

ment was in their view, and was in fact, the historically correct and normal court of last resort on writs of error, and was not merely legislative in character. The conception that all government, judicial as well as executive and legislative, derived from the King was still strong in men's theories; it was the King's Council that held the Court of Star Chamber until 1641, and, until modern times, entertained appeals from the foreign dominions;<sup>1</sup> and since the thirteenth century Parliament, which was in original theory the King in his Council in Parliament, had constituted the court of last resort on error as stated.<sup>2</sup> "Parliament," said Lord Coke in 1628,<sup>3</sup> "is the highest the most honorable and absolute court of justice in England, consisting of the King, the Lords of Parliament, and the Commons." And the Lords, or the upper house, had long been the exclusive repository of this final jurisdiction, and as has been said, the jurisdiction has been continued in that body ever since.<sup>4</sup> And so in 1676, the Maryland Proprietary, in answering an inquiry of the Privy Council as to the courts of judicature existing in the province, said that next to the Assembly the Provincial Court was the highest.<sup>5</sup>

The settlers of the province, all Englishmen, naturally continued their own English forms and

1. Holdsworth, *History of English Law*, I, 479, 520. J. F. Baldwin, *The King's Council in England during the Middle Ages*, 335.
2. Holdsworth, I, 370.
3. Coke upon Littleton, 109 b. 4.
4. Carter, *History of English Legal Institutions*, 4 ed. 102. Holdsworth, I, 370. L. O. Pike, *Constitutional History of the House of Lords*, 287, 295.
5. Archives of Maryland, *Proceedings of the Council, 1667 to 1687-8*, 128 and 264.