

THE BICAMERAL SYSTEM

Thesis for the Degree of M. A.

Mildred H. Hilton

1927

Fig. 1. 1. Indian  
Tribes.

7. *Platanus latifolia* L.

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by. Mildred H. Hilton.

## The Bicameral System

The division of the legislature into two houses was one of the great questions in the Constitutional Convention. It has never been the habit of the American people to have a single chamber, with few exceptions, to enact laws, nor the habit of their ancestors, for five centuries, to regard a single chamber as favorable to liberty or wise legislation.

The following discussion attempts to show the evolution of this governmental system which our forefathers adopted from the place where it first took root, its adoption in the United States, the working of the system then and afterwards, and its gradual decline. The utility of the bicameral legislature as an instrument of democratic government is, however, now being vigorously challenged, therefore, the question will be discussed in some detail later.

When the Romans crossed the European Continent and reached the islands off the coast of Europe now called the British Isles, they found these islands inhabited by people called Britains. The descent of these people have never been known, and it was this group that the Romans succeeded in conquering and immediately began to Romanize. In the lowland regions of the South and East part of Britain, Romans attempted to introduce some of their customs and institutions. In the rugged regions of the North and West

West part of the islands, the population was Celtic and<sup>1</sup>  
here few people existed.

Few Roman traders reached Britain and the migration<sup>2</sup>  
of other classes of Romans was small. The climate of this  
region was decidedly different and due to the distance  
many preferred to remain in their own native land rather than  
come to this region and dominate their captives. In the  
early years of the fifth century, the troops were withdrawn.

A generation passed and then the Germanic tribes began  
to conquer the Britains making the natives captives. These<sup>3</sup>  
tribes were called the Angles and Saxons.

This called for a new reorganization of society. Many  
of the Britains were made slaves by the Germanic tribes. Of-  
ten many of them were as intelligent or even more so than  
their masters. The slaves were usually restricted to the<sup>4</sup>  
soil and were unable to leave it. Next in order came the  
non-noble freemen who were not restricted to the soil and  
were allowed to move about if they chose. Above the non-  
noble freemen were the warriors. These men were grant-  
ed a piece of land by a certain lord and he in turn was to  
fight for this lord during a period of conquest. Then came<sup>5</sup>  
the true nobility who were granted titles by the king.

The highest class was the athelings who was an Anglo-Saxon

1. White - Constitutional History of England p. 4, 5.
2. Cross- A Shorter History of England and Great Britain p. 14.
3. White - op. cit. p. 6
4. Knight, Charles - History of England p. 61. - cf. White p. 13.
5. Hume - History of England - Vol. I. p. 158-59 Appendix I.



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White - Constitutional History of England p. 4, 5.  
Cross - A Shorter History of England and Great Britain p. 14.  
White - op. cit. p. 6.  
Knight, Garret - History of England p. 61. - of White p. 13.  
Hume - History of England - Vol. I. p. 158-59 Appendix I.

Prince or a nobleman who became heir or a prince of the royal family. The status of the true nobility and athel-<sup>1</sup>ings was based on blood rather than on officers or services. After the eighth century the true nobility became a landed aristocracy. Land became a form of wealth. Agriculture was the chief occupation of people and the individual who owned large tracts of land could dominate those who were forced to live on it. Land was soon controlled by a few families and these families received titles or were classed as true nobility. These men had considerable influence<sup>2</sup> with the King.

Before the union of Anglo-Saxon tribes, the highest form of political and judicial organization was the folk-moot. At this assembly the great landowners, freemen, priest, who performed religious functions, reeve, who was an overseer of the administrative area, and four men, who<sup>3</sup> were freemen, met twice a year under the chief.

After tribal states were united, administrative districts began to appear. If a district was free from a lord, it was called a township, if under the influence of a lord, it was called a manor which was a tract of land occupied by tenants. The next district above the township or manor was the hundred which originally was a district of a tribal kingdom which had been allotted to a hundred warriors or<sup>4</sup> a hundred families. Next above the hundred was the shire.

1. Green - The Making of England. p. 173-174

2. White - Constitutional History of England p. 13.

3. Cross - A Shorter History of England and Great Britain p. 45.

4. Ibid p. 46.

The reeve, who was later known as the sheriff, and the four men, who formerly attended the folk moot, continued to attend the shire moot, to speak for their township, and to see 'folk right' done, and were unconsciously giving life to a principle of representation which was to affect the whole modern world. It was here the principle took root<sup>1</sup> and began to grow.

Many regions or towns which were fortified because of invaders received the name of borough. They were at first called "burhs" and later received the name borough. The term city was applied to those regions or towns having a cathedral church.<sup>2</sup> A court system was established in the shires and hundreds by the central government. If the hundred court failed to decide the case, it was taken to the shire, and if it failed there it was taken to the king. Often, many cases were taken directly from the hundred to the king. The shire court was summoned twice a year by the sheriff and he together with the bishop and the ealdorman, who was a great royal official, composed the court.

Toward the end of the Anglo-Saxon period lords controlled large tracts of land. Tenants worked the land of the lord and made payments in services and money for the use of the land as well as for guidance and protection. Every lord had a court<sup>4</sup> in which the tenants of his land were tried.

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1. Edinburgh Review - Vol. 177 1893, (The English Parliament) p. 389.
  2. White - Constitutional History of England p. 30.
  3. Hume, Edward - History of England Vol I. p. 164.
  4. White - op. cit. p. 34.

As a result of the manorial system, wandering tribes became fixed to the soil and consequently changes in government were needed. A local government had formerly been established and it should have met the governmental needs. This it failed to do. Land was rapidly passing from the hands of the many into the hands of the few and its results may be called Anglo-Saxon feudalism. However, at the end of the Anglo-Saxon period, the process was far from complete<sup>1</sup> and institutions were in a very fluid state.

When the Anglo-Saxon entered England a kingship had<sup>2</sup> been established. No detailed account can be given of the growth of kingship during the Anglo-Saxon period, but towards the end of the period a king ruled over a larger and a more diversified population and this in turn brought in new problems of government.

The Witan, an advisory council, of the king was composed of the royal household, great lay lords, ecclesiastical officials, bishops, great abbots, and other men whose wealth, influence of attainments made the king desire their presence. After the lapse of a few years, the Witan finally came under the control of a few families. Historians have been unable to trace or prove that Anglo-Saxons ever had a national assembly either in England or on the continent. We do know, however, that kings had councils consisting of members of the royal

1. Hume, Edward - History of the British People p. 35.
2. Orman - England before the Norman Conquest p. 352-53.
3. Ibid. p. 367.

family, officials, great warriors, and bodies corresponding to the smaller assemblies.<sup>1</sup> From such councils it is thought the witan descended.

In 1066, the Normans came across the English Channel from Normandy and conquered the Anglo-Saxons. Norman kings succeeded the Anglo-Saxon kings as heir to the throne.<sup>2</sup> The most-far-reaching result of the Norman Conquest was the strengthening of the central government combined with local independence. After the Conquest, the central government was composed of the king and his court, formerly of the king and the Witan. William I, the Norman Conqueror, did not care to upset the entire organization of the Anglo-Saxon kings by introducing new local organizations.

Norman feudalism introduced a well organized form of land tenure and a system of government. At the head was the lord and he in turn held the land of the king.<sup>3</sup> William was the supreme land owner of all English soil.<sup>4</sup> Anglo-Saxons were allowed to remain in possession of their land if they would yield their title of land to the king and promise service likewise.<sup>5</sup> Grants were made by the kings to the lords and they in turn were to furnish the king armed knights to serve him in foreign campaigns for a stated period each year - usually forty days.<sup>6</sup>

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1. Hume, Edward - History of England p. 155
  2. Knight - History of England Vol. I. p. 185
  3. White - Constitutional History of England p. 114-15.
  4. Terry, B. - A History of England p. 168.
  5. Cross - op. cit. p. 58.
  6. Ibid p. 58.



