

# Public Records in Colonial Maryland

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THE MODERN HISTORIAN has a tremendous advantage over his predecessors.<sup>1</sup> The establishment and subsequent development of historical societies and public archives have made the historian's job easier and more rewarding.<sup>2</sup> But these are relatively recent developments. For many years the records of our country's earliest history were scattered and unprotected. The papers of colonial Maryland's proprietary family, for example, now at the Maryland Historical Society in Baltimore, lay for at least half a century in the corner of a greenhouse, hardly ideal conditions for preservation; indeed, some were buried on the estate of one of the last Lord Baltimore's descendants and never recovered. It was only through the efforts of the society that any of the papers were saved at all.<sup>3</sup>

It is interesting to examine how our oldest records have been handed down to us. Studies of the progressive alteration of nineteenth- and twentieth-century methods of manuscript care and collection show a general trend from the pastime of a few individuals to the concern of state and national government agencies, although there never seems to be enough of the latter. Moreover, preservation techniques have steadily advanced almost to the point of being a science.<sup>4</sup> Yet, ironically,

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<sup>1</sup> For the typical viewpoint of an historian about primary sources, see Philip D. Jordan's entertaining article "The Scholar and the Archivist—A Partnership," *American Archivist* 31 (January 1968):57-65.

<sup>2</sup> See, for example, Leslie W. Dunlap, *American Historical Societies, 1790-1860* (Madison, Wisconsin: Privately printed, 1944); Walter Muir Whitehill, *Independent Historical Societies: An Enquiry into Their Research and Publication Functions and Their Financial Future* (Boston: Athenaeum, 1962); Clifford L. Lord, ed., *Keepers of the Past* (Chapel Hill: University of North Carolina Press, 1965); Ernst Posner, *American State Archives* (Chicago: University of Chicago Press, 1964).

<sup>3</sup> See my "A History of the Calvert Papers MS. 174" in the *Maryland Historical Magazine* 68(Fall 1973):309-22.

<sup>4</sup> The historical introduction in Posner's *American State Archives* and his bibliography are the best materials on this. There are numerous helpful articles in the *American Archivist*.

the care of public records, that is government records, in colonial America has been virtually unstudied.<sup>5</sup> It should be the starting point for any research in the evolution of manuscript care in this country.

Two major factors, personal and political, continually affected public records in colonial Maryland and were essentially the same ones that encouraged better record care in England, indicating that some of the colonists' problems were perhaps traditional ones.<sup>6</sup> The first was the personal interest of the colonist; he was aware that records accompanied his every step. His birth and death, his purchases of land, his payments of taxes all produced records. The destruction of just a few records could have meant hardship for Maryland residents, even the wealthiest, although, as now, the wealthier a person was, the easier for him to correct such a situation.

The second and more important factor was political, produced by the pro- and antiproprietary factions that often disrupted the mechanism of Maryland's colonial government. Simply, the proprietary party controlled the main provincial offices—hence the important records—and voiced its opinions through the upper house whose members were appointed by Lord Baltimore. The antiproprietary party often consisted of lesser sons and relatives of prominent Maryland families, characteristically holding lower charges or none at all. In colonial Maryland, office-holding was a key to social advancement.<sup>7</sup> Political offices were financially valuable and carried with them the impression of personal favor by Lord Baltimore. Since much of the wealth involved records, it is easy to see how records became embroiled in political squabbles. One historian has described the antiproprietary party as “one degree removed economically, socially, and politically from the provincial sources of authority.”<sup>8</sup> The desire of this party to gain the wealth of such

<sup>5</sup> Posner called for such studies in his *American State Archives*, but there has been no response. The dearth of published sources is evident in this book; his four pages (7–10) on the colonial period are very sketchy and merely suggestive and are largely based upon several term papers done in the early 1950's.

