

complete discussion of this part of the subject exists, we shall on this occasion mention only two or three such happenings which are peculiarly fitted to help us understand the more limited field that we have chosen.

In 1651 the Colony of Virginia surrendered to the Commissioners of the Puritan Government in England. The first article of capitulation declares:

It is agreed and consist'd that the plantation of Virginia, and all the inhabitants thereof, shall be and remain in due obedience and subjection to the Commonwealth of England according to the laws there established, and that this submission and subscription be acknowledged a voluntary act not forced nor constrained by a conquest upon the country, And that they shall have and enjoy such freedomes and priviledges as belong to the free borne people of England, and that the former government by the commissions and instructions be void and null.<sup>16</sup>

Here seems to be a conscious recognition of the "conquest" idea so emphasized in the decision just quoted. In Maryland itself, however, we have a still clearer example when, in 1684, in a debate between the Houses of the Assembly over the right of the Speaker to issue warrants for election to vacancies, the Proprietor's argument, in support of his own prerogative, that "the King had power to dispose of his conquests as he pleased," roused the ire of the Lower House, which asserted the rights of its members as based on their English origin. This was "their birthright by the words of the Charter." The word "conquest" had a sinister meaning which they resented, and they hoped that the words were the result, not of the Proprietor's own will, but of strange if not evil counsel. The Upper House at once explained that it had no idea of likening the freemen of the Province to a conquered people.<sup>17</sup> The discussion indicates that in Maryland, before the revolution of 1689, this legal theory was known and its application of this principle to Maryland denied.

The narrower question of the extension of the English stat-

<sup>16</sup> Hening: *Statutes at Large* I., p. 363-4. Cited in part in Snow: *The Administration of Dependencies*, p. 115, and as a whole in Hart: *American History Told by Contemporaries* I., pp. 235-6.

<sup>17</sup> Sparks: *Causes of the Maryland Rev. of 1689*, p. 82 *Md. Arch.* III. Ass. Pro. pp. 124-125.