The Witan of the Anglo-Saxons was continued under the Norman kings as the King's Council. The same people who were in the Witan would be found in the Council; and the same kind of business was transacted.<sup>1</sup> The council met from time to time upon the call of the King. A large body met only when the occasion demanded it and a smaller body met more frequently and for longer terms. Slowly this council developed into separate institutions such as the Court of the Exchequer, the Court of the Kings Bench and Parliament.<sup>2</sup>

The King's Council acted as a court in the modern sense of the word.<sup>3</sup> Many suits were tried in this council such as those relating to tenants-in-chiefs who might have refused to fulfill his obligations in return for his grant of land. The Council sent some of its members from place to place throughout the kingdom at different times to sit with the sheriffs in the shire courts.<sup>4</sup> This lessened some of the powers of the sheriff and caused local courts to become nationalized.

All financial duties were conducted and carried on by the King's Council. That is, if the king desired money, he acted in accordance with the Council in regard to means by raising it.<sup>5</sup>

In 1258, the Provisions of Oxford were drawn up. This provision provided for the establishment of a permanent council of fifteen barons, who were tenants holding land directly from the king by honorable service, and bishops; their consent was

1. Freeman, Edward - The Norman Conquest p. 76

2. Hume, Edward - A History of the British People p. 68

3. Edinburgh Review - Vol. 177 (The English Parliament). p. 393.

4. Davis - England under the Normans and Angevins p. 43.

5. Hume, Edward. op. cit. p. 69.

necessary for every act of the country, and they in turn had the power to create other committees that were to have charge of the national finances and do other business that had been done formerly by the Great Council.<sup>1</sup> Three years later, this act was repudiated by Henry III. As a result, a Civil War followed and Simon-de-Montfort, a brother-in-law of the King, defeated and captured the King.<sup>2</sup> In December of 1264, Simon's famous parliament was summoned. To this were summoned ecclesiastical and secular nobles, the great council, two knights from every shire, two citizens from each city and two burgesses from each borough. The citizens, burgesses, and the knights from the shires constituted the representative element which was eventually to constitute the House of Commons.<sup>3</sup>

In 1295 Edward I summoned his Model Parliament. This Parliament contained the body of prelates and greater barons which was to become the House of Lords. The lay members numbered forty-eight in this meeting, seven earls and forty-one barons below the rank of earl. The prelates, comprised the two archbishops, eighteen bishops, sixty-seven abbots, and the heads of three religious order, the Hospitallers, Templars, and the Order of Sempringham. The bishops were ordered to cite before hand the priors of their cathedral chapters, the archdeacons of their dioceses, one representative proctor from the parish clergy of each diocese.

1. Ogg, Frederick - Greater European Governments p. 12

2. Terry - A History of England p. 287.

3. White- Constitutional History of England p. 364.



Two knights were summoned from every shire and two burgesses<sup>1</sup> from every city and borough.

All experimental and tentative stages were passed by 1295; and out of blind movements had emerged a parliament for essential purposes in the form we know it today -- a Parliament of Lords and Commons. The Lower House bears traces of the county courts, the Upper House with its earls and bishops and its great officers of state, more nearly<sup>2</sup> resembles the Witan.

Under the first Parliament of Edward III, the knights<sup>3</sup> took their seats with the Commons. The bicameral principle had now become fixed to exist throughout subsequent periods<sup>4</sup> (except the Cromwellian period).

With the development of the bicameral principle, during the reign of Edward III, Parliament had been able to gain some power. By this time, the consent of Parliament was necessary for new laws. Other members of the government could not impose or collect taxes only within the consent of Parliament. The legislative department also obtained the right to impeach the minister of the king. Heretofore, kings had made known their wishes in regard to certain measures and demanded that their wishes be fulfilled. His will was supreme. Now Parliament had developed to a point where it went so far as to inform the king of its views in regard to certain measures. Never before had a Parliament made such demands.

1. Ogg, Frederick - Greater European Governments. p. 12-13.

2. Edinburgh Review Vol. 177 (The English Parliament) p. 393.

3. Ogg, Frederick - op. cit. p. 14.

4. <sup>1</sup>ibid. 76.

5. White - Constitutional History of England p. 374-375.

The English city government which existed in early times still survives with comparatively little change in the English city today. It was simple in form. A single body - the board of mayor, alderman, and assistants constituted the government of the city. These exercised judicial and legislative functions primarily. One or two other charter officers were provided for such as a clerk, and a chamberlain; and the simple administrative functions were carried on by this single<sup>1</sup> body. There was no separation of powers.

Parliament by no means stood still under the Tudors. The real growth of the House of Commons was not visible but remained hidden.<sup>2</sup> The House of Lords was composed of a small body who were temporal and spiritual and who received from the king an individual summons.<sup>3</sup> No one questioned the right of the archbishops, bishops, and the abbots to be summoned as Lords. When a person was once summoned as a lord, he had the right to be summoned again. The oldest son after him was to be summoned in like manner.

During the fourteenth century the membership of the house fluctuated. We may attribute the decline of baronage as one of the cases. In the fifteenth century the body had become still smaller. The number of Lords summoned to the first<sup>4</sup> Parliament of Henry VII was but twenty-nine.

At the beginning of the Tudor Period, the House of Commons was composed of three hundred members. At the beginning of the

1. National Municipal Review. Vol VI, 1917, p. 19.
2. Ogg, Frederick - Greater European Governments, p. 22
3. Gardiner, S. R. History of England Vol I. page 3.
4. Ogg - op. cit. p. 23.



fifteenth century, county members were elected by the body of free holders present at the county court, but by the statute of 1430 the electoral privilege was restricted to free holders resident in the county and holding land of a yearly rental value of forty shillings, equivalent perhaps to some thirty pounds in our present values.<sup>1</sup> The number of eligible people for voting was increasing, and as a result a rule was adopted to disfranchise large numbers of people of small means who claimed equality with the knights. This rule existed until the great reform bill of 1832 was adopted.<sup>2</sup>

Hereditary peers decreased from about eighty in the reign of Henry VIII to only thirty-six at the accession of James I. The opposite was occurring in the House of Commons. This house had doubled in size, new counties were incorporated, and new constituencies had been added.<sup>3</sup> The greatest growth occurred during the reign of Elizabeth. This was during a period of growing prosperity of the country, and due to the fact that the Tudors placed importance upon the commercial and industrial classes. The House of Commons was gradually gaining power and the monarch who wanted to get along with the House of Commons after 1603 had to be both liberal and tactful.

From 1649-1657 the English government was under the control of Oliver Cromwell,<sup>4</sup> and he in turn had established a unicameral system. In 1657 a step was taken to restore the old bicameral Parliament. But the principle failed to take root. Men like Cromwell realized that the people were royalist at heart. By

1. Ogg, Frederick - Greater European Governments. p. 23.

2. Ibid p. 24.

3. Innes--England Under the Tudors p. 140

4. Green, J. - History of the English People.

1660, Parliament was definitely restored; the two chambers were established upon their earlier foundations, and had the power to enact all legislation and taxation.

By 1690 steps were taken to reform the English Parliament but soon the attention of the people was drawn towards the French Revolution.<sup>1</sup> Soon after the French Revolution, began the long prolonged contest with Napoleon. Both of these great contests delayed the reform movement. At the close of the Napoleonic wars reform agitation was again renewed. The feeling became more intense as time elapsed until the year 1832, when the great reform bill was passed. This bill was related to the distribution of seats in Parliament and to the extension of the franchise. The House of Commons was gradually demanding more power and placed itself upon a broad democratic basis. In the franchise Bill of 1912 the House of Commons controlled the ascendancy in both finance and legislation. The Act of 1918 introduced universal suffrage based only upon residence, it contained also some provisions slightly favoring trade and education.<sup>2</sup>

When the English Government drew up the charters of the English Colonies in America, the bicameral principle was instituted in the colonial governments patterned after that government in the mother country.

