

THE DEVELOPMENT of a corps of clerks to serve this central governing body resembled the evolution of that body as a whole. Thus the clerical establishment began very modestly and then expanded as the need for clerks and registers increased. Moreover, it expanded by the same processes. Just as many offices were separated from the secretariat, and a few wholly new ones were established, so some clerkships were separated from the office of the Secretary's clerk, and other new ones were inaugurated.

Originally all writing business was done by William Bretton of St. Mary's City who bore three titles as Clerk of the Secretary's Office and of the Provincial Court, Clerk of the Council, and Clerk of Assembly.¹

In or shortly before September, 1647, Bretton lost to Robert Clarke the clerkship of the Council. In April, 1650, on division of the Assembly into two houses, his clerkship of that body was similarly divided between a Clerk of the Upper and a Clerk of the Lower House. Bretton himself remained Clerk of the Lower House through March, 1650/1. The Secretary acted as Clerk of the Upper House until April, 1661, when John Gittings was appointed. However, from October, 1678, until the organization of state government a century later the Clerk of the Council was always Clerk of the Upper House too.

The duties of the Clerk of the Secretary's Office were curtailed on appointment, soon after April, 1673, of a separate Clerk of the Prerogative Office (under the Commissary General) and in May, 1695, of a separate Register in Chancery.² A clerkship of the High Court of Appeals was separated from that of the Council in July, 1707. New offices grafted onto the system provided a Register of the Admiralty Court, July, 1694, and two Clerks of

¹ *Archives*, IV, 309 *et passim*.

² Testamentary Proceedings, liber 6, folio 261 (Md. Hall of Records); Chancery Record, liber 2, folio 295 (Md. Land Office); *Archives*, XX, 233. The appointees were Michael Rockford and John Freeman respectively.

the Assize Courts, one for each shore, in October, 1723.³ There was also a clerk for each county court.

Outside the central governing body appeared a Clerk of the Paper Currency Office (1734), in the provincial revenue system, and two clerks on the proprietary finance establishment, namely a Register of the Land Office (1680) and a Clerk of the Board of Revenue (1768). Of these we shall have more to say in later chapters.

Most clerks employed from time to time one or more clerks assistant, or deputies, who served for small salaries or for a share of the profits.

1. PROVINCIAL CLERKS.

We shall find it convenient to consider separately the revenues of the Clerk of the Council and of the Clerk of the Upper House although after 1678 both positions were filled by the same persons.

The Clerk of the Council was chosen by the Governor and Council and appointed by the Governor. He had certain fees from an early period and, after the establishment of royal government, he acquired also a salary and other allowances. His fees, originally fixed by the Council on Feb. 9, 1679/80, were expanded and raised in subsequent orders, being codified at length by the Council in 1692 and by an act of Assembly in July, 1696.⁴ Under the general fee law of June, 1719, they were reduced to about three fourths of their former value, and further reductions were accomplished by the Inspection Act of 1747.

Although his fees were paid willingly, his salary occasioned serious controversies in Assembly. This salary, inaugurated in 1693, was at first 12,000 pounds of tobacco a year, or about £ 50 sterling, out of the public levy; but it was reduced twenty percent, without much altering its sterling value, in the Inspection Law of 1747.⁵ However the Lower House now refused to allow his

³ Thomas Jones was appointed Clerk of the High Court of Appeals, July 16, 1707. Henry Denton, first Register of the Admiralty Court, was appointed July 28, 1694. From Feb., 1694/5, to Oct. 21, 1698, there was a Register for each shore but thereafter only one for both shores. Two Clerks of Assize were appointed in April, 1708, but as the Lower House refused to provide for their payment, Assize Courts were abandoned until reestablished by a law of Oct., 1723.

⁴ On the evolution of these fees see *Ibid.*, XV, 268; VII, 243; XVII, 190, 259; VIII, 396; XX, 32; XXXVIII, 83. See also the "Additional Articles . . . against the Lord Baltimore and his Deputies," 1690 (*Ibid.*, VIII, 219).

