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**American Experience  
with Unicameral Legislatures**

*By*

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## FOREWORD

**F**OR many years Michigan was a one-party state. On occasions not a single representative of the minority party has sat in the lower house of the state legislature: frequently such representation has been limited to one or two members.

Recently the minority party has become the majority one. It is not to be partisan to say that the newly elected representatives were largely without legislative experience, and little amenable to party discipline and to a party leadership not yet fully developed and generally recognized. Whether these acknowledged virtues of party discipline and leadership will develop with time is beside the point.

These circumstances combined with the experiment of the state of Nebraska with a single-house legislature, the members of which are elected on a non-partisan ballot, have stimulated an unusual interest in unicameral legislative bodies, not in Michigan alone, but in other states as well. Unicameralism has been discussed in the press and announced as the subject of the debates of the Michigan High-School Forensic Association.

Particularly that these high-school students, receiving their first instruction in the structure and functioning of government, might have available some of the known facts on the subject, Professor Charles W. Shull volunteered to prepare this brief discussion of Unicameralism—attempting a factual presentation, deleted of personal opinions. If the text indicates a departure from this objective attitude, it is unintentional.

Professor Shull has attempted to portray the development of the English Parliament—the Mother of Parliaments—as a bicameral institution and its present trend away from the status, the history of provincial legislatures in colonial America, the necessities that led the Constitutional Convention of 1787 to adopt a bicameral congress, the aping of the federal form by both states and cities, the early Vermont experiment with unicameralism, the general discarding of the bicameral system by cities, the Nebraska experiment, the possible application of the unicameral system to Michigan.

Contrary to usual procedure in reports published by the Detroit Bureau of Governmental Research, no specific conclusions and recommendations are included. The paucity of actual experience with unicameral state legislatures and the fact that the study may be used by high-school debating teams as a source book prompts this course.

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## I. The English Parliament<sup>1</sup>

ANY discussion of representative legislative bodies must begin with the English Parliament. Apparently the Teutonic peoples have had some peculiar genius for popular government, and the representative system has been their great contribution to organized society. The English Parliament has had the longest continuous history as a legislative body and has contributed directly to the organization and procedures of legislative bodies the world over. Thus, it has become popularly known as, "The Mother of Parliaments."

It is generally accepted that the Parliament is a two-chambered or bicameral body because it consists of the House of Commons and the House of Lords, both Houses sitting and deliberating separately. The members of the House of Commons are elected at general elections and thus comprise a popular representative body. The House of Lords is a partially hereditary body in which many of its members inherit membership; partially ex-officio, in that certain church dignitaries are members by virtue of their office; and partially appointive, as it seats the six appointed law lords which constitute the supreme court of Great Britain. In no case is a member of the House of Lords popularly elected by the people, and, therefore, that body does not occupy the same position as does the United States Senate.

It was quite by accident that the division of the Parliament into two houses occurred. It might have become a single chamber or unicameral body, or a plural body representative of each of the important social classes of early England—the nobles, the clergy, the military, and the merchants. There is no evidence that it develops as a bicameral body because of the proven excellence of this type of organization. As a matter of fact, there is considerable doubt as to the exact period in its history that it became bicameral, and there are few known facts as to how the process occurred. But it was apparently a two-chambered body by the end of the Fifteenth Century, if not earlier.

The form of organization and the importance of the present English Parliament are clear. The steps whereby it attained its structure and prestige are not so apparent. Its origin unquestionably dates to the reigns of the late Saxon and early Norman kings, and in their loosely-organized councils may, perhaps, be seen as the rudimentary Parliament.

The democratic institution of representative national government found in the Anglo-Saxon folk-moots never functioned after the independent shires had been welded into a national kingdom under the pressure of the Danish and Norse invasions. Vestiges of such representative government may have remained locally in the selectmen chosen by the tun-moots to represent them in the hundred-

moot and the shire-moot. But for the nation, Alfred the Great and his successors reigned as absolute monarchs, advised by the "Witan" or council of wise men, the members of which were appointed by the king, were leaders of the shires, or held places by inheritance. William the Conqueror eventually substituted for that institution the Great Council, made up of his tenants-in-chief, i.e., the Norman barons to whom he had distributed the conquered English manors. True, the uncertainty of travel and the certainty of expense prohibited the attendance of many at the council meeting; its personnel consisted principally of the great barons of the kingdom. In this advisory body to an absolute monarch is found the beginning of the House of Parliament of today.

With the Norman conquest there followed long centuries in which the development is not clear; the introduction of commoners to give consent in matters of taxation, and for a time they asked no other advisory participation—" . . . as to this war . . . we are so ignorant and simple that we do not know. . . we pray your Grace to excuse us . . ." the eventual contest of Parliament for control over the king; grievances redressed and liberties bought at the price of approved supply bills; the recent conquest of the House of Lords by the House of Commons.

It is believed that the earliest Norman kings sent emissaries to the cities and manors to explain the necessity of taxes levied. In time it became easier to confer with these citizens at Westminster, and the King invited the shires, cities, and boroughs to choose representatives to such tax conferences—always at the sufferance of the king and from such groups as he desired.

So four distinct groups were giving their consent to taxation—the barons, the distinguished clergy, the belted knights of the manors, the delegates from the cities and boroughs. Each met separately for a while. Finally, the clergy joined the barons as the Lords; the knights and the ordinary citizens became the Commons.

The story of the growth of the legislative authority of this body has no place here, interesting though it be. Across the stormy pages of the Magna Charta, the Petition of Right, the Bill of Rights, the Parliament Act of 1911, march in long succession the names of King John, Stephen Langton, James I, Sir John Eliot, John Pym, John Hampden, Edward Coke, Oliver Cromwell, William and Mary, David Lloyd George and a host of others. In the midst of it all, James prepared the way for the Puritan settlement of New England: "I will make them conform or I will harry them out of the kingdom." Under his successor, Charles I, ten thousand came to America in ten years, keenly aware of the struggle for English liberties that had hastened their coming; with profound respect for the bicameral Parliament that was at war with kings concerning them.

However obscure may be the origin and early development of the English Parliament, the fact remains

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<sup>1</sup> See A. F. Pollard, *Evolution of Parliament*, London 1913; and L. B. Swift., *How We Got our Liberties*, New York, 1928.

that in the nearly nine hundred years that have elapsed since the Conquest, once absolute monarchs have now become only the symbol of the unity of a far-flung commonwealth. Hand-picked delegates, lords and commoners, originally giving assent only to tax measures, have evolved into a partially representative bicameral legislative body, and, in an effort to win further economic as well as political liberty, the commoners have taken long steps towards making the Parliament unicameral in operation, if not in form.

At the outbreak of the American Revolution, the English Parliament was a bicameral system, but Montesquieu, the French political philosopher who so greatly influenced the American political thought of that time, made a classical mistake in interpreting the relations of the legislative body to the crown and the courts. In the English government, the "crown" does not mean the king, but rather the administrative officials appointed by the king at the suggestion of the Commons and over whom he exercises small control. Montesquieu thought that the English legislative body had equal power with the crown and the courts, and thus he erected his famous doctrine of the separation of powers of government as a measure of control by the people over their government. This doctrine was followed by those who molded the American Constitution, of which the foundation was the separation of powers with the accompanying attributes of checks and balances. Not only did the Federal Constitution follow this doctrine, but it was adopted by each of the forty-eight states in setting up the structure of their local governments.

The English administration (the crown) was not the co-equal of the English Parliament, but was being brought rapidly under the direct control of the legislative body. The House of Commons assumed a more commanding position and grew more and more resentful of the conservative checks imposed by the House of Lords. Finally the Parliament Act of 1911 determined existing relations between the two bodies, and, to all intents and purposes, the English Parliament is not a bicameral system, but has many aspects of a single-chambered house. Certainly the essence of bicameralism is equality of authority in the two houses, and such equality does not now exist in the present English Parliament.

The first of the provisions of the 1911 Act provided that any money bill passed by the House of Commons and sent to the House of Lords, at least one month prior to the end of the session, must be passed by the Lords within one month, or, unless the Commons directed otherwise, it will become an Act of Parliament (a law) upon royal approval. Thus, a law relating to the raising or expenditure of money can become effective without the concurrence of the two chambers.

Second, what constitutes a money bill is decided by the Speaker of the House of Commons, and his decision cannot be questioned in any court of law. Altho, there are provisions which guide the Speaker in his decision, still it remains for an officer of the House of Commons to decide

whether the House of Lords can be restricted in its deliberations on such types of bills.

The third great provision is that any other public bill (excepting a bill to confirm a provisional order or to extend the duration of Parliament beyond the period fixed by law) which is passed by Commons in three successive sessions and which has been sent to the Lords at least one month before the close of the session, and is rejected by the Lords in each session, shall become law, unless the Commons direct to the contrary, upon royal approval. There is a provision that at least two years shall elapse between the second introduction (or reading) of the bill and the final passage in the third session. Also, the bill must be the same measure, not amended or changed between its first and last introduction, except for those changes necessary due to the passage of time. There are other provisions which are of technical importance.

But in these three important provisions, the equality of the two Houses has been destroyed. When one house can force the second house to approve its laws, the traditional theory of one house being a check upon the other is at an end. Moreover, this change, from a bicameral system to what is in substance a unicameral one, was a conscious evolution undertaken only after the House of Commons, with the popular support of the country, determined to restrict the authority of the House of Lords. And there is still discontent in England with the place of the Lords in the national legislature. Efforts have been made to continue the reform, which efforts have taken three different objectives.

First, plans have been offered which would still further restrict the House of Lords in legislative matters and are aimed to make Parliament a single-chambered body in fact, if not in organization. A second movement seeks to substitute for the partially hereditary Lords a free Parliament, consisting of one chamber, but with representatives from all economic and social groups, selected perhaps according to proportional representation or by some similar method. And a third suggestion is that the House of Lords be made a representative body (not hereditary) and be elevated to a position of equality with the House of Commons, similar to the position of the Senate in the United States Congress.

The ultimate solution is in doubt, since no generally accepted program has emerged. The English people have never experienced the American system of a two-chambered legislative body, both houses representative of the citizenry of the country and of equal authority. In modern times they have utilized the combination of a popular representative body (the House of Commons) with a partially hereditary and ex-officio body not representative of the people (the House of Lords) and found it unsuited to present-day requirements. But a national institution that has developed over a period of nine centuries—in the heat of alien conquests, civil war, economic, social, and industrial re-adjustment, will not be changed lightly as the result of academic discussion. It is enough to know that change is on its way.

**In summary:** the English Parliament, beginning as a single-chambered advisory body, gradually developed into two houses of equal authority, but lately has assumed certain of the characteristics of a single-chambered house. At least, the House of Commons now exerts considerably more influence on legislation than does the House of Lords. But the development in Great Britain does not mean that

the most important two-chambered legislature in the World has been tried and found wanting; rather, the nation has never tried a two-chambered legislative body consisting of two equally powerful houses, the members of which were truly representative of the people and their interests. Any discontent with the existing institution may be dissolved by methods beyond present conjecture.

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## II. The Constitutional Convention and Bicameralism

The present United States Constitution grew out of the Articles of Confederation, which established a national government for this country at the close of the Revolution. The Articles provided a form of government that, during the eight years they were in operation, served to indicate the inability of a relatively loosely organized government, entirely dependent upon the states for its powers, to establish a sound, responsible administration. The states after the Revolution did not wish to give up any of their rights and privileges to a strong central government because they feared that, once such a government was established, it would have the same oppressive tendencies as England had shown in its administration.

The Congress of the United States, which was the governing body under the Articles, was a single-chambered legislature with representatives chosen by the state legislatures, and in which each state had one vote, although it might have from two to seven members. As each state could recall any of its representatives at any time, the votes of the delegates were controlled by the state legislatures. As a result, Congress had little or no power.

There is little doubt that the loosely organized Confederation was the best form of government that could be secured from the several states, in view of their desire to retain the independence they had secured from England. But subsequent experience in the operation of the government under the Articles demonstrated that a stronger organization was necessary if the country was to develop commercially.

This brought about the Annapolis Convention of 1786 which, in turn, led to the Philadelphia Convention of 1787, at which the Articles were to be revised. In fact, the Articles were discarded and an entirely new form of government substituted. The Federal Constitution set up a new type of government, one not found in any other country at the time, and which has since been a model for many nations.

One of the important problems of the Philadelphia Convention was to determine the type of legislative body which the new government should have: it could be single-chambered, as under the Articles; it could be double-chambered, as was the English Parliament; or it could comprise even more houses, as in some continental

countries. And, no matter into how many chambers the legislature was divided, there remained the question of the basis of representation in each. The delegates knew early in their deliberations that they must set up a new form of government, and likewise realized that if the country at large knew what was planned, there would be such opposition that the states might recall their representatives. Accordingly, they resolved that the deliberations would be secret. However, James Madison, took copious notes of the debates, which were later published after all the members of the Constitutional Convention had died. These "Notes" are the fullest and by far the best accounts of the proceedings.

On May 29, 1787, a few days after the opening session, Edmund Randolph of Virginia introduced to the Convention several resolutions that proposed a form of government known as the "Randolph" or the "Virginia" plan. One of these resolutions provided for a national legislature consisting of two branches. Shortly afterwards, Charles Pickney of South Carolina also introduced resolutions to provide for a Congress consisting of two houses, one to be known as the "House of Delegates" and the other as the "Senate". Two days after the introduction of these proposals, a committee of the whole of the Convention, adopted, with practically no debate, the resolution in the Virginia plan that provided for a national legislature to consist of two branches.

The vote showed that eleven states were in favor of bicameralism and one was opposed (Pennsylvania); Rhode Island was not represented. The state legislature in Pennsylvania was unicameral, and it is thought that the delegates to the Convention voted in favor of a single-chambered body in deference to Benjamin Franklin, who favored it. Although the Convention held little doubt as to the efficiency of the bicameral system, there was violent disagreement over the organization of the two bodies and over the basis of representation; and, in the course of the debate, even some question was raised as to why that form had been adopted.

Two weeks later (June 16, 1787) James Wilson of Pennsylvania, arguing against the Virginia plan, said, "It is urged that two branches in the legislature are necessary. Why? For the purpose of a check. But the reason for the precaution is not applicable to this case. Within a

particular state, where party heats prevail, such a check may be necessary. In such a body as Congress it is less necessary, and besides, the delegations of the different states are checks on each other.”

George Mason of Virginia opposed this view. Mason asserted that the American people have an attachment to legislatures with two branches. The state constitutions accorded generally upon this point. The only exceptions to the rule of two branches that were noted by Mason were the Pennsylvania legislature and Congress under the Articles of Confederation, but in the latter, the representatives were not chosen by the people. “What have been the consequences?”<sup>2</sup> asked Mason, “The people have been constantly averse to giving that body (Congress) further powers.” Mason was in error in this statement, because under the Articles the people had no direct voice in their national government, except through the state legislatures, and in order to amend the Articles there had to be unanimous consent of the thirteen state legislatures.

Likewise, Roger Sherman of Connecticut admitted that two houses were necessary in state legislatures. He saw, however, no such necessity in a confederacy of states, for the existing examples were all single-chambered bodies. In the ratification of the Articles of Confederation by the states, the absence of two branches in the legislature had not been noticed or criticized. If the difficulties then raised in the Convention upon the subject of proper representation in both houses could not otherwise be solved, he proposed that they agree to have two branches with a proportional representation in one, provided that each state had an equal voice in the other. This, Sherman felt, was necessary to preserve the rights of the smaller states. This solution became known as the Connecticut Compromise, which was finally adopted in the Convention by a vote of seven states in favor, three against, and one (Maryland) divided. New Hampshire apparently did not vote.

It is rather apparent that the Convention did not bother to consider the underlying theory of a two-chambered legislature, but followed the almost universal usage of the states, the practice of England, and the theories of Montesquieu. So far as the Convention was concerned, the theory had been settled. It was not until the campaign for adoption of the new Constitution in New York State that the *Federalist Papers*, which were issued to crystallize a favorable opinion, paid much attention to the question. These pamphlets were written by Alexander Hamilton and James Madison, except for a few by John Jay. Although numbers 51 to 64 are devoted to a discussion of the legislative body, numbers 61 and 62, both written by Hamilton, are of particular interest.

