43 HO: FILE NO: 3

For the purposes of this bill, one further possible interpretation of "criminal justice information system" would simply be to allow the criminal justice agencies themselves to designate that portion of their total records which comprise their "criminal justice information system". They would then be required to keep this information in a separate manual or electronic file, but this portion of the act would not regulate the collection, dissemination, and storage of other information if it were kept separately from the so-called "criminal justice information system."

Without some definition of "criminal justice information system," it is impossible for us to tell what the legal effect of this bill would be.

2. Restriction on the Scope of Criminal Justice Information Systems. Even though the exact extent of the regulation of records collected by criminal justice agencies which would be imposed by this bill is completely unclear, it is quite clear that only information recorded as the result of the initiation of criminal proceedings can be collected and stored in criminal justice information systems, whatever they may be. If the bill were interpreted to allow the Department of Public Safety to continue to keep a drivers license file and a fishing license file, under the provisions of 12.62.030, these files could not be combined with so-called criminal offender record information and included in the criminal justice information system. Likewise, a management information system could not be included in a criminal justice information system.

It is true that putting too much information in one file system poses a potential threat to privacy and freedom even if all the information collected is a matter of public record. Likewise, it is, of course, more efficient not to have to maintain too many separate filing systems. Privacy and freedom should not be sacrificed at the expense of efficiency. However, in this instance we do not see how the inclusion of this information poses a threat to privacy and freedom. The added expense of having to maintain two or three separate electronic filing systems is unjustified.

I would like to emphasize, however, that the basic notion that adequate safeguards be established to keep information out of any electronic file system used by criminal justice agencies which would pose a threat to privacy and freedom is sound. However, the restrictions imposed by this bill go beyond what is needed for adequate protection, and they impose unneeded inefficiencies.

The restrictions to which we are objecting here are imposed both by Section 12.62.020 and Section 12.62.090.

3. Provision Relating to Legislative Review of Regulations. Section 12.62.020 provides that regulations adopted pursuant to this proposed chapter between now and the first day of the next legislature will be in effect until March 15, 1973. If they have not been acted upon by the legislature by that date, "the regulations are of no effect." Regulations adopted after the first day of the next legislature are apparently of no effect until they have been acted upon by the legislature.

First, these proposed provisions for legislative review could possibly leave us with a totally unregulated system if no action is taken by March 15, 1973. The provision would not suspend the operation of criminal justice information systems on March 15, 1973; it would simply suspend the regulation of them.

Second, the provision is somewhat unclear as to when regulations adopted after the first day of the next legislature would take effect. Since they are subject to "approval, rejection, or amendment," I presume they would not take effect until the legislature acted upon them. This would leave the commission almost no flexibility in regulating criminal justice information systems. While this might possibly prevent changes in regulations which would pose a threat to privacy in the eyes of the legislature, it would also prevent the commission from taking immediate action where protection might be needed.

Third, this Section does not follow the procedure set out in Section 44.62.320 which is the usual method of legislative review of administrative regulation. We believe that the procedure set out in Section 44.62.320 is the procedure which should be established here for possible legislative action on administrative regulations adopted pursuant to this chapter.

4. Warrant Provisions of Section 12.62.030(f). This Section provides that information can be retrieved from the system by asking certain kinds of questions of the system only after a warrant has first been obtained from a judicial officer. The judicial officer must determine that

> probable cause has been shown that (1) access is imperative for purposes of the criminal justice agency's investigational or other responsibilities, and (2) the information sought to be obtained is not reasonably available from any other source or through any other method.

Generally, the standard of "probable cause" is not applied to these particular kinds of findings. Certainly there are some " probable cause" findings which might well be required before such a warrant were issued, but I do not believe this standard makes very much sense when it is applied to the two required

findings set out in this section. I realize that this provision of the bill was taken directly from the bill prepared for the Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories) Committee on Security and Privacy; however, I still believe it is an incorrect use of this standard.

5. Dedication Requirements of Section 12.62.070(a). This requires that all components of the system be dedicated to the criminal justice information system and that no components be used for any other purpose. This is unnecessary because adequate and equivalent safeguards can be provided without requiring the total dedication.

6. Purging Provisions of Section 12.62.090. Although it is evident that the legislature may wish to require the purging of information relating to an individual from the system where there has been no conviction, there are two matters relating to this section which I hope will be carefully considered. First, no purging is required of information for persons who have one or more convictions; the purging requirement applies only to persons with no record at all. Second, it is not clear whether or not a purging is required if a person is convicted of some different or lesser charge and not on the basis of the original charge filed.

7. Penalties. The criminal penalties section would impose a penalty on anyone who communicates or seeks to communicate criminal offender record information except in accordance with the provisions of this proposed chapter. In the legislative findings and purpose section it is stated that the purposes of the chapter are, among others, to control and coordinate criminal offender record keeping within the state. The chapter purports to do this by regulating the flow of "criminal offender record information," a term which is never exactly defined, in and through "criminal justice information systems," a term which is not defined at all. Does this mean that the only way "criminal offender record information" can be communicated is via "criminal justice information systems"? Without some better definitions it is impossible to know. Further, it would seem highly undesirable to impose a severe criminal penalty for the wrongful handling of this information when the information to which this penalty applies is nowhere carefully defined.

The problems outlined in this letter are not exhaustive of those we have found in the bill. I would like to once again suggest that House Bill 563 represents a much more well thought out approach to the problems which this bill seeks to address.

Very truly yours,

JOHN E. HAVELOCK
ATTORNEY GENERAL

JEH:gb

HB-563

IN REPLY PLEASE REFER TO

UNITED STATES DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
WASHINGTON, D.C. 20530

SPECIAL CONDITIONS

Grantee (Name of SPA): Criminal Justice Planning Agency (Alaska)

Grant Number: 71A-202

In addition to the General Conditions and Conditions Applicable to Fiscal Administration to which this grant is subject, it is also conditioned upon and subject to compliance with the following special condition(s):

1. Approval of this plan does not constitute approval of planned fund allocation required for major cities and counties nor of action fund levels for areas of high crime incidence and high law enforcement activity. The statutory amendment to P.L. 90-351 set out in § 203(c) and 303 require determination by the Law Enforcement Assistance Administration in respect to these new requirements. Such determinations will be made upon submission of a Plan Supplement Document which is to be submitted by May 1, 1971. In addition, Section 301(c) of the amendments set forth new minimum State matching contribution ratios of 25% State funds to 75% Federal except for Part C - Construction programs which remain at a ratio of 50% State to 50% Federal. Matching contribution may be made at the amended level.

2. In respect to action program No. 4B of the 1971 State plan entitled Development of Criminal Justice Information System, and relevant Multi-year programs, the grantee agrees to: (a) insure that adequate provisions are made for system security, the protection of individual privacy and the insurance of the integrity and accuracy of data collection and; (b) in view of the commitment of funds to this program, will coordinate development of the program with any compatible multi-State effort to secure the benefits of exchange of data and use of standard reporting formats and definitions, to enhance the benefits and potential of its information system facilities and needed interface with National Criminal Justice Information Systems.

3. Within 30 days of receipt of grant award, grantee shall provide a complete discussion of the needs and problems of its two largest cities, Anchorage and Fairbanks, consistent with the requirements of the SPA Guide, page 48.

4. Within 60 days of receipt of grant award, grantee will submit to LEAA a schedule of implementation of the program funded for $45,900 in 1970, and which is intended to serve as the basis for 1971's organized crime program. The schedule should contain a time sequence in quarterly phases, and an approximate range of personnel, equipment, supplies or services to be acquired.

5. The level of funding for programs related to civil disorders, organized crime and juvenile delinquency, coupled with modest program support in the prior fiscal years (1969 and 1970) raises questions concerning responsiveness to the statutory requirement that plans and programs be comprehensive in scope and provide for the improvement and coordination of all aspects of law enforcement. Accordingly, plan approval is based upon the understanding that the State will (i) allocate a reasonable portion of future block grant funds for such programs out of fiscal year 1972 action funds to be made available on the basis of this approved 1971 plan and (ii) structure the multi-year component of the next submission (due December 31, 1971) to reflect a continuing reasonable allocation to these program areas, consistent with a proper analysis of the State's needs, problems and priorities.

6. In its fiscal year 1972 and future State plan submissions, the grantee will provide a detailed analysis of the State's potential in regard to the area of riots and civil disorders.

7. Special Conditions numbers 1, 2, 3 and 4 attached to Alaska'a 1971 planning grant application were concerned with the SPA staff and board composition. Until these Special Conditions have been satisfied 1971 action funds will not be released to Alaska for funding of action programs contained in this 1971 plan.

8. No funds provided under this grant may be used to pay for the establishment or operation of any agency or center unless that agency or center is established in the executive branch of the government, is under the direct supervision of the Governor and performs only those functions directly related to the development and implementation of the approved State Comprehensive Plan.

HB-563

L. Parker

MINUTES

GOVERNOR'S COMMISSION ON THE ADMINISTRATION OF JUSTICE

April 25, 1972

The sixth meeting of the Governor's Commission on the Administration of Justice was called to order by Vice Chairman John Huber on April 25, 1972 at 2 p.m. in the Governor's Conference Room, Capitol Building, Juneau, Alaska.

Commission members in attendance were:

John Havelock, Attorney General, Dept. of Law, Chairman
John Huber, State Representative, Fairbanks, Vice Chairman
John Rader, State Senator, Anchorage
Thomas Strickland, Anchorage Police Department, retired
Wallis Droz, City Manager, Fairbanks
George Charles, Bethel
Frederick P. McGinnis, Commissioner, Health & Social Services
Herbert D. Soll, Public Defender Agency, Anchorage
George Boney, Chief Justice, Alaska Supreme Court
Pat Wellington, Deputy Commissioner, Dept. of Public Safety
Gordon E. Evans, Attorney, Juneau

Also attending were:

Lt. Brad Moerlins, Planner, Anchorage Police Department
Off. Jerry Prater, Planner, Fairbanks Police Department
Charles Smith, Planner, Juneau, Dept. of Public Safety
Paula Easley, Conference Secretary
Will Condon, Dept. of Law

Criminal Justice Planning Agency staff present were:

Lauris S. Parker, Executive Director
Dennis W. Lund, Corrections Specialist
Terry P. Hanson, Law Enforcement Specialist

Mr. Parker introduced others in attendance: Florence Campbell of the Dept. of Public Safety, Messrs. Broad, Crobell and Coffer of Arther Young & Company and government interns Charles Dickie, Jr., Jim Moore, Joan Hendrie and Cathy See. Gordon E. Evans, newly appointed member to the Commission, was also introduced.

APPROVAL OF MINUTES

Mr. Huber turned the chair to Mr. Havelock who asked if all members had received and read the Minutes of the February 24 meeting and if there were corrections or additions. As there were none, Mr. Droz MOVED that the Minutes be approved, and they were adopted as written. ACTION

Mr. Boney then MOVED that the Alaska Justice Information System application be approved and that AJIS not be implemented until adequate security be provided, either by legislative action or by administrative approval of this body. The motion carried. ACTION

Following passage of the motion, Mr. Wellington reminded members that the Commission could withhold funds until the security provisions were in effect. Mr. Parker added that federal funds were disbursed on a monthly drawdown basis for all projects, and that if a subgrantee failed to abide by any special provisions or restrictions to a grant award, the funds could be cancelled.

Discussion and several motions made and withdrawn referred to the desirability of a legislative statement of policy with regard to the security, information limitations and access to the system. Result of the discussion was agreement that award of the AJIS grant, subject to strict security provisions imposed by the Commission, the Committee on Security and Privacy and the Department of Public Safety, would keep administrative authority within the scope of these bodies rather than with the 60-member legislature. Mr. Moerlins reminded the Commission that the special conditions made a part of grant awards in effect became law with regard to administration of grant funds, and Mr. Parker added that all grants were administered by the planning agency in strict accordance with the Commission's directives.

DEPARTMENT OF LAW INTERN PROJECT REQUEST

The application, being considered prior to the first Commission funding session due to the time element, requested federal funds of $5,962 to cover salaries and employee benefits of three legal interns for a two and a half month period this summer. Mr. Wellington MOVED for approval of the project, and motion carried. ACTION

APPLICATION FOR DISTRICT ATTORNEY SEMINAR

Mr. Parker said the seminar was planned for May 23 and 24, 1972 and requested $3,705 from the CJPA training fund. Since funds were not available from that source, $2,400 could be transferred from 1971 excess funds from Department of Law projects if the Commission wished. Mr. Boney MOVED for approval of the project in the amount of available funds and that the money be transferred from the Department of Law's closed projects. The motion carried. ACTION

HB-611

Summary Of Proposed Recodification Of Federal Credit Union Act

As Approved by The CUNA International Executive Committee
On Recommendation of the Legal and Legislative Committee

I. Corporate Powers And Activities

SUBJECT	PRESENT PROVISION	PROPOSAL	COMMENTS
Purpose of Credit Union	The Act (Sec. 1752) defines a "Federal Credit Union" as a cooperative association organized in accordance with the provisions of the Act for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.	To incorporate the definition of a credit union of CUNA Model Credit Union Act (Sec. 1): "A credit union is a cooperative non-profit association incorporated in accordance with the provisions of this Act for the purpose of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest, and providing an opportunity for its members to use and control their own money in order to improve their economic and social condition."	This is a broader definition of a credit union in keeping with changes in the economy and the present and future needs of the people.
Organization Certificates	The Act (Sec. 1753) provides that any seven or more natural persons who desire to form a federal credit union shall subscribe before some officer competent to administer oaths an organization certificate in duplicate which shall specifically set forth certain information.	To allow the Organization Certificate to be signed before a witness or the signatures to be acknowledged by some official competent to acknowledge.	To simplify the procedures for organizing a federal credit union by making it more convenient for the persons signing the Organization Certificate to have their signatures authenticated.
Borrowing Power of Credit Union	The Act (Sec. 1757-8(10)) empowers credit union to borrow, in accordance with such rules and regulations as may be prescribed by the Director of Bureau, from any source, in any aggregate amount not exceeding 50% of its paid-in and unimpaired capital and surplus.	That all language be removed from the Act (or regulations) that imposes borrowing limitations on the credit union.	To better enable credit unions to meet the financial needs of members.
Discounting of Notes	The Act (Sec. 1757 (10)) authorizes federal credit unions to discount eligible paper with Federal Intermediate Credit Banks.	That the provisions limiting discounting of paper to Federal Intermediate Credit Bank be deleted from the law and an unrestricted discounting privilege be substituted.	To provide essential flexibility to credit union operations. Restricting discounting to Federal Intermediate Credit Banks is too narrow a privilege, according to Bureau.
Purchase of Assets	The Act (Sec. 1766) gives the Director of the Bureau authority to prescribe rules and regulations concerning merger, consolidation, and dissolution of federal credit unions. Federal Credit Union Rules and Regulations, August 1969, Par. 308, sets forth merger procedures.	To authorize a credit union to sell all or any part of its assets to another credit union or to purchase all or any part of the assets of another credit union; and to further provide that the purchasing credit union may assume any or all of the liabilities of the selling credit union or of the members whether or not they are members of the purchasing credit union; and requiring that the agreement between the selling and purchasing credit unions must be approved by the Administrator.	To facilitate the timely dissolution of a credit union, while conserving its assets and protecting the interests of members.
Liquidation Procedures	The Act (Sec. 1766) gives the Director of Bureau authority to prescribe rules and regulations concerning merger, consolidation, and dissolution of credit unions, and specifies certain policies and responsibilities in connection with voluntary and involuntary liquidation. Federal Credit Union Rules and Regulations, August 1969, (part 310) establishes the policy for liquidation of credit unions.	To incorporate the provisions on liquidation found in the CUNA Model Credit Union Act (Sec. 33(b) (c)), which requires approval of dissolution by majority of members at meeting or in writing, and notification of supervisory department of intent to liquidate. Further prescribes suspension procedure to be followed by department, providing for hearing before issuance of involuntary liquidation notice and appointment of liquidating agent, and right of credit union to request stay of execution by appealing to courts.	To provide a more systematic procedure on dissolution, setting forth rights and responsibilities of all parties thereto.
Donations by Credit Unions	The Act is silent, and the Bureau has ruled donations are not within incidental powers if credit union does not anticipate an immediate, direct and current pecuniary gain or donation does not forward credit union's purpose.	That the board of directors be permitted to authorize donations by the credit union to community, charitable and civic organizations.	To permit credit unions to be better integrated in civic and community affairs.
Incidental Powers	The Act (Sec. 1757) states Federal Credit Union shall have power "to exercise such incidental powers as shall be necessary or requisite to enable it to carry out effectively the business for which it is incorporated."	To authorize a federal credit union to exercise such incidental powers as shall be necessary or requisite to enable it to carry out efficiently the business for which it is organized, including such incidental powers as are generally granted to corporations.	Federal credit unions should be considered as any other corporation with respect to inherent powers.
Overseas Checking Accounts	The Act is silent.	To authorize federal credit unions operating overseas branches to open checking accounts in foreign banks which are correspondents for U. S. banks.	Authority is presently lacking for federal credit unions with overseas branches to open checking accounts in foreign banks, according to the Bureau. This would be particularly helpful to military credit unions.

SUBJECT	PRESENT PROVISION	PROPOSAL	COMMENTS
Membership Officers	The Act (Sec. 1761b) provides for the appointment of only one membership officer.	To permit the appointment of more than one membership officer at the option of the board of directors.	Some credit unions believe they could operate more efficiently with two or more membership officers.
Credit Committee — Appointment of	The Act (1761c) requires a credit committee of not less than three members be elected at the annual meeting.	That the board of directors be empowered to appoint the credit committee, with the option that the committee may be eliminated entirely and its responsibilities to approve or disapprove loans assigned to a loan officer(s).	Would assure essential flexibility. In some credit unions the credit committee is neither practical nor efficient.
Approval of Loans by	The Act (Sec. 1761c) states that no loan shall be made unless it is approved by a majority of the entire committee and by all members of the committee who are present at a meeting at which the application is considered.	That approval of loans by the credit committee be by a simple majority vote.	Present approval requirement is cumbersome and difficult to fulfill in some credit unions.
Loan Officers — Appointment of	The Act (Sec. 1761c) states: The credit committee may, by majority vote of its members, appoint one or more loan officers.	To authorize the board of directors to appoint loan officer(s) and prescribe rules under which they may perform.	To be consistent with proposed optional appointment of the credit committee.
Reports by	The Act (Sec. 1761c) states: Each loan officer shall furnish to the credit committee a record of each transaction approved or not approved by him within seven days of the date of the filing of the application or request.	To repeal the requirement that loan officers must report to the credit committee at least every seven days. Frequency of reports to be governed by rules of the directors.	Frequency of reports by loan officers should be governed by situation in individual credit union.
Insurance for Officials	The Act. (Sec. 1761a) provides compensation of officials as indicated above. The Bureau has ruled that a credit union can obtain group accident insurance to protect directors and committeemen while on official business. With this exception they may not purchase accident, health, life, or other insurance for officials because to do so would constitute compensation.	To exclude a credit union's purchase of life, accident, and health insurance for its officers, directors and committeemen from being deemed compensation within the meaning of the Act.	Allowing insurance to be provided officials on a full time basis would preclude injustice to survivors because of difficulty in interpreting "on credit union business."

