷ — and one in the Anne Arundel County court. Four of the eleven indictments were for allegedly taking excessive fees as an attorney,⁹⁸ one for allegedly collecting fees from a man who had not employed him in the cases for which he collected the fees,⁹⁹ one for allegedly recovering more money from a planter than the king had coming to him and converting the difference to his own use,¹⁰⁰ three for alleged assaults,¹⁰¹ and two for allegedly seditious speech.¹⁰²

Bladen prosecuted none of these eleven indictments successfully. Only three of them got as far as petit juries, and in all three of these cases the juries found Macnemara not guilty.¹⁰³ One indictment the provincial justices struck off at the complainant's request because he could not maintain it;¹⁰⁴ two indictments the provincial justices quashed for reasons that do not appear in the record¹⁰⁵ but probably because Bladen had his dates wrong;¹⁰⁶ on one Macnemara received the benefit of the king's general pardon before he was tried because the alleged offense had occurred before 1 May 1717;¹⁰⁷ and four of the indictments dragged on until they became obsolete when Macnemara died.¹⁰⁸

In addition to these eleven indictments, grand juries at the provincial court returned *ignoramus* three bills of indictment against Macnemara, two of them simply

revisions of the two indictments that the provincial justices had quashed¹⁰⁹ and the third for allegedly taking excessive fees in another case.¹¹⁰

Besides all of that, Bladen was unsuccessful in his prosecution of Macnemara on two writs of *scire facias*. The first was for the forfeiture of his bond of twenty pounds sterling for his good behavior that the provincial justices at their court for April of 1714 had forced him to enter after Anthony Ivy swore that he was afraid that Macnemara would do him bodily harm.¹¹¹ At the provincial court for July of 1714 William Dobson swore “on the holy Evangelists of Almighty God” that Macnemara had assaulted and beat him “on Monday last”;¹¹² Bladen sued Macnemara for the forfeiture of his bond; but finally at the provincial court for May of 1716 a petit jury found Macnemara not guilty after he argued that Dobson had assaulted his servant James Horsley first and that he was only defending Horsley.¹¹³ The second such action the provincial justices at their court for April of 1717 ordered struck off, but no details of that case remain.¹¹⁴

Possibly the most telling single piece of evidence of Bladen’s carelessness or ignorance as attorney general is that in April of 1717, when he had held that office for more than twelve years, he did not distinguish between an indictment for chance-medley and an indictment for murder and in his confusion prosecuted on an indictment that makes no sense.

In this bill, which he sent before the grand jury at the provincial court for April of 1717, Bladen charged that in Calvert County on 9 October 1716 James Jarvis, a planter, “the fear of God before his Eyes not having but being Seduced by the Devil” “by Chance and unwittingly feloniously” shot Edmond Poole, another planter from Calvert County, with a fowling piece worth twelve shillings sterling and loaded with gunpowder and drop-shot and in Poole’s right shoulder inflicted “divers Mortal Strokes and Wounds” four inches deep. Poole “Instantly dyed,” and Bladen charged that Jarvis “did feloniously kill and Murder” him.

The grand jurors returned the bill a true bill, but after Jarvis pleaded not guilty the petit jury agreed with him, and the justices discharged him with his fees.¹¹⁵

If Jarvis shot Poole “by Chance and unwittingly” he could hardly have been “Seduced by the Devil,” and the charge of murder required that the culprit had acted with malice forethought.¹¹⁶ “By Chance and unwittingly,” as Bladen apparently

never took time to figure out, automatically excluded such malice.

Like many other people in early-eighteenth-century Maryland, William Bladen believed in witchcraft. At the provincial court for October of 1712 he sent before the grand jury a bill of indictment in which he charged that on 19 August 1712 “and at divers times before” Virtue Violl, a spinster¹¹⁷ from Talbot County, “God before her Eyes not Having but being Seduced by the devil most Wickedly & diabolically did Use Practice & Exercise Witchcraft” and “did waste Consume and pine the body of” Elinor Moore, another spinster from Talbot County, and with “her most wicked and Diabolical Use Practice & Exercise of Witchcraft” did “lame” Elinor Moore’s tongue and render her speechless. After the grand jury returned the bill a true bill Virtue Violl pleaded not guilty; a petit jury agreed; and the justices discharged her with her fees.¹¹⁸

Especially since Bladen served as attorney general in an era in which criminal procedures were heavily weighted against suspects and defendants and in which defendants were considered guilty until they could prove themselves innocent,¹¹⁹ his success in getting convictions is less than impressive. While in prosecutions at the provincial court he did manage to get at least fifteen people condemned to hang, and at least one more at a special court of oyer and terminer,¹²⁰ in the prosecutions of which records remain he failed more often than he succeeded.

Bladen’s high proportion of failures might be evidence not only of incompetence but also of simple cynicism.¹²¹ Criminal prosecutions and punishments in eighteenth-century Maryland were designed as deterrents — warnings to others to behave themselves as authority demanded¹²² —, and the prosecution of an innocent person was as good a warning as the prosecution of a guilty person was.¹²³

Actually the prosecution of an innocent person might provide an even *better* warning than the prosecution of a guilty person would. The person who watches the prosecution of a defendant whose guilt appears to be clear might conclude that if he does not break any laws he will be safe, while watching the prosecution of an innocent person might lead him to conclude that he had better not draw attention to himself in any way by deviating from the strictest conformity. If the innocent person is convicted and punished, and especially if he is hanged, the warning should be even

more effective.

Whether as a result of incompetence or cynicism or both, Bladen's failures were legion. In the provincial court from April of 1705, the first court at which he was attorney general, through July of 1718, his last, he got at least 120 indictments accusing 147 defendants. Since in the entry of one indictment the defendant is not named,¹²⁴ that leaves 119 indictments and 146 known defendants.¹²⁵ Of the 130 defendants named in the 103 indictments traced,¹²⁶ sheriffs could not find five,¹²⁷ and in one case the defendant — Thomas Macnemara — received a pardon before he was tried. Of the 124 remaining defendants, petit juries found thirty-nine, or 31.45%, not guilty. Twelve defendants — 9.68% — Bladen did not prosecute but entered *nolle prosequis* in their cases; six indictments — 4.84% — the justices struck off; in three cases — 2.42% — the justices quashed the indictments before the defendant — Thomas Macnemara — was tried; and in three cases the indictments were never tried but dragged on until both Bladen and the defendant — Thomas Macnemara again — were dead.¹²⁸ If we add these twenty-four defendants to the thirty-nine whom petit juries found not guilty we have sixty-three defendants out of 124, or 50.81%, whom Bladen either did not prosecute or else prosecuted unsuccessfully and thus a rate of success of 49.19%.

Of the other sixty-one defendants whom Bladen got indicted twelve pleaded guilty and petit juries convicted forty-nine. Three of the forty-nine convictions, however, the provincial justices quashed;¹²⁹ in each of three others they entered an arrest of judgment;¹³⁰ the convictions of two defendants the assembly nullified;¹³¹ and one conviction the high court of appeals reversed.¹³² That makes seventy-two of the 124 defendants — 58.06% — in whose prosecutions Bladen was ultimately unsuccessful and thus brings his rate of success down from 49.19% to 41.94%.

If we consider only the prosecutions that actually went to trial Bladen looks a little better. He got convictions of forty-nine of those eighty-eight defendants. That is a rate of success of 55.68%. If we subtract the three convictions that the provincial justices quashed, the three in which they entered arrests of judgment, the two that the assembly nullified, and the one that the high court of appeals reversed, however, Bladen's rate of success falls to 45.45%.

If we add to the eighty-eight defendants whose cases went before petit juries the twelve defendants who pleaded guilty Bladen looks better still. The forty-nine

defendants who were convicted and the twelve who pleaded guilty total sixty-one of the one hundred, a rate of success, obviously, of sixty-one percent. Again subtracting the three convictions that the provincial justices quashed, the three in which they entered arrests of judgment, the two that the assembly nullified, and the one that the high court of appeals reversed brings Bladen's successes down to fifty-two out of one hundred and therefore to a rate of success of fifty-two percent.

The most important comparison here is Bladen's ability to get pleas of guilty from or sustainable convictions of only 41.94% of the defendants against whom he got indictments in the provincial court and whose cases have been traced and thus his failure in the prosecution of 58.06% of these defendants.

Even that lowest figure, however, over-states Bladen's success, since petit juries found twelve of the defendants guilty of crimes less serious than he had charged them with, and a thirteenth defendant pleaded guilty to the lesser charge in the indictment and the justices dismissed the more serious one. Six of these thirteen defendants were originally charged with murder, four with burglary, one with being an accessory to a burglary, one with burglary and arson, and one with assault and attempted buggery.

Since the assembly eventually nullified two of these convictions,¹³³ they have already been included among Bladen's seventy-two failures. If we add the eleven remaining partial failures¹³⁴ to his seventy-two others we have a total of eighty-three out of 124, for a failure rate of 66.94% and a rate of success of only 33.06%. That might not be quite fair, however, since Bladen did at least manage to get durable convictions of ten of these defendants for *something*, and from the eleventh defendant he did get a minimal plea of guilty.

It is true that in England in the eighteenth century and earlier there was also a high proportion of acquittals.¹³⁵ An important difference, however, is that William Bladen was a professional public prosecutor, while in England criminal proceedings continued to depend on private prosecutors until the middle of the eighteenth century.¹³⁶ In the counties as well as in the provincial court, Maryland was decades ahead of England in appointing public prosecutors.¹³⁷

Whichever of these figures we choose for comparing Bladen's successes and failures, his failure to get the indictments right in two of these five cases of alleged burglary provides additional evidence of the quality of his work as attorney general.

At the provincial court for April of 1715 the grand jurors charged that on 1 December 1714 John Taylor, a planter from Cecil County, feloniously and burglariously¹³⁸ broke into John Ward's mansion-house in Sassafras Hundred and stole ten pounds of silver money "current in Maryland" and "of the like value in Currency." Since in the bill of indictment Bladen did not allege that the crime had occurred at night, much less include the time of the night that Taylor was supposed to have broken into the house, the indictment was inadequate to justify the charge of burglary.¹³⁹ But probably Taylor did not know that, and he had no lawyer.¹⁴⁰ After he pleaded not guilty a petit jury found him not guilty of burglary but guilty of felony to the value of five pounds current money. The justices turned him over to Thomas Reynolds, the sheriff of Anne Arundel County,¹⁴¹ while they considered what to do with him, and later decided that the money he stole was worth nine hundred pounds of tobacco. That brought him under the law of Maryland rather than of England and allowed him to escape the threat of hanging,¹⁴² and the justices sentenced him to pay Hand thirty-six hundred pounds of tobacco fourfold and to have a T branded on the brawn of his left thumb. Why the justices ordered Taylor branded rather than whipped and pilloried, the punishment that the law provided in such a case,¹⁴³ does not appear.

Reynolds immediately branded Taylor in open court, but because Taylor could not find sureties to guarantee the payment of the fourfold and his fees the justices committed him to the custody of Roger Larremore, the sheriff of Cecil County.¹⁴⁴ If he could not find sureties to pay the fourfold and his fees he would be sold into servitude.¹⁴⁵

Like the omission of the time of the alleged burglary in the indictment against John Taylor, Bladen's uncertain wording of the indictment against Hester Oldfield and Hester Smith made it inadequate to sustain the charges of burglary and accessory to burglary. At the provincial court for September of 1717 the grand jury charged that on 21 August 1717, at about "the third hour before the Noon and in the night of the same day," Hester Oldfield, a spinster from Annapolis, with knives and daggers feloniously and burglariously broke into John Leakie's dwelling-house in Annapolis and stole a variety of money altogether worth £27.18.6 current money,¹⁴⁶ and that Hester Smith, a widow from Annapolis, received and entertained Hester Oldfield in her house even though she knew that she had committed the burglary. The third hour before noon would be between nine and ten o'clock in the morning, which would be

broad daylight and would make the crime only breaking and entering, and if Bladen was charging that Hester Oldfield also broke into the house at night he should have made that clear and included the time.¹⁴⁷

After both women pleaded not guilty a petit jury found Hester Oldfield guilty of felony but not of burglary and Hester Smith guilty as accessory to felony but not to burglary. The justices turned the two women over to Thomas Reynolds while they considered the case and later continued it to the next court. In October they ordered that each woman be branded with a T “in the brawn of her right hand . . . according to the forms of the Statute in such Case made and provided.” After Reynolds branded the two women the justices returned them to his custody because they could not find sureties to guarantee the payment of their fees.¹⁴⁸

Why the justices chose the sentence they did for Hester Oldfield and Hester Smith is not clear. For a theft of this size the punishment would be based on the law of England, and for both the principal and the accessory the punishment should have been death.¹⁴⁹ Since later the assembly decided that the two women had been convicted unjustly, possibly the justices already doubted their guilt.

Almost eight months after their conviction and punishment the two Hesters were still in jail. Finally on 5 May 1718 they petitioned the upper house, which concluded that as a result of “the Corrupt & Malicious Evidence” of their prosecutors they had suffered unjustly and suggested to the delegates that they be freed “from their Unhappy Confinements at the public Charge.” This wording makes it appear that the members of the upper house might have been concerned as much about the cost of keeping the women at the public charge as about the injustice of their unhappy confinements. But the delegates agreed, and the assembly “Discharged released and Acquitted” the two women “from all manner of Fees Debts or Duties” and released them from jail.¹⁵⁰ Why they were not sold into servitude for their fees, as was the usual practice,¹⁵¹ does not appear. Though the two women were freed, the assembly could not revoke the pain of their brands or their long imprisonment.

The corrupt and malicious prosecutors of the two Hesters must have been the alleged victim John Leskie himself, Andrew Mackfarlan, and Francis Mercier, who were sworn to the grand jury and were the witnesses to the indictment.¹⁵²

Other cases suggest that in his enthusiasm Bladen might have over-charged the defendants. The justices’ reducing the value of John Taylor’s theft might mean either

that Bladen had over-charged him or that they deliberately reduced the value in order to save him from the threat of hanging, and the same possibilities exist in the case of Anne Read.

At the provincial court for May of 1716 the grand jurors charged that at about ten o'clock on the night of 30 March 1716 Anne Read, a spinster from Anne Arundel County and the servant of an unidentified master, feloniously and burglariously broke into John Batie's mansion-house in St. James's Parish¹⁵³ and stole handkerchiefs and clothing¹⁵⁴ that the grand jurors — which of course really means Bladen — valued at £6.1.0 sterling. After Anne Read pleaded not guilty a petit jury found her not guilty of burglary but guilty of felony to the value mentioned in the indictment. The justices turned her over to Reynolds while they considered her case, and later, after deciding that the stolen goods were worth nine hundred pounds of tobacco, they sentenced her to pay Batie thirty-six hundred pounds of tobacco fourfold, to receive “thirty six [*sic*] lashes on her bare back well Lay on,” and to stand for one hour in the pillory. After Reynolds carried out the whipping and pillorying the justices ruled that since Batie had recovered his stolen goods they be considered one part of the fourfold and ordered that Reynolds return Anne Read to her master.¹⁵⁵ Since as a servant Anne Read would not be able to pay even the three-fourths of the fourfold she would have to serve another term of servitude to satisfy that amount.¹⁵⁶

In another case in which Bladen might or might not have over-charged the defendant, at the provincial court for April of 1712 the grand jurors charged that at about eleven o'clock on the night of 19 July 1711 Martin Kenney, a planter from Talbot County, feloniously and burglariously broke into William Elmhurst's mansion-house in Oxford while Elmhurst was in the house and from a chest stole goods altogether worth £11.15.0 sterling,¹⁵⁷ and that Pierce Flamen and John Henerkin (?), two other planters from Talbot County, and Flamen's wife Margaret feloniously received, concealed, comforted, and entertained Kenney on 21 July even though they knew that he had committed the burglary.

What happened to Henerkin does not appear,¹⁵⁸ but after Bladen decided not to prosecute Pierce and Margaret Flamen a petit jury found Kenney guilty of felony but not of burglary. The justices turned him over to Thomas Gassaway, the sheriff of Anne Arundel County at the time, while they considered the case, and when later they asked him what he had to say for himself he pleaded benefit of clergy. Edward

Butler, the rector of St. Anne's Parish in Anne Arundel County,¹⁵⁹ presented the Bible to Kenney; Kenney was able to read; and the justices ordered Gassaway to brand a T on the brawn of his right thumb. After Gassaway branded Kenney in open court the justices returned him to Gassaway's custody because he could not pay his fees.¹⁶⁰ Already having faced the possibility of being sold into servitude two-and-a-half years earlier after a petit jury found him not guilty of an alleged burglary,¹⁶¹ Kenney now faced that possibility again.

At the provincial court for October of 1712 Bladen similarly might or might not have over-charged Edward Dawson's Negro Hanniball and Elizabeth Taylor when he prosecuted them for burglary and arson. At that court the grand jury charged that at about eleven o'clock on the night of 28 December 1711 Negro Hanniball and Elizabeth Taylor, a widow and the servant of an unidentified master, feloniously and burglariously broke into John Mackleane's dwelling house in Prince George's County and stole clothing and other goods worth a total of £7.3.6 sterling and then burned the house.¹⁶² After a petit jury found Elizabeth Taylor not guilty and Negro Hanniball guilty only of stealing the buttons and the earring "to the Value . . . Laid" in the indictment — apparently fifty shillings sterling¹⁶³ —, Hanniball pleaded benefit of clergy. With that the justices appointed the Reverend John Cai ordinary to present the book to Hanniball, and "Negro Hanniball having a book delivered him . . . [did] read as a Clerk."¹⁶⁴ The justices ordered Thomas Gassaway immediately to brand a T on the brawn of Hanniball's right thumb in open court, and when Gassaway had done that they ordered Hanniball committed to Gassaway's custody until Dawson gave security of fifty pounds sterling with two sureties, apparently of twenty-five pounds each, to guarantee Hanniball's good behavior for as long as he lived in Maryland.¹⁶⁵

Hanniball should never have had to plead benefit of clergy, since the petit jury did not find him guilty of burglary and since the six hundred pence that constituted fifty shillings, the maximum value of the items it did convict him of stealing, would have bought far less than one thousand pounds of tobacco required to bring him under the law of England.¹⁶⁶ Therefore he should have come under the law of Maryland and should have been subject to only a whipping, a stint in the pillory, and the payment of the fourfold, which of course as a slave he would not have been able to pay. But since a layman could claim benefit of clergy only once,¹⁶⁷ Hanniball's

having used up his clergy would put him under additional pressure to behave himself in the future if Dawson should decide to keep him in the province.¹⁶⁸

The five cases in which petit juries found the six defendants guilty of something less serious than murder might also indicate that Bladen had over-charged them. Especially this would appear to be true in the cases of the four defendants whom the petit juries found guilty only of misadventure or chance-medley, since if the jurors had wanted only to save the defendants' lives they could have found them guilty of the more serious crime of manslaughter and the defendants could have pleaded benefit of clergy.

At the provincial court for May of 1707 a petit jury found Edward Spalding, a planter from St. Mary's County, guilty only of "Manslaughter [*sic*] by Misadventure"¹⁶⁹ instead of murder after he shot John Harvy, identified both as a planter and as a servant of John Spalding, in the head on 19 October 1706. Spalding received a pardon,¹⁷⁰ which was supposed to be automatic in the case of misadventure.¹⁷¹ At the provincial court for July of 1710 a petit jury found Thomas Macnemara and John Mitchell, whom the grand jury charged with the murder of Thomas Graham, guilty only of chance-medley, which by the eighteenth century was considered the same thing as misadventure.¹⁷² Mitchell received his pardon, but the justices illegally raised Macnemara's crime to manslaughter, and after he pleaded benefit of clergy he was branded with an M on his left hand.¹⁷³ Finally, after the grand jury at the provincial court for September of 1717 charged Mulatto Abraham Johnson with murdering Mathew O'Neale in Dorchester County on 14 August 1717 by beating him with "Swords, fists, feet and Staves" and by "Cast[ing him] down to the Ground," a petit jury found him guilty only of killing O'Neale by chance-medley. The justices then allowed Johnson time to sue out his pardon. They also required Johnson's master, John Stevens, to give bond to deliver him to the justices of Dorchester County at the expiration of his servitude in order that he could provide for the payment of his fees.¹⁷⁴ The justices would sell him into another term of servitude.

The two cases in which petit juries found the defendants guilty only of manslaughter instead of murder might indicate either that Bladen had over-charged them or that the petit juries deliberately reduced the seriousness of their crimes in order to save them from the gallows. At the provincial court for October of 1710 a petit jury found Henry Sutton, a cooper from Talbot County, guilty only of manslaughter

instead of murder after he killed Nicholas Low's Negro Richard by clubbing him twice on the back of his neck on 22 August 1710. Sutton pleaded benefit of clergy and was branded with an M on his left hand.¹⁷⁵ And at the provincial court for April of 1713 a petit jury found Richard Lock, a planter from Queen Anne's County, guilty only of manslaughter rather than murder in the death of the fourteen-month-old Katherine Fitzhugh after she died of a blow to the head with a lathing hammer on 10 September 1712. Lock too pleaded benefit of clergy and was branded with an M on the brawn of his left thumb.¹⁷⁶

In the last case in which Bladen was less than totally successful he also might have over-charged the defendant. When at the provincial court for October of 1712 the grand jury charged Thomas Macnemara with assaulting and attempting to bugger young Benjamin Allen, Macnemara pleaded guilty to the lesser charge of assault and the provincial justices dismissed the more serious charge of attempted buggery.¹⁷⁷

While a person might adopt the conventional view that in all except the last of these thirteen instances the jurors or the justices in order to allow the defendants to escape hanging were indulging themselves in the "pious perjury"¹⁷⁸ of deliberately reducing the seriousness of the crimes the defendants had committed, such a conclusion would be premature. Such mitigation might have occurred in colonial Maryland as it apparently did in eighteenth-century England,¹⁷⁹ but it is also possible that in some, many, or even most of these cases an over-enthusiastic William Bladen had brought charges that the evidence could not sustain.

Although it appears likely that the provincial justices did reduce the values of John Taylor's and Anne Read's thefts to nine hundred pounds of tobacco in order to bring them under the law of Maryland so that they would not be subject to hanging — the nine hundred pounds of tobacco in each case appears to be too convenient to have been co-incidental¹⁸⁰ —, and although it is possible that the petit juries found Henry Sutton and Richard Lock guilty only of manslaughter instead of murder for the same reason, without further evidence it would be a mistake to assume that petit juries and justices in colonial Maryland made a regular practice of deliberately reducing the seriousness of crimes in order to save defendants' lives. There have been no studies on which to base such a conclusion, and since the evidence against defendants exists in very few criminal cases such a study that has any meaning might

be impossible. Even if in a larger number of cases we did have the evidence that judges and juries heard, claiming that three to four hundred years later we could interpret that evidence with any authority would be very presumptuous.¹⁸¹

What *is* clear, as Bladen's getting at least sixteen death sentences in thirteen-and-a-half years as attorney general illustrates, is that neither justices nor jurors in colonial Maryland minded seeing people hang. During the fifty years from 1726 through 1775 at least 267 people were hanged in the province and one convict servant woman was burned, possibly alive.¹⁸² When jurors found a defendant guilty only of misadventure, chance-medley, or manslaughter instead of murder or only of felony rather than of burglary, therefore, or when justices reduced the seriousness of a defendant's crime, it appears probable that instead of perjuring themselves for the benefit of the defendant they believed in many cases that the evidence justified the conviction only of the lesser crimes.

The verdicts that the petit juries returned on four of the six defendants in the five cases of alleged murder considered here would seem to support the conclusion that the jurors did not reduce the seriousness of the defendants' crimes only in order to save them from hanging but rather were trying to state the truth as accurately as they could — that they were trying, that is, to base their decisions on the evidence rather than on sentiment. If the petit juries had wanted only to save the lives of these four defendants they could have found them guilty of manslaughter, which would have resulted in brands on their thumbs, instead of misadventure or chance-medley, for which the defendants were supposed to receive no punishment at all but were supposed automatically to receive pardons. And if the petit juries believed that four of these six defendants were guilty only of chance-medley or misadventure instead of murder it is possible that the petit juries who found the two defendants guilty only of manslaughter rather than of murder believed that they too were actually guilty only of the lesser crime.

In the prosecutions of Anne Read and John Taylor for burglary it also appears that the juries might have been acting at least as much out of a desire for the truth as out of sympathy for the defendants. In these cases the juries found the defendants guilty only of felony rather than of burglary but in both cases left them subject to hanging unless they pleaded benefit of clergy — Anne Read's jury by accepting the value of £6.1.0 sterling that Bladen placed on the stolen goods and John Taylor's jury

by reducing the value of the stolen money from ten pounds current money to five pounds current money. It remained for the justices to reduce the value of the stolen goods in each case to nine hundred pounds of tobacco and thus bring the two under the law of Maryland.

Petit jurors might also have had other considerations in reducing the seriousness of defendants' alleged crimes. The indictment against John Taylor was inadequate for the charge of burglary, and not only was the indictment against Hester Smith and Hester Oldfield inadequate for the charges of burglary and accessory to burglary but the witnesses against the two women were corrupt and malicious. The jurors might have known or suspected these things but decided that as a precaution they had to find the defendants guilty of *something*.

Since the indictment of Thomas Macnemara for assault and attempted buggery never went before a jury, that leaves only Martin Kenney and Negro Hanniball. The jurors made Kenney eligible for benefit of clergy by reducing his crime from burglary to felony, and they brought Negro Hanniball under the law of Maryland by finding him guilty not of burglary and arson but only of theft to the value of fifty shillings. Still the provincial justices forced him to plead benefit of clergy. No great sympathy there.

In reducing the value of the horse that William Vernon allegedly stole in 1718 the provincial justices also appear to have been more interested in getting the value of the horse right than in saving Vernon from hanging, since even at the value that they placed on it they could have sentenced him to hang. That they did not sentence him to hang might mean that they believed that he had committed no crime at all, a possibility supported by a later attorney general's agreeing that the judgment against him was erroneous and possibly supported also by his having been acquitted of two other horse-thefts at the same court at which he was convicted of this one.

In what sounds as though it might have been a fishing expedition led by William Bladen, at the provincial court for July of 1718 the grand jurors charged in three separate indictments that on 5 June 1718 Vernon, a planter from Anne Arundel County, stole a grey gelding from Nehemiah Birkhead, a white gelding from John Anderson, and a black gelding from Samuel Thomas. Each gelding the grand jurors valued at ten pounds sterling. The same two people, Thomas Waters and Elizabeth Bellman, were the witnesses to all three indictments. Neither was an alleged victim,

and there were no other witnesses to the indictments.

After Vernon pleaded not guilty of stealing Birkhead's gelding a petit jury found him guilty. The justices valued the gelding at only £4.10.0 current money, then turned Vernon over to Benjamin Tasker, the sheriff of Anne Arundel County, while they decided what to do with him. Later in the session they sentenced him to pay Birkhead eighteen pounds current money as fourfold, to receive twenty-one lashes on his bare back at the public whipping post, and to stand in the pillory for one hour. After Tasker immediately performed the corporal punishment the justices returned Vernon to his custody until he could give security to guarantee the payment of the fourfold and his fees as well as security of one hundred pounds sterling, with two sureties of fifty pounds sterling each, to guarantee his appearance at the next court and his good behavior in the meantime. Because he could not give the security he remained in Tasker's custody.¹⁸³

Probably it was while the justices were trying to decide what to do with Vernon in the first case that a petit jury that included eleven of the same men who convicted him of that theft found him not guilty of the thefts of the other two geldings.¹⁸⁴

The provincial justices' assessing Birkhead's gelding at £4.10.0 current money would not bring Vernon under the law of Maryland. At a penny a pound that amount would buy 1080 pounds of tobacco and therefore would put him above the limit of one thousand pounds of tobacco that the law provided.¹⁸⁵ That would leave him under the law of England, under which horse-theft was a capital crime without benefit of clergy.¹⁸⁶

If the justices who sentenced Vernon had no doubts about his guilt or about the proceedings against him they should have: ten years after his conviction Vernon got it overturned. In a petition to Governor Benedict Leonard Calvert on 15 February 1727/8 he told Calvert that in the provincial court on 15 July 1718 he was convicted of stealing a horse belonging to Nehemiah Birkhead, even though he was "very Conscious of his Innocence," and that he had been sentenced to corporal punishment and to pay the fourfold. Since then, however, he had been advised that there was "apparent error in the Record and Proceedings" on the indictment but that while the judgment against him was in force he was unable to use the courts of the province "for the recovery of his Small fortune." Therefore he asked Calvert to allow him to bring the record of the case before the high court of appeals by suing out a writ of

error “returnable to the Said Court now Sitting.”

Calvert granted Vernon’s petition and ordered that the attorney general be notified. Vernon did sue out a writ of error, dated 13 February 1727/8, the first day of that session of the high court of appeals, to bring the case before it.

The court of appeals did not hear the case, however, until its next session, which met on 2 July 1728. On that day Edmond Jennings argued, for reasons that the record does not include, that the indictment against Vernon, the *venire facias jurator-es* — the writ by which the sheriff summoned the jurors¹⁸⁷ —, and the proceedings against Vernon were all insufficient. According to the record Michael Howard, the attorney general, argued that “Neither in the Record and process . . . nor in the Matters therein contained nor in Rendering” the judgment were there any errors, but the justices reversed the judgment and ruled that Vernon be restored “to his Testimony and Creditt Notwithstanding the Whiping [*sic*] and pillory” and that everything he had lost as a result of his conviction also be restored to him. More specifically they ruled that Vernon have a writ of restitution, by which the sheriff of Anne Arundel County would order the executors, administrators, or legal representatives of Nehemiah Birkhead to return the eighteen pounds current money fourfold to Vernon or to appear at the high court of appeals to show why they should not.

