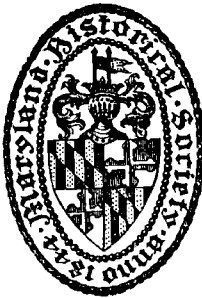


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GOVERNOR HORATIO SHARPE AND HIS MARYLAND GOVERNMENT.

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Early on Friday morning, August 10, 1753, the ship *Molly*, after a long journey from England, anchored in the quiet Severn River close to Annapolis. At nine o'clock the newly-appointed Governor of Maryland, Horatio Sharpe, landed at the dock where he was greeted by Benjamin Tasker, President of the Council, a few of the Councillors, and a number of other gentlemen. They walked leisurely through Green Street to Tasker's home and tarried there until after dinner. About four in the afternoon, accompanied by President Tasker, Secretary Edmund Jennings, George Plater, Charles Hammond, Benjamin Tasker, Jr., and Benedict Calvert, all members of the Council, Sharpe went to the Council Chamber where he produced his commission which was opened and read.¹ The oaths of abjuration, test, allegiance, as well as the oath of the Chancellor and one to enforce the Acts of Trade and Navigation, were then administered to the new chief executive. After a brief message, in which Sharpe expressed Lord Baltimore's approval of the Council's past conduct, a formal proclamation was issued announcing the appointment of Horatio Sharpe as "Lieutenant General and Chief Governor of the Province of Maryland and Avalon in America."² Thus began an adminis-

¹ *Maryland Gazette*, August 16, 1753.

² *Proceedings of the Council of Maryland* August 10, 1753-March 20, 1761, (Archives of Maryland), editor, William Hand Browne, Baltimore, 1911, Vol. XXXI, pp. 3-8. Hereinafter referred to as *Council Pro.*; Daniel Dulany, the elder, wrote to the Hanbury's on September 4, 1753: "Our Gov'r arriv'd the tenth of last month & is very well liked by those who have seen him which gives me hope his government will be agreeable as he really seems to be a good-natured man, of a frank, open temper and free from affectation, and far from being greedy." St. G. L. Sissousat, *Economics and Politics in Maryland, 1720-1750*, and *the Public Services of Daniel Dulany the Elder* (Johns Hopkins University Studies in Historical and Political Science), Vol. XXI, Baltimore, 1903, p. 83.

tration destined to last for almost sixteen years, the longest period, with one exception, that any governor ever served Maryland under proprietary rule. These were momentous years, for they witnessed the expansion of the British Empire in America and also the beginnings of its disruption. Could Sharpe have pulled back the veil and peered into the future, one wonders whether or not he would have ever left his native land for turbulent Maryland.

Little is known about the life of Horatio Sharpe prior to his departure from England for America. Born in Yorkshire near Hull, he was thirty-five years old at the time of his arrival in Maryland.³ He never married, yet it is said that after a few years residence in the province he did become a suitor for the hand of the fair Mary Ogle only to loose her to his young and handsome private secretary.⁴ Sharpe once held a captain's commission in Brigadier-General Powlett's regiment of marines and apparently had seen some military service in the West Indies. His talented brothers had already gained distinction in religious, literary, and political circles.⁵ The eldest brother was Dr. Gregory Sharpe, a classical scholar, a prebendary in Salisbury Cathedral, a chaplain to Frederick, Prince of Wales, and later to George III, and Master of the Temple. William served as clerk to His Majesty-in-Council. Philip's past remains a secret. Joshua and John were both colonial agents and treasury solicitors, the latter being at one time agent for Jamaica, Barbados, and Nevis. Moreover, John was a member of Parliament for Collington and, upon the death of the fifth Lord Baltimore, became one of the guardians of his son, Frederick. In all probability John Sharpe secured the appointment of his brother to the governorship of Maryland. Incidentally, the political in-

³ Lady Matilda Edgar, *A Colonial Governor in Maryland*, London, 1911, p. 2.

⁴ *Ibid.*, p. 194.

⁵ *Ibid.*, p. 2; W. P. Courtney, "Gregory Sharpe," *Dictionary of National Biography*, Sidney Lee, editor, New York, 1897, Vol. LI, pp. 423-424; Horatio Sharpe, *Correspondence of Governor Horatio Sharpe* (Archives of Maryland), William Hand Browne, editor, Baltimore, 1888, Vol. I, pp. 5 and 13 of the Preface. Hereinafter referred to as *Sharp Cor.*

fluence of all the Sharpe brothers proved to be a most valuable asset for the new Maryland governor. It enabled him to secure important military commands later, to thwart various designs of Lord Baltimore and Secretary Calvert, to convince them of the practicability or impracticability of certain policies, to secure or else prevent the appointment of particular persons to office, and to maintain his standing with the Proprietor and the King. Fraternal advice and counsel Horatio Sharpe often sought. Aside from these facts, little more can be written about the Sharpe family and the early life of the man who guided Maryland through sixteen troublesome years.