“It does not appear to be without some reason,” says the *Federalist*, “that in a compound republic, partaking both of the national and federal character, the government ought to be founded on a mixture of the principles of

proportional and equal representation.” A common government, with powers equal to its objects, was called for by the political situation in America. A government founded on principles in accordance with the wishes of the larger states was not likely to be obtained from the smaller states. An equal vote allowed to each state was at once a constitutional recognition of the portion of sovereignty remaining in the individual states, and at the same time an instrument for preserving that residual sovereignty. This equality was less acceptable to the large than to the small states, since they likewise were anxious to guard against a consolidation of the states into a simple republic.

Another advantage, continued the *Federalist*, which accrued from this bicameral feature, was the additional impediment it would prove against improper acts of legislation. No law or resolution could be passed without the concurrence, first of a majority of the people, as represented in the House, and then by a majority of the states, as found in the Senate. It was acknowledged that this complicated check on legislation might be injurious as well as beneficial, as the equal representation of the states in the Senate would give greater power to any grouping of the smaller states. But this would be counterbalanced by the provision that, any revenue raised must be by a bill originating in the House, where the larger states were in control.

It was also argued that it would be found to be a misfortune, incident to republican government, that those who administered it may forget their obligations to their constituents and prove unfaithful to their important trust. From this point of view a Senate, as a second branch of the legislative assembly, distinct from, and dividing the power with a first chamber, must be in all cases a salutary check on the government. It doubled the security of the people by requiring the concurrence of two, distinct bodies in schemes of usurpation or perfidy where the ambition or corruption of one would otherwise be sufficient. The necessity of a Senate was, moreover, indicated by the tendency of all single and numerous assemblies to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions.

Still another defect, which would be overcome by the establishment of a Senate, lay in the want of due acquaintance, with objects and principles of legislation, by a man who had been called from the pursuits of ordinary life to serve for a short term as legislator. The changeability in the public councils, arising from a rapid succession of new members, pointed in the strongest manner to the necessity for some stable institution in the government. It was of little avail to the public that laws were made by men of their own choice if the laws were so voluminous that they could not be read, or so incoherent that they could not be understood, if they were repealed or revised before promulgation, or underwent such changes that no man, knowing what the law was today, could guess what it would be tomorrow. Law was a rule

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<sup>2</sup> See Chapter III.

of action, but how could that be a rule which was little known and less stable?

Another effect of public instability, continued the *Federalists*, was the unreasonable advantage it gave to the sagacious, the enterprising, and the moneyed few over the industrious and uninformed mass of the people. The lack of confidence in the public councils dampened every useful undertaking whose success or profit depended on a continuance of existing arrangements. No government, any more than any individual, would long be respectable without a certain order and stability. Stability and responsibility, and this broader base for government were features provided by a Senate as it was created by the Constitution.

It should be noted that the argument, as outlined in the *Federalist*, was a justification for an upper House as a check upon a lower House, which was popularly elected, there is little doubt that the Hamiltonian discussion of the theory of the upper House has become the basis of the entire federal analogy, which, has played so large a part in the acceptance of bicameralism by the states.

The Constitution, as finally approved, provided for a House which was composed of memberships apportioned to the state in proportion to its population, with the exception that each state should have at least one representative. The method of proportioning the membership became known as "apportionment," and by implication, although not in the exact words, it was to be undertaken each ten years after the census enumeration of 1790. By interpretation of the Constitution, in any apportionment, there cannot be less than 30,000 persons for each representative. However, this figure has long since lost its significance, for at the present time, there are 282,000 persons for each representative, the quota being based on a House of 435 members. The first House of Representatives consisted of sixty-five members, as provided in the Constitution, but this number was gradually increased at each apportionment, until the total reached 435. In 1929, an act of Congress provided that the number should remain at 435 and that after each census an apportionment should be made automatically so that each state would have its proper representation according to its population. The members of the House are elected for two-year terms.

The Senate, or upper House, is composed of two members from each state, elected for six-year terms, one-third of the total number being elected each two years. Thus, after every election there are at least two-thirds of the total number of Senators who are experienced.

Originally, the Senators were appointed by the state legislatures, the people having provided that the Senators be elected directly by the people, as are the Representatives. There are now 96 Senators.

It should be kept in mind that the Federal Government stands in a peculiar relationship to both the states and to the people. Originally, the states relinquished certain of their powers to a unitary government formed by them for mutual benefit. All powers not granted to this unitary (federal) government were reserved to the states. But the Federal Government is not only a government for the states; it is also a government of the people of the United States as is stated in the preamble to the Constitution. Thus, in the Federal Government, there are two separate elements, the people and the states which gave up powers to form it. Therefore, a national legislature composed of two houses, one representing the people as a unit and the other the states as a unit has a sound theoretical basis. It should also be noted that in the states this same division of interests does not exist. The states are creations of their citizens organized to administer those functions of government that were not granted to the Federal Government. As a result both chambers in the state legislatures are based on representation in proportion to population. The only excuse for bicameralism is found in the Hamiltonian development of the advantages of a two-chambered legislature, not in the idea or representation of two distinct political entities

**In summary:** the development of Congress as a bicameral body was the result of the experiences of the states with two-chambered legislatures which, in turn, grew out of the organization of the English Parliament and the theories of Montesquieu. Although the *Federalist Papers* discuss the advantages of the check which an upper house might impose on the hasty legislation of a popularly-elected lower house, this argument was evidently the result of after thought. The existing records of the Constitutional Convention do not disclose any debate on the relative advantages of bicameralism over other forms.

The development of bicameralism within the Federal government was, in reality, the result of compromise. It was necessary to reconcile the interests of the large and small states. By electing one house as a representative of the people and a second as representative of the states, the necessary balance of power was secured. But this necessity of balanced powers does not exist within the states, which are units representing the people not territorial units.

### III. Representative Government in the American Colonies<sup>3</sup>

In each of the colonies before the Revolution, there was a legislative body, and usually there was also an independent and appointed executive who resembled in position a present state governor. However, although the colonial legislature comprised two houses, they were of unequal powers and, consequently, did not adhere to the bicameral principle. Usually, what might be called the second or upper chamber served as the governor's council, although the council was earlier in development than was the royal governorship. The governor's council was not a development of some abstract theory that legislature should be composed of two houses, but rather it was based upon the realization there should be some control exercised over a royal governor who was over three thousand miles from the mother country. In general, the governor and the council constituted the executive branch of government. The Council was relatively small in size, usually numbering about a dozen members, except in Massachusetts, where during most of the Colonial Period, it contained twenty-eight members. It was usually composed of the most influential men in the colony, who, in some cases, gave their services without pay and often included most of the important colonial officers. In the main, the council, or second house, was made up of the wealthier and more important men in the colony, so it became an aristocratic and conservative body which acted as a balance or check upon the somewhat popularly elected lower house.

The American colonies differed from usual dependencies in that they were settled by English speaking people with a pioneering spirit, living in a climate suited to them, and possessing unlimited resources. It was natural that such a feeling of independence would evolve that the colonists demanded a considerable voice in the government of the colonies. Thus, after a period of experiment with various forms of government and with the relationships between the governor, the council and the assembly, there evolved a demand by the lower or more representative elected house for a voice in the determination of what taxes should be levied for the support of the colonial government, and how the money should be spent. In this demand for financial independence lay most of its power, and, by shrewdly bargaining, withholding, or granting revenues, the lower house was able to secure certain concessions which it considered its right, although there was no legal basis for this demand, the power of the English Commons had been developed in a similar manner,

In most of the colonies, the lower house passed the laws, although the council or the governor could prevent them from becoming effective by use of the veto. However, the governor was more or less at the mercy of the colonists, for, until just prior to the Revolution, there were not

sufficient troops in the colonies to enforce his decrees and he had to live in harmony with his subjects.

It must not be supposed that the lower house was composed of the rabble, for in many of the colonies property qualifications restricted both membership and voting to the well-to-do property owners. For instance, in New Jersey, ownership of one thousand acres of land was necessary for membership in the assembly. The important factor is that the lower house represented the people who were paying the taxes.

Suffrage, or the right to vote, was not as free as it is today. It was uniformly restricted to males, twenty-one years or older, without restriction as to color in the north, but the four southern colonies explicitly limited voting to whites. In some, British citizenship was required, although it was generally accepted that each colonist had this citizenship because of his residence. The term "freeman" or "inhabitant" usually implied a permanent residence, ranging from six months to the more usual figure of two years. In the latter part of the seventeenth century property qualifications were freely adopted, as in New York, and voters for members of the lower branch of the legislature were required to be "freeholders" of an estate with a minimum value £40; in Virginia the requirement was ownership of fifty acres if there were no house on the property, or twenty-five acres if there were a house; in Massachusetts the restriction was property to the value of £40 sterling, or an estate with an income of forty shillings a year. In the New England states, an added requirement was membership in some recognized church, although Quakers and Roman Catholics were not allowed to vote. In other states there were also religious requirements, such as in Carolinas where the voter must profess the Christian religion.

As a result of these restrictions the actual voters were a relatively small group, varying from one-sixth to one-fifteenth of the population. In the New England states at many elections, only 2% of the population participated, although 16% were qualified as electors. In Virginia there was the greatest voting interest, and seldom did the vote exceed 8% of the population. In explanation of the small interest in voting, it is said that "property qualifications, poor means of communication, large election districts, and absence of party organization all combined to make even the most sharply contested election but a feeble effort as compared with present day election practices."

In general, it cannot be said that the development of the legislative bodies was any conscious imitation of the bicameral system or a development of the English Parliamentary principles, but rather grew out of the fact that some of the colonies were originally trading companies with what might be called stockholders and boards of directors. It is an example of how governmental forms adapt themselves to the exigencies of a particular situation rather than result from prolonged planning and dependence upon political theory.

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<sup>3</sup> For a more detailed description see Robert Luce: *Legislative Procedure* Boston 1922 and *Legislative Assemblies*, Boston, 1924.

### *The Legislature in the Colonies*

MASSACHUSETTS: In the Massachusetts-Bay colony there were two groups, one known as “assistants” comparable to the directors, and the “general court” representative of the stockholders. At first these assistants or magistrates, as they might be called, acted as one body with the general court or house of deputies, but after May, 1644, they viewed themselves as separate bodies, each to exercise its power in blocking legislation proposed by the other, and each to accentuate the division by keeping separate records. Prior to 1691, the freeman had elected the assistants, twenty-eight in number, but after that time they were elected by the general court. The general court, or lower house, was always elected by the people.

CONNECTICUT: “The Fundamental Orders of Connecticut,” 1638-39, did not provide that the magistrates should sit apart from the deputies. For nearly two score years the two groups assembled together and sat as though they were one body. But in October, 1698, the general assembly of Connecticut was divided into two houses, one consisting of the governor and the council, and the other, of the deputies. Originally the members of the upper house were chosen by the general assembly. Later the charter was construed as to permit their selection by the town meetings, twenty men to be candidates at an election seven months distant, when twelve were elected. A singular method of choice was used; twenty men were nominated in September from which twelve were elected in the following April.

RHODE ISLAND: Under the first patent, the president and the council, or assistants, were executive officers and had no share in legislation. By the charter of Charles II in 1663, legislative power was granted to ten assistants. At first the newly empowered house continued to sit with the deputies, but controversies arose between them, and little by little the gap widened until the representatives of the people secured recognition of their independent powers. In 1696 complete separation was established and the legislature became bicameral. After some hesitation over the meaning of the charter of 1663, it was decided that the assistants, who composed the upper house, were to be chosen by popular vote.

MARYLAND: Maryland was one of the proprietary colonies. It began with a single house, the members of the council also being members of the assembly. As early as 1642 the members of the burgesses, or lower house, expressed a desire to sit by themselves, but the lieutenant-governor, the representative of the Calvert or Baltimore family, denied the request. In 1650 came the division into two houses. In the course of the brief period when the Puritan domination of England during the time of Cromwell extended its influence to the colonies, there was a return to a single house. This reunion was temporary, and, with the coming of the Restoration, the two houses re-appeared. The upper house, or council, had a membership appointed by the lieutenant-governor, who issued writs summoning “gentlemen” whose chief function was to outvote the lower house of burgesses.

NEW JERSEY: The first assembly of 1668 was bicameral. Friction grew out of this relationship however. The deputies, or lower branch, declared that the arrangement was in effect unconstitutional, for it permitted the upper branch to thwart the will of the people as expressed by the lower house. Consequently, it packed up and went home. Seven years elapsed before New Jersey had another legal assembly, and thereafter it was always bicameral. The upper house was appointed by the governor.

VIRGINIA: Prior to 1680 the council usually sat in the same chamber with the house of burgesses. In that year, at the suggestion of Governor Culpeper, the council and the house of burgesses became two separate bodies and remained such during the rest of the colonial days of Virginia. Virginia followed the typical pattern in the selection of the upper house. The members were appointed by the crown upon the recommendations of the governor, and they usually served for life or during good behavior. Usually the appointments were confined to men of means, in order that, should they misappropriate funds, the government could collect. The governor usually sat with the council.

NEW HAMPSHIRE: From January, 1680, New Hampshire had a president and council which sat together with an assembly. The members of the council were not chosen by the people, as in the neighboring colonies, but were appointed by the crown and could be dismissed by the president. However, the same evolution seen in the other colonies was repeated here, for within three years the council began its sessions apart from the lower house, as a separate branch of the legislature.

NEW YORK: Governor Dongan of New York convened the first legislative assembly in 1683. This body was bicameral in organization and structure. In fact, the system of bicameralism was provided in the “Charter of Liberties” which was presented to the Duke of York soon afterwards, only to be vetoed by him. However, in 1689, when Henry Slaughter was made governor, the representative assembly was revived, and the first legislature was called in 1691, at which time the two houses sat separately. The councils under both the Dutch and English rule were appointed, with the number varying from one to thirteen.

PENNSYLVANIA: This was the only colony that began with two houses and changed to a unicameral system. From the time of Penn’s first “Frame of Government” in 1682 until the revisions made by the “Charter of Privileges” in 1701, there was in existence the council and assembly of Pennsylvania, except for two years when the control was by the governor of New York. The charter of 1701 made the assembly the legislative body and gave administrative powers only to the council. The latter body was likewise made the special advisory agent of the governor.

DELAWARE: Adjacent to Pennsylvania and under its political influence, Delaware followed with a single chamber until the Revolution. The evolution of the upper house was singular. In the beginning, it was elected by the people and consisted of seventy-two members, which

was entirely too large for a small colony. The governor presided and had three votes, but no veto. The council had the exclusive right to initiate legislation, as well as to call and to dissolve the general assembly. Changes followed which reduced the council to one-half the size of the assembly—three members from each county for the council compared with six members for the assembly. After 1696 the assembly, or lower house, was given the right to initiate legislation as well as the council. After 1701 the council ceased to have any legislative powers, and the single house—the assembly—continued for almost one hundred years.

**NORTH CAROLINA:** The “Declaration and Proposals of the Lord Proprietor of the Carolinas” in 1663 provided that laws should be made by the deputies with the advice and consent of the governor and council. Changes made effective in 1665 stipulated, however, that the deputies were to join the governor and council in passing legislation. The council retained the right of proposing all measures of legislation until 1693, when initiatory power was granted to the assembly. The fact that the two terms, “general assembly” and “commons house of assembly,” are used frequently in discussing legislation in the two Carolinas indicates that the bicameral system was in effect. For seven years the council was appointed by the governor. For a score of years after 1670 there were ten members, half of whom were elected by the lower house, and the other half was named to represent the proprietors. It was found that the council had little to do except to propose laws; and even this was obnoxious to the people, so in 1691 the grand council was abolished, and for it, was substituted a council made up of members of the lower house. This type of organization did not continue long, and in 1725 the council became an appointed body with a membership of twelve or less.

**GEORGIA:** By the charter of Georgia, granted in 1732, power was given to a board of trustees, fifteen of whom were to be the common council and whose function was to conduct the affairs of the colony. In 1750 this body voted to form an assembly with purely initiatory and deliberative powers. Two years later the charter was abandoned and Georgia became a royal province. The customary form of colonial government was adopted, with a council appointed by the crown and with an elected assembly. These two bodies sat separately.

**In summary:** the colonial type of government developed into a legislative body of two houses with a popular assembly and with a council, which served as an upper branch for legislative purposes. The exceptions to this appeared in Pennsylvania and Delaware. Everywhere the upper branch had administrative powers, which made it a part of the executive branch of government. In all but three of the colonies (Massachusetts, Rhode Island and Connecticut) the councilors were appointed by the proprietors or governors and were subject to a tenure of office at the control of the appointive power. As a result, the councils were not responsible to the people and represented neither the people as a whole nor any specific interest in the community.