Finally, the justices ordered that a minute be entered in the record noting that Michael Howard did not oppose the reversal of Vernon’s conviction “But Acknowledged that the Judgment was Erroneous.”¹⁸⁸ The reversal would free Vernon from the stigma of being a horse-thief, but it could not revoke the pain and humiliation of the twenty-one lashes and the hour in the pillory, and ten years after his conviction he might have had no easy time trying to recover the eighteen pounds fourfold that he had to pay.¹⁸⁹

Thus while the jurors’ or the justices’ reducing the defendants’ alleged crimes from burglary to felony or from murder to manslaughter might make them eligible for benefit of clergy, and while their reducing the values of allegedly stolen goods might put the defendants under the law of Maryland rather than the harsher law of England, it appears likely that in many if not most such cases the jurors or justices were not enabling the defendants to avoid the legal punishment for crimes that they had actually committed but rather were refusing to convict them of or to punish them for crimes that they had *not* committed. It should surprise nobody that after hearing

the evidence petit jurors or justices might sometimes, or even often, have believed that the charges in indictments were extreme. With some exceptions, as when an alleged theft involved money or possibly goods that were new, the alleged values of allegedly stolen goods were after all only somebody's guess, and it should not seem strange that jurors or justices might have had guesses different from those of the prosecutors. Nor should it surprise anyone that jurors or justices might have interpreted evidence differently from prosecutors, whether the case involved theft or homicide or something else.

The whole question of "pious perjury" requires great caution. Surely not every time a jury brought in a mitigating verdict¹⁹⁰ was it acting out of sympathy for the defendant rather than out of regard for the evidence.¹⁹¹ The possibility that prosecutors might often have over-charged the defendants, or that jurors might have recognized that the indictments were faulty or the witnesses corrupt, must also enter the mix. Even in cases in which the jurors drastically reduced the value of the allegedly stolen goods,¹⁹² where the "pious perjury" might appear to be most obvious, it is possible that the jurors had doubts about the guilt of the defendants and rather than freeing them completely or subjecting them to hanging compromised by bringing in non-capital verdicts.

If it would be a mistake to assume that petit juries and justices in colonial Maryland regularly reduced the seriousness of crimes in order to save defendants' lives, to conclude that Bladen's high proportion of failures in his criminal prosecutions is evidence of a high quality of justice because petit jurors and judges protected innocent defendants would similarly be a mistake. Rather just the opposite appears to be true. Bladen's failure in the prosecution of fifty-eight percent of his defendants in the provincial court must mean that many of those defendants never should have been indicted to begin with. Bladen, knowing that the more people he prosecuted the more money he would make¹⁹³ and that since grand juries heard witnesses only for the prosecution the procedures were stacked against the suspects, must have sent before grand juries bills of indictment that the evidence could not justify but that the grand juries returned true bills anyway and thus cost the innocent defendants money, time, and worry — and the threat of long terms of servitude even if they were acquitted but could not pay their fees¹⁹⁴ — for no legitimate reason.

Eventually the assembly recognized these machinations as an abuse. At its session that began on 9 October 1722, more than four years after Bladen's death, it tried to correct the abuse by providing that in the future no attorney general or clerk of indictments could send any bill of indictment before a grand jury without an express order from the governor or from the court at which the prosecution would occur, or one of the justices of that court, unless the suspect had been bound over to that court or the grand jurors had already presented him "of their own Knowledge."¹⁹⁵

Previous efforts to control prosecutors left a loophole for clerks of indictments and attorneys general by providing only that no *summons* or *process* could be issued against anyone in a criminal matter without a presentment from a grand jury or an order from a court¹⁹⁶ or, from 1715, without a presentment from a grand jury or an order from a court or from the governor in council.¹⁹⁷ Thus before 1722 a clerk of indictments or an attorney general could on his own authority send a bill of indictment before a grand jury,¹⁹⁸ and if the grand jury returned a true bill he could use the indictment as a basis for issuing process against the defendant. This might encourage a clerk of indictments or an attorney general, as it apparently encouraged William Bladen, to believe that the wider he cast his net the more fish he might catch. After 1722 a clerk of indictments or an attorney general could not send a bill of indictment before a grand jury unless there appeared to be a better reason for it than his own suspicion, ambition, or venality.¹⁹⁹

Knowing the proportions of William Bladen's convictions, acquittals, and other dispositions of indictments in the provincial court obviously tells us something about his success or failure as a prosecuting attorney, and combined with the assembly's act of 1722 it should also tell us something about the quality of justice of the period. The act confirms what Bladen's large proportion of failures already should lead us to suspect — that many of the people whom he prosecuted should never have been indicted.

While many of Bladen's failures in his prosecutions in the provincial court might have resulted from an excess of enthusiasm that encouraged him to prosecute insupportable cases rather than from ignorance or carelessness, his inadequacies as attorney general are amply demonstrated by the cases in which Thomas Macnemara taught him things that he already should have known or should have been able to find

out and by his confusion in the cases of William Maunders, George Askins, James Jarvis, John Taylor, and Hester Oldfield and Hester Smith. Those cases tell us much more about his deficiencies than mere figures can, though his high proportion of failures, and especially his lack of success in his prosecutions of Thomas Macnema, must also tell us something about the man.

Bladen's Criminal Prosecutions of Thomas Macnemara

1710-1719

	Year	Alleged Crime	Outcome	Source
1.	1710	Murder	Jury — guilty of chance-medley only	PC, Liber P. L., No. 3, pp. 231-234, 398-400.
2.	1711	Assault and attempted buggery	Quashed	PC, Liber T. P., No. 2, pp. 586-587.
3.	1712	Assault and attempted buggery	Pleads guilty to assault; attempted buggery dismissed	PC, Liber T. P., No. 2, pp. 587-588.
4.	1712	Excessive fees	Ignoramus	PC, Liber T. P., No. 2, p. 584.
5.	1715	Assault	Not guilty	PC, Liber V. D., No. 2, pp. 4-6.
6.	1715	Assault	Struck off	PC, Liber V. D., No. 2, p. 1.
7.	1717	Excessive fees	Not guilty	PC, Liber V. D., No. 3, pp. 193-194.
8.	1717	Excessive fees	Not guilty	PC, Liber V. D., No. 3, pp. 194-195.
9.	1717	Excessive fees	Quashed	PC, Liber V. D., No. 3, pp. 195-196.
10.	1717	Collecting fees from man who had never hired him as an attorney	Quashed	PC, Liber V. D., No. 3, pp. 196-197.

	Year	Alleged Crime	Outcome	Source
11.	1717	Seditious speech	Not tried	<i>Md. Arch.</i> , XXXVI, 530-532.
12.	1717	Excessive fees	Not tried	<i>Md. Arch.</i> , XXXVI, 533-534.
13.	1718	Excessive fees	Ignoramus	PC, Liber V. D., No. 3, pp. 260-261.
14.	1718	Collecting fees from man who had never hired him as an attorney	Ignoramus	PC, Liber V. D., No. 3, pp. 261-262.
15.	1718	Seditious speech	Pardon before trial	PC, Liber P. L., No. 4, pp. 83-84.
16.	1718	Collecting excessive amount for King and converting excess to own use	Not tried	<i>Md. Arch.</i> , XXVI, 532-533.
17.	1718	Assault	Not tried	<i>Md. Arch.</i> , XXXVI, 534.

Those indictments that were not tried were still hanging over Thomas Macnemara when he died in 1719.

Explanations and more thorough documentation of these cases will be provided in C. Ashley Ellefson, "Fortune's Orphan: The Troubled Career of Thomas Macnemara in Maryland, 1703-1719," Chapter 5, "Railroading, 1710-1713," and Chapter 8, "Harassment by Indictment, 1712-1719," in preparation.

6. Attorney General

¹ See Chapter 2, “Jump-Start to Fortune,” at Note 2.

² Alan F. Day, *A Social Study of Lawyers in Maryland, 1660-1775* (New York: Garland Publishing, Inc., 1989), p. 183. Bladen’s library of forty-eight titles in law compares favorably to the law libraries of most of the other attorneys practicing during his lifetime. While many of his contemporaries apparently had no law books at all, Henry Coursey had nineteen titles in law when he died, John Wellinger had twenty-two, John Weaver twenty-four, Joshua Cecil twenty-five, Thomas Macnemara eighty-three, and Thomas Bordley one hundred. Others had fewer. *Ibid.*, pp. 60-61, 63-64, 139-141, 183, 204, 246, 515, 688, 693.

³ Bladen was admitted to practice in the provincial court on 3 October 1693 (Provincial Court Judgment Record, Liber D. S., No. C, p. 326) at the age of twenty, in the Cecil County court in March of 1693/4 (Cecil County Court Judgment Record, 1692-1698, p. 284), in the Prince George’s County court on 23 June 1696 (Joseph H. Smith and Philip A. Crowl, eds., *Court Records of Prince Georges County, Maryland, 1696-1699* (Liber A), (Washington: The American Historical Association, 1964), p. 7), in the chancery court by 14 October 1696 (Chancery Record 2, p. 336), and in the Anne Arundel County court by November of 1701 (Provincial Court Judgment Record, Liber T. L., No. 3, pp. 105-108), though probably much earlier.

Because fire destroyed the statehouse on the night of 17-18 October 1704 (*Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore: Maryland Historical Society, 1883-1972), XXV, 179-180), the earliest records of the Anne Arundel County court that have survived are for the session of January 1702/3. Anne Arundel County Court Judgment Record, Liber G. Thus the earliest evidence that I have found of Bladen’s practice in the Anne Arundel County court comes from a case,

noted above, that Bladen took to the provincial court on a writ of error.

Alan Day notes all of Bladen's practices except in the chancery court, and he has a later date than I have here for Anne Arundel County, no doubt because of the absence of earlier records for that county. Day, *A Social Study of Lawyers in Maryland, 1660-1775*, p. 183. I get the citation for Cecil County solely from Day.

⁴ William Bladen became attorney general on 4 December 1704 and died in office on 9 August 1718. Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953), pp. 130, 182, has the seventh, while Bladen's tomb on Church Circle in Annapolis has the ninth. See Chapter 3, "Placeman," Note 3.

⁵ Joseph Keble, *Reports in the Court of King's Bench at Westminster, from the XII to the XXX Year of the Reign of Our Late Sovereign Lord King Charles II* (London: W. Rawlings, S. Roycroft, and M. Flesher, 1685).

⁶ Chancery Record 2, pp. 579-581, 583-585; *Md. Arch.*, XXV, 228-233 (especially page 233), 236-237.

⁷ Chancery Record 2, pp. 579-581, 583-585.

⁸ See Note 4 above.

⁹ Council of Maryland to Board of Trade, 18 July 1718, The National Archives (PRO), Colonial Office 5, Vol. 720, pp. 123-127 (photocopy in Library of Congress); Aubrey C. Land, *The Dulanys of Maryland: A Biographical Study of Daniel Dulany, the Elder (1685-1753) and Daniel Dulany, the Younger (1722-1797)* (Baltimore: Maryland Historical Society, 1955; reprinted Baltimore: The Johns Hopkins Press, 1968), pp. 7-10, 14-16, 28, 34-35; Beatriz Betancourt Hardy, "'A most Turbulent and Seditious person': Thomas Macnemara of Maryland," *Maryland Humanities*, Issue Number 72 (January 1999), pp. 8-11.

¹⁰ I have been working since 1990 or before on a thorough consideration of Thomas Macnemara that I call "Fortune's Orphan: The Troubled Career of Thomas Macnemara in Maryland, 1703-1719." If this is not published, the manuscript will be deposited at the Maryland State Archives in Annapolis.

¹¹ I consider these cases briefly later in this chapter.

¹² *Md. Arch.*, XX, 321, 541; Owings, *His Lordship's Patronage*, p. 148.

¹³ Provincial Court Judgment Record, Liber T. L., No. 3, p. 105, makes Christopher Vernon the clerk of indictments of Anne Arundel County on 11 Novem-

ber 1701. Donnell M. Owings says that Vernon resigned as clerk of Anne Arundel County in September of 1698 and returned to England (Owings, *His Lordship's Patronage*, p. 148; see also *Md. Arch.*, XXIII, 479), but obviously he returned again to Maryland. *Md. Arch.*, XXVI, 478, 514; 1706, c. 12, *Md. Arch.*, XXVI, 633-634.

Alan Day does not include Christopher Vernon in his list of attorneys of the province (Day, *A Social Study of Lawyers in Maryland, 1660-1775*), again no doubt because of the absence of records for the Anne Arundel County court before January of 1702/3. See Note 3 above.

¹⁴ Anne Arundel County Court Judgment Record, Liber T. B., No. 1, pp. 170, 304.

¹⁵ 1698, c. 7, *Md. Arch.*, XXXVIII, 113-116, together with 1681, c. 3, *Md. Arch.*, VII, 201-203, and 1692, c. 34, *Md. Arch.*, XIII, 479-481; 1699, c. 25, *Md. Arch.*, XXII, 502-504, together with 1699, c. 44, *Md. Arch.*, XXII, 553-555; 1704, c. 55, *Md. Arch.*, XXVI, 335-336, together with 1700, c. 2, *Md. Arch.*, XXIV, 98-101, and 1704, c. 25, *Md. Arch.*, XXVI, 266-269; 1715, c. 48, *Md. Arch.*, XXX, 248-252, together with 1715, c. 26, *Md. Arch.*, XXX, 304-308.

¹⁶ A presentment specified only the suspect and the alleged crime. For an example, see Smith and Crowl, eds., *Court Records of Prince Georges County, Maryland, 1696-1699*, p. 394. An indictment, on the other hand, had to specify not only the name, position, and residence of the suspect and his alleged crime but also the date, place, and victim of the alleged crime as well as the value of any goods allegedly stolen and the description and value of any instrument that had allegedly caused a person's death. The time and place did not have to be exact "provided [that] the *time* be laid previous to the finding of the indictment, and the *place* within the jurisdiction of the court" Sir William Blackstone, *Commentaries on the Laws of England* (10th edition; 4 vols.; London: Printed for A. Strahan, T. Cadell, and D. Prince, 1787), IV, 306. Emphasis in Blackstone.

¹⁷ Anne Arundel County Court Judgment Record, Liber T. B., No. 1, pp. 170, 304-305.

¹⁸ Blackstone, *Commentaries*, III, 123-125. For words "spoken in derogation of a peer, a judge, or other great officer of the realm" not only could the culprit be prosecuted but the offended party could also bring his civil suit for slander. *Ibid.*, pp. 123-124.

¹⁹ *Ibid.*; John Wilder May, *The Law of Crimes* (Boston: Little, Brown, and Company, 1881), p. 187.

On slander and libel, see also Theodore F. T. Plucknett, *A Concise History of the Common Law* (5th edition; London: Butterworth & Co. (Publishers), Ltd., 1956), pp. 483-502; S. F. C. Milsom, *Historical Foundations of the Common Law* (London: Butterworths, 1969), pp. 332-344; Joseph R. Fisher, "A Chapter in the History of the Law of Libel," *The Law Quarterly Review*, X, No. XXXVIII (April 1894), pp. 158-163; Frank Carr, "The English Law of Defamation: With Especial Reference to the Distinction Between Libel and Slander," *ibid.*, XVIII, Nos. LXXI, LXXII (July, October 1902), pp. 255-273, 388-399; Van Vechten Veeder, "The History of the Law of Defamation," in Association of American Law Schools, *Select Essays in Anglo-American Legal History* (3 vols.; Boston: Little, Brown, and Company, 1907-1909), III, 446-473.

²⁰ Day, *A Social Study of Lawyers in Maryland, 1660-1775*, p. 695.

²¹ Provincial Court Judgment Record, Liber T. B., No. 2, pp. 72, 77, 211-215.

²² Charles County Court Record, Liber A, No. 2, p. 77, 78-79, 448-450.

²³ *Ibid.*, Liber B, No. 2, pp. 122-123, 124-125, 167-169, 170-171, 241-242, 521-523, 561-563, 563-564. For more on the two commissions, see C. Ashley Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763* (New York: Garland Publishing, Inc., 1990), pp. 46-49.

²⁴ See the complaint of the four provincial justices who were also members of the council and the upper house against Macnemara on 5 May 1718 (*Md. Arch.*, XXXIII, 171-172) and the acts by which the assembly twice disbarred him. 1718, c. 16, *Md. Arch.*, XXXVI, 525-527; 1719, c. 17, *Md. Arch.*, XXXVI, 528-530.

²⁵ *Md. Arch.*, XX, 64, 65, 131, 190, 379, 380, 386; XXIII, 401.

²⁶ Provincial Court Judgment Record, Liber T. L., No. 3, pp. 257, 258.

²⁷ *Ibid.*, Liber P. L., No. 1, p. 159.

²⁸ Somerset County Land Records, Liber A. B., pp. 61, 70-77, 115, 145; Provincial Court Judgment Record, Liber P. L., No. 1, pp. 198-206, 224.

²⁹ Indictments ordinarily included the name of the defendant twice, with two separate identifications. Provincial Court Judgment Record, Liber W. T., No. 4, pp. 194-196, 196-199; Liber T. L., No. 3, pp. 153-154, 563-565, 565-566; Liber T. P., No. 2, p. 584. Apparently this was a hold-over from an earlier period, when people

had no surnames and therefore it was very difficult to identify them exactly.

For the difficulty of identification, see Luke Owen Pike, *A History of Crime in England Illustrating the Changes of the Laws in the Progress of Civilisation* [sic] (2 vols.; London: Smith, Elder & Co., 1873-1876; reprinted 2 vols.; Montclair, N. J.: Patterson Smith, 1968), I, 293-294.

³⁰ According to Blackstone it was “not customary” to try misdemeanors at the same court at which the defendant pleaded not guilty. Blackstone, *Commentaries*, IV, 351.

³¹ Henry Campbell Black, *Black’s Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern* (6th edition; St. Paul: West Publishing Co., 1990), p. 208.

Blackstone considers the *capiatur* with civil cases, and 5-6 William and Mary, c. 12, made it unnecessary in those cases. Blackstone, *Commentaries*, III, 398-399, xii; 5-6 William and Mary, c. 12, in Danby Pickering, *The Statutes at Large* (109 vols.; Cambridge: Joseph Bentham and Others, 1762-1869), IX, 279.

An alternative wording for the text is that the justices had not issued a writ for the collection of the fine that they had imposed on Hammond.

³² For adultery and fornication, see *Black’s Law Dictionary* (6th edition), pp. 51, 653. In England both were prosecuted by the spiritual courts. Blackstone, *Commentaries*, III, 139-140; IV, 64-65.

³³ The effective law in Maryland on adultery and fornication in 1707 was 1704, c. 60, *Md. Arch.*, XXVI, 341-342.

³⁴ Provincial Court Judgment Record, Liber P. L., No. 1, pp. 198-206, 224; Somerset County Land Records, Liber A. B., pp. 61, 70-77, 115, 145. The quotes come from both sources.

³⁵ Provincial Court Judgment Record, Liber P. L., No. 1, pp. 91, 159-160.

³⁶ To “go without day” means that the justices did not fix a time for the defendant’s next appearance, and therefore he did not have to appear again. Blackstone, *Commentaries*, III, 399; *Black’s Law Dictionary* (6th edition), pp. 1385, 1603.

³⁷ Provincial Court Judgment Record, Liber P. L., No. 1, pp. 199.

³⁸ *Ibid.*, Liber P. L., No. 2, pp. 233; Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiverson, eds., *A Biographical Dictionary of the Maryland Legislature, 1635-1789*, hereafter *Biographical Dictionary* (2 vols.; Baltimore:

The Johns Hopkins University Press, 1979, 1985), I, 37, 38.

³⁹ Provincial Court Judgment Record, Liber P. L., No. 1, pp. 90-91, 219-220, 238; Liber P. L., No. 2, pp. 24, 233-236.

For Richard Clarke, see indexes to *Md. Arch.*, XXV, XXVI, and XXVII; John Seymour to Council of Trade and Plantations, 23 June 1708, The National Archives (PRO), *Calendar of State Papers: Colonial Series* (40 vols.; Vaduz: Kraus Reprint Ltd., 1964), XXIII, No. 1570; TNA (PRO), Colonial Office 5, Vol. 727, p. 89; John Seymour to Principal Secretary of State, 23 June 1708, in "Unpublished Provincial Records," *Maryland Historical Magazine*, XVI, No. 4 (December 1921), pp. 357-358; Provincial Court Judgment Record, Liber T. L., No. 1, pp. 576-577; Liber T. L., No. 3, pp. 266, 268, 274-275, 429; Anne Arundel County Court Judgment Record, Liber G, pp. 252, 284-285; 1705, c. 5, *Md. Arch.*, XXVI, 513-514; 1707, c. 1, *Md. Arch.*, XXVII, 139-140.

⁴⁰ With the writ of *certiorari*, either the plaintiff or the defendant could remove a case to a higher court. Blackstone, *Commentaries*, IV, 262, 265, 272, 320, 321.

⁴¹ Provincial Court Judgment Record, Liber P. L., No. 1, pp. 157-159. I do not include this case in the figures on Bladen's successes and failures as attorney general that I give later in this chapter, since Richard Harrison Jr. was indicted at the Calvert County court rather than at the provincial court.

⁴² A barrow hog is a castrated one. *Webster's New World Dictionary of the American Language* (College Edition, 1959).

⁴³ One of Wornell Hunt's ten arguments on a writ of error in the case of James Miller at the provincial court for July of 1708 was that the indictment against Miller at the Calvert County court for June of 1704 referred both to the value and to the price of the stolen goods when actually it should have referred only to their price. The provincial justices reversed Miller's conviction even though he had pleaded guilty. Provincial Court Judgment Record, Liber P. L., No. 2, pp. 224-225.

Because the provincial justices never indicated on what grounds they reversed a conviction, however, we cannot know whether they believed that this argument had any merit.

⁴⁴ Provincial Court Judgment Record, Liber T. L., No. 3, pp. 555, 563-565. The law provided that anyone convicted of theft had to pay his victim four times the value of the stolen goods. 1704, c. 25, *Md. Arch.*, XXVI, 266-268. Earlier laws are

1681, c. 3, *Md. Arch.*, VII, 201-203; 1692, c. 34, *Md. Arch.*, XIII, 479-481; 1699, c. 44, *Md. Arch.*, XXII, 553-555; 1702, c. 2, *Md. Arch.*, XXIV, 98-101, and a later law is 1715, c. 26, *Md. Arch.*, XXX, 304-308.

This requiring of the fourfold repayment of stolen goods was based on Biblical law. “If a man shall steal an ox, or a sheep, and kill it, or sell it; he shall restore five oxen for an ox, and four sheep for a sheep.” Exodus 22:1.

⁴⁵ Provincial Court Judgment Record, Liber T. L., No. 3, p. 567. The date on which John Gresham appeared is not included in the record. The court opened on 24 April 1705. *Ibid.*, p. 553.

⁴⁶ *Ibid.*, Liber T. B., No. 2, p. 75.

⁴⁷ The *capias ad respondendum* was simply a writ by which the court ordered the sheriff to have the defendant before the court at a specific time. It was the original writ in most civil as well as criminal actions. *Black's Law Dictionary* (6th edition), p. 208; Blackstone, *Commentaries*, III, 281, xiv; IV, 318-319, 429, iii; Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763*, pp. 180-181.

⁴⁸ 1718, c. 16, *Md. Arch.*, XXXVI, 525-527.

⁴⁹ Provincial Court Judgment Record, Liber V. D., No. 3, pp. 106, 225, 244; Liber P. L., No. 4, pp. 77-80. The statuses of Thomas Docwra and Thomas Walker are not included in this record.

⁵⁰ *Ibid.*, Liber P. L., No. 4, p. 235.

⁵¹ The provincial court for July of 1718 opened on 15 July (*ibid.*, p. 1), and Bladen would die on 9 August. See Note 4 above.

⁵² Macnemara died sometime between 11 August and 8 September 1719. Anne Arundel County Court Judgment Record, Liber R. C., pp. 427, 510; Provincial Court Judgment Record, Liber W. G., No. 1, pp. 1, 31.

⁵³ Blackstone, *Commentaries*, IV, 307. See also the arguments in the case of George Askins below at Notes 58-73.

⁵⁴ In England in the eighteenth century the deodand was still important enough that Blackstone could consider it one of the sources of the king's revenue. Blackstone, *Commentaries*, I, 300-302.

For deodand in England, see also *ibid.*, IV, 307; Sir Frederick Pollock and Frederic William Maitland, *The History of English Law Before the Time of Edward*

I (2nd edition; 2 vols.; Cambridge: Cambridge University Press, 1898; reprinted Cambridge: Cambridge University Press, 1968), II, 473-474; Sir James Fitzjames Stephen, *A History of the Criminal Law of England* (3 vols.; London: Macmillan and Co., 1883; reprinted New York: Burt Franklin, n. d.), III, 77-78; John T. Appleby, *England Without Richard, 1189-1199* (London: G. Bell and Sons, Ltd., 1967), p. 160; Teresa Sutton, "The Deodand and Responsibility for Death," *Journal of Legal History*, XVIII, No. 3 (December 1997), pp. 44-55; Anna Pervukhin, "Deodands: A Study in the Creation of Common Law Rules," *The American Journal of Legal History*, XLVII, No. 3 (July 2005), pp. 237-256.

Edward Payson Evans discusses deodand in general in *The Criminal Prosecution and Capital Punishment of Animals* (London: William Heinemann Limited, 1904; reprinted London: Faber and Faber Limited, 1987), pp. 186-192.

⁵⁵ For deodand in the colonies, see Richard B. Morris, *Studies in the History of American Law, with Special Reference to the Seventeenth and Eighteenth Centuries* (2nd edition; Philadelphia: J. M. Mitchell Co., 1958; reprinted New York: Octagon Books, 1964), pp. 225-230; Hugh F. Rankin, *Criminal Trial Proceedings in the General Court of Colonial Virginia* (Williamsburg: Colonial Williamsburg, 1965), p. 70n.; Cyrus H. Karraker, "Deodands in Colonial Virginia and Maryland," *American Historical Review*, XXXVII, No. 4 (July 1932), pp. 712-717; *Md. Arch.*, IV, 9-10; XVII, 91; XXIII, 34-35, 260.

⁵⁶ Laws by which the assembly required defendants who could not pay their fees to be sold into servitude are 1692, c. 81, *Md. Arch.*, XIII, 550-551; 1699, c. 38, *Md. Arch.*, XXII, 527-528; 1704, c. 25, *Md. Arch.*, XXVI, 266-267; 1715, c. 26, *Md. Arch.*, XXX, 305. This applied whether the defendant was convicted or acquitted. See the case of Martin Kenney, in 1709, in Note 161 below.

⁵⁷ Provincial Court Judgment Record, Liber P. L., No. 3, pp. 5, 82-84, 108. Nothing is said about fees in the record of Maunders' discharge.

⁵⁸ The assize courts were circuit courts conducted by justices of the provincial court who went from county to county to hear cases so that suitors would save the time and expense of going to Annapolis for the sessions of the provincial court but also, it appears clear, to increase the power of the provincial justices at the expense of the county justices.

There were two circuits. The Western Circuit — for the Western Shore — in

1708 included Anne Arundel, Baltimore, Calvert, Charles, Prince George's, and St. Mary's counties, and the Eastern Circuit — for the Eastern Shore — in 1708 included Cecil, Dorchester, Kent, Queen Anne's, Somerset, and Talbot counties. Two provincial justices went on each circuit. Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763*, pp. 73-114.

From 1724 through 1731, at the discretion of the provincial justices who were taking the assizes, as many as three county justices could sit with the two provincial justices at the assizes. 1723, c. 23, *Md. Arch.*, XXXVI, 565-568; 1732, c. 1, *Md. Arch.*, XXXVII, 523-530; Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763*, pp. 95-102.

For the assizes, see also Note 70 below.

⁵⁹ Blackstone, *Commentaries*, IV, iv; Queen Anne's County Court Judgment Record, 1747-1748, pp. 83-84; Provincial Court Judgment Record, Liber E. I., No. 7, p. 466, together with Liber E. I., No. 9, pp. 461-462; Liber E. I., No. 13, pp. 797, 834-835; Liber E. I., No. 14, pp. 216, 231-232; Liber B. T., No. 5, pp. 805, 818-820; Liber D. D., No. 13, pp. 48, 52, 62-64; Liber D. D., No. 16, pp. 29, 31-32.

⁶⁰ Blackstone, *Commentaries*, IV, 193, 381-388; *Md. Arch.*, XXV, 119-120, 150.

. . . the offences which induce a forfeiture of lands and tenements to the crown are principally the following six: 1. Treason. 2. Felony. 3. Misprision of treason. 4. *Praemunire*. 5. Drawing a weapon on a judge, or striking anyone in the presence of the king's principal courts of justice. 6. Popish recusancy, or non-observance of certain laws enacted in restraint of papists.

Blackstone, *Commentaries*, II, 267-268.

These forfeitures [of lands and tenements] for felony do also arise only upon attainder; and therefore a *felo de se* forfeits no lands of inheritance or freehold, for he never is attainted as a felon.

Ibid., IV, 386.

The forfeiture of goods and chattels accrues in every one of the higher kinds of offence: in high treason or misprision thereof, petit treason, felonies of all sorts whether clergyable or not, self-murder or felony *de se*, petit larciny [*sic*], standing mute, and the above-mentioned offences of striking, &c. in Westminster-hall.

Ibid., pp. 386-387.

The forfeiture of lands has relation to the time of the fact committed, so as to avoid all subsequent sales and incumbrances; but the forfeiture of goods and chattels has no relation backwards; so that those only which a man has at the time of conviction shall be forfeited.

Ibid., p. 387.

⁶¹ Benefit of clergy was a system by which the person who could read could escape hanging and suffer only a brand on the brawn of his left thumb instead. A layman could plead benefit of clergy only once. Blackstone, *Commentaries*, IV, 365-374*.

⁶² In addition to being the prison-preacher, the ordinary represented the bishop and examined defendants who claimed benefit of clergy to determine whether or not they could read. Leona C. Gabel, *Benefit of Clergy in England in the Later Middle Ages* (Northampton, Mass.: Smith College Department of History, 1929; reprinted New York: Octagon Books, 1969), pp. 51-58, 68, 69, 71-72; *Webster's Third New International Dictionary of the English Language Unabridged* (1981).

⁶³ 5 Anne, c. 6, in Pickering, *The Statutes at Large*, XI, 194-196; Blackstone, *Commentaries*, IV, 370; William Hawkins, *A Treatise of the Pleas of the Crown: or A System of the Principal Matters Relating to that Subject, Digested Under Their Proper Heads* (2nd edition; 2 vols.; London: Printed by E. and R. Nutt and R. Gosling, the Assigns of E. Sayer, 1724, 1726; reprinted New York: Arno Press, 1972), II, 360; Arthur Lyon Cross, "The English Criminal Law and Benefit of Clergy During the Eighteenth and Early Nineteenth Centuries," *The American Historical Review*, XXII, No. 3 (April 1917), p. 555; Arthur Lyon Cross, "Benefit of Clergy in the American Criminal Law," *Massachusetts Historical Society Proceedings*, LXI, 1927-1928 (Boston: Massachusetts Historical Society, 1928), p. 157.

