

communities electing them but for the communities, as entities, from which they came. Moreover, every member of Parliament was regarded, to the extent that he might represent citizens, as representing all of the English citizenry.¹³ The fact that the colonists were conversant with the practice in England is shown by a provision of an act adopted by the 1638 session specifying that burgesses should "supply the places of all the freemen consenting or subscribing to such their election in the same manner and to all the same intents and purposes as the Burgesses of any burrough in England in the Parliament."¹⁴

In the context of the foregoing view disparities in representation would be of absolutely no moment. This view of representation is reflected in the act adopted by the 1638 session which provided that the gentlemen personally summoned freemen, and burgesses elected by other freemen and so supplying the places of such electing freemen would when summoned and assembled (provided always that there be at least twelve so assembled including the lieutenant general¹⁵ and the secretary of the province) be called the "house of Assembly."¹⁶ Acts approved by the house, or the "major part of the persons assembled," and assented to by the lieutenant general in the name of the lord proprietor were to become law.¹⁷ It will be noted that approval required action of a

majority of those present, without stating whether they were acting individually as freemen or as elected burgesses.

The call for the session that met in July, 1642, required the freemen in each hundred to assemble and "to make election of one or two Burgesses for every hundred during the said Assembly."¹⁸ The writ went to the person in charge of each hundred, requiring that he call the election and certify to the lieutenant general those elected burgesses. It will be recalled that despite the fact that the writs for the 1639 session also called for election of burgesses, Cuthbert Fennick of Saint Mary's was seated as a freeman on the grounds that he had not assented to the election of the Saint Mary's burgesses. In contrast to that earlier episode, when Richard Thompson and Robert Vaughan appeared in 1642 with proxies from the freemen of Kent and claimed admission, they were excluded on the grounds that the writs had called for the election of burgesses. Subsequently, certificates of their election as burgesses were found and they were admitted.¹⁹

A smoldering issue, referred to earlier, burst into the open during this session. This was the problem of the relative weight of votes of individual members versus those of the elected burgesses. The claimed passage of a bill specifying what constituted lawful tender was disputed on the grounds that "the voting of this Bill . . . was not by the major part of Burgesses as it ought to be."²⁰ The archives show that all present voted in favor of the bill except for eight burgesses. The records for the day show the assembly was "assembled as afore," which, tracing back through the records, indicates the presence of

¹³ See 1 BLACKSTONE, COMMENTARIES *159. Perhaps the explanation of this view best known today is that given by Burke in his letter to Sir Langrishe in 1792 on Ireland and Catholic emancipation. See 4 WORKS 293 (Nimmo's ed. 1899).

¹⁴ 1 ARCHIVES 82.

¹⁵ The governor was from time to time called the lieutenant general or lieutenant governor under the proprietary government.

¹⁶ 1 ARCHIVES 82.

¹⁷ *Ibid.*

¹⁸ 1 ARCHIVES 127.

¹⁹ 1 ARCHIVES 129.

²⁰ 1 ARCHIVES 141.