⁵ *Ibid.*, XX, 32, 228; XXIII, 270; XXV, 320; XLIV, 635. The Inspection Law of 1747, which reduced fees and salaries in tobacco, raised the money value of that commodity.

salary out of the public levy, for they contended that he ought to be paid from His Lordship's funds for support of government. They were finally prevailed upon to vote his arrears in May, 1756, and again in December, 1773. But at the latter date they abolished his salary.⁶

The Clerk of the Council was also allowed, out of the public levy, small additional sums for particular services required by law.⁷ Under royal government he several times applied for a separate allowance to cover the cost of writing materials and the hire of a clerk assistant, but this the Lower House consistently denied him. In lieu thereof the Council gave him, temporarily in 1695 and permanently some years later, the ameracements in the Provincial Court.⁸

The fees from 1767 through 1769 averaged 7879 pounds of tobacco, or about £ 33 sterling, a year; and the net value of the ameracements may have been about 1000 pounds of tobacco, or £ 5 sterling.⁹ These, together with his salary of £ 50, eventually paid, made up a revenue of £ 88 or £ 90 sterling in all. And as Clerk of the Upper House he had other fees and another salary amounting together to about the same figure.

The fees of the Clerk of the Upper House were first settled in May, 1669, when that body allowed him, together with a special charge for each naturalization, treble the fees of any county clerk for the same service.¹⁰ A separate table of fees was approved by His Lordship in Council, Nov. 10, 1682, and the fees then settled remained unchanged down to the end of colonial times.¹¹

In the early proprietary period the clerk of each house had also received in the public levy an allowance roughly proportionate to the length of each session.¹² At the inception of royal govern-

⁶ *Ibid.*, LII, 404-13; LXIV, 79-80. On political controversies over the clerk's salary see Mereness, *op. cit.*, 368-73, and Barker, *op. cit.*, *passim*.

⁷ See for example the Clerk of the Council's accounts rendered in 1765, *Archives*, LIX, 115-30.

⁸ *Ibid.*, XX, 229, 468; XXIII, 270; XXII, 62, 64, 328; XXVII, 44; XXX, 25.

⁹ For the fees in tobacco, 1767 through 1769, see *Ibid.*, LXII, 232, or *Maryland Gazette*, Nov. 29, 1770. Gov. Ogle declared in 1745 that the provincial ameracements were worth clear "not above One Thousand Pounds of Tobacco per annum, communibus annis" (*Archives*, XLIV, 148); this would be about £ 5 sterling, but Ogle may have consciously understated the true amount. In 1754 John Ross, as Clerk of the Council, received in fees and ameracements combined £ 85 currency or about £ 43 sterling (Portfolio No. 3, folder 30, Hall of Records).

¹⁰ *Archives*, II, 192, 199.

¹¹ *Ibid.*, VII, 375; XIII, 107.

¹² By an act of March, 1641/2, the Clerk of Assembly was given fifty pounds

ment this allowance became a fixed salary of 12,000 pounds of tobacco, about £ 50 sterling, a year. That of the Clerk of the Upper House remained at this figure until 1747 when it was reduced twenty percent.¹³ Moreover, as this salary was raised in the public levy, it could be paid only on passage of the journal of accounts. Consequently a quarrel over paying the Councillors, which delayed passage of the journal from 1747 to 1756, and a similar dispute over the Clerk of the Council's salary, which delayed another passage until 1766, held up the pay of the Clerk of the Upper House.

In the eighteenth century his fees amounted to about £ 75 currency (£ 38 or £ 40 sterling) a year. These, along with his salary of about £ 50, made up an annual income of about £ 88 or £90 sterling.¹⁴ The combined offices of Clerk of the Council and Clerk of the Upper House were consequently worth, together, about £ 180 a year.¹⁵ However we have seen that payment of the two salaries, amounting to over half this sum, was in later colonial times twice long delayed.

Prior to 1682 the Clerk of the Lower House, who in 1650 had succeeded the Clerk of Assembly, was elected by the delegates and admitted to office by the Governor. Lord Baltimore appointed clerks in 1682 and 1683, and the Deputy Governors appointed one in 1686. At the establishment of royal government the former practice of election by the delegates and admission by the Governor was permanently restored.¹⁶

Certain fees were bestowed on the Clerk of the Lower House in October, 1640, and April, 1684.¹⁷ On the organization of crown

of tobacco a day from two days before to two days after each session. This allowance seems to have been extended to both clerks on division of the Assembly into two Houses in 1650.

¹³ *Ibid.*, XXV, 320.