⁶⁴ Blackstone, *Commentaries*, IV, 374* (asterisk in Blackstone); Sir Matthew Hale, *Historia Placitorum Coronae: The History of the Pleas of the Crown* (2 vols.; London: E. and R. Nutt and R. Gosling: Assigns of Edward Sayer, 1736), II, 388-389; Hawkins, *A Treatise of the Pleas of the Crown*, II, 364.

⁶⁵ Provincial Court Judgment Record, Liber T. P., No. 2, pp. 379-380.

⁶⁶ *Ibid.*, pp. 380-381.

⁶⁷ Blackstone, *Commentaries*, IV, 320.

⁶⁸ Actually neither the chancellor nor other judges issued writs. Rather the attorneys got them from the clerks of the courts. *Md. Arch.*, XXVII, 291-292.

⁶⁹ The record is very confusing, but probably Wornell Hunt represented George Askins throughout the proceedings in the provincial court. The appearance of the initials W. H. before Askins' name in the heading of the case indicates that he was Askins' attorney. His name, though, does not appear at the end of the writ of *certiorari* as the attorney who sued it out (Provincial Court Judgment Record, Liber T. P., No. 2, pp. 379-380), as was the usual practice. Hunt did produce the writ of error for Askins in the provincial court for July of 1711 (*ibid.*, p. 181), even though his name does not appear at the end of the writ of error (*ibid.*, pp. 381-382), and according to the wording of the record Askins appeared for himself — “in his proper person” — at that court (*ibid.*, p. 382) and listed the errors that he claimed. *Ibid.*, pp. 382-383. After Bladen insisted that there were no errors in the proceedings against Askins, Bladen and, according to the record, Hunt asked the justices to proceed to an examination of the record and the errors that Askins claimed. *Ibid.*, p. 383. In October of 1711 and again in April of 1712, according to the record, Hunt also appeared for Askins. *Ibid.*, pp. 383, 383-384.

It appears, therefore, that the clerk might have made a mistake and that Hunt rather than Askins sued out the writ of *certiorari* and the writ of error and also spoke for Askins throughout the proceedings in the provincial court.

At the assizes Bladen signed the bill of indictment against Askins, but in the record there is no evidence that the foreman of the grand jury, apparently Thomas Crabb (*ibid.*, p. 380), endorsed it as a true bill. *Ibid.*, pp. 380-381.

⁷⁰ When the assize justices heard criminal cases they sat under their commissions of oyer and terminer and jail delivery. Provincial Court Judgment Record, Liber W. G., No. 2, pp. 463-465, together with *ibid.*, pp. 59-61, 305-307; Liber W. G., No. 3, pp. 82-86; Liber E. I., No. 1, pp. 99-100; Liber E. I., No. 5, pp. 135-137, 137-138, together with *ibid.*, pp. 93-103; Liber E. I., No. 10, pp. 662-663.

The commission of jail delivery was separate from the commission of oyer and terminer. Commission Records, 1726-1786 (orig.), pp. 1-2, 3-4, 10-11, 12, 17-18, 18-19, 24-25, 25-26, all from back; Proceedings of Special Courts of Oyer and Terminer and Goal Delivery, 1728-1752, pp. 1-2, 3, 8-9, 10-11, 13-14, 15-16, 21-22, 23; Charles County Court Record, Liber R, No. 2, pp. 68-69, 69; Somerset County

Judicial Record, 1749-1751, pp. 93-93a, 94; Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763*, p. 115.

In May of 1708, when Askins was convicted at the assizes, William Holland was chief justice of the provincial court, and Kenelm Cheseldyne was the lowest-ranking of the four provincial justices. *Md. Arch.*, XXV, 251; Provincial Court Judgment Record, Liber P. L., No. 2, pp. 129, 252.

William Holland was also sitting as chief justice of the provincial court for April of 1712, when the provincial justices reversed Askins' conviction. *Ibid.*, Liber T. P., No. 2, p. 329.

⁷¹ The confusing wording of the indictment makes it impossible to determine what Hunt meant by the "three Different and Distinct times."

⁷² This is not to say that legal technicalities are unimportant. Technicalities are, after all, what constitute due process. All of them are designed to protect the suspect or the defendant from the overwhelming power of the prosecutor. They are designed to guarantee that he is not indicted and tried by an illegal court (Hunt's errors 1 and 7), that he is not indicted by an illegal grand jury (2), that he did commit the alleged act or acts and that the victim did die as a result of that act or those acts (3, 4, and 5), that he intended that the act or acts would have the consequences that it or they did have (6), and that the petit jurors believe strongly enough in his guilt to swear to it (8).

⁷³ Provincial Court Judgment Record, Liber T. P., No. 2, pp. 379-384. I have not found George Askins' writ of restitution.

Because Askins was indicted and tried at the assizes rather than at the provincial court I do not include him in the figures on Bladen's successes and failures that I give later in this chapter.

⁷⁴ *Ibid.*, Liber P. L., No. 1, pp. 353-354.

⁷⁵ Owings, *His Lordship's Patronage*, pp. 133-134.

⁷⁶ *Md. Arch.*, XXV, 224, 226-227.

⁷⁷ Provincial Court Judgment Record, Liber P. L., No. 2, p. 169. At the provincial court for July of 1708 the justices also quashed three other actions because in each case Bladen had used the *capias ad respondendum* instead of the *scire facias* to recover a bond. Robert Gouldesborough was the attorney in all three cases. *Ibid.*, pp. 180-181, 181-182, 183-184.

Why Bladen used the *capias ad respondendum* instead of the *scire facias* in these cases does not appear. In three cases three years earlier, in September of 1706, he used writs of *scire facias* in actions for the recovery of bonds. *Ibid.*, Liber P. L., No. 1, pp. 31, 32-33, 33-34. Bladen sued out all of these writs; all were dated 2 October 1705; and all were returned to the provincial court for May of 1706.

⁷⁸ *Ibid.*, pp. 353-354. Macnemara seems to have appeared for himself here even though on the same day on which the court opened, 30 September 1707, Governor John Seymour disbarred him. *Ibid.*, p. 233; *Md. Arch.*, XXV, 233-234, 226-227, 236, 237. The record of the provincial court is very difficult to make out.

⁷⁹ Chance-medley was the killing of someone in self-defense in a sudden affray, but the term was often used interchangeably with misadventure or homicide *per infortunium*, which was the accidental killing of someone when the killer was engaging in a lawful act. Blackstone, *Commentaries*, IV, 182-184; J. M. Kaye, "The Early History of Murder and Manslaughter," *The Law Quarterly Review*, LXXXIII, Nos. 3, 4 (July, October 1967), p. 587; Report of the Committee for Hearing Appeals from the Plantations, included in Council of Maryland to Board of Trade, 18 July 1712, TNA (PRO), Colonial Office 5, Vol. 720, pp. 123-127.

Chance-medley and misadventure were treated the same: the pardon was supposed to come automatically. Blackstone, *Commentaries*, IV, 182-188, and Note 82 below.

⁸⁰ The justices could not legally change the verdict of a jury. Hawkins, *A Treatise of the Pleas of the Crown*, II, 442; J. M. Beattie, *Crime and the Courts in England, 1660-1800* (Princeton: Princeton University Press, 1986), pp. 408-409; John H. Langbein, *The Origins of Adversary Criminal Trial* (Oxford: Oxford University Press, 2003), p. 328n.

⁸¹ Mitchell's pardon is noted in TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVI, No. 101.i. For the case against Macnemara and Mitchell, see Provincial Court Judgment Record, Liber P. L., No. 3, pp. 231-234, 257, 258, 398-400; Council of Maryland to Board of Trade, 18 July 1712, TNA (PRO), Colonial Office 5, Vol. 720, pp. 123-127, and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVII, No. 16; Provincial Justices to Board of Trade, 18 July 1712, TNA (PRO), Colonial Office 5, Vol. 720, pp. 127-128, and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVII, No. 16.i; Unidentified writer in Maryland

to unidentified correspondent in England, 13 August 1710, TNA (PRO), Colonial Office 5, Vol. 720, No. 8.ii, and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVI, No. 101.ii(a); same unidentified writer in Maryland to unidentified correspondent in England, 4 April 1711, TNA (PRO), Colonial Office 5, Vol. 720, No. 8.ii.

⁸² Statutes of Marlborough, 52 Henry III, c. 25 (1267), in Pickering, *The Statutes at Large*, I, 71; Statutes of Gloucester, 6 Edward I, c. 9 (1278), in *ibid.*, p. 124; Statutes of Northampton, 2 Edward III, c. 2 (1328), in *ibid.*, pp. 421-422; Sir James Astry, *A General Charge to All Grand Juries* (London: Printed for W. Turner, 1703), p. 60; Hawkins, *The Pleas of the Crown*, II, 380-381, 442; Blackstone, *Commentaries*, IV, 188; Pollock and Maitland, *The History of English Law Before the Time of Edward I*, II, 479-484; Stephen, *A History of the Criminal Law of England*, III, 37, 76; Sir William Holdsworth, *A History of English Law* (13 vols.; London: Methuen & Co., 1903-1938), III, 257-258, 265, 295, 300; *Md. Arch.*, XVII, 37; LI, 321-324, 346-348; Provincial Court Judgment Record, Liber T. G., pp. 36-37; Liber P. L., No. 1, pp. 153-155; Liber V. D., No. 3, pp. 198-199; Report of the Committee for Hearing Appeals from the Plantations, in Council of Maryland to Board of Trade, 18 July 1712, TNA (PRO), Colonial Office 5, Vol. 720, pp. 123-127.

⁸³ See Note 81 above.

⁸⁴ Unidentified writer in Maryland to unidentified correspondent in England, 4 April 1711, TNA (PRO), Colonial Office 5, Vol. 720, No. 8.ii, and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVI, No. 101.ii(b); Council of Maryland to Board of Trade, 18 July 1712, TNA (PRO), Colonial Office 5, Vol. 720, pp. 123-127, and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVII, No. 16.

Macnemara left for England sometime between 22 December 1710, the date on which he was alleged to have attempted to bugger Benjamin Allen in William Taylard's kitchen loft (Provincial Court Judgment Record, Liber T. P., No. 2, pp. 586-587, 587-588), and 6 March 1710/1, the date on which the court of appeals refused to proceed on his writ of error because he was out of the province. Carroll T. Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729* (Washington: American Historical Association, 1933), pp. 137-138.

⁸⁵ Charles M. Andrews, *The Colonial Period of American History* (4 vols.;

New Haven: Yale University Press, 1934-1938), IV, *England's Commercial and Colonial Policies*, pp. 314-315; Oliver M. Dickerson, *American Colonial Government, 1696-1765: A Study of the British Board of Trade in Its Relation to the American Colonies, Political, Industrial, Administrative* (Cleveland: A. H. Clark Co., 1912; reprinted New York: Russell & Russell, Inc., 1962), pp. 84-91.

⁸⁶ Information included in Council of Maryland to Board of Trade, 18 July 1712, TNA (PRO), Colonial Office 5, Vol. 720, pp. 123-127, and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVII, No. 16.

⁸⁷ William Holland withdrew from the bench in the court of appeals' consideration of Macnemara's writ of error. Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, p. 164. The members of the council who did participate in the Macnemara case in the court of appeals on 12 May 1713 were Edward Lloyd, Samuel Young, Charles Greenberry, Thomas Greenfield, Philemon Lloyd, John Hall, and Richard Tilghman. *Ibid.*, p. 152.

Possibly the reason for Holland's withdrawing from the consideration of Macnemara's case in the court of appeals is that he was sitting as the chief justice of the provincial court in July of 1710, when the grand jurors indicted Macnemara and Mitchell for the alleged murder of Thomas Graham and when they had their trial, and in October of 1710, when the provincial justices decided that Macnemara was guilty of manslaughter rather than only of chance-medley and ordered him branded on the hand after he pleaded benefit of clergy. Provincial Court Judgment Record, Liber P. L., No. 3, pp. 231, 383.

Or, since favorable action on Macnemara's writ of error was guaranteed, Holland might simply have been in a pout. Philemon Lloyd was also one of the justices present at the provincial court for July of 1710 (*ibid.*, p. 231), and he did not withdraw from the high court of appeals when it heard Macnemara's case.

Finally, Holland might have been sick or otherwise indisposed. He missed the sessions of the provincial court in October of 1712 and April and July of 1713. Provincial Court Judgment Record, Liber T. P., No. 2, p. 576; Liber I. O., No. 1, pp. 17, 173. In May of 1719 he had "a severe fitt of the Gout" and was excused from attendance in the upper house. *Md. Arch.*, XXXIII, 330. It is possible that he was already suffering in 1712 and 1713.

⁸⁸ Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp.

156-164.

⁸⁹ Provincial Court Judgment Record, Liber T. P., No. 2, pp. 2, 586-587. We know that this is the indictment that the grand jury returned at the provincial court for April of 1711 because the record of that court lists an indictment against Macnemara and because William Ringold was the foreman of the grand jury at that court and of the grand jury that indicted Macnemara. *Ibid.* He was not the foreman of any other grand jury between April of 1711 and October of 1712. *Ibid.*, pp. 2, 107, 192, 329, 495ff., 576.

⁹⁰ Rictor Norton, *Mother Clapp's Molly House: The Gay Subculture in England, 1700-1830* (London: GMP Publishers Ltd., 1992), pp. 30, 58, 64, 81.

⁹¹ The English laws that provided for the capital punishment of buggery do not mention attempted buggery, nor does William Hawkins or Sir William Blackstone. 25 Henry VIII, c. 6, in Pickering, *The Statutes at Large*, IV, 267-268; 2 Edward VI, c. 29, in *ibid.*, V, 325; 5 Elizabeth I, c. 17, in *ibid.*, VI, 208-209; Hawkins, *The Pleas of the Crown*, I, 6; Blackstone, *Commentaries*, IV, 215-216.

⁹² See Note 84 above.

⁹³ Provincial Court Judgment Record, Liber T. P., No. 2, p. 576.

⁹⁴ Macnemara was back in the province by 3 June 1712. Chancery Record 2, p. 833.

The provincial court had met in July of 1712, but sometimes the session for July was not a jury court. Provincial Court Judgment Record, Liber T. P., No. 2, pp. 495-572. (July 1712); Liber I. O., No. 1, pp. 173-415 (July 1713); Liber V. D., No. 1, pp. 203-382 (July 1714); Liber V. D., No. 2, pp. 63-122 (July 1716).

⁹⁵ *Ibid.*, Liber T. P., No. 2, pp. 576, 580, 587-588.

⁹⁶ *Ibid.*, Liber V. D., No. 3, p. 106.

⁹⁷ Anne Arundel County Court Judgment Record, Liber R. C., pp. 31-32.

⁹⁸ Provincial Court Judgment Record, Liber V. D., No. 3, pp. 106, 193-194, 194-195, 195-196; *Md. Arch.*, XXXVI, 533-534.

⁹⁹ Provincial Court Judgment Record, Liber V. D., No. 3, pp. 106, 196-197.

¹⁰⁰ *Ibid.*, Liber P. L., No. 4, pp. 2-3; *Md. Arch.*, XXXVI, 532-533. In the case to which Bladen was referring in this indictment, Macnemara was suing as attorney for Maurice Birchfield, surveyor general of customs. Calvert Papers, No. 260 (Maryland Historical Society, Baltimore); Owings, *His Lordship's Patronage*, p. 181.

¹⁰¹ Provincial Court Judgment Record, Liber V. D., No. 1, p. 486; Liber V. D., No. 2, pp. 1, 4-6; Anne Arundel County Court Judgment Record, Liber R. C., p. 201; *Md. Arch.*, XXXVI, 534.

¹⁰² Provincial Court Judgment Record, Liber V. D., No. 3, pp. 106, 234; Liber P. L., No. 4, pp. 83-84; *Md. Arch.*, XXXVI, 530-532.

¹⁰³ Two of the indictments on which petit juries found Macnemara not guilty were for allegedly taking excessive fees, and the third was for an alleged assault. Provincial Court Judgment Record, Liber V. D., No. 1, p. 486; Liber V. D., No. 2, pp. 4-6; Liber V. D., No. 3, pp. 106, 193-194, 194-195.

¹⁰⁴ The indictment that the provincial justices struck off on the request of the complainant was for an alleged assault. *Ibid.*, Liber V. D., No. 1, p. 486; Liber V. D., No. 2, p. 1.

¹⁰⁵ One of the indictments that the provincial justices quashed was for allegedly taking excessive fees, and the other was for allegedly collecting fees from a man who had not hired Macnemara as his attorney. *Ibid.*, Liber V. D., No. 3, pp. 106, 195-196, 196-197.

¹⁰⁶ At the provincial court for April of 1718 Bladen sent new indictments before the grand jury to replace the two that the provincial justices had quashed, but the grand jurors returned them *ignoramus*, which means that they would not hold Macnemara for trial. *Ibid.*, Liber V. D., No. 3, pp. 260-261, 261-262.

¹⁰⁷ The indictment on which Macnemara received the king's pardon before he was ever tried was for allegedly seditious speech. *Ibid.*, p. 234; Liber P. L., No. 4, pp. 83-84. The Act of Grace or General Pardon of 1717 is 3 George I, c. 19, with only the title printed in Pickering, *The Statutes at Large*, XIII, 556. It is printed in full in the laws of 3 George I (London: John Baskett, 1717), pp. 499-512.

The date specified in the act is not 1 May 1717 but rather the sixth (*ibid.*, p. 500), a date that the Parliament and the king apparently chose arbitrarily. There is in the act a long list of exceptions.

¹⁰⁸ One of the four indictments that were never tried was for an alleged assault, one for allegedly taking excessive fees, one for allegedly seditious speech, and one for allegedly collecting more money than the king had coming and converting the difference to his own use. Provincial Court Judgment Record, Liber V. D., No. 3, p. 106; Liber P. L., No. 4, pp. 2-3; Anne Arundel County Court Judgment Record, Liber

R. C., p. 201; *Md. Arch.*, XXXVI, 530-532, 532-533, 533-534, 534.

¹⁰⁹ Provincial Court Judgment Record, Liber V. D., No. 3, pp. 260-261, 261-262.

¹¹⁰ *Ibid.*, Liber T. P., No. 2, p. 584.

¹¹¹ *Ibid.*, Liber V. D. No. 1, pp. 129-130.

¹¹² *Ibid.*, p. 360.

¹¹³ *Ibid.*, pp. 509, 565, 732-736.

¹¹⁴ *Ibid.*, Liber V. D., No. 2, pp. 144, 390.

¹¹⁵ *Ibid.*, p. 382; Liber V. D., No. 3, pp. 76-77.

¹¹⁶ Blackstone, *Commentaries*, IV, 198-201; Stephen, *A History of the Criminal Law of England*, III, 41, and Index.

¹¹⁷ The term “spinster” does not necessarily mean that the woman was unmarried. J. S. Cockburn, “Early-Modern Assize Records as Historical Evidence,” *Journal of the Society of Archivists*, V, No. 4 (October 1975), p. 223; Carol Z. Wiener, “Is a Spinster an Unmarried Woman?,” *The American Journal of Legal History*, XX, No. 1 (January 1976), pp. 27-31.

¹¹⁸ Provincial Court Judgment Record, Liber T. P., No. 2, pp. 576, 582; Raphael Semmes, *Crime and Punishment in Early Maryland* (Baltimore: The Johns Hopkins Press, 1938), p. 298, Note 55; Francis Neal Parke, “Witchcraft in Maryland,” *Maryland Historical Magazine*, XXXI, No. 4 (December 1936), pp. 286-289.

Hester Dorsey Richardson, in writing about the hanging of Mary Lee for witchcraft aboard a ship bound for Maryland in 1654, says that

It should be particularly gratifying to all Marylanders to know that the belief in witchcraft did not reach the ruling classes, and that no law exist[ed] regarding witches, hence Maryland has the proud and comforting satisfaction of never having tainted her soil with the innocent blood of helpless men and women in the name of religion.

Hester Dorsey Richardson, *Side-Lights on Maryland History, with Sketches of Early Maryland Families* (2 vols.; Baltimore: Williams and Wilkins Company, 1913), I, 143.

For the hanging of Mary Lee, see *Md. Arch.*, III, 306-308; Semmes, *Crime and Punishment in Early Maryland*, p. 172; Parke, “Witchcraft in Maryland,” p. 271; “Annual Letter of the Jesuits” (1654), excerpted in Clayton Colman Hall, ed.,

Narratives of Early Maryland (New York: Charles Scribner's Sons, 1910), pp. 140-141.

Actually Mrs. Richardson was too optimistic. She must not have realized that where the laws of the province were silent the laws of England applied. 1692, c. 36, *Md. Arch.*, XIII, 83; Queen Anne's County commission, 11 November 1709, Queen Anne's County Court Judgment Record, Liber E. T., No. B, pp. 1-2; Prince George's County commission, 13 December 1710, Prince George's County Land Records, Liber F, pp. 57-59; Attorney General Sir Edward Northey to Sir Charles Hedges, Secretary of State for the Southern Department, 27 July 1706, TNA (PRO), *Calendar of State Papers: Colonial Series*, XXIII, No. 444; William Kilty, *A Report of All Such English Statutes as Existed at the Time of the First Emigration of the People of Maryland . . .* (Annapolis: Jehu Chandler, 1811), p. 190.

For the application of the laws of England in the province, see also *Md. Arch.*, XXXIV, 674, 678, for reports of commissions to justices of 10 May 1658, October 1676 (day not included), 14 March 1677/8, 26 September 1692, 30 September 1692, 2 May 1694, and 11 April 1699.

The rulers of Maryland did believe in witchcraft. J. Thomas Scharf, *History of Maryland from the Earliest Period to the Present Day* (3 vols.; Baltimore: J. B. Piet, 1879; reprinted Hatboro, Pa.: Tradition Press, 1967), I, 297-299. Mrs. Richardson must not have known that on 9 October 1685 Rebecca Fowler of Calvert County was hanged after a petit jury at the provincial court found her guilty of witchcraft. Provincial Court Judgment Record, Liber T. G., p. 34; *Md. Arch.*, XXXIV, 678; Semmes, *Crime and Punishment in Early Maryland*, pp. 168; Parke, "Witchcraft in Maryland," pp. 281-284.

Other accusations of witchcraft did not end in hangings. In a petition on 17 February 1674/5 the delegates asked Governor Charles Calvert for mercy for John Cowman, who had been convicted of witchcraft. Calvert reprieved Cowman with the conditions that the reprieve be revealed to him only after he was at the gallows with the rope around his neck and that he remain in St. Mary's City "to be Employed in Such Service" as Calvert and his council thought during the pleasure of the governor. *Md. Arch.*, II, 425-436, 446-447. On 30 April 1686 a petit jury at the provincial court found Hannah Edwards of Calvert County not guilty of witchcraft. Provincial Court Judgment Record, Liber T. G., pp. 49-50; *Md. Arch.*, XXXIV, 678; Semmes, *Crime*

and Punishment in Early Maryland, p. 298, Note 55; Parke, "Witchcraft in Maryland," pp. 284-286.

In its report in October of 1723 the "Committee Appointed to Inspect the Ancient Records of . . . [the] province and Examine how farr the Laws and Generall Statutes of England have been received in the Courts of Judicature" of the province mentions the cases of Rebecca Fowler and Hannah Edwards. *Md. Arch.*, XXXIV, 678.

For the accusation of witchcraft against Richard Manship's wife, which did not come to trial, in 1654, see *ibid.*, X, 399.

For the hanging of the alleged witch Elizabeth Richardson on board a ship bound for Maryland, apparently in 1658, see *ibid.*, XLI, 327-329.

¹¹⁹ The reality that the defendant was considered guilty until he could prove himself innocent pervades the legal records of colonial Maryland, but for specific evidence see 21 James 1, c. 27, in Pickering, *The Statutes at Large*, VII, 298; 4 George 3, c. 15, in *ibid.*, XXVI, 50-51; 1715, c. 27, *Md. Arch.*, XXX, 234-235; 1755, c. 6, *Md. Arch.*, LII, 114; 1755, c. 16, *Md. Arch.*, LII, 206; 1756, c. 1, *Md. Arch.*, LII, 476; 1756, c. 24, *Md. Arch.*, LII, 663; 1757, c. 17, *Md. Arch.*, LV, 144-145; Annapolis By-Laws, 1768-1816, pp. 58-59; Provincial Court Judgment Record, Liber T. P., No. 2, pp. 193, 300-301, with TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVI, No. 274, and TNA (PRO), Colonial Office 5, Vol. 720, p. 117; *Maryland Gazette*, 1 February 1753, 13 May 1762; Cecilius Calvert, principal secretary of Maryland, to Edmund Jennings, deputy secretary of the province, 9 July 1752, in Calvert Papers, No. 2: Selections from Correspondence, Maryland Historical Society Fund Publication No. 34 (Baltimore: Maryland Historical Society, 1894), p. 170.

I consider the assumption of guilt in "The Functions of Punishments in Eighteenth-Century Maryland," Paper presented at the Hall of Records' Conference on Maryland History in Honor of Morris L. Radoff, Annapolis, Maryland, 14-15 June 1974, which has become Chapter 1, "Functions," in a longer manuscript with the title above, in preparation.

In acts of 1692, 1699, and 1715 the assembly of Maryland lumps acquitted defendants among the criminals. 1692, c. 81, *Md. Arch.*, XIII, 550; 1699, c. 38, *Md. Arch.*, XXII, 527; 1715, c. 26, *Md. Arch.*, XXX, 307.

And, in the nineteenth century, note long-time judge Sir James Fitzjames Stephen:

Suspected people, after all, are generally more or less guilty, and though it may be generous . . . to act upon the opposite presumption, I do not see why a Government not strong enough to be generous should shut their eyes to real probabilities in favour of a fiction.

Stephen, *A History of the Criminal Law of England*, I, 355.

¹²⁰ Because some of the records of the provincial court and of the assizes and most of the records of the special courts of oyer and terminer and jail delivery have not survived, this figure of sixteen defendants sentenced to hang during Bladen's tenure as attorney general is no doubt too low. See Note 125 below.

For the assizes, see Notes 58 and 70 above. A court of oyer and terminer and jail delivery was a special court appointed to hear one or more cases so that suspects would not have to be kept in jail until the next session of the provincial court. While usually they tried capital cases, they also tried non-capital ones. In non-capital cases the suspects would be kept under bond rather than in jail. Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763*, pp. 114-118.

Bladen got the sixteenth sentence of death, that of John Peterson for murder, at a special court of oyer and terminer and jail delivery for Anne Arundel County in July of 1706. A petit jury found Peterson, a sailor from Calvert County, guilty of killing Thomas Randshaw, the cook on the *Mary and Elizabeth Hopewell*, on 26 June 1706 aboard the ship by wilfully and feloniously stabbing him in the left breast with an iron knife worth five farthings and inflicting a mortal wound two inches long and four inches deep. According to the record, the chief justice of the court, Thomas Smyth, enthusiastically sentenced Peterson to hang until he was "dead Dead Dead." Provincial Court Judgment Record, Liber H. W., No. 3, pp. 268-269, 270-273.

Thomas Smyth was the fourth-ranking justice of the provincial court. *Ibid.*, Liber T. B., No. 2, pp. 65-67.

I do not include this case in the figures on Bladen's successes and failures that I give below, since there I include only indictments returned at the provincial court.

Bladen conducted other prosecutions at the special courts of oyer and terminer. At the same court at which he got the sentence of death for John Peterson he also got a conviction of Richard Williams, a tailor from Dorchester County, for stealing a

broadcloth coat worth twenty shillings sterling from the house of Lewis Jones on 30 January 1705/6. The justices sentenced Williams to stand one hour in the pillory with his offense noted on his back, to receive thirty lashes on his bare back, and to pay Lewis 550 pounds of tobacco fourfold. Since he could not give security of fifty pounds sterling with sureties, apparently two, of twenty-five pounds sterling each to guarantee the payment of his fourfold and fees the justices committed him to a sheriff—probably the sheriff of Dorchester County—until the next provincial court, where he would be sold into servitude for four years to anyone who would pay the fourfold and fees. Provincial Court Judgment Record, Liber H. W., No. 3, pp. 273-275.

For Bladen's successful prosecution of three men at a court of oyer and terminer and jail delivery in February of 1708/9 for hog-theft, see Prince George's County Court Record, Liber D, pp. 104-105.

In 1711 Bladen received eight hundred pounds of tobacco for prosecuting William Holmes and his wife at a special court of oyer and terminer in Prince George's County (TNA (PRO), Colonial Office 5, Vol., 720, p. 51), but either this was a non-capital case or they were acquitted, or both, since on 30 October 1711 the upper house referred their petition to the justices of Prince George's County to determine how much time they would have to spend in servitude to pay their fees. *Md. Arch.*, XXIX, 16.

For laws requiring the sale of defendants, including acquitted defendants, for their fees see Note 56 above.

As the case of George Askins illustrates (see Text above at Notes 58-73), Bladen also prosecuted criminal cases at the assizes, as did later attorneys general. Provincial Court Judgment Record, Liber W. G., No. 2, pp. 153-155, 155-158, 158-161, 463-465; Liber R. B., No. 2, p. 595; Liber E. I., No. 2, pp. 312-314, 470-472, 472-473. Thus Bladen might have got some additional capital sentences at those courts, too.

Including the cases from the assizes and at the special courts of oyer and terminer in our figures on Bladen's successes and failures would change them, but the records of criminal cases tried at these courts are too skimpy to justify their inclusion.

We also do not know just how many of Bladen's condemned defendants were actually hanged. Benjamin Cely, for example, was condemned in 1705 for breaking

jail but ended up in Pennsylvania (Provincial Court Judgment Record, Liber T. L., No. 3, pp. 555, 566-566b; 1705, c. 4, *Md. Arch.*, XXVI, 512-513; TNA (PRO), *Calendar of State Papers: Colonial Series*, XXII, No. 1210 (pp. 550-551); XXIII, Nos. 84 (pp. 40-41), 792 (pp. 388-389), 1113 (pp. 544-545), 1570 (p. 761)), and Susannah Puckham — Mulatto Sue — , who in 1711 was sentenced to hang for the murder of her bastard child (Provincial Court Judgment Record, Liber T. P., No. 2, pp. 193, 300-301; *Md. Arch.*, XXIX, 26; TNA (PRO), Colonial Office 5, Vol. 720, p. 117; TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVI, No. 274), survived to be acquitted in 1717 of the alleged murder of another bastard child. Provincial Court Judgment Record, Liber V. D., No. 2, p. 382; Liber V. D., No. 3, pp. 75-76.

