

## CHAPTER I.

### THE LEGAL SYSTEM IN MARYLAND TO THE END OF THE ROYAL GOVERNMENT.

"It is observable," wrote Governor Hutchinson, "that all the colonies, before the reign of King Charles the Second, Maryland excepted, settled a model of government for themselves."<sup>1</sup> In this exception—for which the author vouchsafed no explanation—are reflected the turmoil of the history of Maryland, the vicissitudes of the proprietary government, and the constitutional struggles within the colony.

Among the very earliest of the many contests which mark the relations of the Proprietors and their colonists was one about the very foundations of government—"what laws the colony should be governed by." The sixth and seventh paragraphs of the royal charter gave to the Proprietor and his heirs the right

"to ordain, make and enact laws, of what kind soever, according to their sound discretions, whether relating to the public state of the said province, or the private utility of individuals, of and with the advice, assent and approbation of the freemen of the said 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 and his heirs, and in the form which shall seem best to him or them . . . etc."

The Proprietor could also issue "fit and wholesome ordinances from time to time." But these should not affect the "right or interest of any person or persons of or in member, life, freehold, goods or chattels." Further, in the charter is included the common limitation that all laws must "be consonant to reason and not be repugnant . . . to the laws, statutes, customs, and rights of this our Kingdom of England."

Dispute at once arose over the power of initiating legislation. The first settlers of Virginia had been subject to laws

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<sup>1</sup> Hutchinson: History of Massachusetts Bay, Vol. I, p. 94, note. The edition used purports to be the second, and bears date MDCCLX, but the preface shows that this should be MDCCLXIV.