Two years prior to Sharpe's appointment, Frederick, the sixth Lord Baltimore, fell heir to Maryland upon the death of his father. He was twenty years old and became the most conceited, weakest, and worst scion of the Calvert family.⁶ Carlyle in his *Life of Frederick the Great* refers to his father as "something of a fool, to judge by the face of him in portraits, and by some of his doings in the world."⁷ His attempts at writing made him the laughing stock of England. Of his *Tour in the East in the years 1763 and 1764, with remarks on the City of Constantinople and the Turks: Also Select Pieces of Oriental Wit, Poetry and Wisdom*, Lord Orford declared that it "no more deserved to be published than his bills on the road for post-horses."⁸ Furthermore, he had the reputation of being a libertine and a rake. Though married to Diana Egerton, daughter of the Duke of Bridgewater, Lord Baltimore stood trial in 1768 for rape. Despite acquittal, people at home and in the colony had little respect for him. While exceedingly anxious to have rents and revenues collected and remitted punctually, he avoided oppressing his Maryland tenants. Apart from the financial interest and the many opportunities to provide his

⁶ George Sydeny Fisher, *Men, Women & Manners in Colonial Times*, Philadelphia, 1898, p. 240; Newton D. Mereness, *Maryland as a Proprietary Colony*, New York, 1901, pp. 156-157; William Hand Browne, *Maryland*, Boston, 1895, p. 217.

⁷ T. F. Henderson, "Frederick Calvert," *Dictionary of National Biography* Leslie Stephen, editor, London, 1886, Vol. VIII, p. 268.

⁸ *Ibid.*, p. 268.

favorites with lucrative appointments, Lord Baltimore had little interest in Maryland. He did not even visit his province though an extensive traveler on the Continent. Affairs of government were left largely to the care of a secretary, who, until 1766, was his crafty and scheming old uncle, Cecilius Calvert, and after that, Hugh Hamersley.⁹ Under the circumstances Secretary Calvert became more important in determining colonial affairs than either Lord Baltimore or Governor Sharpe. Unfortunately it placed the Governor in a very exasperating position with respect to the determination of policies, appointments, and other proprietary business. After Calvert had been succeeded by Hamersley, there was not nearly so much friction between the Secretary and Governor.

Lord Baltimore held Maryland with almost unrestricted privileges according to the charter.¹⁰ In recognition of the King's right in the soil, two Indian arrows had to be delivered every year at Windsor and one-fifth of all gold and silver ore was reserved for the King. Otherwise, the Proprietor had absolute authority to assign, grant, or alienate any part of the land. In addition to an exclusive right to the soil, extensive governmental powers, autocratic in character, had been granted. Lord Baltimore was the principal source of all military, executive, and judicial authority with the sole right of creating offices, appointing officers, supervising their performance, and delegating powers. Power was transmitted from above downward and all officers of government were made dependent upon the will of the Proprietor, for they served during his pleasure. The Governor was required to transmit regularly the journals of the Assembly as well as accounts of other important transactions. On critical occasions or at the time of some great controversy the Proprietor might communicate with either one or both houses of the legislature and make known his will. Of far greater importance was his right to disallow any act passed by the Maryland Assembly. As head of the church, the Proprietor controlled the patronage and no one could be appointed to a

⁹ Mereness, *op. cit.*, p. 157.

¹⁰ *Ibid.*, pp. 153, 158-159. See also the charter of Maryland, pp. 507-520.

living without his approval. The Crown retained the right of control in war, trade, and commerce, but agreed to refrain forever from taxing the person or property of any inhabitant. In brief, the Proprietor originally possessed all the rights, privileges, prerogatives, liberties, and immunities as enjoyed by any Bishop of Durham. The charter aimed to create a strong and highly centralized state. By virtue of his royal rights the Proprietor sat as a petty monarch, the supreme head of the province. It must be remembered, however, that after the creation of a freeman's assembly, great inroads had been made upon the Proprietor's prerogatives. Gradually the Lower House had wrested numerous valuable liberties from the absentee landlords and by mid-eighteenth century it was claiming for itself all the rights and privileges of the ancient House of Commons.

