

The first assembly convened under this charter met in 1635. No record of its proceedings exists. Two years later the second session of the ratifying body, called the General Assembly, was summoned to advise and consult on such matters as were brought before it. Leading citizens were summoned by special writs addressed to them individually. General writs went to the freemen of the hundreds<sup>7</sup> directing them to come in person or to send "deputies or burgesses." If a freeman chose not to go, he was obligated to deputize another by proxy to act in his stead. A fine was imposed upon all freemen who did not appear in person or by proxy. Under such an arrangement there was, of course, no problem of public elections or apportionment of elected delegates among the hundreds. Nor, there being only one house, was there any problem of differing bases of representation for the two chambers. It is not clear how many proxy votes were represented in this 1637 session,<sup>8</sup> but in any event the complaint arose that the governor controlled the assembly through selective summoning of persons to the assembly and through the use of proxies held by himself and the secretary of the colony.<sup>9</sup>

The session in 1638 attempted a first step in dealing with these representa-

<sup>7</sup> The "hundreds" were civil divisions of the province and would correspond today with subdivisions of a county.

<sup>8</sup> Newton D. Mereness states nineteen persons held sixty-nine proxy votes, N. MERENESS, *MARYLAND AS A PROPRIETARY PROVINCE* 195 (1901), while Elihu S. Riley states Captain Thomas Cornwalley held fifty-six proxies with the number held by other totalling far over sixty-nine. E. RILEY, *HISTORY OF THE GENERAL ASSEMBLY OF MARYLAND* 1 (1905). The official records show the number of proxies varied from day to day. 1 *ARCHIVES OF MARYLAND* 3 (W. Brown ed. 1883) [hereinafter cited as 1 *ARCHIVES*].

<sup>9</sup> MERENESS, *supra* note 8, at 195.

tional problems by passing a requirement that whenever a general assembly was called, all members of the governor's council were to be summoned and all hundreds were to be issued writs to elect one, two, or more representatives as the freemen should decide.<sup>10</sup>

The question of whether the freemen should be personally present, present by proxy, or represented by elected burgesses proved a troublesome issue for years. Whereas the writs for the 1637 assembly provided for all three methods of representation, the general writs to the freemen for the 1639 session directed the freemen in each hundred to meet and select two or more burgesses to represent them.<sup>11</sup> This did not, however, result in the ending of personal attendance of freemen, for Cuthbert Fennick of Saint Mary's appeared, claimed, and gained admission to the assembly on the grounds he had not assented to the election of the Saint Mary's burgesses.<sup>12</sup>

A point will be noted here that many persons today find almost incomprehensible. The calls for the election of burgesses did not specify the exact number of burgesses to be elected by any hundred, other, usually, than that the number should be two or more, leaving the determination of the exact number to the discretion of the freemen. Nor was it ever consistently made clear whether burgesses had only one vote apiece or held as many votes as cast in their elections, or alternatively, as were cast in their favor. This seemingly inexplicable oversight probably can be attributed to the view current in England at the time that representatives in Parliament, and by extension representatives generally, spoke not for the citizens of the various

<sup>10</sup> 1 *ARCHIVES* 74.

<sup>11</sup> RILEY, *supra* note 8, at 8.

<sup>12</sup> 1 *ARCHIVES* 32.