¹²¹ During the past few years much good work has been done on crime and punishment in England. Among the books that I believe to be the best are E. P. Thompson, *Whigs and Hunters: The Origins of the Black Act* (New York: Pantheon Books, 1975); Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson, and Cal Winslow, *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York: Pantheon Books, 1975); J. M. Beattie, *Crime and the Courts in England, 1660-1800* (Princeton: Princeton University Press, 1986); Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (Cambridge: Cambridge University Press, 1992); V. A. C. Gatrell, *The Hanging Tree: Execution and the English People, 1770-1868* (Oxford: Oxford University Press, 1994).

¹²² 1704, c. 48, *Md. Arch.*, XXVI, 323; 1715, c. 34, *Md. Arch.*, XXX, 244, 246; 1729, c. 4, *Md. Arch.*, XXXVI, 454; 1729, c. 17, *Md. Arch.*, XXXVI, 474; 1735, c. 10, *Md. Arch.*, XXXIX, 296; 1737, c. 2, *Md. Arch.*, XL, 86; 1737, c. 7, *Md. Arch.*, XL, 92; 1751, c. 14, *Md. Arch.*, XLVI, 618; 1754, c. 4, *Md. Arch.*, L, 523-524; 1758, c. 3, *Md. Arch.*, LV, 692-693.

¹²³ After former Secretary of Agriculture Mike Espy on 2 December 1998 was acquitted of thirty charges of corruption, independent prosecutor Donald C. Smaltz, unfazed by his failure, is quoted as saying, "The actual indictment of a public official may in fact be as great a deterrent as a conviction of that official." *Washington Post On Line*, 3 December 1998, p. A1.

¹²⁴ Provincial Court Judgment Record, Liber V. D., No. 1, p. 41. I am assuming

here, possibly incorrectly, that this indictment included only one defendant.

¹²⁵ If a person was indicted more than once, I have counted him separately each time. Actually the 146 defendants include only 111 separate individuals.

These figures might be too low, since the criminal records of one session of the provincial court are missing. Provincial Court Judgment Record, Liber T. B., No. 2, ends with civil cases from the session of May 1706, while the next volume, Liber P. L., No. 1, begins with the civil cases from the session of September 1706. Thus all of the information that ordinarily is included at the beginning of the record of each session, including the returns of the grand jury and the criminal prosecutions, is missing from the records of the session for September of 1706.

¹²⁶ Again if the same person is named in more than one indictment I am counting him each time he was indicted. The 130 defendants traced include ninety-nine separate individuals. Thomas Macnemara alone accounts for twelve of these indictments, and he and John Mitchell account for a thirteenth.

I have not been able to trace the disposition of the remaining sixteen indictments, which, as is shown in the text at Notes 125 and 126, include sixteen defendants.

¹²⁷ The defendants in these five cases include only three separate people: William Johnson, Elizabeth Wemley or Wemsley, and John Roger Sawcer or Saucer. The sheriffs involved were those of Anne Arundel County and Prince George's County. Provincial Court Judgment Record, Liber V. D., No. 2, pp. 127, 382; Liber V. D., No. 3, pp. 189, 190-191.

¹²⁸ Here we have three indictments against Macnemara that were still outstanding instead of the four mentioned at Note 108 above because one of those four indictments is from the Anne Arundel County court rather than from the provincial court.

¹²⁹ Provincial Court Judgment Record, Liber T. B., No. 2, pp. 72, 211-215 (Thomas Whichaley); Liber P. L., No. 1, pp. 90-91, 159-160 (Edward Hammond); Liber T. P., No. 2, pp. 192, 307-308 (Negro Boatswain).

¹³⁰ *Ibid.*, Liber T. P., No. 2, pp. 329, 462-463 (John Rencher and John Roberts); pp. 192, 637-639 (John Rogers).

¹³¹ Hester Oldfield and Hester Smith. *Ibid.*, Liber V. D., No. 3, pp. 106, 228-229; *Md. Arch.*, XXXIII, 166, 246, 251; 1718, c. 7, *Md. Arch.*, XXXVIII, 233-234.

For the prosecution of the two Hesters, see Text below at Notes 146-152.

¹³² Provincial Court Judgment Record, Liber P. L., No. 4, pp. 3, 73-74; Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp. 534-538 (William Vernon). For William Vernon's case, see Text below at Notes 183-189.

¹³³ See Note 131 above.

¹³⁴ Somebody has invented the unfortunate term "partial verdict" for the jury's finding the defendant guilty of a crime less serious than the one with which he was charged. Beattie, *Crime and the Courts in England, 1660-1800*, pp. 419-430; Langbein, *The Origins of Adversary Criminal Trial*, pp. 58-59. The term defies logic. These verdicts were not partial but rather were complete verdicts that were less harsh than the prosecutors wanted. "Mitigating verdict" might be a better term.

In his section on "partial verdicts" J. M. Beattie does use the term "mitigated verdicts." Beattie, *Crime and the Courts in England, 1660-1800*, p. 429.

¹³⁵ John Bellamy, *Crime and Public Order in England in the Later Middle Ages* (London: Routledge & Kegan Paul, 1973), p. 124; Beattie, *Crime and the Courts in England, 1660-1800*, pp. 411, 419, 425, 428, 437; Richard W. Ireland, "Theory and Practice Within the Medieval English Prison," *The American Journal of Legal History*, XXXI, No. 1 (January 1987), p. 64; J. S. Cockburn, "Twelve Silly Men? The Trial Jury at Assizes, 1560-1670," in J. S. Cockburn and Thomas A. Green, eds., *Twelve Good Men and True: the Criminal Jury Trial in England, 1200-1800* (Princeton: Princeton University Press, 1988), p. 171; Edward Powell, "Jury Trial at Gaol Delivery in the Late Middle Ages: The Midland Circuit, 1400-1429," in *ibid.*, pp. 100, 104, 111; P. J. R. King, "'Illiterate Plebeians, Easily Mised': Jury Composition, Experience, and Behavior in Essex, 1735-1815," in *ibid.*, pp. 255, 291n.

¹³⁶ Beattie, *Crime and the Courts in England, 1660-1800*, pp. 8-10, 35-36, 38-40; Douglas Hay, "Controlling the English Prosecutor," *Osgoode Hall Law Journal*, XXI, No. 1 (March 1983), pp. 167, 168-169; John H. Langbein, "Shaping the Eighteenth-Century Criminal Trial: A View from the Ryder Sources," *The University of Chicago Law Review*, L, No. 1 (Winter 1983), p. 127; John H. Langbein, "The Origins of Public Prosecution at Common Law," *The American Journal of Legal History*, XVII, No. 4 (October 1973), p. 317; Langbein, *The Origins of Adversary Criminal Trial*, pp. 108, 120-121; Stephan Landsman, "The Rise of the Contentious

Spirit: Adversary Procedure in Eighteenth Century England,” *Cornell Law Review*, LXXV (1990), pp. 514-517, 526.

¹³⁷ Governor Philip Calvert appointed Thomas Manning as the first attorney general and public prosecutor under the proprietor in a commission dated 20 February 1660/1 (*Md. Arch.*, III, 403-404; Owings, *His Lordship’s Patronage*, p. 132), and the council approved of the first public prosecutors — clerks of indictments — for the counties on 21 April 1688. *Md. Arch.*, VIII, 17-18, 30; Owings, *His Lordship’s Patronage*, p. 107.

Mary Beth Norton says that in Maryland in the seventeenth century “approximately two thirds” of all defendants who were tried were found guilty. Mary Beth Norton, “Gender, Crime, and Community in Seventeenth-Century Maryland,” in James Henretta, Michael Kammen, and Stanley N. Katz, eds., *The Transformation of Early American History: Society, Authority, and Ideology* (New York: Alfred A. Knopf, 1991), p. 138.

¹³⁸ In cases of alleged burglary the prosecutors always charged that the suspect had “feloniously and burglariously” broken into the houses. If the jurors could not find the defendants guilty of burglaries they could find them guilty of felonies, as they did in all of the cases of alleged burglary that appear here.

¹³⁹ Four conditions were necessary for a person to be charged with burglary. He had (1) to break into and enter (2) a dwelling-house or a building that was “parcel of the mansion-house and within the same common fence, though [it might] not [be] under the same roof or contiguous . . .” (3) at night (4) with the intention of committing a felony in it. Blackstone, *Commentaries*, IV, 223-228.

In Maryland the wording was “contiguous to or used with any Mansion-house” (1729, c. 4, *Md. Arch.*, XXXVI, 454-455) or “Contiguous to or used with Any Dwelling House.” 1737, c. 7, *Md. Arch.*, XL, 92-95.

¹⁴⁰ Ordinarily defendants in criminal cases had no attorneys. This is true in spite of John Seymour’s implication in a letter of 3 July 1705 to the Board of Trade. TNA (PRO), Colonial Office 5, Vol. 715, No. 87; *ibid.*, Vol. 726, pp. 326-327; TNA (PRO), *Calendar of State Papers: Colonial Series*, XXII, No. 1210 (pp. 551-552). The criminal cases that I have mentioned in this manuscript in which defendants had attorneys either are exceptions or are cases in which the defendants got writs of error or writs of *certiorari*.

¹⁴¹ For Thomas Reynolds as sheriff of Anne Arundel County in April of 1715, see Anne Arundel County Court Judgment Record, Liber T. B., No. 3, p. 428; Liber V. D., No. 1, p. 46.

The sheriff of Anne Arundel County served as the sheriff of the provincial court. The sheriff of the court is usually entered on the first page of the proceedings of the court, so compare the first pages of the records of the sessions of the provincial court with the first pages of those of the Anne Arundel County court. An illustration: Provincial Court Judgment Record, Liber P. L., No. 2, pp. 23, 129, 252, with Anne Arundel County Court Judgment Record, Liber T. B., No. 1, pp. 686, 733, 749, 801.

¹⁴² In 1681 the assembly tempered the English law by providing that for thefts valued at one thousand pounds of tobacco or less and involving no robbery, burglary, or house-breaking the penalty would be whipping or pillorying or both and paying the victim of the theft four times the value of the stolen goods rather than hanging. 1681, c. 3, *Md. Arch.*, VII, 201-203; 1692, c. 34, *Md. Arch.*, XIII, 479-481. By an act of 1699 the assembly provided that the punishment would be “Setting in the Stocks whipping Pillory *or* restoreing [*sic*] four fold in Value,” thus implying that the punishment could be any one of those four (1699, c. 44, *Md. Arch.*, XXII, 553-555. My emphasis.), but the next year it left out the stocks and clarified the law by providing that the punishment would be both the pillory and the whip in addition to the payment of the fourfold. 1700, c. 2, *Md. Arch.*, XXIV, 98-101. From 1700 on also a second theft above the value of twelve pence would be tried in the provincial court and the convicted defendant could be sentenced to the fourfold repayment and branding “or such other corporal punishment as the Court shall adjudge saving life” *Ibid.*; 1704, c. 25, *Md. Arch.*, XXVI, 266-269; 1715, c. 26, *Md. Arch.*, XXX, 304-308.

¹⁴³ See previous note. In the record of the provincial court there is no evidence that this was Taylor’s second offense.

¹⁴⁴ Provincial Court Judgment Record, Liber V. D., No. 1, pp. 486, 546-548.

¹⁴⁵ See Notes 44 and 56 above.

¹⁴⁶ According to the indictment against the two Hesters, Hester Oldfield stole six Spanish gold pistoles, one Spanish half-pistole, one “Chequin or Arabian Peice [*sic*] of gold,” one English gold guinea, one Portuguese piece of silver, and “Divers Dog Dollars Spanish Peices [*sic*] of Eight and other Silver mony [*sic*].”

A dog dollar was “a silver dollar of the Netherlands that circulated in New Jersey, Pennsylvania, and Maryland about 1700 and had on the obverse a lion rampant.” *Webster’s Third New International Dictionary of the English Language Unabridged* (1981).

¹⁴⁷ It is possible that in this indictment and in the indictment against John Taylor the clerk left out some words, but it is dangerous to assume every time we find something strange in the records that the clerk made a mistake. We have to write from the records as they exist.

¹⁴⁸ Provincial Court Judgment Record, Liber V. D., No. 3, pp. 106, 228-229.

¹⁴⁹ 3-4 William and Mary, c. 9, par. 1, in Pickering, *The Statutes at Large*, IX, 138. The laws of Maryland on thefts to the value of one thousand pounds of tobacco or less also provided the same corporal punishment for the accessory as for the principal. 1704, c. 25, *Md. Arch.*, XXVI, 266-267; 1715, c. 26, *Md. Arch.*, XXX, 304-305.

¹⁵⁰ *Md. Arch.*, XXXIII, 166, 246, 251; 1718, c. 7, *Md. Arch.*, XXXVIII, 233-234.

¹⁵¹ Provincial Court Judgment Record, Liber T. L., No. 3, pp. 150-153, 433-434, and Notes 56 above and 161 below.

¹⁵² Provincial Court Judgment Record, Liber V. D., No. 3, pp. 108, 228.

¹⁵³ St. James’s Parish was south of Annapolis, running south from West River. Nelson Waite Rightmyer, *Maryland’s Established Church* (Baltimore: The Church Historical Society, 1956), pp. 137-138; Nancy T. Baker, “Annapolis, Maryland, 1695-1730,” *Maryland Historical Magazine*, LXXXI, No 3 (Fall 1986), p. 192.

¹⁵⁴ According to the indictment against Anne Read she stole four silk handkerchiefs worth five shillings sterling, two cotton handkerchiefs worth three shillings sterling, one man’s calico cap worth two shillings sterling, one man’s red wool cap worth one shilling sterling, three muslin neck cloths worth nine shillings sterling, one man’s broadcloth waistcoat worth fifteen shillings sterling, one man’s drab coat with place buttons worth one pound sterling, one man’s sagathy frock with place buttons worth ten shillings sterling, one man’s osnaburg frock worth four shillings sterling, two pairs of osnaburg breeches with place buttons worth ten shillings sterling, two pairs of men’s worsted stockings worth seven shillings sterling, one pair of French falls worth two shillings sterling, one beaver hat worth thirty shillings sterling, and

one pair of men's leather gloves worth three shillings sterling.

"Drab" is "a kind of cloth, especially a yellowish-brown woolen." A "fall" is "a broad, turned-down ruff or collar" or "a piece of cloth hanging from a woman's hat, usually in back; kind of veil." "Osnaburg" is "a type of coarse, heavy cloth, originally of linen and now of cotton, used in making sacks, work clothes, etc." It was named after Osnaburg, Germany. Definitions from *Webster's New World Dictionary of the American Language* (College Edition, 1959). "Sagathy" is "a fine twilled worsted fabric similar to serge used esp. formerly for clothing and curtains." *Webster's Third New International Dictionary of the English Language Unabridged* (1981). I have not managed to trace "place button."

¹⁵⁵ Provincial Court Judgment Record, Liber V. D., No. 1, p. 630; Liber V. D., No. 2, pp. 7-9.

¹⁵⁶ See Note 44 above.

¹⁵⁷ According to the indictment against Martin Kenney he stole one bagnet and belt worth five shillings, one pair of men's hose worth five shillings, six yards of blank broadcloth worth three pounds, twenty-three yards of alamode silk worth seven pounds, one periwig worth ten shillings, two blue shirts worth five shillings, one piece of grimp lace worth ten shillings, and one comb-brush worth one penny sterling.

A bagnet is "a bag-shaped net for catching fish." Alamode silk is "a thin glossy silk fabric (as for hoods and scarfs)." *Webster's Third New International Dictionary of the English Language Unabridged* (1981). I have not discovered what grimp lace is.

¹⁵⁸ In the index to the Provincial Court Judgment Record from Liber T. P., No. 2 (April of 1711 through October of 1712) through Liber V. D., No. 2 (May of 1716 through April of 1717) I have found no prosecution of Majesty against John Henerkin or Lordship against Henerkin. Index to Provincial Court Judgment Record, L-Z, Maryland State Archives Microfilm No. SR-2295.

¹⁵⁹ St. Anne's Parish, or Middle Neck Parish, included Annapolis. Rightmyer, *Maryland's Established Church*, p. 138; Baker, "Annapolis, Maryland, 1695-1730," p. 192.

¹⁶⁰ Provincial Court Judgment Record, Liber T. P., No. 2, pp. 329, 460-461. This branding of Martin Kenney on the brawn of his right thumb after he pleaded

benefit of clergy, and later the branding of John Taylor on the brawn of his left thumb for theft (see Text above at Notes 138-145), might illustrate the confusion of the justices. For benefit of clergy the defendant was supposed to be branded on the brawn of the left thumb (4 Henry VII, c. 13, in Pickering, *The Statutes at Large*, IV, 45), while apparently the right thumb was supposed to be reserved for branding for theft.

¹⁶¹ At the provincial court for October of 1709 the justices ordered that Daniel Sherwood, the sheriff of Talbot County, sell Martin Kenney for five years to anyone who would pay his fees of 5200 pounds of tobacco if he could not pay them in any other way after a petit jury found him not guilty on an indictment in which a grand jury, apparently at the assizes for Talbot County in September of 1709, charged that between ten and eleven o'clock on the night of 29 July 1709 he feloniously and burglariously broke into Robert Grundy's storehouse in Oxford and stole five gallons of rum worth five shillings, apparently sterling. Provincial Court Judgment Record, Liber P. L., No. 3, pp. 80-82.

Apparently Kenney did find a way to pay his fees, since in 1712 he was still identified as a planter, just as he had been in 1709.

I have not included this prosecution in my figures on Bladen's successes and failures, since I have not found return the of the indictment. Apparently Kenney was indicted at the assizes even though he was tried at the provincial court. Robert Goldesborough, who might have been clerk of indictments of Talbot County, since he did hold that office before and after 1709 (*Biographical Dictionary*, I, 361-362), signed the indictment against Kenney, though Bladen prosecuted Kenney at the provincial court. County courts could not try whites for capital crimes until 1773. 1773, first session, c. 1, *Md. Arch.*, LXIII, 391-393.

The indictment is headed "Maryland ss" rather than "Talbot County ss." "Ss" stands for "scilicet," which means "namely; to wit; that is to say." *Webster's New World Dictionary of the American Language* (College Edition, 1959). The foreman of the grand jury that indicted Kenney was Richard Fedeman, while Joshua Merriken was the foreman of the grand jury at the provincial court for October of 1709. Provincial Court Judgment Record, Liber P. L., No. 3, p. 5.

The assizes met in Talbot County on 13 September 1709. *Ibid.*, pp. 258-261.

¹⁶² According to the indictment against Negro Hanniball and Elizabeth Taylor

they stole one pair of leather breeches with seventeen small silver buttons and worth forty shillings sterling, one gold earring worth ten shillings sterling, one pair of women's wooden-heeled shoes worth three shillings sterling, one tufted dimothy waistcoat worth seven shillings sterling, all belonging to John Mackleane, and one white flannel petticoat worth three shillings sterling, three balls of black and white yarn worth three shillings sterling, one woman's worsted damask "westcoat" worth ten shillings sterling, one new "sadd Coloured womans Westcoat" worth eight shillings sterling, a yard and a quarter of blue broadcloth worth eighteen shillings sterling, one calico apron worth seven shillings sterling, eleven hanks of "Nunn's thread" worth £0.5.6 sterling, one osnaburg sheet worth fourteen shillings sterling, and one Holland shift worth fifteen shillings sterling, all belonging to Jane Mason.

¹⁶³ The value that the jurors placed on the buttons that Hanniball is supposed to have stolen is not clear. In the indictment Bladen assessed the leather breeches with the seventeen small silver buttons at forty shillings sterling and the gold earring at ten shillings sterling, but the petit jurors did not include the breeches in the theft. Thus the theft could not have been worth more than the fifty shillings sterling.

¹⁶⁴ It might seem improbable that a Negro slave could read well enough to receive benefit of clergy, but since in England people could very quickly learn to read that well (Gabel, *Benefit of Clergy in England in the Later Middle Ages*, pp. 72-73, 75), it is quite possible that Negro Hanniball did in fact have to read.

¹⁶⁵ Provincial Court Judgment Record, Liber T. P., No. 2, pp. 576, 585-586.

¹⁶⁶ See Note 142 above.

¹⁶⁷ 4 Henry VII, c. 13, in Pickering, *The Statutes at Large*, IV, 45; Gabel, *Benefit of Clergy in England in the Later Middle Ages*, pp. 123-124.

¹⁶⁸ The trial of Elizabeth Taylor and Negro Hanniball probably was held soon after the provincial court opened on 7 October 1712 (*ibid.*, p. 576), and on 1 November 1712 Dawson petitioned the upper house to reduce Hanniball's bond. The upper house recommended that the justices of the provincial court "moderate" it. *Md. Arch.*, XXIX, 20. The response of the provincial justices has not appeared, and one year later, on 5 November 1713, Dawson petitioned the upper house again. This time he asked to be released from the security altogether. "Complaining of the great Hardships" he lay under because of the bond he had entered into for Hanniball's good behavior for as long as he remained in the province, he requested that since Hanniball

“had been of good Behaviour for about twelve months without any Complaints against him” and since he was “obliged to sell” the slave he be discharged from the recognizance. This time the upper house, acting in its capacity as the council, ordered that the recognizance be vacated. *Ibid.*, p. 227.

¹⁶⁹ Misadventure was the killing of someone by accident, while the killer was engaged in a legal activity. Blackstone, *Commentaries*, IV, 182-183. See also Note 79 above. As this case illustrates, authority in eighteenth-century Maryland did not distinguish carefully between misadventure and manslaughter.

¹⁷⁰ Provincial Court Judgment Record, Liber P. L., No. 1, pp. 90-91, 153-155.

¹⁷¹ See Note 82 above.

¹⁷² See Note 79 above.

¹⁷³ See Text above at Notes 79-88.

¹⁷⁴ Provincial Court Judgment Record, Liber V. D., No. 3, pp. 106, 198-199.

¹⁷⁵ *Ibid.*, Liber P. L., No. 3, pp. 383, 384-386.

¹⁷⁶ *Ibid.*, Liber I. O., No. 1, pp. 18, 121-124.

¹⁷⁷ See Text above at Notes 89-95.

¹⁷⁸ For “pious perjury,” see Blackstone, *Commentaries*, IV, 238; Cross, “The English Criminal Law and Benefit of Clergy During the Eighteenth and Early Nineteenth Centuries,” pp. 548-549; Beattie, *Crime and the Courts in England, 1660-1800*, p. 424; Langbein, “Shaping the Eighteenth-Century Criminal Trial,” p. 22.

William Edward Hartpole Lecky calls the jurors’ reducing the seriousness of the defendant’s crime in order to save him from hanging “the most barefaced perjury.” William Edward Hartpole Lecky, *A History of England in the Eighteenth Century* (New Edition; 7 vols.; New York: D. Appleton and Company, 1893), VII, 318.

¹⁷⁹ Cross, “The English Criminal Law and Benefit of Clergy During the Eighteenth and Early Nineteenth Centuries,” pp. 545-547; Beattie, *Crime and the Courts in England, 1660-1800*, pp. 424-430; Langbein, *The Origins of Adversary Criminal Trial*, pp. 58-60.

¹⁸⁰ See also the case of John Davison, in which in 1704 the provincial justices reduced the value of his alleged theft from £5.13.9 sterling to 999 pounds of tobacco. Provincial Court Judgment Record, Liber T. L., No. 3, pp. 435-437, and Appendix to this chapter, “William Bladen as Defense Attorney,” at Notes 35-42.

¹⁸¹ The work that I have done on benefit of clergy in colonial Maryland appears to indicate that in colonial Maryland it was not a common practice for petit juries to save defendants from hanging by finding them guilty of crimes less serious than those with which they were charged and that the evidence supported. It appears, in fact, to have been quite unusual. The evidence for a firm conclusion either way, however, is very fragile.

The cases of John Taylor, Anne Read, and John Davison do make it appear that the provincial justices might sometimes have reduced the seriousness of crimes in order to save defendants from hanging, but we can never be sure that the justices' motive was undiluted mercy. For this suggestion, see Text immediately below.

¹⁸² I have derived this figure from the Provincial Court Judgment Records, the Provincial Court Land Records, the records of the county courts, the Charles County Tobacco Inspection Records, the Executive Papers, 1715-1783, the Black Books, the Pforzheimer Collection, Commission Records, 1726-1786, Commission Records, 1733-1773, *The Maryland Gazette*, and the *Maryland Journal and Baltimore Advertiser*, all at the Maryland State Archives, and the published *Archives of Maryland*.

¹⁸³ Provincial Court Judgment Record, Liber P. L., No. 4, pp. 3, 73-74. I have not found Vernon's appearance at the provincial court for September of 1718.

¹⁸⁴ *Ibid.*, pp. 3, 74-75, 75-76.

¹⁸⁵ 1715, c. 26, *Md. Arch.*, XXX, 304-308. For the prices of tobacco from 1697 through 1714, see Margaret Shove Morriss, *Colonial Trade of Maryland* (Baltimore: The Johns Hopkins Press, 1914), pp. 38-39. For the difficulty of determining the price of tobacco, see Russell R. Menard, "Farm Prices of Maryland Tobacco, 1659-1710," *Maryland Historical Magazine*, LXVIII, No. 1 (Spring 1973), pp. 80-85.

In an "Act for the Encouragement of Tillage, and Relief of poor Debtors" in 1704 and again in 1715 the assembly rated tobacco at one penny per pound. 1704, c. 18, *Md. Arch.*, XXVI, 279; 1715, c. 17, *Md. Arch.*, XXX, 259. And in 1716 Charles Carroll used one penny per pound as the price of tobacco. *Md. Arch.*, XXX, 396.

What I say about horse-theft here corrects what I say about it in *The County Courts and the Provincial Court in Maryland, 1733-1763*, pp. 309-310.

¹⁸⁶ 37 Henry VIII, c. 8, in Pickering, *The Statutes at Large*, V, 224-225; 1 Edward VI, c. 12, in *ibid.*, p. 264; 2-3 Edward VI, c. 33, in *ibid.*, p. 327.

¹⁸⁷ *Black's Law Dictionary* (6th edition), p. 1556.

¹⁸⁸ Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp. 533, 534-538. While Edmond Jennings appeared for Vernon in the high court of appeals (*ibid.*, p. 537), William Beckingham had sued out the writ of error for him. *Ibid.*, pp. 534-535.

Possibly the notation that Michael Howard did not oppose the reversal of Vernon's conviction means that in other cases too the wording that the attorney general argued that "Neither in the Record and process af^d nor in the Matters therein contained nor in Rendering the Judg^t" were there any errors was only conventional and that therefore that wording does not mean that the attorney general actually opposed the reversal. Probably we have to assume, however, that when that wording appears without any notation to the contrary the attorney general did oppose the reversal.

¹⁸⁹ Vernon's case is a good illustration of the disadvantages of the defendant who did not have an attorney in a criminal case. If he had had an attorney to begin with he might not have been whipped and pilloried and might not have suffered the stigma of the conviction of horse-theft for those ten years.

¹⁹⁰ See Note 134 above.

¹⁹¹ Writing of an earlier period in England, P. G. Lawson suggests that we should not make too much of the mercy of jurors and that "Far from attempting to moderate the law, the jurors emerge as willing and largely obedient participants in the early modern system of law enforcement." P. G. Lawson, "Lawless Juries? The Composition and Behavior of Hertfordshire Juries, 1573-1624," in Cockburn and Green, eds., *Twelve Good Men and True: the Criminal Jury Trial in England, 1200-1800*, pp. 156-157, 157.

But see also Thomas A. Green, "The Jury and the English Law of Homicide, 1200-1600," *Michigan Law Review*, LXXIV (January 1976), pp. 414-499, especially pp. 428-434; Thomas Andrew Green, *Verdict According to Conscience* (Chicago: University of Chicago Press, 1985).

¹⁹² As for example the cases that J. M. Beattie mentions in *Crime and the Courts in England, 1660-1800*, pp. 424-425.

¹⁹³ For Bladen's fees in eight prosecutions, see Journal of the Committee of Accounts, 8 December 1708, in "Unpublished Provincial Records," *Maryland*

Historical Magazine, XVII, No. 1 (March 1922), p. 53.

¹⁹⁴ See Note 161 above.

¹⁹⁵ 1722, c. 5, *Md. Arch.*, XXXIV, 474.

¹⁹⁶ 1698, c. 7, *Md. Arch.*, XXXVIII, 114; 1699, c. 25, *Md. Arch.*, XXII, 502; 1704, c. 55, *Md. Arch.*, XXVI, 334.

¹⁹⁷ 1715, c. 48, *Md. Arch.*, XXX, 249.

¹⁹⁸ An indictment was a presentment, but a presentment was not an indictment. Blackstone, *Commentaries*, IV, 301. An indictment might be referred to both as a presentment and an indictment. Provincial Court Judgment Record, Liber T. B., No. 2, pp. 211-215.

J. H. Baker: "All indictments were presentments, but usage reserved the latter term for those made from the jurors' own knowledge (i. e. without bills) . . ." J. H. Baker, "Criminal Courts and Procedure at Common Law, 1550-1800," in J. S. Cockburn, ed., *Crime in England, 1550-1800* (Princeton: Princeton University Press, 1977), p. 300, Note 19.

¹⁹⁹ Research to determine whether Thomas Bordley and Daniel Dulany, who followed Bladen as attorneys general (Owings, *His Lordship's Patronage*, p. 134), were as unsuccessful in getting convictions as William Bladen was and whether the passage of the act of 1722 either reduced the number of indictments or increased the proportion of successful prosecutions might result in an interesting, though probably short, seminar paper or article.

Appendix to Chapter 6

William Bladen as Defense Attorney

William Bladen might have become a better lawyer if he had not been so ambitious. In the few criminal cases that have appeared in which he served as defense attorney before he became attorney general he did show some concern for due process and the proper forms of law, but as attorney general he had to ignore such considerations. His job was to prosecute people who aroused suspicion against themselves and to get convictions where he could. Seeking justice rather than convictions would have ended his career not only in that position but probably also in all of those other profitable offices he held.