When present in the colony the Proprietor exercised authority in person, but when absent he was represented by a Governor. To his representative, Governor Horatio Sharpe, Lord Baltimore delegated in 1753, most of his monarchical powers.¹¹ As chief magistrate, Sharpe had authority to make appointments to office, establish ports, markets, and fairs, to pardon offenders of the law, and to remit fines. In his legislative capacity, he could summon, dissolve, adjourn, or prorogue the Assembly and recommend laws, assent to, or veto any act passed. Sharpe kept the proprietary seal, approved all grants of land, issued commissions for all officers, licenses, writs, and proclamations. He was empowered to do whatever was necessary for the defence of Maryland and to suppress any rebellions. Because the general powers of a Governor could either be expanded or contracted by means of proprietary instructions, it is difficult to state more fully just what powers the chief executive possessed at any given moment.

From time to time special instructions, as occasion required, were sent to Governor Sharpe, but for his general guidance the Proprietor provided certain standing instructions. He should

¹¹ *Ibid.*, pp. 159-161, 228.

act in strict conformity with the charter at all times and abide by the instructions to all previous Governors unless altered by later directions. While the Proprietor had the right to appoint civil officers and ministers, the Governor could fill a vacancy subject to Lord Baltimore's subsequent approval. In matters of legislation, the standing instructions directed the governor to pass no bill prejudicial to the Proprietor's prerogative or the property of subjects and tenants without first having Lord Baltimore's approval, to approve no act introducing the English statutes in gross which interfered with the law of 1702 providing for the clergy or dividing a parish without the incumbent's consent, to assent to no private law without first a hearing for the person concerned, and to pass no act relating to paper currency without a suspending clause. Furthermore, legislative bills should deal with only one subject; riders should not be attached. Finally, accounts of all important transactions should be sent regularly to both Lord Baltimore and Secretary Calvert.¹²

For his services as Governor, Sharpe received a salary and certain fees. Under a law of 1704 a duty of 12d. per hogshead on all tobacco exported went to the Governor.¹³ By 1756 the duty amounted to £1,400 currency *per annum*. Some fees accrued to Sharpe from the Chancellor's office. In addition, he received £246 currency in 1754 for serving as His Majesty's Surveyor General of Customs.¹⁴ To pay house rent the Assembly annually appropriated £80 currency. Whatever Sharpe's total income may have been, it was so large that Lord Baltimore did not hesitate to ask him to pay over £200 yearly towards the salary of Secretary Calvert.¹⁵

In all matters pertaining to government a small group of constitutional advisers, called the Council, assisted Sharpe.¹⁶ A full council had twelve members, but the usual number was nine or ten. Councillors were seldom, if ever, removed and vacancies only occurred through death or resignation. The

¹² *Council Pro.*, Vol. XXXII, p. 27.

¹³ Mereness, *op. cit.*, pp. 172-173; *Council Pro.*, Vol. XXXII, p. 27.

¹⁴ *Port-folio*, No. 3-30, Maryland Historical Society.

¹⁵ Mereness, *op. cit.*, p. 174.

¹⁶ *Ibid.*, pp. 174-179.

Proprietor upon the recommendation of the Governor appointed the members. Whenever the membership fell to six or below Sharpe had permission to appoint enough to keep the number up to seven, but even these must ultimately be approved by the Proprietor, to promote the peace and welfare of the people, to assist in the administration of justice, and to keep secret all affairs of state.

Sharpe was expected to advise with the Council upon all important state matters and seldom to act contrary to the advice given. Ordinarily business was confined to Indian affairs, to the boundary dispute with the Penns, to giving advice with respect to calling, proroguing, or dissolving the Assembly, to hearing petitions, to granting pardons, and issuing death warrants. The marked decrease of business during the eighteenth century and a corresponding increase of business in the Assembly indicated the transition from a monarchial to a more democratic government.

Councillors received no direct allowance from the Assembly after 1747 because of a feeling that they should be paid out of the appropriation to the Proprietor for maintaining the government.¹⁷ But there were, however, sources of compensation. When the Councillors sat as the Upper House of the Assembly they drew a salary *per diem*. In addition, each Councillor enjoyed the profits from at least one lucrative governmental office. For example, in 1754 Samuel Chamberlaine received for serving in the Upper House £26.6.6 and £240.14.6 from his naval office.¹⁸ Besides being a member of the Upper House, Colonel Edward Lloyd enjoyed large profits from his positions as Agent and Receiver General and Treasurer of the Eastern Shore. The average income of each Councillor in 1754 amounted to nearly £372 currency.¹⁹ Some salaries were so large that the Proprietor asked four of them to contribute £400 annually towards the support of Secretary Calvert.²⁰

¹⁷ *Ibid.*, p. 181. ¹⁸ *Port-folio*, No. 3-30. Maryland Historical Society.