It is evident that although the principle of two house legislatures was developed in early colonial America, it was not a conscious imitation of the English Parliament, nor was it a true bicameralism, in which both houses are allowed equal powers in initiating and approving legislation. In general, the bicameralism of the Colonial Period was that of a popularly elected lower house which sought the lion’s share of the power in its demands for the exclusive power to vote upon taxes and other revenues and to have some supervision over the expenditures. By shrewd use of this power, it soon gathered to itself most of the real power over legislation, although the upper house did possess considerable power in some of the colonies.

The principle of bicameralism was still further weakened in that most of the colonies had an upper house composed of members who held administrative positions they were not strictly legislative members. They served not only as administrators, but also as advisors to the governor, who usually came from England and who needed prominent men in the colonies not only to aid him in his administration; but to quiet any fears of the people concerning his aims. Besides all of this, the councils were a protection to the crown against any arbitrary action by the governor in seizing more power than it wished exercised in its interests. Such a combination of duties made the council more of a hodge-podge administrative-executive-control group than a purely legislative body.

Perhaps the most that can be said of the Colonial Period in the development of legislative bodies is that it developed strong popularly elected assemblies which were controlled to some slight degree by a second house. It was not true bicameralism as the term is now understood.

## IV. Unicameralism in Vermont<sup>4</sup>

Although certain of the states shortly after the Revolution experimented with a single chamber legislature, only Georgia, Pennsylvania, and Vermont can be said to have had true unicameral bodies. The Georgia constitution of 1777 provided for a single house, but a council was selected from and by the house of representatives which, although not having veto power, had the right to object to any bill. Twelve years later (1789) a new state constitution definitely created a second house or senate. Pennsylvania had a single-chambered legislature from 1701 to 1790, and its delegates to the Constitutional Convention objected to the bicameral principle. However, in both of these instances the federal analogy was too strong to be long resisted.

Vermont had the longest experience as a state with a unicameral legislature. This, however, was finally abandoned in 1836 after some fifty years' trial. Its first state charter after the Revolution was copied largely from that of Pennsylvania, which had the single chamber legislature at the time. It is apparent that haste and a desire to get a government organized and operating, rather than consideration of the relative advantages of the unicameral system, prompted the adoption of the one-chamber body.

The 1777 constitution made definite provision for the legislative and executive branches of government, and some rather indefinite provisions for the judicial branch. Supreme legislative power was granted to a house of representatives composed of one representative for each inhabited town. The town in New England is the counterpart of the Michigan township and comprises the principle unit of local government in Vermont. For the first few years, each town that contained at least eighty families was entitled to an additional representative. Election of the members of the house and other officials and the sessions of the legislature were both held annually.

The constitution of 1777 further provided for an executive council consisting of a governor, lieutenant governor, and twelve additional persons annually elected at large. A treasurer was elected in addition. The governor was really the chairman of this executive council, which constituted the executive department of government and with power to appoint all officers, grant pardons, remit fines, grant reprieves under certain limitations, and see that the laws were faithfully executed. Also, this council had considerable legislative authority; it could initiate legislation and present it to the general assembly, although all power to enact laws rested with the legislature. Bills of a public nature had to be presented to the executive council for study and amendment and could not be finally enacted into law until the next session of the legislature. Temporary measures, however, might be passed by the

legislature, in case of emergency, after presentation to the council. Private bills—that is, those relating to local affairs or individuals—might be enacted into law without action by the council. On the other hand, the council could call sessions of the legislature.

The system set up was a combination of the executive powers, which in modern times are given to a governor of a state, and certain powers to check legislation, now given to the second house of the legislative body.

There also was provided a council of censors consisting of thirteen members who were elected at large for seven-year terms. This council was given power to see that the constitution was followed in all cases, that the legislative and executive divisions performed their duties properly, and that the public taxes were correctly levied, collected, and expended. But by tradition and later amendments to the constitution, its particular power lay in initiating amendments to the constitution. It could call a constitutional convention to consider the amendments it submitted, which, upon a vote of the convention, would become a part of the constitution. The council of censors was a peculiarity of the Pennsylvania system of government, and was not found elsewhere except in Vermont. During its existence, it met 13 times, out of which three meetings produced no suggested amendments, and 10 meetings resulted in constitutional conventions, at which time four of the amendments were adopted in the form recommended.

Many of the relationships between the council and the legislative body were modified by the convention of 1786. After that date, any law might be enacted at the session during which it originated. All bills still were to be presented to the governor and council for revision, concurrence, and amendment before they became law. The governor and council were authorized to suspend the effect of any bill until the next session of the house, provided action to suspend was taken within five days after the bill had been presented to them. Later legislation allowed the governor and council five days in which to propose amendments to bills, and it permitted them to suspend bills upon disagreement over amendments. Still later laws authorized, but left optional, a joint meeting of the council and the assembly to consider amendments upon which there was disagreement.

By 1805 a procedure which endured until 1836, was established for handling the initiation of legislation. Requests for legislative action were referred to house committees at the start of the session. Customarily, each committee consisted of four members of the house and one member of the council, who was usually the chairman of the committee. The effort of the people of the state was toward some type of control over the unbridled action of the legislative body. It must be understood that Vermont copied the Pennsylvania constitution, which was adopted originally in 1701, and followed to some extent the colonial pattern. Because of the diffusion of authority between

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<sup>4</sup> In the summary of experience of Vermont with unicameralism acknowledgment is made to Daniel B. Carroll, *The Unicameral Legislature of Vermont*, Montpelier, 1932.

the assembly and the executive council, Vermont's legislature, although known as unicameral, had many of the aspects of bicameral government. The executive power was not located in an individual, but in a group or council. And that executive or administrative council was in many aspects a part of the legislative process.

But there was considerable thought among certain groups as to a more desirable form of government for the state. Beginning with 1785, the council of censors sought to amend the constitution by altering the method of apportioning members of the house. It also proposed, five separate times after 1785, to change the legislature to the bicameral system. Of these attempts, the first four were defeated, one by a narrow margin, and three overwhelmingly. For instance, in the convention of 1828 the proposal to adopt a bicameral legislature was rejected by a vote of 47 to 182. However, the fifth proposal in 1836 was adopted by the scant margin of three votes, 116 to 113.

There is little evidence of any widespread popular interest in bicameralism during the fifty-seven years from 1777 to 1834. According to Professor Carroll, the authority on the Vermont unicameral legislature, there was no newspaper comment in the state that favored a change from the unicameral scheme. Arguments advanced against the adoption of bicameralism were:

1. The people were happy and prosperous, satisfied with the existing form of the legislature.
2. The proposal would abolish the unicameral system, which was the best feature of the existing constitution.
3. It would increase the cost of government and the tax burden of the people by adding extra legislators.
4. It would lengthen the legislative sessions.
5. It would remove the government farther from the people by making its legislative processes more obscure.
6. It was not necessary to adopt bicameralism just because other states had it.

Despite these objections to any change, the council of censors persisted in offering the constitutional amendment to the people. Its contention throughout the entire period was that the house of representatives had usurped the legislative authority belonging to the executive council and had thus defeated the purpose of the patriotic leaders who had formulated the original state constitution. There is, however, little historical evidence to support this contention of the censors.

Often in American political life changes in fundamental forms of government are secured during times of political uncertainty when people without any logical analysis of the fundamental factors believe that the old system is to blame for conditions. Such was the case in Vermont. The political life of the state had become disorganized, as evidenced by the failure of any governor for a decade prior to 1836 to receive a majority of the popular vote, which placed a premium on political jobbing

and log rolling. The council of censors, never friendly to unicameralism, now seeing the opportunity to secure a constitutional change to a two-chambered legislature, proposed a new a constitutional amendment. Even the newspapers which in the past had either been hostile or indifferent to a two-chambered legislature shifted their position in 1836 to openly championship of the censors' proposed amendment.

Another factor entered into Vermont politics at this time. In 1827 there arose in the eastern part of this country an Anti-Masonic party which protested against secret societies in general and the Masonic order in particular. This party, which was in existence for about ten years, served to complicate the multi-party system that had arisen in Vermont and had caused the above-mentioned difficulty in selecting a governor. The Anti-Masonic party undoubtedly prevented the election of a governor in 1835, when the lines were tightly drawn and feelings ran high. It was into such an atmosphere that the proposal to change from a unicameral to a bicameral legislature was thrown.

The Vermont method of amending the constitution gave to the council of censors the right to initiate amendments as well as to order the election of delegates to a constitutional convention. The convention was a relatively large body of over two hundred members. The proposed amendments had to be publicly circulated at least six months prior to the election of delegates so that the people voting for them would know their attitude on these bills. However, the convention could amend or change as it saw fit, the proposed amendments, which upon adoption became a part of the constitution. The people as a group had no part in their approval, unlike the practice in Michigan and many other states at the present time.

The 1836 constitutional convention adopted amendments calling for abolition of the executive council, the establishment of a senate as a coordinate branch of the legislature, and the elevation of the governor to the authority of chief executive of the state. By the action of this convention, Vermont adopted the fundamental principles of state government which were found in practically all other states. By 1836, the federal analogy of separation of powers, and bicameralism had been adopted by all the states, and served as the pattern until Nebraska's defection in 1936.

A summary of the arguments in favor of bicameralism that were urged in the convention follows:

1. The tendency of the legislature toward hasty and unwise action would be checked.
2. Vermont would be adopting the system which was in successful operation in all of the states and in the United States for many years.
3. A more equitable distribution of representation in the legislative body of the state would be secured, and the baneful effects of party strife would be banished.
4. The ballot would be shortened.

5. A simple form of government such as the unicameral system was not suited to a complex civilization and was inherently vicious.

Other arguments dealt more pertinently with the difficulties of Vermont politics and with the reforms therein which could be worked by the change to the two-chamber type of legislature. Some newspapers also expressed the hope that the adoption of the proposed amendment would eliminate the log rolling and bargaining for public office which was then widespread.

It is evident that the campaign for bicameralism in Vermont was the product of a peculiar situation in the state—a situation which perhaps was found elsewhere at the time, but which was blamed on the unicameral system peculiar to Vermont. Political life everywhere in the United States had reached rather low levels by 1836, but in other states, with no peculiarities of state organization, it was just accepted. Also, it is evident that the council of censors, which had the sole power to initiate amendments to the constitution, had not been agreeable to the unicameral system for many years. And finally, it must be recalled that the form of government followed substantially the colonial pattern, in which a popularly elected lower house was guided to some extent by a council that was administrative in purpose. In other words, the Vermont plan was not a strict separation of powers, such as that found in present state governmental organization and in the United States government because executive power did not rest in one person but in a council of which the governor was but the chairman. To some extent, this organization is similar to the administrative board found in the present-day Michigan government.

#### *Bicameralism and Unicameralism Compared*

Professor Daniel B. Carroll of the University of Vermont has made a careful study of the unicameral-legislature of his state. He sought to compare the character of unicameral form with that of the bicameral form by using five criteria:

1. The qualifications, experience, and age of members.
2. The length of the sessions.
3. The extent to which each house exerted a check upon the other in the enactment of laws.
4. The stability of the statutory law.
5. The cost of government.

For the purpose of comparison, Professor Carroll selected the ten years just prior to the change, 1826 to 1836, and the ten years immediately after the change, 1836 to 1846.

*1. Age, experience and qualifications:* The members of the unicameral house had an average age of 44.6 years, contrasted to the house in the bicameral system, in which the average was 43.8 years, or about one year less. The senators averaged 46.7 years, with an average for the two houses of 44.2 years, or about the same as in the unicameral system.

Using the standard of previous service in the legislature as a measure of experience, the unicameral

bodies had 64% of their members experienced, against 56.3% for the lower house in the bicameral system. The senate showed that 79.7% of its members had previous experience, with an average of 58.9 percent in the bicameral plan for both houses. The senate, being the smaller body, had more of its members returned after each election, but the average of the unicameral and the bicameral-legislatures was about the same.

After some study, it was found that the records were insufficient to warrant any conclusions as to the qualifications of the members in their personality traits or in their occupations in civil life.

Therefore, in the problem of qualifications, only age and experience can be measured, and there appears no conclusive evidence that in these respects the one-house legislature was very different from the two-house body.

*2. Length of the Sessions:* There is some evidence that the sessions of the unicameral legislature were longer than those of its successor, but there is not sufficient difference to warrant conclusions as to any facility of the bicameral system to shorten the sessions.

*3. Check of One House on the Other:* There is unmistakable evidence that one house of the two-chambered body did exert a check on the other, but judgment upon the advantages of this point is difficult to make. Individual likes or dislikes, prejudices, and other factors enter into any decision. But during the period 1836 to 1846, 574 house bills and 220 senate bills became law; 575 house bills and 220 senate bills passed both houses; 182 house bills were amended by the senate, and 38 senate bills were amended by the house; 127 house bills were rejected by the senate, and 71 senate bills were rejected by the house. In other words, 17.6% of the house bills reaching the senate were amended and 23.5% were rejected. Of the 291 senate bills reaching the house, 13.1% were amended and 24.4% were rejected by the house.

Professor Carroll, however, appraises the value of a check on legislation in a qualitative manner. He concludes that a study of the bills rejected clearly shows that not one of them could be classed as dangerous or seriously unwise. Not one would have altered the form or radically changed the general policy of the government of the state. He found the rejected bills to be just the ordinary grist of the legislative mills.

*4. Stability of Laws:* One of the claims for the bicameral system was that laws would be more stable if they were considered by two houses. By stability is meant laws which are not frequently amended or repealed. Professor Carroll set up elaborate tables showing the relative stability of laws before and after 1836. He concluded: "If the quality of law can be measured by the degree of its stability, as was contended by the proponents of the bicameral scheme in the campaign to secure adoption of a two-chambered system for Vermont, then the evidence would seem clearly to indicate that better laws can be secured with a unicameral than with a bicameral legislative body."

5. *Cost of Government:* A comparative study was made of the cost of government for the period 1826 to 1846, and, if the cost of a new state capital was eliminated, it was found that the total and per capital cost of state government was less under the unicameral system than the bicameral. Likewise, it was found that the financial policy was wiser under the single-chambered legislature.

To summarize Professor Carroll's tests, it was found that the only measurable advantages, such as the stability of laws and the cost of government, lay with the single chamber legislature rather than the bicameral system. In age, tenure, and checks imposed by both houses, there appeared to be no measurable difference. In other words, in a comparison of the two systems of legislature, the advantage all lay with the single chamber body.

**In summary:** Vermont, of all the states, had the most recent experience with a single chamber legislature, which existed for fifty-seven years until 1836. Comparison of the unicameralism in that state with the present-day state government is difficult because of the peculiar type of government which existed at the time of the single body

legislature. There was the governor and executive council, more or less suppressive of the legislature, and over all was the council of censors, which had the sole power to initiate amendments to the constitution and which, from early days, had been unfriendly to the unicameral system. It was not a type of government which exists today in any state government.

But judging from the careful study given by Professor Carroll, unicameral legislature shows that it was superior to its successor, a bicameral body, in the stability of its laws, in the cost of government, and in the establishment of a wise financial policy.

Perhaps the most that can be said for the Vermont experience is that the change to bicameralism was not forced by any breakdown in the unicameral system, but was due to a peculiar political situation. The business of government was not progressing smoothly, and the blame attached to the one peculiarity of the states organization the unicameral legislature. Perhaps this blame was wrongly placed.

## V. Municipal Councils

There has been very little change in the structure of the Federal Government since the adoption of the Constitution some 150 years ago, because the form set up was simple, with power concentrated in the three branches, and with only one elected administrative official. Although the state governments have changed their constitutions often, the fundamental form has followed the federal pattern, except that it has not the simplicity, and it has had the tendency to develop boards and commissions that diffuse the administrative authority. Cities, however, have constantly experimented with various forms of government and have undoubtedly made more progress, in the development of new forms for greater popular control, than have the other two levels. It is the cities which have been the laboratories for the development of modern forms of government.

In the early stages of American municipal government, the city council was the sole governing body. This was an adoption of the English borough system which had been brought to the colonies without substantial change. The members of the council in colonial times were chosen by the freemen—that is, the limited number of persons who possessed citizenship. The council was made up of councilors and aldermen, or assistants, who sat as one body in the usual ratio of three councilors to one alderman. There was little difference between the two groups, although the aldermen might also serve as magistrate in the borough court. The mayor was a regular member of the council, presiding at its meetings with the same voting rights as any member, but did not possess the veto power that was later given to him. All appointments to public office were made by the council, unless it authorized the mayor to do so. Hence, the full powers of the early cities or boroughs rested in this council, which thus comprised in one body a combination of the legislative, executive, and judicial functions.

