

the governor, the secretary, persons summoned by special writs, and ten burgesses, so that only two of the burgesses could have voted in favor of the bill. It was determined that those present formed a house, that all present whether by special writ or as burgesses had a voice, and "that the major part of such voices present and such as they were to be Proxies for was to be judged the vote of the house."<sup>21</sup>

As has been noted several times, when a call went out for a session of the assembly, not only were there general writs for the election of burgesses from the hundreds, but also there were special writs calling for the attendance of named individuals. As long as the governor could issue such personal writs he was in a position to name a controlling majority in the assembly. Consequently, Robert Vaughan, the same gentleman initially refused a seat at the start of the session, requested in the name of all the burgesses that the assembly be split into two chambers composed of those personally summoned and of the burgesses, the burgesses to have a negative over the actions of the chamber composed of those individuals personally summoned.<sup>22</sup> The lieutenant governor refused.

Although the writs to the freemen for the July, 1642, session, provided only for their representation through elected burgesses, the writs for a session in September of that same year called for the freemen to be at the assembly "either by themselves or their Deputies or Delegates."<sup>23</sup> Many appeared by proxy.

A session of the assembly was called for 1646, but no summons went out to

the freemen requiring their appearance either in person or by proxy. The records for the session, held at St. Inigoe's, bear the heading "In the upper howse [*sic*]."<sup>24</sup> Since the freemen were not summoned, this amounted to an *ad hoc* division of the assembly into upper and lower bodies. The reference to the "upper howse" is the first mention of an actual division of the assembly into two chambers.

The call for the session in 1647 required that the inhabitants of the province should attend in person, by proxy, or by delegates. When the session convened the freemen jointly and unanimately protested against all laws enacted at the previous St. Inigoe's session on the grounds of that session's unlawfulness "for want of due Summoning the freemen of the Province by a lawful authority."<sup>25</sup> The lieutenant governor overruled the protest, declaring the 1646 assembly and all of its acts valid, even though apparently passed only by the "upper howse."

A measure passed by the 1647 session listed the freemen present and their proxies and provided that acts passed by "the said freemen or the major part of them" and enacted by the governor would become law. There was no mention of an upper house.<sup>26</sup>

The 1650 session of the assembly proved a milestone in several respects. The call for the assembly was unusually complex. In addition to the customary special writs summoning designated individuals, the freemen were required to attend in person, by proxies, or by delegates. No freeman was to have over two proxies in addition to his own vote.

<sup>21</sup> 1 ARCHIVES 141.

<sup>22</sup> 1 ARCHIVES 130.

<sup>23</sup> 1 ARCHIVES 167.

<sup>24</sup> 1 ARCHIVES 209.

<sup>25</sup> 1 ARCHIVES 221.

<sup>26</sup> 1 ARCHIVES 215.