<sup>6</sup> Charles F. Mullett writes that “by 1320 the anxiety of the Crown to vindicate its prerogative, the desire of officials to defend their perquisites, and the interest of private folk in preserving tangible evidences of their rights prescribed the custody of public records.” “The ‘Better Reception, Preservation, and More Convenient Use’ of Public Records in Eighteenth-Century England,” *American Archivist* 27(April 1964):196.

<sup>7</sup> See Russell R. Menard, “From Servant to Feeholder: Status Mobility and Property Accumulation in Seventeenth-Century Maryland,” *William and Mary Quarterly* 3rd ser. 30(January 1973):37–64.

<sup>8</sup> Michael G. Kammen, “The Causes of the Maryland Revolution of 1689,” *Maryland Historical Magazine* 55(December 1960):293. For information on the conflicts over office holding, refer to Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial*

authority, or at least to share the spoils, was near the source of the political problems.

One other factor should be mentioned briefly, the concern of the enlightened antiquarian to preserve records for the sake of posterity. At one point in Maryland's colonial history, this drive was influential, but during the rest of the time it was conspicuously absent. Some conjectures will be made later about this periodic interest.

Throughout most of the seventeenth century there seems to have been little concern for the care of public records. Courthouses were constructed slowly, only four having been completed in the first forty years of the colony.<sup>9</sup> Usually the records remained at the home of the clerk. As the clerkships changed, and such changes were remarkably frequent in the early years,<sup>10</sup> the documents traveled around the countryside. Even in the courthouses the papers were usually assigned some out-of-the-way place generally selected only for the sake of convenience. A dwelling built in 1666 to house the records and the secretary's office did not protect the papers from "damage upon the least Wet or Rain."<sup>11</sup> Everything considered, there was little government administration of the records. As early as 1649 it was reported that the assembly journals had two books with their parchment covers missing and "divers of the leaves thereof having been cutt or torne out and many of them being loose & much worne & defaced."<sup>12</sup> A quarter of a century later, in 1673, the secretary's clerk reported that the testamentary records consisted of books, bundles, bags, parcels, loose papers, and files;<sup>13</sup> this haphazard collection plainly testifies to little attempt at a beneficial organizational system for the records. Rather, the records were simply thrown together in one place, and the clerk was probably pleased to find them so handily jumbled.

Near the end of the century, conditions improved somewhat. As the colony grew older and expanded rapidly in population, the government accordingly became more complex;

*Maryland* (Baltimore: Maryland Historical Society, 1953). Newton D. Mereness's *Maryland As A Proprietary Province* (New York: Macmillan Co., 1901) is also helpful.

<sup>9</sup> Morris L. Radoff, *The County Courthouses and Records of Maryland; Part One: The Courthouses* (Annapolis: Hall of Records Commission, 1960), pp. 62, 73, 129, 137.

<sup>10</sup> For example, from 1654 to 1695 the Kent County court had seventeen clerks, but only five from 1695 to 1776. Owings, *His Lordship's Patronage*, p. 58.

<sup>11</sup> Posner, *American State Archives*, p. 8.

<sup>12</sup> William H. Browne, et al., eds., *Archives of Maryland* (Baltimore, 1882- ), 3:230 (hereafter cited as *Archives*).

<sup>13</sup> *Archives*, 15:26.

if you will, it matured.<sup>14</sup> With this maturing one would expect to see an increase in concern for the public records. To a degree this concern did grow. In 1674 the General Assembly enacted a bill requiring each county not having a courthouse to build one.<sup>15</sup> The proliferation of courthouses afterwards, one being built somewhere every few years, shows that the act was enforced.<sup>16</sup> The passing in 1692 of the first legislative act to provide direct safeguards for the public records further indicates the improvement. This act acknowledged that many public officers had neglected the responsibility of protecting the documents, allowing them "to ly in loose Papers" and not even bothering to record many government functions. The act detailed the better recording of the laws and an alphabetical index of the "Principall matt".<sup>17</sup>

Generally, however, the improvement was minor. At least one of the causes of the 1689 rebellion in Maryland was the inefficiency of the government.<sup>18</sup> This is, of course, particularly true with respect to the public records. Even after the new royal government had been established, recordkeeping was not appreciably better. The increase in the number of courthouses did not mean a thing if the records continued to be carelessly piled in damp corners. Moreover, the courthouses themselves provided scanty protection. Many were shoddily constructed, falling quickly into disrepair; one even collapsed the day after it had been completed.<sup>19</sup> The 1692 act mentioned above, for instance, applied only to the secretary's office.