Although state governments rapidly changed their constitutions after the close of the Revolution, the same change was not noted in the city councils. Close corporations—that is, councils where the members selected their successors—were abolished and councils became directly representative of the people. In a few cases, the councilors and the alderman began to meet separately, thus establishing a bicameral system such as that found in the state and federal government, which spread during the first quarter of a century. For instance, in 1796 Philadelphia set up a legislative body composed of the select and the common councils, each of which was to meet separately. As Philadelphia was the largest city in the country at the time, the example was followed elsewhere. Undoubtedly the Philadelphia pattern was adopted because the state constitution was changed in 1790, after almost a century of experience with the unicameral system, to provide for a bicameral legislature.

With the federal analogy and the experience of Philadelphia for the fifty-year period after 1800, many of

the larger cities in the eastern part of the country adopted the bicameral system in their city councils, although the single-chambered council remained more popular in the smaller cities and in the rapidly growing cities west of the Alleghenies. Baltimore adopted the two-chambered system in 1799, Pittsburgh in 1816, and Boston in 1822. A peculiarity of the Boston charter was that the mayor and the aldermen were to take the place of the selectmen of the town and the common council was to succeed the town meeting. In the New England town, the entire control rested with the town meeting, in which the freemen jointly decided all questions of policy for the town. These town meetings were held annually, or oftener, in the larger cities. The selectmen were those selected at the town meeting to carry on the town business between meetings.

The bicameral system struck the popular fancy and many cities adopted it, New York (1830 to 1879), St. Louis (1838 to 1859, and again from 1866 to 1910), Louisville (1851 to 1929), New Orleans (1853 to 1870), Milwaukee (1858 to 1874), Cincinnati (1870 to 1890), and Buffalo (1891 to 1901). Detroit had the bicameral system from 1873 to 1881 and for some years after 1887. Up to 1918, Detroit had an elective Board of Estimate and Apportionment which approved the city budget and that exercised considerable control over the city administration. Chicago and Cleveland, however, never adopted the two-body scheme.

In 1905 there were ten bicameral councils among the first twenty-five largest cities in this country, but today they are found in none, except New York, where the Board of Estimate and Apportionment, prior to the recent adoption of a charter, made the council, in part, a bicameral legislative body. By 1931 there were fifteen cities of over 30,000 population where two-chambered councils were still found (not including New York City), and all of these were in New England, with the exception of Atlanta and Richmond, Va. The singular desire of the American public to cling to old forms of government is found in some of the larger cities that retained the two-house council long after it had been proven unsatisfactory. Philadelphia did not give it up until 1920, nor Baltimore until 1923.

But the two-chamber council was too cumbersome, was too mysterious in its ways, and was the ready device of vicious politicians who sought to mask their motives. It rested on so illogical a base that it finally gave way to the single-chamber body. City government is so close to the people that even the Hamiltonian precept of checks upon hasty and ill-considered legislation had no force and little effect. But as cities grew with complex problems which had to be met promptly and with some intelligent action, the cumbersome bicameral council proved a hindrance to action.

The cities discovered that checks and balances have no meaning when a government is so close to the people that they can apply all the supervision necessary through

the regular election, referendum, initiative, and recall. Checks and balances have undoubted merit when the seat of government is far distant from the majority of the people, but they are a useless impediment to constructive action when the people can exercise direct control. So the cities, in an effort to secure more efficient governments that were suited to the requirements of a modern, complex city life, began to adopt new forms of government different from any that had gone before. In developing these new forms, they paid little or no attention to the traditions of federal or state government, eliminated systems of checks and balances, and in general sought a solution for the present by forgetting the past. The outstanding developments have been classified under three headings, but it must be understood that the ingenuity of the American people in inventing new forms of government is boundless, and seldom in any city is found the "pure" form of any of the types listed below:

1. *Mayor-Council Type:* In the mayor-council type of government, there are really two forms. There is the weak-mayor type, in which the council is stronger than the mayor—that is, the mayor can make no appointments without the approval of the council, the budget either originates in the council, or the mayor has little control over its items, and does not possess veto power over legislation. The usual result of this system is that the authority of both the mayor or council is so diffused that, in case of criticism, blame cannot be centralized. The people do not have any considerable measure of control because they cannot readily allocate the cause of any irregularity in the conduct of government. In essence, this form makes the council supreme over the mayor—but with the power divided.

The strong-mayor type is the more modern form of the mayor-council type and is found in Detroit and other cities in Michigan. Here the mayor is independent of the council and makes appointments to all offices without concurrent approval by the council. He is the responsible head of the administrative organization and appoints all department heads, although lesser employees, in Detroit, are under civil service. He is charged with the preparation of the budget, and it requires more votes in the council to overcome his veto of specific items than to overcome other legislation. He has veto power over legislation, with the usual provision that the council can pass over his veto. On the other hand, the council, as representatives of the citizens, has the power to inquire into the affairs of any city department to determine if it is efficiently operated, a practice that is not found in all cities, and seldom exercised in any. In the strong-mayor plan the council and the mayor are distinctly separate—the council being supreme in the legislative field, and the mayor being supreme in the administrative. The only place where they cross paths is in the veto power of the mayor—practically the only check in the check and balance system which is retained.

2. *The Commission Plan:* The commission plan of government was developed by the citizens of Galveston after a devastating tidal wave which leveled the city in

1902. When it was found that the old form of government was impotent to restore the city and prevent the spread of disease, a group of business men undertook to reorganize the government for the emergency, and out of their meetings came the commission plan. In substance the plan contemplates dividing all functions of the city into several groups, public safety, finance, public works, public utilities, and others. At the head of each group of functions is one official elected by the people, who, in turn, becomes ex-officio a member of the councilor commission. Thus, the same men who compose the legislative body are likewise the chief administrators of the various departments in the city government. In the emergency in Galveston this produced such remarkable results that it was widely copied in other cities, although a change was made in that the candidates were elected to the commission and, after election, were assigned to the various departments they were to administer. After a sudden growth, the plan fell into disfavor because of the political attitude of the commissioners in administering their departments. In this form, the legislative body was supreme and harkened back to the colonial system, in which the administrators were a part of the legislative body. It is rapidly falling into disfavor, for only a few cities are now governed by this method. Highland Park, Michigan, is an example of this type of government, although it has been modified greatly from the form described.

3. *City-Manager:* This is the most recent development of the government of a city and at the present time it holds much promise. It was developed by the small town of Stanton, Va., which advertised in 1909 for a "city superintendent" to take entire charge of the operation of the town. Under this plan, a legislative body, or council is elected. This body meets and selects or appoints a person (who is known as the "city-manager") to operate the city government under their supervision. The manager, at least in theory, is a man, learned in city administration, with special talents for supervising a government to the best interests of the city. He has a professional, not a political, interest in doing a good job, and, as a result, city-manager cities have a reputation not only for being very efficiently governed, but for being very economically administered.

The city council under the city-manager plan is the supreme body. It is essentially a legislative body which lays down principles for the manager to put into effect, and therefore it does not resemble the commission plan that has the dual function of legislation and administration. It has been compared to the corporate form, with its board of directors and general manager relationship, or to the New England town meeting, except that the people rule through their representatives and not directly. A mayor may be elected, but he is only the chairman of the council and has no veto power or other control other than any councilman exercises. There is an absolute absence of checks and balances in any form, all control being centralized in the council, and, if the city manager does not operate efficiently, the blame is placed

on the council that hired him and that retained him in the service.

In addition to the development of new forms of government, there have been other changes in municipal government. First, there was the introduction of the initiative, the referendum, and the recall, all of which gave a measure of control to the people over their legislative and administrative representatives. Then, non-partisan elections are gaining favor and are being used almost exclusively in the city-manager and commission-governed cities, and well over a majority of the mayor-council cities, although sometimes non-partisan principles exist in name only. However, in the middle west and far west true non-partisanship is found in the city elections (as in Michigan) and makes for considerable improvement in the governmental process. There is a tendency for the larger cities with the mayor-council plan to elect the council "at large" that is, without regard to districts or wards although the majority of the smaller cities still retain the ward system. The city-manager and the commission cities almost universally hold their elections at large. In this way it is possible to get men of a wider viewpoint than those who are elected solely to represent the interests of only a part of the city. There is a noticeable trend toward smaller legislative bodies. Apparently the number of councilmen varies directly with the size of the city (that is, cities over 500,000 population have commonly about twenty-two members in the council, but cities with a population of 30,000 to 50,000 have only nine). This, perhaps, might be expected, since the larger the city, the more groups there should be represented, but the experiences of Detroit, with only nine councilmen, and Cincinnati, with a like number, indicate that smaller numbers are effective. Overall, there is a conscious effort of the people to simplify their city government in both the

form and the number of elective offices. The principle of the short ballot, which means that the people vote for only one or, at the most, a very few administrative officials, is really the principle of concentrating power in a few hands in order to centralize responsibility.

In recent times there has arisen the term "the municipal pattern of government" which designates a simplified form with a small council and either a strong mayor or appointive city manager as the chief administrative officer. This pattern has operated successfully in cities of a million and one-half, and there is little doubt that this is not the limit. In Michigan, Detroit, containing some forty per cent of the population of the state, has operated successfully under this pattern for almost twenty years—long enough to test its utility. The question may well arise, in what way, or in what manner, does state government differ so greatly from that of a large city that the municipal pattern cannot be adapted to its government?

**In summary:** the history of municipal government is that of a constant effort on the part of the people to draft a form of government which will give the measure of efficiency that they believe they have a right to expect of government. From the colonial days, when the council was supreme and bicameral legislative bodies were the custom, to the day when the city-manager and the strong-mayor plans, with their centralization of authority and simplicity of control, there has been a constant procession of one experiment after another. A peculiarity of this process has been the removal of checks and balances and the substitution, instead, of authority in one person. This would have been thought dangerous in the past day.

The simple and direct form of municipal government today has become known as the "municipal pattern" and is a guide to the reorganization of the state governments.

## VI. State Legislatures

Up to the beginning of this century, the form of state government adhered to a typical pattern, and description of anyone state was sufficient for all of them. There was a separation of powers, with separate courts, with a bicameral legislature, and with an executive branch, which followed the Federal Government's example. At the head of the executive department was the governor, but he shared his power with numerous boards and commissions, as well as with other elected state officials. In this respect, the states departed from the federal plan of strict centralization of powers. But in more recent years, about half of the states have effected some measure of reorganization of their executive branch, although many of them did so falteringly.

New York is perhaps the outstanding example of a state government reorganized along federal lines. Since 1927 the governor has been the sole elective officer responsible for administration. The attorney general, the state comptroller, and the lieutenant governor, all of whom have been chosen by the voters of the state, have no important obligations in this sphere. The administrative work of the state is grouped in eighteen departments of which fourteen are under the governor's direct supervision. But few states have gone so far. Many of them, like Michigan, have so diffused the executive powers among separately elected officials and among boards and commissioners that it is impossible to locate administrative responsibility.

Whereas states ever since their organization have tinkered with the defects found in the prevailing administrative organization, they have adhered closely to early concepts of the structure of legislative bodies. However, the similarity of structure of the legislative bodies is really confined to two particulars:

1. They are bicameral bodies, with coequal powers, and closely follow the federal pattern.
2. The procedure follows the federal rules which, in turn, were largely adapted from the English parliamentary practice.

Study of state legislative bodies indicates that the states have followed no conscious program in determining the size of either the upper or lower house, the frequency of meetings, and the pay of members. It may be said that there is no "typical" state legislative body among the forty-seven bicameral systems; the "average" is about as follows:

A senate with 32 members and a house with 105 members, or a total of 137 for the two. The senators are elected for four year terms, but members of the lower house are elected biennially. The sessions are held once each two years, with special sessions as occasion demands. There is no limitation on the length of the session. Salaries are paid on the basis of the number of days the legislature is in session, at the rate of about five dollars a day. The rules for apportioning members are so numerous that there is no prevailing method, although practically all are

based on the federal census; thus, at ten-year periods the legislature is supposed to undertake a new apportionment of representatives.

There are wide variations, however, in the bases of representation. For instance, the number of senators range from 17 (in Nevada) to 67 (in Minnesota). The number of members of the lower house range from 37 (in Nevada) to 438 (in New Hampshire). The total number in the upper and lower house ranges from 54 (in Nevada) to 462 (in New Hampshire). Similar variations prevail in the length of the sessions, the term of office, the salary, and the other factors.

Apportionment, as has been stated, is so peculiarly a local matter that generalization is impossible. It is of interest, however, to note the wide variation in the number of inhabitants for each legislative member. In the following tables, in which both legislative bodies are considered separately, there are listed five states that have the largest number of inhabitants for each representative in the two houses of the legislature and the five states that have the smallest number. The other thirty-seven states that fall between these extremes are omitted.

### Number of Persons Represented by One Member 1930 Census

#### Senate—Highest

New York	242,078
Ohio	201,415
Pennsylvania	188,850
Texas	182,022
Illinois	146,743

#### Senate—Lowest

Vermont	11,600
Idaho	9,890
Montana	9,432
Wyoming	8,354
Nevada	5,059

#### House of Representatives—Highest

New York	83,920
California	70,966
Illinois	49,873
Ohio	49,235
Michigan	48,423

#### House of Representatives—Lowest

Montana	5,271
Wyoming	3,638
Nevada	2,461
Vermont	1,450
New Hampshire	1,062

Although it may well be questioned why there is this range in representation, in no state can it be said that important groups are unrepresented.

Yet the average representation for the five states that rank highest in representation is 192,000 inhabitants for each senator compared with 88,000 inhabitants, the

average of the lowest five. Similarly, the average for the five states with the largest number of inhabitants for each representative is 60,000, whereas the lowest is 2,700. These figures may be compared with the Michigan representation of one senator for each 146,737 inhabitants and of 48,423 inhabitants for each representative.

It is apparent that no theory of representation was applied in determining the size of either house of the legislative bodies, but, rather, there was a practical consideration in electing a sufficient number of persons so that there would be a sizeable showing on roll call. For instance, if the average figure of representation by one senator for the highest five states was applied to the lowest five states, the following would be the result:

Number of Senators Required, Based on the Average Representation of the Five Highest States	
Vermont .....	2
Idaho .....	2
Montana .....	3
Wyoming .....	1
Nevada .....	1

As to the house of representatives, applying the average of the first five states, the number of representatives required in the lowest five states would range from nine members in Montana to two members in Nevada.

The conclusion from this is that the number of members in the legislature is determined by an arbitrary standard – one usually established in some bygone day and based on a tradition which has become fixed. The new Nebraska unicameral legislature of 43 members has a representation per member of 32,000, as compared with the representation of 36,600 per member of *both* houses in Michigan and of 62,000 in New York.

It would seem that any claims for the bicameral system must rest on grounds other than the number of members which are necessary to represent correctly the interests of the various economic, social, and other groups which comprise a state. Representation is not based on any rational standard, but is set arbitrarily.

Of course the average figures shown above do not tell the full story. The question is not so much the average size of the group represented, but how the apportionment is affected. In other words, is the state divided into equal districts so that each holds about the same number (or as near as may be, considering census data available) of people, or is the apportionment made on a basis that is so advantageous to one particular group that it receives representation far beyond its numerical strength?

Each state has approached apportionment in an original manner, but the general effect is to give over-representation to the rural areas at the expense of the commercial and industrial sections of the state. In 1931 there were 16 states that provided for apportionment of membership in the senate on a strict population basis, but others used some modification. Four states provided that each county should have at least one senator, five

specified that no county should have more than one, and three others arbitrarily determined the maximum number of senators a county should have. Any limitation on the number of senators is an effort to prevent an over-representation of the more densely populated counties.

There are at least fifteen distinct bases for representation in the lower house. These are too numerous to analyze, but the Michigan method, although not typical, gives a general idea of constitutional provisions governing apportionment.

The Michigan constitution of 1908 followed the basic plan of the constitution of 1850 in setting standards of apportionment. Really the method used for apportionment of members of the lower house is only important, for the method provided for senators follows a rather customary practice.