¹⁹ Mereness, *op. cit.*, p. 182.

²⁰ *The Calvert Papers* (Fund Publication, Vol. XXXIV), Md. Hist. Soc., Baltimore, 1894, Vol. XXXIV, p. 120.

Benjamin Tasker, Sr., Benjamin Tasker, Jr., Daniel Dulany, the elder, George Plater, Edmund Jennings, Charles Hammond, Edward Lloyd, Richard Lee, Samuel Chamberlaine, Philip Thomas, Benjamin Young, and Benedict Calvert formed the council in 1753.²¹ Some of the members were men of mediocre, if not poor, ability. "If you knew," declared Governor Sharpe in 1755, "how unaccustomed or how averse the present members (except perhaps Mr. Thomas) were to writing or communicating their thought to the lower house by Message on any Occasion, you would, I am persuaded, think with me that it is highly requisite the vacancies in his Ldp's Council should be supplied with Gentn of Abilities who have been used to argue or write, and would be capable of supporting his Ldp's Rights & Prerogatives whenever a Levelling House of Burgesses should be inclined to attack them. You know, Sir, that few People will choose to engage in a Dispute with those whose superiour Capacity they are sensible of."²² Sharpe did not know why his predecessors had recommended several members of the Council to Lord Baltimore's attention, but he imagined it could not be on "Account of their extraordinary Abilities for scarcely any of them except Mr. Thomas whose Understanding & Capacity were never questioned have ever taken upon themselves to pen a common Message yet all of them except Mr. Thomas enjoy Lucrative Offices, & as it pleased the Ld Proprietary to distinguish them by peculiar marks of Favour I shall only say that if they are now found deficient either in Point of Understanding or Affection to the Ld Proprietary I hope their Failure or Defects will not be attributed to me who had no hand in their Promotion."²³

Secretary Calvert did not consider Lord Baltimore's right of nominating to the Council as a "feather wherewith to Tickle the vanity of such as he may be inclined to please, but as the chief strength & support not only of his Lordships rights, but of the whole frame of Government; 'tis by their advice Assem-

²¹ *Council Pro.*, August 10, 1753, Vol. XXXI, p. 8.

²² *Sharpe Cor.*, Vol. I, p. 181.

²³ *Ibid.*, Vol. II, p. 426.

blys are called, prorogued & dissolved, & all the Subordinate parts of the Government are directed & put into Motion; It must therefore be of the last consequence to his Lord how the Vacancies that happen there, are filled up; If this point is disregard, you may admit a fool who will not only be troublesome & Impertinent but will Blabb every thing he knows; or if he has abilities, unless you are sure he is well affected to the Proprietor & Government, he will be the more Dangerous in proportion to those Abilities; for I am very well satisfied that placing such a one there is so far from putting him out of the way, as is the pretended opinion of some there, that it is increasing his Power of doing Mischief, by letting him into all the secrets of the Government, & giving him a share of Management in that Power which is to controul & direct all the rest & so far corrupting and weakening the only check this Government has over the Madness of popular fury. . . ." ²⁴ Hence, Calvert advised that health, ability, nearness to Annapolis, family connections, and proper attachment to the Proprietor's rights should be considered in selecting persons for the Council. Men of the "Old Stamp of Politicks" should not be recommended by Sharpe.

Since he has been specifically instructed to appoint only men of "Good Life and well Affected to our Church and State," of "Good Estates and Abilities," and "not necessitous Persons or much in debt," Sharpe managed to bring into the Council men of greater talent.²⁵ William and Charles Goldsborough, R. J. Henry, Stephen Bordley, John Beale Bordley, Henry Hooper, Walter Dulany, Daniel Dulany, the younger, and John Ridout were among those who received promotions to that body during his administration. But these promotions were not made without difficulties. Repeated solicitations on behalf of talented men would frequently meet with failure. Sometimes the Governor had to utter a vigorous protest against the appointment of certain individuals whose merits were invisible, but who had influential connections in England. Occasionally the aspira-

²⁴ *Ibid.*, Vol. II, p. 376.