The first colonial legislature in Massachusetts was composed of two chambers. In 1629 a charter was granted in England to the "Government and Company of the Massachusetts Bay, in New England".<sup>3</sup> In 1630 John Winthrop arrived in

1. Green, J. - History of the English People Vol. IV. p. 117.
2. Lowell, Lawrence - Greater European Governments p. 32.
3. Mass. Hist Soc. Series IV. Vol II p. 246-278.

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New England with the charter. A body of freemen elected annually a governor, a deputy governor and eighteen assistants for conducting general business and affairs. The legislative power was granted to the general assembly of freemen, and they met four times a year to conduct business which they deemed necessary. In October 1630, the power of electing the governor and the deputy-governor was transferred<sup>2</sup> from the freemen to the assistants. In 1631 a law was passed giving the Court the power to dismiss assistants of misbehavior and allowing no one to become a freemen unless he was a member of a church. The assistants found it necessary to levy a tax and the people of Watertown objected. The people claimed they were paying tax without representation. The pastor, elders, and a few leading men of the village appeared before the governor and insisted that the assistants did not have the power to make laws and levy taxation without the consent of the people. The assistants replied by saying that government was "in nature<sup>3</sup> a parliament" ---- the assistants represented the people. Those who represented the people were convinced and wrote their apology and returned home. This incident led to the introduction of the representative principle in the colonies in 1632. The General Court in Boston on May 9, 1632 agreed that the Governor, Deputy Governor, and assistants should be chosen by the whole court of Governor, Deputy-Governor, assistants and

1. Hutchinson papers p. 20.  
2. Colonial Records Vol I. 1628-1642 p. 79, 87.  
3. Laws of Massachusetts - Series III Vol. VIII Mass. Hist Society p. 201.

and freemen. The Governor was to be chosen out of the body of assistants. In May 14, 1634, each town chose two deputies to meet in a General Court with the Governor and the assistants. Here we see the germs of the bicameral system. The assistants were elected by the people at large while the deputies were chosen by various towns. This led them both to think themselves as two separate bodies but they voted as one.

On September 24, 1634 the following tax was levied upon:<sup>1</sup>

	t	s	d		t	s	d
Dorchester	80	00	00	Ipswich	50	00	00
Rocksbury	70	00	00	Salem	45	00	00
New Towne	80	00	00	Meadford	26	00	00
Waterton	60	00	00	Wessaguscus	10	00	00
Sangus	50	00	00	Charlton	45	00	00
Boston	80	00	00	Barecove	04	00	00
					600	00	00

In 1634 the people in Newton desired to move to Connecticut for more pasturage. This request met with some opposition. A vote was taken by the assistants, deputies, and Governor and the result was a deadlock which brought business to a standstill.

Prayer was observed to solve the problem, and afterwards everything went on cheerfully. Boston and Watertown ceded land to Newton and then everything went on cheerfully, the cause for leaving was removed. In 1636, the General Court decided to pass upon the matter. It decided that no law

1. Hutchinson papers. p. 68.

Colonial Records p. 167, 171.



could pass an act of Court without the majority of the assistants and the deputies. The act ruled the two bodies coordinate in legislative authority, and introduced one of the essential features of the bicameral system. That is, a bill could not become a law unless supported by both houses in the same form.<sup>1</sup> The two bodies continued to sit together until 1644. The cause for separation was over Richard Sherman's pig who had strayed away from home to another of much more consequence who happened to be Captain Keayne. Mr. Keayne had not returned the pig and in order to secure his pig again he had the case taken to court in 1642. A vote was taken and two assistants and fifteen deputies supported the plaintiff and seven assistants and eight deputies supported the defendandt and seven deputies were neutral. The case was brought for final hearing in the General Court in 1643. The verdict of the General Court was that the two bodies should sit apart, that bills might originate in either, bills<sup>2</sup> passed in one house should go to the other house for assent.

The system and growth was essentially American, but the principle originate in England. It might have been possible that this principle would have found its way into the American government but the familiarity with the English institutions hastened the way. The Old Puritan stock in Massachusetts believed the English institutions were the best, but they hated its administration in the hands of the Stuarts.

1.Colonial Records p. 167 , 171,

2.Colonial Records II. p. 12,51,58.

A charter was granted to Providence Plantations on March 14, 1643. The first General Assembly was held at Portsmouth on May 19, continuing until the twenty-first. At this meeting the charter was adopted. In 1647 the government was organized under this charter at an assembly of delegates from Providence, Portsmouth, Newport, and War-<sup>1</sup>wick. In 1663 a new charter was granted which provided for a governor, deputy governor, ten assistants and eighteen deputies. The deputies were to be elected by the respective towns, while the assistants were to be elected by the entire<sup>2</sup> body of the freemen. The mode of the election constituted the germ of the bicameral system, all were to sit in the same house but the time was not far off when the separation was bound to come. Steps toward this end were taken immediately. In the records of 1664 are found accounts of long agitations about a motion whether the deputies should sit by themselves and the assistants by themselves. The matter was put over until the meeting of the next assembly. Petitions were sent in from various communities to separate the two bodies and this continued to arouse agitation. In March 1666, further action was taken and the request was granted by the assembly, but the details of the change of government were to be discussed in the next meeting in May. The attendance was small and as a result no action was taken. In September the act was suspended and the members sat in one house. On October

1. Colonial records Vol I. p 133, 143.

2. Ibid p. 514



1666 a definite decision was reached and the two houses continued as one.<sup>1</sup>

The beginning of King Philip's War and the hostility between the Dutch and the French delayed the agitation for some time for a two house legislature. The two houses sat apart during this time which served further to differentiate the functions of the two houses. After the end of the war the agitation continued again.

In May 1668 the deputies requested that they be allowed to withdraw from the assembly to consider questions. The request was granted provided that they return within a half hour and pass no laws in their absence.

In 1672 the Treasurer was instructed to provide at public expense a dinner between assistants and deputies to establish better feelings. The dinner served its purpose for a compromise was established and deputies continued to sit in the same chamber with the assistants. Even now they considered themselves a distinct body and looked upon themselves as the House of Commons.<sup>2</sup>

On November 6, 1672, the deputies issued a statement saying that no taxes could be levied without the consent of the Deputies. Any act passed should be null and void. They justified themselves on the ground that the freemen represented the people and they were the ones who must pay the tax. The deputies were not satisfied with anything less than complete separation. On May 6, 1696, the deputies introduced a resolution to the effect that the House

1. Colonial records Vol II-83, 137, 140, 141.

2. Colonial Records Vol II. p. 223, 445.



of Deputies sit alone and have the liberty to choose a Speaker among themselves, and likewise the Clerk of the Deputies. This was agreed to, and the Council and Governor<sup>1</sup> constituted the upper house of the Assembly.

As soon as the region of New York came under the control of the Duke of York, the people within this vicinity began to move for a representative government like that in the New England Colonies. The Duke favored a representative government if the people were willing to provide certain funds for the necessary support of the colony. Governor Dongan on January 27, 1683 was ordered to summon a representative assembly to join with himself and Council in making laws fit and necessary to be made and established for the good will and government of the colony. On October 17, 1683, the first legislative assembly of New York was convened. It was a bicameral house --- the Governor and the Council constituting the one house and the representatives the other. The important act passed at this meeting was called the "Charter of Liberty" --- the government of the colony. The administration was to be under the superior control of the Duke of York.<sup>2</sup> Provisions were made for two distinct houses, bills had to be passed by a majority of the representatives, then sent next to the Governor and the Council for approval and then after their assent they became the law of the province. The charter was sent to the Duke of York for approval.<sup>3</sup> After his coronation it was vetoed. Governor Dongan notified

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1. Colonial Records III. 313.