IV. Savings And Deposits

Shares, Par Value	The Act (Sec. 1753) states: The par value of shares shall be $5 each.	To give the board of directors authority to establish the par value of shares in $5 multiples, not less than $5, and not more than $25.	To oblige small shareholders to adopt thrift habits consistent with current financial conditions and allow board to deal with small, inactive accounts.
Checking Accounts	The Act is silent.	To authorize credit unions to establish for members checking accounts, with reserves for such accounts to be set by the Administrator with the consent of the National Credit Union Board.	To permit a fuller range of service to members.
Deposit Accounts— Establishment of	The Act is silent.	To permit credit unions to operate deposit accounts, limited to members and treated as capital. These accounts to be subject to conditions established by the board of directors.	Would provide fuller range of service to members.
Interest Rate On	Present Act makes no provision for deposits.	That legislation be drawn to allow variable interest rates on deposits.	A variable rate of return will enable unions to provide different types of deposit accounts.
Variable Dividend Rates	The Act (Sec. 1763) states that dividends shall be paid on all paid up shares outstanding at the end of the dividend period.	To authorize variable dividend rates on shares.	To allow flexibility in classification of shares, consistent with a flexible deposit program.
Dividend Frequency	The Act (Sec. 1763) authorizes the board of directors to declare a dividend annually, semi-annually, or quarterly, as the bylaws may provide.	That the frequency for payment of dividends be removed from the Act so as to be completely at the discretion of the board of directors.	To allow credit unions to pay dividends according to custom of other institutions in its locality, and to give members greater flexibility.
Multiple Party Accounts	The Act (Sec. 1759) states: Shares may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member.	To add a new multiple party account provision enabling credit unions to offer members (1) a multiple party share account with survivorship; (2) a share-deposit account of trustee for beneficiary; (3) a multiple party share-deposit account without survivorship; (4) a multiple party share-deposit account which includes one or more non-member parties.	Permits persons who have no will or who wish to avoid probate to enjoy the advantages of an account during their lifetime and to name one or more beneficiaries to receive money in account after their death. Also a member with other parties to his account need not lose control of his money since he can restrict withdrawals.

V. Loans

Interest Rates — Incidental Charges	The Act provides (Sec. 1757)(5) rates of interest not exceeding 1 percentum per month on unpaid balances, inclusive of all charges incidental to making the loan.	To remove from the Act the requirement that the interest rate be inclusive of all charges incidental to making the loan.	It is economically unsound for the credit union to make certain types of loans, such as real estate, and pay the incidental costs.
Maximum	As above.	That the interest rate shall not exceed 1% per month, unless otherwise approved by the Administrator.	A higher return on loans may be necessary, due to increased costs of operation and acquisition of capital, if credit union is to maintain full-range of services to members.
Interest Refunds — Frequency of, Rate of	The Act (Sec. 1761(b)(14)) empowers board of directors, subject to Bureau regulations, to authorize an interest refund to members of record at the close of business on the last day of any dividend period in proportion to the interest paid by them during the dividend period.	To permit the interest refund period to be other than the dividend period and to provide for variable interest refund rates.	To offer greater flexibility as to period for which interest refund is paid and to permit selectivity with respect to loans which will receive refund.

VII. Investments

SUBJECT	PRESENT PROVISION	PROPOSAL	COMMENTS
Investment in Other Credit Unions	The Act (Sec. 1757(8)(G) provides that a federal credit union shall have the power to invest its funds in shares or deposits of any central credit union in which such investments are specifically authorized by the board of directors of the federal credit union making the investment.	To authorize credit unions to deposit or purchase shares in other credit unions without limitations -- further that anything in the Act in conflict with this proposal be eliminated.	Provide greater liquidity within the credit union movement and to allow credit unions to invest fully in other credit unions.
Loans to Other Credit Unions	The Act (Sec. 1757(8) provides that loans may be made up to 25% of the unimpaired capital and surplus of the lending credit union.	To delete from the Act the limitation that loans to other credit unions in the aggregate may not exceed 25% of the lending credit union's paid-in and unimpaired capital and surplus.	Provide greater liquidity within the credit union movement.
Investment in Service Corporations	The Act (Sec. 1757(8) provides for investment in government securities, in insured financial institutions, and in central credit unions.	In addition to existing privileges, to permit funds not used in loans to members to be invested in capital shares, obligations, or preferred stock issues of any agency or association organized either as a stock company, mutual association or membership corporation, provided the membership or stockholdings, as the case may be, of such agency or association are confined or restricted to credit unions or organizations of credit unions and provided the purposes for which such agency or association is organized are designed to service or otherwise assist credit union operations.	To provide necessary financing for organization furnishing essential services to credit unions and/or credit union members, such as a data processing facility, mutual fund etc.
Investment in Cooperative Societies	The Act is silent	To empower federal credit unions to invest in cooperative societies, as provided in the CUNA Model Credit Union Act: "Funds not used in loans to members may be invested in shares of a cooperative society organized under local or national cooperative laws in the total amount not exceeding 10% of the shares, deposits, and surplus of the credit union." (Sec. 23(4))	To allow investment in mutual self-help organizations which may be of benefit to credit union members.
Loans to Credit Union Associations	The Act is silent Bylaws (Art. XII) — Loans may be made only to members (individuals) or to a member other than a natural person in amounts not in excess of shareholdings in the credit union extending the loan.	To authorize credit unions to make loans, in aggregate not exceeding 1 percent of the capital of the credit union to any credit union association of which the credit union is a member. Such loans may be made on secured or unsecured basis with interest and with such maturity, deeds and conditions as the board of directors shall authorize.	To strengthen the ability of credit union associations to finance programs and activities of benefit to credit unions and their members.
Investment in Corporate Securities	The Act (Sec. 1757) does not include authority for investment in corporate securities.	To authorize credit unions to invest up to 5% of their shares in any corporate stock or bond which appears on a list approved by the Administrator annually or quarterly. The Administrator should prepare and maintain a list of not less than 30 corporations.	To permit diversification of credit unions investment portfolio similar to practice of other financial institutions, with necessary supervisory safeguards.

VIII. Reserves And Liquidity

Reserves	The Act (Sec. 1782) provides for transfer of 20% of net earnings to regular reserves until 10% of total shares attained.	That the regular reserve be based on risk assets and that the formula for transfer to the reserve be at the rate of 10% of gross income until such time as the reserve fund reaches 5% of risk assets; that it then be decreased to 7% of gross income until such time as the reserve fund reaches 6% of risk assets and then be decreased to 5% of gross income until the reserve fund attains a maximum of 7% of risk assets. Subsequent transfers required only to maintain 7% maximum.	Reserves should be related to basic risk assets such as loans outstanding, according to independent studies by the Bureau of Federal Credit Unions and CUNA International. A transfer to reserves based on gross income would accelerate reserve accumulation in high-expense credit unions which often have greater need for reserves. A declining formula for transfer to reserves would give relief to the older and better established credit unions with ample reserves already accumulated.
Central Bank System for Credit Unions	The Act is silent.	That the staff report on a Central Bank System for credit unions be forwarded to the CUNA Districts without recommendation, but with a memorandum setting forth the pros and cons of the proposals.	The Recodification Committee did not have sufficient time before the CUNA District Meetings to fully and adequately evaluate the tentative proposal on a Central Bank System.
Authority for Federal Centrals	The Act is silent.	To authorize federal centrals to operate with the same powers as are accorded state-chartered central credit unions.	No special authority exists in the Act for the operation of federal central credit unions, according to the Bureau. It would strengthen the dual chartering system if federal centrals were empowered to operate in the same way that state-chartered centrals operate.

HB 648

...ated to be more concerned about the ...'s interests than those of their ...nts. I'm writing to PLAYBOY in the ...pe that you've heard about these law... and will be able to tell me how to ...ntact them.

(Name withheld by request)
APO San Francisco, California

You're probably referring to the Law... Military Defense Committee, a ...up that was formed in the summer of ... and since that time has helped over ... Servicemen with everything from ...plications for discharge to general ...rts-martial for fragging. The committ... received a grant from the Playboy ...undation in 1971. You can contact ...m at their office at 203 Tu Do Street, ...om 11, Saigon, South Vietnam, or in ... U. S. at their headquarters at Langdell Hall, Cambridge, Massachusetts 02138.

PERMANENT CRIMINAL RECORDS

A bill to expunge certain criminal records has failed to pass the Maryland assembly by a relatively narrow margin. Its detractors claimed that it would allow those with a criminal past to lie to prospective employers. The short answer to this is that employers should not be asking such questions in the first place. Proper employment information would still be available from previous employers or other references and such information is far more pertinent than data pertaining to an arrest or a chance encounter with the law.

In cases of arrests that are made solely on the initiative of individual police officers, where no grand-jury indictment or preliminary hearing has produced a dispassionate determination of probable guilt, all records of the arrest should be destroyed immediately upon the acquittal of the defendant or upon the failure of evidence against him. In other cases, the records should be expunged completely after an appropriate passage of time. Permanent records of this sort handicap people for the rest of their lives.

I, for one, hope the Maryland bill will be reintroduced before a more enlightened assembly and that this time it will be enacted.

Frank Matthews
Bladensburg, Maryland

THE COST OF ONE ARREST

The following excerpts from a *Washington Post* editorial have my complete endorsement:

> Judge Gerhard A. Gesell struck a blow for humanism as well as for simple justice when he ruled recently that the FBI must put an end to its indiscriminate dissemination of individual arrest records. These may still be made available to agencies of the Federal Government and for genuine law-enforcement purposes outside the Federal Government. But the past practice of letting banks, private employers and others have easy access to them must be discontinued, the judge said, in the interest of fairness and decency. Careless use of these records, he said, "may easily inhibit freedom to speak, to work and to move about in this land." . . .
>
> If a man is arrested and subsequently adjudged wholly innocent of the offense for which the arrest was made, surely his record ought to be as free from blemish as if he had never been accused at all. We wish that such information could be wholly expunged from the record. And even when his past guilt or innocence has been left unresolved, it would be preferable to let him have the benefit of the doubt. Oblivion has its virtues no less than recollection. We share Judge Gesell's humane feeling that, with the development of computerization, there is "a pressing need to preserve and redefine aspects of the right of privacy to insure the basic freedoms guaranteed by this democracy."

There is much more reform needed in this area. I have seen my son's one indiscretion of high school days rise up repeatedly and destroy social and employment opportunities, nullifying years of expensive higher education. When a person hasn't committed any new offense, why shouldn't his arrest record be destroyed entirely after a certain period of time?

(Name withheld by request)
Washington, D. C.

LET THE VICTIMS SPEAK

I recently saw some 1970 issues of PLAYBOY and was very stirred by the debate about electro-convulsive therapy in several installments of *The Playboy Forum*. Having been through this torture myself, I agree with the ex-patients who denounced it and I completely distrust the psychiatrists who defended it; however, I am glad that you published both sides. In almost all official investigations, the victim is never allowed to talk. No ordinary woman was allowed to say anything during the Senate hearings on the oral contraceptive and when one tried to speak, she was ruled out of order; the only female testimony came from female M. D.'s, who spoke for their profession—the profession that was being investigated. Similarly, the poor never get a chance to comment on poverty programs and educational conferences do not invite dropouts to come and explain why they found the schools intolerable. And, of course, any inquiry into our mental hospitals develops into psychiatrists investigating psychiatrists and state officials checking other state officials; what the patients have to ... irrelevant and immaterial.

The only way to learn the truth ... any social problem is to let the vi... speak in reply to their exploiters.

(Name withheld by rec...
Los Angeles, Californi...

LAW VS. DISORDER

Thanks to PLAYBOY's openly fav... the legalization of everything from ... juana to homosexuality, and thanks ... to a Supreme Court that has compl... undermined our system of criminal ... tice by making it impossible for p... to conduct an effective investigation ... murderers of a six-year-old girl are ... roaming the streets of our town. O... the alleged killers, a boy of 16, has s... almost his entire life committing ... sexual offense after another but has ... er been confined for more than per... tory psychological care. Why? Bec... our Alabama courts are afraid of ... cism by the liberal press, such as ... *New York Times*, and because pe... like Hugh Hefner are constantly scr... ing about the rights of the accused.

What about the rights of the vic... As the father of a five-year-old gi... am incensed that child murderers ... allowed total freedom of action while ... local police and the FBI stand by, h... lessly muttering about circumstan... evidence. As a concerned citizen and ... ther, I have attempted to arouse ... townspeople to unilateral action, bu... no avail. Lawlessness, through its hu... maiden humanitarianism, has gained ... strong a foothold—even in the D... South, America's last bastion of dece... and order.

Incidentally, as one who holds ... degree in statistics, I have done some ... search on the supposed fairness of y... magazine, and it may interest you to k... that over the past eight years, a full ... percent of all the letters you have p... lished espouse your point of view, se... percent are marginal and only 11 perc... are unquestionably opposed to the v... ous tenets of *The Playboy Philosophy*.

Charles A. Kar...
Fayette, Alaba...

You accuse PLAYBOY, The New Y... Times, *the Supreme Court and any... else who has ever expressed concern ... due process of law of fomenting ... spirit of lawlessness and disorder; th... in the next breath, you state that ... have advocated what you term unilat... action to deal with a boy who is alle... to be a killer on the basis of evidence t... is considered circumstantial by both ... local police and the FBI. You furt... suggest that the absence of more subst... tial evidence is the fault of a libe... Supreme Court that has made it "imp... sible for police to conduct an effect... investigation," ignoring the fact t... effective investigating is exactly what ...*

HB-787

ROBISON, MCCASKEY, STRACHAN & HOGE
ATTORNEYS AT LAW
921 SIXTH AVENUE WEST
ANCHORAGE, ALASKA 99501

PAUL F. ROBISON
KENNETH McCASKEY
JOHN R STRACHAN
ANDREW E. HOGE

WILLIAM G. RICHARDS
MARVIN S. FRANKEL
PETER A. LEKISCH
LEROY BARKER

TELEPHONE
AREA CODE 907
[redacted]
279-7431

March 6, 1972

Representative William J. Moran
Pouch V, State Capitol
Juneau, Alaska 99801

Dear Bill:

This is a followup to my letter of February 29th regarding the proposed Bill to protect underground utilities. Upon reviewing my file, I was concerned that I might have sent you an incomplete draft of the Bill. Enclosed please find the final draft of the proposed Bill. I would appreciate it if you would insure that the Bill that is introduced includes "natural gas" under the list of definitions under the subsection "Utility operator". Also, the Bill should include a second section which makes the Act effective immediately upon its passage and approval.

Paul Robison is in Juneau this week and can assist you if you have any questions regarding the legislation. In addition, I would appreciate it if you could telephone me later this week and advise me whether you anticipate this Bill can be passed during this session of the Legislature.

Very truly yours,

Leroy J. Barker

ENC.

LJB:u

ROBISON, McCASKEY, STRACHAN & HOGE
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921 SIXTH AVENUE WEST
ANCHORAGE, ALASKA 99501

PAUL F. ROBISON
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LEROY BARKER

TELEPHONE
AREA CODE 907
272-9446
279-7431

HB-787

February 16, 1972

Representative William J Moran
Pouch V State Capitol
JUNEAU, Alaska 99801

Dear Bill:

Paul suggested that I forward the enclosed copy of a proposed statute which we anticipate asking you to submit to the legislature next week.

We had a meeting this week of representatives of all the underground utilities here in the Anchorage area. The proposed ordinance was presented for comment and consideration. As soon as the utilities involved have had an opportunity to review the statute and make appropriate comment, we will be submitting it to you with a request that it be introduced in the legislature with the hope that it will be passed this year.

Yours very truly,

ROBISON, McCASKEY, STRACHAN
& HOGE

LEROY J. BARKER

LJB/lmm

PROPOSED STATUTE

Section 1. Purpose.

The purpose of this Act is to protect workmen and others in the immediate vicinity from death or injury which may result from the destruction of, or damage to, underground utility lines. It is also the purpose of this Act to provide for the well being of the community by preventing the interruption of essential services resulting from the destruction of, or damage to, underground utility lines.

Section 2. Strict Liability for Damage to Underground Utilities by Excavation. (a) Any person, who while excavating, damages any underground utility line is liable, without regard to negligence, for three times the actual damages to the utility operator of the utility line, unless the person has requested a locate by the utility operator and the locate has not been provided by the utility operator within four normal business hours after it received the request, or where the locate by the utility operator is inaccurate and that inaccuracy is the proximate cause of the damage.

(b) In addition to the damages provided for above, a person who damages any underground line is liable, without regard to negligence, for a civil penalty in the sum of $500.00 for each incident. The sums so recovered are payable to the State of Alaska unless the utility operator is a Borough established under Title Seven or a Municipal Corporation as established under Title Twenty-nine. In the latter event the civil penalties shall be payable to the utility operator.

(c) Any action brought under section (a) may include a claim for the civil penalty even though the party bringing the action is not a Borough or a Municipal Corporation.

Section 3. Actions to be brought in two years.

No actions may be brought under any of the provisions of this Act unless commenced within two years after the date the damage to the line occurs.

Section 4. Remedies not exclusive.

Remedies provided for under this Act are not exclusive and utility operators shall retain any remedies otherwise allowed by statute or common law.

Section 5. Definitions.

As used in this Act

"excavate" means the movement or removal of earth or blasting, and includes augering, back-filling, digging, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching, and tunnelling;

"person" includes a corporation, company, partnership, firm, association, organization, business trust, society, a Borough established under Title Seven, a Municipal Corporation as established under Title Twenty-nine, and a natural person;

"utility line" means any conduit or related facilities, including pipe or cable by which a utility operator furnishes service; and

"utility operator" means a person who furnishes any of the following services by means of a utility line:

(1) petroleum product,

(2) electricity,

(3) sewer,

(4) communications, or

(5) water.

HB-787

Chugach ELECTRIC ASSOCIATION, INC.

GAMBELL AT EIGHTH • P. O. BOX 3518 • PHONE 272-4441 Anchorage, Alaska 99501

February 29, 1972

PLEASE REPLY VIA AIRMAIL

Mr. William J. Moran
Pouch V
State Capitol
Juneau, Alaska 99801

Dear Mr. Moran:

In the past month several meetings were held by representatives of the various utilities in the Anchorage area to discuss a possible solution to "dig-ins" of buried facilities. During the course of these meetings, the possible use of legislation as a means of control was discussed.

As a result of these meetings, a proposed legislative bill was formulated and set to paper by the Anchorage City Attorney. I understand that there will be a letter forthcoming requesting that you introduce such bill. A copy of the aforementioned is enclosed for your review and comments.

In addition to the bill, an "Agreement" among the various utilities was also discussed. Enclosed is a copy of this proposed agreement. Your timely comments on this would also be appreciated.

Very truly yours,

James D. Bumgardner

James D. Bumgardner
Manager of Engineering Services

Enclosures

JERRY JOST

ANCHORAGE
CITY ATTORNEY
BOX 400
ANCHORAGE, ALASKA
272-6522 EXT. 325

AGREEMENT

THIS AGREEMENT, made and entered into by and between the CITY OF ANCHORAGE, a municipal corporation, the GREATER ANCHORAGE AREA BOROUGH, a municipal corporation, CHUGACH ELECTRIC ASSOCIATION, CENTRAL ALASKA UTILITIES, INC., and ALASKA INTERSTATE, d/b/a ANCHORAGE NATURAL GAS:

WHEREAS the parties to this contract experience a common hardship as a result of destruction of facilities by construction contractors; and

WHEREAS the interruption of service as a result of facility damage creates hazardous conditions, causes public inconvenience and requires the utilities to employ crews on repair work that could otherwise be utilized for installations or other work designed to provide benefits to residents requiring service, and,

WHEREAS it appears that the primary causes for the damage to facilities is economic in that money is saved by tearing out buried facilities rather than waiting for a locate service or utilizing small equipment to expose the facilities; and,

WHEREAS the parties contemplate a reciprocal agreement providing for withholding of contract payments sufficient to cover all costs of facility damages to another utility will provide an incentive to request locate service and to avoid damage,

NOW, THEREFORE, in consideration of the mutual covenants, stipulations and agreements herein contained, the parties agree as follows:

1. Each party to this agreement will include, in each and

ANCHORAGE
CITY ATTORNEY
BOX 400
ANCHORAGE, ALASKA
272-8522 EXT. 325

every contract calling for the construction or installation of utility facilities or other excavation the following clause:

> Upon receipt of written notification from any of the public utilities listed in this paragraph that Contractor has caused damage to any facility, equipment or installation of that utility and that Contractor failed to request a locate service at least four (4) business hours prior to the damage, or if the locate service was properly requested, that the damage was not proximately caused by an error in the locate service, *_____
>
> will withhold from forthcoming contract payments, including advances, an amount sufficient to cover the damage. The amount sufficient to cover the damage shall be designated by the utility providing notification of damage and shall include the total cost of repair, including overhead and a minimum of three hundred dollars ($300) to cover costs and attorney's fees. The public utilities that may provide notice of utility damage under this paragraph are:
>
> Anchorage Natural Gas
> Anchorage Telephone Utility
> Anchorage Water Utility
> Central Alaska Utilities
> Chugach Electric Association
> Greater Anchorage Area Borough Sewer Utility
> Municipal Light and Power Utility
>
> Upon receipt of a release of claim by the notifying utility or the judgment of a court having jurisdiction establishing that Contractor is liable for a lesser amount or is not liable for the damage, *_____
>
> _____

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272-5522 EXT. 325

will release the excess funds to Contractor. Funds withheld pursuant to this provision shall not bear interest.

