

ing formed different estates. When necessary, each class met as a separate "estate" in a "states general." In England, the various estates came to sit in two houses. In France, there were three estates, which last met in 1789. Four estates met in Sweden until 1866.<sup>5</sup>

Though it was an accident of English history that there were two chambers in the legislature rather than three or four, it was not an accident that there were two chambers rather than one. Similarly, it was no accident that a bicameral system developed in Maryland. The first assemblies in Maryland had but a single house. This house, it was charged, was controlled by the governor through his power to summon attendance of individual citizens in the assembly on a selective basis and to use proxies held by himself and the secretary of the colony.<sup>6</sup> In order to prevent this subjection, the burgesses elected by the freemen requested in 1642 that they be allowed to meet in a separate house. Although this request was refused then, a bicameral legislature was adopted in 1650.<sup>7</sup> Thereafter, Maryland had a bicameral legislature, except for a brief reversion to unicameralism during the period of Puritan ascendancy from 1654 to 1657.<sup>8</sup> Bicameralism thus came to Maryland as a means of increasing the responsiveness of the legislature to the electorate and not as a check on popular wishes.

**ARGUMENTS FOR RETAINING  
THE BICAMERAL SYSTEM**

Forces leading to creation of the bicameral system are not the same as

<sup>5</sup> *Id.* at 534.

<sup>6</sup> Michener, *The History of Legislative Apportionment in Maryland*, 25 MD. L. REV. 2 (1965). See p. 131 *infra*.

<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Ibid.*

forces leading to its retention. Retention of the bicameral system has been urged on the following grounds:

1. The upper house provides a protection for propertied classes. With abolition of property requirements for voting, particularly for voting for the upper house, this justification lost its compelling force. Moreover, most observers believe that federal and state constitutional protections for property have proved adequate. The argument is no longer made today.
2. Two houses permit representation of different interests. With the lower house based on population, the upper house can be constituted on another basis, such as representation of area. This argument has not been viable since 1964 when the Supreme Court held that both houses of state legislatures must be apportioned on the basis of population.<sup>9</sup>
3. The second chamber provides a check on "popular passions." In the words of Justice Story, a second chamber "forms a great check upon undue, hasty, and oppressive legislation."<sup>10</sup>
4. A second chamber can give an independent and thorough review to the need for the character of proposed legislation and so detect and avoid unnecessary or faultily drafted legislation.
5. A bicameral system permits the defeat of undesirable but popu-

<sup>9</sup> *Reynolds v. Sims*, 377 U.S. 533 (1964); *Md. Comm. v. Tawes*, 377 U.S. 656 (1964).

<sup>10</sup> 1 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES § 550, at 409 (5th ed. 1891).