²⁵ Mereness, *op. cit.*, pp. 178-181.

tions of distant kinsmen of the Proprietor within the colony had to be thwarted. To recommend an individual for the Council without making enemies among the numerous applicants was also a delicate task and required tact. Sharpe wrote to Calvert in 1755 that he began "to see that the Art of disposing of Places so as to avoid offences is one of the most difficult parts of Gov & tis not without great Concern that I see yourself rendered uneasy by many & contrary Sollicitations."²⁶

Besides the Governor and the Council, there were a number of other great officers of state residing within the province. Except for the Secretary, who was appointed by Secretary Calvert, the Commissary General, judges of the Land Office, and the Attorney General obtained their posts from the Proprietor upon the recommendation of the Governor. For the privilege of holding office, the Secretary had to pay Calvert £50 to £200 per year, the Commissary General £100, and the judges of the Land Office £50 each.²⁷ The policy of selling offices, by the way, did not escape criticism and attacks. In 1769 the Lower House in a resolution declared, "The sale of offices, now open and avowed, obliges the purchaser, by every way and means in his power, to enhance his fees; this is contrary to law and leads directly to oppression."²⁸

Members of the Council always held the great offices of state and received compensation in the form of fees. In 1761 the Secretary received about £300 currency, the Commissary General £250, the Attorney General £50, and the two judges of the Land Office £300 each.²⁹ In practice, these officers had considerable patronage at their disposal. The Secretary named the fourteen county clerks who paid him one-fourth of their income. The Commissary General appointed one deputy for

²⁶ *Sharpe Cor.*, Vol. I, p. 182.

²⁷ Mereness, *op. cit.*, p. 191; Concerning the amounts paid Calvert by the various officers, Sharpe wrote in 1757, "we already pay to Mr. Calvert as much as the places can bear & really if His Ldp will increase the Burthen some or other will be obstinate & endeavour by Violence to throw it entirely off." *Sharpe Cor.*, Vol. II, p. 48.

²⁸ Mereness, *op. cit.*, p. 191.

²⁹ *Board of Trade Papers, Proprieties 1697-1776*, Vol. XXI, Part. I.

every county and the judges of the Land Office chose the register. Whoever occupied these offices would naturally have considerable political support in the different counties.

Among the more important smaller administrative officers were: the naval officers, the sheriffs, the deputy commissaries, the county clerks, two treasurers, the surveyor generals, and deputy surveyors.³⁰ In theory, the Governor filled these subordinate positions. Naval officers received in 1761 a remuneration of £50 to £100 each, sheriffs £80 to £150, deputy commissaries £10 to £20, and county clerks £80 to £200.³¹ Salaries of the clerks of the Upper and Lower houses, the Provincial Court, Land Office, and Paper Currency Office varied from £50 to £130.

An Upper and Lower House formed the legislative branch of the government. The Council acted not only in an advisory capacity but also formed the Upper House and no law could be enacted or repealed without its consent.³² Naturally it was a small group and required little organization. A President served as the presiding officer and the clerk of the Council acted as clerk of the Upper House. Business did not warrant the use of standing committees. Dependent upon the Proprietor for the positions they enjoyed, members of the upper house were expected to support staunchly his rights and interests in all legislative matters. Furthermore, they represented the great landowners and the wealth of the province. Like all other second houses, the upper chamber acted as a check upon the democratic schemes of the lower chamber. For their services members of the Upper House received 150 pounds of tobacco *per diem* plus itinerant charges, while their colleagues of the Lower House drew ten pounds less *per diem*.

More popular in character and representative of the small planters, merchants, traders, and artisans was the Lower House. In spite of size and population, every county, the unit of representation, had four delegates and the city of Annapolis two, a

total of fifty-eight. Population in the counties varied in 1775 from 5,715 persons in Calvert to 17,238 in Baltimore county.³³ The most heavily populated counties, Baltimore, Anne Arundel, Prince George, Charles, and Frederick, located on the Western Shore, had no more representation in the Lower House than Cecil, Somerset, or Kent, Eastern Shore counties with the smallest population. The total population of the Western Shore exceeded that of the East by 19,379 individuals. It is important to note then, that the Western Shore counties were by no means as well represented in the Assembly as those of the East Shore. No attempt, however, was made between 1753 and the American Revolution to reapportion representatives upon a more equitable basis. It was not prudent for the Proprietor to create new counties because every division simply increased the number of delegates opposed to proprietary rule.

Voting for members of the Lower House, except in Annapolis, was restricted to persons with a freehold of at least fifty acres or a visible estate of £50 sterling.³⁴ Anyone in the colonial capital could vote for the two city delegates provided he owned a house and lot within Annapolis, or has a visible estate worth twenty pounds sterling or had served five years in any trade within the city and then became an inhabitant. Roman Catholics could neither vote nor hold office without first taking the various prescribed oaths.