As a defense attorney arguing for arrests of judgment and on writs of error in criminal cases Bladen was successful in three of seven cases and appears to have been successful in a fourth. He got reversals on writs of error in three of four cases, but in two other cases, involving one defendant, he failed to get arrests of judgment and apparently pursued the cases no further. In the seventh criminal case he appears to have got an arrest of judgment, but the record here, as in the two previous cases, is vague.

In his first success Bladen got a reversal for four defendants. On 2 October 1698 William Jenckins, a planter, complained to Thomas Jones, one of the justices of Somerset County, that Cornelius Ward Jr., Stephen Ward, Jonathan Ward, and John Taylor, an attorney, on an unspecified date “did drive steale and Carry Away and kill” a steer that he had “running at James Price’s Island.” Jones immediately ordered the constable of Annamessex Hundred or his deputy or deputies there to have the four men before him or one of the other justices of Somerset County by ten

o'clock on the fourth, only two days later, and also to summon Thomas Ward, his wife Margaret Ward, Mary Price, Henry Lecke, and John Starling. Thomas Ward, apparently, was summoned as another suspect and the last four as witnesses. When the four male Wards and Taylor appeared, apparently on the fourth, Jones ordered them into the custody of the constable, the sheriff of Somerset County, John West, or West's deputy until they gave good security to guarantee their appearance at the Somerset County court on the second Tuesday of January 1698/9 to answer the complaint against them. Whether the suspects were able to provide the security does not appear.

After the grand jury at the Somerset County court in January presented all except Thomas Ward¹ "for Carrying away a Steer . . . [that] was none of their own," the justices issued a warrant for the appearance of the four, and William Colebourne, a deputy sheriff, immediately brought them into court.

On the basis of the presentment Samuel Worthington, the clerk of indictments,² drew up a bill of indictment in which he charged that about 30 September or 1 October 1698 the four men "did privately Secretly and Clandestinely Purloine drive Away and Kill" a steer running at James Price's Island, belonging to William Jenkins Sr., and of the value of eight hundred pounds of tobacco. The bill of indictment was not endorsed *billa vera* or a true bill or signed by the foreman of the grand jury but rather was signed only by Worthington.³ After a petit jury found all four defendants guilty the justices ordered that they "be fined fflower ffold," thirty-two hundred pounds of tobacco, and that they give security to guarantee their good behavior and the payment of the fourfold and their fees. The three Wards together, to whom the clerk refers later as "the young wards,"⁴ gave security of thirty pounds sterling, with Thomas Gideane as their surety for twenty pounds sterling, and Taylor gave security of ten pounds sterling, with Michael Holland as his surety for five pounds sterling.⁵ In February of 1698/9 the justices also disbarred Taylor.⁶

Since Bladen had no practice in Somerset County,⁷ he must have got involved in the case after it ended there. On a writ of error at the provincial court for May of 1699 he alleged six errors in the proceedings against the four defendants. First, he argued, the grand jurors had presented the four only "for carrying away A steere which was none of their Owne," which might have been only a trespass. The presentment did not "beare any express words Tanta Mount to Purloyning & killing

the steere,” as Worthington charged in the bill of indictment. Thus the grand jury had found no presentment or bill against the defendants to warrant the proceedings, which therefore were “Altogether Vicious and Erronious [*sic*].”

Second, Bladen argued, the process issued against the four on the basis of the presentment was returned by the under-sheriff rather than by the high sheriff of the county. Third, the judgment and the proceedings were altogether erroneous and vicious because the bill of indictment that Worthington wrote up did not include the “Mistry or occupation” of each of the defendants. Fourth, in the bill of indictment Worthington did not specify the vicinage in which the alleged crime had occurred. Since he did not even mention Somerset County no one could tell whether the crime came under the jurisdiction of the Somerset County court and the jury that heard the case. Fifth, according to the record before the provincial court Thomas Ward had sold the steer to Taylor. Therefore the court should not have given judgment against the four defendants for stealing the steer until Thomas Ward had been convicted, since he would have been the principal and the others would have been only accessories. Finally, it appeared on the record that Thomas Ward had owned the steer and had properly sold it to Taylor, who could not “reasonably be supposed Guilty of Purloyning and killing his own steere.”⁸

For all of these reasons, Bladen claimed, the entire record, process, proceedings, and judgment against the four were vicious and erroneous, and he asked the justices to reverse and set aside the judgment.

Here Bladen failed to include what might have been his best argument for the reversal of the conviction of Taylor and the Wards: that no grand jury had returned the indictment against the four but that Worthington had simply written it up on the basis of the presentment. A prosecution for theft required an indictment by a grand jury.⁹ Bladen did approach this argument when he told the court that the grand jury’s presentment did not “beare any express words Tanta Mount to Purloyning & killing the steere,” while Worthington’s bill of indictment did, but he did not make the argument explicit. Obviously the grand jury had never seen the bill of indictment.

At the request of William Dent, the attorney general, the provincial justices continued the case to their next court, where in October of 1699 Dent argued that there were no errors in the proceedings and judgment against the defendants and asked for judgment against them. The justices, however, disagreed, decided that the

proceedings and judgment were “manifestly Erronious,” and ordered that everything that the defendants had lost as a result of that judgment be restored to them and that a writ of restitution be issued for that purpose.¹⁰

At the Somerset County court in November Taylor was sworn in again as an attorney.¹¹

At the provincial court for April of 1701 Bladen was similarly successful in getting the conviction of Moses Harris reversed on a writ of error after Harris was convicted of theft at the Talbot County court. Since he had no practice in Talbot County,¹² here again Bladen must have become involved in the case after it ended in the county court. As attorney for Harris he argued that in the records and proceedings as well as in the rendering of the judgment against Harris there was “manifest Error” because at the time the justices ordered that Harris pay the fourfold and stand in the pillory there was no law in force to warrant that judgment. The provincial justices decided that Bladen’s reason was sufficient, reversed the judgment against Harris, and ordered that he be restored to everything he had lost.¹³

Since the record of the provincial court does not include a transcript of the case from the Talbot County court, and since no record of the case appears to have been entered in the record of the Talbot County court,¹⁴ we cannot be sure why Bladen could argue that at the time the justices of Talbot County gave judgment against Harris there was no law of the province to justify that judgment. It appears, however, that he might have made his argument for one of two possible reasons.

The first possibility is that by the time the justices gave their judgment the last renewal of the act for the speedy trial of criminals of 1692¹⁵ had expired. After two earlier renewals,¹⁶ on 19 October 1695 the assembly again renewed the act for three years or until “the end of the next General Assembly,” whichever came first.¹⁷ Since the assembly did not renew the act within the three years, it expired on 19 October 1698 — the next general assembly, which opened on 10 March 1697/8, would not end until 9 May 1700¹⁸ —, and therefore from 19 October 1698 until Governor Nathaniel Blakiston signed a new act on 22 July 1699¹⁹ there was no act for the speedy trial of criminals. Thus Bladen might have made his argument because the judgment of the Talbot County court came between 19 October 1698 and 22 July 1699. Possibly the confusion that this lapse created is the explanation for the assembly’s including no expiration date in the act of 1699 and future acts for the speedy

trial of criminals.²⁰

The more likely possibility is that Harris allegedly committed his crime between 22 July 1699 and 9 May 1700. By the act that Blakiston signed and sealed on the earlier date the assembly provided that for thefts valued at one thousand pounds of tobacco or less the punishment would be “Setting in the Stocks whipping Pillory *or* restoreing [*sic*] four fold in Value,”²¹ which apparently means that the justices could impose only one of those punishments. The next year the assembly provided that the punishment for such thefts would be both the pillory and the whip in addition to the payment of the fourfold²² and thus restored the punishment that the law provided before 1699.²³ If Harris committed his crime after the passage of act of 1699 but before the act of 1700 was passed, therefore, the justices could not sentence him both to stand in the pillory and to pay the fourfold.

In April of 1703 Bladen got Anthony Millburne’s conviction reversed in another case of alleged theft. At the Anne Arundel County court for November of 1701 the grand jury charged that in St. James’s Parish on 8 August 1701 Millburne, a sawyer from St. James’s Parish, killed and carried away a bull calf belonging to Matthias Clarke, a millwright, and of the value of two hundred pounds of tobacco. Thomas Freeborne, the foreman of the grand jury, endorsed the indictment “Bill A Veary” and signed his name. When Millburne appeared the justices allowed him to respond through Bladen, who entered a plea of not guilty, but a petit jury found Millburne guilty of killing the calf.

Bladen moved for an arrest of judgment on five technical grounds and one more. First, he argued, the indictment did not name the county in which Millburne lived. Second, the indictment did not specify the county in which the alleged crime had been committed.²⁴ Third, the indictment did not state that Millburne was presented for the king. Fourth, the endorsement of the grand jury — “Bill A Veary” rather than *billa vera* — was “Altogether insufficient to Maintaine the finding The bill.” Fifth, one of the petit jurors, John Ching, was not a freeholder and therefore was not qualified to be a juror, and, sixth, the evidence was insufficient to prove even “a peice [*sic*] of folly and youthfull indiscretion.” For those errors “and Many More,” which Bladen asked to present orally,²⁵ he moved that the justices set aside the verdict against Millburne.

The justices rejected the motion for the arrest of judgment and ordered that

Millburne pay Clarke two hundred pounds of tobacco, which was double the value that the justices placed on the calf — “half of The four fold”²⁶ —, that he stand in the pillory from twelve noon until one o’clock, and that he be in mercy.²⁷ Bladen, apparently immediately, produced a writ of error to take the case to the provincial court, and the justices stayed the execution of the judgment.²⁸

At the provincial court for April of 1702 Bladen argued that in Millburne’s case there were two errors. First, the justices of Anne Arundel County had held Millburne in mercy when they should have entered a *capiatur* against him to guarantee that he would pay Clarke the two hundred pounds of tobacco.²⁹ That was “altogether Erroneus [*sic*] and not Aided by The Statutes of Jeoffailes.”³⁰ Second, John Ching, one of the petit jurors, was not a freeholder.

William Dent, the attorney general, imparled until the next court, and in October he imparled again. Finally in April of 1703 Dent argued that there were no errors in the record, proceedings, or judgment against Millburne, but the provincial justices disagreed, set aside the judgment of the Anne Arundel County court, and ordered that Millburne be restored to all that he had lost. As in other such cases, however, the prosecution still cost Millburne something, since he would have to pay his fees, “as usual and acord [according] to Law.”³¹

In three other cases Bladen was less successful. In the earliest of these, he failed to get a reversal on a writ of error after a jury found Thomas alias Dick Thomas Hedgcock guilty of horse-theft. At the Cecil County court for March of 1699/1700 Michael Earle, the clerk of indictments,³² charged in a bill of indictment that in West Elk Hundred on 15 November 1699 Hedgcock, a planter, feloniously stole, docked, branded, and led away a horse belonging to Owen Hughes and of the price of nine hundred pounds of tobacco.³³ According to the record nineteen jurors had *presented* Hedgcock, but the bill is not endorsed a true bill or *billa vera* or signed by the foreman of the grand jury. Rather only Earle signed it.

After a petit jury in June of 1700 found Hedgcock guilty the justices must have had some doubts about the case, since though Hedgcock had nothing to say for himself but what he had already said they reserved judgment until August, and in August until September. Finally in September they sentenced Hedgcock to two hours in the pillory and to pay Hughes thirty-six hundred pounds of tobacco fourfold.

It was apparently at this point that Bladen became Hedgcock's attorney. On a writ of error at the provincial court for October of 1700 he argued that in the proceedings against Hedgcock there were three errors. First, the indictment stated that Hedgcock "Did feloniously steale Dock brand and Lead away" the horse, while by the act of assembly that crime was no felony. Second, the presentment was uncertain because it did not state for whom the grand jury presented Hedgcock. Third, the court did not give judgment according to law "but Contrary thereto." Because of all of those "and many more Errors" in the record, proceedings, and judgment against Hedgcock, all of which this time too Bladen prayed permission to argue orally, he asked the provincial justices to reverse the judgment.

At the request of William Dent, the attorney general, the justices continued the case to their court for May of 1701, where Dent argued that there were no errors in the proceedings against Hedgcock. The justices agreed with Dent, upheld the judgment of the Cecil County court, and issued a writ of *procedendo*, by which they ordered the justices of Cecil County to execute their judgment against Hedgcock just as though no writ of error had ever issued in the case.³⁴

Here, as in the case against John Taylor and the three Wards, Bladen apparently ignored what might have been his best argument: that no grand jury had returned an indictment against Hedgcock. In the earlier case he succeeded anyway; in this case he failed.

In 1704 Bladen failed to get arrests of judgment in John Davison's two convictions for theft and then appears to have abandoned the cases, and apparently Davison went on to get writs of error himself. At the provincial court for October of 1704 the grand jury charged that in Worton Hundred in Cecil County on 12 February 1703/4 Davison, a surgeon, "did theave pilfer steale take and carry away" two gold guineas, one half guinea, and several pieces of silver, "the proper Treasure" of Alice Bridges and altogether worth £5.13.9 sterling. In a second indictment the grand jurors charged that in Worton Hundred on the same day Davison stole one "musling Night-raile,"³⁵ one handkerchief, and one apron, altogether worth three hundred pounds of tobacco, from the same Alice Bridges.³⁶

On 10 October, the day the court opened, a petit jury found Davison guilty of the first theft, but since the justices were "not advised of and upon the Rendering of" their judgment on the verdict they continued the case until the next morning. The

next day Davison asked for counsel to offer reasons for an arrest of judgment, and the justices assigned Bladen to represent him. Bladen in moving for the arrest of judgment argued that one of the petit jurors, John Battson of St. Mary's County, was not a freeholder and that according to the indictment Davison was supposed to have committed his crime in Worton Hundred when in fact there was no such hundred in any county in the province, "and Consequently the Veniri was not rightly awarded."

Bladen was wrong when he claimed that there was no Worton Hundred in Cecil County or anywhere else in the province. At the time he was making his argument there was in fact such a hundred in Cecil County.³⁷ Whether for that reason or for another the justices rejected his motion for an arrest of judgment, decided that the stolen money was worth only 999 pounds of tobacco, which would save Davison from the prospect of hanging,³⁸ and ordered that he pay Alice Bridges 3996 pounds of tobacco fourfold, receive at the public whipping post fifteen stripes "well layd on his bare back till the blood come," and stand for one hour in the pillory. At this point Bladen appears to have pursued the case no further but rather left Davison to fend for himself. Davison himself appears to have asked for an appeal to the high court of appeals, but the justices ruled that by law he was not entitled to an appeal. There was no appeal in a criminal case: a writ of error had to be used instead.³⁹ Later that day, after he might or might not already have been whipped and pilloried, Davison did produce a "writt of error & supersedeas,"⁴⁰ directed both to the provincial justices and to the sheriff of Anne Arundel County,⁴¹ to take the case to the high court of appeals. The justices ruled that they would consult with each other on the writ of error, which Davison apparently had got for himself.⁴²

On 11 October also an entirely separate petit jury found Davison guilty in the second case. Again the justices were not advised of their judgment, and again they continued the case until the next day. On 12 October Davison again asked for counsel to offer reasons for an arrest of judgment, and again the justices assigned Bladen to represent him. This time Bladen argued that several of the petit jurors "were not such good and Lawfull men & Freeholders of . . . [the] province as ought to have passed upon" Davison and that the indictment concluded that Davison had acted contrary to acts of the assembly when actually no such acts existed.

In claiming that there were no acts of the assembly against theft Bladen might have been getting technical, since in its new "Act for the speedy trial of Criminals"

in 1700 the assembly repealed the act of 1699.⁴³ Thus he might have been arguing that the indictment should have read “act” instead of “acts.” Or he might simply have been confused. Except for that short period from 19 October 1698 to 22 July 1699 provincial acts against theft had existed since 1681.⁴⁴

Again the justices rejected the motion for an arrest of judgment, valued the stolen goods at three hundred pounds of tobacco, and ordered Davison to pay Alice Bridges twelve hundred pounds of tobacco fourfold. This time they did not sentence him to any whipping or pillorying. Again Bladen appears to have abandoned the case; again Davison asked for an appeal to the high court of appeals; and again the justices ruled that by law he was not entitled to such an appeal. Later that day Davison produced another writ of error, and again the justices ruled only that they would consult with each other on it.⁴⁵ Apparently Davison asked for this appeal and sued out this writ of error, just as he apparently did in the first case, himself.⁴⁶

An alternative explanation, of course, is that Bladen did ask for the appeals and sue out the writs of error in Davison’s two cases and that the clerk simply did not record it. As an attorney he should have known that there was no appeal in a criminal case, but his performance as attorney general might support the possibility that he did not.

It appears more likely, however, that as late as October of 1704 Bladen was a very reluctant defense attorney and that for Davison he did no more than he had to do. In all three of the cases at the provincial court in October of 1704 — Davison’s two cases and that of John and Elizabeth Ricketts⁴⁷ — he represented the defendants not of his own volition but through assignment by the justices, and he appears to have done the minimum. His ambition makes it appear likely that he might already have been angling to become attorney general. William Dent had resigned way back on 8 May 1702 but continued to serve until his death in November of 1704.⁴⁸ Therefore in October of 1704, when Davison was convicted, the job surely would be opening soon, and it would not have been to Bladen’s advantage to persist in challenging authority with appeals and writs of error this late in the game.

For almost sixteen years nothing more was done in these cases. Davison was convicted on 10 and 11 October 1704; William Dent died in November; and on 4 December Bladen became attorney general.⁴⁹ Davison must have suspected that his defense attorney’s becoming the chief prosecutor of the province did not bode well

for his prospects in the court of appeals, especially since Bladen appears to have had little enthusiasm for Davison's defense in the first place. With his former defense attorney as attorney general Davison might have decided that he would have little to no chance of getting his convictions overturned. Attorneys general simply did not support convicted defendants on their writs of error,⁵⁰ and the ambitious Bladen might have been capable even of reversing himself and arguing against his former client.

For whatever reason, Davison either gave up or was biding his time. After Bladen finally died in August of 1718,⁵¹ he still did nothing for more than two years. It was not until 22 September 1720⁵² that the two cases, with Daniel Dulany as Davison's lawyer, got to the court of appeals, where after six continuances through 4 November 1721⁵³ they were abated, according to Carroll T. Bond, by Davison's death.⁵⁴

Although the record is incomplete, it appears that at the provincial court for October of 1704 Bladen got an arrest of judgment in the prosecution of John Ricketts and his wife Elizabeth. At that court William Dent prosecuted the two Ricketts on a bill of indictment in which he charged that in St. Paul's Parish in Kent County on 30 April 1704 they stole one bushel of wheat flour of the value of three shillings sterling from John Wayle, "three Poltery and two Turkies" of the value of six shillings sterling from John Finney, one lamb of the value of five shillings from Arthur Miller, five "Poltery" and one lamb of the value of eight shillings from Daniel Norris, and two fitches of bacon⁵⁵ of the value of twelve shillings sterling from Charles Hollinsworth, "contrary to the form of the acts of assembly in such cases made and provided." The total value of the goods was thirty-four shillings sterling.

Apparently the grand jury did not return this bill of indictment against the Ricketts. Dent signed it, but the foreman of the grand jury, Hugh Riley,⁵⁶ neither endorsed it a true bill or *billa vera* nor signed it. While the decisions of the grand jury are not listed separately in the records of this court,⁵⁷ what apparently happened is that after the grand jury presented the Ricketts Dent drew up the bill of indictment against them and prosecuted them on that bill without sending it before the grand jury, just as Samuel Worthington had done in the case of Cornelius Ward Jr., Stephen Ward, Jonathan Ward, and John Taylor and as Michael Earle had done in the case of

Thomas Hedgcock.⁵⁸

After a petit jury found the two Ricketts guilty the justices, because they were not advised of their judgment, continued the case until the next morning, when they would also get back to the second case against John Davison. When they asked the Ricketts why judgment should not pass against them they asked for counsel, and the justices assigned Bladen to represent them.

Bladen asked for an arrest of judgment on three grounds. First, the bill of indictment, which Bladen referred to as an indictment, did not include Ricketts' occupation, and that omission rendered the indictment vicious. Second, "the Jurors were not Such good and Lawfull men and Freeholders of the Province as ought to have passed upon" the Ricketts. Third, the indictment concluded that the Ricketts had acted "against the acts of assembly in such Cases made and Provided," while in fact there were no such acts of assembly, and therefore the justices could give "no such certaine Judgment" in the case. Therefore he asked that they give no judgment on the verdict.

Again Bladen might have been getting technical over the word "acts," and again he appears to have ignored what might have been his best argument: that no grand jury had ever indicted the Ricketts for their alleged thefts.

After hearing Bladen's arguments for the arrest of judgment the justices decided to consult on them. At that point, according to the record, Dent moved for an order for a new presentment against the Ricketts. The justices rejected the motion, however, and ordered that Kent County pay the costs of the prosecution and sell Elizabeth Ricketts into servitude to reimburse the county.⁵⁹

Since the justices imposed no punishment on the Ricketts and since Dent asked for a new presentment against them it appears that the justices threw out the conviction and therefore that Bladen succeeded with a minimum of challenge to authority. Elizabeth Ricketts would still have to pay a price, however, since she would be sold into servitude to cover the costs of the prosecution.

Seven cases are not enough to allow us to determine just how good a defense attorney William Bladen might have been if he had given himself a chance. He succeeded in getting convictions overturned in three cases, those of John Taylor and the three Wards, Moses Harris, and Anthony Millburne, and apparently he got an

arrest of judgment in the case of John and Elizabeth Ricketts. In three other cases, however, he was not so successful. In Thomas Hedgcock's case he failed to get a reversal on his writ of error, and in John Davison's two cases he apparently gave up after doing as little as he could get by with after the provincial justices assigned him to the cases. His claim in Davison's first case that there was no Worton Hundred in Cecil County or anyplace else in the province in 1704 might be evidence of his indifference.

In three of the seven cases Bladen missed what might have been his best argument in support of a writ of error or an arrest of judgment: that thefts could be prosecuted only on indictments returned by grand juries. Still in the case of John Taylor and the three Wards he succeeded, and in the case of John and Elizabeth Ricketts he apparently succeeded. In Thomas Hedgcock's case, however, he failed.

As ambitious as Bladen was for the favor of authority, as the prospect of his becoming attorney general appeared he might have become reluctant to represent defendants in criminal cases — if he had not been reluctant all along. How he got involved in the cases of John Taylor and the three Wards (1699), Thomas Hedgcock (1700-1701), and Moses Harris (1701) is unclear. Apparently Anthony Millburne (1703) did choose him as his attorney. In his three cases in 1704, however, the provincial justices assigned him for the defense. Clearly this is weak evidence, but the justices did assign him. Though apparently he did succeed for the Ricketts he appears to have abandoned Davison in the middle of his two cases, and less than seven weeks later he became attorney general.

Appendix to Chapter 6

William Bladen as Defense Attorney

¹ The justices of Somerset County ordered Thomas Ward into the custody of the sheriff until he could give security to guarantee his appearance at the next court to answer what might be objected against him. Ward himself gave security of ten pounds sterling, and John West, the sheriff, and Thomas Jones became his two sureties of five pounds sterling each. Somerset County Judicial Record, 1698-1701, p. 96. In February the justices renewed the security, but this time with all three men giving bond of ten pounds sterling each. *Ibid.*, p. 104. I have not checked further on Thomas Ward.

The status of Thomas Jones is not included in the record.

² Worthington's first name is not included in the record of this case either in the Somerset County Judicial Record or in the Provincial Court Judgment Record (Somerset County Judicial Record, 1698-1701, pp. 86, 94-95; Provincial Court Judgment Record, Liber W. T., No. 3, p. 235), but Samuel Worthington was the only Worthington who practiced law in Maryland during the colonial period. Alan F. Day, *A Social Study of Lawyers in Maryland, 1660-1775* (New York: Garland Publishing, Inc., 1989), pp. 712-713. On 21 February 1697/8 he is identified as the clerk of indictments of Somerset County. *Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore: Maryland Historical Society, 1883-1972), XXIII, 385-386.

³ In early eighteenth-century Maryland clerks of indictments often prosecuted people for theft on bills of indictment that they had drawn up on the basis of presentments of grand juries but that they had not sent before any grand juries even though prosecution for theft required an indictment by a grand jury. Laws by which the assembly required indictments for theft are 1698, c. 7, *Md. Arch.*, XXXVIII, 113-

116, together with 1681, c. 3, *Md. Arch.*, VII, 201-203, and 1692, c. 34, *Md. Arch.*, XIII, 479-481; 1699, c. 25, *Md. Arch.*, XXII, 502-504, together with 1699, c. 44, *Md. Arch.*, XXII, 553-555; 1704, c. 55, *Md. Arch.*, XXVI, 335-336, together with 1700, c. 2, *Md. Arch.*, XXIV, 98-101, and 1704, c. 25, *Md. Arch.*, XXVI, 266-269; 1715, c. 48, *Md. Arch.*, XXX, 248-252, together with 1715, c. 26, *Md. Arch.*, XXX, 304-308.

⁴ Somerset County Judicial Record, 1698-1701, p. 96.

⁵ *Ibid.*, pp. 94-95. That the justices did not sentence Taylor and the three Wards to whipping or pillorying, or both, as well the payment of the fourfold, as the law in effect at the time allowed them to do, might mean that they had some doubt about the defendants' guilt. The law is 1692, c. 34, *Md. Arch.*, XIII, 479-481, continued by 1694, c. 16, *Md. Arch.*, XXXVIII, 4-5; 1695, c. 16, *Md. Arch.*, XXXVIII, 53-54; and 1695, c. 26, *Md. Arch.*, XXXVIII, 69-70.

The status of neither Thomas Gideane nor Michael Holland is included in the record.

⁶ Somerset County Judicial Record, 1698-1701, p. 104. Alan F. Day points out that in February of 1698/9 Taylor was disbarred, with "no reason given" (Day, *A Social Study of Lawyers in Maryland, 1660-1775*, p. 649), but probably the disbarment was the result of this conviction.

⁷ *Ibid.*, p. 183.

⁸ Bladen's arguments are included in five numbered paragraphs, but in his third paragraph he includes both the failure to mention the occupations of Taylor and the Wards and the failure to mention the vicinage. Provincial Court Judgment Record, Liber W. T., No. 3, p. 236. Actually the bill does mention that Taylor was an attorney. *Ibid.*, p. 234.

⁹ See Note 3 above.

¹⁰ Provincial Court Judgment Record, Liber W. T., No. 3, pp. 232-238.

¹¹ Somerset County Judicial Record, 1698-1701, p. 230; Day, *A Social Study of Lawyers in Maryland, 1660-1775*, p. 649.

¹² Day, *A Social Study of Lawyers in Maryland, 1660-1775*, p. 183.

¹³ Provincial Court Judgment Record, Liber W. T., No. 3, p. 780.

¹⁴ I have not found the case against Harris in the Talbot County Court Judgment Record from 1696 forward.

¹⁵ 1692, c. 34, *Md. Arch.*, XIII, 479-481.

¹⁶ 1694, c. 16, *Md. Arch.*, XXXVIII, 4; 1695, c. 16, *Md. Arch.*, XXXVIII, 54.

¹⁷ 1695, c. 26, *Md. Arch.*, XXXVIII, 69, 70.

¹⁸ Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiver-son, eds., *A Biographical Dictionary of the Maryland Legislature, 1635-1789* (2 vols.; Baltimore: The Johns Hopkins University Press, 1979, 1985), I, 34.

¹⁹ 1699, c. 44, *Md. Arch.*, XXII, 553-555. One of the subtleties of trying to determine what laws were in force is distinguishing between the assembly's saying that an act would be in force for three years or to the end of "the *next sessions of Assembly*," whichever came first (1681, c. 3, *Md. Arch.*, VII, 203 (quote); 1682, c. 8, *Md. Arch.*, VII, 330; 1682, c. 12, *Md. Arch.*, VII, 438; 1684, c. 6, *Md. Arch.*, XIII, 126; 1694, c. 16, *Md. Arch.*, XXXVIII, 5) or for three years or to the end of "the *next Generall Assembly*," whichever came first. 1686, c. 3, *Md. Arch.*, XIII, 142; 1688, c. 2, *Md. Arch.*, XIII, 213; 1692, c. 34, *Md. Arch.*, XIII, 481 (quote); 1695, c. 16, *Md. Arch.*, XXXVIII, 54; 1695, c. 26, *Md. Arch.*, XXXVIII, 70. Emphasis added in both cases.

²⁰ 1699, c. 44, *Md. Arch.*, XXII, 553-554; 1700, c. 2, *Md. Arch.*, XXIV, 98-101; 1704, c. 25, *Md. Arch.*, XXVI, 266-269; 1715, c. 26, *Md. Arch.*, XXX, 304-308.

²¹ 1699, c. 44, *Md. Arch.*, XXII, 553-555. Emphasis added.

²² 1700, c. 2, *Md. Arch.*, XXIV, 98-101.

²³ 1681, c. 3, *Md. Arch.*, VII, 201-203; 1692, c. 34, *Md. Arch.*, XIII, 479-481. But see also Chapter 6, "Attorney General," Note 142.

²⁴ "There is no Certain Place viz: County whence the Vicinage should arrise."

²⁵ Bladen used the term *ore tenus*, which means "By word of mouth; orally. Pleading was anciently carried on *ore tenus*, at the bar of the court." Henry Campbell Black, *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern* (6th edition; St. Paul: West Publishing Co., 1990), p. 1099.

Sir William Blackstone:

Pleadings are the mutual altercations between the plaintiff and defendant; which at present are set down and delivered into the proper office in writing, though formerly they were usually put in by their counsel *ore tenus*, or *viva voce*, in court, and then minuted down by the chief clerks

Sir William Blackstone, *Commentaries on the Laws of England* (10th edition; 4 vols.; London: Printed for A. Strahan, T. Cadell, and D. Prince, 1787), III, 293.

²⁶ Why the justices ordered Millburne to pay Clarke twofold rather than fourfold does not appear.

²⁷ Holding a person “in mercy” meant that he had to pay the amercement. This amercement was quite different from a fine, though a fine was also called an amercement. For the amercement, see Chapter 3, “Placeman,” Note 238.

²⁸ Whether Millburne actually had to stand in the pillory does not appear, but the record makes it appear that Bladen presented his writ of error immediately after the justices announced their decision.