Upon receipt of satisfactory evidence establishing that the utility giving notice of damage failed to commence an action against the Contractor in a court of competent jurisdiction within ninety (90) days after discovery of the damage, *_____

_____

shall release the funds withheld pursuant to this provision.

2. The parties agree that a utility giving notice of damage and requesting that funds be withheld under this agreement will indemnify, hold and save the withholding utility or utilities harmless from liability of any nature or kind, including costs and expenses, for or on account of any suits or damages resulting from withholding funds pursuant to this contract.

3. This contract shall remain in full force and effect for a period of one (1) year from the date of execution. Any party may terminate his rights and liabilities under this agreement by serving notice on all other parties, at least ten (10) days prior to the effective date of termination. Termination by a party shall not extinguish any accrued liability.

4. Notices under this agreement shall be addressed to the utility manager, or, in the case of the City of Anchorage, Department of Public Works, to the Director of Public Works, at the appropriate business address.

IN WITNESS WHEREOF, the parties have executed this

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BOX 400
ANCHORAGE, ALASKA
272-5522 Ext. 325

agreement as set forth below.

CITY OF ANCHORAGE, ALASKA

By: _____
Robert E. Sharp, City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

_____
DIRECTOR OF PUBLIC WORKS

_____
Manager, ANCHORAGE TELEPHONE UTILITY

_____
Manager, MUNICIPAL LIGHT & POWER

_____
Manager, ANCHORAGE WATER UTILITY

_____
Manager, ANCHORAGE NATURAL GAS

_____
Manager, CENTRAL ALASKA UTILITIES

_____
Manager, CHUGACH ELECTRIC ASSOCIATION

_____
Manager, GREATER ANCHORAGE AREA
BOROUGH SEWER UTILITY

* Insert the name of the party to this agreement who is contracting for construction, installation or excavation.

A BILL

For an Act entitled: "An Act relating to liability for damage to underground utilities."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 18.60 is amended by adding new sections to read:

ARTICLE VII. DAMAGE TO UNDERGROUND FACILITIES OF A UTILITY

Sec. 18.60.700 PURPOSE. This Act is intended to protect workmen and others from death or injury which may result from damage to underground utility facilities, and to provide for the safety and well being of the general public by deterring the interruption of essential services resulting from damage to the facilities.

Sec. 18.60.710 STRICT LIABILITY FOR DAMAGE TO UNDERGROUND UTILITIES. (a) A person who, while excavating, damages an underground utility facility is liable to the utility operator for three times the actual damages unless the person has requested the utility operator to locate its facilities in a designated area and the locate has not been provided as pursuant to secs. 710-750 of this chapter or the locate provided is inaccurate and that inaccuracy is the proximate cause of the damage. Damages provided by

this section shall be awarded without regard to negligence.

(b) A utility operator shall, within four regular business hours after receipt of a request for locate service, commence to locate the utilities in the designated area and shall complete the service within a reasonable time. If the request for locate service encompasses excavation work in an area which will require more than one day to complete, the person requesting the locate shall provide the utility with a schedule of the excavating work for which location service is to be provided.

Sec. 18.60.720 CIVIL PENALTY A person who damages an underground facility under conditions creating liability for treble damages under sec. 710 of this chapter shall, in addition, be liable to the State of Alaska for a civil penalty in the sum of $500 for each incident. An action for the civil penalty may be commenced by the Attorney General, or the penalty may be awarded to the State in an action commenced under sec. 710, even though the State is unrepresented in the proceeding.

Sec. 18.60.730 ACTIONS TO BE BROUGHT IN TWO YEARS No action may be brought under secs. 710 or 720 of this chapter unless commenced within two years after the date of damage to the utility facility.

Sec. 18.60.740 REMEDIES NOT EXCLUSIVE. The provisions of secs. 710-750 of this chapter shall not be construed as abolishing or diminishing any other claim or remedy otherwise available to a utility operator, except that an award of treble damages under sec. 710 shall extinguish a claim for damages based on negligence.

Sec. 18.60.750 DEFINITIONS As used in secs. 700-750 of this chapter

(1) "excavate" means the movement or removal of earth and includes, but is not limited to, blasting, augering, back-filling, digging, ditching, drilling, staking, grading, plowing-in, pulling-in, ripping, scraping, trenching, and tunnelling;

(2) "inaccurate" means a locate that is not within 24 inches horizontally, or, when required, 12 inches vertically, of the centerline of the facility provided by the utility;

(3) "locate" means a field marking on the surface by paint, dye, stakes or any other marking clearly visible at the time of placement which designates the horizontal course or location of a utility facility. When pipes, cables or tiles are being located, the locate shall signify the centerline of the pipe or tile and the utility shall specify the dimensions of the facility. When the excavation is for the

purpose of street or highway improvement that requires a change in grade in excess of 12 inches, the locate shall include a designation of the vertical depth of the facility, which may be shown by plans, exposure of facilities, or other suitable means.

(4) "person" means a corporation, company, partnership, firm, association, organization, business trust, society, borough, municipal corporation or natural person;

(5) "utility operator" means a person who furnishes any of the following services to a customer or customers by means of a conduit, pipe, tile, wire, cable or line:

(a) petroleum products

(b) electricity

(c) sewer

(d) communications

(e) water

NAMES OF PEOPLE ATTENDING MEETING OF FEBRUARY 14, 1972

Jim Cellars	-	Borough attorney's office
John Brown	-	Central Alaska Utilities
John Bjornson	-	Central Alaska Utilities
Dick Brink	-	Central Alaska Utilities
Dick McBride	-	Anchorage Telephone Utility
Luke Bergman	-	Anchorage Natural Gas Company
Dave Skitt	-	Anchorage Water Utility
Ed Fisher	-	R. W. Retherford (APUC)
S. W. Smith	-	Anchorage Water Utility
I. W. Mitchell	-	A. P. U. C.
J. R. Hendershot	-	A. P. U. C.
Dale Teel	-	Anchorage Natural Gas
Paul Robison	-	Attorney (ANGC)
Jerry J. Jost	-	Chugach Electric Association
Leroy Barker	-	Attorney (ANGC)
Bob Phillips	-	G.A.A.B. R.O.W.
Frankland Smith	-	M L & P
Robert J. Mahoney	-	City Attorney's office
Paul Singleton	-	G.A. A.B.

One-House Legislature Advocated by Unruh

By JESS UNRUH

National Municipal League
Carl H. Pforzheimer Building
47 East 68th Street, New York, N. Y. 10021

Reprinted from National Civic Review, May 1971

One-House Legislature Advocated by Unruh

by Jess Unruh*

THE heavy double doors are locked and barred. A burly sergeant-at-arms gently, but with authority, refuses entrance to everyone. Even senators and assemblymen cannot pass. Occasionally the doors will be opened by the sergeant and through the cigar smoke a quick look will reveal six men. Shirtsleeved, ties loosened, they reflect the same harmless goodwill you can see four nights a week in any of a dozen rooms in the Senator Hotel when a poker or blackjack game is in progress.

But there is nothing harmless about the meeting going on behind the barred doors. And the stakes are far higher than the crisp hundred dollar bills that change hands between lobbyist and legislator in friendly poker games.

Before the six men come out of the walnut-panelled room they will have passed judgment on life and death matters for many of California's 20 million residents and will have spent nearly 7 billion tax dollars collected from the citizenry.

There are no rules—except those decided on by the conferees. No reporter is inside the room to report the proceedings. There is no requirement that the report on their deliberations be rendered by a certain time. And there will in all likelihood be very little time for other legislators or the public to do more than skim the document which will finally be produced.

All of the work laboriously put into a budget bill for nine months by thousands of civil servants, administrators and legislators means absolutely nothing if it does not meet the approval of the six tribunes in that room.

This is a free conference of the California legislature. Scary, you say? Should be changed and cleaned up? The press ought to be allowed in? Perhaps. But, before condemning the six legislators and the institutions they represent, let's take another look.

The three senators and three assemblymen who will spend over a billion dollars each are doing what comes naturally in today's legislature. They are reconciling the differences between the decisions made in each of the two houses. It is a process which has been going on for decades in 49 states and will continue as long as the two-house or bicameral legislature exists.

State legislatures under the bicameral system are costly and inefficient

* Jess Unruh is former speaker of the California Assembly.

anachronisms which thwart the popular will, cater to private interests, and hobble responsible decision making, until they are no longer responsive to the needs of the people they are supposed to serve.

This lack of accountability to the people is not a problem unique to our state legislatures, but is permeating every level of our government. We see it at work in our monolithic bureaucratic agencies which have almost become governments unto themselves; we see it in our costly and iniquitous system of justice; we see it in the wasted education of our youth. And we feel it in the growing hostility and frustration of a large number of our citizens. Indeed, it may be that this frustration is the only thing that will "bring us together."

If we look at the militant student protesting the Vietnam war or irrelevance in his classroom, and at the middle-income suburbanite venting his ire on local school bond requests, we see they have at least one thing in common: They are both enraged at the inability of government to deal effectively with what they see as the principal problems that confront them.

In response to these growing complaints, some attempts are being made at governmental reform. President Nixon and others are now talking seriously about reforming the federal executive and bringing the states into parity with the federal government through revenue sharing and block grants.

I predict that their efforts will have little effect on improving the quality and responsiveness of state government unless state institutions themselves are drastically revised. And basic to that restructuring is the overhauling of that institution which will have to pass upon the revision of every other state agency—the state legislature.

The most far-reaching reform, the most drastic step we could take toward making our state governments more responsive, more honest, more efficient and more economical is the introduction of the unicameral or one-house legislature.

No matter how much we concern ourselves with upgrading the legislative process, we will fail unless unicameralism is made central to the present efforts to reform and modernize state legislatures. I believe in increased salaries, better facilities and professional staff. But they are not enough. These reforms in themselves only make a more efficient horse and buggy. The bicameral legislature still remains almost hopelessly outmoded, only perpetuated by tradition and special interests.

Even the original rationale for the two-house legislature, to guarantee some representation of people as well as of property, has been removed by recent Supreme Court decisions guaranteeing equal representation. Under the one man, one vote rulings first enunciated in *Baker* v. *Carr*, representa-

tion of people has finally become paramount over the representation of geographic areas.

I suggest that, from now on, honest, accurate reapportionment will invariably make the houses carbon copies of each other insofar as their constituent makeups are concerned. The degree to which the houses actually do differ will become a measure by which reapportionment has been unfair or dishonest.

If efficiency and representativeness stand to gain under unicameralism, the special interest groups which now dominate our bicameral legislative process stand to lose a great deal.

Consider just one special interest—the liquor industry. In California the wholesale liquor distributors have succeeded in building into our laws protective measures such as state-guaranteed collection of accounts from retailers. To kill any reform legislation dealing with the liquor industry and preserve this economic sanctuary, all the liquor lobbyists have to do is woo and win a majority of *one* committee in *either* house of the state legislature. This may mean only three men. Elimination of bicameralism would increase the possibility of repealing this grossly unfair legislation.

Almost every state has its privileged industries or groups which thrive under the protection that unwieldy, unresponsive legislatures afford them. The power of these groups over the government should be curbed, but cannot be as long as the many obstacles to reform are compounded by a bicameral legislature. It is clear that basic reform cannot happen in state legislatures which were designed to afford maximum protection to those who need it least.

If the clandestine "poker game" of the free conference and the "legislative black jack" of special interests now witnessed under our bicameral system do not offer reason enough to consider unicameralism, let us look at the problems from a point of reference we can all understand—in terms of money and economy.

Today there is a renewed interest in making legislatures equal partners in the governmental process. And, as we have indicated, there is probably no more important step to be taken in making our federal system work better. To upgrade legislatures is, however, an expensive proposition. For many years legislative budgets have been neglected. Most legislatures are still woefully underpaid, understaffed and lacking in such basic necessities as office space, clerical help and even telephone allowance. Some legislatures will have to build expensive new buildings to house a significantly enlarged staff. Taxpayers are not likely to look with favor on the drastic increases in spending that will be necessary to achieve these reforms under the present, inefficient bicameral system.

But most legislatures, particularly those in the larger states, could give themselves the tools necessary for proper decision making *without* significant budgetary increase by eliminating one house. Not only would this greatly decrease the number of legislators, offices, telephones and secretaries that must be paid for directly, it would also permit a reduction in staff and spending by those public and private agencies which must deal with the legislature.

To illustrate, let's use again the annual state budget and follow its tortuous course through the California legislature, a body universally conceded to be the best in the nation. The budget is introduced in the same form in *both* houses. It is then sent to the finance committee of each house. There it consumes most of the time of 25 to 30 percent of the members of each house for from four to five months, sometimes more. It also consumes the bulk of the time of the highest-paid Assembly and Senate staff employees.

But, this is only the visible and expected part of the iceberg. It also draws the major part of the staff time of the top people in the governor's Department of Finance—scurrying back and forth between the Assembly Ways and Means Committee and the Senate Finance Committee. Each executive department whose budget is being scrutinized also sends representatives to these two committees and their many subcommittees. Lobbyists and interested citizens' groups also have to cover both houses. All of these people will be paid either directly by the taxpayers or indirectly by the tax write-off.

But all this is really shadowboxing because, as we have seen, the budget is finally written by three senators and three assemblymen in a free conference committee, and the product of their labors and decisions may bear little relationship to the budget passed by either house.

The days (sometimes weeks) of labor that these six members contribute again require the attendance of top staff people of the Legislative Analyst's office and the Department of Finance.

It is just as bad with other legislation. A school finance bill must be sent first to the education committee of the house in which it was introduced, then to its finance committee, then to the floor and then, if the bill passes, the whole maddening process is repeated again in the other house. This requires representatives of executive agencies, legislative staff and affected interests to appear at every repetitive step of the way. And, again, the final bill may well be written in a so-called free conference committee of six members to resolve the disputes between the houses, or to do *whatever else* comes into their minds.

Or there can be yet another level of committee operation in this mess—the joint committee, which is almost beyond anyone's control and often costs much more than it's worth in productive output. The joint committee has

the added advantage—to everyone but the people—of allowing legislators to avoid politically difficult problems by banishing them to the limbo of a powerless joint committee. The need for these committees would be *totally eliminated* if there were a one-house legislature.

In those states, such as California, which have already done much to modernize their procedures and abilities, unicameralism should bring no less than a 40 percent reduction in the costs of the legislature and of those groups which must work directly with it. In California, about $20 million could be saved annually. The savings would be far more, if you consider future capital construction costs connected with increased staffing and legislative upgrading under the bicameral system.

But I do not suggest merely a penny-pinching approach to federalism. What I am really concerned with is responsible decision-making power at the state level. Two-house legislatures neutralize the force of the legislature in state government. Governors can, and do, arrange alignments of one house against the other over pieces of legislation and programs. This kind of whipsaw technique can ensure the defeat of legislation even though it may be supported by the majority of legislators. Also, most of the more vicious logrolling and logjamming in the legislative process comes about between the two houses.

The California State Senate Finance Committee for years has had a practice of holding all Assembly bills until the last few days of the session to keep a bargaining lever over members of the lower house. Without that excuse, the chairman of a one-house finance committee would be hard put to hold all appropriation measures until the last 10 days.

In my opinion, the committee system provides opportunity enough for governors and special interest groups to exert pressure on legislatures. When one house is pitted against the other, a serious power vacuum is created—a vacuum that outsiders are all too eager to fill. With only one house, however, the legislature would more nearly match the unified structure of the executive branch and, therefore, be a more worthy competitor.

When a smart governor plays one house against the other the public can rarely identify where the responsibility for defeat of legislation lies. The public can rarely detect the real culprit.

Let me say parenthetically that the press might do a much better and more thorough job covering the legislative process, and pinpointing responsibility, if there were, for example, only one-third as many committees functioning.

Specifically, what legislators desperately need today is visibility. Visibility promotes competence in, and attracts talent to, the legislative arena. It is also the best deterrent to corruption.

What the public needs is to be able to fix responsibility. I do not believe that we can expect the public to support state government until it can be seen who is responsible for what is happening or not happening in state government.

But consider the citizen's problem. He currently has a representative or an assemblyman and a state senator. They may well be in direct disagreement about a measure the voter is interested in. Whose word does he take as to what has happened to his interests? And who is really "representing" his point of view? Under bicameralism the assemblyman can say, "Well, we passed that bill but the Senate defeated it," or vice versa. Under unicameralism, responsibility to one's constituency cannot be so lightly evaded.

Unicameralism may also offer the best hope for our tripartite system to survive as a democratic form of government. If state legislatures are to play a significant role in twentieth-century American government, such basic kinds of reforms must be implemented, and within the very near future. If this does not occur, I doubt rather seriously that legislatures or state governments in general will be an effective instrument of the people's will. The states (and certainly state legislatures) will simply be bypassed in favor of a federal government which is no more responsive.

But, single-house legislatures will only happen if people understand how wasteful and unresponsive the two-house legislature has become.

When your legislature is in session take a close look at its operations. How much time is spent on interhouse squabbles that should be spent on policy deliberations? Are committees in one house passing out bad bills so that the other house will have to take the heat for killing them? Is the Senate stalling bills from the other house as leverage to get its own bills through? Are they creating unwieldy joint committees in an attempt to get around the problems of two houses and begetting Frankenstein's monsters as a result?

Ask yourself these questions about your legislature. Is there interhouse bill highjacking and name calling? Who speaks with authority on questions involving major legislation? Where would testimony on such legislation get the fairest hearing? Can you identify *exactly* who killed the legislation you felt to be important? Are the lobbyists playing off one house against the other so that legislation on which both houses basically agree goes down the tubes? Is the governor doing the same?

By now you can ask the rest of the questions yourself. The answers should leave you with a clearer understanding of why a lot of people in this nation have concluded that the system cannot produce answers anymore. These people are proposing solutions of their own: burn the whole country down and start over; abolish the states; drop out.

If the states are the critical link in the federal system, state government should have solutions too. If the federal system is worth saving, people at the state level are going to have to give it a lot of help. In every state constitution I have ever seen the legislative article precedes the executive. I take this to mean that the drafters believed in the importance of a strong and responsive legislature. If the constitution has to be amended to make the legislature unicameral, then the people will have to carry the ball. Few politicians can be expected to abolish their own jobs.

We are constantly told, today, that government should be more business-like in its conduct. Legislatures can be likened in the governmental structure to boards of directors in a corporate structure. No business has two boards of directors with equal power; under such a structure there could be no direct accountability to the stockholders. We should be able to expect at least as good an organization from the public corporations which spend $70 billion of our money every year. It's time we got down to business with one board of directors for our state governments.

Or we could abolish it all and let the six men in the free conference committee run the whole thing. That would at least be more efficient—and more honest—than what we have today.

One-House Legislature

Editorial Comment

The Better Way

IT IS typically "American" to make and run things better and better —with the possible single exception of the state legislature.

The state legislature is something at which to scoff. There is no less respected institution, more's the pity.

In industry, science, business and other fields of human endeavor the traditional way of doing things is not sacrosanct. The mere fact that a method is old usually makes it suspect.

It is time, and long past time, for some of the leadership that has won progress in other fields to take a hard look at state legislatures and do something about them. Our lawmaking bodies should be of a kind that will deserve respect and will attract public-spirited men and women to their service.