About once every three years, according to custom, the Assembly would be dissolved and new elections held. The Governor would direct a writ to the sheriff who immediately

³³ *The Gentleman's Magazine*, Vol. XXXIV (1764), p. 261.

Population of the various counties in 1755:

Eastern Shore		Western Shore	
Worcester	10,125	Baltimore	17,238
Somerset	8,682	Anne Arundel.....	13,056
Dorset	11,753	Prince George.....	12,616
Talbot	8,533	Calvert	5,715
Queen Anne.....	11,240	Charles	13,056
Kent	9,443	St. Mary.....	11,254
Cecil	7,731	Frederick	13,969

³⁴ Mereness, *op. cit.*, pp. 200-201.

³⁰ Mereness, *op. cit.*, pp. 153-154.

³¹ *Board of Trade Papers, Proprieties 1697-1776*, Vol. XXI, Part I.

³² Mereness, *op. cit.*, pp. 198, 219.

called a session of the county court to proclaim the approaching election.³⁵ Qualifications for membership in the Lower House were the same as those for regular voters, except that sheriffs and innkeepers were excluded and residence within the county was coupled with the possession of personal property. People took a great interest in elections and there was liquor in abundance about the polls. Discussion on the stump was sometimes hot and acrimonious. Keen party spirit existed. Voters assembled on the appointed days at the court house where clerks recorded the votes given *viva voca*. Failure to appear at the polls cost a voter one hundred pounds of tobacco. Returns from the elections stated the time and place, the names of persons chosen, and the signature of each voter. The Lower House acted as sole judge of the elections, returns, and qualifications of members. Concerning the character of those usually elected, Eddis wrote, "The delegates returned are generally persons of the greatest consequence in their different counties; and many of them are perfectly acquainted with the political and commercial interests of their constituents."³⁶

Organization and procedure in the Lower House followed closely that of the ancient House of Commons.³⁷ In a newly-elected Assembly, the members first subscribed to the various oaths and then selected a Speaker, who must be approved by the Governor, a clerk, a sergeant-at-arms, and a doorkeeper. With much more business to consider than the Upper House standing committees became necessary. At the opening of every new house a committee to audit accounts, a committee on laws, a committee on privileges and elections, a committee on grievances, a committee on courts, and a committee to inspect the condition of arms and ammunition were generally appointed. After adopting rules of order and standing resolutions, the house was ready to transact business. Every bill before becoming a

³⁵ *Ibid.*, pp. 208-213; Thomas J. Scharf, *History of Maryland From the Earliest Period to the Present Day*, Baltimore, 1879, Vol. II, p. 97.

³⁶ William Eddis, *Letters from America, Historical and Descriptive; Comprising Occurrences from 1769 to 1777, inclusive*, London, 1792, p. 126.

³⁷ Mereness, *op. cit.*, pp. 219-220.

law must receive its approval and, following English precedent, it insisted on money bills originating in that house.

To administer justice Maryland possessed a hierarchy of courts. The Governor and Council sat as a Court of Appeals, the highest tribunal. Only cases where the value in dispute exceeded £50 sterling or 10,000 pounds of tobacco came to this court.³⁸ Appeals might be carried from this court to the King provided the value in dispute exceeded £300 sterling.³⁹ The Court of Appeals did not fill any considerable place in the popular mind though the most powerful court of the province.⁴⁰

The Provincial Court was the great court of Maryland. It had original jurisdiction where the debt or damage amounted to at least £100 sterling or 5,000 pounds of tobacco and appellate jurisdiction in cases where the judgment of the county court exceeded 1,200 pounds of tobacco or £6 sterling.⁴¹ Generally, any appeal beyond the Provincial Court was out of the ordinary. Nine justices composed the court and were appointed by the Governor who designated four or five of them of the quorum.⁴² To hold a session, at least one of the quorum and one other justice had to be present. Each justice received 140 pounds of tobacco *per diem* plus itinerant expenses. Four of the justices, two for each shore, held circuit court in every county and for these services received 7,000 pounds of tobacco for each circuit. Pay was small and as a result the supreme court was one of the weakest parts of the government.

Serving upon the Provincial Court bench at the time of Sharpe's arrival were: George Dent, John Brice, John Darnall, John Hepburn, R. J. Henry, Richard Tilghman, George Steuart, William Goldsborough, and John Hall.⁴³ Sharpe had not been long in Maryland before Secretary Calvert was complaining of the "Egregious Weakness, as well as the Extrava-

³⁸ *Ibid.*, pp. 229, 234, 238, 245; *Council Pro.*, Vol. XXXII, p. 28.