In 1694, when the government was transferred from St. Marys to Anne Arundel Town (later Annapolis), many of the records were misplaced despite elaborate precautions such as closing

<sup>14</sup> The secretary originally had all the duties not assigned to either the governor or the chancellor. Principally he was notary public and the custodian of the records and had the power to appoint his own as well as the court clerks. Gradually, however, his functions were taken away by the creation of other offices and positions. These positions were the surveyor general (1641/2), the agent and receiver general (1651), attorney general (1657), commissary general (1673), naval officer (1676), rent roll keeper (1689), deputy secretary (1705/6), and judge of the land office (1738). This illustrates the growing bureaucracy of the Maryland government. Owings, *His Lordship's Patronage*, pp. 6-7.

<sup>15</sup> *Archives*, 13:413-14.

<sup>16</sup> See Radoff's discussion of each county in *Courthouses*.

<sup>17</sup> *Archives*, 13:448-49.

<sup>18</sup> Beverly McAnear, ed., "Mariland's Greivances Wiy They Have Taken Op Arms," *Journal Of Southern History* 8(August 1942):392-409; see also Kammen, "Causes," p. 329, and the chapters on Maryland in David S. Lovejoy's *The Glorious Revolution in America* (New York: Harper and Row, 1972), pp. 70-97, 251-70.

<sup>19</sup> The State House built at St. Marys in 1676 was by 1688 "gone very much to decay and Ruine." A courthouse built at Ridge in Anne Arundel County was completed on October 3, 1683, and fell down on October 4. *Archives*, 7:447, 449; 13:223-25.

each bag of papers with the Lesser Seal of the Province and having the clerks sleep with the records as they were transported. The problem came not from any inadequacies in the protection during the removal but with the conditions after safe delivery to the new capital. There the records were merely dumped in the home of one of the chancery commissioners, since no government buildings had been constructed.<sup>20</sup> In 1697, for example, Governor Nicholson had threatened to arrest the person responsible for constructing the State House because he was taking so long. The governor's main concern was that delay increasingly threatened the records: "The Records [were] lying in a very great danger to be spoyled by gusty weather and exposed to the hazard of burning. . . ." <sup>21</sup>

It is surprising that this move of capitals did not profit the records. When the documents were prepared for transfer, the attorney general and a group of lawyers gathered to list them carefully, noting their poor condition and state of completeness.<sup>22</sup> Surely they observed the result of poor protection. Yet for over twenty years, nothing was done. This is shown dramatically by the burning of the Annapolis State House in 1704, a fire which destroyed some of the central government's records and all of the county records.<sup>23</sup> The officials should have been forewarned in 1699 when lightning struck the State House and burned the roof, luckily sparing the records.<sup>24</sup> Though becoming penitent to God, the colonists enacted no legislation insuring better fire protection. Their ultimate act of protection was to build a brick chimney in the midst of a flammable wood structure. That Baltimore County had earlier constructed a small wood structure for housing its records<sup>25</sup> and that nothing was said about the dangers of fire vividly point out the government's negligence toward its records.

Finally, in 1716 the assembly passed the first comprehensive legislation dealing with the records. It was pushed through by Governor John Hart, the first governor of the second proprietary period, who assumed office in 1715. Hart's motives were probably to streamline his administration for the interests of Lord Baltimore and the king. The neglect of records would

<sup>20</sup> Ibid., 19:135; 20:192-94. See also Eugenia Calvert Holland, "Anne Arundel Takes Over," *Maryland Historical Magazine* 44(March 1949):42-51.