The evidence is overwhelming that a one-house legislature is better than the traditional two-house body.[1] The weaknesses and worse of the bicameral system are common knowledge and have been so for as long as anyone can remember. It was away back in 1915, for example, that a joint legislative committee in Nebraska commented in its report:

"1. Representative government by the people should be direct and responsible. One body can more directly represent the public will of a democratic people than two or more.

"2. Cities all over the civilized world having a larger population and more diverse interests than Nebraska are governed by one body and the tendency is to make that body smaller with more direct responsibility upon each member than hitherto.

"3. The arguments for a two-house legislature may be summarized under three heads:

"a. The need of proper representation for different orders or classes of citizens in respect to wealth, education or social position. The answer to this is that the spirit of American institutions is to abolish class distinctions in government and to diffuse education and wealth letting social position take care of itself.

"b. Another argument is that two houses are required in order that they may be a check upon each other and prevent the enactment of unwise legislation. In practice it has been found that the so-called 'check' between the two houses results in trades and absence of the real responsibility

(Continued on page 12)

[1] See pages 2 and 8.

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One House for 20 Years

Nebraska's extensive experience with nonpartisan unicameral legislature indicates it's here to stay.

By JACK W. RODGERS*

NEBRASKA has completed two decades of experience with its nonpartisan unicameral legislature, an experience which includes ten regular and six special sessions. The eleventh regular session convened January 1, 1957, adjourning in June. During these twenty years nonpartisan unicameral law-making has been put to a severe test. The legislature has faced knotty problems growing out of economic recession, war, postwar adjustments and drought. It has been asked to expand services and cut taxes, oftentimes simultaneously. This is the stuff out of which the new system could have been shown to be inadequate.

What is the situation? Has the nonpartisan unicameral legislature met these challenges head-on? Has it passed "hasty and ill-considered" legislation? Are the people satisfied that it has done a commendable job? Have any attempts been made to return to the former partisan bicameral legislature?

The events of the past twenty years would appear to justify the following summary statement: The people of the state have accepted the formulation of public policy by a nonpartisan one-house legislature. While there is some opinion in favor of a return to a partisan legislature, there is little feeling that the state should revert to bicameralism. Many people, however, including members of the legislature, would like to see certain changes made within the framework of the basic system now in use.

Vigorous opponents[1] to the adoption of the 1934 constitutional amendment providing for the nonpartisan unicameral legislature called the proposal "dangerous" and "un-American." The press was almost unanimously opposed to it. Yet, since its adoption, the legislature has not been a principal issue of contention in state affairs and attempts to alter it to fit the earlier pattern have not only failed but have met with little or no popular enthusiasm.

Those who have served in the unicameral legislature, including a number who had also served in the former bicameral legislature, have been among its stoutest supporters. For example, only two bills have been introduced since 1937 proposing constitutional amendments to make the unicameral legislature partisan, one in 1951 and one in 1957. Both bills were killed in committee and aroused little discussion. No

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[1] Organized principally into a nonpartisan group known as the Representative Government Defense Association.

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bills have been introduced proposing amendments to return to bicameralism. Also, when a petition campaign was inaugurated in 1953 to re-establish a partisan bicameral legislature, members and former members almost to the man came to the defense of the existing system.

Since 1941 eight bills have been introduced containing five proposals to increase the term of office to four years, eight proposals to raise the salaries of the members, three to provide for annual sessions and two to enlarge the size of the single chamber. The only one to get on the ballot was a 1949 proposal to permit the legislature to fix its own salary, to extend the term to four years and to allow annual sessions to be provided by law. It was soundly defeated at the 1950 general election.

No Stand by Parties

What has been the attitude of the political parties in Nebraska toward the legislature? Surprisingly enough, especially in view of the nonpartisan feature, neither political party took a stand on the impending referendum in its 1934 platform. In its 1952, 1954 and 1956 state platforms the Republican party urged that members be elected on a partisan ballot but nothing was said about re-establishing bicameralism. The Democratic party has mentioned neither issue in any of its platforms since 1934, although its 1956 platform contained a reference to the need for "organized political responsibility" in state government. This platform also stated, however, that "the Democratic party of Nebraska recognizes in our unicameral legislature a bold and striking reform that has provided simplicity and economy in our legislative structure."

It is against this background that we turn briefly to the 1953-54 movement to return to bicameralism and partisan elections. Immediately after the adjournment of the 1953 session the state chairmen of the two parties announced formation of a bipartisan committee to sponsor a movement to re-create a partisan legislature and to consider the desirability of going back to a bicameral body. Petitions were to be circulated to put the proposition on the ballot at the 1954 general election.

The committee, in announcing its plans, said there was widespread dissatisfaction with the 1953 session, primarily because of its length, cost, number of bills introduced, total appropriations made and the number of lobbyists registered.[2] It is interesting to note that similar charges made against the 1933 session of the old bicameral legislature were part of the argument supporting adoption of the unicameral system.

An immediate rebuttal was issued by a number of persons, including several state legislators. Labeling the committee's charges as "unfair" and "ill-considered," they voiced their enthusiastic satisfaction with the present system. The announcement did serve to arouse considerable comment over the state and many persons registered approval of enlarging the present chamber. A lesser number argued for a return to partisan elections but few expressed

[2] Omaha *World-Herald*, June 19, 1953.

any interest in reestablishing bicameralism.

The bipartisan committee moved ahead slowly with its plans but finally announced it would circulate petitions to place a constitutional amendment on the 1954 ballot for establishment of a partisan bicameral legislature. By the time the petitions were ready for circulation, however, the group had only eight months in which to get 59,572 signatures so distributed as to include 5 per cent of the electors in each of two-fifths of the counties.

The Republican State Central Committee gave its "wholehearted endorsement" to the proposal but, when the campaign for signatures began to lag, reversed its action and said it would favor a petition campaign to reestablish partisanship only. The Democratic State Central Committee never came out with a definite endorsement. The bipartisan committee then decided to back this more limited proposal and again submitted petitions. This campaign fared no better. It was difficult to get people to carry the petitions, few signatures were gotten and the movement soon collapsed.

Several conclusions were obvious: First, there was no "widespread dissatisfaction" with the unicameral system itself, no popular demand for its change. The committee mistook criticism of the legislature's actions or inactions for criticism of the basic structure itself. The proponents of the petition campaign were also unable to pinpoint any particular governmental problems and show that they were the direct result of the unicameral legislature or nonpartisan elections. It was furthermore apparent that few persons outside the four Republican and four Democratic leaders who made up the committee, including other party officials and leaders, were actually behind the movement. There was no other impetus.

In May 1956, it was announced that another petition campaign would be launched, this time under the auspices of several state labor organizations. The plan was to seek to increase the size of the unicameral legislature to 85 and to raise the pay of its members. The issue was to be placed on the ballot at the 1956 election. It was reported that the sponsors felt their interests would be better represented in a larger, better salaried legislature. Nothing further was heard of this movement, however.

Procedural Changes

For several sessions feeling had been growing among many members that certain procedural changes would help cut the length of sessions and give more time for adequate discussion of the more important bills. The 1955 legislature passed a resolution directing a committee of the Legislative Council to make a study of the legislative process with these goals in mind. As a result of this study[3] several recommendations for rule changes were made to the 1957 legislature.

Included were recommendations to speed up the hearing process,

[3] Nebraska Legislative Council, *Report of the Committee on Legislative Processes*, September 1956.

change the Committee on Order and Arrangement into a true steering committee, provide a method whereby the budget bill could be given a thorough airing on the floor, purchase recording machines to reproduce committee testimony and general file debate, screen resolutions calling for Legislative Council studies and bring about a realignment of the standing committees.

The 1957 legislature proceeded immediately to adopt three of these proposed rule changes. First, it adopted the proposed committee realignment which added one new committee and reduced the size of the other committees. The result was one additional committee to hear bills, five additional committee meetings each week and the fact that no longer would the membership of the agriculture, education and public works committees have to be the same.

The study committee's recommendation that standing committees begin their hearings at 1:30 in the afternoon rather than 2:00 was also adopted, thus giving more time to hear bills and to hold the important executive sessions. These rule changes were recognition of the fact that much of the lost motion in the legislative machinery occurred at the committee stage. Since all bills are given public hearings with five days notice it is necessary to speed the process as much as possible and to budget hearing time carefully.

Concrete results are already in evidence. The legislature does not begin all-day sessions until the hearing process has been largely completed, and this year these sessions began on May 3, nearly a month earlier than in 1955. This gave the legislature more time to discuss more bills more fully on the floor than formerly.

The third rule change adopted was to provide that resolutions calling for Legislative Council studies be referred to the executive board of the council for a report prior to being acted upon by the legislature. The result of this change has been to reduce materially the number of studies assigned for report by the Legislative Council.

Summary

We return briefly to the original conclusion that the people of Nebraska have accepted completely the nonpartisan one-house legislature. The abortive attempts to alter it by petition, the favor with which it is viewed by those who have served in it, and the lack of popular criticism of the system itself all bear out this statement.

Perhaps part of this approval is based solely on a passive acceptance of prevailing political institutions, but there are other and more positive reasons.

The basic purpose of a legislative body is to reflect the prevailing political, social and economic views of the people it represents. If it does this, and if its machinery and processes are constituted in such a way as to allow these resultant decisions to be expeditiously enacted into law, then it makes little difference whether the members are called Republicans and Democrats or senators from districts 1 and 43. The Ne-

braska legislature has performed this function, even though early opponents were concerned lest the lack of party responsibility and a second chamber to check impulsive actions would lead to a distortion of public opinion.

For example, the people have long insisted on a narrow tax base and limited government spending. In 1937 and 1938 the state was advertised in *Time* magazine as "America's White Spot," undarkened with income, sales or other "extra" taxes.[4] The Nebraska Federation of County Taxpayers Leagues said that the outstanding accomplishment of the first session of the unicameral legislature was the fact that no bills were introduced providing for major new forms of taxation except the one to levy a cigarette tax which was defeated.[5]

Low Tax Burden

Succeeding sessions of the unicameral legislature have continued to reflect this conservatism in tax matters. While a cigarette tax was imposed in 1947 and a severance tax in 1955, repeated attempts to enact sales and income taxes have met with failure. Two such bills were defeated by the 1957 session. Today Nebraska is the only state in the Union which continues to rely on the general property tax for an appreciable percentage of its state revenue (about 30 per cent in 1956), and it has the lowest per capita state tax burden of all the states save one and no long-term debt.

Yet the legislature has provided those services over the years which a majority of the people have demanded. It has supported an excellent State University, has carried on an accelerated highway program and has maintained since 1935 a fairly liberal public assistance program, the latter in response to a population whose percentage of persons over 65 is greater than the national average.

The legislature since 1937 has also mirrored the disapproval of the largely rural population of a compulsory school redistricting law and the state now has more school districts than any other state. It has consistently refused to accede, furthermore, to the persistent urging of educational groups for a program of state aid to schools, believing that the greater number of people would object to the wider tax base which such a program would require.

The people of the state, in addition, favor the openness with which the legislative process is conducted. Hundreds come to Lincoln each session to attend the public hearings held on all bills and to watch proceedings in the chamber. It is an easy matter, moreover, to locate the status of any bill at any one time and to follow its course. And the people know who is responsible in cases where actions are taken of which they disapprove.

And there are checks within this unicameral system. It has already

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[4] By the Associated Industries of Nebraska. See *Time*, December 27, 1937, and June 14, 1938. This group also published a colorful 31-page brochure entitled *America's White Spot* (1938), and distributed it widely.

[5] Nebraska Federation of County Taxpayers Leagues, *Legislative Report of the First Session of the Nebraska Unicameral Legislature*, Fullerton, Nebraska, 1937, page 1.

been seen that public opinion itself is an important one.[6] The governor's veto is available but the restricted use of this check buttresses the conclusion that the legislature keeps closely attuned to public opinion. The initiative and referendum are available and have been used to correct what the people believe are errors of commission or omission on the part of the legislature.[7]

Close observers today feel there are three changes which should be given careful consideration in the near future. An enlargement of the present chamber (under the present constitutional provision it could be increased from 43 to 50) would not only widen its representativeness but would also relieve part of the heavy committee burden now shouldered by each member. The legislators' salaries ($872 per year) need to be raised too, and districts should be redrawn to reflect the population shifts which have occurred since the 1930 census (the basis for the original and present apportionment).

It is certain, however, that the unicameral principle is here to stay in Nebraska. As one who was long associated with the legislature put it, "the unicameral legislature has not fulfilled either the most optimistic hopes of its friends or the most pessimistic fears of its opponents. On the whole, however, it has given a good account of itself."[8]

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[6] For example, a leading veteran senator was defeated for reelection in 1956 largely because he took a view on redistricting and educational problems not shared by a majority of his rural constituents.

[7] The 1949 action of the legislature in increasing the gas tax was reversed by a referendum in 1950. Also, because recent legislatures had refused to levy a ton-mile tax on heavy trucks, groups in favor of such a tax placed such a law before the people by initiative petition in 1956. It was voted down by the electorate.

[8] Roger V. Shumate, "The Nebraska Unicameral Legislature," *The Western Political Quarterly*, September 1952, page 512.

Highest Score Sheet

Unicameral system lacks old abuses of railroading, last minute peak load, buck passing, trickery, patronage.

By RICHARD C. SPENCER*

ONE occasionally hears whispers that the Nebraska unicameral legislature is not all that it should be and that many Nebraskans are dissatisfied with it. Of course, no political structure is all that it should be, but the whispers seem to have originated outside Nebraska for the benefit of non-Nebraskans. It might be well to take a look at the score sheet of the Nebraska legislature compared with that of other states, especially now that the legislature has completed its eleventh regular session, 1937-1957.

Although the picture is not far different from that reported in this REVIEW in February 1950,[1] the fact is that the "unicameral"—"unicam," as Nebraskans familiarly designate it—has come to be something of a show piece for visitors from other states and from foreign, particularly Latin American, countries. Several features distinguish it from other American state legislatures, features that no one who has carefully observed or studied it can possibly deny.

The legislature obviously grapples with the vital problems of the day and does so rather promptly—though it may not deal with them as some people would like. The peak of the load in number of bills passed or rejected continues to come just after the middle of the session.

No irresponsible introduction of bills takes place late in the session through blind compliance with requests for unanimous consent. In 1955, for instance, only 25 bills were introduced after the twentieth day deadline. Six were requested by the governor and nineteen were committee bills. Railroading a late-introduced bill through has been tried and failed. This alone should put most state legislatures to shame. Proportionately, a larger number of bills per member are introduced but there is no rush at the end of the session. The simple and direct procedures are devised for, and do produce, full deliberation, including repetition of steps for review when necessary. Bills are better drafted to begin with than in most states and they end up in better technical form when passed because of the regular procedures for technical review. There is little chance for and little resort to trickery or surprise actions. The procedure is too simple and direct for that.

All bills are considered in some way and the full legislature takes complete responsibility for the dis-

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[1] See "Nebraska Idea 15 Years Old," by Richard C. Spencer, page 83; see also "One House for 20 Years," by Jack W. Rodgers, page 2, this reprint.

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position of every bill, either to pass it or to postpone it indefinitely, without leaving it to the mercy of a committee or burying it on the calendar. If a standing committee holds a bill too long, a discharge rule that actually works is occasionally used to bring it to the floor.

There is no sifting committee to draw its mesh too tight nor any other procedural device of selection that can be exploited to prevent the representative body as a whole from debating a measure. A bill is taken up in its order of report out of committee, as listed on the daily "Work Sheet," or—a fairly recent development—it is lifted from its regular order by grant of unanimous consent. This latter practice seems somewhat untidy—perhaps could be used for surprise purposes—but it does not endanger the prospects of consideration of other measures on the calendar. It merely makes an exception to the regular order.

Suggest Steering Committee

A procedural study group has suggested the creation of a so-called "sifting" (also called "steering") committee to coordinate reference of bills to committee and their return, hearings schedules and debate calendar sequences. There is no suggestion, however, that this committee, if created, would be in position to act as executioner of unwanted measures. The whole legislature does its own sifting—sometimes awkwardly but effectively. As a result sessions have grown somewhat longer, that of 1957 being the longest, 115 days; but it disposed of 615 bills, passing 404 of them.

Bills get more complete consideration by the whole legislature in Nebraska than elsewhere. Nearly all committee work was done by April first in the 1957 session. That was scarcely after the middle of the session and the full legislature began holding afternoon (but no night) sittings as well as the regular morning sittings to consider the bills that committees had already reported and which were waiting their turn on the calendar.

Minor changes in procedure, primarily with a view to shortening the session, were considered in 1955 and 1957 but of those recommended by the Legislative Council's study committee only one was adopted. It increased from eleven to twelve the number of bill-policy committees in order to spread the work of bill consideration by cutting down on the size of most other committees. One proposal, to have departmental bills introduced by committees only, was apparently inadequately presented and therefore misunderstood. It was rejected, some members thinking it would limit their right to introduce bills of their own that might affect departments, but one observer felt that if the matter were presented again it would be adopted. It could reduce the total number of bills introduced by individual members and save some sessional time by consolidating the bill demands of various departments.

The unicameral continues to operate without any end-of-session confusion, uncertainty or rush. The end is clearly predicted fully a week in advance, with only a few bills left for disposal in the last few days. Only one bill is passed on the last day—the budget bill. Thus the gov-

ernor is not overloaded and is not, as often happens in other states, the target of dissatisfied lobbyists who hope to take advantage of his discomfiture to influence him, perhaps through his executive assistants, to veto a measure they oppose. This puts the governor's legislative work out in the open. For most bills the governor may wish to veto the legislature is still in session to reconsider them.

Simply because work is done so much in the open no devious lobby influence is effective, although lobbies are there in full force and resort to some practices, like offering free meals, that raise eyebrows. The newspapers and consequently the public can follow the operations of the unicam without difficulty. There is only one relatively small body of legislators to be watched.

Members themselves may not easily abuse their offices because they can be easily watched both from within the membership and from without. In most state legislatures members have to ignore or tolerate questionable practices on the part of some of their colleagues because it is hard for them to do anything about it. Not so in Nebraska. One Nebraska legislator apparently attempted to use his position in an unseemly manner in 1955 but his fellow legislators got suspicious. In a legislature of only one house members cannot dodge responsibility for their fellows. Unethical conduct by one, if condoned, reflects on all others. An investigation of "improper practices" was ordered and a forthright report was adopted almost unanimously. The offending member was, in full session, roundly "censured, reprimanded and condemned for improper and unethical conduct." It was a good lesson for all members and, no doubt, for the pressure interests that may have been involved.

There is no sessional legislative patronage available to individual members in the usual American pattern. Instead, the approximately 60 sessional employees are appointed by the full-time, year-in-and-year-out clerk of the legislature, himself a former senator under the earlier bicameral setup. He accepts applications transmitted by members, without the members having to favor some and disappoint others, and merely appoints those of proper qualifications.

Legislative Council's Duties

One outstanding feature is that the Legislative Council and its permanent research staff are trusted with serious investigations and difficult tasks—probably much more so than is possible in a bicameral legislature. It is trusted to do the interim work of investigation, research and bill recommendation that in many state legislatures is parcelled out in a hit-and-miss fashion among various specially appointed interim committees. Since all members of the small Nebraska legislature are now members of the Legislative Council and may be asked to serve on council committees for particular assignments as arranged by its executive committee, there is little reason for members being suspicious of the council's reports and recommendations. This permits all members of the legislature, potentially, to be active throughout the biennium but in a

well coordinated and responsible manner. The permanent research director of the council and his staff serve on all the projects.

There are no conference committees as in other legislatures to iron out the differences, serious or petty, in bills already passed by two houses. This source of obscure, irresponsible and sometimes corrupt legislative action is entirely lacking, of course, merely because there is only one house. Likewise, one house or its committees cannot wait to see what the other house and its committees will do with particular bills or parts of a "program" before taking some action itself. In the one house, it does no good to wait and thus congest the calendar. There is no "passing the buck." This is the principal reason that the unicameral legislature can complete all its work without a rush at the end of the session. It is just that simple.