²⁹ A *capiatur pro fine* was an order to pay a fine. *Black’s Law Dictionary* (6th edition), p. 208. The amercement was not applied in a criminal action.

³⁰ The statutes of jeofailes provided that in certain instances the courts could ignore errors or oversights in pleading, but they did not apply to indictments for felonies. 18 Elizabeth I, c. 14, par. 2, in Danby Pickering, *The Statutes at Large* (109 vols.; Cambridge: Joseph Bentham and Others, 1762-1869), VI, 329; 27 Elizabeth I, c. 5, par. 3, in *ibid.*, p. 361; 21 James I, c. 13, par. 3, in *ibid.*, VII, 271; 16-17 Charles 2, c. 8, par. 2, in *ibid.*, VIII, 215. Later acts are 4 Anne, c. 16, par. 7, in *ibid.*, XI, 157; 5 George I, c. 13, par. 2, in *ibid.*, XIV, 49.

³¹ Provincial Court Judgment Record, Liber T. L., No. 3, pp. 105-108. The record of Millburne’s case does not exist in the records of the Anne Arundel County court because the early records of that court were destroyed when the statehouse burned down on the night of 17-18 October 1704. *Md. Arch.*, XXV, 179-180. See also Chapter 6, “Attorney General,” Note 3.

³² Though Earle signed only his last name, this must have been Michael Earle, though Alan Day does not have him practicing in Cecil County. He had practices in Kent and Talbot counties, and in June of 1704 he was appointed clerk of indictments of Kent County. Day, *A Social Study of Lawyers in Maryland, 1660-1775*, pp. 330-331; Kent County Court Proceedings, Liber G. L., No. 1, p. 559.

Probably the reason Day does not have Michael Earle practicing in Cecil County is that some of the records of the Cecil County court for this period are missing.

³³ To dock means “to cut off the end of some body part.” *Webster’s Third New*

International Dictionary of the English Language Unabridged (1981).

³⁴ Provincial Court Judgment Record, Liber W. T., No. 3, pp. 780-783. I have not found the record of Hedgcock's case in the Cecil County Court Judgment Record, 1698-1699, or in *ibid.*, 1700-1701, both of which are badly damaged. After 1701 there are no records until 1709.

The writ of *procedendo* is a writ by which a superior court orders an inferior court to proceed to judgment. *Black's Law Dictionary* (6th edition), p. 1203. For the use of the writ of *procedendo*, see also C. Ashley Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763* (New York: Garland Publishing, Inc., 1990), pp. 235-236.

³⁵ A nightrail was "a woman's loose robe or gown formerly worn as a night-gown or dressing gown." *Webster's Third New International Dictionary of the English Language Unabridged* (1981).

³⁶ We know that Davison was indicted at the provincial court for October of 1704 because Hugh Riley, the foreman of the grand jury at this court, signed the indictments against him. *Ibid.*, pp. 435, 437. Henry Wriothesley was the foreman of the grand jury at the provincial court for May of 1704 (*ibid.*, p. 266), the only previous provincial court after he allegedly committed his thefts on 12 February 1703/4.

³⁷ *Md. Arch.*, VIII, 474 (1692); XXIII, 20 (1696); Nelson Waite Rightmyer, *Maryland's Established Church* (Baltimore: The Church History Society, 1956), p. 149. Worton Hundred became part of Kent County when by an act of 1706, to take effect on 1 May 1707, the assembly moved the boundary of Kent County north to the Sassafras River. 1706, c. 3, *Md. Arch.*, XXVI, 621-622. For Worton Hundred in Kent County, see Kent County Criminal Records, 1728-1734, p. 345 (March 1732/3); State Agency Series Microfilm, Tax Lists, Accession No. SR 4543-26, MSA No. SM186-26 (1749).

George Johnston refers to Worton Hundred as Worton Creek Hundred. George Johnston, *History of Cecil County, Maryland, and the Early Settlements Around the Head of Chesapeake Bay and on the Delaware River* (Baltimore: Regional Publishing Company, 1967; originally published Elkton, Md.: By the author, 1881), pp. 240, 246-247. Johnston includes no citation to indicate where he got that name.

³⁸ By the law that was in force at the time of Davison's alleged thefts on 12

February 1703/4, the penalty for thefts valued at one thousand pounds of tobacco or less and involving no robbery, burglary, or house-breaking was whipping with no more than forty stripes, pillorying, and paying the victim of the theft four times the value of the stolen goods. 1700, c. 2, *Md. Arch.*, XXIV, 98-101. By later acts the assembly continued that punishment. 1704, c. 25, *Md. Arch.*, XXVI, 266-268; 1715, c. 26, *Md. Arch.*, XXX, 304-308. See also Chapter 6, “Attorney General,” Note 142.

At a penny a pound, goods valued at £5.13.9 would have been worth 1365 pounds of tobacco and thus would have made Davison subject to hanging.

³⁹ Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763*, pp. 246-247.

⁴⁰A *supersedeas* was simply a writ to stay the proceedings in a case. *Black’s Law Dictionary* (6th edition), p. 1437. Therefore the writ of error served as a *supersedeas*.

⁴¹ The sheriff of Anne Arundel County served as the sheriff of the provincial court. See Chapter 6, “Attorney General,” Note 141.

⁴² Provincial Court Judgment Record, Liber T. L., No. 3, pp. 425, 435-437.

⁴³ 1700, c. 2, *Md. Arch.*, XXIV, 98-101.

⁴⁴ 1681, c. 3, *Md. Arch.*, VII, 201-203; 1692, c. 34, *Md. Arch.*, XII, 479-481; 1699, c. 44, *Md. Arch.*, XXII, 553-554; 1700, c. 2, *Md. Arch.*, XXIV, 98-101; 1704, c. 25, *Md. Arch.*, XXVI, 266-269; 1715, c. 26, *Md. Arch.*, XXX, 304-308, and Text above at Notes 15-21. See also Chapter 6, “Attorney General,” Note 142.

⁴⁵ Provincial Court Judgment Record, Liber T. L., No. 3, pp. 425, 437-439.

⁴⁶ Plaintiffs did not get the right to sue out writs on their own until 1716 (1716, c. 20, *Md. Arch.*, XXX, 624-625), but Davison was a *defendant* already involved in a *criminal* case on someone else’s initiative.

⁴⁷ For John and Elizabeth Ricketts, see Text immediately below.

⁴⁸ Donnell M. Owings, *His Lordship’s Patronage* (Baltimore: Maryland Historical Society, 1953), p. 133.

⁴⁹ *Ibid.*, pp. 133-134.

⁵⁰ Michael Howard was the exception. In seventeen of the eighteen actions on writs of error taken to the provincial court in criminal cases from 1699 through 1755 in which the information is included the attorneys general argued that the evidence and the records and proceedings were sufficient to justify the convictions and thus

that they should not be overturned. At the provincial court for May of 1731, however, Howard said that he had “nothing to say Why the Judgement” against James Mooney at the Dorchester County Court for November of 1728 for the theft of a bridle “for the Many Errors in the Record & Proceedings therein should not be Reversed and held for none.” Provincial Court Judgment Record, Liber R. B., No. 1, pp. 464-467; Dorchester County Court Proceedings, 1728-1729, pp. 76-77.

At the high court of appeals almost three years earlier — in July of 1728 — Howard also acknowledged that the judgment against William Vernon at the provincial court for July of 1718 for stealing a gelding was erroneous. Provincial Court Judgment Record, Liber P. L., No. 4, pp. 3, 73-74; Carroll T. Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729* (Washington: American Historical Association, 1933), pp. 533, 534-538; Chapter 6, “Attorney General,” at Notes 183-189.

⁵¹ Owings, *His Lordship’s Patronage*, pp. 130, 133-134, 182. See also Chapter 3, “Placeman,” Note 3.

⁵² Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp. 279, 280.

⁵³ *Ibid.*, pp. 280, 282, 287, 303, 304, 304-305.

⁵⁴ *Ibid.*, p. xlvi. Bond provides no source for his claim that the “Cause” was abated by Davison’s death, and I have not found any such source.

What I say in the text contradicts Bond, who appears not to have realized that these were two cases and in his “Introduction” writes of them as one.

Cause abated by death of the appellant before any proceedings taken in this court, and transcript not copied into the record. The provincial court records show that the case was upon an indictment for “trespass.”

Ibid. Bond provides no citation in the records of the provincial court, and neither in the index to the Provincial Court Judgment Record nor in the judgments themselves do I find any reference to a charge of a “trespass” against Davison.

While it might seem strange that writs of error did not get before the superior court for more than sixteen years, it seems clear that the two writs of error noted in the records of the high court of appeals were these two cases from 1704. In the index to the Provincial Court Judgment Record each case has the notation “Writ of Error.” Majesty v. Davison, Index to Provincial Court Judgment Record, L-Z, Maryland

State Archives Microfilm No. SR-2295, under Liber T. L., No. 3. And the record of the court of appeals consistently notes two cases of John Davison against the Crown. Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp. 280, 282, 287, 303, 304, 304-305.

Finally, Davison was not convicted in the provincial court of any other crime, though later two grand juries at the provincial court did return indictments against him. At the provincial court for October of 1719 the grand jury charged that in Cecil County on 20 March 1714/5 Davison broke into the tobacco house of the widow Ann Osburn and marked three hogsheads of her tobacco, worth twenty pounds sterling, with the broad arrow and then stole them. When Davison at that same court appeared through his attorney, William Cumming, he pleaded the general pardon of 1717, and the justices discharged him with his fees. Provincial Court Judgment Record, Liber W. G., No. 1, pp. 44, 45, 69-70.

The broad arrow was a mark that the sheriff placed on hogsheads that were too large. 1715, c. 38, *Md. Arch.*, XXX, 348-349; 1717, c. 7, *Md. Arch.*, XXXVI, 508.

For the Act of Grace or General Pardon of 1717, see Chapter 6, "Attorney General," Note 107.

In September of 1720 the grand jury at the provincial court indicted Davison for an unidentified crime (Provincial Court Judgment Record, Liber W. G., No. 1, p. 212), and he gave security of fifty pounds, apparently sterling, with Thomas Reynolds and Thomas Jobson or Tobson as his sureties of twenty-five pounds each, to guarantee that he would appear at the next provincial court to answer the indictment, "Stand and Abide [by] the Judgment" of that court, not depart that court without its permission, and "keep the peace and be of Good behavior" in the meantime. *Ibid.*, p. 226. In April of 1721 the provincial justices respited the recognizance to the next court (*ibid.*, p. 388), but at the provincial court for October of 1721 Davison had to enter a new recognizance of fifty pounds sterling with two sureties of twenty-five pounds sterling each to guarantee his appearance at the provincial court for April of 1722 to answer such things as might be objected against him there. This bond had the same conventional conditions as the first. Evan Jones and William Cumming, two gentlemen, became his sureties. *Ibid.*, p. 499. What happened after that does not appear. Davison might have died before the provincial court met in April.

Since both of these indictments came after Baltimore got his province back,

they are titled “His Lordship v John Davison” rather than “Majesty v Davison.”

⁵⁵ A flitch is “a side of bacon.” *Webster's New Collegiate Dictionary* (1953).

⁵⁶ Provincial Court Judgment Record, Liber T. L., No. 3, p. 425.

⁵⁷ *Ibid.*, pp. 425-426.

⁵⁸ Since the Ricketts were supposed to have committed their thefts on 30 April 1704, they could have been presented or indicted at the provincial court for May, but no such indictment or presentment is included in the record of the grand jury's actions at that court. *Ibid.*, p. 266

⁵⁹ *Ibid.*, pp. 433-434.

7. Bladen the Man

A man of questionable ability but of a prominent family and with a willingness to serve the powerful, William Bladen became a very wealthy man. When he died on 9 August 1718¹ he had twenty-six slaves and nine servants, and in his estate after his debts were paid he had personal property worth £1,646.1.2 and at least 15,745 acres of land.²

Late in Bladen's career Sir Edward Northey, the attorney general of England, challenged his probity in the acquisition of some of this property and suggested that he might have been vulnerable even to bribery. While the records do not include enough information either to prove or to disprove that allegation, there *is* enough evidence to suggest that Bladen took advantage of his position as attorney general to buy real estate at a lower price than he otherwise would have had to pay.

Bladen's alleged aspiring briber was Philip Lynes, a gentleman of St. Mary's and then Charles County who entered the province as an indentured servant but who later became very wealthy and prominent and in the process married as his second wife the sister of Governor John Seymour.³ At the provincial court in December of 1696 Lynes, who among many other things was a merchant and entrepreneur,⁴ forfeited a bond of one thousand pounds sterling for failing to ship enumerated articles directly to England.⁵

As attorney general, of course, it was Bladen's responsibility to see that the Crown collected the forfeiture against Lynes, and sometime before the provincial court met on 6 July 1708 he sued out a *scire facias* against Lynes for the collection of the one thousand pounds sterling and unstated costs. After three imparlances through his attorney, Wornell Hunt, Lynes at the provincial court for April of 1709

failed to appear either by attorney or in person and so defaulted, and the justices awarded the Crown the one thousand pounds sterling plus the costs.⁶ Four months later — in August of 1709 — Lynes, who had no children,⁷ made a will in which he left Bladen some land as well as some personal property⁸ and soon died.⁹ Sometime before 26 July 1710 Lynes' widow Ann sued out a writ of error to challenge the judgment before the high court of appeals.¹⁰ After four continuances¹¹ she died sometime between 20 November and 17 December 1711,¹² and on 18 April 1712 the court of appeals abated the action on the writ of error because of her death.¹³

Sometime between 17 April and 15 July 1712 Bladen sued out a second *scire facias*, this one against Walter Storey and Michael Martin, Ann Lynes' executors, for the collection of the judgment and the costs against Lynes even though if he was successful he would as one of Lynes' devisees have to pay part of the judgment himself. At the provincial court for July of 1712 Storey and Martin appeared through their attorneys, Wornell Hunt and Daniel Dulany, and got a continuance. After one more continuance, at the provincial court on 24 April 1713 Hunt pleaded that the *scire facias* was insufficient and produced another writ of error, dated 20 April 1713.¹⁴

On 12 May 1713, not quite three weeks after Hunt produced that second writ of error, Bladen asked the court of appeals to replace him as the attorney for the Crown in the action on the writ of error because since Ann Lynes' death he had become Lynes' "principall Devisee" and therefore in the action on the writ of error his duty had become inconsistent with his interest. As attorney general he would have had to argue for the dismissal of the writ of error and the confirming of the judgment against Lynes, which would cost him money. The court appointed Thomas Bordley to replace him.¹⁵ After two continuances of the action,¹⁶ on 15 April 1714 the court of appeals on the request of Maurice Birchfield, the surveyor general of customs,¹⁷ allowed Thomas Macnemara to replace Bordley for the Crown. Macnemara produced an injunction to stay all proceedings on the writ of error, and so the court continued the case again.¹⁸ After one more continuance the court of appeals on 10 March 1714/5 reversed the judgment against Lynes.¹⁹

After the reversal of the judgment on Philip Lynes' bond Birchfield entered a bill in chancery against "diverse persons being Administrators [*sic*] and Devisees of Philip Lynes deceased" to initiate an action to reinstate the claim against Lynes' and

Ann Lynes' estate. Bladen, serving now as the attorney for the executors and devisees of the estate rather than for the Crown, countered with a demurrer, which allowed him to claim that though the facts that Birchfield alleged might have been true they were not sufficient in law to require the executors and the devisees of Lynes' estate to answer or that there were other reasons that they should not be compelled to respond.²⁰ Birchfield wrote to Northey for an opinion on the sufficiency of Bladen's arguments.

In his opinion denying the validity of Bladen's reasons for demurrer and therefore supporting Birchfield's right to bring the suit in chancery²¹ Northey suggests that Lynes had bribed or had tried to bribe Bladen. This notion, true or false, he must have got from Birchfield himself. Though he does not use the term "bribery," it is clear that that is what Northey was writing about.²²

Lynes' bond had been destroyed when the statehouse burned on the night of 17-18 October 1704,²³ and in response to Bladen's claim that the suit in chancery should not go forward because there was "no Affidavit of the loss of the Bond" Northey pointed out that after the bond was lost Bladen, as attorney general of Maryland after 4 December 1704,²⁴ "should have looked after the Crown Affairs in Maryland" — presumably in this case by providing an affidavit that the bond had actually existed but had been lost in the fire²⁵ and by representing the Crown in any actions against Lynes or his estate. Instead Lynes, "in order to Stop his Mouth," devised to Bladen some of his real estate. Further, Northey alleged, after Lynes' death Bladen, knowing of the Crown's claim against Lynes for the one thousand pounds sterling, bought "the Residue" of Lynes' real estate from the other devisees for about a third of its real value.²⁶

Northey's opinion is dated 17 March 1717/8,²⁷ and since Bladen died on 9 August 1718 he probably was dead before it ever got back to Maryland.

Whether or not Philip Lynes' leaving some of his property to Bladen was an effort to buy off the attorney general there is no way to know. His also providing in his will that if he died in Annapolis Mary Contee, his cousin, and Bladen should be in charge of his funeral²⁸ might mean that he and Bladen were friends and therefore that his gesture was only one of friendship. Northey's claim that Lynes devised the real estate to Bladen "in order to Stop his Mouth," however, makes it clear enough that he, and therefore Maurice Birchfield, must have considered the gesture at least

an effort at a bribe.

Whatever the ambiguities in this case, it does provide some evidence of Bladen's commitment as attorney general and of his character as a man. To begin with, he failed to provide a deposition attesting to the destruction of Lynes' bond, and then he used the absence of the deposition as one of his arguments challenging the validity of Birchfield's bill in chancery. In a second case also he refused to provide such an affidavit because, according to Northey, he was "Concerned in an affair of like nature."²⁹ How many more of these depositions Bladen might have failed to provide is at this point not apparent.

Second, since Bladen sued out the *scire facias* against Walter Story and Michael Martin, Ann Lynes' executors, sometime between 17 April and 15 July 1712,³⁰ and since he continued to serve as prosecutor against them until 12 May 1713, when he told the court of appeals that he had become Lynes' principal devisee,³¹ even while he was prosecuting them he must have been buying up land from Lynes' and Ann Lynes' other devisees. On 29 April 1713, for example, just two weeks before he asked the court of appeals to replace him as the attorney for the Crown and nine days after the date of that second writ of error, he bought two hundred acres of land "and other parcels" from Philemon Hemsley and his wife, who was the former Mary Contee and one of Philip Lynes' devisees,³² for a price that is unclear in the record.³³

Thus Bladen's *scire facias* to collect the outstanding judgment against Lynes' estate takes on the character of a bargaining tool that Bladen could hold over the heads of Lynes' and Ann Lynes' other devisees in order to get the land at a better price than he otherwise would have got. He must have believed either that the judgment against Lynes, which by May of 1713 was almost sixteen-and-a-half years old, would never be collected or that even if Ann Lynes' executors did not get it overturned and he was left to pay most or all of the one thousand pounds sterling and the costs of the litigation due to the Crown from Lynes' estate, the purchase of the land, whether at one-third of its value or something more, would be a promising venture in speculation if he did not want to keep the land himself.³⁴

Regardless of how much of Philip Lynes' land Bladen finally ended up with — whether he bought up "the Residue" of Lynes' land from the other devisees, as Northey says, or only became Lynes' principal devisee, as he says himself —, his

accumulating enough of Lynes' land even to become his principal devisee at the same time that he was prosecuting Ann Lynes' executors on the *scire facias* for the collection of the forfeiture must reveal much about his scruples.³⁴

In disputes over the use of his property Bladen appears to have been no more credible than he was as a placeman, publisher, contractor, and attorney general. Information is scarce, but there is one clear illustration of this and one murky one.

First, in a petition to Governor John Seymour and the assembly in April of 1706 Bladen provided an incomplete, inaccurate, and possibly dishonest history of two lots in Annapolis the use of which he claimed the government had taken from him at some vague time in the middle of the 1690s. When Annapolis was first laid out,³⁵ he told Seymour and the assembly, Edward Dorsey, the “undertaker of the publick Buildings,” took up two lots next to the proposed site of the courthouse. “Failing in his Undertaking,” Dorsey turned over to the province a “Brick Kilne and other Materials” as well as a forty-foot house built on the lots. All of this “the Country” — the lower house — in May of 1695 offered to Bladen for three thousand pounds of tobacco. Bladen accepted the offer, but when that afternoon Casparus Herman agreed to build the courthouse³⁶ Bladen, for Herman's convenience and at his request, released the lower house from its bargain,³⁷ and Herman paid the province the three thousand pounds of tobacco. After erecting another small building³⁸ on the property Herman sold it for ten thousand pounds of tobacco to Garrett Van Swearingen,³⁹ who had since died and who had assigned the property to Bladen “for the very same Consideration” of ten thousand pounds of tobacco.

All of this, according to Bladen, happened before he came to live in town. After he bought the land from Van Swearingen, he continued, Governor Francis Nicholson, without Bladen's knowledge, “caused” Richard Beard, the deputy surveyor of Anne Arundel County,⁴⁰ “not only to run a Street out of . . . [Bladen's] Lots but also [to run] a Circle about the publick Buildings” that included most of Bladen's land. That was greatly detrimental to Bladen, “who was so valuable a Purchaser,”⁴¹ especially since his income from the houses, which apparently consisted of rent that the province was paying him for the use of the property, had never amounted to one-tenth of the common interest he could have received on his tobacco. He asked Seymour and the assembly “to do him Justice and let him have the Land so

dearly bought and honestly paid for.”⁴²

Bladen’s being so willing to allow the lower house to cancel its agreement with him, if that actually happened,⁴³ might have had less to do with charity than with self-interest. If Nicholson and the assembly wanted to use those houses they would, and resistance could only damage Bladen’s prospects. Only eleven days before Herman on 20 May 1695 agreed to build the courthouse⁴⁴ and Bladen, according to his petition, released the delegates from their agreement with him, Bladen became clerk of the lower house. This profitable promotion was quite clearly the result of Nicholson’s pressure on Cleborne Lomax, the previous clerk, to resign and on the delegates to give the job to Bladen,⁴⁵ and what Nicholson had given he could taketh away. In May of 1695 Bladen was still very early in his rise to riches, and his becoming clerk of the lower house was his biggest coup so far. His previous positions had been both minor and temporary.

In their endorsement on Bladen’s petition on 9 April 1706 Seymour and the members of the upper house said that they knew that his claims were true and that they considered his request reasonable. They recommended the petition to the lower house.⁴⁶

The delegates, however, were more cautious. Surely many of them remembered Bladen’s misleading them only fourteen months earlier when, lobbying for the contract to build the new statehouse, he told them on 6 December 1704 that all of the other public buildings in Annapolis had “gone through . . . [his] Hands.”⁴⁷ No general election had been held between the two sessions, and therefore the membership of the lower house had changed only with three deaths.⁴⁸

The delegates were wise to be careful, since in failing to include some important history Bladen misled the assembly in at least two ways. First, he makes it appear that by having Beard run the circle to set off the public buildings Nicholson had acted arbitrarily against him. This was an unfortunate reflection on a man who had done Bladen good service.⁴⁹ As arrogant and arbitrary as Nicholson could be,⁵⁰ there appears to have been nothing sinister about the running of the circle. Rather it was a part of Beard’s surveying and laying out the entire town of Annapolis.⁵¹ Second, the wording of Bladen’s petition makes it appear that he got the property before Beard ran the circle, while actually he did not get it until after.

By 13 May 1695 Beard had completed the second survey of Annapolis.⁵² On

that day the Committee of Accounts of the lower house allowed him one thousand pounds of tobacco in full payment for his “laying out and Surveying the Town of Ann Arundel” after he showed the committee a plat of the town.⁵³ One week later, on 20 May 1695, Casparus Herman agreed to build the courthouse.⁵⁴ On that same day but before Herman made that agreement, according to Bladen, he — Bladen — accepted the delegates’ offer to sell him the property at issue for three thousand pounds of tobacco but then released the delegates from their agreement so that Herman could have it. Herman sold the property to Garrett Van Swearingen, Bladen says, and Van Swearingen sold it to him.⁵⁵ Thus Bladen implies that he got possession almost immediately, but he could not have got it until just over two years later at the earliest.

On 2 October 1696 Nicholson sealed Beard’s map of Annapolis,⁵⁶ as provided for in the act that the assembly passed during this session.⁵⁷ Clearly therefore by that date, if not by 13 May 1695, Beard had set off the public buildings.

Bladen still did not have the property. Casparus Herman died before he could legally convey it to Garrett Van Swearingen, and in June of 1697 the assembly passed a law allowing Herman’s widow Katherine to complete the sale.⁵⁸ Thus Van Swearingen could not have got the land from Katherine Herman until sometime after June of 1697, more than eight months after Nicholson sealed Beard’s map, and Bladen could not have acquired the property from Van Swearingen, who had become his father-in-law,⁵⁹ until sometime after that. Surely that eight months from the time Nicholson sealed the map of Annapolis on 2 October 1696 until the assembly in June of 1697 passed the law allowing Katherine Herman to transfer the land to Garrett Van Swearingen should have been plenty of time for Bladen to discover the situation of the land if he did not know it already. He was no stranger to Annapolis: he had been clerk of the lower house since May of 1695.⁶⁰

Since the land records of Anne Arundel County were destroyed when the statehouse burned a year-and-a-half earlier⁶¹ Bladen might not have expected anyone to check up on him. The delegates, however, no doubt familiar with his character and obviously suspicious, needed more evidence. In no hurry to satisfy his claims, on 11 April 1706, immediately after reading his petition and the endorsement of the upper house, they decided that he should “first lay out his Lots and make the Country sensible of what . . . [was] set forth in his Petition.” Then they would consider restoring the property to him.⁶²

Apparently Bladen never mentioned his petition officially again.⁶³ The same day on which the delegates asked for the additional information they appointed a committee to inspect the new statehouse, for which Bladen was the contractor, and two days later the committee reported his massive carelessness in the construction of that building. The delegates ordered that he receive a copy of the report.⁶⁴ Early in the next session, on 2 April 1707, a committee appointed to inspect the new jail reported his equally massive failures in that construction and ordered that he make good the deficiencies.⁶⁵ Clearly this was not an auspicious time for Bladen, who must have realized that his reputation with the delegates was less than splendid, to ask for more favors.

The second illustration of Bladen's questionable histories of the use of his property is more problematic.

Though we do not know just how extensive their relationship was, in his pursuit of wealth Bladen by May of 1705 had allied himself with Charles Carroll, who though he was a Catholic was one of the wealthiest and most prominent men in the province.⁶⁶ They bought ten lots together in Annapolis,⁶⁷ and they rented three buildings to the government for the storage of arms and ammunition. The reactions of the delegates to their petitions for rent make it appear that they did not trust either man, though at the same time the delegates might simply have been looking for an excuse to pay less rent than the buildings were worth.

On 3 November 1711, the last day of the session of the assembly, Bladen and Carroll petitioned the upper house for rent for their houses in which public arms were stored. The upper house referred the petition to the delegates, who read it and immediately referred it to the next session.⁶⁸ A year later the delegates read the petition again and referred it to a committee of four men, who would view the houses and confer with Bladen "about the Agreement pretended to be made" and then report to the lower house.⁶⁹ After considering the report of the committee the next day — 4 November 1712 — the delegates resolved to allow Bladen and Carroll fifteen pounds for full payment until that time,⁷⁰ but their referring to "the Agreement pretended to be made" makes it appear that they had little confidence in the two.

Bladen and Carroll considered the fifteen pounds inadequate and refused to accept it. Instead, another year later — on 10 November 1713 — they petitioned the

delegates for “Consideration & Redress.” They pointed out that on 22 May 1705 they purchased, among other lots and houses, three houses from Edward Dorsey “lying close together in a place called Bloomsbury Square.” Ever since that time the houses had been used for storing public arms and ammunition. Bladen and Carroll had “never yet received one penny” for the rent of the houses, though the rent for eight-and-a-half years was due that month. They acknowledged that Samuel Young, the treasurer for the Western Shore, had offered them the fifteen pounds “on account of” the rent, but they considered it improper to accept that amount until “the Account of the whole Rent was adjusted.”

Bladen and Carroll could not reasonably believe that “the Justice & Honour of the House” actually intended that the fifteen pounds was adequate compensation for the entire time that the three houses had been used for public service. If the houses had been left to their own disposal they could have rented them for at least fifteen pounds per year. They hoped that “neither the House [n]or even any single member” of it would believe that “in Justice, Equity or good Conscience” they should be expected to suffer such a loss by having their property in the service of the queen and the country. Finally, they hoped that the lower house would order such relief for them as every delegate would expect for himself in such a case and that the delegates would return the three houses to them so that they could make repairs, of which the houses were “in very great want.”⁷¹

The response of the delegates was not flattering to Bladen and Carroll. In considering the petition, they told the upper house that same day, they had discovered that in it the two men had “much imposed upon” the country, since the “Great House” was not used for storing arms and ammunition but rather was occupied by private persons. They had already allowed the two fifteen pounds, and now they were willing to allow them twenty more. At the same time they desired that the arms and ammunition be removed from the houses and be stored instead in the statehouse. Finally, they had resolved that the public would no longer pay any rent for Bladen’s and Carroll’s houses.⁷²

The upper house agreed that the arms and ammunition should be stored in the statehouse in such rooms as the delegates should choose and suggested that since in the counties the public arms were abused and the powder wasted and destroyed the delegates consider again the suggestion of the upper house during the previous

session that a small arms-house be built near each county courthouse for better security and for easier and more frequent inspection of the arms.⁷³

Still not satisfied, in another petition the next day Bladen and Carroll tried to explain away the delegates' claim that they had "much imposed upon" the public by allowing private persons to occupy the "Great House." They had three houses in Annapolis, they told the upper house on 11 November 1713, that since 22 May 1705⁷⁴ had been used either partly or wholly to store the public arms and ammunition. During that time Captain John Young, "Master Gunner and Storekeeper of the publick Magazine" in Annapolis "or his Predecessor in that Office" had the keys to and the possession of those buildings, and Bladen and Carroll had no use of or benefit from them.

Only two months before the date of their petition, Bladen and Carroll claimed, the master gunner or storekeeper without informing them connived to allow Mrs. Jane Burnell "to put some ffother [fodder] into the great House," and now the delegates were taking advantage of that conniving by refusing to allow them any rent for that building under the pretense that it was being used by private persons rather than for arms and ammunition. With "humble Submission to better Judgments," Bladen and Carroll suggested that if the same tactic had been employed in private dealings it would not have been considered fair.