<sup>21</sup> *Archives*, 23:62.

<sup>22</sup> Ibid., 19:23; 20:192-93, 197-98.

<sup>23</sup> Ibid., 26:427-28; Radoff, "Early Annapolis Records," *Maryland Historical Magazine* 35(March 1940):74-75.

<sup>24</sup> *Archives* 25:96-97.

<sup>25</sup> Radoff, *Courthouses*, p. 19.

certainly affect the financial gains of both.<sup>26</sup> The assembly incorporated parts of the 1692 legislation, again noting the negligence of the officers and clerks. These people had the "full Profits and Benefits" of their offices without the "Obligation or Penalty" to provide for the actual well-being of the records. The result was obvious: "Sundry Matters which have been Recorded . . . are entirely lost . . . and a great Part . . . are so very much worn and damnified that without a Speedy Care is taken for their Amendment, it is like to prove of very ill and dangerous Consequences to the Inhabitants of this Province in general, the most valuable Part of their Estates Entirely depending thereon." A commission was appointed to examine the records and to make the necessary repairs. After this, the officers and clerks would be responsible to provide out of their own pockets the necessary money for further repairs. Also, the officers and clerks would have to post a bond of £1,000 currency within three months of assuming office to guarantee the safekeeping of the records; these bonds would be forfeited if they violated their trust.<sup>27</sup>

The 1716 records act appears to have been strongly enforced at first. Less than a year later the committee appointed to inspect the documents hired Evan Jones to make transcripts of damaged records, and he was authorized to employ others if necessary.<sup>28</sup> In 1722 the records act was reenforced,<sup>29</sup> and a month later the assembly ordered more paper and books for transcription.<sup>30</sup> Also illustrative of the transformation is that in 1721 the assembly arranged for the public purchase of "a good fire Engine with 20 or 30 leathern buckets" for Annapolis, chiefly to protect the government buildings,<sup>31</sup> and appropriated money for the "Repairing of the Publick buildings and Records" in the capital.<sup>32</sup> These activities were probably prompted by the burning of the Kent County Courthouse in 1720,<sup>33</sup> a case of arson. A generation earlier, however, the burning of the State House had produced absolutely no concrete action, so sentiment evidently had changed.

<sup>26</sup> By this time the proprietary's power was diminishing to little more than the right of income from Maryland. James High, "The Origins of Maryland's Middle Class in the Colonial Aristocratic Pattern," *Maryland Historical Magazine* 57(December 1962):338.

<sup>27</sup> *Archives*, 30:607-11.

<sup>28</sup> *Ibid.*, 33:96-97.

<sup>29</sup> *Ibid.*, 34:367, 380.

<sup>30</sup> *Ibid.*, 34:465-66.

<sup>31</sup> *Ibid.*, 34:146, 148, 228, 240.

<sup>32</sup> Radoff, *Courthouses*, p. 107.

<sup>33</sup> *Archives*, 34:116.

Yet, the outcome of this experience was little better than the total neglect characteristic of the seventeenth century. In 1742 the assembly passed an amended version of the 1716 legislation, suggesting that the earlier act had after all not been very effective. The new measure increased the bonds required for officers from £1,000 to £3,000, except in the Chancery Office where the bonds remained the same. Also, bonds were to be completed before assumption of office, not within three months as before.<sup>34</sup> Examples of the need for change were in the actual keeping of the records. During the period between these two acts, Evan Jones was reprimanded for his poor transcribing,<sup>35</sup> and Vachel Denton, longtime clerk of the provincial court, for his outright disregard for the papers.<sup>36</sup> Numerous inspections referred to the records in nearly the same fashion, noting time and time again their poor condition.<sup>37</sup> What caused this disregard despite stronger legislation? It is here that one must consider the political implications of the records.