Reapportionment Question

Nebraska got an equitable reapportionment for representation when the unicameral districts were laid out. Although out of line now, the disproportion between the larger cities and "out-state" is not as yet serious enough to be disturbing. No provision was made in the constitution to assure prompt and fair reapportionment. Left in the hands of the legislature itself, the job may not be done because of the strength of the over-represented "out-state" sections, unless, of course, citizens resort to a constitutional amendment by initiative petition for this purpose.

The adoption and continuance of the unicameral legislature has little or nothing to do with political views or loyalties, liberal or conservative, Democratic or Republican. The people of Nebraska are essentially conservative. Their legislature is essentially conservative. Some unicameral legislators have been identified as "status quo" members who get their principal support outside the legislature from the railroad lobby, some of the Omaha interests and the economy-minded tax groups. Others have been labelled "progressive" and are aligned with such matters as educational and welfare improvement. Others are not definitely tagged, but the "status quo" group generally is comfortably in the saddle. In this respect they are about like Americans in general, so why should they try to upset an effective unicameralism to which they have become accustomed?

Dependence is placed on the property tax. Income and sales taxes have been avoided. Appropriations have not been high, although the 1957 session, as something of an exception and only after long debate and some reversals in decisions, found it necessary to recognize the rise in the cost of state government and appropriated amounts reaching a new high, especially for the University of Nebraska. Thus far, the legislators have not been able to get the voters to increase legislative salaries, which under present constitutional limits are admittedly very low —$872 a year.

Nebraskans are interested in their legislature. They vote for its members in approximately the same numbers that they vote for members of Congress—in both primary and gen-

eral election. They write "letters to the editor" about it, usually exhibiting more feeling of personal contact with the legislature than comparable letters in other states, but the comments or complaints deal with the same subjects as elsewhere. Some are satisfied and some dissatisfied with legislative results.

Some, including a few of the legislators themselves, feel that the legislature may be somewhat small to handle committee work adequately or to be adequately representative—that it should be enlarged. Some think, and this includes the partisan governors, that there would be more "leadership" if the election were on a partisan basis, the implication being that a governor belonging to the dominant party in the legislature could crack the whip on behalf of an executive or partisan "program." Others seriously doubt this. At present the election of members is on a nonpartisan basis in both the primary and general election, and most members seem to be content with this. In fact, they have not infrequently elected to important legislative posts those in whom they had personal confidence, regardless of known party affiliation.

In the 1957 session, proposals to change the size and nonpartisan character of the legislature were rejected and the only constitutional amendment proposed by the legislature that would affect themselves, to be submitted to the people in 1958, is to double legislative salaries.

EDITORIAL COMMENT

(Continued from page 1)

which should be felt by representatives of the people. Nothing is more common than for one house to pass a bill and the members who voted for it to urge the other house to defeat it, or for a little group of members in one house to hold up legislation from the other house until they extort from it what they demand.

"c. The third point urged for two houses is in order to prevent hasty legislation by requiring more time and machinery for the enactment of a law, thus securing deliberation and reflection. Deliberation and reflection do not now mark the work of a two-house legislature, which passes most of its acts in the last ten days of the session. A smaller body with a more direct responsibility upon each member arising therefrom will tend to greater deliberation and reflection than the present system."

These serious indictments are at least as valid today as they were 40 years ago. Nebraska's experience, as well as the experience of the many cities that abandoned bicameralism long ago, have brought in the verdict.

Contrast the indifference and lethargy of other states with the attitude of industry. The assembly line was little more than an experiment before everyone saw its soundness—and acted. And no one has to go around preaching the virtues of automation or of the self-service supermarket.

Don't we care what happens to our legislatures?

NATIONAL MUNICIPAL LEAGUE
47 East 68th Street, New York 21

THE UNICAMERAL LEGISLATURE

Institutions of representative government should not be regarded as ends in themselves, but simply as means through which social and economic objectives can be achieved. An efficient legislative structure for state government is important so that lawmakers will have the fullest opportunity to know and be responsible to the public will.

Bicameralism is a characteristic feature of American government found in the organization of both Congress and the legislatures of every state except Nebraska. However, it has not been the only structure employed in American legislatures. Pennsylvania, Georgia, and Vermont had experience with unicameralism in their early history. Nebraska has had a unicameral state legislature since 1937. Great Britian's legislative body, from which our tradition stems, is bicameral in name only. The House of Commons has assumed all important legislative and political functions from the House of Lords, and is essentially a unicameral system. At one time some 40 per cent of the nation's cities had bicameral legislative bodies, but bicameralism has practically disappeared at the municipal level.

Although the traditional bicameral legislature remains in all but one state, the two houses generally have the same jurisdiction, the same authority, and the same requirements to perform identical functions. Further, state government is undergoing major change today. Reynolds v. Sims and other recent U.S. Supreme Court decisions have established the general rule that a state must make "an honest and good faith effort to construct districts for both houses of its legislature as nearly of equal population as is practicable." Differing bases of apportionment alone are a less valid rationale for a bicameral system.

It is therefore important to re-examine the efficiency and effectiveness of unicameralism as compared to bicameralism, and to weigh the relative merits and disadvantages of each.

Spotlight on Nebraska

The story of the pioneering efforts of Senator George W. Norris and others to convince Nebraskans to adopt a one house legislature began in 1913. A legislative committee was appointed to study ways and means by which the state government could be made to function more effectively. It recommended the unicameral system. A long and arduous campaign began, ending victoriously in November of 1934.

At that time, a citizens' petition had secured a statewide vote on the constitutional amendment to merge Nebraska's 33-member Senate and 101-member House into a single legislative body. The amendment carried by a large majority, and the unicameral legislature has been in operation in Nebraska ever since.

Legislative Structure

Nebraska has a one-house legislative body composed of not less than 30 nor more than 50 members (currently 50), elected from single-member districts on a nonpartisan ballot (which is not essential to the system). Legislators meet in unlimited biennial sessions, for which they are presently paid $4,800. Legislative terms have recently been extended from two to four years, with half the members elected every two years. The governor continues to present a budget, exercise the veto power, and make certain appointments subject to legislative confirmation. The presiding officer of the assembly is the lieutenant-governor, and the chief clerk is a full-time officer. A legislative council, to which all legislators belong, functions between and during sessions to maintain research and reference services, as well as to formulate legislative programs.

One of the objectives of the unicameral amendment was an effective committee system. There are at present 18 standing committees, 13 on subject matter and 5 on administration and rules. Membership and chairmen of the committees are chosen by a 13-member Committee on Committees.

Rules of Procedure

Introduction of bills by individual members is limited to the first 20 legislative days. After the 20-day limit, a standing committee may introduce bills upon a majority vote of its members and upon the vote of three fifths of the elected members of the legislature. Bills may also be introduced after the 20-day limit upon recommendation of the Governor.

There are public hearings on almost all major bills. Any citizen may appear to state his position for or against a measure. Notice of date and time of committee meetings is published in the legislative journal 5 days in advance of hearings.

En route to passage after receiving committee approval, a bill makes at least three appearances on the floor—first to undergo debate and amendments, a second time for technical refinements and unanimous consent amendments, and third, final reading aloud and final vote. All bills must be published after refinement and when received by the legislature must lie on the members' desk for one legislative day before the final vote.

Unicameralism a Success in Nebraska

There has been no serious attempt in Nebraska to return to bicameralism since 1934, although there are recurrent movements to change from non-partisanship to the party system. A survey of 68 present and former senators by the University of Nebraska's School of Journalism in 1961 turned up only four who wanted to return to the two-house system.

Nebraska's Gov. Frank B. Morrison has said in an interview with the *New York Times* that two houses are unnecessary. "There is no longer any reason for any state to retain the duplications of a bicameral system when a unicameral system serves the same purpose less expensively." The legislators in Nebraska generally agree that the unicameral system has benefited the state. Those interviewed by the *Times* indicated that lawmakers were much more responsive to the wishes of their constituents under the unicameral system than under the old two-house establishment. Vice-Chancellor of the University of Nebraska, Dr. A. C. Breckenridge, says that the unicameral system has "become a source of considerable pride for many Nebraskans. Although it is by no means a perfect institution, it is a workable and responsible device for representative government."

The unicameral legislature also is advocated by the National Municipal League in its Model Constitution and the system is supported in Nebraska by the Nebraska League of Women Voters.

Why Only in Nebraska?

With many western nations and almost all major cities in the U.S. governed by unicameral systems, why is Nebraska the only state with a unicameral legislature? One reason given is the innate conservatism in America where government is concerned; another is that legislators are naturally reluctant to vote themselves out of office. Three other factors were at work in Nebraska when the unicameral system was adopted: (1) long outstanding leadership for unicameralism in the state; (2) initiative provisions available in the constitution; and (3) disenchantment with the bicameral legislature and its handling of depression issues.

In Support of Bicameralism

The adherents of bicameralism give a number of reasons for its retention. A study of apportionment by a group of political scientists, "One Man, One Vote," said: *"Bicameralism may also serve to further the very objective of representing the people equitably in a legislature. In any districting, geographic features are bound to cause some inequities of population among districts. When there are two houses, an area that is somewhat underrepresented in one may be given a compensating advantage in the other and minor inequities in apportionment thus be balanced off."* The Supreme Court said that different constituences could be represented in two houses under a population standard; one house could have single-member districts while the other could have at least some multi-member districts. Differences in personnel, constituency, and outlook due to different terms and other factors all are justifications for bicameralism.

Efficiency and Consideration of Bills

Supporters of bicameralism insist one of its greatest advantages is that hasty or ill-considered legislation, passed by one house, can be killed on sober examination by the other. The following statistical analysis of the action of one house upon the bills from the other in Missouri challenges this argument.

Missouri General Assembly
Bills introduced and Their Disposition
72nd General Assembly, Reg. Session 1963

Introduced			1,154
Passed House of Origin	549	47.6%	
Failed in House of Origin	605	52.4%	
Action in Second House			549
Passed without Amendment	200	36.5%	
Passed with Amendments	87	15.7%	
Failed to Pass	262	47.8%	
Bills Sent to Conference			22

The house of origin in Missouri failed to pass approximately half the bills introduced, which means that a large fraction of the legislation proposed in either house is never even considered by the second chamber. When bills do get to the second house, a far greater percentage of those finally passed are not amended, seeming to disprove the theory that one house acts as a check upon the other.

Unicameral advocates assert that the real checks and balances are the governor's veto, a court review, and the fact that a bad bill can be repealed by referendum or at the next legislative session. Checks and balances should be exercised between the three branches of government.

A summary of the above provides an interesting parallel with those of Nebraska's unicameral legislature during the same year.

	1963	
Bills intro. Mo. Legislature	1,154	
Bills passed Mo. Legislature	287	25%
Bills intro. Neb. unicameral Leg.	815	
Bills passed Neb. unicameral Leg.	545	67%

For purposes of comparison, the last year of Nebraska's bicameral legislature is enlightening: of 1,956 bills introduced in 1935, 192 or 18% were passed. Certainly in a one-house legislature the total number of bills introduced is greatly reduced and the percentage of bills passed is greatly increased. In Nebraska, reports on bills can be requested 20 days after a bill has been sent to committee. The unicameral legislature has not experienced the bunching up of bills at the end of the session which so often characterizes the last 48 hours of many legislative sessions (caused in part by bills being approved by one house and held by the other until the last possible moment.)

Responsibility and Visibility

In a single house, supporters say, each legislator would feel greater personal responsibility for careful consideration of all bills to be voted upon, knowing that responsibility for presenting bad legislation could not lightly be delegated to a second body. Responsibility is more easily pinpointed in a unicameral system. With bicameralism, one house can stop, or seriously impede, good measures that are favored by a majority of the people. Some authorities feel that the biggest problem of state legislatures has been the failure to take any action at all rather than the laws actually passed.

It is claimed that two houses provide protection against corruption and undue influence by lobbies, yet Nebraska's simple organization and small membership provide high "visibility" for legislation. Certainly the elimination of the conference committee, which Senator Norris termed a third house, removes one point of undue influence. Nebraska State Senator R. D. Marvel says: "There's now no way for us to pass the buck. I can't say to a constitutent, 'Okay, I'll introduce this for you,' and then run to the other house and say, 'Boys, kill this.' The lobbyist, too, doesn't dare talk out of both sides of his mouth. We're working in a goldfish bowl." The definite legislative procedures required in Nebraska make it easier for the voter to understand the process and to know where and when his voice would be most effectively heard.

Economy

A unicameral legislature would undoubtedly be more economical. While improved rules of procedure could be followed under bicameralism, duplication of effort still would be involved in getting legislation passed by two houses. The total cost of Nebraska's first unicameral session in 1937, with 226 bills passed, was $140,000. The last bicameral session in 1935, with 192 bills passed, cost $203,000. Experts, however, are inclined to discount the importance of this argument. The single house should cost less, they say; but legislative costs are so small a part of total state budget that this is not a significant argument. Of more importance is the fact that the unicameral system would reduce the number of legislative members, making it possible to pay the legislators a more reasonable sum without increasing the amount spent on salaries.

Quality of Legislation

Certainly the rules of procedure have been an outstanding feature of Nebraska's unicameral system. Many of these same improvements could be made within a bicameral system, however. To adequately evaluate the quality of government in any state one must look at the kind of legislation which is passed, rather than the techniques used to pass it. Some authorities have noted that in a state as concerned with economy as Nebraska, the legislation passed has not kept pace with progress in other states. For example, Nebraska has no merit rating system for state employees, something the League of Women Voters has long supported in Missouri. Critics also have pointed to Nebraska's tax problems as an area in which bicameral legislatures seem to have done a better job. Yet, if the reason for lack of progress is failure of the legislature to act, having two houses instead of one would have made the situation even worse. Unicameralism, as a tool, does not guarantee good government, but it does eliminate some of the obstacles that plague bicameralism. Nebraska's problems and constituency are different from those of a more urban state, and comparisons of the quality of legislation are exceedingly difficult to make.

How Could Missouri Change to Unicameralism?

The legislature could offer a unicameral amendment to the voters, or citizens could circulate initiative petitions asking that such an amendment be put on the ballot at the next general election.

The change would take effect thirty days following approval by a majority of the voters.

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UNICAMERAL LEGISLATURES

The Birth of Legislatures

Legislatures are a comparatively modern branch of government, while executive and judicial agencies can be found in the most ancient societies. The legislature as such originated in England in the late Middle Ages when the king under pressure of his vassals called representatives to gather and consult on the governing of the kingdom. From the beginning, the delegates were called as representatives of separate and distinct classes of society, known as estates. In the Model Parliament of 1295 there were five estates, but soon these were consolidated into two, the nobility and clergy in one body, and the common people in the other, and the tradition grew for them to sit apart so that each would have at least a veto power over the other. This explains the origin of the House of Commons representing the lower classes and the House of Lords representing the aristocracy.[1]

Colonial Legislatures

This pattern was followed to some extent in the Colonial American legislatures where the upper house in most cases served as a council to the royal governor, and represented the king, while the lower house was chosen by the electorate of the colony. In some cases the upper house was elected by the lower, but property requirements were higher in the upper house. Upon gaining independence most of the states retained this basic form while three states (Pennsylvania, Vermont, Georgia) at first tried unicameral legislatures.

"In the American colonies, the rise of the second house came about due to a conflict of interests within the colony or between the proprietor and the colonists.[2] The governor's council, which was to become the upper house of the legislature in the great majority of colonies, was a small body of from three to twelve men, appointed by the proprietors to act in advisory capacity to the governor; the lower house was a concession to the colonists, just as the house of commons grew up as a concession to the non-noble class of England. That the two groups early came to sit apart was due to questions of expediency, and the same motive which led the proprietors or the colonists to demand a separate house under one set of conditions led them to wish a joint meeting as a single house under other conditions.

"In Maryland, the first legislature summoned by Lord Baltimore, that of 1637, and its immediate successors, consisted of the lieutenant general or governor and the secretary of the province, the members of the council, gentlemen summoned by special writ of the proprietor, and the burgesses elected by each hundred. Those summoned by special writ were quite naturally looked upon as representing the interests of the proprietor rather than of the colonists. So long as the governor could summon an indefinite number of gentlemen to sit and vote with the elected burgesses, he could easily control the legislature. The burgesses, therefore, feeling that they were the only true representatives of the people, and impotent to cope with the forces of the governor,

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[1] E. C. Buehler, Unicameral Legislatures, (New York: Noble and Noble, 1937), pp. 141-160.

[2] Harrison Boyd Summers, Unicameralism in Practice (Vol. 11, No. 5 of The Reference Shelf, 11 vols.; New York: H. W. Wilson, 1937), pp. 181-197.

early demanded the right to sit and vote apart and to have a veto on the acts of others. Although refused at the time, their request was granted eight years later, and from 1650 on the two groups continued to sit apart and act as coordinate bodies.

"The people of New Jersey were no less insistent in their struggle for a single house. The 'Consessions' of 1664, issued upon the separation of the new colony from New York, provided for the appointment of a council of six to twelve by the governor, who was the appointee of the proprietors, and the election of twelve deputies by the freemen. It would seem that the Concessions contemplated that these two groups should sit as one body and decide all questions by majority vote. But when the first session met in 1668 there were ten deputies and only seven councillors present. It being evident to the representatives of the proprietors that such a scheme would destroy all effective control over the conduct of affairs by them, they immediately withdrew and insisted upon their right to sit and vote apart. The deputies, wishing a single house, were so insistent in their demands that the governor ignored the Concessions, dismissed the deputies, and ruled without an elective assembly until 1675. The deputies elected in 1675 and succeeding years were no less insistent than had been their predecessors in their demands for a single house, and in 1681 the governor again dismissed them and ruled with the advice of the appointed council alone. In 1702, when the colony became a royal province, the bicameral system was restored, the upper house or council being appointed by the king, and the lower house elected by the freemen of East and West Jersey. This status continued until the revolution.

"In 1680, when New Hampshire was separated from Massachusetts by royal decree and made a separate province, the crown appointed a president and a council of nine who were to govern with the aid of an elective general assembly. To make the veto of the smaller council effective, it was provided that the two groups should sit and vote apart. That there was no intention of making the elective group the equal of the council was early shown when, in 1682, due to the stubborn attitude of the assembly in insisting upon its rights, it was dissolved, to meet only once during the next ten years. In the interim the president ruled with the council alone. In 1692 the assembly was restored as a coordinate body, and in this form the two houses continued down to the revolution.

"New York was ruled by a governor and council until 1683, when an elective assembly was granted, to sit as an independent house. With the ascension of the proprietor to the throne as James II, one of his first acts was to abolish this assembly, leaving the governor and council again supreme. William III revived the assembly in its old form in 1691, and it was continued down to the revolution. North Carolina was granted elected representatives as early as 1665, the 'Concessions' of that year providing for the election of twelve deputies to sit with a smaller number of councilors, as a single body. The disadvantage in which this placed the proprietors soon becoming evident, the plan was changed to require the consent of a majority of the councilors, as well as a majority of the entire body, for the passage of all laws. The two groups continued to sit together, the representatives of the proprietors having a veto, until 1691, when a new form of government provided for an upper house of the local nobility and a lower house of elected delegates. From this date the two houses continued to sit as separate bodies. In South Carolina the two houses seem to have sat apart from the first.

"The early legislative history of Pennsylvania and Delaware is quite different. William Penn was notably the most liberal of all the proprietors, and when he provided for a legislature for Pennsylvania in 1682, he did not retain a check in the form of an appointive upper house. He did, however, provide for two houses, both elective, the smaller of which was to propose laws, the larger only to consent to or reject the bills of the other. This ingenious scheme soon broke down, however, the lower house gaining the right to originate bills, which power was definitely recognized by the charter of 1696. The distinction between the houses being broken down, they simply becoming coordinate legislative Bodies, representing the same interests, a single house was substituted by the charter of 1701, and the life of the two houses as coordinate branches was thus limited to five years. Two years later Delaware was given its own legislature, also a single house, and in this form the two governments continued down to 1776.