2. Short Account of General Concerns of New York - Documents  
p. 254, 260

3. The Veto of the Act entitled, The Charter and Privileges  
for the Province. p. 357,

the people to that effect. The law making power was placed in the hands of the Governor and Council and the representative body was abolished. The laws which were passed by the governor and the Council were sent to England for royal approval within three months after their passage. Governor Dongan dissolved the Assembly January 20, 1687. Afterwards the government of the colony was in the hands of the Governor and a Council of five men. This form continued under Andros until Leisler took over the government in his own hands in 1689. An assembly was called in April 1690 and September 15, 1690. Two houses composed the legislature and then the news was sent to England. A commission was issued making Henry Slaughter Governor on November 14, 1689. The Governor and the majority of the Assembly were to make the laws. This remained the fundamental law of New York until the Revolution in 1776. The Governor at first presided over the Council. In 1736 the Assembly declared it inconsistent for the Governor to sit and vote as a member of the Council, <sup>1</sup> he withdrew, and the oldest member of the Council presided.

The details of the process of the separation of the Council from the House of Burgesses in Virginia is not available and for that reason the rise of the bicameral system in Virginia has not been discussed.

The history of Georgia is not treated here, for after 1752, the colony surrendered to the crown and after two years had elapsed a royal government had been established. The legislature was bicameral under the royal government, but after the Declaration of Independence Georgia adopted a single house.

1. Documents III. Commission passed by the Great Seal p. 536  
 Captain Leisler to King William and Queen Mary p. 614  
 Commission for Henry Slaughter. p. 623.





The Colonies became dissatisfied with the laws inflicted upon them by the English government and the feeling became so intense that delegates were sent to Philadelphia (all delegates were here except Georgia) to come to some definite plan in regard to their relationship towards England. Very little in a constructive way was accomplished at this Congress.<sup>1</sup> The Second Continental Congress met May 10, 1775 to see if the states could be more securely united. On June 11, 1775, the Continental Congress appointed a committee to prepare a plan under which states could act together in the future. As a result the Articles of Confederation, which provided for a single body assembly, were drawn up. The plan was approved November 17, 1775 by the delegates. This served as the kind of government for the colonies during the war period<sup>2</sup> and to the period of 1789. The Articles of Confederation had proved inefficient and a new kind of government was necessary. The existing government was becoming weaker and was in a position where it could not enforce its laws.<sup>3</sup> As a consequence, delegates were sent from the states to Philadelphia in May, 1787 to attend the Federal Convention. The Convention, however, did not convene until May 25. Fifty-five men were assembled from the various states. Washington was chosen President of the Convention, doors were closed to the public, and everyone was sworn into secrecy. The delegates did not wish the public

1. Bassett - Short History of the United States p. 178.

2. Elliot's Debates in the State Convention Vol I, p. 67.

3. Federalist - p. 91, 94.



to know the problems which had to be solved in the convention. They feared the people would become restless and would make their influence felt to the extent that delegates would be unable to support their own convictions but instead would have to fulfill the desires and wants which the people whom they were representing demanded. The people did not know what had been discussed until the following September when the final draft was published. What was said and done was told fifty years after the plan had been used.<sup>1</sup> They desired to put forth the system as a whole and not as single individual ideas or theories. Many people speculated as to the results of the convention.

Many delegates came to the convention with the idea that the amendment of the Articles of Confederation would solve the problem. Others thought the government should be completely changed and a well organized form of government developed which would, if possible, solve the crisis which was facing the colonies. A government was needed which could act directly upon the people. Some of these constitution makers lost their courage and proposed half measures, but others had the courage and were determined to form a well organized government to meet the conflict which they were facing.<sup>2</sup> It was here that Washington interposed "It is probable that no plan which we propose will be adopted. Perhaps another dreadful conflict is to be sustained. If, to please the people, we offer what we ourselves disapprove, how can we afterwards defend our work? The event is in the hand of God." Washington

1. Madison Papers - p. 123, 125, 126.  
2. Elliot's Debates on Federal Constitution Vol I. p. 181

in one sense challenged the man who was a weakling. It served as a good tonic and gave the delegates new courage. Washington was in favor with the people and by the aid of his noble sentiment he was able to remain the leader of the people.<sup>1</sup> He convinced the delegates that faltering or trifling was unwise and dangerous.

The delegates were convinced that the Articles of Confederation did not give the Continental Congress enough power or the ability to enforce laws. The Articles of Confederation represented the American states instead of the American people. The Continental Congress did not have the power to check a quarrel between states, suppress a rebellion in any one of them,<sup>2</sup> unable to raise money, or defend itself against the encroachments of the states. The new government must have the republican principle as a basis.<sup>3</sup>

Two plans were laid before the Convention. The first was known as the Virginia plan. This plan was agreed upon in a committee of the delegates of that state, and was brought forward by Edmund Randolph who was Governor of Virginia, although the chief author of the bill was Madison. The provisions of the Virginia Plan were as follows: (1) favored large states and provided for a congress of two branches, the lower branch elected by the people on the basis of population or land value and the upper house elected by the lower branch; (2) make all laws the existing confederation could make; (3) veto state law in conflict with the

1. John Fiske -- The Critical Period. p. 232.

2. American Annals p. 478.

3. The Federalist p. 241.



constitution; (4) a national executive was to be chosen by Congress, but its composition was not defined; (5) provided for a national judiciary; (6) officers of the state should be required<sup>1</sup> to take oath to support the constitution.

Many of the delegates disapproved of this plan. By the tact of Madison and Gouverneur Morris a vote on the question<sup>2</sup> was postponed for a few days. After the debates, the issues had become so narrowed and defined that they could be considered as a unit. It was first decided that the national legislature should consist of two branches. Next came the question of how the lower house should know the sympathies of the people in the various communities, know something of their local conditions, something about the problems they were facing, and that this house ought to be fully interested in every interest of the people. The best way to successfully and completely attain this as nearly as possible was through popular election. Mason was supported by such men as Hamilton, Dickerson, and Wilson. The final decision was in favor<sup>3</sup> of popular election.

On the fourth of June, the great question came up which nearly wrecked the Convention. This question related to the representation of states in the new Congress. New states would be under the influence of large states if they could not have equal votes without regard to wealth and population. Virginia, Massachusetts, Pennsylvania, and North Carolina favored the Virginia plan

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1. Elliot's Debates in the State Conventions Vol I. 143-145.
  2. Madison Papers. p. 481.
  3. Madison papers (Supplement of Elliot's Debates ) p. 137.

and succeeded in carrying South Carolina and Georgia. States like Connecticut, New Jersey, Delaware, and Maryland, who were not only small in area, but unable to expand were not in favor of giving up their equal votes in both houses of the legislature. The New Hampshire delegates<sup>1</sup> had not yet arrived. Luther Martin of Delaware succeeded in dividing the votes in the Delaware delegation; two members of the New York delegation were political enemies of Hamilton and attempted to thwart him by voting with the smaller states.<sup>2</sup> The members of Connecticut were conciliatory, but New Jersey was obstinate. She knew what it meant to be under the influence of a powerful neighbor like New York.

In behalf of the smaller states, William Patterson laid before the Convention the "New Jersey" plan. This plan proposed a federal legislature consisting of a single house, a council for an executive head to be chosen by Congress. This plan gave Congress the power to regulate foreign trade and domestic commerce, levy duties on imports, and to raise internal revenue by means of a Stamp Act.<sup>3</sup> Apparently, it looked liberal on the surface, but at the bottom it was vicious. It did not give Congress the power to act immediately upon individuals. The federal legislature was to represent states instead of people, states were allowed equal votes, without regard to population or wealth. No powers were securely

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1. The Federalist p. 245
2. Madison Papers p. 175
3. Elliot's Debates - Vol I. p. 175.

granted to Congress and under such a condition it would be almost impossible for a legislative body to put laws into operation. This plan did not offer any real solution to the problem which afflicted the country.

Many debates followed and Benjamin Franklin, with Turgot and other French critics, supported the single chambered plan. Franklin was opposed by John Adams who undertook to show that a government by single assemblies had<sup>1</sup> "generally been visionary if not corrupt and violent and had usually ended in despotism. Of all possible forms of government, a sovereignty in a single assembly successively chosen by the people, is," he said, "perhaps the best way to facilitate the gratification of self-love and the pursuit of the private interests of a few individuals and the only remedy to be employed would be through the element of force."