*House of Representatives:*

“Article V, section 3, of the constitution provides for the apportionment of members of the house. In essence, it provides:

1. The total number of members shall not be less than sixty-four, nor more than one hundred members.
2. Representatives shall be chosen by single districts.
3. Districts shall contain, as nearly as possible, an equal number of inhabitants.
4. Districts shall consist of convenient and contiguous territory.
5. No city or township shall be divided in forming a representative district, except if a city is divided by a county line, it may be separated.
6. If any county is entitled to more than one representative, the apportionment within the county shall be made by the board of supervisors.
7. “Each county, with such territory as may be attached thereto, shall be entitled to a separate representative when it has attained a population equal to a *moiety* of the ratio of representation.”

The House is composed of the maximum number of members, 100. Since the ratio of population per member, which is based on the 1920 census and was apportioned in 1928, is 36,684. A moiety, then, is one-half of this, or 18,342. Thus, the moiety clause means that any county, or group of counties, whose total population equals 18,342, receives a separate representative. A county with the full ratio of 36,684 likewise receives only one representative, but if it should have a population of 55,000, that is, one and one-half times the ratio, it would be entitled to two representatives. The result of this clause gives representation beyond their numerical strength to the less densely populated counties and gives rise to the claim that the House represents “empty acres, not persons.” For instance, there are 14 districts, each of which is composed of two or more counties (one has five counties) and each district has a total population equal to only a moiety of the ratio for one representative. The total population of

these fourteen districts that comprised thirty-five counties was 350,373 in 1920; but although it entitled them to ten (9.6) representatives on the basis of the ratio of 36,684, they were given fourteen representatives under the moiety provisions. Likewise, there are 27 counties which have a population of less than the ratio of representation (total population of 715,120) which would entitle them, on the strict ratio basis to 20 (19.5) representatives, whereas they are allowed 27. These sections, both of them sparsely settled, with a total population of 1,065,495, which is 28.9% of the total state population, have 41% of the total representation in the House.

The action of the moiety clause in the Michigan constitution, then, is to give representation beyond their numerical strength to the rural or sparsely settled counties. As a result, the more densely populated counties lose representation, but actually only Wayne County is affected seriously. Based on the 1920 census figures, Wayne County should have 32 representatives, since it had 31.9% of the total state population, but actually it has 21 members, or 21% of the total representation of the House. The constitution has really seven provisions relating to apportionment, of which three specifically provide criteria for organizing representative districts. The moiety clause is apparently the most important. The other clauses provide that the "districts shall be of convenient and contiguous territory" and "contain, as nearly as may be, an equal number of inhabitants."

The conclusion which must be drawn is that the apportionment of the Michigan legislature is to give more representation to the rural sections than is equitable. Whether a unicameral legislature would correct the situation is difficult to forecast—but it is doubtful if it would aggravate it.

#### *Senate:*

The constitutional provisions governing the size and apportionment of the Senate are simple and direct: Article V, Sec. 2: "The Senate shall consist of thirty-two members. Senators shall be elected for two years and by single districts. Such districts shall be numbered from one to thirty-two, inclusive, each of which shall choose one senator. No county shall be divided in the formation of senatorial districts, unless such county shall be equitably entitled to two or more senators."

While the apportionment in the Senate is more favorable to Wayne than in the House, it still is not fully represented according to a strict ratio of population. The ratio of representation is 146,737, which based on the 1920 population, would give Wayne eight representatives, whereas it has seven. Also, there is not a county, or group of counties, in the state which has a senatorial district of 146,737 in the 1920 census, with the exception of Wayne County, in which one district has 223,891 people. Of course, it must be understood that as long as the county is the unit of apportionment, it is not possible to base an apportionment on a form of strict ratio-representation that is equitable to all counties in the state. Undoubtedly, about as good an apportionment has been made in the Senate

as would be possible as long as the county is maintained as the unit of representation.

#### *Compensation of Members*

Senators and representatives in Michigan receive the same salary. The constitution provides, as amended in 1928, (Art. V, Sec. 9): "The compensation of the members of the legislature shall be three dollars per diem during the term for which they are elected. . ." This has been interpreted to mean for the full 365 days of the year, for the two-year term for which they are elected. Thus, they receive a salary of \$1,050 a year, or \$2,100 for the biennial period, which places them among the highest paid legislators in any state. For the full 132 members of the legislature, this is an expenditure of \$277,000 for salaries for the two year period.

Legislative salaries are rather low for all states, although they range from the \$375 paid by Vermont for the two-year term to the \$2,500 paid by New York for the same period. The members of the new Nebraska unicameral legislature receive \$812 a year. This is in contrast to the \$5,000 a year paid councilmen in Detroit. However, the latter are expected to give full time to their duties, to sit as a committee of the whole each day, and to meet officially as a body once each week on Tuesday evening. In justification of the low salaries paid the legislative bodies, it should be remembered that they ordinarily meet only once each two years, although sometimes special sessions with the legislators are called that are very unpopular. During the single meeting, the sessions seldom last five months, and usually all of the business to be done can be completed in ninety days without any considerable effort.

It is sometimes urged that the unicameral system would reduce the cost of the legislative body. Of course the amount paid for legislative salaries is only a very small portion of the total expenditures of a large state like Michigan in which there are budgeted and unbudgeted expense of over \$100,000,000 a year. If the total amount now paid for legislative salaries were divided among 32 members of a unicameral legislature (the size of the present senate) each one would receive \$8,500 a year, or if the number were the same as that in Nebraska, 43, each would receive \$6,500. Perhaps both salaries are larger than necessary. But larger salaries have a tendency to attract a more qualified type of person into public office, popular opinion to the contrary. Likewise, although there is no noticeable trend in this direction, it might be desirable to hold sessions annually rather than biennially, the budget being considered in a session separate from that devoted to other legislation. At present there are only five states with annual sessions, and one, Massachusetts, is contemplating shifting to the biennial basis. It is a sad commentary on the democratic government that the people feel more safe when the legislature not in session.

**In summary:** a study of state legislative organization indicates that there is no rule or criteria by which salaries, terms of office, and length of session are determined. Each

state has solved its problem in its own way. More important, there is no accepted basis for apportioning the number of persons represented by a member of each house of a bicameral legislative body. Again, it is apparent that each state has had an individual approach to the problem, but whether the number is large or small, there is no evidence that all groups within a state are not adequately represented in the legislative body.

In Michigan, the house is more representative of the rural or sparsely settled sections of the state than of the

industrial or larger counties, due to the operation of the moiety clause of the state constitution. The Senate is more equitably apportioned, but, in both cases, Wayne County suffers from under representation. Each legislator in Michigan receives \$2,100 for the two-year term for which he is elected, which compares favorably with that paid other states. The adoption of a unicameral legislature might reduce the cost somewhat, but legislative salaries are not a major expense in an annual state expenditure of over \$100 millions.

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## VII. The Unicameral Legislature in Nebraska<sup>5</sup>

### *The Campaign for Adoption*

Contemporary experience with the unicameral legislature began in the United States in 1937 when Nebraska installed a single-house legislature. But the idea of reviving the single-house legislature was not new with Nebraska, nor with her great statesman, Senator George W. Norris.

A somewhat serious movement for the substitution of the unicameral legislature for those now in use in the various states has been developing since 1912. Definite proposals for the acceptance of the unicameral scheme have been made as follows: Ohio, 1912; Oregon, 1912 and 1914; Nebraska, 1913, 1915, 1919-1920; Kansas, 1913; Arizona, 1915 and 1916; Oklahoma, 1914; California, 1913, 1915, 1917, 1921, 1923, 1925; Alabama, 1915; Washington, 1915 and 1917; South Dakota, 1917, 1923, 1925.

The Ohio proposal was first introduced in the constitutional convention of 1912. In Oregon the question was submitted in referenda in 1912 and 1914. The vote in 1912 was about 30,000 for, and over 70,000 against the proposal; in 1914 it lost by about the same ratio, 63,376 votes were cast for, and 123,429 against it. In 1915 in Nebraska the proposal failed to receive enough votes in the legislature to warrant its submission to the electors as a possible constitutional amendment. In the constitutional convention of 1919-20 a resolution for the submission of a unicameral amendment failed adoption by reason of a tie vote. None of the nine proposals for the adoption of the unicameral system in California, introduced into the legislature between 1913-25, received the two-thirds vote in each house requisite to submission, but they did receive rather good support on the various roll calls. The proposals in Kansas in 1913, in Arizona

and Washington in 1915, in Washington and South Dakota in 1917 and in South Dakota in 1927 were made by the governors of those states in their regular messages to the legislature. In Oklahoma a proposed constitutional amendment was submitted to popular vote in 1914. The measure failed to pass because of the constitutional requirement that it receive a majority of the total vote cast at the election—which it did not. The vote on a similar proposal in Arizona in 1916 was defeated by a majority of two to one. In Alabama the proposal was in the form of a bill introduced into the House of Representatives that provided for a legislative body of one house. A resolution for a single house passed the Senate of South Dakota in 1925.

Considerable impetus was given to the movement by the inclusion of the unicameral legislature in the text of the "Model State Constitution" published by the National Municipal League in 1921. Since then, in addition to the states above mentioned, the proposal has received some serious consideration in Nebraska, Ohio, Washington, Michigan, and Arkansas. In the latter two states it has so far been in the form of a proposal to abolish the Senate; in each case the measure originated in the House of Representatives and, for obvious reasons, got no further. The Washington proposal seems to be in a state of suspended animation, but in Ohio, it is reported that sufficient signatures have been secured on an initiative petition to compel an early vote. The text of the proposed Ohio amendment is found in the appendix.

It is in Nebraska, however, that the movement has attained success. Agitation for reform in the legislative set-up in Nebraska may be said to have begun in 1913. A commission created in that year to study the operation of the law-making body of the state recommended in its report, two years later, the possibility of a single-house legislature. A resolution that was proposed in 1917 to carry this recommendation into effect received wide publicity, but that was all.

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<sup>5</sup> Acknowledgment for much of the detailed history presented in this chapter is made to J. P. Benning, *The One House Legislature*, McGraw Hill, N.Y., 1937.

Unicameralism was not a new concept in Nebraska when Senator George W. Norris commenced the campaign for its adoption in the fall of 1933. But on February 22, 1934, Senator Norris announced to the people of Nebraska the character of the amendment which he planned to bring before the voters of the state by means of the initiative petition. Thus, in addition to a campaign upon the merits and demerits of unicameralism, the contest assumed in part support or opposition to Senator Norris and his policies. The actual drafting of the amendment was performed by a citizens' committee that was called the "Model Legislative Committee."

The drafting itself presented some difficulties. The wording of the amendment, the name for the new legislature, the machinery necessary to call it into session, the relation of the lieutenant-governor to the new body, the compensation of the members, the legislative term, the nomination and election of the members, and the actual numerical size of the single chamber were all points occasioning continued discussion.

It was decided to make the amendment general and short. For valid reasons it seemed desirable to retain the usage of the term "legislature" in describing the new body. The decision upon the choice of a presiding officer and the relationship of the lieutenant-governor to the new legislature raised certain practical problems. Senator Norris felt that the legislature should choose its own presiding officer. Such an arrangement would have left the lieutenant-governor, a constitutional officer, shorn of his chief duty, that of presiding over the Senate. Fear of possible popular reaction to the inadvertent creation of such a sinecure as the lieutenant-governorship would have been, and dislike for the necessary submission of another constitutional amendment abolishing the post of lieutenant-governor deterred the committee from accepting the suggestion of Senator Norris. The lieutenant-governor was accordingly made the presiding office of the unicameral legislature. Although the original proposal made by Senator Norris called for an annual salary of \$2,400, the committee came to the conclusion that a total of \$37,500 a year should be sufficient to secure the caliber of members desired, while at the same time considerable savings would result in lowered legislative costs.

The problem concerning the size of the body was difficult. Here the committee had to choose between Senator Norris' conviction that a legislature of twenty-one members was sufficient, and the other similar proposal with which the Nebraska public was familiar that had specified one hundred members. Another problem was that of choosing either a definite number or establishing minimum and maximum limits, of deciding between rigidity or a certain measure of flexibility.

The choice was finally in favor of flexible limits, the numerical range being set at not less than thirty nor more than fifty members. The total cost of salaries was fixed at \$37,500. It was felt that any number between thirty and

fifty would supply a fair cross-section of the population of the state, and would reflect the interests of urban and rural areas, of diverse religious groups, and of differing nationalities.

The term of office was fixed at two years, thus avoiding clashes over the issue of a recall. Deference to Senator Norris' conviction that legislators more often serve their economic interests than their party preferences, together with various factors of expediency, decided the committee in favor of the non-partisan election of the members. After the drafting was completed, petitions were circulated to place the proposal on the ballot—95,000 signatures were secured although only 57,000 were necessary.

With the amendment actually before the people, a vigorous campaign for adoption was begun, the campaign committee being chairmanned by Senator Norris. The contest was literally between Senator Norris and his organization, in defense of his brainchild, against the remaining field; this personal element is a factor not to be ignored by any student of bicameralism or unicameralism.

The proponents of the amendment based their arguments on the fact "that the adoption of the plan would result in a more representative government; would curb, if not destroy, the activities of lobbyists; would abolish the grip of the conference committee upon legislation; and would effect substantial savings in legislative expense. The speakers for the amendment were able to show that the old argument of checks and balances did not in reality exist; they demonstrated that the actual checks upon legislation and legislative activity lay in the executive veto, in the use of the initiative and referendum, and in the courts. This list, of course, excludes one of the most real, potent, and actual (and at times valuable) of all checks—the lobby which Senator Norris and his followers condemned roundly in Nebraska.

Opposition was not lacking, although identification of groups and individuals on either side was extremely difficult. Labor groups and grange organizations endorsed the amendment; and, in general, the farmer vote favored the change. The opponents could be classified roughly as the conservative elements, the professional politicians, the traditional opponents of Senator Norris, and the sincere and insincere believers in party government. With very few exceptions, not over twenty-five, the newspapers of the state were in opposition to the proposal.

The chief arguments of those opposed to the amendment may be summarized thus, it was dangerous and un-American in its program of centralizing governmental power in the hands of a few, of necessitating higher taxes, and of depriving the people of 75% of their representatives; it destroyed the system of checks and balances; it would encourage the passage of too many laws, and it would break down the control which the people had maintained over their representatives

At the November election in 1934 the amendment received 286,086 votes in favor of it and 193,512 against it; thus the majority in its favor was 92,934 votes. A study

of the election results in each of the counties of the state showed that the amendment was rejected in only nine out of the 93 counties, and in only 73 out of the 2,029 precincts.

However, it is difficult to "second-guess" this election. The voters of Nebraska were undoubtedly irritated as a result of the long years of the agricultural depression that had become linked with the downward drag of the major industrial depression of the thirties. Many were disgusted with the fumbling, time-serving ineptitude of the 1931 and 1933 legislatures. Radicals were afraid of a case-hardened conservatism, and distrustful of any device familiar to the more reactionary faction. Conservatives were loathe to leave the storm cellars of familiarity.

Consequently it is difficult, at best, to decide whether the Nebraska voters were consciously expressing a desire for a unicameral legislature, rather than a bicameral one, because the advantages of the former were convincingly clear, or whether change was welcome, simply because anything was better than the drabness of bicameralism. Then, too, were the voters following Senator Norris in his advocacy of a single-house legislature and supporting it, or were they merely voting their prejudices and bias for or against the stalwart Nebraska leader? What part did the submission of amendments that repealed prohibition and established pari-mutual race-betting, both of which were submitted at the same election, play in bringing about an affirmative vote?

Positive criteria in answer to these queries is lacking, but the amendment was adopted by a convincing vote. Undoubtedly, the influence of Senator Norris has not been properly evaluated, for it appears that none of the Nebraska commentators is entirely free from the hero-worship with which the Senator is surrounded. It is easy to speculate as to what might have been the outcome if Senator Norris had not been so ardent a supporter of the single-chamber legislature. Professor John P. Senning, of the University of Nebraska, failed to find evidence of any bracketing of votes on repeal and race-betting, or any effect of a "vote yes" campaign for all three amendments.

As ratified by the voters, the amendment established a single-house legislature of not less than 30 nor more than 50 members, who were to be elected from single-member districts on a non-partisan ballot, and whose combined annual salaries were to total \$37,500. The smaller the number, the greater the annual salary per member. The sessions were to be biennial, unless otherwise provided by law. The lieutenant-governor was designated as the presiding officer of the chamber. The amendment abolished the twenty-day limit for the introduction of bills, made the final vote on the passage of any bill impossible until five days had elapsed after introduction and until it had been on file for final reading and passage for at least one legislative day. A record vote was required on any question upon the request of a single member. The districting of the state and the determination of the total membership was to be done by the 1935 legislature. The first session of the new body was to begin on January 1, 1937.

