

THE HISTORY OF LEGISLATIVE APPORTIONMENT
IN MARYLAND¹

The Maryland legislature recently reapportioned both the House of Delegates and the Senate on a population basis as a result of the case of *Maryland Committee v. Tawes*.² This case and the other reapportionment cases³ established the constitutional principle that both houses of all state legislatures must be apportioned on the basis of population. The cases were immediately and universally recognized as instituting a new epoch in state and national governmental affairs. It is, of course, still far too early to assess accurately the final long-term impact of the decisions on American governmental affairs, but this does not preclude a comparison of the requirements of these cases as to apportionment with the historical practices of the other various states. Indeed, an examination of the historical practices with respect to apportionment discloses the invalidity of some of the more prominent defenses advanced in favor

of the apportionment practices overthrown by these cases. This is true, in particular, of Maryland where the existing apportionment system was vigorously defended on the basis of the "federal analogy."⁴

THE COLONIAL PERIOD

Early Maryland history is inextricably intertwined with the fortunes of the Calverts. This association began in 1632 when Charles I granted George Calvert, Lord Baltimore, the land lying between the Potomac and the fortieth parallel. The charter, signed after George Calvert's death, granted to the proprietor:

" . . . free, full, and absolute power . . . to ordain, make, and enact laws . . . of and with the advice, assent, and approbation of the free-men of the same province, or the greater part of them, or of their delegates or deputies, whom we will shall be called together for the framing of laws, when, and as often as need shall require, by the aforesaid now Baron of Baltimore. . . ."⁵

Acting under this charter, Cecilius Calvert, George Calvert's son, sent a group of immigrants who colonized Saint Mary's in 1634. It will be noted that this charter did not provide that the freemen would initiate laws but only that they were to ratify legislation proposed by the proprietor.⁶

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² 377 U.S. 656 (1964).

³ *Reynolds v. Sims*, 377 U.S. 533 (1964); *WMCA, Inc. v. Lomenzo*, 377 U.S. 633 (1964); *Davis v. Mann*, 377 U.S. 678 (1964); *Roman v. Sincock*, 377 U.S. 695 (1964); and *Lucas v. Colo. Gen. Assembly*, 377 U.S. 713 (1964).

⁴ See 32 U.S.L. W. 3191 (Nov. 26, 1963).

⁵ MD. CHARTER art. VII (1632).

⁶ The immediate conflict between the freemen and the proprietor over their relative roles in lawmaking, ending with full legislative powers vested in the assembly, has been chronicled earlier. See Everstine, *The Establishment of Legislative Power in Maryland*, 12 MD. L. REV. 99 (1951).