"The first colonial assembly ever to meet in the new world was that of Virginia, elected in 1619 at the call of Governor Yeardley. Up to this time the colony had been under the direction of a governor and a council of six, all appointed by the London Company. The twenty-two burgesses met with the governor and council in one body and enacted laws for the colony. Although the session lasted but six days, it marks the beginning of representative government in America. Five years later, when the crown revoked the charter, the House of Burgesses was allowed to continue, the councillors, now the appointees of the crown, continuing to sit as members of this body. In 1680, however, the council was made an independent house, to increase the control of the crown over colonial affairs. The two houses continued down to the revolution.

"Massachusetts was the first colony to develop a two-house legislature. The charter of 1629 provided for a governor, deputy-governor, and eighteen assistants, all appointed by the members of the company. They were to meet four times a year with the freemen of the colony, who retained the legislative authority. With the growth of the colony such general meetings proved impracticable, and the lawmaking was left to the governor and the assistants. Although the assistants were now elected by the whole body of the freemen, the towns felt themselves to be without adequate representation, and in 1632 secured the right to send two deputies each to sit with the governor and assistants. Although the two groups sat together as one body, the closer connection of the assistants with the executive, together with the difference in their modes of election, tended to make them think of themselves as constituting two different groups, and not two years had passed before the assistants sucessfully asserted their right to a veto on acts of the General Court, even though they secured a majority vote of the two groups combined. However, they continued to sit together, either group having a negative upon the other until 1644, when a sharp controversy brought the two groups into conflict and forced the issue of separation.

"The two self-governing offshoots of Massachusetts, Connecticut and Rhode Island, may well be considered together, as their lines of development are very similar to each other and to that of Massachusetts. As in the latter state, a small number of 'magistrates' were elected at large, and a larger number of 'deputies' were chosen by the towns. The two groups met together as one house, but as the amount of business increased, the smaller group was made

a sort of standing committee to care for all matters that might arise while the deputies were not in session. This placed the deputies at a distinct disadvantage and led to their demanding and receiving permission in Rhode Island to withdraw for discussion among themselves and to agree upon a common attitude, so that they might meet the magistrates on a more even footing. The next step was a desire for complete separation, which came in 1696 in Rhode Island, and two years later in Connecticut. Only under such a plan could the more transient body of deputies retain their independence and equality of action in competition with the more experienced and more active magistrates.

"Thus the eighteenth century opened with all but two of the American colonies having legislatures composed of two coordinate branches, with an appointive council exercising a certain degree of supervision over the assembly. The only new colony of the next century, Georgia, in keeping with the policy of the proprietors and of the crown, was also provided with a bicameral legislature, so that the revolution found the American colonies with much the same scheme of legislative organization as had existed for the greater part of a century. Now that the time had come for the colonists to decide how to govern themselves, only those living in Pennsylvania and Delaware had had personal experience with the working of a single-house legislature.

"The revolution produced no break in the orderly growth of legislative institutions. No alteration had taken place in the minds of the people relative to those institutions under which they had lived for the better part of a century, and no radical changes were contemplated in them. The constitutions adopted in the period following the opening of hostilities simply followed the lines of development already established. In the organization of the legislatures of the new revolutionary states, the chief problem facing the constitution makers had to do with the upper house. The lower house, which always had been the most, and generally the only, republican branch of the colonial legislature, required no attention other than a definition of its function and powers. The upper house, however, demanded reconstruction, since the colonial council was aristocratic and monarchical in character. The colonists had grown accustomed, in the council, to a legislative body smaller in size and more permanent in nature than was the lower house, renewed as vacancies occurred rather than annually or semi-annually, and frankly composed of and representing the interests of the wealthier members of the electorate. Advanced though the colonists were for their day and age, they still retained much of the British antipathy to and fear of the uncontrolled rule of the masses. The council, being the agency with which they were acquainted, was the logical one to continue as a check upon the more democratic lower house.

"Of the eleven states to reorganize their colonial governments during the period of hostilities through the adoption of a written constitution, all but two, Pennsylvania and Georgia, provided for an elective second or upper house. Of the remaining nine, seven frankly made the upper house a weapon of special privilege represented by wealth. In Maryland, New Jersey, North Carolina, South Carolina and New Hampshire, membership was restricted to the wealthier members of society through higher property qualifications than were required for membership in the lower house. New York and North Carolina provided for the election of members of the upper chamber by the more wealthy electors. And Massachusetts and New Hampshire provided that members of the upper house should be apportioned in accordance with the 'proportion of public taxes' paid by the districts. Only Virginia and Delaware had the same property qualifications for both the members and the electors of the upper and lower houses.

Legislatures Since Colonial Days

Under the Articles of Confederation the United States functioned with a unicameral congress, but in the framing of the Constitution the authors provided for two houses primarily as a check upon the much greater power of the new federal union. The bicameral provision was part of the Great Compromise which provided for representation to be by states in one house and by population in the other to satisfy both the large and small states. The bicameral feature itself was not specifically debated at any length.

After Vermont abolished its unicameral legislature in 1836 (being the last of the three to do so) all the states had bicameral systems for nearly a century. The tendency was nearly universal to have the lower house more representative of the people while the upper house continued to represent land and wealth, often by having higher property requirements for its electors. In the early twentieth century there was a widespread movement to promote unicameral legislatures. This sprang from a general dissatisfaction with corrupt and minority-dominated bodies, and was closely related to the Progressive Movement and the drive for the initiative and referendum. Proposals were made in a number of states, often by the governor, but were always defeated. The following table gives examples of defeated unicameral proposals: [3]

Year	State	Where defeated or died
1915	Alabama	Legislature
1915	Arizona	Initiative
1918	Arkansas	Constitutional Convention
1913	California	Legislature
1917	California	Legislature
1918	California	Legislature
1923	California	Legislature
1925	California	Legislature
1914	Colorado	Initiative
1914	Minnesota	Legislature
1915	New York	Constitutional Convention
1912	Ohio	Constitutional Convention
1914	Oklahoma	Referendum
1912	Oregon	Referendum
1914	Oregon	Initiative
1917	South Dakota	Legislature
1927	South Dakota	Legislature
1915	Washington	Legislature
1917	Washington	Legislature

The movement lasted until 1935 when Nebraska adopted its unicameral amendment, largely under the leadership of George W. Norris, the famous Progressive Republican Senator from Nebraska. The Nebraska plan seems to have been popular and successful, at least to the extent that it has not been changed, but it has not led to any other state's adopting it.

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[3] Ibid., pp. 197 - 200.

Representative legislatures had their greatest period of development during the 19th century and are now common throughout the civilized world.

> About three-fifths of the contemporary national legislatures are bicameral in form, including those of the major states. Legislatures are unicameral in Austria, Finland, New Zealand, Portugal and Spain, in the new states of Israel and Indonesia, and in most of the Soviet satellite states. National and state legislatures in the United States alone have preserved the balance between the two chambers. The U.S. Senate is unique among national upper chambers for its considerable ascendancy over the House of Representatives through longer term and possession of distinctive powers to confirm presidential appointments and to approve ratification of treaties, while possessing powers coordinate with the House of Representatives in other important respects. Elsewhere, notably in the British House of Lords since 1911 and to a lesser extent in the French Council of the Republic since 1946, upper chambers have quite generally been reduced to the role of delay, advice, and amendment of the actions of the popular second chamber.[4]

Canada is a particular case in regard to unicameral legislatures. The national Parliament is made up of the Queen's representative as Governor General, and two houses, the Senate and the House of Commons. The Provincial legislatures, with the exception of Quebec are unicameral, consisting of a Lieutenant Governor presiding and an elected Legislative Assembly. (Quebec retains a nominal second chamber, the Legislative Council.) Lieutenant Governors have the power to refuse assent to bills passed by the assembly. Canadian legislatures may delegate legislative power to other bodies, but such power is derivative rather than residual, and may be revoked at any time.[5] In Australia all states except Queensland nave bicameral legislatures, and the federal legislature is bicameral.

Essentially the tendency has been to copy the British pattern of bicameral legislatures in most of the English speaking world, and in larger nations, especially federal unions, while unicameral legislatures have arisen in smaller more homogeneous states and nations. Thus we find bicamerals in Switzerland, Australia, France, Spain, Mexico, Sweden, United States, Canada, and most American and Australian states and the bilingual province of Quebec in Canada; while we find unicamerals in Costa Rica, Finland, Haiti, Luxembourg, Norway, Panama, the majority of Canadian provinces, a single homogeneous American state, and one of the smaller Australian states. It should also be pointed out that American cities and towns are nearly universally governed by unicameral councils, though many of them earlier ex erimented with a bicameral form.

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[4] Encyclopedia Americana, 1964, Vol. XVII, "Legislature", p. 226.

[5] Encyclopedia Canadiana, 1963, Vol. 6, 'Legislation", pp. 114-116.

The Unicameral System

The rest of this study will attempt to explore the arguments that are advanced to support the adoption of a unicameral system, and the changing trend of justification for bicameral systems. The emphasis will be on the unicameral arguments, it being assumed that the reader is well acquainted with the functioning of the two-house system.

Arguments in favor of the unicameral system have tended to center around the issues of speed, economy, and popular will. One of the earliest advocates of the unicameral legislature was Jeremy Bentham, the 18th century political philosopher whose main theory was that of "utilitarianism", which proclaimed that government should seek the "greatest good for the greatest number". In achieving this he felt that any legislature would have to be based on universal suffrage and equal representation, essentially the "one man-one vote" concept. Therefore a second house was at best superfluous, usually obstructive, and potentially dangerous. He had no respect for bicameralism as a British tradition, pointing out that imitating governments rejected the monarchy but retained the House of Lords feeling they had no quarrel with it. Bentham saw only useless delay in consideration of legislation by a second house, suggesting that the indignation of voters is a better check on rash action. In a bicameral system a clear majority representing the will of the people in one house could be defeated by one or two votes in the other house. Any delay or clash of authority could only help to make lawmaking obscure and complex, an anathema to Bentham's idea of keeping the legislative process as close to the people as possible.[6] If one accepts Bentham's basic premise of pure majority rule, it is easy to concede his arguments in favor of unicameral legislatures. However, Bentham's premise is not in line with the tradition in United States governmental history of protection for minority and other interests.

An argument advanced long before the Supreme Court directed that both houses be apportioned on a strictly population basis was that the two houses had become so much alike in their representation that a separation was superfluous. This involves the whole issue of delay, obstruction and corruption. A bicameral legislature must consider everything twice (four times counting committees) thus doubling both time and expense. There is always the possibility that the two houses will pass the same bill for quite different reasons, not knowing the deliberations of the other. Or, vice-versa, they may pass essentially the same legislation, but in slightly different form, leading to delay in compromising the two versions. Or one house may assume that the other house has considered a bill adequately since it passed it, while in fact the bill gets proper consideration in neither house. On the other hand, two considerations can be strictly repetitious or may reflect purely the mutual jealousy between houses in seeking the attention of the people. Actually legislatures have virtually ceased to be deliberative bodies in the face of the great amounts of work they must now accomplish in one session. This is espcially noticeable in the closing days of a session when bills must be rushed

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[6] Buehler, op. cit., pp. 127 - 140.

through in great numbers, with most of the rules suspended, and with no deliberation by the entire house at all. Advocates of the one-house system maintain that it would simplify the procedure and make it possible to have adequate discussion of all measures once.[7]

It is argued that a two-chamber legislature is more easily dominated by pressure groups because influence is needed with only a minority of one house in order to at least obstruct action. This was a key argument of Senator Norris who pushed the Nebraska unicameral. He saw danger especially in the conference committee system where two or three members from each house can have life or death power over a piece of legislation and can become a sort of superlegislature. Senator Norris's case against the two house system was built principally on his fear of evils and difficulties in the conference committee. He felt that the committee had far too much power in relation to its publicity.[8]

Advocates of the unicameral legislature make frequent reference to the tendency of a bicameral legislature to try to shift blame and responsibility from one house to the other. Since every bill must be considered in two places, it is relatively easy through parliamentary maneuver to create confusion as to who was really responsible for the passage or defeat of a particular bill. Or, if a bill is proposed which most members do not favor, but whose author is a member against whom they do not wish to vote, the bill may well be passed in the originating house with the silent hope that it will be killed in the other house. This method is the source of much unworkable law. The method is the fate of a great deal of personal legislation or measures which were promised to constituents with tongue in cheek. Proponents of the one house system contend that it will make the record of the legislator much clearer to the public and make it more difficult for a member to introduce legislation which he doesn't really want. Responsibility would be made clear to the voter and thus would rest more heavily upon the legislator individually.[9]

Unicameral legislatures, it is argued, are faster in passing needed legislation and more economical in their work since double consideration is eliminated. The absence of duplication of effort in committees and rivalry between the two houses would improve both speed and economy. In a bicameral system lack of unified leadership can create further problems of delay or obstruction, especially if the two houses are controlled by opposite parties or if one house allies itself with the governor, against the other. Often there can be delay simply because the two houses become jealous of each other's prerogatives and seek to obstruct for the sake of obstruction. Sometimes a conflict between the two houses over one major question will halt all action on necessary legislation until it must all be passed in great haste during the last days of the session. In a two party system the division of the legislature into two houses effectively creates four segments of legislators with conflicting loyalties, any one segment of which can usually delay the popular will from becoming law.

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[7]Austin F. McDonald, American State Government and Administration, (New York: Thomas Y. Crowell Company, 1948), pp. 161-165.

[8]Buehler, op. cit., pp. 45 - 64.

[9]Robert S. Babcock, State and Local Government and Politics, (New York: Random House, 1957), pp. 162-163.

Thus the idea of a second chamber as a check on the governmental process has become instead merely a block to progress.

Another criticism of the bicameral legislature has been that its complexity and unwieldy organization make it difficult for the average citizen to appear before its committees of present their views in other ways. On the other hand the professional lobbyist or pressure group has a distinct advantage in working with this obscure system.[10]

The trend in the 20th century has definitely been in the direction of making legislatures more directly responsible to popular will. The Supreme Court decision requiring apportionment on the basis of population in both houses of a state legislature is probably the largest single step in this trend. The Encyclopedia Americana tracing and commenting on the trend points out the changing justification that has been used for the principle of bicameralism:

> Representation of various social classes or estates almost accidentally furnished the basis for bicameralism in England and in some other countries. Upper chambers are commonly constituted by birth, appointment, indirect election, or from a restricted electorate, while lower chambers almost universally rest upon a broader base of direct popular election. With the extension of suffrage and the development of popular political parties, power has followed the vote and progressive democratization of older societies has found expression in the ascendancy of their popularly elected second chambers. Much of the historic basis of bicameralism has been destroyed.
>
> In federated states a different reason of continuing validity sustains bicameralism. As in the U.S. Congress with its equal representation of states (geographic representation) in the Senate and representation according to state population in the House of Representatives, bicameralism permits expression of different principles of representation and the possibility of harmonizing the conflicts of interest expressed through such representation. The justly famous "Connecticut Compromise" which projected the federal Congress onto these lines during the Constitutional Convention of 1787, allowed the Convention to proceed with other essential matters to forge the greatest of federated states. The bicameral Canadian Parliament has accommodated geographic, nationality, and population principles of representation in a federal framework. Australia has solved representation problems similar to those in the United States by means of a bicameral parliament.
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> Since both houses in American state legislatures have come to be elected by the same broad electorate organized into slightly different territorial groupings (commonly the county for the upper houses and population districts for lower houses), justification for bicameralism has shifted to emphasise on the

[10] Buehler, op. cit., pp. 45 - 64.

value of preserving a balance between rural and urban interests and on the desirability of dual consideration and debate. Critics on the other hand, point to dangers in the diffusion of responsibility between the two houses, duplication of time effort, and cost, and liability to obstruction by minority interests. It is suggested that the double hurdle of bicameralism may block desirable as well as undesirable legislation, and it is noted that with few exceptions municipal councils are unicameral in the United States.

Bicameralism in the United States has helped to create and to perpetuate a rural gerrymander (over-representation of rural population) in many state legislatures, and the House of Representatives, and of the less populous states in the Senate. Legislatures establish electoral districts both for state legislative bodies and for the state delegations to the national House of Representatives, and, with the election to the state senate frequently based on county district, they have been reluctant in many states to adjust representative districts to the progressive urbanization of American life. This has brought on acute problems of taxation and financing public services in several states with large metropolitan centers. This rural-urban political conflict is largely, but by no means entirely, independent of partisan political alignment. [11]

A further argument in favor of the unicameral legislature involves the recent trend toward more technical and specialized legislation. Legislatures in the past have often been accused of allowing carelessly drawn and faulty legislation to pass without careful scrutiny. As state legislation becomes more complex and more involved with areas where professional competence is needed in drawing up bills, it becomes more of a luxury to subject detailed bills to the whims and vagaries of two mutually jealous and suspicious bodies.

The U. S. Congress as has been pointed out above was made bicameral as part of the federal system in which the component states were to be sovereign and therefore were entitled to representation as states in one house of the legislature. This principle does not necessarily hold true for state legislatures since states are not federated systems and the counties or other districts are not sovereign entities, but merely administrative subdivisions of the state government. On the other hand bicameralism has been defended by pointing out the unique historical role of the United States Senate in checking the role of the executive branch, or at least keeping a watchful eye on it. One other historical fact that ought to be noted is that constitutional conventions, which have been the means of setting up governments in the American tradition, have always been unicameral bodies, no need apparently having been seen to establish differing kinds of representation for these sessions.

As has been pointed out, Nebraska is the only state in the union which presently has a unicameral legislature. The Constitutional amendment which created the unicameral body for that state is presented as an appendix

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[11] Americana, loc. cit.

to this report. In addition to the amendment, some 125 changes in statute were required. Nebraska is not without its reapportionment troubles also. A constitutional amendment giving twenty per cent weight to area in apportioning the legislature was approved by the voters on November 6, 1962, and implemented by the legislature in May, 1963. A Federal District Court suit to bar submission of the amendment and to compile reapportionment on the basis of population alone had been denied, but a second suit challenging the weighted voting is pending.

Text of Nebraska's Unicameral Amendment[12]

Sec. 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 the same at the polls, independent of the Legislature, and also reserve power at their own option to approve 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 Speaker of the House of Representatives or temporary president of the Senate shall mean Speaker of the Legislature. Whenever 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.

Sec. 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 divice the state into 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 population excluding aliens, as shown by the next preceding 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.

Sec. 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.

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[12] Summers, op. cit., pp. 43 - 46.

Sec. 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 the general election at which they were elected. Each member shall be nominated and elected in nonpartisan 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 expense 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.

Sec. 10. The Legislature shall meet in regular session at 12:00 o'clock (noon) on the first Tuesday in January in the year next 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 the 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.

Sec. 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 any one of them be entered on the journal. All votes shall be viva voce. The doors of the Legislautre and of the Committees of the Whole, shall be open, unless when the business shall be such as ought to be kept secret.

Sec. 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 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 as amended and 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.

THE STRUCTURE OF THE MARYLAND LEGISLATURE

Unicameralism vs. Bicameralism

By John H. Michener

THE PURPOSE OF THE LEGISLATURE

The structuring of a legislature is not undertaken as an esthetic experience of value in itself, but as a means to secure a body that will function in the best possible manner. Alternative legislative structures must thus be evaluated in terms of their relative contributions to attainment of the purposes for which the legislature is created. A brief review of the basic purpose of the legislature helps clarify many of the problems involved in choosing between a bicameral and unicameral legislative structure.

The basic purpose of the legislature in modern times is to represent the electorate and to enact legislation carrying out majority wishes. Protection of minority interests is not a function of the legislature, as such. Protection of minority interests--or in broader terms, the distribution of power among the components of society--is a function of the constitution and the whole constitutional system. Internal restraints or impediments to legislative action are but one of a number of alternative means of protecting minority interests, and a means that has little justification if the other means in the constitutional system as a whole are adequate.