The amendment did not change the traditional two-year term, nor the biennial session. In providing that the legislature could change the sessions by law, the way may have been opened for the coming of annual sessions, or even more frequent ones. Constitutional provisions to the effect that the governor could call the legislature in special session and could limit that body to the consideration of the topics included in the governor's call were not disturbed; thus, there was retained in part the old check-and-balance system. And with the governor's power softened by the possibility of more frequent sessions upon the initiative of the legislature itself, there was a reduced need for special sessions.

As presiding officer, the lieutenant-governor was given no voice in the deliberations of the legislature, and he was allowed to vote only in case of a tie. The chamber was to elect a speaker who would preside in the absence of the lieutenant-governor or in case the latter was called upon to perform the duties of governor. The salary of the lieutenant-governor remained twice that of a member of the legislature.

Two collateral results of the adoption of the unicameral legislature by Nebraska deserve to be noted before the details of the organization of the 1937 legislature are presented. The first was the dramatic reaction within the state to what was recognized to be a bold experiment and the consequent desire of citizens to withhold judgment pending the actual operation of the new system.

The second result was the awakening of interest in other states. The governors of Arizona and Minnesota in 1935, and of Massachusetts in 1936, urged the adoption of similar amendments. Resolutions proposing amendments to this effect were introduced in 1935 in the following states: Alabama, California, Colorado, Delaware, Indiana, Iowa, Kansas, Maine, Minnesota, Missouri, Montana, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Utah, Washington, Wisconsin, and Wyoming. New Jersey and New York joined the movement, with legislative resolutions introduced in 1936. None of them received the requisite number of votes.

Although there has been a number of states in which unicameralism has been proposed following the Nebraska amendment, no one has made any careful study of the real underlying interest in this reform of the state legislative bodies. It may be only a political opportunity to affiliate with a progressive movement, or it may be the expression of a real desire to modify the legislative body of the state to conform to the "municipal pattern."

#### *The First Session of the Unicameral Legislature*

By the terms of the unicameral amendment adopted by Nebraska in 1934, the task of organizing the first one-house legislature under that system was placed upon the shoulders of the 1935 legislature, inasmuch as the new scheme did not take effect until January 1, 1937.

Reluctantly that body undertook its own funeral arrangements, yet, under the constitution, it had no choice

but to carry out the mandate of the people. Its major tasks were to determine, within the range of 30 to 50, the precise number of members for the unicameral legislature and, after that, to apportion the state into the requisite number of districts, since election was to be from single-member districts.

It was evident from the start that the Senate favored a small house, although the House of Representatives insisted upon the maximum number of fifty. As a result of this difference of viewpoint and opinion, each house selected a special committee to deal with the matter. The Senate committee decided to determine what could be called an equitable and fair apportionment and to fix the size as a result of that determination. The House of Representatives, after a few fumbling starts of its own, was won around to the position of the Senate. All available research techniques were used by the committees in their effort to find the proper number of representatives which would constitute an equitable apportionment.

Maps were drawn to show all of the possibilities of districting. The community of regional backgrounds and interest, the means of communication, and the population trends were taken into account. The less densely populated agricultural regions, which lay toward the west-central part of the state, demanded a greater representation inasmuch as they had been under-represented since 1921, although there was an evident shift westward in population.

“The merits and demerits of these and other claims required intelligent sifting of the facts. At the same time the respective district maps were analyzed and compared to determine the requisite number of representatives by which an equitable apportionment would be approximated. To visualize the results of the analyses a map was drawn with a line dividing the eastern well-populated area and the western sparsely populated region. It showed that, if a legislature of 50 members were decided upon, the east would have eighteen more representatives than the west. This was a special reason why the maximum number should not be chosen. As the number of members of the hypothetical house decreased, the over representation of the east decreased until the number of forty-three was reached, when the east had only thirteen more representatives than the west. As the number of representatives less than forty-three was considered, the advantage of the east began to rise again until the number of 30 was reached, when the disparity was as great in proportion as when 50 members were figured upon. Furthermore in an assembly of forty-three there was the least margin of variation of population between the districts.”<sup>6</sup>

After much debate between the two houses, bills that set the number of members of the unicameral legislature at forty-three and established the district boundaries were passed in May, 1935, and were immediately approved by

the governor. Thus ended the first phase of Nebraska's experiment with the unicameral legislature.

The second phase accompanied the election of the members of the first unicameral legislature, which took place in November, 1936. The number of candidates attracted was unusually large. No fewer than 283 aspirants filed for nomination in the primary. The number from each district ranged from three to 20; the average as 6.6 for each of the forty-three districts.

Of the 283 candidates for nomination 122 had served in previous legislatures, while 161 had not. Eighty-four members of the 133 in the last bicameral-legislature ran for nomination; 22 were senators and 62 were representatives. Thirty-eight other experienced legislators also ran for nomination.

The voters showed a preference for candidates with legislative experience, 50% being nominated, while only 16% of the novices survived the primary. Members of the 1935 legislature were preferred over those experienced men who had served in earlier assemblies. Fifty-five members of the 1935 legislature secured nomination, while only five members of former years did so. In general, former senators were chosen over former representatives.

As is customary in non-partisan elections, twice the number of candidates (86) were nominated in the primary, of which 43 were to be elected in November. Of the 86 nominees, 45 were Democrats and 41 were Republicans, although the election itself was non-partisan. In 22 districts, both candidates were from the same party, but, in the other 21, there was one member from each party.

In the final election, the legislative body was composed of 22 Democrats and 21 Republicans. Thirty-two had served in earlier legislatures, and only 11 inexperienced persons were chosen. Not one woman member was elected, thus marking the first time since 1923 that the legislature was composed entirely of men. One colored member was re-elected despite the fears of his race that the unicameral system would be hostile to their interests.

Fifteen, or over one-third of the members, were college graduates; 17 others had attended some college or university for a time. About one-twelfth ended their educational experience with high school, while the rest had not gone beyond the elementary grades. The educational qualifications of the members appeared to be rather high. Three occupations secured a chief place of representation within the new legislature: farming, law, and business. There were 18 farmers, 10 lawyers, and 10 who might be classed as business men of some sort or other; the other five comprised a physician, a veterinarian, a football coach-lawyer, and two clerks.

Interesting as these data are, valuable as they may be in giving a composite picture of the first unicameral legislature in Nebraska, it must be remembered that the data are not sufficient to permit a generalization as to the character, ability, or previous experience of the personnel in comparison with the long term averages for the bicameral states.

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<sup>6</sup> Senning, Op. cit.

In organizing for the task of law-making, two new situations confronted the members of the unicameral legislature—the facts of unicameralism itself and of non-partisanship. An initial method of choosing officers and constituting committees had to be worked out. Rules of procedure had to be established.

Nominations for speaker and the other officers were made by informal ballot. Election by ballot followed, either unanimously or by vote on the three highest. This procedure was later made permanent.

Complete rules, designed to promote efficiency, publicity, deliberation, and responsibility were drafted in advance and adopted with only a few changes. Sixteen standing committees were created, each with five to 11 members, thus making a total of 124 committee assignments for the entire legislature. About one-fourth of the members were enabled to concentrate upon the work of two committees, while practically all the rest were limited to three each. A schedule of committee meetings was worked out, providing no conflicts for any member. Interesting variations in the ordinary committee practice were developed in an effort to provide greater publicity and responsibility.

The unicameral legislature eliminated what is a very vital part of the legislative process under bicameralism—the conference committee. Under this system bills are introduced into either house of the two-chambered legislatures, and upon passing, go to the other house for approval. But seldom will either house approve a bill sent to it in its original form—usually amendments or changes are made which are vital to the purpose of the bill. If some device were not created to reconcile the differences, legislation would be dead-locked because of the coequal power of the two bodies. So the conference committee comes into existence. It is usually composed of an equal number of members from each house, with the political party in control of the legislature predominating. The members of the conference committee are selected from the committees of both houses charged with the consideration of the bill.

The conference committee meets in secret, no record is kept of its deliberations, and the final compromise is usually accepted by both houses. Thus, this committee, whose action is not subject to public scrutiny becomes in effect, a “third house” with powers unofficially recognized that are above the other two. Often it is found that no compromise can be effected in the bills in the form that they are submitted, so an entirely new bill is reported with such changes that all objections are met. This super-legislative function is undoubtedly essential to a bicameral system, but it does not add to the simplicity or clarity by which legislation is secured. Senator Norris, in the campaign for adoption, constantly reiterated the gain in the unicameral system by elimination of the conference committee.

The first week of the 1937 session was devoted almost entirely to the adoption of the rules concerning committees

and the creation of other necessary legislative machinery. The first major task of the session was the intriguing question of establishing the title by which the unicameral lawmakers were to be known. The forty-three members settled the matter by decreeing that henceforth they and their successors shall be called “senators,” and the legislature, “the Senate.”

Under the rules as adopted, a flying start was impossible; momentum was gathered slowly and legislative work was undertaken gradually. Again it would seem that the cumbersomeness of bicameralism could not be served as a more effective barrier to hasty legislation than the self-imposed procedural regulations of the Nebraska Senate. Under such regulations as adopted, there is evidently no basis to claims that unicameralism permits greater flexibility and readiness to work. However, it must be understood that the majority of the Nebraska senators were steeped in the traditions of the check and balance system of the bicameral form—it is possible that they could not believe that legislation which was not carefully safeguarded would be “safe” legislation.

Shortly after the adjournment of the first session of the Nebraska unicameral legislature, *State Government*,<sup>7</sup> the official publication of the American Legislator’s Association and the Council of State Governments, undertook an appraisal of the session. To that end five men were asked to express their reaction to the new regime. These were: Governor Robert L. Cochran of Nebraska. Senator George W. Norris, State Senators Emil Von Seggern and O. Edwin Schultz, and Kenneth R. Keller of the *Lincoln Star*.

Says Governor Cochran in effect, “The chief difficulty of the session arose from the non-political character of the legislature.” The Governor referred to the practice in all states and federal legislatures of depending upon the two-party system as a means of securing legislation. The party in control seeks the passage of popular legislation as an argument for its return in the next legislation—the opposition seeks to point out defects in bills and to obstruct legislation so it may have credit in the following election. With a non-partisan body, no one party is credited with popular statutes, nor discredited for unpopular ones. The problem is really one of responsible party control, rather than unicameralism. Large cities like Detroit have operated successfully over a period of years with a non-partisan government, and when a legislature is composed of members from one party, as was the case in Michigan for many sessions prior to 1932, the result is the same as non-partisan government. It appears that the problem is really one of adapting non-partisan government to a state which has been partisan in the past.

The Governor felt that the members of the legislature applied themselves to their tasks very earnestly and succeeded in a way that reflected credit upon themselves. The Governor also felt that it was impossible to pass any

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<sup>7</sup> See Vol. X No. 7, July 1937.

sound judgment upon the merits of the unicameral legislature with so little knowledge of that device and its practical workings. Time and experience alone would afford the proper basis upon which to judge the success or failure of the single-chamber legislature. As against the bicameral system, Governor Cochran believed it possible that experience would recommend some modifications of the present arrangement in Nebraska.

Senator Norris felt that the Nebraska unicameral legislature demonstrated, beyond the possibility of a doubt, the superiority of the one-house legislature as compared with the older type. According to him, every member of the legislature had an increased responsibility and realized that responsibility as never before. Norris viewed the future as rosy for the unicameral legislature, feeling that the possibilities were that succeeding bodies in Nebraska would be superior to the first one, for the reason that the people have just had an opportunity to vote out of office any member who, in their judgment, had proven false to his trust.

Senator von Seggern believed that a demonstration of the fact that a unicameral legislature could function was convincingly made by the Nebraska legislature of 1937. In order to be safe, the legislature decided to go slowly, for human nature had not changed. The same kind of legislation was demanded, the same kind of bills introduced as in previous years. "Anticipating this," says von Seggern, "the 43 members adopted rules to prevent hasty legislation, to provide safeguards against those known human weaknesses." As a consequence, in their zeal, the Senate leaned the other way, and the rules, as finally adopted, proved to be obstacles to reasonable dispatch in the consideration of measures.

With all rules suspended on behalf of the important bills at the close of the session, final adjournment was delayed an entire week. Much could be said pro and con on the subject of lobbying. Von Seggern feels that the allies of the lobbyist could not be concealed, being plainly known in the unicameral legislature.

The problems confronting the unicameral legislature were much the same as those faced by its predecessors, so the proposed solutions were similar. Much progressive legislation which failed many times in the old two-house session, was enacted by the unicameral body. Again, there is no guaranty that the measures might not finally have been passed by a bicameral legislature. Von Seggern holds that a one-house legislature is desirable, and if the future shows necessity for change, it will be no reversion, but an improvement of the unicameral system.

Senator O. Edwin Schultz first considered the arguments advanced for the adoption of the single-house legislature. These were that the conference committee would be abolished; that cost would be lessened; and that personnel would be of a higher type, and better legislation would result.

What evils the conference committee may have had were clearly abolished. Organized minorities, however,

exerted pressure unknown before. It is conceded by Senator Schultz that many bills of a special nature were enacted by the unicameral body which would have died in a two-house session. Each member had to face responsibility, squarely on each measure. There was no opportunity to vote one way on a bill, and trust the other house to take the opposite course. There was no doubt, according to Schultz, that the membership was of a higher type. Question can be raised concerning the quality of the legislative product.

Most of the criticism of the unicameral legislature came from the length of the session and from its delay in handling important bills. The unicameral legislature has not overcome this objectionable feature of the bicameral legislature. In Schultz' opinion, there was nothing in the way of rules or procedure employed by the unicameral senate that could not have been practiced by the two-house legislature. The most satisfactory feature of the unicameral legislature was its nonpolitical character.

Kenneth R. Keller, the newspaperman, believes that the unicameral legislature was oversold. "As the first unicameral session drew to a close after four and a half months, almost every senator, when asked for his criticism, called for a larger body, 50 or even 100 members being favored," says Keller. About three times as many vetoes occurred in the 1937 session as did in the 1935 session; this evidenced that the first unicameral Senate looked to the governor as the other house. That attitude may wear off; again it may not. As for the lobby, it had great power, but according to Keller, everybody knew who the lobbies represented. "If you are thinking of equipping your state with a unicameral legislature, please remember that new dining room furniture does not give the family better table manners. Papa and Mama Taxpayers, though, should find it easier to spot the dirty hands against the snowy linen."

To reconcile these comments is somewhat difficult. Against the criticism that the single-chambered body was non-political, and therefore lacked leadership, is the claim that it was a better body than its predecessor because it was non-political. While some worthwhile bills were passed that the former bicameral body had neglected, there was also the claim that many special bills urged only by organized minorities were also approved. All the commentators agreed that the experience was so slight that it was unfair to draw final conclusions at this time.

Perhaps the most vital criticism is that there exists the increased power of organized minorities, or pressure-groups, within the small single-chambered body. It is easy to see how these groups could exert direct pressure in a manner not possible in bicameral bodies. If legislators did not take the action urged these lobbying organizations, it would be possible to reach out into the forty-three districts, or a majority of these and work actively against re-election. No one member of the new body could successfully mask his opposition to any particular measure urged by such groups. There is no doubt that the bicameral

system has reduced the pressure of active minorities. It is likewise true that the secrecy of the bicameral system operates to the advantage of the lobbyist.

**In summary:** the reasons for the success of the campaign for adoption of the unicameral system are obscure, but undoubtedly the leadership of Senator Norris was a vital factor. After the adoption, the first unicameral legislature went about the task of organization cautiously, and set up such rules and regulations to safeguard its

actions that it could not be said that the single house expedited legislative business. As to the results of the first session, opinion differs. While much valuable legislation was passed that had been blocked by the bicameral bodies, on the other hand, much special legislation favored by minorities was also passed. Some commentators wonder whether the single-chambered body can withstand the pressure exerted on individual members by active minority, groups.

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## VIII. The Cases for Unicameral Legislative Bodies

This study has briefly outlined the development of modern legislative bodies, especially the movement toward unicameralism. In a democratic state there must be a legislative body representing the various economic, social, and even geographic groups. A basic question concerns the composition of this legislative body—whether the single chamber or the two-chambered body can best represent the interests of the group concerned. There are also questions that have to do with the election of the representatives, the legislative procedures, by which equality between militant minorities and lethargic majorities can be effected, the means of ascertaining group opinion when legislation is being formed, and collateral questions which are beyond the province of this study. These questions are important and must eventually be answered, but this study is concerned solely with the problems of single and multiple-chambered legislative bodies.