As noted earlier, the distinction between the pro- and anti-proprietary parties was essentially that one group was in power and the other out; for the entire colonial period, this distinction remained the principal source of conflict. It is easy to understand, since the proprietary party controlled many of the offices and thus the records, that the official papers would be a matter of contention. In 1660, for example, it was ordered that the papers produced by Fendall's rebellion "be razed and torne from among the Records."<sup>38</sup> This is how the party in power treated the records of the opposing party.

From 1716 to 1742, the years of the two main records acts, matters between factions gradually worsened. One of the basic disputes occurred over the fees of government officers. Lord Baltimore wished to keep the fees as high as possible to strengthen the patronage system, his only method of exerting any significant influence on the government. To lessen the proprietor's influence, the lower house logically attacked the income of the offices.<sup>39</sup> In 1725, for example, the lower house's

<sup>34</sup> Ibid., 42:406-9.

<sup>35</sup> Ibid., 34:262.

<sup>36</sup> Denton had been clerk from 1718 to 1732. In 1735, upon an inspection of these records, it was discovered that he had not been recording all of the court's proceedings. It was ordered that Denton be charged the cost of bringing the records up to date. Ibid., 39:305-6.

<sup>37</sup> There had been inspections in 1723, 1728, 1730, 1734-35, and 1739-40. Ibid., 34:559-60; 36:236-39; 37:25; 39:225, 263-64; 42:227.

<sup>38</sup> Ibid., 41:379.

<sup>39</sup> Owings, *His Lordship's Patronage*, p. 15.

Committee of Aggrievances disagreed with the principle that the colony should be forced to pay a "Vast Charge" for the repair of the records, whose cost at that time was estimated to be £1,000, "whilst the particular officers enjoy the full benefit of those offices great part of the perquisites whereof arise from these very Records that are now so much worn by constant Use." The lower house resolved that the officers should pay for the repair by having part of their salaries held back annually.<sup>40</sup> The delegates certainly presented a good case. The cost of merely transcribing had risen rapidly in a few years.<sup>41</sup> The upper house disagreed vehemently "because by that means we should punish one man for anothers fault a great deal of the Impairs in the Records being occassioned by other Officers then those who are now in Possession of them." The upper house could see charging the public as the only solution; besides, they said, the officers had already posted bonds.<sup>42</sup>

The dispute was really over the prerogative to which each house believed it was entitled. The upper house, most of whose members were also important office holders, defended itself against a measure that threatened to lessen their income.<sup>43</sup> The delegates were continually pushing for the full benefits of Englishmen; for the records, this meant free access by any individual. The problem arose because Lord Baltimore established his authority upon the charter of 1632, whereas the lower house increasingly argued on the ground of the rights of Englishmen that fees were the same as taxation, a privilege they believed belonged only to them.<sup>44</sup>

That these debates became irrational and sometimes ridiculous is shown by an incident that occurred in 1739-40. On June 4, 1739, the lower house reported it feared that several journals of the house were missing from the assembly's office. The delegates appointed a committee to locate the missing journals "and that they likewise Obtain Authentick copies of all other papers they shall have occassion for the use of the publick."<sup>45</sup> The

<sup>40</sup> *Archives*, 35:234-35, 350.

<sup>41</sup> The cost had jumped from three pence sterling per side in 1723 to nine in 1725. *Ibid.*, 34:560; 35:336.

<sup>42</sup> *Ibid.*, 35:235-36.

<sup>43</sup> Among the eight men participating in the 1725 session of the upper house were represented two judges of probate, the surveyor general of the Western Shore, the surveyor and searcher of Annapolis, the naval officer of Annapolis, the chancellor, and the collector of Patuxent. *Ibid.*, 35:195, 203; Owings, *His Lordship's Patronage*, pp. 124, 131, 163, 180, 182-183.