³⁹ Mereness, *op. cit.*, p. 245.

⁴⁰ Carrol T. Bond, *The Court of Appeals of Maryland, A History*, Baltimore, 1928, p. 53.

⁴¹ Mereness, *op. cit.*, pp. 239-240, 245; *Council Pro.*, Vol. XXXII, p. 28.

⁴² Mereness, *op. cit.*, pp. 246-247, 253.

⁴³ *Maryland Gazette*, March 14, 1754.

gant Byass" of the Provincial Court justices.⁴⁴ Most of them had been appointed before Sharpe came to Maryland and since no complaint had been made to him regarding their behaviour on the bench, the Governor hesitated to make any removals. He admitted, however, that the justices were "not such as would make a Figure in Westminster Hall" nor were they men "remarkably deficient in Point of Abilities or Understanding, nor do I believe they are disaffected to the Ld Proprietary or his Government."⁴⁵ So difficult was it to get men of good capacity that three of the justices, Brice, Tilghman, and Darnall, were even county clerks. Sharpe doubted the propriety of county clerks being Provincial Court justices, but he later concluded that they were treated with no less respect on account of it.⁴⁶ "Upon the whole," Sharpe wrote to Calvert, "I cannot say that I think our Provincial Justices equal to their Office, but at the same time I know not how the Evil is to be remedied, if such Men are not to be got as one could wish we must be contented with such as we can get & it would become the Lawyers instead of holding them cheap to make Allowance for their Want of a Regular Education & unless the Judges Conduct on other Occasions affords Room to think that they are partial or ill disposed Charity would incline one to attribute any Errors or Mistakes they made rather to their having misunderstood the Arguments urged on either side than to Wilfulness or Design; & after all if one may judge from the Number of Appeals that are made from that Court very few people are dissatisfied with their Determinations."⁴⁷ In another letter he said, "I am persuaded no accusations can be brought against our Judges that Those in other Colonies are not equally liable to."⁴⁸ Insufficient salary made it extremely difficult to get men of excellent legal ability to accept a place on the bench. Only 14 sh. a day while attending court were allowed the justices. Any able lawyer could amass a fortune through private practice and unless the colony paid a salary of at least £400 to £500

⁴⁴ *Sharpe Cor.*, Vol. II, p. 381.

⁴⁵ *Ibid.*, Vol. II, p. 431.

⁴⁶ *Ibid.*, Vol. I, p. 68, Vol. II, p. 432.

⁴⁷ *Ibid.*, Vol. II, p. 433.

⁴⁸ *Ibid.*, Vol. III, p. 174.

sterling a year, Sharpe did not see how any one of note could be induced to become a justice of the Provincial Court.⁴⁹

Secretary Calvert felt, however, that the situation might be improved if the number of justices could be reduced from nine to five. It would be easier to select five "who may be all Men of understanding & more free from Taint of popularity & other prejudices than a Large number. . . ." ⁵⁰ He recommended the reduction to Sharpe and warned him, in picking the new justices, "to keep clear from persons, that are of Impenetrable Ignorance, & the silly affectation of popularity & unaccountable prejudice against his Lordships Rights, which have for some years past been too dominant there. . . ." ⁵¹ To induce well qualified persons to become judges Calvert also suggested, as an additional attraction, their succession from the bench to the Council. Until their arrival there, every possible regard should be granted them or their relatives. No reduction, however, was made. When vacancies occurred Sharpe always appointed the best available men. In 1776 he selected five new justices: Colonel Henry Hooper, James Weems, John Leeds, John Beale Bordley, and Major Jenifer. "They are All in my opinion," declared Sharpe, "Gent of Integrity & well attached to your Ldps Government & as well qualified as any I know to administer Justice unless some Gentlemen of the Law could be prevailed on to relinquish their Practice & sit on the Bench which can never be expected while the Allowance made the Provincial Justices for their Attendance is little more than sufficient to defray their Expences."⁵²

County courts were the most popular courts. They met in March, June, August, and November. Some member of the Council always served as chief justice. In addition, there might be as high as twenty-eight justices; four or five were of the quorum.⁵³ At least one of the quorum and two other justices had to be present at every session. The Governor named the justices usually once a year and sometimes oftener. County

⁴⁹ *Ibid.*, Vol. II, p. 432.

⁵⁰ *Ibid.*, Vol. II, p. 381.

⁵¹ *Ibid.*, Vol. II, p. 385.