When they asked the delegates for rent for the buildings, Bladen and Carroll pointed out, the delegates allowed them only thirty-five pounds current money even though at a moderate computation they might have brought in more than eighty pounds sterling. They asked the members of the upper house "to take Care to support the Honour of the Province" and to do them justice by allowing them a just compensation for the rent of all of their houses and by delivering the houses, which had badly deteriorated while they were in public use, into their possession forthwith.⁷⁵

The members of the upper house read the petition and recommended it to the mature consideration of the delegates,⁷⁶ who unanimously resolved that Bladen and Carroll receive no further allowance for the rental of the buildings.⁷⁷

While Bladen had little success with his petitions, as he accumulated offices and became increasingly wealthy he no doubt did gain some influence and might have appeared to have great political power. Yet he had no political power of his

own. Rather he only exercised the power of his managers, and he would retain his positions only as long as he exhibited an appropriate loyalty to them.

Bladen did whatever he had to do to prosper within the indulgent political ethic of early eighteenth-century Maryland. He appropriated every office he could get his hands on even though he could not adequately perform the functions of those offices. He became publisher to the province even though he knew nothing about printing and had an inadequate press, and he never did correct the errors in his copies of the laws of the province even after he promised to correct them.⁷⁸ He built a new prison that came nowhere near meeting the specifications to which he had agreed, and he misled the delegates without apparent embarrassment when on 5 December 1704 he claimed in his application for the contract to build the new statehouse that all of the public buildings of Annapolis had “gone through . . . [his] Hands.”⁷⁹ He continued to do shoddy work on the statehouse even after he promised to correct it, and he never corrected his negligent work on the jail, either. And he had made it impossible for anyone else to correct it. His laying the stone-work of the jail “Just . . . within the Ground” instead of extending it two feet below the surface, as he was supposed to do,⁸⁰ was uncorrectable without tearing down the entire building.

Bladen might have committed perjury when on 5 April 1698 he swore that neither Nicholson nor his council had ever ordered him to alter anything in the Journal of the lower house or to leave anything material out of the journals he sent to England.⁸¹ As attorney general he failed to swear to a deposition that the bond that Philip Lynes had forfeited had actually existed but had been burned with the statehouse, but later he quite clearly appears to have used the prosecution of that bond to pressure the other legatees of Lynes and Ann Lynes into selling him all or most of the rest of Lynes’ real estate. His misleading the assembly in his petition about his property in 1706 could hardly have been an accident, and he and Charles Carroll might have tried to mislead the assembly in their petitions about their buildings in 1712 and 1713.

As attorney general Bladen either was very careless or was unaware of things any attorney general should have known or should have been able to find out, and apparently he made no serious effort to correct those deficiencies. He brought prosecutions with so little evidence that his rate of success in those cases in which he got indictments was only 41.94%, or 33.06% if we exclude those cases in which

he was only partially successful, even in an age when procedures were heavily weighted against the defendant and the defendant was considered guilty until he could prove himself innocent.⁸²

Bladen flourished because he was able to take advantage of the fluid political ethic that pervaded England and the colonies during his lifetime. “Public life [in England] may often have been equally corrupt,” Nesca A. Robb says of the age of William III, but “it can rarely have been more openly or shamelessly corrupt,”⁸³ and Maurice Ashley writes of the “pious overtones and unscrupulous methods of public and private conduct” during the reign of Queen Anne.⁸⁴ It should surprise nobody that this limp ethic floated to the colonies with settlers, officials, and visitors.⁸⁵ Such people as John Seymour, John Hart, and William Bladen himself must have been infected with it before they ever came to Maryland. Travelers to England saw it there and could polish their own techniques.⁸⁶ The result in Maryland was “a grasping and treacherous colonial world.”⁸⁷

As hard as Bladen tried and as rich as he became, however, compared to more accomplished operators in colonial America he was only a slouch.⁸⁸ If rectitude is relative, Bladen probably placed himself high on the list of the virtuous.

While Bladen aggressively exploited the spavined ethic of the period for his own advantage, he could be very tough on someone else accused of over-stepping the bounds of putative standards. On 30 May 1717 Moses Lecompt complained to John Hart and his council sitting as the upper house that after he won a case that Jonathan Bassett of New England had brought against him in the Dorchester County court the justices, on the false suggestion of John Kirk, Bassett’s attorney, impaneled a new jury, which returned a verdict for Bassett. Lecompt asked for relief, and after Hart and his council read the record of the case and then asked Bladen for his opinion on it Bladen shot off all of his guns not only against Kirk but also against the justices of Dorchester County. John Brannock, Lecompt’s attorney, confirmed Lecompt’s information and then, before either Kirk or the justices had a chance to defend themselves but apparently after reading the record of the case, Bladen responded that it was his humble opinion that since the justices were “answerable to the Government . . . for any misfeasance or neglect of their Duty,” Hart and his council could require all or as many of the justices as they thought proper to appear before them “and there be made sensible of the Imposition put upon them” by Kirk, who was “sworn to do

no deceit neither to Consent to any but to acquaint the Court if he should know of any such practice” and therefore was liable to the censure of the council for his “notoriously plain” malfeasance. Making no allowance either for the possibility of an honest error rather than deliberate deceit or for his own weaknesses in the law and legal procedures, Bladen insisted that since Kirk was “An Ancient Practitioner” he in no way could have been ignorant of the laws of the province. Hart and his council should inform the justices that they should make clear, as in conscience and equity they ought, that unless Kirk made satisfaction to Lecompt for the injury he had done they would suspend him from his practice in their court. Assuming the worst of the justices, as he had of Kirk, Bladen continued that it was his humble opinion that if they refused to do what he suggested Hart should show “his resentment of their folly or partiality” by removing them from the Dorchester County commission.

All of this Bladen humbly submitted to the better judgment of Hart and his council, then added that Lecompt had no remedy against either Kirk or Kirk’s client either at common law or in equity.⁸⁹

Hart and his council did summon Kirk and the justices of Dorchester County to appear before them within a week.⁹⁰ Apparently Kirk never appeared, but when some or all of the justices came before the upper house on 6 June Hart told them that it appeared that Kirk had imposed on them by substituting “Authorities of the Law and practice of England” for the known practice in Maryland and the act of the assembly of the province for summoning jurors,⁹¹ that it would not be consistent with either justice or their honor to allow such an imposition, and that they ought to suspend Kirk from his practice in their court until he made satisfaction to Lecompt for the damage he had sustained by Kirk’s “indirect Practice.”⁹² Since the justices were dependent on Hart, it is likely that they took his advice and threatened Kirk with suspension if he did not compensate Lecompt.⁹³

Like many with a limited sense of probity Bladen did not hesitate to talk about integrity. At the end of his attack on Thomas Smithson on 22 December 1707 after Smithson as chief justice of the provincial court got into trouble with Governor John Seymour for his twice bailing Thomas Macnemara in Macnemara’s dispute with his wife Margaret,⁹⁴ Bladen, assuming the worst of Smithson as he did of John Kirk and the justices of Dorchester county, added irrelevantly that “The want of Courage as well as Integrity are certainly the Deepest blemishes and Irreparable Defects in a

Councillour.”⁹⁵

When Bladen made that self-righteous assertion the delegates had been trying for more than two-and-a-half years to get him to correct his own careless work on the new statehouse and for nine months to get him to fulfill his contract on the new jail in Annapolis. If the delegates had applied the same standards to him as he applied to John Kirk, the justices of Dorchester County, and Thomas Smithson, the very least that could have happened to him is that he not only would have had to pay a price for his failure to correct the errors in his printed laws⁹⁶ and for his shoddy work on the prison but also would have had to forfeit his bond of two thousand pounds sterling to guarantee his timely and satisfactory completion of the statehouse.⁹⁷ But William Bladen the attorney general was not likely to sue William Bladen the contractor for *anything*.

Bladen could get by with his inadequate work as a clerk and his defective work in his publishing and on the jail and the statehouse, and even get paid for it, because he accepted the crippled ethic of his time for people in power and those in their favor and because as a dedicated champion of authority and the ruling faction of the province he was useful to it. While his coming from a prominent family probably helped him to get his start, he prospered in Maryland not because he had friends in England but rather because his dogged loyalty to authority during this period of vicious economic and political competition more than compensated for his delinquencies.

Even Bladen’s failures as attorney general were useful to authority. His job there was not to achieve justice but rather was to get rid of people, guilty or innocent, whom authority perceived as dangerous,⁹⁸ and even an unsuccessful prosecution was a warning to everybody to do nothing of which authority might disapprove.⁹⁹

Thus in an attorney general enthusiasm was far more important than either competence or a sense of justice, and Bladen’s enthusiasm for prosecuting the innocent and his enthusiastic support of the council and then Governor John Hart in their vendetta against Thomas Macnemara — except for his role as attorney general in Macnemara’s dispute with his wife¹⁰⁰ he appears to have had less public part in the harassment of the intrepid attorney while Governor John Seymour was still alive — must have delighted his masters.

Macnemara and those other victims whom Bladen prosecuted unjustly, how-

ever, might not have been the only people who paid a price for his ambition. Before his harassment of Macnemara ever began he “certainly conspired”¹⁰¹ with Seymour to get for himself all of Sir Thomas Lawrence’s income as the principal secretary of Maryland. This was a very complicated and confusing quarrel in which it is difficult to know exactly what happened,¹⁰² especially considering Lawrence’s determination to drain as much wealth as possible out of the province with as little effort as possible.¹⁰³ At the same time that this was going on Lawrence was also complaining to the Council of Trade and Plantations that Bladen was charging him for transcripts of the proceedings of the upper house that he should have received for nothing.¹⁰⁴

Considering Bladen’s inadequacy as clerk of the council, the upper house, and the high court of appeals, his ineptitude as a publisher, his carelessness and incorrigibility as a contractor, and his insufficiencies as attorney general, a person might be justified in questioning the claim that “Planter, clerk, architect and publisher — this W. Bladen was a valuable citizen in a community such as Maryland was” in 1700.¹⁰⁵

Even if Bladen might not have been the “Blockhead booby” that Thomas Macnemara allegedly called him,¹⁰⁶ to say that Bladen “stand[s] out among the able individuals whom [Governor Francis] Nicholson identified and rewarded with patronage”¹⁰⁷ is to imply more ability than the evidence can support. If Bladen “appears to have been one of the best educated men in the province,”¹⁰⁸ his lack of success in his legal competition with Macnemara and his high proportion of failures as attorney general is evidence that his education still was not all it should have been.¹⁰⁹ If he was industrious,¹¹⁰ his industry might have had better results if it had been concentrated on fewer objects. And to call Bladen versatile¹¹¹ is too flattering. Versatility implies not only the ability to do several things but also the ability to do them well.

William Bladen, in everything he did, was a man of his time.

7. Bladen the Man

¹ For Bladen's death, see Chapter 3, "Placeman," Note 3.

² Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiverson, eds., *A Biographical Dictionary of the Maryland Legislature, 1635-1789*, hereafter *Biographical Dictionary* (2 vols.; Baltimore: The Johns Hopkins University Press, 1979, 1985), I, 136.

³ *Biographical Dictionary*, II, 558, 726.

⁴ At various times Lynes was an inn-holder, operator of a ferry, attorney, justice of St. Mary's County, mayor of St. Mary's City, provincial justice, delegate, member of the upper house and of the council, merchant, land speculator, and entrepreneur. *Ibid.*, p. 558.

⁵ Provincial Court Judgment Record, Liber T. L., No. 2, pp. 10-12; Carroll T. Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729* (Washington: American Historical Association, 1933), pp. 171-173. At this session of the provincial court George Plater, the attorney general, also succeeded in four other cases for the Crown against Philip Lynes. Provincial Court Judgment Record, Liber T. L., No. 2, pp. 12-14, 14-16, 16-17, 17-19. Because of the condition of the record the cases are very difficult to make out.

⁶ Provincial Court Judgment Record, Liber P. L., No. 2, pp. 129 (for date court opened), 543-545. The *scire facias* is dated 8 April 1708 (*ibid.*, p. 544), which probably was the last day of the previous session of the provincial court. See C. Ashley Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763* (New York: Garland Publishing, Inc., 1990), p. 503.

Apparently Bladen had sued out a previous *scire facias* against Lynes for the collection of this forfeiture, since at the provincial court for May of 1707 such a writ

was returned “nihil” (Provincial Court Judgment Record, Liber P. L., No. 1, p. 96), which means that the sheriff could not serve the writ. Henry Campbell Black, *Black’s Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern* (6th edition; St. Paul: West Publishing Co., 1990), p. 1045. At the provincial court for September of 1707 Bladen’s writ of *scire facias* against Lynes was not returned (Provincial Court Judgment Record, Liber P. L., No. 1, p. 253), and at the provincial court for April of 1708 there is no mention of any such writ against Lynes. *Ibid.*, Liber P. L., No. 2, pp. 25ff., and index to the Provincial Court Judgment Record, L-Z, under “Majesty.”

⁷ *Biographical Dictionary*, II, 558.

⁸ *Maryland Calendar of Wills*, III, on Ancestry.com, search Philip Lynes. [Visited 10 September 2004]

⁹ Philip Lynes died sometime between 6 August and 15 August 1709. *Maryland Calendar of Wills*, III, on Ancestry.com, search Philip Lynes [visited 10 September 2004]; *Biographical Dictionary*, II, 558.

¹⁰ Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, p. 126. The name of Ann Lynes’ attorney does not appear.

¹¹ *Ibid.*, pp. 126, 127, 138, 138-139.

¹² *Maryland Calendar of Wills*, III, on Ancestry.com, search Ann Lynes. [Visited 10 September 2004]

¹³ Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, p. 139. Abatement is the discontinuance of a case while retaining the plaintiff’s right “to renew [the] suit in another place or form, or at another time . . .” *Black’s Law Dictionary* (6th edition), pp. 4, 1151.

¹⁴ Provincial Court Judgment Record, Liber I. O., No. 1, pp. 44-46; Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp. 171-172 (writ of error), 174-177 (*scire facias*). The writ of *scire facias* is dated 17 April 1712 (*ibid.*, pp. 174-175), which probably was the last day of the session of the provincial court for April of 1712, and 15 July 1712 was the first day of the session for July. Provincial Court Judgment Record, Liber T. P., No. 2, p. 495.

¹⁵ Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp. 153, 178. In the record of the court of appeals there are two separate wordings for Bladen’s claim. In one place it has him saying that he had become “principally [*sic*]

interested in” Lynes’ estate (*ibid.*, p. 153), and in another it has him saying that he had become Lynes’ “principall Devisee.” *Ibid.*, p. 178. The two wordings might or might not mean exactly the same thing.

¹⁶ *Ibid.*, pp. 153, 164, 178.

¹⁷ Thomas C. Barrow, in *Trade and Empire: The British Customs Service in Colonial America, 1660-1775* (Cambridge: Harvard University Press, 1967), p. 85, has Maurice Birchfield becoming surveyor general of customs for the southern department in 1715. Charles M. Andrews has him as surveyor general of customs for the northern department from 1709 to 1715. Charles M. Andrews, *The Colonial Period of American History* (4 vols.; New Haven: Yale University Press, 1934-1938), IV, *England’s Commercial and Colonial Policies*, pp. 200-201. Clearly, however, as this passage shows, Birchfield was functioning in Maryland by 15 April 1714.

In British foreign and colonial policy the northern department was concerned with northern Europe, and the southern department was concerned with southern Europe and the American colonies. Andrews, *The Colonial Period of American History*, IV, *England’s Commercial and Colonial Policies*, p. 308.

¹⁸ Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp. 178-179. Birchfield would also use Macnemara rather than Bladen as his attorney in ninety-five other actions that he brought against Marylanders, including William Bladen, at the provincial court on 19 May 1714 for debts that they allegedly owed the Crown. Chancery Record 3, pp. 65-68, 72-73, 81, 81-83, 83, 94, 118-121, 241, 247-251, 296-299, 313-314, 315-316, 317-318, 318, 335, 336, 379-381, 382, 387, 393, 394, 416-418, 421, 425-426, 426, 429, 432-434, 434, 436, 441-443, 495-496, 531-534, 539, 542, 546, 562, 569, 570, 591, 608, 614-648, 650, 672, 690, 702-703, 720-722, 724-725, 763-773, 773-780, 782-783, 786-788, 800, 803, 805, 812-814, 815-818, 818-819, 831, 887-892.

¹⁹ *Ibid.*, pp. 191, 196.

²⁰ *Black’s Law Dictionary* (6th edition), pp. 432-433.

²¹ I have not tried to follow this case through chancery. Bladen probably was dead before Northey’s opinion ever got to Maryland. See Text at Note 1 and 26.

²² While by saying that Lynes made Bladen one of his devisees “in order to Stop his Mouth” Northey make it clear that he believed that Lynes was trying to bribe

Bladen (see Text immediately below), Thomas C. Barrow goes only so far as to say that in Lynes' leaving part of his estate to Bladen and Bladen's buying "the rest of his estate" there were "serious irregularities." He also implies corruption when he says that "With the prosecuting attorney, first partially and then completely, interested in the finances of the defendant, the outcome [of the action on the writ of error] was a foregone conclusion." Barrow, *Trade and Empire: The British Customs Service in Colonial America, 1660-1775*, p. 85.

Barrow does not point out, however, that on 12 May 1713 Bladen disqualified himself in that case and therefore had nothing officially to do with it for almost two years before the court of appeals reversed the judgment against Lynes. He also says that Bladen "understandably lost" his position as surveyor of Annapolis in 1718 when the disclosures about his role in the Lynes case were made public (*ibid.*, pp. 85-86), but it seems more likely that Bladen left that position because he died. Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953), p. 182; Chapter 3, "Placeman," at Notes 18, 163.

²³ *Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore: Maryland Historical Society, 1883-1972), XXV, 179-180.

²⁴ Owings, *His Lordship's Patronage*, pp. 133-134.

²⁵ The National Archives (PRO), Colonial Office, Additional Manuscripts 8833, p. 6 (photocopy in Library of Congress). All page numbers of this document are those of the photocopy rather than of the original.

²⁶ *Ibid.*, pp. 5-6. Bladen's claim that Birchfield's bill in chancery should not go forward because there was "no Affidavit of the loss of the Bond" was not his only argument in support of his demurrer, but the others are not relevant to our concern here.

²⁷ *Ibid.*, p. 7.

²⁸ *Maryland Calendar of Wills*, III, on Ancestry.com, search Philip Lynes. [Visited 10 September 2004]

²⁹ TNA (PRO), Colonial Office, Additional Manuscripts 8833, p. 14. The case is Miller's Executors against her Majesty. *Ibid.*, pp. 7-16; Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp. 114, 126, 127, 138, 138-139, 139, 140, 141, 153, 164, 179-185, 191, 195-196, 197.

³⁰ Provincial Court Judgment Record, Liber I. O., No. 1, pp. 44-46; Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, pp. 174-177.

³¹ Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, p. 178.

³² *Maryland Calendar of Wills*, III, on Ancestry.com, search Philip Lynes [visited 10 September 2004]

³³ Provincial Court Deeds, Liber T. P., No. 4, pp. 165-171. I thank Joshua Mason, Reference Archivist at the Maryland State Archives, for checking the citations for the appropriate years in the land records that Alan Day cites on Bladen's purchases and sales of land. Alan F. Day, *A Social Study of Lawyers in Maryland, 1660-1775* (New York: Garland Publishing, Inc., 1989), p. 184, Note 10.

The quote in this sentence comes from my message from Mr. Mason, who points out that this deed is barely legible.

³⁴ When Lynes died he had more than eight thousand acres of land and personal property worth £575.11.6 sterling. Since his personal property covered all but £31.16.6 of his debts (*Biographical Dictionary*, II, 558), if Bladen got all or most of his real estate at or near one-third of its real value, as Sir Edward Northey claimed, he could have anticipated a very good profit even after paying Lyne's bond of one thousand pounds sterling and costs and Lyne's remaining debts.

³⁵ The act for laying out Annapolis is 1694, c. 8, *Md. Arch.*, XIX, 110-113.

³⁶ Bladen did not include Herman's first name in his petition, but for the agreement with Casparus Herman, on 20 May 1695, see *Md. Arch.*, XIX, 159, 189.

³⁷ No record either of Bladen's bargain with "the Country" or of his releasing "the House" from that bargain appears in the Journal of either house. *Ibid.*, pp. 141-167, 171-208. Bladen was clerk of the lower house.

³⁸ A word is missing here in the published *Archives of Maryland* as well as in the original record. *Md. Arch.*, XXVI, 589; Archives of Maryland on Line, Legislative Records, Journal of the House of Delegates, 1704-1705, p. 71. [Visited 12 August 2004] I have inserted "building."

³⁹ In his petition Bladen refers to Gerrard Van Swearingen, but the petition together with 1697, c. 4, *Md. Arch.*, XIX, 591-592, considered below, make it clear that Gerrard Van Swearingen and Garrett Van Swearingen were the same person.

⁴⁰ Bladen's petition includes no first name for Beard, but see *Md. Arch.*, XIX,

96, 196.

⁴¹ Here Bladen probably means not that he himself was so valuable but rather that he had paid a lot of tobacco for the property.

⁴² *Md. Arch.*, XXVI, 589.

⁴³ See Note 37 above.

⁴⁴ *Md. Arch.*, XIX, 159, 189.

⁴⁵ Journal of House of Burgesses of Maryland, The National Archives (PRO), *Calendar of State Papers: Colonial Series* (40 vols.; Vaduz: Kraus Reprint Ltd., 1964), XIV, No. 1809; Minutes of Council of Maryland in Assembly, *ibid.*, No. 1810; *Md. Arch.*, XIX, 143, 171-172, 172; Chapter 3, "Placeman," at Notes 25-45.

⁴⁶ *Md. Arch.*, XXVI, 589. No mention of Bladen's petition appears in the records of the upper house, where by this time Bladen himself was clerk. *Ibid.*, pp. 521-557.

⁴⁷ *Ibid.*, pp. 393-394; Chapter 5, "Contractor," at Note 80.

⁴⁸ William Barton of Prince George's County, Edward Dorsey of Baltimore County, and John Taylor of Dorchester County. *Md. Arch.*, XXVI, 561; *Biographical Dictionary*, I, 37, 117, 274; II, 804.

⁴⁹ See Chapter 2, "Jump-Start to Fortune," at Note 32; Chapter 3, "Placeman," at Notes 25-45.

⁵⁰ For Francis Nicholson's arrogance and arbitrariness, see Chapter 3, "Placeman," Note 63.

⁵¹ *Md. Arch.*, XIX, 122, 195, 196, 227, 501.

⁵² For the first survey of Annapolis, in 1684, see Nancy T. Baker, "Annapolis, Maryland, 1695-1730," *Maryland Historical Magazine*, LXXXI, No. 3 (Fall 1986), p. 192.

⁵³ *Md. Arch.*, XIX, 195, 196. The assembly changed the name of Ann Arundel Town to Annapolis during this same session. 1695, c. 2, *Md. Arch.*, XIX, 208-209.

⁵⁴ *Md. Arch.*, XIX, 159, 189.

⁵⁵ *Ibid.*, XXVI, 589.

⁵⁶ *Ibid.*, XIX, 470.

⁵⁷ 1696, c. 24, *Md. Arch.*, XIX, 501-502. When the assembly passed this act Beard was still drawing up the map. *Ibid.* Nicholson sealed the map on the last day of the session, after he had approved the bills that the assembly had passed during the

session. *Md. Arch.*, XIX, 470.

⁵⁸ 1697, c. 4, *Md. Arch.*, XIX, 591-592.

⁵⁹ See Chapter 2, “Jump-Start to Fortune,” Note 32.

⁶⁰ See Note 45 above.

⁶¹ Rosemary B. Dodd and Patricia M. Bausell, *Abstracts of Land Records, Anne Arundel County, Maryland* (4 vols.; Pasadena, Md.: Anne Arundel Genealogical Society, n.d.), I, Preface.

⁶² *Md. Arch.*, XXVI, 590.

⁶³ There is no mention of this petition in the records of the lower house for the rest of this session or for the next session. *Ibid.*, XXVI, 590-618; XXVII, 61-137.

⁶⁴ *Ibid.*, XXVI, 591, 594-595; Chapter 5, “Contractor,” at Notes 107-111.

⁶⁵ *Md. Arch.*, XXVII, 79, 81, 83; Chapter 5, “Contractor,” at Notes 35-43.

⁶⁶ Ronald Hoffman, “‘Marylando-Hibernus’: Charles Carroll the Settler, 1660-1720,” *The William and Mary Quarterly*, Third Series, XLV, No. 2 (April 1988), pp. 207-236; Ronald Hoffman, in collaboration with Sally D. Mason, *Princes of Ireland, Planters of Maryland: A Carroll Saga, 1500-1782* (Chapel Hill: The University of North Carolina Press, 2000), Chapter 2, “Marylando-Hibernus.”

⁶⁷ Dodd and Bausell, *Abstracts of Land Records, Anne Arundel County, Maryland*, II, 112.

⁶⁸ *Md. Arch.*, XXIX, 23, 70.

⁶⁹ *Ibid.*, pp. 131, 132. The members of the committee were Philip Hoskins of Charles County, Charles Hammond of Anne Arundel County, Thomas Sprigg of Prince George’s County, and Henry Trippe of Dorchester County. For the counties of the delegates, see *ibid.*, pp. 125-126, 128, 132; *Biographical Dictionary*, I, 40.

⁷⁰ *Md. Arch.*, XXIX, 147.

⁷¹ *Ibid.*, p. 237.

⁷² *Ibid.*, pp. 237-238, 309.

⁷³ *Ibid.*, p. 239. This message does not appear in the records of the lower house. *Ibid.*, pp. 307ff.

For that earlier suggestion that an arms-house be built near each county court, which the delegates rejected, see *ibid.*, pp. 96-97, 98, 153-154, 155. For later exchanges on arms and ammunition, see *ibid.*, pp. 247-248, 322, 364, 376-377, 424.

⁷⁴ This is the date on which Carroll and Bladen purchased the ten lots in

Annapolis. Dodd and Bausell, *Abstracts of Land Records, Anne Arundel County, Maryland*, II, 112.

⁷⁵ *Ibid.*, pp. 314-315.

⁷⁶ *Ibid.*, pp. 240, 313, 315.

⁷⁷ *Ibid.*, pp. 243, 315.

⁷⁸ See Chapter 4, "Publisher," at Notes 36-44.

⁷⁹ *Md. Arch.*, XXVI, 393-394; Chapter 5, "Contractor," at Note 78.

⁸⁰ *Ibid.*, XXII, 440-441; XXX, 590-591; Chapter 5, "Contractor," at Notes 54-56.

⁸¹ See Chapter 3, "Placeman," at Notes 111-126.

⁸² See Chapter 6, "Attorney General," Note 119.

⁸³ Nesca A. Robb, *William of Orange: A Personal Portrait* (2 vols.; New York: St. Martin's Press, 1962-1966), II, 499.

⁸⁴ Ashley does not confine his conclusion to the reign of Queen Anne: ". . . these cross-currents and contrasts, these pious overtones and unscrupulous methods of public and private conduct, are part and parcel of the history of modern England, conferring on us more often than we care to realize it the name of 'Perfide Albion' and a reputation for hypocrisy." Maurice Ashley, *England in the Seventeenth Century* (2nd edition; Baltimore: Penguin Books Inc., 1954), p. 244.

For the political corruption in England during the late seventeenth and early eighteenth centuries, see also J. H. Plumb, *The Origins of Political Stability: England, 1675-1725* (Boston: Houghton Mifflin Company, 1967), Chapter 3, "The Growth of Oligarchy," and pp. 138-139, 163-164.

⁸⁵ For Edward Randolph's harsh view of the officials of Maryland and their ethics in 1692, see Alfred Thomas Scrope Goodrick, *Edward Randolph: Including His Letters and Official Papers from the New England, Middle, and Southern Colonies in America, and the West Indies* (7 vols.; Boston: For the Prince Society by John Wilson and Son, 1898-1909), VII, Letter CIX, "Randolph to [William] Blathwayt on the Maryland Government," 28 June 1692, pp. 373-385.

Edward Randolph was deputy auditor and surveyor general, and William Blathwayt was auditor general. Owings, *His Lordship's Patronage*, pp. 178, 182. For Blathwayt as auditor general, see also Gertrude Ann Jacobsen, *William Blathwayt: A Late Seventeenth Century English Administrator* (New Haven: Yale Univer-

sity Press, 1932), pp. 354-400, and for Randolph's letter and other comments, see *ibid.*, pp. 357-359.

⁸⁶ Probably during the colonial period there was much more travel between America and England than we have yet realized. Thomas Macnemara, who in spite of his unsavory reputation surely was no more and probably was a good bit less questionable a character than such people as John Seymour, John Hart, and William Bladen, took three trips to England between his arrival in Maryland in 1703 and his death in 1719. **1710-1711 (or 1712)**: Unidentified writer to unidentified correspondent in England, 4 April 1711, TNA (PRO), Colonial Office 5, Vol. 720, No. 8.ii, and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVI, No. 101.ii(b); Council of Maryland to Board of Trade, 18 July 1712, TNA (PRO), Colonial Office 5, Vol. 720, pp. 123-127, and TNA (PRO), *Calendar of State Papers: Colonial Series*, XXVII, No. 16; Chancery Record 2, p. 833; **1716-1717**: Provincial Court Judgments, Liber P. L., No. 4, pp. 83-84; Liber V. D., No. 2, pp. 381-390; Liber V. D., No. 3, pp. 78-81; TNA (PRO), *Calendar of State Papers: Colonial Series*, XXX, No. 289; Chancery Record 3, pp. 379, 380, 381; **1718-1719**: Jacob Henderson, ecclesiastical commissary of the Western Shore, to John Robinson, Bishop of London, 4 September 1718, in William Stevens Perry, ed., *Historical Collections of the American Colonial Church* (5 vols. in 4; Hartford, Ct.: Printed for the Subscribers, 1870-1878; reprinted New York: AMS Press, 1969), IV, *Maryland*, p. 114; Provincial Court Judgments, Liber P. L., No. 4, pp. 76-77; Chancery Record 3, p. 434; Anne Arundel County Court Judgment Record, Liber R. C., p. 373.