The failure of legislatures to fulfill their basic purpose adequately has been a fundamental cause of the most prevalent

tendency in modern constitutional government, the decline of the legislative assembly.[1]

In choosing between a bicameral or a unicameral system, there needs to be a recognition of the underlying purpose of the legislature and an explicit decision on the worth of legislative impediments to implementation of majority wishes, in terms both of the value of that which is gained and the value of that which is lost.

ORIGIN OF BICAMERALISM

Bicameralism is not the outcome of deliberate choice, but is rather an accident of English history and the influence of the English example on other nations.[2] The system is rooted in the stratified social order of the later Middle Ages.[3] The various social classes then existing formed different estates. When necessary, each class met as a separate "estate" in a "states general." In England the various estates came to sit in two houses. In France there were three estates, which last met in 1789. Four estates met in Sweden until 1866.[4]

Though it was an accident of English history that there were two chambers in the legislature rather than three or four, it was not an accident that there were two chambers rather than one. Similarly, it was no accident that a bicameral system developed in Maryland. The first assemblies in Maryland had but a single house. This house, it was charged, was under the control of the governor through his power to summon the attendance of individual citizens in the assembly on a selective basis and to use proxies held by

himself and the secretary of the colony.[5] In order to prevent this subjection, the burgesses elected by the freemen requested in 1642 that they be allowed to meet in a separate house. Although this request was refused then, a bicameral legislature was adopted in 1650.[6] Thereafter, Maryland had a bicameral legislature, except for a brief reversion to unicameralism during the period of Puritan ascendancy from 1654 to 1657.[7] Bicameralism thus came to Maryland as a means of increasing the responsiveness of the legislature to the electorate and not as a check on popular wishes.

ARGUMENTS FOR RETENTION OF THE BICAMERAL SYSTEM

The forces leading to the creation of the bicameral system are not the same as the forces leading to its retention. Retention of the bicameral system has been urged on the following grounds:

1. The upper house provides a protection for the propertied classes.

   With the abolition of property requirements for voting, particularly for voting for the upper house, this justification lost its compelling force. Moreover, Federal and State constitutional protections for property have proved adequate in the view of most observers. The argument is no longer made today.

2. Two houses permit representation of different interests in the two chambers.

   With the lower house based on population, the upper house can be constituted on another basis, such as representation of area. This argument has not been viable since 1964 when the

Supreme Court held that both houses of State legislatures must be apportioned on the basis of population.[8]

3. The second chamber provides a check on "popular passions."

In the words of Justice Story, a second chamber "forms a great check upon undue, hasty, and oppressive legislation."[9]

4. A second chamber can give an independent and thorough review to the need for and character of proposed legislation and so detect and avoid unnecessary or faultily drafted legislation.

5. A bicameral system permits the defeat of undesirable but popular legislation where outright opposition to the legislation would be politically dangerous.

6. A bicameral legislature prevents unity in the legislature and so precludes the success of any legislative attempts to invade the powers of the executive or judicial branches or the powers of the people.

7. A bicameral system prevents corruption of the legislature.

Corruption of a single chamber might succeed, but it would be much more difficult to corrupt both houses at the same time.

8. The bicameral system is the traditional system in the United States and is familiar to the voters.

The foregoing arguments are assumed by the proponents of bicameralism to be self-apparent. Research studies documenting these claims are not available.

In addition to these direct arguments for a bicameral system, the proponents of bicameralism attack certain features of the unicameral system. Generally, these attacks take the form of an

assertion that the unicameral system lacks some desirable features found in the bicameral system, in particular, checks on popular passions and an independent review. The specific features of the unicameral system are not attacked as undesirable in themselves.

ARGUMENTS FOR THE UNICAMERAL SYSTEM

The case for unicameralism rests on three grounds: (1) an assertion that there is no justification for the present bicameral system, (2) a positive plea for the merits of unicameralism, and (3) a refutation of the asserted deficiencies of unicameralism.

The Attack on Bicameralism

As noted earlier, justification for a second chamber is no longer claimed on the grounds that the upper chamber protects the propertied classes or permits the representation of different interests in the society. It should be noted in passing, though, that historically these were the two fundamental justifications advanced for the bicameral system. With their fall, the justification of bicameralism has had to fall back to secondary arguments which the unicameralists claim to be untenable.

The claim that bicameralism provides a check on "popular passions" and on hastily drawn legislation is vigorously attacked by unicameralists. One aspect of the attack involves basic differences in the judgment of the proper role of the legislature. Thus the unicameralists assert that a check on legislative action, purely for the sake of blocking action disliked by the minority, is undemocratic and one of the prime causes for the widely recognized decline of legislative power vis-a-vis the executive.

Further, state the unicameralists, the claimed need for a review is a tacit recognition of the inherently faulty nature of the bicameral system with its confusion of responsibilities that permits legislators to escape public accountability for their actions. If the legislature were properly structured, there would be little need for a review of its work. On the practical side, the unicameralists assert that the so-called popular passions can dominate both chambers, as in some legislatures during the McCarthy era. In this view, the protection of the rights of unpopular groups lies basically in an educated citizenry and in the overall structure of the constitutional system. Furthermore, the branch of government that has raised its voice against popular views in defense of minorities has not been the legislature but the courts. Simply put, there is no data supporting the claim that the second chamber acts as a constructive check on the first.[10] Conversely, American experience has shown that in normal times the legislature is not inclined to ride roughshod over the rights of the well-to-do. Instead, the inclination is to avoid action on important issues and not to be influenced by popular passions.[11]

The unicameralists similarly dispute the view that the second chamber acts as an independent body of review to correct faultily drafted legislation. The objections to the claim fall into three major categories.

First, there is an assertion that, in fact, an independent review is often not given by the second chamber.[12] For example, bills are often received by the second chamber so late in the session that it is physically impossible to give them a thorough

consideration. Often times bills are hastily passed by the first house on the assumption that they will be carefully examined by the second chamber, an assumption that is sometimes poorly founded. With respect to noncontroversial bills, in particular, it is claimed that the second chamber seldom gives careful consideration, and that such consideration is often not given by the first chamber either.[13]

The second category of objections is that such checking or review that has been done has not been demonstrated to be of merit. The value of a check is not measured by its extent, but by its wisdom. In the case of Vermont, where a careful study was made of this point, not one of the "checked" bills could be classed as dangerous or seriously unwise.[14] Similarly, the National Municipal League states that there is no data to support the claim that a bicameral system results in better policies or more carefully drawn laws.[15]

The third category of objections claims that there is little need for a technical review. The argument for a second chamber review antedated the rise of the Legislative Council, of executive sponsored legislation, and of professional bill-drafting services. Important present day legislation has been carefully considered and drafted before introduction into the legislature, so that passage by one house in itself constitutes an independent review. A second chamber, with no special knowledge of the problems or technical competence in drafting legislation, has nothing further to contribute.

Proponents of unicameralism give short shrift to the claim that bicameralism permits the killing of undesirable but popular legislation. In the view of the unicameralists, this is but a tacit concession that bicameralism confuses responsibility and permits legislators to hide from the consequences of their actions, or, in blunt language, that bicameralism permits deception of the electorate. In the unicameralist view, if the legislation is popular but undesirable, the legislators have a duty to educate the electorate to an understanding of the reasons why the legislation is undesirable.

The claim that bicameralism prevents undue aggrandizement of legislative power is similarly rejected by unicameralists. Unicameralists point out the claim traces back to the days of the founding of the American constitutional system when democracy was suspect and it was anticipated that the legislature would be the dominant branch of government. History has proved the fear of legislative usurpation to be misplaced; today the need is to strengthen the legislature, not to weaken it. Further, the best check on the legislature is clearly focused public accountability.

The unicameralists also dispute the claim that bicameralism prevents corruption of the legislature. In the past, unicameralists point out, simultaneous corruption of both houses of state legislatures has actually occurred. Today, protection of vested interests requires primarily the blocking of legislation rather than the passage of new legislation. Bicameralism presents more points at which legislation can be stopped, and with less fear of

popular understanding of what has happened, than does unicameralism. In this view, corruption is a greater danger under bicameralism.

Finally, unicameralists reject the validity of the argument that bicameralism is desirable since it is traditional and understood by the voters. A traditional form of government does not mean it is good. When Lord Bryce wrote the American Commonwealth after visiting the United States in the 1880s, he commented that the government of the cities, then almost all bicameral, was the one conspicuous failure of the United States. The dramatic improvement of city governments since then can be traced directly to the abandonment of the traditional bicameral system in favor of unicameralism.[16]

Voters are in intimate contact with city governments and have a good understanding of unicameralism. Voters also have some knowledge of corporate structure with its strong parallels to unicameralism. Further, it is widely known that Nebraska has experimented successfully with unicameralism. Under these circumstances, it is no longer possible to pass unicameralism off as something strange and untried to be rejected in favor of the "traditional" bicameral government.

Not only do the unicameralists dispute the merits of every claim made for bicameralism, they claim that bicameralism has a number of positive disadvantages.

First among the disadvantages is the conference committee. This committee, it is claimed, often functions as a secret "third" chamber unaccountable to the electorate. Further, compromise measures as reported out by the conference committee must be

accepted or rejected by each house in toto without opportunity for amendment. Since the work of the conference committee is carried out in secret and sometimes hastily, unicameralists claim the conference committee is not only undesirable but a negation of the claim that bicameralism assures a check to prevent faultily drawn legislation. A student of the conference committee as it functioned in Nebraska before the adoption of unicameralism in 1934 reported that over 25% of all measures that were amended by the second chamber passed through conference. This same student of the Nebraska experience also found that almost 70% of all bills considered by the conference committee were referred to that committee during the last twenty days of the legislative session and that almost 50% of such bills were referred during the last ten days of the session.[17]

A second claimed disadvantage of bicameralism is the rivalry sometimes engendered between the two houses. Documented examples of this at the state level are not readily available, but a recent episode in the United States Congress illustrates the danger. In the case at point, appropriations to the executive departments suffered an extensive delay because the chairmen of the House and Senate appropriation committees could not agree, among other points, on where the conference committee, appointed to compromise the differences between the two chambers, was to sit.[18]

A third claimed objection to bicameralism is that it obscures responsibility and prevents accountability to the electorate. The claim here is that a measure can be passed in the two houses in slightly different form with agreement being deliberately not reached in conference so that the measure is defeated although

everyone is on record as being in favor, that a measure may pass one house as the best that could be obtained from the second house, rather than on its merits, or on the grounds that the choice was between a version worked out in conference or nothing. In all of these cases, it is impossible for the average voter to know who was responsible for the final action and should be held to account.

The Merits of Unicameralism

Although unicameralists dispute the merits of every claim made for bicameralism and advance some positive arguments against bicameralism, their advocacy of unicameralism rests primarily upon positive advantages they see in the latter system. These claims may be summarized as follows:

CLAIM 1. Unicameralism is more efficient than bicameralism.

The basic claim here is that each bill needs to be considered by only one house, eliminating a wasteful duplicative consideration. This results in more expeditious introduction and consideration of legislation and the elimination of the common end-of-session legislative log-jam. Thus in the 1949 Nebraska legislative session, only seventeen bills were introduced after the first twenty legislative days, and a number of these were recommended by the governor or were substitute or consolidated bills introduced by committees rather than by individual legislators.[19] In this session, one-half of the bills acted on by the legislature had been handled by the mid-point of the session. Three-fourths of those acted on had been handled by the two-thirds point of the session. In the last two weeks, only 44 bills were acted on. Of these 44, eight were

considered in the last week, and only one of these eight on the last day.[20] In the 1961 session, 25 bills remained to be disposed of in the last two weeks and only six on the last day.[21]

CLAIM 2. Unicameralism results in legislators of higher quality and greater prestige.

Usually this claim is made in general terms.[22] However, a study in 1944 showed that over 50% of Nebraska's unicameral legislators had had some college work or had attended an institution of higher learning.[23] Most had held public office or were influential members of civic or state social and economic organizations. In 1950 it was reported that two-thirds of the legislators had had previous legislative experience.[24]

On the other hand, a careful student of the subject believes it is unresolved whether unicameralism improved the moral and intellectual caliber of the Nebraska legislators.[25]

CLAIM 3. Unicameralism results in a more representative legislature.

Under the bicameral system in Nebraska, 52% of the legislators had only a single occupation while 48% had two or more occupations.[26] Under unicameralism, only 31% had a single occupation while 69% had two or more. Multiple occupations are claimed to bring a greater awareness of the problems and ramifications involved in legislation and so to make the legislator more responsive to constituent needs. Conversely, the change to unicameralism in Nebraska did not disturb the ratio of farmers, business, and professional men elected to the legislature. Thus the cross-section of the community remained

the same so that reduction in the number of representatives had no adverse effect.[27]

CLAIM 4. Unicameralism results in a positive improvement in the quality of enacted legislation.

Fewer statutes enacted under Nebraska's unicameral legislature were declared unconstitutional, as compared to its bicameral statutes, and fewer statutes were found to have "bugs" or "jokers."[28] Some of the credit must go to the simultaneous institution of a legislative council with the unicameral legislature, but proponents claim the unicameral legislature deserves part of the credit. Several reasons are advanced. As will be noted below, unicameralism results in the introduction of fewer bills. This means that each bill that is introduced can be given more time. Secondly, the increased efficiency of the unicameral legislature eliminates the hasty consideration often given to bills under a bicameral system. Thirdly, the unicameral legislature bears full accountability for the quality of the bills passed and this responsibility cannot be blurred by shared responsibility with a second chamber. Fourthly, bills often pass one house of a bicameral legislature in the expectation of defeat in the second chamber.[29] Such expectations are not always realized. Under unicameralism this type of miscalculation is eliminated.

CLAIM 5. Unicameralism results in higher standards for the introduction of bills.

Under unicameralism, a Nebraska legislator pointed out, he could no longer introduce a bill at the request of a constituent and then ask the other house to kill it.[30] The result of

unicameralism in Nebraska was a spectacular 43% reduction in the number of bills introduced.[31] Concomitantly, the percentage of introduced bills that were enacted rose from less than 20% under bicameralism to over 50% under unicameralism.[32]

CLAIM 6. Unicameralism brings lobbyists out into the open where their activities are subject to public scrutiny.

The claim here is that the direct and open procedures of the unicameral legislature, and the searching publicity that unicameralism permits, soon expose any member who is prone to succumb to lobby influence.[33] It is not uncommon for a Nebraska legislator to denounce a lobbyist by name on the floor of the house and to give a statement of what the lobbyist has been doing.[34]

The attainment of common policy between the two chambers of a bicameral system is greatly assisted--far more than is commonly realized--by pressures put on by lobbyists.[35] Unicameralism prevents this, and also prevents lobbyists opposing legislation from secretly maneuvering to get the two houses to adopt different versions of the bill so that it might be killed altogether or to give the lobbyists a chance to secretly influence conference action and the writing of the conference report.

Although unicameralism reduces the number of opportunities for lobby influence, and makes attempted influence more likely to receive public scrutiny, some observers do not believe the claim that unicameralism reduces the influence of the lobby to be positively proved.

CLAIM 7. Unicameralism pinpoints responsibility for legislative actions.

Under unicameralism responsibility is clearly focused.[36] There is no opportunity to pass bills for the other house to kill, to alter or kill legislation in the secrecy of the conference committee, or to claim that there is no use to consider certain legislation on the grounds it would meet sure death in the other chamber. Without the complexities of bicameral procedures, it is easier for the public to keep track of the progress of legislation. The interaction of these two factors results in pinpointed responsibility for legislative actions.

CLAIM 8. Unicameral legislatures are more economical.

The Vermont unicameral legislature was less expensive than the bicameral legislature both in total expenditures and in per capita expenditures.[37] In Nebraska's case, the switch to unicameralism reduced legislative expenses by almost 25%. A legislative council was introduced at the time of the switch to unicameralism. If the expenses of the council are excluded from the costs of operating the unicameral legislature, the savings amount to over 27%.[38] The reasons for this are obvious. A unicameral legislature, as compared to a bicameral legislature, can be expected to have fewer salaried members, a smaller legislative staff, reduced travel allowances, smaller printing expenditures, and so on.

OTHER CLAIMS. Unicameralism results in improved public understanding of legislative activities, the development of legislative leadership is facilitated, and a closer relationship between the legislature and the governor is permitted.

The first of these claims is implicit in many of the claims discussed above. The simplicity and openness of the unicameral system permits easy news coverage and searching publicity. Increased public understanding is an inevitable result. The development of legislative leadership is facilitated through its concentration in one chamber. This same concentration of leadership simplifies the working relationship between the governor and the legislature.

Rebuttal of Objections to Unicameralism

Unicameralists reject the criticism levied by the bicameralists. The one major objection to unicameralism is the fact that a review by the second chamber is eliminated. As noted before, unicameralists counter with an attack on the general worth of the review given by bicameral systems, point out the lessened need for a second legislative review with the growth of legislative councils, professional bill drafting services, and executive leadership, and claim the experience of Nebraska has proved in fact that there is no need for review. Should it still be felt, however, that a second legislative review is needed, the unicameralists point out that this can be secured under their system.

One method of securing a review is to require that certain categories of legislation be passed by two different sessions before becoming effective. The second passage may even be required to come after an intervening election. Because of the delays involved in this approach, it is feasible only with respect to fundamental issues where the need for a wide and lasting consensus

is of vital importance. Another approach, feasible for ordinary measures, is for the legislature to choose, when it first convenes, a portion of its membership to sit in a separate revising chamber. This is now done in the unicameralist Scandinavian countries.[39] All major questions and all conflicts between the two houses are handled by a majority vote of the two houses in a common session. In short, the second chamber can suggest revisions but has no power to enforce them over the wishes of the elected legislature. This, it will be recognized, is in effect the British system where the House of Lords can suggest revisions but no longer has power to prevent the passage of legislation. This method of securing a review of the work of the elected legislature bears a noticeable resemblance to the "Virginia Plan" advanced in the Constitutional Convention of 1787. That plan, favored by James Madison among others, provided for a lower house elected by the people, with an upper house chosen by the lower house.[40] Since the upper house would be chosen by the lower house, even though the choice was from nominations submitted by the various State legislatures, the upper house under the Virginia Plan could not be expected to prevail in a conflict between the two.

CONCLUDING REMARK

The foregoing summary of the arguments advanced for and against bicameralism and unicameralism tips heavily in favor of unicameralism. This is a reflection of the fact that people who write on the subject--political scientists and other persons with academic backgrounds in the main--heavily favor unicameralism. The most

that is said against unicameralism by persons within this group is that a clear superiority over bicameralism may not have been factually proved. Persons holding this reservation appear to be in the minority within the group. There is some comment that analyses to date are not conclusive on the grounds that a modernized, up-dated bicameralism has not been tried. The difficulties with this observation are that it may be easier to secure a wholesale revision of the legislature itself than to induce an existing legislature to reform its procedures, and that the suggested bicameral improvements--such as joint committee hearings and possibly joint committees--actually are partial moves towards unicameralism, for the real work of legislatures is done in committees and not on the floor of the houses.[41] In view of this, the unicameralists ask why reform should stop with half-way measures.

Practicing politicians favor bicameralism. Even here the unicameralists suggest that this may be due not to the merits of the case but to a fear of the personal political consequences of the transition to unicameralism, for among Nebraska legislators who have had experience with both systems--and who thus survived the transition--there is an overwhelming preference for unicameralism. A survey in 1961 of 68 present and former Nebraska legislators showed that only four wanted a return to bicameralism.[42] Earlier one legislator who had served four years in the Nebraska lower house and two years in the Nebraska Senate under bicameralism, and who had voted against unicameralism, stated that unicameralism

was a decided improvement over the previous bicameral system.[43] This legislator, C. Petrus Peterson, had also served as Speaker of the unicameral assembly, so he was intimately acquainted with the practical workings of both systems.