England, which is the country with the greatest experience in popularly elected legislative bodies, developed the two-house system, but this was somewhat the result of a historical accident, and to some extent due to the nature of a representative system in which only the lower house is popularly elected. In recent years, however, the powers of the upper house have been materially curtailed, and while as yet the Lords still exert an influence on the legislative process, the real authority reposes in the House of Commons. Hence, England has lost the true attribute of a bicameral system—two houses with coequal powers in all legislative matters.

In colonial America the bicameral system arose, although not in conscious imitation of the English system. It developed from another source entirely; still it had all the characteristics of the English system, for in most cases the upper house was not popularly elected, as was the

lower house, and the latter, because of its control of financial matters, was the more powerful of the two. In the development of the bicameral system in colonial America there was little thought of the basic theory of legislative bodies, but instead there was an adaptation of simply what appeared at the time to be a logical development of the colonial government system into a form that could cope with the conditions in America. The upper house was usually composed of administrative officers serving the governor of the province. It was no wonder that there should be a sharp distinction between the two and that they sat separately in their deliberations on legislation.

The development of the Federal Government, after the difficulties experienced under the Articles of Confederation led to the adoption of the bicameral form in the national congress. Again, this was not the result of weighing the advantages of one house over and against those of two houses; rather, it was based on the previous failure of the single-chamber body as it existed under the Articles—a failure, however, that was not so much due to the composition of the congress as it was to the limited powers granted it. The two-chambered legislature was accepted almost as a matter of course, and when the famous Connecticut Compromise was made, all doubts as to the advisability of a two-house legislature were dispelled. The federal form of government has a dual function—it represents the people of the country; and likewise, it represents the states which gave up some of their powers in order that the Federal Government could be organized. Hence, in a two-house legislative body, one house can represent the people as a unit and the other the states as a unit, thus reconciling the interests of both the large and the small states comprising the union. It is readily evident that in the federal form there is an

excellent ground for a two-chambered house that is based on the two component parts of its government. But it is also evident that there is only one Federal Government in this country.

All states, with the exception, of Pennsylvania, Georgia, and Vermont, adopted the federal bicameral form shortly after the Constitution was signed. Of these three states, only Vermont had any special experience with the unicameral form. This lasted until 1836. Careful studies of the Vermont single-chamber body, as compared with the bicameral form, show that there were some advantages to one house, and no proven superiority of the two-chambered body. But, once the two-house system was adopted, there was no reversion to the unicameral form.

State governments are unlike the Federal Government in that they are a unit. The subdivisions of a state, the counties, cities, villages, etc., are all creatures of the state, and, with the exception of possible constitutional limitations, the state can abolish, alter, and change the existence of any one of them without affirmative action by its inhabitants. Under such circumstances, the bicameral form of governments in the states must rest on other grounds than that of a division of the function of state government. Usually recourse is made to the Hamiltonian argument made in the *Federalist* in justification of the bicameral federal congress: it prevents hasty action, stops bad bills, and gives greater consideration to legislation. However, Hamilton was arguing for something that was already adopted—not developing a principle for the composition of a legislative body. Yet the adherence to the principles of strict control over legislation has guided the adoption of bicameralism by all of the states.

However, the argument lost much of its force when applied in the municipal field. Originally, after the close of the Revolution, most of the large eastern cities followed Philadelphia's lead in adopting the bicameral form for their municipal common councils. But gradually, over the hundred years since the adoption of two-chambered councils, cities have abandoned the bicameral form for the single-chambered body so that it exists in a few cities of which only two are outside the New England area, and in none of the largest twenty-five cities. Although legislative problems are perhaps just as important in cities as in states—and it should be remembered that these large cities outstrip most states both in population and annual expenditures—it was found that bicameralism was too slow, too secret, too subject to manipulation to warrant its continued use. The demand for services in modern cities was such that they changed their forms of government to centralize responsibility and insure intelligent, prompt legislative and executive action.

Out of the experiments of the cities there has developed a form of government known as the "municipal pattern," which in substance means a small legislative body, the members of which are elected at large and given full power over legislation, subject, sometimes, to executive

veto. The chief executive is either a professional, as in the city-manager plan, or is elected by the people and given extraordinary powers in the administration of the city. In approving appointments and in similar functions he is beyond any repressive action that the council might take. The form of government which has developed out of the necessities of both large and small cities has stressed direct lines of authority from the people to an elected mayor and council, has been marked by a strong centralization of power in the executive, and has eliminated most of the checks and balances that were deemed so desirable in the federal and state governments.

The favorable results of the "municipal pattern," as operate in the large cities, force the question: If this form of government is effective in cities, why will it not serve equally in states, whose operations are seldom more numerous, more intricate, or more costly? As early as 1912 the question had received the attention of those who sought improvement in the structure of state government, but no state actually adopted the form until Nebraska amended its constitution to provide for a unicameral legislature beginning January 1, 1937. Although there has been only one session of that legislature to date, and it was truly pioneering in organizing and developing techniques to handle legislation. In the adoption of rules of procedure, it was plain that the majority of the members who had served in the bicameral form still believed in safeguards against hasty legislation. These safeguards may prove necessary in state government, although they are not usually found in city councils.

At the end of the session, various comments as to the efficacy of the plan showed wide variations in opinion, some observers believed the legislature not party-minded in its consideration of bills, and, thus, to a large extent, bills that were in the party's interest were not pushed through; others believed this lack of political direction was one of the outstanding advantages of the unicameral plan. Again, some believed that bills which the former bicameral legislature, had refused to pass and which were of undoubted merit were adopted by the unicameral legislature; but contra, others believed that it likewise passed a number of special bills, in response to the demands of organized minorities, which the bicameral body would have killed in committees. However, there was general agreement that it is too early to judge the validity of any comment on the operation of the plan.

The most startling result generally ascribed to the unicameral plan was the advantage given to organized minorities and lobbyists. It was thought that these influences would be minimized or eliminated by making the body smaller and the workings of the legislature more open and direct. It appears that the minority pressure-groups are able to exert pressure on individual representatives, and the organization of the legislature is such that a member cannot mask his vote by any of the various devices usual under the bicameral system. However, large cities have operated with even smaller

councils without undue pressure of the minorities, so perhaps it is only a matter of time before there will have developed techniques to combat these minority forces. Or, perhaps, this power of minorities may be a vital defect in the unicameral plan as applied to state organization.

Only experience will prove whether or not unicameralism is an answer to demand for more effective

state government. It must be said, however, that the bicameral legislative body is not the only weakness in state organization. The administrative plan in most states lacks centralization, and responsibility is often dissipated among a bewildering number of boards and commissions. Improvement in one branch without improvement in the other will give no great measure of relief.



## APPENDIX A

### AN OUTLINE FOR A DEBATE

RESOLVED: THAT THE SEVERAL STATES SHOULD ADOPT A UNICAMERAL SYSTEM OF LEGISLATURE.

*Prepared by MR. THEODORE BARUCH, Social Science Department of Pershing High School, Detroit*

This question affords opportunity for an excellent debate because the subject of the organization and functioning of state government is receiving critical attention from citizens due to assumed defects found in most states, including Michigan. Therefore the question of state reorganization is not an academic one, but is a problem immediately confronting legislators and voters.

This debate outline is designed only to guide students in certain features of analysis and argumentative technique. It is merely suggestive of methods of attack and defense which, of course, debaters and coaches will work out to completion as the debates advance. It has only the advantage of summarizing in compact form many points which otherwise might take considerable time to secure from the mass of available material. Naturally, the outline is exceedingly brief and many points which can be made for either side are omitted.

It will be well if all debaters not only read the study carefully, but perhaps check some of the statements with the fuller development given in the texts and other material used in its preparation. Also, they should become acquainted with the structure of state and federal governments as outlined in any of the standard texts on high school civics. While the debate question is somewhat technical, there is no necessity to develop such a thorough study of the mechanics of the legislative process that the fundamental facts upon which all debates must rest are obscured.

The careful debater will refrain from developing his arguments on the basis of anyone specific plan of unicameralism, but will build his case entirely on the principles of the single or two-house legislature. Thus, both the negative and affirmative teams will eliminate much useless and befogging arguments which actually prove nothing concerning the effectiveness of either plan.

#### *The Affirmative*

Following the basic theory of debating the affirmative as a major premise must first demonstrate need for a change. It must prove beyond reasonable doubt that bicameralism, which is the prevailing structure of state legislative bodies, is inherently unsound. This can be done only by pointing out some of the major defects in the principle of the two-house legislature. It will not do to argue that bicameral bodies are inefficient, irresponsible, susceptible to bribery and corruption, unless it can be shown that these evils are a direct and inevitable result of legislating through two houses. For instance, if the affirmative states that there exists an attitude of "do-nothingness," which is regularly charged against each session of the legislature by the press, the negative can reply that it is the result of electing men with popular

names or personalities, rather than men who have the ability and honesty to represent their constituents properly. Incompetent representatives can just as well be elected to a unicameral legislature as to a bicameral one.

The affirmative will do well to emphasize that historically, as shown in this study, bicameralism was the product of an accidental combination which created two houses in the legislatures of the American colonies. It can likewise show that the general acceptance of bicameral bodies in the states followed the introduction of that system in the federal plan of government, when, as a matter of fact, the federal two-chambered house was the result of a compromise to balance the large well-populated states with the smaller and less economically developed ones. It can point out the logical division of the Federal Congress into two houses, one based on population and the other representative of the states, and emphasize that no such logic can be applied to state organization.

The traditional defense of bicameralism, that it preserves the check and balance system and makes for wise deliberation in legislation, does not necessarily qualify as an explanation for the original trend towards bicameralism, but rather it rests as a rationalization developed later to justify its retention. Perhaps the most telling argument against bicameralism, with two houses of coequal power, is that it forces the use of the "conference committee." Under this system, when the two houses have different ideas on the same bill, some compromise can be effected in order that the proposal become law. But the conference committee is secret in its deliberations and seeks not a good law, but one that will be acceptable to both houses. It is not responsible to either house or to the people. It is really a third house of the legislature, but is part of the bicameral plan and its defects cannot be explained away readily.

By showing in its first speech either that bicameralism is based on no principle but that of unconscious evolution, or that the principles originally developed are no longer desirable or effective today, the affirmative can eliminate a number of the better arguments of the negative side.

However, the affirmative must also remember that there exists a broad gap between theory and practice. It is possible to concede that bicameralism is sound in theory and then to develop the argument that, because of natural human frailties present in real life, it is unworkable in practice. The negative, of course, can return this same argument in that it applies likewise to unicameralism. Each side should carefully distinguish between the time-worn historical justification of its contentions and the

present-day problems confronting the system that it is upholding.

Having shown a basic need for a change, the affirmative should proceed to show how unicameralism will meet the requirement. In so doing, it is not necessary to argue that unicameralism is perfection. The affirmative can readily admit, for example, that unicameralism will not eliminate lobbying or partisan strife, but, by focusing attention on one house instead of two, the single chamber makes such practices clearly apparent and subject to rebuke. The bicameral system, by its very nature, obscures the legislative process.

The affirmative must argue fundamentals rather than specific plans. The essence of its argument is that unicameralism at its worst is distinctly superior to bicameralism at its best.

#### *The Negative*

The negative, on the other hand, should endeavor to base its case firmly on the status quo. Despite all the manifold evils with which state legislatures are blamed the fact remains that they continue to grind out laws which, by and large, have operated to the best interests of society. The negative should describe at the outset the countless restrictions on the proper functioning of state law makers—low salaries, procedural restrictions, limited debate, lack of facilities for bill drafting, pressure of minority groups, and the other numerous factors which hamper the legislator's efforts in the efficient discharge of their duties.

Legislative procedures are undoubtedly restrictive, and yet, over a very long period of time, they have been so developed by all deliberative bodies that legislation can progress in an orderly manner. They are a detriment to efficient law-making, but necessary when a large group of persons seeks to take joint action. Also, many of the procedures have developed from the two-party system which prevails in this country and which gives the party with the majority of members in the legislature direct responsibility for the legislation which is approved. And it can be shown that these restrictions are as much a part of the unicameral as the bicameral plan,

It is possible to argue that many of the defects of bicameralism are capable of correction without changing the basic nature of the two-house system. A good negative argument will not allow a superficial affirmative indictment of legislative weakness to prevail, but will constantly challenge the opposition to eliminate all other possible causes of weaknesses and then show that the difficulties are intimately and logically a part of the bicameral system.

Once this position is made secure, then the negative should describe a bicameral legislature free from the

hindrances that now obstruct its operations. It can be argued that a smaller number of representatives in either house, should these be elected by proportional representation for longer terms and at better salaries, would give a legislative body which had all the advantages ascribed to the single chamber, with the added protection of a better check on unwise legislation. Also, the fact that legislatures are now apportioned in both houses on a population basis need not be accepted, but the negative can hold that it is possible for the two houses to be a balance to each other—one representing the rural areas, and the other the more densely populated sections. This is not possible in the unicameral system. Likewise, it can be shown that better legislative procedures, which would be possible with smaller houses, would eliminate much of the present-day criticism. Then, the demand can be made of the affirmative that it shows wherein such an argument is false; this demand would thus shift a difficult burden to its shoulders.

The negative must be careful not to be led into a position where the affirmative can argue that it is easier to change to an entirely new plan than to reform the old. For instance, the affirmative can cite that, although state salaries as set by the constitution are notoriously low, the voters of Michigan in 1917, 1919, and 1920 refused to affirm a constitutional amendment which would raise the salaries of state officers to respectable amounts. Also, the affirmative can charge that the present structure of state government is substantially the same as in 1850, although the constitutional revision of 1908 changed other parts materially. The affirmative will be alert to seize the point that there is a gap between theory and practice, for it has already had to contend with it. Finally, the negative should prepare an attack on unicameralism that shows that not only does it possess faults identical with those of bicameralism, but that it has not the security of the two-chamber system. Although the experience of Nebraska is too recent to provide a perspective as yet, the numerous unicameral city councils and county boards of supervisors yield ample source for criticism. Perhaps the best characterization of these single-chambered bodies is their willingness to vote appropriations for salary expenditures and similar items whenever money is available. And it can be shown that the state government differs from that of a city or county, where perhaps unicameral bodies might under proper conditions, operate satisfactorily. In the city the area is so limited that interchange of information on the functioning of government is comparatively easy; a situation that does not exist in the larger territory of the state.

In the final analysis, the negative must show that, if the same difficulties exist under one system of legislature as the other, there is little necessity for change.

## APPENDIX :B

# MODEL PROVISIONS FOR A STATE LEGISLATURE FROM A MODEL STATE CONSTITUTION

The Model State Constitution prepared by a Committee of the National Municipal League, 309 E. 34th St., New York as a guide in the preparation of a state constitution. The following extract is from the third revision of 1933.

### THE LEGISLATURE

SECTION 13. There shall be a legislature of members who shall be chosen by the qualified electors of the state for a term of two years by the system of proportional representation with the single transferable vote. For the purpose of electing members of the legislature, the state shall be divided into districts composed of contiguous and compact territory from which members shall be chosen in proportion to the population thereof, but no district shall be assigned less than five members.

SECTION 14. Until otherwise provided by law, members of the legislature shall be elected from the following districts: The first district shall consist of the counties of \_\_\_\_\_ and \_\_\_\_\_ and \_\_\_\_\_ shall be entitled to \_\_\_\_\_ members. (The description of all the districts from which the first legislature will be elected should be inserted in similar language.) At its first session following each decennial federal census the legislature shall redistrict the state and reapportion the members in accordance with the provisions of section 13 of this constitution.

SECTION 15. The election of members of the legislature shall be held on the Tuesday next following the first Monday of November in the year one thousand nine hundred and every second year thereafter.

SECTION 16. Any elector of the state shall be eligible to the legislature.

SECTION 17. The term of members of the legislature shall begin on the first day of December next following their election. Whenever a vacancy shall occur in the legislature the governor shall issue a writ of appointment for the unexpired term. Such vacancy shall thereupon be filled by a majority vote of the remaining members of the district in which the vacancy occurs. If after thirty days following the issuance of the writ of appointment the vacancy remains unfilled, the governor shall appoint some eligible person for the unexpired term.