Citations are not only for evidence of when Macnemara left for England in each instance but also for evidence of when he returned.

⁸⁷ Hoffman, *Princes of Ireland, Planters of Maryland*, p. 141.

⁸⁸ Milton M. Klein, "Corruption in Colonial America," *The South Atlantic Quarterly*, LXXVIII, No. 1 (Winter 1979), pp. 57-72.

⁸⁹ *Md. Arch.*, XXXIII, 11, 12-13.

⁹⁰ *Ibid.*, p. 13.

⁹¹ The most recent act on summoning jurors was 1715, c. 37, *Md. Arch.*, XXX, 308-311.

⁹² *Md. Arch.*, XXXIII, 36.

⁹³ Since the records of the Dorchester County court for this period have not survived, there is no way to tell what argument John Kirk used to get the new jury or

what the justices did about Kirk.

⁹⁴ See Chapter 6, “Attorney General,” at Note 6.

⁹⁵ *Md. Arch.*, XXV, 233.

⁹⁶ See Chapter 4, “Publisher,” at Notes 36-44.

⁹⁷ See Chapter 5, “Contractor,” at Note 124.

⁹⁸ Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763*, Chapter 6, “Procedure,” and Chapter 7, “Criminal Jurisdiction”; and Chapter 6 above, “Attorney General,” Note 119.

⁹⁹ See again Chapter 6, “Attorney General,” Note 123.

¹⁰⁰ See again *ibid.*, at Note 6.

¹⁰² David W. Jordan, *Foundations of Representative Government in Maryland, 1632-1715* (New York: Cambridge University Press, 1987), p. 218; Chapter 3, “Placeman,” at Note 143.

¹⁰² David William Jordan, “The Royal Period of Colonial Maryland, 1689-1715” (Ph. D. dissertation: Princeton University, 1966), pp. 233, 235-240; David W. Jordan, “Sir Thomas Lawrence, Secretary of Maryland: A Royal Placeman’s Fortunes in America,” *Maryland Historical Magazine*, LXXVI, No. 1 (March 1981), pp. 35-39; “The Case of Sir Thomas Laurence, Bart., Secretary of Her Majesty’s Province of Maryland,” in Perry, ed., *Historical Collections Relating to the American Colonial Church*, IV, *Maryland*, pp. 64-72, especially pp. 68-70; *Md. Arch.*, XXV, 204-206.

¹⁰³ Jordan, “Sir Thomas Lawrence, Secretary of Maryland,” pp. 24, 26, 30, 32, 37, 38.

¹⁰⁴ See Chapter 3, “Placeman,” at Notes 144-145.

¹⁰⁵ Lawrence C. Wroth, *A History of Printing in Colonial Maryland, 1686-1776* (Baltimore: Typothetae of Baltimore, 1922), p. 23.

¹⁰⁶ Anne Arundel County Court Judgment Record, Liber R. C., pp. 31-32.

¹⁰⁷ Jordan, *Foundations of Representative Government in Maryland, 1632-1715*, p. 192.

¹⁰⁸ Bond, ed., *Proceedings of the Maryland Court of Appeals, 1695-1729*, p. xxxv.

¹⁰⁹ See Chapter 6, “Attorney General.”

¹¹⁰ Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, p. 18.

¹¹¹ *Ibid.*

Appendix A

William Bladen's Birth and His Arrival in Maryland

There has been some disagreement over the date of William Bladen's birth as well as over the date of his arrival in Maryland.

In two articles Christopher Johnston has 27 February 1673 as the date of Bladen's birth, but in neither article does he give a source of his information. Nor does he give a date for Bladen's arrival in Maryland.¹ Francis M. Hutchinson has Bladen born on 27 February 1672, but he, like Johnston, provides no source.² Lawrence C. Wroth follows Johnston in accepting 1673 as the year of Bladen's birth, but he does not include the day or the month.³

I am assuming, with Wroth, that Johnston's date of 27 February 1673 is new style, that is, that Bladen was born in 1672/3 rather in 1673/4. That requires the assumption also that Hutchinson's date of 27 February 1672 is old style, that is 1672/3 rather than 1671/2.

In his piece on William Bladen in the *Dictionary of American Biography* A. Everett Peterson has 27 February 1673 as the date of Bladen's birth and cites Johnston's earlier article. He has Bladen coming to Maryland in 1690.⁴ Hester Dorsey Richardson also has Bladen arriving in Maryland in 1690, at the age of nineteen, and she says that when the assembly in May of 1692 awarded him sixteen hundred pounds of tobacco "for his services as clerk"⁵ he was twenty-one, but she gives no source of her information.⁶ That would put his birth in February of 1670/1.

In their *Biographical Dictionary of the Maryland Legislature, 1635-1789*, Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiverson have Bladen born in 1670 and emigrating to Maryland in 1690.⁷ Charles H. Browning also has him born in 1670.⁸ J. D. Warfield says that Bladen was forty-eight when he died

in 1718 and thus also has him born in 1670.⁹ Browning however, provides no source, and apparently Warfield's only source is Bladen's tomb, which he calls an "elevated" memorial, on the grounds of St. Ann's Church in Annapolis.¹⁰ Apparently on that "memorial" Warfield has misread the five in Bladen's age as an eight.

Writing alone, David Jordan says that Bladen "apparently" came to Maryland with Governor Lionel Copley at the age of nineteen.¹¹ Since Copley arrived in Maryland "shortly before 6 April 1692,"¹² that would have Bladen born in 1672/3.

Papenfuse's and his colleagues' source for the year of Bladen's birth is Chancery Record 2, p. 613,¹³ where in a deposition Bladen gives his age as "about Thirty eight years." The deposition is not dated, however, and though it appears in the Chancery Record after a record for 26 November 1708 and before a record for 12 February 1708/9¹⁴ there is no guarantee that it was taken at that time. Clerks sometimes inserted items out of order.

Besides that, as Bladen's saying that he was "about" thirty-eight years old illustrates, people in the seventeenth and eighteenth centuries did not keep very close track of their ages. Depositions often provide an age and then add "or thereabouts."¹⁵

Bladen's tomb on Church Circle in Annapolis has him dying on 9 August 1718 "in the 45th year of his age," which means that he was not yet forty-five and therefore would have had him born in 1673/4. The modern confusion of this usage to mean the actual of age of a person rather than the year of his age in which he is actually living, however — a person who is one year old is in the second year of his age —, might have existed also at the time of this engraving.¹⁶

I have tentatively accepted 27 February 1672/3 as the date of Bladen's birth because it is the most specific, with month and day as well as year, for whatever that is worth, though Beverly Ann and I are still trying to track down Johnston's and Hutchinson's source. Anyone who prefers the date that Papenfuse and his colleagues, Browning, and Warfield give can simply add three years to any age that I give for Bladen.

Joseph H. Smith and Philip A. Crowl have William Bladen arriving in Maryland "in or shortly before 1696."¹⁷ The information in Chapter 2, "Jump-Start to Fortune," corrects them.

Appendix A

William Bladen's Birth and His Arrival in Maryland

¹ Christopher Johnston, "Bladen Family," *Maryland Historical Magazine*, V, No. 3 (September 1910), p. 298; Christopher Johnston, "Bladen Family," *ibid.*, VIII, No. 3 (September 1913), p. 303.

² Francis M. Hutchinson, "Queries," *The Pennsylvania Magazine of History and Biography*, XXVIII, No. 1 (1904), p. 121.

³ Lawrence C. Wroth, *A History of Printing in Colonial Maryland, 1686-1776* (Baltimore: The Typothetae of Baltimore, 1922), pp. 18-19.

⁴ A. Everett Peterson, "William Bladen," in Allen Johnson, ed., *Dictionary of American Biography* (20 vols.; New York: Charles Scribner's Sons, 1828-1936), II, 321-322.

⁵ *Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore: Maryland Historical Society, 1883-1972), XIII, 416; Wroth, *A History of Printing in Colonial Maryland, 1686-1776*, pp. 18-19.

⁶ Hester Dorsey Richardson, *Side-Lights on Maryland History, with Sketches of Early Maryland Families* (2 vols.; Baltimore: Williams and Wilkins Company, 1913), II, 16.

⁷ Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiverson, eds., *A Biographical Dictionary of the Maryland Legislature, 1635-1789* (2 vols.; Baltimore: The Johns Hopkins University Press, 1979, 1985), I, 136.

⁸ Charles H. Browning, *Americans of Royal Descent: Collection of Genealogies Showing the Lineal Descent from Kings of Some American Families* (7th edition; Baltimore: Genealogical Publishing Company, 1969), p. 44.

⁹ J. D. Warfield, *The Founders of Anne Arundel and Howard Counties*,

Maryland (Baltimore: Kohn and Pollock, 1905), p. 218.

¹⁰ *Ibid.*

¹¹ David William Jordan, "The Royal Period of Colonial Maryland, 1689-1715" (Ph. D. dissertation: Princeton University, 1966), pp. 78-79.

¹² Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953), p. 119.

¹³ Personal communication from Patricia V. Melville, former Director of Appraisal and Description, Maryland State Archives, Annapolis, 19 December 1997.

¹⁴ Chancery Record 2, pp. 612, 614.

¹⁵ See for example the depositions of William Wheeler, "aged Fifty Years or thereabouts," Robert Goulesborough, "aged about Twenty Nine Years or thereabouts," and Robert Ungle, "aged Twenty two Years or thereabouts," in May and June of 1693 (*Md. Arch.*, VIII, 560-562); of William Nuthead, "Aged Thirty Nine years or thereabouts," on 14 October 1693 (*ibid.*, XX, 33-34); and of Katharine Burges, "Aged fifty years or thereabouts," in 1766. Black Books, IX, Item 44.

¹⁶ I thank Dr. Gregory A. Stiverson, former President of Historic Annapolis Foundation, and Patricia Blick, former Director of Preservation Services there and now General Manager of the Annapolis History Center, for the photographs of Bladen's tomb.

¹⁷ Joseph H. Smith and Philip A. Crowl, eds., *Court Records of Prince Georges County, Maryland, 1696-1699* (Washington: The American Historical Association, 1964), p. xxxi.

Appendix B
William Bladen and Letitia Loftus:
A Voyage in Search of a Wife
and an Exercise in Genealogy*

It appears to be widely accepted among historians and genealogists of Maryland that before he came to Maryland William Bladen was married to Letitia Loftus, daughter of Dr. Dudley Loftus, Vicar-General of Ireland, and therefore that Anne Van Swearingen, whom he married in Maryland sometime before 29 February 1695/6,¹ was his second wife. It appears quite clear, however, that there was never any such earlier marriage.

Both printed sources and entries on the internet that claim that our William Bladen was married to Letitia Loftus are inconsistent and undependable. Often they have no citations or the citations are inadequate or inapplicable. Both printed and electronic sources often depend on other people's work, and thus they often perpetuate errors.

Not all writers have fallen into the trap. In neither of his two short articles on the "Bladen Family" does Christopher Johnston mention any marriage between William Bladen and Letitia Loftus,² nor does either A. Everett Peterson in his article on Bladen in the *Dictionary of American Biography*³ or the author of the piece on Bladen in *Who Was Who in America*.⁴

The earliest claim that William Bladen was married to Letitia Loftus that we find comes from 1883, when Charles H. Browning says that Bladen's "first wife" was "Letitia, daughter of Judge Dudley Loftus, LL. D., deputy judge advocate in Leinster, Ireland, in 1651; a master in chancery, and vicar-general of Ireland till his death in 1695." We know that Browning is referring to our William Bladen because

he says that the couple had a daughter Anne who married Benjamin Tasker of Annapolis. Browning, however, gives no source for his information.⁵ In 1904 Francis M. Hutchinson repeats the claim that William Bladen was married to Letitia Loftus but, like Browning, provides no source.⁶

More recent writers similarly provide no firm sources, though they do have citations. For Bladen's marriages Alan F. Day, in his study of lawyers in colonial Maryland,⁷ cites Johnston's article of 1910⁸ and Edwin Warfield Beitzell's *Jesuit Missions of St. Mary's County, Maryland*,⁹ but neither of these sources mentions Letitia Loftus, and Beitzell simply quotes the record in the published *Archives of Maryland*, which relates only to Bladen's marriage to Anne Van Swearingen.¹⁰

Apparently Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiverson, in their *Biographical Dictionary of the Maryland Legislature*, used Hutchinson as their source for Bladen's marriage to Letitia Loftus,¹¹ and the *Biographical Dictionary* is the citation for the marriage in *Maryland Connections Queries*.¹²

For several reasons, Bladen's marriage to Dr. Dudley Loftus's daughter Letitia appears to be more than unlikely. None of these reasons is absolute, but all of them together add up to great doubt about that earlier marriage.

First, if Bladen was born on 27 February 1672/3 (1673 new style), as he apparently was,¹³ and if he arrived in Maryland shortly before 6 April 1692, as he apparently did,¹⁴ he would have had to have been married and to have become a widower before his twentieth birthday. There is no evidence that Letitia Loftus came to Maryland with William Bladen and died there.

Second, although there is disagreement about the date of Dr. Dudley Loftus's daughter Letitia's birth, she appears to have been much older than Bladen. According to Volume VII of Lodge's *The Peerage of Ireland*, Dr. Dudley Loftus "had two sons and five daughters: Dudley, Adam, Mary, Jane, Letitia, Frances, and Catharine, who all died young, or unmarried, except Letitia, the wife of Mr. Bladen."¹⁵ The baptismal record of St. John the Evangelist, Dublin, however, lists Frances as Francis, "sonne to Doctor Loftus."¹⁶ The baptisms are entered as Adam on 5 November 1654, Dudley on 26 October 1656, Jeane (Jane) on 27 June 1658, Francis on 2 June 1665, and Catherine on 15 December 1666.¹⁷ Apparently there is no baptismal record for either Mary or Letitia.

Without the specific baptismal record there is no way to know for sure when our Letitia Loftus was born. Sources give various dates for her birth. The International Genealogical Index has her born both about 1674 in Ireland and about 1676 in Maryland,¹⁸ while the Loftus tree on the Loftus web-site places Letitia between Jane, born in 1658, and Frances, listed as a daughter, born in 1665.¹⁹

We can ignore the suggestion that Letitia Loftus was born in Maryland and therefore that she was born as late as 1676. If she was born in 1674 she would have been less than two years younger than Bladen, while if she was born after 1658 but before 1665 she would have been anywhere from nine to fourteen years older than he was.²⁰

Letitia Loftus's mother's age, however, makes it unlikely that Letitia was born as late as 1674. According to the registers of the Collegiate and Cathedral Church of St. Patrick, Dublin — and such registers are the most dependable evidence we have —, Letitia Loftus's mother, Frances Nangle Loftus, died on 18 June 1691 in Dublin at the age of sixty-two and was buried in St. Patrick's Cathedral, Dublin.²¹ That would have her born in 1628 or 1629, depending on whether she was born before or after 18 June, the date of her death, and would make her about twenty-five when Adam, her oldest child for whom a record of baptism exists, was baptized on 5 November 1654 and about forty-five years old if Letitia was born as late as 1774. A greater problem than the mother's age, however, is that if Letitia was born as late as 1674 there would have been a gap of eight years since the birth of Catherine, the most recent previous child who was baptized.

If, as another source has it, Frances Nangle was born in 1621²² she would have been fifty-three if Letitia was born as late as 1674. This site has Frances Nangle married to Dudley Loftus in 1642,²³ which would mean that there were twelve years between her marriage and the baptism of Adam, her first baptized child, on 5 November 1654. All we really know about the date of this marriage is that Dudley Loftus and Frances Nangle were married sometime before 25 December 1651.²⁴ A marriage shortly before that date would make the baptism of Adam come as little as something over three years after the marriage.

Since Frances Nangle Loftus did have children in 1665 and 1666, placing Letitia's birth between 1658, when Jane was baptized, and 1665, when Francis was baptized, seems more logical than placing it in 1674. If her mother was born in 1628

or 1629 she would have had to be only somewhere between thirty-one, if Letitia was born in 1659 — the year after Jane — and thirty-six, if she was born in 1664 — the year before Francis (Frances)²⁵ —, and the problem of the gap of eight years between the births of Catherine and Letitia would not exist. If on the other hand Frances Nangle Loftus was born in 1621 she would have had to be thirty-eight if Letitia was born in 1659 and forty-three if she was born in 1664, instead of fifty-three if Letitia was born in 1674.

Another source, which we cannot locate again on the web, had this Letitia Loftus born in 1652. That is possible, since Dudley Loftus and Frances Nangle were married sometime before 25 December 1651 and since Adam, their first child of whose baptism a record remains, was not baptized until 5 November 1654. But this would also make Letitia Loftus something more than twenty years older than our William Bladen.²⁶ Even if she was born sometime from 1659 through 1664 she would have been nine to fourteen years older than this William Bladen. Thus we would still have a woman in her mid to late twenties or early thirties marrying a youth in his mid to late teens. Not impossible, but, it would seem, unlikely.

The third reason that it appears unlikely that our William Bladen was ever married to Letitia Loftus is that while Bladen's family had been in Yorkshire for several generations²⁷ Letitia Loftus's family had been in Ireland since the age of Elizabeth,²⁸ and there was also an Anglo-Irish Bladen family in Ireland at the time of Letitia Loftus's alleged marriage.²⁹ A William Bladen was mayor of Dublin in 1647-1648.³⁰

None of this, of course, absolutely rules out a marriage between our William Bladen and Letitia Loftus, daughter of Dr. Dudley Loftus, Vicar-General of Ireland. But then, after dozens of hours of searching, we find some stronger evidence that there was no such marriage. According to George Thomas Stokes in *Some Worthies of the Irish Church*, by his first wife Dr. Dudley Loftus "had several children, one of whom alone lived to be married. She was Letitia, who married Mr. Bladen, the son of William Bladen, king's printer here in Dublin all through the reigns of Charles I., Cromwell, and Charles II."³¹

As clear as this statement appears to be, however, it too must be suspect. Stokes's citations, in full, are "Gilbert's *History of Dublin*, I, 12," and "Lodge's *Peerage*, iv, 340," but the citation in Gilbert has nothing to do with any marriage,³²

and on page 340 of his Volume IV Lodge has a William Bladen marrying Jane Loftus rather than Letitia.³³

While the evidence therefore is confusing, it appears sufficient to allow us to suggest that the “Mr. Bladen” whom Dr. Dudley Loftus’s daughter Letitia is supposed to have married³⁴ was from the Irish branch of the Bladen family, that the teen-aged William Bladen was never married before he came to Maryland, and that Anne Van Swearingen was his first and only wife.

We suggest further that Charles H. Browning in *Americans of Royal Descent* made the Olympian leap from the “Mr. Bladen” whom Lodge and Archdall mention in Volume VII of *The Peerage of Ireland* as the husband of Dr. Dudley Loftus’s daughter Letitia to the William Bladen who came to Maryland;³⁵ that Francis M. Hutchinson must never have seen Stokes’s *Some Worthies of the Irish Church*, which was published about four years before Hutchinson’s note in “Queries,” but rather followed either Volume VII of *The Peerage of Ireland* or Browning or both; and that more recent historians have simply followed either Hutchinson or Browning or both without being aware of the problems that arise from the suggestion that the William Bladen who came to Maryland had been married to Letitia Loftus.

Finally, we suggest that if Browning and Hutchinson had looked at Volume IV of *The Peerage of Ireland* they would have discovered the statement that Dr. Dudley Loftus “had 2 Sons and 5 Daughters; Dudley, Adam, Mary, Jane, Letitia, Frances, and Catharine, who all died young, or unmarried, except *Jane*, the Wife of Mr. Bladen,”³⁶ and that either the discovery might have confused them enough to make them more cautious or historians might have believed for all of these years that William Bladen had been married not to Dr. Dudley Loftus’s daughter Letitia but rather to her sister Jane.³⁷

Appendix B
William Bladen and Letitia Loftus:
A Voyage in Search of a Wife
and an Exercise in Genealogy

● My thanks to Beverly Ann for first suggesting that it is unlikely that the William Bladen who came to Maryland was ever married to Letitia Loftus, daughter of Dr. Dudley Loftus, Vicar-General of Ireland, and for the many hours she spent searching for information about the Bladens, the Van Swearingens, the Loftuses, and the Nangles. This appendix is more hers than mine.

¹ *Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore: Maryland Historical Society, 1883-1972), XX, 365; Chapter 3, "Placeman," at Notes 46-51.

² Christopher Johnston, "Bladen Family," *Maryland Historical Magazine*, V, No. 3 (September 1910), pp. 298-299; Christopher Johnston, "Bladen Family," *ibid.*, VIII, No. 3 (September 1913), pp. 302-303.

³ A. Everett Peterson, "William Bladen," in Allen Johnson, ed., *Dictionary of American Biography* (20 vols.; New York: Charles Scribner's Sons, 1828-1936), II, 321-322.

⁴ *Who Was Who in America* (Chicago: Marquis — Who's Who Incorporated, 1963), p. 58.

⁵ Charles H. Browning, *Americans of Royal Descent: Collection of Genealogies Showing the Lineal Descent from Kings of Some American Families* (Philadelphia: Porter & Costes, 1883; reprinted 7th edition; Baltimore: Genealogical Publishing Company, 1969), pp. 44-45. Browning does not mention Bladen's other children.

⁶ Francis M. Hutchinson, "Queries," *The Pennsylvania Magazine of History and Biography*, XXVIII, No. 1 (1904), pp. 121-122.

⁷ Alan F. Day, *A Social Study of Lawyers in Maryland, 1660-1775* (New York: Garland Publishing, Inc., 1989), p. 183.

⁸ For Johnston's article of 1910, see Note 2 above.

⁹ Edwin Warfield Beitzell, *The Jesuit Missions of St. Mary's County, Maryland* (2nd edition; Abell, Md.: Privately printed, 1976), p. 58 (which should be p. 54).

¹⁰ *Md. Arch.*, XX, 365.

¹¹ Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiver-son, eds., in *A Biographical Dictionary of the Maryland Legislature, 1635-1789* (2 vols.; Baltimore: The Johns Hopkins University Press, 1979, 1985), I, 136; Personal communication, 4 December 2000, from Dr. R. J. Rockefeller, former Director of Reference Services, Maryland State Archives, Annapolis.

¹² *Maryland Connections Queries*, VII, No. 3 (March 1997), p. 48; Unsigned response on a personal letter sent to *Maryland Connections Queries*, 4 October 2000.

¹³ See Appendix A, "William Bladen's Birth and His Arrival in Maryland."

¹⁴ David William Jordan, "The Royal Period of Colonial Maryland, 1689-1715" (Ph. D. dissertation: Princeton University, 1966), pp. 78-79.

¹⁵ John Lodge and Mervyn Archdall, *The Peerage of Ireland; or, A Genealogical History of the Present Nobility of that Kingdom* (7 vols.; Dublin: J. Moore, 1789), VII, 261. But see Text below at Notes 33 and 36.

¹⁶ Parish Register Society of Dublin, *The Parish Registers of St. John the Evangelist, Dublin, 1619 to 1699* (Dublin: Alex Thom & Co. (Ltd.), 1906), p. 119.

¹⁷ *Ibid.*, pp. 75, 119, 122.

¹⁸ The FamilySearch™ International Genealogical Index, <www.familysearch.org>, for Letitia Loftus returns for Letitia Loftus, daughter of Dudley Loftus, both an IGI Record: British Isles, v4.01 (Ireland, about 1674), and an IGI Record: North America, v4.01 (Maryland, about 1676). [Both visited 23 December 2000]

¹⁹ Loftus Family Tree from Guy Loftus, <www.loftusweb.com>. [Visited 1 November 2000]

²⁰ 1673 minus 1659 for the fourteen, and 1673 minus 1664 for the nine.

²¹ C. H. P. Price, *The Registers of Baptisms, Marriages, and Burials in the Collegiate and Cathedral Church of St. Patrick, Dublin, 1677-1800* (Dublin: Alex. Thom & Co. (Ltd.), 1907), p. 96.

²² FamilySearch™ Ancestral File, v4.19, Individual Record for Frances Nangle.

[Visited 31 October 2000]

²³ *Ibid.* Beth Smarr also has Frances Nangle marrying Dudley Loftus about 1642 in Dublin. <<http://www.loftusweb.com/respb.html>>. Smarr's Home Page is <<http://familytreemaker.genealogy.com/users/s/m/a/Elizabeth-A-Smarr/index.html>>.

[Visited 12 March 2001]

An IGI record has Frances Nangle marrying Dudley Loftus about 1643 in Dublin. FamilySearch™ International Genealogical Index (British Isles), v4.01.

[Visited 31 October 2000]

²⁴ Lodge and Archdall, *The Peerage of Ireland*, VII, 260. Lodge and Archdall have Dudley Loftus dying in June of 1695 at the age of seventy-seven (*ibid.*, p. 261), which would have him born in 1617 or 1618. He was buried in St. Patrick's Cathedral, Dublin, on 10 June 1695. Price, *The Registers of Baptisms, Marriages, and Burials in the Collegiate and Cathedral Church of St. Patrick, Dublin, 1677-1800*, p. 10. He was Vicar-General of Ireland until his death. Lodge and Archdall, *The Peerage of Ireland*, p. 261.

One web-site (<<http://members.aol.com/irep/g0000082.html>>) has Dudley Loftus born in 1618 [Visited 14 September 2000], and two sites have him born in 1619. <<http://www.familytreemaker.com/users/j/o/h/Stephen-C-Johnson/GENE8-0024.html>> [Visited 30 October 2000] and <<http://www.loftusweb.com>> (Loftus Family Tree). [Visited 1 November 2000]

²⁵ 1659 minus 1628 for the thirty-one, and 1664 minus 1628 for the thirty-six.

²⁶ 1673 minus 1652 for the "something more than twenty years."

²⁷ Johnston, "Bladen Family," (1910), pp. 297-298; Johnston, "Bladen Family," (1913), pp. 302-303.

The Bladen genealogy in Thomas Blore, *The History and Antiquities of the County of Rutland* (Stanford: Newcombe & Son, 1811), p. 180, is no help on William Bladen.

²⁸ Lodge and Archdall, *The Peerage of Ireland*, VII, 246-260. At <<http://www.loftusweb.com/respc.html>>, Guy William Ferrars Loftus also has information on the Loftus family in Ireland. [Visited 12 March 2001]

²⁹ John O'Hart, *Irish Pedigrees; or, the Origin and Stem of the Irish Nation* (2 vols.; New York: P. Murphy & Son, 1915), II, 691, 754. For my reason for referring to Letitia Loftus's "alleged marriage," see again Text below at Notes 33 and 36.

³⁰ “Mayors and Lord Mayors of Dublin, 1229-1924,” included on web-site <<http://www.loughman.dna.ie/dublin/lordmayor.html>>. [Visited 3 October 2000] See also J. T. Gilbert, *A History of the City of Dublin* (3 vols.; Dublin: McGlashan and Gill, 1854-1859; reprinted Shannon, Ireland: Irish University Press, 1972), I, 12.

³¹ George Thomas Stokes, *Some Worthies of the Irish Church* (London: Hodder and Stoughton, 1900), p. 58.

³² Gilbert is J. T. Gilbert, *A History of the City of Dublin*, fully cited in Note 30 above.

³³ The full citation of Lodge is in Note 15 above.

³⁴ Lodge and Archdall, *The Peerage of Ireland*, VII, 261; *Dictionary of National Biography*, XII, 80.

³⁵ Lodge and Archdall, *The Peerage of Ireland*, VII, 261; Browning, *Americans of Royal Descent*, pp. 44-45.

³⁶ Lodge and Archdall, *The Peerage of Ireland*, IV, 340. Emphasis added.

³⁷ About Bladen’s alleged earlier marriage W. Randolph Tayloe says flatly: “There is no truth in the statement that William Bladen ever married Jane Loftus,” though he does not say how he came to that conclusion. W. Randolph Tayloe, *The Tayloes of Virginia and Allied Families* (Berryville, Va., 1963), p. 92.

Alice Gedge, cited below, says the same thing, citing Tayloe, *The Tayloes of Virginia and Allied Families*, pp. 92, 100-101, and “Legislative Dictionary,” which must be the *Biographical Dictionary*.

While Charles H. Browning makes Anne Bladen the daughter of William Bladen and Letitia Loftus (Browning, *Americans of Royal Descent*, pp. 44-45), Christopher Johnston makes her the daughter of William Bladen and Anne Van Swearingen (Johnston, “Bladen Family (1910), p. 299), as do the editors of the *Biographical Dictionary*, I, 136; II, 799.

An Ancestry.com search for Anne Bladen in Maryland around 1695 returns two records that have her born in 1696. Ralph Roberts (<<http://awt.ancestry.com/cgi-bin/igm.cgi?op=GET&db=ralphroberts&id=I031771>> [Visited 8 April 2002]) cites, first, Carolyn Carey, Greenwood Village, Colorado, who he says cites Hester Dorsey Richardson, *Side-Lights on Maryland History, with Sketches of Early Maryland Families* (2 vols.; Baltimore: Williams and Wilkins Company, 1913), II, pp. 16-17, and, second, Tayloe, *The Tayloes of Virginia and Allied Families*, pp. 82, 92, 101,

who he says cites *Maryland Historical Magazine*, September 1910, pp. 297-299. Neither Hester Dorsey Richardson in *Side-Lights on Maryland History* nor Christopher Johnston in "Bladen Family" (1910), however, says anything about the date of Anne Bladen's birth.

Alice Gedge has the same information as Roberts about Anne Bladen's birth. <<http://awt.ancestry.com/cgi-bin/igm.cgi?op=GET&db=adgedge&id=I536>>. [Visited 8 April 2002]

In spite of the lack of solid evidence, it appears probable that Anne Bladen was in fact born in 1696. Since William Bladen and Anne Van Swearingen were married only sometime before 29 February 1695/6 (*Md. Arch.*, XX, 365, 402-403), and since Anne Bladen married Benjamin Tasker on 31 July 1711 (Robert Barnes, compiler, *Maryland Marriages, 1634-1777* (Baltimore: Genealogical Publishing Co., Inc., 1975), p. 175; *Biographical Dictionary*, II, 799), if she was born in 1696 she would not have been much over fourteen years old when she was married. To have her born later, obviously, would make her still younger when she was married.

Of course it is always possible that Anne Bladen was born before William Bladen and Anne Van Swearingen were married or very soon after their marriage. That would make her somewhat older when she was married.

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