Hamilton, Madison, and Washington were in favor of the bicameral system and laid particular stress upon Montesquieu's doctrine of separation of powers. "When the legislative and the executive powers are united in the same person or in the same body of magistrates," said Montesquieu, "there can be no liberty; because apprehensions may arise lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner." This opinion of the philosopher was also held by the great English commentator,

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1. Madison Papers - p. 135.



Blackstone, who said, "In all tryannical governments, the supreme magistracy or the right, both of making and enforcing the laws, is vested in one and the same man or one of the same body of men; and wherever these two powers are united together, there can be no public liberty."<sup>1</sup>

The political liberty of the citizen is that state of mind arising from the opinion that each person is safe from the political demands of another individual.

In order to have this liberty, it is necessary that the government be so constituted that one man need not be afraid of another.

Where the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty.<sup>2</sup>

Again there is no liberty if the judicial power is not separated from the executive and legislative. If the executive department was joined to the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with violence and oppression. There would be an end of everything, were<sup>3</sup> the same man, or the same body to exercise all three powers.

The John Locke theory was discussed under the separation of powers in government. Locke tells us that the legislative power is that which has the right to direct how the force of

1. Blackstone, Commentaries, Book I. Chapter II. p. 146.

2. Federalist . p. 50-51

3. Ibid p. 52-53.

the commonwealth shall be employed for preserving the community and the members of it. It is too great a temptation for men who have the making of law to have the execution of law. When in such a position, they may make and execute to their own private advantage and come to have a distinct interest from the rest of the community, contrary to the end of society and government. There is always a power in existence to promote the execution of the laws that are made, and remain in force. Thus the executive and legislative power come often to be separated.<sup>1</sup>

Experience, more over, accustomed the colonists to the practical advantages of this theory. Every colony had an executive head appointed or elected and not responsible to the legislative department. Some colonies had such wide legislative powers, that the law making department encroached upon the other departments of government. In the Articles of Confederation, the doctrine of separation of powers was entirely abandoned. Congress possessed all legislative, executive, and judicial power.<sup>2</sup> This illustration shows us that inefficiency developed from such mingling.

The separation of powers as expressed in the constitution is as follows: "All legislative powers herein granted shall be vested in a Congress of the United States .....<sup>3</sup> and the executive powers shall be vested in a President of the United States of America .....<sup>4</sup>

1. Coker - The John Locke Theory p. 411.

2. Articles of Confederation.

3. The Constitution of the U. S. article I, Section 1.

4. The Constitution of the U. S. Article II, Section 1.

and the Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish<sup>1</sup>, imply adherence to the principle.

Interpretations given by the courts to these provisions has given legal force to the political theory. There are exceptions to be made in the doctrine of the separation of powers. Appointments are made by the executive to fulfill official positions by and with the advice and consent of the Senate. There are certain exceptions where the legislature may have some control over the executive and the judicial departments.<sup>2</sup> Impeachments are made on the executive and the judges of the federal courts by the legislative body. Courts may declare a law passed by the legislature unconstitutional. The real principle of the doctrine of separation of powers has been stated as follows: a department may constitutionally exercise any power whatever of its essential nature which has, by the Constitution, been delegated to it, but that it may not exercise powers not so constitutionally granted, which from their essential nature do not fall within its division of governmental functions unless such powers are properly incidental to the performance by its own appropriate functions... Generally speaking it may be said that where a power is not peculiarly and distinctively legislative, executive, or judicial, it lies in the authority of the

1. The Constitution of the U.S. article III, clause 1.
2. Kimball, Everett - The Nat'l Government of the U. S. p. 68

legislature to determine where its existence shall be vested.<sup>1</sup>

In the past when one department has encroached upon another, emphatic statements have been made of the theory of separation of powers by the courts.

After the debates of the above theories, a vote was taken and it was decided that Congress should consist of two houses.

The principle of equal state representation, however, remained a stumbling block. Many said that to part from the principle would be to exceed the powers of the convention, which was not intended to remodel the government,<sup>2</sup> from beginning to end. Randolph pleaded with the small states on the ground that the republic was at stake, and it would be the same as treason not to purpose what they found necessary. Hamilton reminded the delegates that the plans which were recommended by them had to be approved by the states. Discussions were given, some in favor of equal state representation and some against and when things were looking as though the efforts of these young statesmen would be futile, Oliver Ellsworth and Roger Sherman suggested a compromise. The Connecticut principle provided that the national principle should prevail in the House of Representatives and the Federal principle in the Senate. At first, few were willing to support the compromise. When the question was proposed applying the Federal principle to the Senate, and the vote taken the result was a tie.<sup>3</sup>

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1. The Constitutional Law of the U. S., Vol. II. p. 1263-64  
W. W. Willoughby.

2. Elliot's Debates Vol I. p. 184-185.

3. Madison papers p. 260

Abraham Baldwin is a man who deserves mention, for without yielding his own belief it is possible that the convention would never have held together. His state was the last to vote. With his vote he was able to divide the vote of Georgia and prevent the decision in favor of the large states.<sup>1</sup>

A committee was chosen, consisting of one from each state, with Elbridge Gerry as chairman to arrive at a compromise. Objections were now raised by the larger states.

Again the convention was in the dark. Debates followed, and after eleven days had elapsed, the compromise was adopted on the sixteenth of July. Barely a majority was secured in the adoption of the compromise when the vote was taken. It was a compromise between that party in the nation which wanted a government strong enough to pay the national debt, regulate commerce, protect creditors and sustain property rights in general, and the other party which was concerned about a democratic and confederate form of government, known as a check and balance system. The provisions of the compromise were as follows: (1) the lower house was to be elected by the people, one representative to every thirty thousand inhabitants; (2) the upper house should be nominated and elected by the state legislature (senators were to vote as individuals and thus the practice of voting by states --- except in peculiar cases --- was done away with; (3) the president was to be elected by an electoral college, composed

1. Fiske, John - The Critical Period p. 251

of delegates or representatives sent from each state. His<sup>1</sup>  
term of office was to be a period of four years.

The Connecticut compromise was really a decisive victory for Madison and his party, although it modified the Virginia plan considerably.

Our Federal legislature is bicameral because of English and Colonial precedents. We have seen in the foregoing discussion that the bicameral plan as adopted in England and the United States was not a natural one. The English Parliament happened to develop into two houses and at the time of its formation proved to be congruous for the situation at the time of its adoption. All civilized governments are patterned after the English government either directly or indirectly. We have seen that our forms came from England through a colonial environment and by 1776 most of the colonies had bicameral legislatures. In making up the federal system, it was deemed wise to represent both the confederate and the national principle. The formation of the bicameral system upon these principles, sustaining both groups of people, glorified and sanctified the system, embedding it within the very thoughts of the people.

The primary purpose of the legislature is to ascertain what the law ought to be; to determine, not what the will of the people at the moment commands, but what the reason of the people, the common consciousness, demands. The legislature must be so constructed as to best fulfill this purpose. Inter-  
1. Madison papers p. 558.

preting the common consciousness of the people, is a far more difficult task than merely determining the public opinion of the people. It requires reasoning, balancing of opinions and interests, the classification of facts, the generalization of principles, and research.<sup>1</sup> During the period of constitution making, the framers were convinced that a single body would be too hasty in determining the above factors and would present one-sided views. A two-house legislature will not always escape crude results, but they are far less likely to happen. A rivalry may exist between the two houses and in such a process, principles which are introduced in one house will be severely criticised in the other. In a disagreement like the foregoing, a deeper generalization of the principle will be brought out, than where the struggle is between a majority and a minority in a single house.<sup>2</sup> The necessity of a double, independent deliberation is thus the fundamental principle of the bicameral system in the construction of a legislature.