SECTION 18. A regular session of the legislature shall be held annually (or biennially) beginning on the first Monday in February. Special sessions may be called by the governor or by a majority vote of the members of the legislative council.

SECTION 19. The legislature shall be judge of the election, returns and qualifications of its members, but may by law vest in the courts the trial and determination

of contested elections of members. It shall choose its presiding officer and determine its rules of procedure; it may compel the attendance of absent members, punish its members for disorderly conduct and, with the concurrence of two-thirds of all the members, expel a member, but no member shall be expelled a second time for the same offense. The legislature shall have power to compel the attendance and testimony of witnesses and the production of books and papers either before the legislature as a whole or before any committee thereof.

SECTION 20. For any speech or debate in the legislature the members shall not be questioned in any other place.

SECTION 21. The Legislature shall pass no local or special act in any case where a general act can be made applicable; and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by a majority of the electors voting thereon in the district to be affected, except acts repealing local or special acts in effect before the adoption of this constitution and receiving a two-thirds vote of all members of the legislature on the question of their repeal. (Follows Mich. Const. Art. 5, Sec. 80)

SECTION 22. A majority of all the members of the legislature shall constitute a quorum to do business but a smaller number may adjourn from day to day and compel the attendance of absent members. The legislature shall keep a journal of its proceedings which shall be published from day to day. A vote by yeas and nays on any question shall at the desire of one-fifth of those present be taken and entered on the journal.

SECTION 23. A secretary of the legislature shall be appointed in the manner hereinafter provided. The secretary shall appoint and supervise all employees of the legislature and shall have charge of all service incidental to the work of legislation. While the legislature is in session the secretary shall be under control of that body.

SECTION 24. No law shall be passed except by bill. All bills, except bills for appropriations and bills for the codification revision or rearrangement of existing laws shall be confined to one subject. and the subject. or subjects of all bills shall be clearly expressed in the title. Bills for appropriations shall be confined to appropriations.

SECTION 25. No bill shall become a law until it has been read on three different days, has been printed and upon the desks of the members in final form at least three legislative days prior to final passage, and has received the assent of a majority of all the members. Upon final passage the vote shall be by yeas and nays entered on the journal; provided, that the employment of mechanical

devices to record the votes of members shall not be contrary to this provision.

SECTION 26. Every bill which shall have passed the legislature shall be presented to the governor; if he approves he shall sign it but if not he shall return it with his objections to the legislature. Any bill so returned by the governor shall be reconsidered by the legislature and if, upon reconsideration, two-thirds of all the members shall agree to pass the bill it shall become a law. In all such cases the vote of the legislature shall be by yeas and nays and entered on the journal. If any bill shall not be returned by the governor within ten days after it shall have been presented to him it shall be a law in like manner as if he had signed it, but if the legislature shall by adjournment prevent the return of bill within ten days any such bill shall become a law unless filed by the governor together with his objections in the office of the secretary of the legislature within thirty days after the adjournment of the legislature. Any bill so filed shall be reconsidered by the next session of the legislature as though returned while the legislature was in session.

SECTION 27. Any bill failing of passage by the legislature may be submitted to referendum by order of the governor if at least one third of all the members shall have been recorded as voting in favor of the bill when it was upon final passage. Any bill which, having passed the legislature, is returned thereto by the governor with objections and, upon reconsideration is not approved by a two-thirds vote of all the members but is approved by at least a majority thereof may be submitted to referendum by a majority vote of all the members of the legislature. Bills submitted to referendum by order of the governor or legislature shall be voted on at the next succeeding general election unless the legislature shall provide for their submission at an earlier date.

SECTION 28. The legislature shall, by a majority vote of all its members, appoint an auditor who shall serve during the pleasure of the legislature. It shall be the duty of the auditor to conduct a continuous audit of all accounts kept by or for the various departments and offices of the state government and to report thereon to the legislative council quarterly and at the end of each fiscal year. He shall also make such addition reports to the legislature

and legislative council, and conduct such investigation of the financial affairs of the state, or of any department or office thereof, as either of such bodies may require.

SECTION 29. There shall be a legislative council consisting of the governor and seven members chosen by and from the legislature. Members of the legislative council shall be chosen by the legislature at its first session after the adoption of this constitution and at each subsequent session following a general election. Members of the legislative council chosen by the legislature shall be elected by the system of proportional representation with the single transferable vote, and when elected shall continue in office until their successors are chosen and have qualified. The legislature, by a majority vote of all its members, may dissolve the legislative council at any time and proceed to the election of a successor thereto.

SECTION 30. The legislative council shall meet as often as may be necessary to perform its duties. It shall choose one of its members as chairman, and shall adopt its own rules of procedure, except as such rules may be established by law. The legislative council shall appoint the secretary of the legislature, who shall be ex officio secretary of the council. The secretary shall be appointed for an indefinite term, but may be removed at any time by the council.

SECTION 31. It shall be the duty of the legislative council to collect information concerning the government and general welfare of the state and to report thereon to the legislature. Measures for proposed legislation may be submitted to it at any time, and shall be considered, and reported to the legislature with its recommendations thereon. The legislative council may also prepare such legislation and make recommendations thereunto the legislature, in the form of bills or otherwise, as in its opinion the welfare of the state may require. Other powers and duties may be assigned to the legislative council by law. The delegation of authority to the council to supplement existing legislation by means of ordinances shall not be deemed a delegation of legislative power.

SECTION 32. Members of the legislative council shall receive such compensation, additional to their compensation as members of the legislature, as may be provided by law.

## APPENDIX C

### AMENDMENT TO THE NEBRASKA STATE CONSTITUTION TO PROVIDE FOR A UNICAMERAL LEGISLATURE

Adopted November 6, 1934

That Section 1 of ARTICLE III of the Constitution of Nebraska be amended to read as follows:

SECTION 1. Commencing with the regular session of the Legislature to be held in January, nineteen hundred and thirty-seven, the legislative authority of the state shall be vested in a Legislature consisting of one chamber. The people reserve for themselves, however, the power to propose laws, and amendments to the constitution, and to enact or reject at the polls any act, item, section, or part of any act passed by the Legislature. All authority vested by the constitution or laws of the state in the Senate, House of Representatives, or joint session thereof, in so far as applicable, shall be and hereby is vested in said Legislature of one chamber. All provisions in the constitution and laws of the state relating to the Legislature, the Senate, the House of Representatives, joint sessions of the Senate and House of Representatives, Senator, or member of the House of Representatives, shall, in so far as said provisions are applicable, apply to and mean said Legislature of one chamber hereby created and the members thereof. All references to Clerk of House of Representatives or Secretary of Senate shall mean, when applicable, the Clerk of the Legislature of one chamber. All references to Speaker of the House of Representatives or temporary president of the Senate shall mean Speaker of the Legislature. Wherever any provision of the constitution requires submission of any matter to, or action by, the House of Representatives, the Senate, or joint session thereof, or the members of either body or both bodies, it shall after January first, nineteen hundred and thirty-seven, be construed to mean the Legislature herein provided for.

That Section 5 of Article III of the Constitution of Nebraska be amended to read as follows:

SECTION 5. At the regular session of the Legislature held in the year nineteen hundred and thirty-five the Legislature shall by law determine the number of members to be elected and divide the state in Legislative Districts. In the creation of such Districts, any county that contains population sufficient to entitle it to two or more members of the Legislature shall be divided into separate and distinct Legislative Districts, as nearly equal in population as may be and composed of contiguous and compact territory. After the creation of such districts, beginning in nineteen hundred and thirty-six and every two years thereafter, one member of the Legislature shall be elected from each such District. The basis of apportionment shall be the population excluding aliens, as shown by the next proceeding federal census. In like manner, when necessary to a correction of inequalities in the population

of such districts, the state may be redistricted from time to time, but no oftener than once in ten years.

That Section 14 of Article III of the Constitution of Nebraska be amended to read as follows:

SECTION 6. The Legislature shall consist of not more than fifty members and not less than thirty members. The sessions of the Legislature shall be biennial except as otherwise provided by this constitution or as may be otherwise provided by law.

That Section 7 of Article III of the Constitution of Nebraska be amended to read as follows:

SECTION 7. Members of the Legislature shall be elected for a term of two years beginning at noon on the first Tuesday in January in the year next ensuing the general election at which they were elected. Each member shall be nominated and elected in a non-partisan manner and without any indication on the ballot that he is affiliated with or endorsed by any political party or organization. The aggregate salaries of all the members shall be \$37,500 per annum, divided equally among the members and payable in such manner and at such times as shall be provided by law. In addition to his salary, each member shall receive an amount equal to his actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than said salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem.

That Section 10 of Article III of the Constitution of Nebraska be amended to read as follows:

SECTION 10. The Legislature shall meet in regular session at 12:00 o'clock (noon) on the first Tuesday in January in the next year ensuing the election of the members thereof. The Lieutenant Governor shall preside, but shall vote only when the Legislature is equally divided. A majority of the members elected to the Legislature shall constitute a quorum; the Legislature shall determine the rules of its proceedings and be the judge of the election returns, and qualifications of its members, shall choose its own officers, including a Speaker to preside when the Lieutenant Governor shall be absent, incapacitated, or shall act as Governor. No member shall be expelled except by a vote of two-thirds of all members elected to the Legislature, and no member shall be twice expelled for the same offense. The Legislature may punish by imprisonment any person not a member thereof who shall be guilty of disrespect to the Legislature by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at

one time, unless the person shall persist in such disorderly or contemptuous behavior.

That Section 11 of Article III of the Constitution of Nebraska be amended to read as follows:

SECTION 11. The Legislature shall keep a journal of its proceedings and publish them (except such parts as may require secrecy) and the yeas and nays of the members on any question, shall at the desire of anyone of them be entered on the journal. All votes shall be viva voce. The doors of the Legislature and of the Committees of the whole, shall be open, unless when the business shall be such as ought to be kept secret.

That Section 14 of Article III of the Constitution of Nebraska be amended to read as follows:

SECTION 14. Every bill and resolution shall be read by title when introduced, and a printed copy thereof provided for the use of each member, and the bill and all

amendments thereto shall be printed and read at large before the vote is taken upon its final passage. No such vote upon the final passage of any bill shall be taken, however, until five legislative days after its introduction nor until it has been on file for final reading and passage for at least one legislative day. No bill shall contain more than one subject, and the same shall be clearly expressed in the title. And no law shall be amended unless the new act contain the section or sections so amended shall be repealed. The Lieutenant Governor, or the Speaker if acting as presiding officer, shall sign, in the presence of the Legislature while the same is in session and capable of transacting business, all bills and resolutions passed by the Legislature.

That Sections 12 and 28, of Article III, and Sections 9 and 17, of Article IV, be and the same hereby are repealed, effective as of January 1, 1937.

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## APPENDIX D

### PROPOSED AMENDMENT TO THE OHIO STATE CONSTITUTION TO PROVIDE FOR A SINGLE-HOUSE LEGISLATURE

Proposed by the Ohio Single-House Legislature League, Inc., 18 Parsons Ave., Columbus, O.

#### ARTICLE II

SECTION 1. The legislative power of the state not reserved to the people shall be vested in a general assembly. The general assembly shall consist of a single body of representatives; and shall succeed to all the powers of either, or both, the house of representatives and the senate as heretofore constituted, and shall be subject to all the provisions of the constitution limiting the power or controlling the procedure of either, or both such houses so far as such provisions may be applicable to a single chamber assembly, and so far as they are consistent with the provisions of this section. Whenever in the constitution reference is made to the house of representatives or to the senate, or both, or to either or both of the houses of the general assembly, or to the members elected thereto, to representatives, or to senators, such provisions so referring shall be deemed to refer to the general assembly and to representatives therein. Whenever action by either the senate or the house of representatives, or both, is required by any section of the constitution, action by the

general assembly shall constitute full compliance therewith.

The people reserve to themselves the power to propose to the general assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law, any section of any law or any item in any law appropriating money passed by the general assembly except as hereinafter provided; and independent of the general assembly to propose amendments to the constitution and to adopt or reject the same at the polls. The limitations expressed in the constitution, on the power of the general assembly to enact laws, shall be deemed limitations on the power of the people to enact laws.

SECTION 2. Representatives in the general assembly shall be elected biennially by the electors of the respective assembly districts, in such manner as shall be provided by law. Their terms shall commence on the first day of

January next after their election and shall continue two years. All vacancies which may happen in the general assembly may be filled for the unexpired term in such manner as may be provided by law.

SECTION 9. The general assembly shall keep a correct journal of its proceedings, which shall be published. On demand of any member a roll call shall be taken upon any action of assembly and the names of the members voting for or against entered upon the journal. Every committee to which a bill or other matter is referred shall return the same to the general assembly with a report thereon. On the engrossment and on the passage of every bill a vote shall be taken by yeas and nays and entered on the journal. Except in case of an emergency bill, no vote on final passage shall be taken until at least ten days after the bill shall have been engrossed in final or passed into a law without the concurrence in each case of a majority of all members of the general assembly.

SECTION 14. The general assembly may establish a legislative council consisting of not more than fifteen members chosen from among the representatives. It shall be the duty of the council to prepare legislation for consideration by the general assembly and to make such investigations and to perform such other duties incident thereto as shall be provided by law or resolution. The general assembly may authorize or empower the council to meet at such periods either during or between sessions of the general assembly as shall be specified by law or resolution. The general assembly may provide by law for additional salary for member of the legislative council on public business directly connected with the duties of the council.

SECTION 19. No member of the general assembly shall during the term for which he shall have been elected or for one year thereafter be appointed to any civil office under this state.

SECTION 23. The governor, lieutenant governor and other elective or appointive executive officers of the state may be removed from office by resolution of the general assembly if two-thirds of the members elected thereto concur therein, but no such removal shall be made until the person sought to be removed shall have been given a statement of the reason for the removal, and an opportunity to be heard. Provision shall be made by law for the succession to the office of governor in the event of death, removal, or disability of both the governor and the lieutenant governor.

SECTION 24. The general assembly shall, within the first three months of the year next following the adoption of this section, and within each year thereafter whose number ends in one, divide the state by law into assembly districts. Each assembly district shall be composed of compact and contiguous territory. In dividing the state into assembly districts, care should be taken to make each district contain as nearly as possible one entire ratio of population with the least remaining fraction thereof which it is practicable to obtain. A ratio of population for the purpose of this section shall be one one-hundredth part of the population of the state. If no law dividing the state

into assembly districts shall have taken effect within three months after any time limited in this section for the general assembly to divide the state into assembly districts, it shall be the duty of the secretary of state forthwith to divide the state into assembly districts and to publish proclamation thereof in the same manner as a law. At each election in November of the even-numbered years one representative shall be elected in each assembly district.

SECTION 25. The general assembly shall convene in regular session annually on the first Monday in January. Thereafter it shall not recess or adjourn for a longer period than three months. On petition signed by one-fifth of the members it shall be the duty of the secretary of state, by public proclamation and by notice to each representative, to convene the general assembly on a day specified in the petition, not sooner than thirty days after the last adjournment or recess of the general assembly, nor sooner than fifteen days after the filing of the petition with the secretary of state. Pending legislation and other pending business shall expire only with the term of office of the representatives, except such business as shall be referred to the succeeding session of the general assembly. The lieutenant governor shall be the speaker of each general assembly until and unless otherwise provided by such general the general assembly. When the lieutenant governor serves as speaker he shall receive the same salary and allowance as a representative in the general assembly.

SECTION 31. The salaries of the members of the general assembly shall be fixed by law and shall be paid in equal monthly installments. In addition to his salary each representative shall be paid mileage between his home and the capital by the most direct route at a rate per mile to be fixed by law, not more than once going and once returning each week during which the general assembly actually meets and during which such representatives is in actual attendance. No representative, nor officer or employee of the general assembly shall be paid any allowance or perquisite of any kind except as expressly provided herein. No change in the compensation or mileage of representatives, officers or employees of the general assembly shall take effect during the legislative term.

#### SCHEDULE

If the votes cast for the proposal shall exceed those against it, such amendment shall go into effect on the first day of January next following its adoption, and new sections 1, 2, 9, 14, 19, 23, 24, 25, and 31 of Article II, as herein proposed, shall take effect, and existing sections 1, 2, 9, 11, 14, 15, 17, 19, 23, 24, 25 and 31 of Article II; sections 8, 9, 16 and 17 of Article III; and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of Article XI; of the constitution of the state of Ohio shall be thereby repealed. The general assembly in office at the time of the adoption of this amendment shall continue in office, without change of organization until the expiration of the term for which its members were elected.