¹⁴ John Ross received this amount as Clerk of the Upper House in 1754 (Portfolio No. 3, folder 30, Hall of Records).

¹⁵ An estimate of about 1745 rates this combined income at £150 sterling (Massachusetts Historical Society, *Collections*, series I, vol. VII [1801], 202-03).

¹⁶ See the report on this matter, May 24, 1749, in *Archives*, XLVI, 187-203. We should note that the Governor did appoint Christopher Gregory in Oct., 1698. On two occasions, in May, 1692, and Sept., 1708, the Lower House refused the Governor's nominee and chose their own clerk, whom the Governor then confirmed. At the session of May 9-11, 1749, the delegates denied the Governor's right to approve their nominee, whereupon Ogle prorogued the Assembly for two weeks. On reassembling the Lower House voted by a small majority to ask the Governor's approbation of their clerk.

¹⁷ *Ibid.*, I, 90; XIII, 42-43.

government his allowance in the public levy became a salary of 12,000 pounds of tobacco a year.¹⁸ It was raised in 1716 to 14,000 pounds and was then reduced twenty percent in 1747.¹⁹ This salary, like that of the Clerk of the Upper House, and for the same reason, was delayed from 1747 to 1756 and again from the latter date until 1766. As his total fees, from year to year, were of slight value, the income of this officer probably ranged between £ 50 and £ 60 sterling per annum in the eighteenth century.²⁰

We have seen that the Clerk of the Secretary's Office and of the Provincial Court was until 1673 Clerk of the Prerogative Office and until 1695 Register in Chancery. Originally he received a part of the Secretary's fees, often one third.²¹ By an act of April, 1671, he was given instead the same fee as any county clerk for a like service. On repeal of this law, in 1692, he was left without legal fees though he may have retained some customary ones. His revenue consisted thereafter chiefly, if not wholly, of an allowance from the Secretary in the form either of a salary or of a proportion of that officer's fees.²² He in turn employed and paid his own clerks assistant.²³ His income, less than that of most county clerks, amounted in 1745 to about £ 65 sterling.²⁴ Under the Constitution of 1776 this officer became the Clerk of the General Court, appointed by the justices of that body.

Similarly the Clerk of the Prerogative Office and the Register in Chancery had no fees by law, for each received a salary from

¹⁸ *Ibid.*, I, 93, 122; XXV, 320.

¹⁹ *Ibid.*, XXX, 551. The delegates voted their own clerk, from time to time, additional sums for extra expenses; but they would never allow such payments to the Clerk of the Upper House.

²⁰ The estimate of about 1745 (see note 15 above) values this clerkship at £ 50 sterling a year.

²¹ This proportion was allowed to John Blomfield in his commission of May 5, 1669 (*Ibid.*, V, 49).

²² He had a salary in 1715; but forty years later he seems to have been receiving a portion of the fees (*Ibid.*, XXV, 320; XXXI, 481).

²³ In 1768 Sharpe wrote that "the Register or Clerk [of the Secretary's Office] being under Engagement to find all under Clerks, he gets as many as he wants at very low wages. . . ." (Horatio Sharpe to Hugh Hamersley, July 25, 1768, *Ibid.*, XIV, 517).

²⁴ See the estimate cited in note 15 above. It is hard to believe that this clerk was actually receiving so little.

his principal. It is clear, however, that the former, and probably the latter also, demanded certain customary fees, which the Lower House was unable to prevent their taking.²⁵ The salary of the Prerogative Clerk amounted in 1715 to at least 20,000 pounds of tobacco, or about £ 80 or £ 90 sterling a year. It was valued at £ 80 sterling in 1745, and it may have reached £ 100 in late colonial times.²⁶ The Register in Chancery probably got about the same amount. The Prerogative Office was to be omitted from the Constitution of 1776 and abolished the following year.

The Clerk of the High Court of Appeals, the Clerk of the Admiralty Court, and the two Clerks of Assize Courts had very small incomes from fees established by law. These offices were commonly filled by persons with other and more valuable clerkships.