Men like Hamilton, Washington, Adams and Madison at the time of the adoption of the Constitution feared radicalism with a one house legislature. A chamber of three houses would be too conservative. That is, the true interpretation of the common consciousness, could best be determined by the true mean between radicalism and conservatism which is best secured in a two chambered legislature.<sup>3</sup>

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1. Burgess J- Political Science and Comparative Constitutional Law Vol. II. pp. 106-107

2. Ibid p. 107-108

3. Ibid p. 109

The more conservative framers feared that a single body legislature would encroach upon the rights of the executive department. They presented again the theories of Locke and Montesquieu when debating the relationship of the executive to the legislative. They thought it necessary to have two chambers to preserve the balance of power between the legislative and the executive department. The single chamber would have a tendency to force the executive to execute its will. If this occurred, it would introduce into the administration a confusion which might lead to anarchy.

The two chambers are, in the first place, a support to the executive power and therefore in the second place to the legislature. By preventing legislative encroachments in the beginning, the bicameral legislature would<sup>1</sup> avoid executive arrogance.

New States modeled their legislatures upon Congress, except Vermont. The force of example was then too strong and even Vermont changed her system in 1836.

The adoption of this system in the states was for the purpose of securing representation of diverse and possibly conflicting interests. The contrast of confederation and nationalism gave the occasion for the establishing of the bicameral principle in the different states. Some of the citizens of the individual states were bound to be nationalists and others would favor the state rights doctrine. Such

1. The University of Oklahoma Quartley Bulletin p. 23. No. n.



conditions may change, but the cause remains and can be removed only through the process of education, which allows members to interpret common consciousness without the help of opposition.<sup>1</sup> When the common consciousness of people becomes so highly developed, it will matter little whether we have one house or two.

After the Revolutionary War, state legislatures granted charters to the cities. A radical change took place in the relationship existing between the city and the state. Under colonial charters, the cities enjoyed almost entire freedom. Before the war charters were granted on the desire of the people. After the adoption of the Constitution, city charters were granted by the state legislatures. After a short time, the charters began to show a change which was due to the influence of ideas found in the Federal Constitution. The first clear indication was in the Baltimore charter of 1794 which provided for a mayor and a bicameral council.<sup>2</sup> Even where the bicameral principle was established, the mayor did not become the head of an executive branch of government. He was moved to the upper chamber of the council; but the administrative activities of the city continued to be managed by one or both branches of the council through separate or joint committees. The introduction of the two-chambered council was a disastrous step in the way of cumbersome organization; but it did not affect the fundamental principle of

1. Burgess, J. - Pol. Sci. & Com. Consti. Law p. 109

2. Munro, Wm. B. - The Govt. of the American City 25-26.

councilmanic domination and control. Individual responsibility became more difficult to locate; but group responsibility and concentration of authority remained. But as a matter of fact, a really new organic type was not established until a few years later.<sup>1</sup> This new type will be discussed later.

No provisions were made in the constitution for political parties such as we have today. A political party took a definite stand on certain issues and aligned itself against another faction whose issues were directly opposite. Such parties developed in the U. S. during the Jacksonian area. It was during this period that the following assertion was embodied in the party principle: "to the victor belongs the spoils". The principle of short tenure of office and the rapid succession of officers determined that "we must have no permanent office-holding class in America".<sup>2</sup> But, as the country advanced, and life became more intensified and specialized, we learned that the spoils system and the rotation system were actually creating a political and official class of an inferior and dangerous political type. With two houses already in existence, the spoils system was able to become fixed within the houses before anyone could be held directly responsible for such corruption. More offices existed to be filled and as a result there existed more room for corruption. If one party did not have the majority in both houses he attempted to kill those bills, if possible, which were ini-

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1. Nat'l Mun. Review (Evolution of types of city Government)  
by Prof. Howard L. McBain p. 19
  2. Shaw, Albert Pol. Problems of American Government p. 141.

tiated by the opposing party in the other house. Spoils continued to be a great evil until the time of President Grant, and the legislatures were at a loss to check the corruption. Then came the period of Reconstruction after the Civil War.

By 1875, the country had expanded in wealth and in complexity of economic life, the opportunities which were afforded in private life became more alluring and men who had real ability along governmental lines were recompensed in other lines of business. With the existence of two houses and an extensive number in the lower house, it was impossible to pay large salaries and receive the better type of men. The result has been, that the political type has degenerated to the point that men who now attend the legislature are those who have some private interest to fulfill or some personal gain to make. They are men who are not actuated by public spirit or feel it an honor to perform public service for their country. As a result order and system disappeared from the administrative work with many harmful results. The deeper remedy for all such evils must, of course lie in the development of the individual citizen.

The country's economic activities had grown to such an extent that money and other forms of wealth were concentrating in the city. This brought a new problem in city government.

During the second quarter of the nineteenth century, democracy was at its height in America. This spirit was finding expression in the laws and constitutions. Its most striking

forms of expression was an increase in elective officials. It

1. Munro, Wm. B. op. cit. p. 32

2. Anderson, Wm. - The American City Government p. 298.

is obvious that this kind of government should make itself felt in the city. The charters of cities were amended from time to time creating more elective officials until administrative independence was secured by the election. A few officers were appointed.<sup>1</sup> Great floods of immigrants were coming from Europe and the cities were growing rapidly. The development of the spoils system and the extension of manhood suffrage gave the city new problems to be met. Councils grew in size even in small cities the council was composed of thirty members. The argument which supported the large growth of councils was to the effect that it put the government closer to the people. By 1870 one would have found the city councils large, elected<sup>2</sup> by wards and in many cases divided into two bodies.

In the beginning of the seventies large companies were formed and were making their influence felt in governmental circles. Many of these corporations were present at council meetings to obtain an ordinance they desired or to prevent a measure which would injure them. Boss rule developed in certain cities, and through the political system certain groups were able to dominate a city. The boss could sign contracts on which he would expect a rebate given to him for letting a particular company have the contracts. The government in the city had become so decentralized that responsibility could not be fixed. There was no one who was apexed at the head of the gov-

1. Nat'l Mun. Review op. cit p. 22-23  
2. Munro, Wm - op. cit. p. 32.

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ernment to whom under officials were responsible. Ballots were long and there remained many officers to be elected. Only the **minor** men were appointed and the judgment of a community was not applied to any of the minor offices on the ballot. The average American citizen never casted a completely intelligent vote. And a person who votes blindly is being bossed.. With large councils constituted into two houses, a land "of paradise" was made for the "boss". Soon after the seventies a reaction began to take place in the cities. The bicameral principle and ward elections began to fall into disrepute. By 1890 at the latest, a movement had begun to return to the single chambered council and to introduce an election at large. With the initiation of these changes, it was necessary for councils to be reduced in size. Along with these changes in organization the council underwent various modifications in its powers. And as the nineteenth century drew to a close, there was a general reaction against the decentralization of government. The people in cities desired to get rid of their bosses. They wanted some one responsible for city ordinances which were passed.

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Then began a new movement for consolidation and concentration of power. However, the legislators were not ready to restore council control. They tended to confer more power on the mayor and make him responsible to the people. After

certain boards were eliminated, the powers of the council

1. Anderson, Wm. - op. cit. p 210-11.

2. Munro, Wm. The Government of the American Cities p. 32.

broadened and the result was a single chambered council which exercised only legislative and financial powers and had no direct control over the administrative officers. The elective mayor appointed and removed all important department heads and through them controlled the administration of the city. This reform found general favor in the American cities after 1890 and continued to be accepted in many great American cities.<sup>1</sup>

Along with the tendency toward smaller councils the movement has gone to eliminate two body councils. The demand for simple and responsible municipal organization became to insistent to be ignored. Few cities in the south and east part of the United States adopted the single chambered council. They remain today because of habit. In other parts of the country, second-house legislatures are fast disappearing. The commission plan and the city manager plan are the latest reform governments for cities. Responsibility is fixed in these forms of government and the result has been that a more efficient government has evolved. The new reform governments bring more capable men in the office who are better citizens and are interested in contributing to public welfare. Failure, extravagance, and inefficiency are eliminated. Decisions are thoroughly analyzed by men who are interested and understand governmental affairs and as a result constructive legislation is accomplished in a relatively short time.