<sup>44</sup> Owings, *His Lordship's Patronage*, p. 15.

<sup>45</sup> *Archives*, 20:82; 40:384. These documents were to be sent from the lower house to England, apparently to be used in their continual efforts to unseat an unjust government.

secretary of this committee, Stephen Bordley, was sent to the office to check on the records. He tried twice and could find no one at the office, or its key. Finally he located at home William Ghiselin, the clerk of the provincial court, and apparently a quarrel erupted about the use of the key. A month later Bordley was again sent to the office, this time with a note ostensibly from the committee (although they later denied writing it) to avoid any of the previous problems. The note directed the clerk to allow Bordley to see the records he needed and to make any copies Bordley desired. This request was denied, however, on the grounds that no provision had been made to pay the "usual Fees," although the committee had sent a dispatch saying to charge service costs to the lower house account.<sup>46</sup>

Enraged, the delegates sent a scathing message to the upper house upholding the right of any person to examine the records; refusal was a "Violation of the Rights of the People of this Province, and tends to weaken and destroy the Properties and Titles of their Estates Real and Personal."<sup>47</sup> The upper house replied in May 1740 that Bordley had been refused because the lower house committee had been functioning when the assembly was prorogued, thereupon making it illegal. The upper house had resolved that those who applied by the regular channels, i.e., paying the necessary fees, would receive the desired service. After all, the upper house had a "sincere desire for the Welfare and Satisfaction of the good People of Maryland."<sup>48</sup> The self-interest of the legislative bodies, the real cause of this conflict, was never adequately solved during the colonial period, for similar incidents occurred in the 1760's and 1770's.<sup>49</sup>

It should not be assumed that the two houses never cooperated in regard to the records. For both parties the records were important—to the upper house for the income of the patronage offices and to the lower house for their proof of an unjust government. Cooperation occurred, for instance, during the administration of Governor Benedict Leonard Calvert, 1727–31. Calvert, brother of the current Lord Baltimore, was a college graduate and extremely interested in history; his friendship with the famous antiquarian Thomas Hearne spurred this interest. Within the first year of his Maryland post, he had

<sup>46</sup> *Ibid.*, 28:182–88.

<sup>47</sup> *Ibid.*, 40:547–48.

<sup>48</sup> *Ibid.*, 40:541.

<sup>49</sup> See, for example, *ibid.*, 57:408–9, 411; 58:202.

decided to write a "description and history" of the colony, a project certainly within his capabilities.<sup>50</sup> In his first address to the General Assembly, he talked briefly of the condition of the records, particularly noting the assembly records. Calvert remarked that if these documents were not cared for and were thus destroyed, the history of the colony would "be hereafter only known by uncertain Traditions . . . Whereas Records will speak for themselves."<sup>51</sup> The lower house quickly acted on these eloquent words by ordering a committee to inspect their records and by actually beginning a week later to repair them.<sup>52</sup> Perhaps the delegates had indeed been moved by Calvert's erudite words; more likely they saw an opportunity to lessen the control exercised over the papers by officials of Lord Baltimore.

The lower house got at least part of its wish. Two years later, in 1729, Governor Calvert advised the building of a "separate Repository for Our Old Records"; he hoped there would be no delay with a "Security so essential to preserve the Rights of yourselves and your Posterity from the Injury of Common Accidents."<sup>53</sup> The assembly again rose to the occasion, completing in 1730 a structure entirely of brick, sixteen feet long and twelve feet wide, with a tile or slate roof, two windows on each side, and shutters or iron bars on the windows. Inside the building were boxes for storing the books and a table for reading and examining the papers.<sup>54</sup> The fact that this repository was within the State House circle and thus accessible to the delegates encouraged their participation. The upper house and even Governor Calvert may have become involved because of a directive from the proprietor, who pointed out that "great Inconveniences have arisen to my Ancestors & Myself from the Want of a proper office or Repository in the City of Annapolis in Which may be kept such Books & Papers as may relate to the Lord Proprietary's Revenues."<sup>55</sup>

In any case, building a repository was the high point of recordkeeping during Maryland's colonial years. From the

<sup>50</sup> Aubrey C. Land, "An Unwritten History of Maryland," *Maryland Historical Magazine* 56(March 1966):77-80; Bernard C. Steiner, "Benedict Leonard Calvert, Esq.: Governor of the Province of Maryland, 1727-31," *ibid.*, 3(September and December 1908):191-27, 283-42.