FOOTNOTES

1. Shepard, W. J., "Legislative Assemblies," 9 Encyclopaedia of the Social Sciences 361 (1933).

2. Shull, Charles W., American Experience with Unicameral Legislatures 1 (1937).

3. Shepard, W. J., "Bicameral System," 2 Encyclopaedia of the Social Sciences 533 (1933).

4. Id. at 534.

5. Michener, John H., "The History of Legislative Apportionment in Maryland," 25 Md. L. Rev. 2 (Winter, 1965).

6. Id. at 5.

7. Ibid.

8. Reynolds v. Sims, 377 U.S. 533 (1964); Maryland Committee v. Tawes, 377 U.S. 656 (1964).

9. Story, Joseph, Commentaries on the Constitution of the United States § 550 (5th ed., Little, Brown & Co., 1891, vol. 1, p. 409).

10. National Municipal League, Model State Constitution (6th ed.) 43 (1963).

11. American Political Science Association, American State Legislatures 54 (1954).

12. Id. at 52.

13. Ibid.

14. Shull, op. cit. supra note 2, at 11.

15. National Municipal League, loc. cit. supra note 10.

16. Shepard, "Bicameral System," op. cit. supra note 3, at 535.

17. Burdette, Franklin L, "Conference Committees in the Nebraska Legislature," 30 American Political Science Review 1114 (1936), and "The Conference Committee Ogre," Unicameral Legislatures (Ed. by Bower Aly, 1937) 117, as cited by Bruce R. Trimble, The Structure of the Legislature 14 (1943).

18. 1962. See C. P. Trussell, "Money Bill Impasse in Congress Broken," New York Times July 19, 1962, p. 1, col. 2.

19. Spencer, Richard C., "Nebraska Idea 15 Years Old," 39 National Municipal Review 85 (February, 1950).

20. Id. at 86.

21. Spencer, Richard C., "Nebraska 'Unicam' Operates Smoothly," 50 National Civic Review 425 (September, 1961).

22. Carter, Edward F., "The Unicameral Legislative System," 21 Fla. L. J. 112 (May, 1947); National Municipal League, loc. cit. supra note 10.

23. Senning, John P., "Unicameralism Passes Test," 33 National Municipal Review 61 (February, 1944).

24. Spencer, op. cit. supra note 19, at 84.

25. Shumate, Roger V., "The Nebraska Unicameral Legislature," 5 Western Political Quarterly 508 (September, 1952).

26. Senning, loc. cit. supra note 23.

27. Ibid.

28. Shumate, loc. cit. supra note 25.

29. Trimble, op. cit. supra note 17, at 8.

30. State Senator Richard D. Marvel as cited by Donald Janson, "The House Nebraska Built," 229 Harper's 124 (November, 1964).

31. Shumate, loc. cit. supra note 25.

32. Id. at 509.

33. Senning, op. cit. supra note 23, at 64, 65.

34. Ibid.

35. Hagan, Charles B., "The Bicameral Principle in State Legislatures," 11 J. Pub. L. 321 (1962).

36. National Municipal League, loc. cit. supra note 10.

37. Shull, op. cit. supra note 2, at 12.

38. Aylsworth, L. E., "Nebraska's Unicameral Legislature Saves Money for Taxpayers," 27 National Municipal Review 492 (October, 1938).

39. McDaniel, Gerald R., "No One Misses the Landsting, But--," 49 American Scandinavian Review 268 (September, 1961).

40. Thornton, H. V., Legislative Organization and Procedures (Bicameralism v. Unicameralism) (Constitutional Study No. 8 for the Constitutional Survey Committee of the Oklahoma State Legislative Council) 4 (1948).

41. Shepard, op. cit. supra note 1, at 359.

42. Hanson, Odell, "The One-House Legislature," Baltimore Sun December 13, 1964, sec. D, p. 3.

43. Carter, op. cit. supra note 22, at 113.

In this article, a member of the Nebraska Legislature takes an incisive look at his State's unicameral legislative body, the only one-house Legislature in the United States. Senator Richard D. Marvel, who has served in the Legislature since 1951, finds that the people of Nebraska, the geography of the area, its economics and other sociological factors have played an important role in the development of the Nebraska unicameral. A second and concluding article by Senator Marvel will appear in a subsequent issue of State Government.

A Member Looks At
The Nebraska Unicameral

by Richard D. Marvel

ONE OF THE BASIC functions of a legislative body is to make decisions for the society which it represents. "The task of government is not to express an imaginary popular world, but to effect adjustments among the various special worlds and purposes which at any given time are pressing for realization." [1]

One cannot adequately understand pressure politics in Nebraska and the decisions that result without an analysis of the people of the State as well as the legislative institution which they have developed. The history of Nebraska, the structural processes of the Legislature, and the personal, informal influences which affect each State Senator must be described in trying to point out possible influences on the final product—legislative decisions.

PHYSICAL FACTORS

Nebraska is *geographically* classified as being part of the Great Plains area, with three distinguishing characteristics: "a comparatively level surface of great extent; a treeless land and unforested area; and a region where the rainfall is insufficient for the ordinary intensive agriculture common to the lands of the humid climate." [2] Eastern Nebraska, however, does not fall into the Great Plains area and contains not only entirely different topographical characteristics than the land west, but also is in an entirely separate rainfall area. "The state is indeed in the transitional area and for that reason, perhaps, its problems are more complicated." [3] Thus, the geography of the State may be responsible for many of the differences in attitude between the eastern and the western Senators.

Major rivers also play a role in both unifying and dividing Nebraskans. Every mile of the Platte River "is bound to history and politics." [4] It provided a pathway for settlers, de-

[1] V. O. Key, Jr., *Politics, Parties, and Pressure Groups*, 3rd ed., (New York: Thomas Y. Crowell Company, 1952), p. 10, quoting John Dickinson, "Democratic Dogma," American Political Science Review, XXV (1930), 291-292.

[2] Walter Prescott Webb, *The Great Plains* (New York: Grossett and Dunlap, 1931), p. 3.

[3] James C. Olson, *History of Nebraska* (Lincoln: University of Nebraska Press, 1955), p. 6.

[4] Wendy Rogers, "Water Treasure," *Depth Report No. 3* (Lincoln: School of Journalism, University of Nebraska, March 15, 1961) p. 9.

fined the major route for the railroads, became a political dividing line, and during the 1940s and 1950s the river became the center of bitter water diversion battles in the Nebraska Legislature.

DEMOGRAPHIC FACTORS

Nebraska has a built-in urban-rural population schism, for Douglas (Omaha) and Lancaster (Lincoln) counties—both located in the eastern one-third of the State, only sixty miles apart—contain over 35 per cent of the State's 1.5 million population and have enjoyed the major population increase in recent years. Observers predict that within a few years Omaha and Lincoln will have over 50 per cent of the population and will, thus, be entitled to a majority of the representation in the State's unicameral Legislature.

Probably of more significance for the future is the ratio of school age residents to total population. In 1964, Nebraska ranked thirty-eighth in this category, with school age population as 25.6 per cent of the total. In the same year, Nebraska ranked fourth in the Nation in its population of those over sixty-five years of age —a percentage of 11.6.[5] Immigrants have played an important part in the development of the State. The typical immigrants were poor people—thrifty, conservative, religious, and pragmatic. The Germans led the influx with more than 200,000 of the 538,218 foreign population in 1910. Large numbers of Scandinavians and Czechs populated the State as well as lesser numbers of Central and Southern Europeans, Dutch, French, and English. While the Yankee settlers tended to be more progressive and interested in innovation than were many other groups, "immigrant pioneers influenced the state's politics, its fiscal viewpoint, and its morals." Negroes, predominately located in the metropolitan areas, today number only 2.1 per cent of the population, and the other main disadvantaged minority group, the Indians, account for less than 0.5 per cent of the population.

ECONOMIC FACTORS

Founded on an agricultural basis, Nebraska today remains primarily an agricultural State. The State's economy stood sixth in agricultural products in 1967. The farming industry is a $1.73 billion annual business in Nebraska. There are 6.4 million head of cattle worth $1 billion. Nebraska has over twice as many people employed in agriculture as in manufacturing.[6] Present Nebraska industry is largely centered in the metropolitan areas of Omaha and Lincoln. Dougias County (Omaha) has 38 per cent of the manufacturing industries and 45 per cent of those employed in manufacturing.[7] The agricultural emphasis is even more apparent in light of the fact that over 40 per cent of the manufacturing employees process food and other related products.[8]

The interdependence of agriculture and manufacturing is not a coincidence, and Nebraska farmers have historically had a business-oriented view. The latter view triumphed over the Populist view which refused to accept price control based on production limits.[9]

With recent legislative enactments, many of Nebraska's pillars of fiscal conservatism have fallen. No longer can the State "boast" of no broadened tax base, no state aid to schools, and the lowest per capita state tax in the Nation. Frugality is understandable considering the environment of the Great Plains. In Nebraska, the environment imposes variability and stresses the importance of a materialistic, conservative orientation to life. Uncertainty encourages the citizen to buy, plan, and operate cautiously with an emphasis on practical living. As one western Nebraska mayor commented: "The depression years are still looking over our shoulders."[10]

[5] *Ranking of the States*, 1965, Research Division of the National Education Association, February, 1965, pp. 11-12.

[6] N. D. Searcy and A. R. Longwell, *Nebraska Atlas* (Kearney, Nebraska: Nebraska Atlas Publishing Company, 1964), p. 77.

[7] Ibid.

[8] Ibid.

[9] James A. Stone, "Agrarian Ideology and the Farm Problem in Nebraska State Politics with Special Reference to Northeast Nebraska 1920-1933" (unpublished Ph.D. dissertation, University of Nebraska, 1960), p. 172.

[10] Frederick C. Welso, Mayor of Rushville, Nebraska, personal interview, July 18, 1964.

Political squabbling dating from the first legislative sessio: between the North and South Platters set a pattern for political behavior which remains even today. Railroads made their presence felt in the early history of Nebraska and have played a significant role in the State's economic and political development. It has been said that the two most important factors in Nebraska's settlement were the construction of the railroads and a liberal land policy.[11] Towns vied for railroads and the competition encouraged feelings of localism and community spirit. A pioneer wrote in 1868: "One part of Nebraska belongs to the speculator, one part to the state, one part to the schools, and one part to the Union Pacific."[12] The political influence of the railroads is still felt in Nebraska, for the railroads continue to be important to the State's economy.

The home of *agricultural innovation,* the Great Plains region has also been "a land of *political innovation,* expressing itself in such vagaries as populism, agrarian crusades, and farm relief."[13] Nebraska has been an active, and at times the dominant participant in these various movements. Yet, the agrarian political behavior was unlike other segments of the population, "In short, the farmer reacts to economic pressure with political protest; yet the response has an explosive quality—great force without duration—which is unique."[14] Perhaps it is not too far-fetched to trace the individualism and the nonpartisanship of early agricultural political revolts to the signs of weakness in the Nebraska political parties by the mid-1930s, and ultimately to the establishment of a nonpartisan State Legislature.

It might be expected that a lack of commitment to a political philosophy would lead to significant variation in Nebraska's national political preference. However, this does not seem to have been the case. Dr. Jasper Shannon shows that "Nebraskans generally prefer a Republican liberal or progressive to a Democratic one,"[15] selecting Republicans in eighteen of twenty-four presidential elections.[16]

The environment and conditions of settlement contributed to strong feelings of *localism* and opposition to centralization. The necessity of the settler to look within himself in the midst of isolation and desolation caused localism to become the only understandable way of life. Localism is still strong today and finds expression in strong opposition to state involvement in educational matters.

THE LEGISLATOR—A BLEND

From this brief survey, one might be led to hypothesize that the Nebraska legislator is probably a highly individualistic, conservative, Republican, rurally oriented with a pro-business and anti-labor outlook, cautious with regard to spending, and a staunch advocate of local control. Yet, this picture would fail to account for the liberal innovations which have been a part of Nebraska history—the Populist-Progressive reforms, a complete public power complex, the somewhat radical design of the state capitol, and a one-house, nonpartisan Legislature. This blend of conservatism and liberalism may find its origin in the environment of the Great Plains which "challenges human intelligence in regard to every aspect of life—technological, economical, political, social, even philosophical."[17] This dichotomy has been evident throughout Nebraska history. Whatever the reason, it is evident that "there seems to be a contradiction in everything the Nebraskan thinks and does. He is secure, yet insecure; he is conservative, yet radical; he believes in both private ownership and public ownership. In his shifting moods and attitudes, the Nebraskan is like most of the great Midlands."[18] Thus, a more valid hypothesis would

[11]Olson, *History of Nebraska,* pp. 161-164.

[12]Jane Tenhulzen, "A Foreign Frontier," *Depth Report* No. 3 (Lincoln: School of Journalism, University of Nebraska, 1961), p. 23.

[13]Webb, *Great Plains,* p. 514.

[14]Angus Campbell, et al., *The American Voter* (New York: John Wiley & Sons, Inc., 1960), p. 103.

[15]Jasper Shannon, "Conservative Nebraska: Fact or Fiction?" (unpublished, undated paper), p. 1.

[16]Ibid., p. 15.

[17]Karl F. Kraenzel, Watson Thomson, and Glen H. Craig, *The Northern Plains in a World of Change* (Toronto: Gregory-Cartwright Ltd., October, 1949), p. 175.

[18]James Morrison, "Nebraska and its People: Paradoxes and Truisms of a High Plains Society," *Studies in Nebraska Journalism, Pamphlet No. 8* (Lincoln: School of Journalism, University of Nebraska), p. 5.

seem to be that when an overall perspective of the legislative voting pattern is achieved, the Nebraska legislator will prove to be not of extremes, but of moderation, a blend of conservative and progressive strains.

DEVELOPMENT OF THE UNICAMERAL

The development of Nebraska's nonpartisan, unicameral Legislature was the result of the State's political, social, and economic history. Even though a unique set of circumstances led to the birth at that particular moment in 1934, the thinking of the people as it evolved made the enactment of the system possible.

A number of events and individuals kept the unicameral idea before the people awaiting the right moment. During the Progressive period of the early 1910s, J. N. Norton came to the Nebraska House and eventually became majority leader and speaker pro tem. Norton was interested in the unicameral idea and pushed for it during his legislative career. The issue lost in the Constitutional Convention of 1920 by only one vote. In the same year, a model state constitution recommended by the National Municipal League advocated the adoption of a unicameral State Legislature. In this same period, Senator George Norris was actively supporting the unicameral ideas in speeches and articles. Dr. John P. Senning, head of the Political Science Department at the University of Nebraska and member of the survey committee for the constitutional drafting committee of 1919 to 1921, saw the unicameral "as the next logical step for the improvement of the structure of the legislature." [19] The proponents believed the unicameral would be more representative of a legislative body, more open to public scrutiny, and more readily accountable to the electorate. Senator Norris saw partisanship and the conference committee as the two main roadblocks which tended to separate the public from its state representative.[20]

It was through Norris's efforts that the nonpartisan feature was part of the proposal put before the people in the election of 1934.

The year 1934 was economically poor for Nebraska. Agriculturally, the State had experienced hard times as early as the 1920s when the parity index began to take an unfavorable turn. Thus, the economic argument of the lesser cost of the unicameral no doubt had relevance for many people. Also, there were two other key constitutional amendments slated for consideration in 1934—a parimutuel proposition authorizing horse racing and repeal of prohibition. Advocates of these amendments, fearful that a "no" vote on one issue might jeopardize all, urged their supporters to vote "yes" on all three propositions. All three carried—repeal of prohibition by 328,074 to 218,107, parimutuel by 251,111 to 187,455, and the unicameral 286,086 to 193,152.[21]

Many credit one personality or organization for the success of the unicameral campaign. One author perhaps has summed it up best: "We may have to be content with the belief that the combination of forces and circumstances of the election produced the unpredicted. Certainly it was a decision that dismayed and perplexed many political experts." [22] Perhaps it is appropriate to say that originally Norton's promotion kept the unicameral ideal alive; that Norris' political astuteness judged the "Nebraska mind" ready to accept the proposition in 1934; and that Senning's educational background added the third element—political theory—to the triumvirate.

FORMAL STRUCTURE OF THE UNICAMERAL

The unicameral structure represents the innovative, yet conservative, spirit of the Nebraska pioneers. The basic goals of the unicameral, as propounded by its supporters and translated into the organization and rules of the Legislature, can be summed up as follows: (1) direct communication between the public

[19] John P. Senning, *The One House Legislature* (New York: McGraw-Hill Book Company, 1937), p. 3.

[20] George W. Norris, "The Model Legislature," address given in Lincoln, Nebraska, February 22, 1934, reprint from Congressional Record, February 27, 1934 (Washington, D.C.: U.S. Government Printing Office), pp. 3276-3280.

[21] Senning, *One House Legislature*, pp. 60-61.

[22] Adam Carlyle Breckenridge, *One House For Two: Nebraska's Unicameral Legislature* (Washington, D.C.: Public Affairs Press, 1957), p. 5.

and the legislative body, (2) visibility, i.e., playing the legislative game in the open, (3) adequate and full deliberation, (4) mobilization of power, (5) maximization of leadership potential, (6) representation of every major segment of the State's population, (7) protection of minority rights, (8) and the sum total of all of the previous goals—democratic representation.

Access and Visibility

The legislative operation and structure provides an excellent opportunity for the interested citizen to obtain access to the conflict and to observe the development of the battle plans. Visitors are separated physically from the Senators only by a rope strung across the rear of the chamber. Only forty-nine actors are involved and it is relatively simple to discern the key leaders in order to make direct contact with them. Perhaps the most important access point to both organized and unorganized groups is the committee hearing. Almost all bills are given a public airing to which any interested citizen is invited. Printed notice must be given five days before a hearing is held.

The Legislative procedure insures "openness" at all stages. A report on a bill or resolution must be made to the Legislature within eight calendar days after the committee has acted upon the particular measure[23] and the chairman must be accountable for the reasoning behind each decision. Any committee member who disagrees with the decision of his standing committee can rise on the floor to explain his opposition.[24]

Floor debate and voting procedure add another dimension to the visibility aspect. An electronic voting machine permits an observer to see at a glance how any Senator has voted. The vote on final reading is recorded in the daily Legislative Journal, but at any time while the bill is being processed a member can request a machine vote and can ask that this vote be made part of the record.[25]

Informed Deliberation

Public hearing is the first step a bill takes after introduction. After the open committee session, where all can testify, the committee goes into secret or executive session to take action on the bill. When a bill is released by a committee, it will be considered by the entire Legislature after being placed on general file, the first of five procedural steps, followed by enrollment and review for review, select file, enrollment and review for engrossment, and final reading. The first full-scale debate of any bill occurs during the time that bill is on general file.

The select file provides an additional deliberative step largely unknown in other legislative bodies. It provides an additional opportunity for debate and examination of the measure. "Procedure on Select File was really action in another committee of the whole."[26]

The two enrollment stages provide for technical correction of the bill and the addition of amendments. A full-time attorney is hired to assure legal correctness.

The last file is final reading. All Senators are required to be on the floor, and no visitors are permitted to contact the Senators.[27] As the entire bill is being read, the Senators, free from interruptions, have a final opportunity to study each bill.

The rules which govern movement of the bill across each of the five files provide that: (1) five legislative days must have passed since the bill was initially referred to enrollment and review, (2) it must have passed two legislative days on the board after its reference to the final reading file, and (3) a final printed form of the bill must have been upon the desks of the members for at least one legislative day.[28]

The unicameral's founders obviously felt that the deliberative process could not be left to chance. The original steps, largely intact, are still providing the necessary checks against hasty or ill-informed legislation.

[23]Nebraska, *Rules of the Nebraska Legislature* (1965), Rule 6, sec. 8. Cited hereafter as Nebraska Rules.
[24]Ibid., Rule 6, sec. 10.
[25]Ibid., Rule 9, sec. 4.
[26]Lane W. Lancaster, "Nebraska's New Legislature," XXII, *Minnesota Law Review* (December, 1937), 69.
[27]Nebraska Rules, Rule 4, sec. 7.
[28]Ibid., Rule 12, sec. 11.