The following table gives a list of cities with the size, term, and methods of election of city councils in the United States ---- 1924.

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1. Anderson, Wm. op. cit p. 303.



SIZE, TERM, AND METHODS OF ELECTION OF CITY COUNCILS  
IN THE UNITED STATES

Name of city	Popula- tion 1920	Number of members of council or of lower chamber	Term in years	Method of election
New York.....	5,620,048	73	2	67 by wards; 5 by boroughs; 1 at large
Chicago.....	2,701,705	50	4	By wards; regular and supplementary elec- tion system
Philadelphia.....	1,823,779	20	4	By senatorial districts
Detroit.....	993,678	9	2	At large
Cleveland.....	796,841	25	2	Hare system of vot- ing; 4 districts
St. Louis.....	772,897	29	4	At large, one from each district
Boston.....	748,060	9	3	At large
Baltimore.....	733,826	19	3	3 from each of 6 wards 1 at large
Pittsburg.....	588,343	9	4	At large
Los Angeles.....	576,673	11	2	At large
Buffalo.....	506,775	5	4	At large; commission plan
San Francisco.....	506,676	18	4	At large
Milwaukee.....	457,147	31	2 and 4	25 by wards; 6 at large
Washington.....	437,571			
Newark.....	414,524	5	4	At large; commission plan
Cincinnati.....	401,247	32	2	26 by wards; 6 at large
New Orleans.....	387,219	5	4	At large; commission plan
Minneapolis.....	380,582	26	4	2 from each of 13 wards
Kansas City, Mo..	324,410	16	2	By wards
Seattle	315,312	9	3	At large
Indianapolis.....	314,194	9	4	1 or 2 from each of 6 wards
Jersey City.....	298,103	5	4	At large; commission plan
Rochester, N. Y...	295,750	24	2	By wards
Portland, Ore.....	258,288	5	4	At large; preferential ballot; commis'n plan



SIZE, TERM, AND METHODS OF ELECTION OF CITY COUNCILS  
IN THE UNITED STATES 1924 - Continued.

Name of city	Popula- tion 1920	Number of members of council or of lower chamber	Term in years	Method of election
Denver.....	256,491	9	2	By wards
Toledo... ..	243,164	20	2	By wards
Providence.....	237,595	40	2	4 from each of 10 wards
Columbus O.....	237,031	7	4	At large
Louisville	234,891	24.	2	2 from each of 12 wards
St. Paul.....	234,698	7	2	At large; commission plan
Oakland.....	216,261	5	4	At large; commission plan
Akron.....	208,435	9	4	At large
Atlanta.....	200,616	20	2	2 from each of 10 wards

When political parties were first developed and stands were taken on definite issues, people allied themselves definitely and voted for that particular party in every election. The children of families were brought up to become either Republicans or Democrats, not knowing what the principles of the party stood for.

At the present time, economic forces are at work which makes some of the issues, which were supported by men and individuals who were allied with a certain party in the past, unsuitable to their particular interest. As an illustration, industrial concerns in the past have wanted high tariffs and they allied themselves with the Republican party for they stood for high tariff while the Democratic party in the past stood for revenue only. Now, industrial concerns desire low tariffs, and as a result they do not support any particular party. The strong states of the South which are democratic now desire a high tariff. We are in a period, today, where political parties are going through a transition. Under such conditions parties do not come forth with any definite issue. The strength of parties depends upon public opinion and they desire the support of the voting class and make their platforms accordingly.

In such a situation you may have one political party in control in one house and the other party in control in the other house. Under such an arrangement, it would be impossible for any constructive legislation to be accomplished. If a bill is initiated in one house it will be killed in the other, unless local interest can have such an influence upon the situation that a legislator is under obligations to favor a partic-

bill if his particular constituencie demands it. Under such a situation, a country may suffer immensely before such political squabbling can be exterminated.

At the time of the adoption of the constitution, the agrarian group was the only social group at that time. Farming was the only field of activity engaged in. The country was new and every man lived on the soil and made his living by growing grains, food, raising stock, or growing other products which were sent to Europe and in return received some of the things which they desired. Everyone was engaged in the same kind of work and the satisfaction of one group met the satisfaction of all as far as the economic situation was concerned. The bicameral principle worked well in this simple form of society. But what happened? After industry was introduced we found one group, which was called the industrial, located at first in the New England states against the agrarian group in the West and South. Their interests were not in common and the interests demanded by the industrial group were harmful to the agrarian group. As a result, you have that group which was supporting the nationalist principle of government against that group which was supporting the confederate principle. In such a conflict, the entire check and balance system was upset which was supposed to be one of the greatest advantages of the bicameral plan. We know the result. The feeling became so intense that a Civil War developed.

Business developed so rapidly that other social groups were formed. There developed the group who was called the

millionaires, another group who represented the business men but did not class themselves as capitalists, another group called themselves the professional type, another the industrial labor, and still another was called the farmer.

We find all these groups working in particular sections of the legislative houses attempting to further their own interest. The group which is able to make his influence felt the most is the one who is able to further his interests the most. Groups of society which are dissatisfied are unable to point out any particular house and hold them responsible for not passing legislative bills which they desired. This causes dealy and contention between the two houses and in the end causes a general unrest and a feeling of dissatisfaction among social groups.

The old adage, in the council of many is wisdom supports the bicameral principle. That is the aggregate knowledge of three hundred legislators should be greater than one third of that number. Within this group of men, some members should have some knowledge about the complex interests of the government while others will have a workable knowledge about more simple interests of the government. With more members, representatives are scattered over a wider area and are acquainted with the ideas and needs of different constituencies. The principle of democracy favors increasing the power of the people.

The large legislature serves as a training school for many representatives. Many of our outstanding statesmen have rec-

eived their education in politics in this practical school. Many must serve their years in learning the ideas and principles of government before they are able to appear before a large two body chamber and fight for the rights of the common layman.

In order to preserve our principle of representation the unit must be small. The problems found in one unit may not exist in another. The representative must be in touch with the people in the communities to understand their problems. One region may be interested in mining, another in farming, another in oil. In order to qualify as an efficient legislator, he should be well informed along these lines.

Men who did not have large incomes would be unable to serve in the legislature if a single body was adopted. They would not have the means to pay newspaper men for publicity, live the plane of social life that is required, and to secure the support of influential men. Such men as Lincoln and Jackson would be unable to receive such recognition as they did.

The two-body plan continues to equalize the power of the rural community with that of the city. Large numbers of people live more closely together and would be able to defeat the measures proposed by the rural communities.

When there is a large group of men sitting as one body, there is bound to be some who will be conservative. It would be much more difficult to secure the support of a large number of men than a small body.

A two-chambered body tends to make a government far more<sup>1</sup> stable. Laws which pass both houses have to be carefully considered, and as a result hasty and rash legislation is prevented. Such legislation passed under such conditions would tend to permit constructive legislation. The period of delay interposed by the required concurrence of the second chamber facilitates the exposure of defects in proposed legislation.

A second chamber insures a jealous examination and a critical revision of the bills of the other chamber.

No restraint is imposed on the influence of public opinion. The House of Representatives is closely connected with the people, and if their representatives wish to remain in office, they must carry out their wishes. If not, their political life will be at an end.