<sup>51</sup> *Archives*, 36:6.

<sup>52</sup> *Ibid.*, 36:71.

<sup>53</sup> *Ibid.*, 36:310.

<sup>54</sup> *Ibid.*, 36:369; 37:9, 42-43, 71, 110.

<sup>55</sup> Calvert Papers no. 652, Maryland Historical Society, MS. 174. The document is undated but is probably of this period.

completion of this repository until the Revolution, record care did not improve much further. The structure itself was continually refurbished,<sup>56</sup> but even by the late 1760's it was too small, and a new State House was being contemplated that would give more room to records.<sup>57</sup>

There was another new development as well. Increasingly, legislation in colonial Maryland affected county records. Leonardtown, the seat of St. Marys County, built a separate repository in 1736, probably imitating the one constructed at Annapolis.<sup>58</sup> In 1747 the house of the Charles County clerk of the court burned and a number of official papers were destroyed, prompting legislation forbidding clerks to remove records from public offices,<sup>59</sup> thereby correcting a problem that had plagued the safeguarding of the records since the colony's earliest days. Unfortunately, complaints poured in from officers and clerks telling of the hardships this act created, and a year later a new bill allowed the most recent records to be removed. Another provision was added, however. For the first time, clerks of the county courts were required "to attend at their several and respective County Court Houses one or more Days in every Week . . . and to remain there, either by themselves or Deputy, from Nine of the Clock in the forenoon until Sunset, and then and there give all possible Dispatch to the necessary Business of such Person or Persons as shall apply to them for the same." If the clerks failed to perform these duties, they could be fined six hundred pounds of tobacco.<sup>60</sup> Before this, little had been done for county records except for those at Annapolis.

Improvement in record care took place gradually in colonial Maryland. There had been almost no regard in the seventeenth century, but by the mid-eighteenth century an attempt, at least, had been made to construct a fireproof repository. There was little effective enforcement of records legislation, however, because tensions existed between the two houses of the assembly, tensions inherent in the proprietary form of government. Theoretically, the records should have been cared for admirably, but in practice little was achieved. The results of the inspection of the documents in May 1766, for example, exhibits this. A committee reported that in the Commissary's

<sup>56</sup> The repository was repaired in 1746, 1751, and 1762. *Archives*, 44:446; 46:597; 58:39, 56.

<sup>57</sup> *Ibid.*, 62:148.

<sup>58</sup> *Ibid.*, 39:483.

<sup>59</sup> *Ibid.*, 44:638-41.

<sup>60</sup> *Ibid.*, 46:129-31.

Office "the Greatest Part of those Records do not appear ever to have been Examined and that there have been great Errors committed in Recording them." In the Land Office "many Certificates before the year 1740, are thrown into an old Chest in the Office where they lay in the Greatest confusion much torn and defaced and the Books which Contain those Certificates are not marked Examined." The sum of the report is that "the Records in the Publick Offices for a Considerable time Past Appear to be made up generally by Persons who write incorrect and unsettled hands."<sup>61</sup> This was the main result of efforts of nearly three-quarters of a century to preserve the records. Although endeavors to improve the actual form and method of recordkeeping had failed, the records were protected at least minimally from the natural consequences of fire and rain.