Prior to the establishment of royal government there was a rapid turnover in all offices, and this was especially true of the clerks' places. Thereafter long tenure became the rule. Thus in the first sixty years of its history, until 1693, the Council had fifteen successive clerks; but in the eighty-three years thereafter only nine. Of these John Ross served thirty-five years. Similarly Michael Macnemara was Clerk of the Lower House for twenty-three years; and three different clerks served over ten years in the Secretary's office.²⁷

2. COUNTY CLERKS.

These officers, appointed by the Secretary in Maryland, and commonly better paid than the provincial clerks, were supported chiefly by fees. Such charges, first established in the general fee proclamation of August 2, 1642, were for over thirty-five years the same as those allowed the Secretary.²⁸ By an act of November,

²⁵ On the customary fees of the Prerogative Clerk see *Ibid.*, XXXV, 313-26; XLVI, 588. The Lower House sought to prevent the taking of such extra-legal fees by inserting certain oaths into the Inspection Law of 1747. But as the act provided no penalty for refusal of the oaths, the Governor had no means of enforcing this part of it. The matter was argued at some length in the session of May and June, 1751.

²⁶ *Ibid.*, XXV, 321; IX, 414; see also the estimate cited in note 15 above.

²⁷ On the eve of the Revolution the chief provincial clerks were James Brooks (Council and Upper House), John Duckett (Lower House), Reverdy Ghiselin (Secretary's Office), Elie Vallette (Prerogative Office), and James Brooks (Chancery).

²⁸ *Ibid.*, I, 162.

1678, however, they were cut to half their previous value. They were further reduced by the fee act of 1719 and by the Inspection Law of 1747. Certain additional fees, including one for the drawing of ordinary licenses, were established by law as occasion arose. In addition to his fees each clerk received a commission for collecting alienation fines and paying them to His Lordship's Receiver General.

The county clerk paid his own assistants but was probably allowed in the county levy for his paper, books, and writing materials. A further expense was the purchase of his appointment from the Secretary and, at least after 1692, the payment to that officer annually of a tenth of his gross revenue.²⁹

Despite these expenses, and a progressive reduction of fees, this office became steadily more valuable as the population increased. However, as the value of each clerkship depended on the number of law suits and land transfers in that county, some of them became more profitable than others. Thus in the two first settled counties, St. Mary's and Calvert, the clerkships declined in value after all land had been taken up. Meantime those offices in the northern counties, which were later settled, had become the more lucrative.³⁰

The average value of a county clerk's office in 1745 was about £ 115 sterling a year. However, those of St. Mary's and Calvert Counties brought in only about £ 80 each, while that of Baltimore was worth £ 250 sterling. The clerkship of Frederick County, organized in 1748, must have brought in yet more.³¹ The county

²⁹ These obligations of the county clerks are treated in more detail in our chapter on the two Secretaries.

³⁰ On conditions affecting the value of a county clerkship see Daniel Dulany, "The Case of Mr. Dennis Dulany," 1760 (Dulany Papers). According to Dulany, Baltimore, Frederick, and Cecil Counties offered the most valuable clerkships. Those of St. Mary's and Calvert Counties were the least valuable, and the others were about alike.

³¹ An estimate of about 1745 (see note 15 above) values the county clerkships at £ 115 each "but more in peace time," and Gov. Sharpe, in his report to the Board of Trade, Dec. 21, 1761, rates them conservatively at £ 80 to £ 200 sterling (*Archives*, XXXII, 27). See also the dispute between Secretary Lawrence and Cleborne Lomax, 1692, over the value of the Charles County clerkship (*Ibid.*, VIII, 401-03). The sanguine Henry Callister may have overvalued the Dorchester County office in 1746 when he rated it at 50,000 pounds of tobacco, about £ 210 sterling (Callister Papers, I, 58). The income of the Baltimore County office, as here quoted, is derived from the fee book of John Beale Bordley, clerk of that county, for the years 1759 through 1761 (Bordley Papers).

clerk frequently made his office a sinecure by employing a deputy who did all the work for a third or a half of the profits.³²

As with the provincial clerkships, turnover was rapid in the earlier proprietary period, and long tenure, indeed life tenure, became the rule thereafter. Kent County, for instance, had seventeen clerks in the forty-one years prior to 1695 and only five in the remaining eighty-one years of the colonial period. One of these, Captain James Smith, served a record fifty-three years. Thomas Hayward, Jr., Clerk of Somerset County, was in office forty-four years and John Leeds of Talbot County thirty-nine years. Some fourteen other county clerks served for two decades or longer. In most counties the successive clerks were nearly related, and there are eight cases of immediate succession from father to son.