We will discuss in some detail the second chamber as a revising agency in the New Mexico legislature of 1925. A total of 177, or 71% of the bills originating in the house, were passed by that chamber; and a total of 90, or 65% of the bills originating in the senate, passed that body. Of the 177 house bills sent to the senate, 98 or 55% passed the second chamber. Of the ninety senate bills sent to the house, 65, or 72 per cent passed the house; twelve or 18 per cent were amended before final passage in the lower house, and fifty-three passed without amendment. The above figures show that the senate did far more revising than the house. Amendments made in the senate usually refer to matters of substance rather than mere form.<sup>2</sup>

1. Contemporary Review Vol. 97 p. 534.

2. Nat'l Mun. Review - March 1927 p. 189.

We will now see the value of the house as a check upon the legislation of the senate. Ninety bills passed the senate and went to the house. Sixteen of the ninety, or 18%, were pigeonholed in the committees; two were defected on roll call in the house; two were killed by unfavorable reports of house committees; and five died on the clerk's desk due to non-action on the part of the house. Twenty-seven per cent of the senate bills were discarded and sixty-five were passed, by the house. We must not be too hasty in drawing our conclusions from the above figures for we must determine those bills which are of more importance. The test must be qualitative as well as quantitative. Not a single senate bill of major importance was killed by the house.

The lower chamber succeeded in passing, enrolling, engrossing, and signing three bills within the period of five hours. If little disregard for constitutional requirements exists between houses where the two chambers are under control of political parties where hatred exists, what kind of a check is the second chamber to offer when both chambers are under the control of one political party? <sup>1</sup> This should lead one to think that a second chamber cannot always be depended upon to exercise that careful consideration of bills which defenders of a two body system have laid so much stress.

Two houses diminish responsibility, and make it impossible to locate. Several bills which are undesirable pass the

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1. Nat'l Mun. Review - op. cit. p. 258.

house for political reasons, and are left on the door-step of the senate. The senate either has to take the blame for killing them or shift them back to the house. Recently in the New Mexico legislature a writer proposed a bill for an experiment farm in Union County. The members of the committee on agriculture opposed the bill but supported it to please the representatives of the writer's constituency.. It passed the house and the senate killed it. This sort of thing is by no means peculiar to legislatures. A two-chambered legislature encourages a shifting of responsibility of the bad bills passed and the good bills defeated. The senate was condemned for the killing of the above bill while the representative drew up such a defective bill that he knew it would be impossible for the senate to support it.<sup>1</sup> Under such conditions, senators and representatives cannot be held to strict accountability, for under the above conditions, responsibility cannot be placed to hold one individual responsible.

With such a large number of representatives in two houses, it is impossible to pay men salaries which are needed for such a position. Many times, men who are not interested in governmental affairs for only their own personal gains are found in legislative bodies. Unfortunately, they are not acquainted with governmental ideas and practices. With no foundation to build on, such men merely search around in the dark and hope that by mere chance they will guess correctly on their decision.

When there are so many men in a large legislature it is almost impossible to single out the good men from the bad.  
1. Nat'l Mun. Review op. cit. p. 258.



A two-body house must sit for only a short period. If otherwise, it would cost too much money. Many of these men are engaged in other activities and wish to stay only for the minimum days.

On the other hand, personal friendship plays an equally important part in legislation. It is only natural when an individual introduces a bill, he expects his friends to support it. If not, friendship would not last long in politics. Every day, money bills are vetoed regardless of its merits.

Society has become complex, and a group of individuals are found every meeting in legislatures lobbying for their own particular interests.

Corrupt practices existed among the industrial groups in the early eighties, injured individuals were asking for compensation, and it took outstanding men of the period to solve the situation. Do we have them in our legislatures today? Seldom, if any are singled out and regarded as great statesmen. Many are popular, but are not classed as real statesmen.

New problems are facing the government of today. One of the outstanding forces which is at work at the present time is the force of internationalism. Due to scientific improvements, countries come into relatively close touch with each other. It is necessary for our governments to understand each other --- they are regarded as our neighbors now. It is a new problem, but it must be met; and a far more difficult one than appears at first sight. Real men are needed when a government attempts to solve international questions. Do we have them? If not, then it is up to us to train them.

The country has passed from an agricultural to an industrial nation. With it came the economic principle of specialization. Man's attention was centered on one particular line of work. As a result, they lost interest in politics. Too many things were calling for their attention. The country was prosperous and people were busy fulfilling their desire and wants. Politics were forgotten.

At the present time, the system has become too complex for them. The ballot is long and in many elections people are voting such ballots, not knowing only a small per cent of the names on the entire ballot. The voter is over-burdened with more questions than he will answer carefully, for it is certain that the average voter cannot afford the time to fulfill such unreasonable requirements. By voting long ballots blindly, we are giving power to the political specialist. If we trust our government to the political specialist, we must take the government that they give us. The politician hoped to complex the situation so the people would become indifferent about voting.<sup>1</sup>

The Census of 1920 showed the total population of the United States 105,710,620. Of this great body of people, somewhat more than fifty-four millions were citizens twenty-one years of age or over. In the presidential election of that year, 26,646,273 votes were cast out of 54,165,907 eligible voters, making a percentage of 49.1% vote. In the following presidential election which was held in 1924, out of 56,941,584 eligible voters 29,138-<sup>2</sup>935 votes were cast making a percentage of 51.2%

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1. Short Ballot op. cit p. 13-14

2. Ogg and Ray - Introduction to Pol. Sci. p. 564,565.

In countries such as England and France seventy to eighty per cent of the eligible voters go to the polls every election. In France there are multi-parties and at election time every year, there is a bitter struggle between the two parties to win. In England, the subject is taught to vote at every election which is called. Only a few names appear on the ballot, and it is supposed that every subject knows the man for whom he is voting.<sup>1</sup>

There may be many reasons why the people fail to vote. One of the reasons is the failure to register. It is impossible even to estimate the cost, time and bother to the mass of people to keep registered under the existing inconvenient registration systems. In a number of states, they must register every year, and are permitted to register only on two or three specified days when sessions are held in the precinct.<sup>2</sup>

In some states a new registration is held every two years or every four years, which is a distinct improvement in convenience to the citizen. If he does not keep track of the particular days of registration he may find himself unregistered after the last day has passed.

Under the best system of registration the voter, once registered, remains registered for life, or as long as he continues to reside within the city or county in which he is registered. If he changes, he is permitted to transfer his registration to his new address by merely asking for such a transfer at the registration office.<sup>3</sup> Many have not resided long enough in a place. Certain groups of people are rather mobile and move

1. Ogg & Ray - op. cit. p. 565

2. A Model Registration System op. cit. p. 45,46.

3. Ibid p. 47.

about from place to place. State laws are passed demanding of a citizen a certain number of days of residence before he is allowed to qualify as a voter.

Some states and cities have only one party represented. In the west, the Non-partizan League has sprung up, which takes a stand on definite issues. In places in this region no other party is found. Within such an atmosphere, people find no reason why they should go and vote for the one party which is represented. The same may hold true of the Republican Party or the Democratic for in many places in the South and North respectively only one party may be found in certain local communities.

In various cities, Leagues and clubs are formed, for the purpose of increasing the number of responsible citizens. They are also making a creative attack upon indifference and ignorance through training for citizenship and by supporting needed legislation.<sup>1</sup>

It has been stated in the foregoing that the long ballot has a tendency to confuse the voter. In order to relieve the voter of this confusion, we must put on the elective list only lists of officers that are conspicuous. The petty office must either go off the ballot and be placed under the appointive head or his place become of real public importance that it will be visible to all of the people.

The recent tendency seems to be a demand for a more popular form of government. People desire a more simple government, the

1. Pamphlet of National League of Women's Voters 1926-27p.4,5.

which is not complex. They wish to have some particular group responsible and wish to have the authority of the government apexed. That is, if legislation is not passed which they desire, they can say definitely to a group that they are responsible.

As a result of this tendency, small legislative bodies are now becoming adopted in our cities and states. The bicameral system has failed to meet the demands for a popular government, and for that reason alone it must decay.

We cannot expect to see the old bicameral system disappear in our Federal Government. An amendment would be necessary, and the Senate would have to approve of the measure. Senators once having experience in politics, like the position they hold far too well to eliminate that house in our political organization.

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**Note:**

Only that material is found in the foregoing bibliography that direct reference has been made to in the thesis. Several articles have been read in various periodicals that relate to the subject indirectly, but only those references have been quoted in the bibliography that have been studied thoroughly and intensely.







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