

Alternatively, the freemen of any hundred could chose [sic] burgesses if a majority of the freemen in the hundred so agreed.<sup>27</sup> If burgesses were used, St. Clement's and St. Mary's were to be allowed one each; St. George's, St. Inigoe's, and St. Michael's one or two each; and Newtowne two or three. The freemen of St. Mary's petitioned the governor to be allowed to choose two burgesses, alleging that St. Mary's was the most ancient hundred and the first seated in the province under his Lordship's government. The petition was granted.<sup>28</sup>

An act unanimously passed by the session and signed by the governor divided the assembly into upper and lower houses, the upper house being composed of the governor, the secretary, and one or more of the Governor's Council and the lower house being composed of any five or more burgesses, individually named in the act.<sup>29</sup>

Until 1654 the unit of representation for burgesses was the hundred. In 1654 the proprietary government was replaced by Puritan Commissioners who changed the unit of representation to the county, where it has remained ever since. The assembly also reverted to a unicameral body for that session and for the succeeding session in 1657, returning again to a bicameral body with the restoration of proprietary government in 1658.

It is well to recapitulate at this point the practices that had become established. The hardships imposed by compulsory attendance of all freemen, either in person or by proxy, at assembly sessions had been relieved by allowing attendance through delegates or elected

burgesses, as specified in the writs for the individual sessions. The assembly had become bicameral. In the Upper House the members were summoned by special writ and represented no geographical or political unit. In the Lower House the unit of representation was the county. The number of representatives per county had not become settled. Indeed, in the 1661 session the Lower House asked for an explanation of how the elections were conducted, saying it did not understand the procedure. The Upper House—acting in its executive role as governor and council rather than in its legislative role—explained that the decision as to the number of delegates for each county was left to the discretion of the sheriff of each county. The sheriff proclaimed the election of burgesses and the number to be elected. He could prevent electors from voting or elected burgesses from serving.<sup>30</sup>

By exercise of these powers to return large numbers of burgesses from counties favoring the administration it was possible to control the actions of the Lower House. The Lower House made an attempt in the 1661 session to end this possibility. A law enacted in that session gave to the electors of each county the right to decide the number of burgesses to be elected to represent them. Being summoned to the actual legislative session is now regarded as the inevitable result of being elected as a representative. Logically, however, the two are discrete and separable events. The governor countered the electors' control over the number of delegates by beginning the practice of summoning only part of those elected. For example, in the 1776 session the Lower House inquired why all the delegates were not

<sup>27</sup> 1 ARCHIVES 259.

<sup>28</sup> 1 ARCHIVES 260.

<sup>29</sup> 1 ARCHIVES 272.

<sup>30</sup> RILEY, *supra* note 8, at 32.