Maryland's experience is probably typical of the colonial era: measures adopted to protect the public papers, but ineffective because of the political situation. Certainly the lag in time between the actual settlement of a colony and specific efforts to guard the documents was similar with Maryland's neighbors. Virginia did not build a repository for its records until 1747 and almost did not build one then because of some vicious debates between its two legislative bodies.<sup>62</sup> Apparently Pennsylvania never adopted any such recordkeeping methods; in the late 1770's, because of the British threat, its government frantically endeavored to gather the scattered public records.<sup>63</sup> But Maryland may have been unique in one aspect: the secretary's records were treated as "public records" and more accessible than was usually the case at that time.<sup>64</sup> In addition, its proprietary form of government may have distinguished Maryland from the other colonies. More studies are necessary, however, before Maryland can be accurately placed in the history of archival development.

The haphazard protection of colonial records in Maryland should be familiar today. Despite increased pressure on government to advance funds and develop programs for better care of manuscripts (which have produced some significant results), everyone concerned has experienced the slowness and hesitancy

<sup>61</sup> The reports submitted in the summer of 1768 said about the same. Ibid., 61:22-23, 25, 33-34, 62, 140, 333, 344, 355-356.

<sup>62</sup> H. R. McIlwaine, ed., *Journals of the House of Burgesses of Virginia. 1742-47, 1748-49* (Richmond, 1909), pp. 247-250.

<sup>63</sup> Samuel Hazard, ed., *Pennsylvania Archives* (Philadelphia: Joseph Severns Co., 1853), 5:140, 237, 452-53, 455-56, 462, 638, 654, 749-50; 6:72, 88.

<sup>64</sup> *American State Archives*, p. 9.

of government to push through effective legislation. But now there is an effective lobby (or the beginning of one) interested in the preservation of the relics of the past. This force is essentially what was missing in colonial Maryland; there were no enlightened efforts coming from outside government to save the records. There was in fact a high point of cultural activity in mid-eighteenth century Maryland, but apparently it did not expand much beyond literature.<sup>65</sup> Governor Calvert appears to have been the only one connected with the records who was interested in the past for more than just political reasons. Even his motivation is unclear, for possibly he was merely acting on orders from Lord Baltimore. Moreover, publication of records, an act influential in the literary renaissance of this colony, was used only for partisan political purposes.<sup>66</sup>

It is, of course, impossible to say how many records were lost or damaged during the colonial period. There were no contemporary estimates, and accidental courthouse fires since then prohibit any accurate determination. A letter, of May 26, 1760, from Governor Horatio Sharpe to Cecilius Calvert, the principal secretary of Maryland, sums up the effectiveness of Maryland's protection of its records. Sharpe, discussing the possibility of writing for political purposes a history of the province, reported that his friend and colleague John Ridout had told him: "when he had occasion to turn over & examine the old Records . . . he found the Records down so low as 1703 so very deficient (many having been destroyed by Fire & some lost as he supposes during the Confusion that was in the Province about the time of the Revolution & Accounts of many Transactions being imperfectly entered in those that remain) that he imagines it would be impossible to Compile a History from the Records that are in the Province."<sup>67</sup>

Such is the tragic legacy of record care in colonial Maryland. The modern historian should be thankful that this type of recordkeeping is as much a part of the past as public stocks and bleeding cups.

<sup>65</sup> For the best study of this refer to J. A. Leo Lemay, *Men of Letters in Colonial Maryland* (Knoxville: University of Tennessee Press, 1972).

<sup>66</sup> William Parks, provincial printer, was brought to Maryland in 1726 by Thomas Bordley, a leader of the antiproprietary party. The upper house members objected to an official printer because they disliked the publicity, specifically on the issue of English rights. Nevertheless the lower house had him complete and print a collection of laws, which came out in 1727. See Lemay, *Men of Letters*, pp. 112-14, and Lawrence C. Wroth, *A History of Printing in Colonial Maryland, 1686-1776* (Baltimore: Typothetae, 1922), p. 62.

<sup>67</sup> *Archives*, 9:417-18.