⁵² *Ibid.*, Vol. III, p. 334.

⁵³ *Mereness, op. cit.*, p. 247.

justices depended entirely upon fees as compensation for their services. The jurisdiction of the county court extended to all criminal cases not involving life or death, except negroes, and in civil cases to all where the value in dispute did not exceed 30,000 pounds of tobacco or £150.⁵⁴ Any debt amounting to less than 600 pounds of tobacco or 50 sh. currency could be recovered before a single justice.⁵⁵

When court opened the sheriff impanelled a grand jury to make inquests and return indictments. Either criminal or civil cases might be tried with or without a jury. Should the litigants agree to use a jury the expense became a part of the costs of the suit.⁵⁶ Where it was not mutually desired the party demanding a jury had to pay the cost, except in criminal cases. The pillory, stocks, whipping posts, gallows, and the burning iron were actively employed to punish criminals.⁵⁷

There was also a chancery, admiralty, and probate courts with special functions to perform.

In local government the most important administrative unit was the county. It served as the unit of representation in the central government as well as the principal civil division for carrying into execution the will of that government. By counties taxes were apportioned and the militia organized and trained. County justices advised the sheriff on what days elections should be held; they sat with him during the election; they cared for the poor; they divided the county into hundred, highway precincts, and parishes; they provided the county with a standard of weights and measures; they bound out orphan children; and they appointed constables and overseers for the highway precinct.⁵⁸ During Sharpe's administration there were fourteen counties evenly divided between the Eastern and Western Shores. No new counties were created between 1754 and 1769.

Every county was divided into hundreds, but as the county had increased in importance, the hundred had declined in use-

⁵⁴ *Ibid.*, p. 238.

⁵⁵ *Ibid.*, p. 241.

⁵⁶ *Ibid.*, p. 246.

⁵⁷ Scharf, *op. cit.*, Vol. II, p. 41; Mereness, *op. cit.*, pp. 254-255.

⁵⁸ Mereness, *op. cit.*, pp. 403-405; Lewis W. Wilhelm, *Maryland Local Institutions* (Johns Hopkins University Studies in Historical and Political Science), Vol. III, Baltimore, 1885, pp. 64-96.

fulness. The constable, however, still performed valuable services: he prepared the lists of taxables, attended all sessions of the county court, executed all warrants issued by the justices, and raised the hue and cry.⁵⁹

Maryland was almost townless. Although every effort had been made to promote the growth of towns they had failed to develop. There was little need, therefore, for any town government and wherever found it was simple in form: a group of commissioners with power to appoint other officers, hold court, and constitute markets and fairs. Annapolis was the only city. There, the mayor, recorder, six aldermen, and ten common councilmen formed a corporate body. Chosen from among the aldermen, the mayor served for one year. The recorder was always a lawyer, the aldermen were always selected from among the common councilmen, and the latter were chosen by the freemen of the city. A court of hustings composed of the mayor, recorder, or any three had jurisdiction over all actions, personal or mixed, in which the value did not exceed £6.10 or 1,700 pounds of tobacco. The sheriff of Annapolis executed the laws and ordinances made by the corporation.⁶⁰

Presiding over these civil institutions became the arduous task of Governor Sharpe, and, on that hot afternoon in August, 1753, he swore to administer faithfully this highly centralized system of government, to do equal right to the poor and rich alike, and not for fear, favor, or affection, hinder or delay justice. Sharpe became at once the center from which proceeded the executive, military, administrative, and judicial authority and, in a large measure, the legislative activity. Autocratic powers had been entrusted to his care and through the power of appointment the influence of a non-resident, pleasure-seeking, profligate proprietor could be made effectually felt in every remote corner of the province. "This influence," declared Eddis, "is considered by many, as inimical to the essential interests of the people; a spirit of party is consequently excited; and every idea of encroachment is resisted, by the popular

⁵⁹ Mereness, *op. cit.*, p. 406; Wilhelm, *op. cit.*, pp. 39-63.

⁶⁰ Mereness, *op. cit.*, pp. 420-421; Wilhelm, *op. cit.*, pp. 97-129.

faction, with all the warmth of patriotic enthusiasm.”⁶¹ The proprietary officers had such ascendancy over the minds of the people as to have their friends elected into any and every public office. “The influence of office with the power of wealth,” wrote Charles Willson Peale, “carried like a rapid stream all that fell within its Vortex.”⁶² Arrayed against this monarchical form of government was the lower house of the assembly, the champion of popular control. Stubbornly and persistently it fought during these sixteen years to free Maryland from proprietary rule and external control.