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NEBRASKA'S ONE-HOUSE LEGISLATURE
Elizabeth Senning

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Even though the people of Nebraska adopted an amendment to the state constitution in 1934 creating a one-house legislature in place of the bicameral lawmaking body, and even though one session of the unicameral legislature has been held, there are still many questions in the minds of the voters on the subject, and requests for information about the one-house body. There is the ever-recurring query as to the reason why the change from the two-house to the one-house system was advisable and even necessary. The answer thereto involves the entire history of legislatures and legislation during the last one hundred and fifty years.

Why the Bicameral Plan Is Widely Used

When the first state governments were set up after the close of the Revolutionary War, the two-chambered parliament of England and the bicameral assemblies in a majority of the colonies influenced the state constitution makers to adopt two-house legislatures. The nature of society at the close of the eighteenth and the beginning of the nineteenth centuries had an important bearing on that decision. The states along the Atlantic seaboard were sparsely settled, were essentially agricultural, and each community was self-sufficient.

Moreover throughout the colonial period there had developed a governing class and when the original states set up their governments there was a conscious attempt to conserve and protect the interests of that class. Thus membership in the upper house of the state legislature was limited to men of property and wealth and in the lower house was made up of the common people. The voting privileges were also limited in that only men of property could vote for members of the upper house. By this means class interests between the two houses of the legislature were clearly defined. The men who had dominated public life in colonial days sought to keep a firm hold on their right to control the state governments but, at the same time, they realized that since the common people contributed to the support of the government, the latter must be given a share in governing.

The ruling class felt that the democratic spirit of the people must be held in check and consequently the upper house of the legislature was given one set of powers and privileges and the lower house another. With the exception of three states--Vermont, Pennsylvania and Georgia--all adopted bicameral legislatures. The example of these three states is frequently cited as proof that Nebraska was not the first state to adopt a one-house legislature. While in name the lawmaking bodies of these three original commonwealths were unicameral, as a matter of fact, in each state, there was a second body, a board of censors, which acted as and had many of the powers of a second house.

Reasons for Changing to a Unicameral Plan

The constitution makers of early state constitutions adapted the legislatures to the life of their day. If it be conceded that the two-house lawmaking body was well fitted to serve the state of the eighteenth century, why does it fail in its purpose at the present day? That it does not work satisfactorily is evidenced by the volume of valid criticism which has been directed against it for the last one

hundred years.

What changes have taken place in the economic, social and political life to transfer the legislature from its original predominant place in the state government to one subordinate to the governor and the courts? Forces from without and from within the legislature played their part in breaking down the operation of the bicameral system. The most important were the rise and development of the democratic spirit, which saw its beginning in the third decade of the nineteenth century when the frontier was being settled rapidly by pioneers who recognized no class distinctions and no aristocracy of wealth and privilege; the replacement of the limited franchise by manhood suffrage; the system of popular elections controlled by political parties, a condition which was not foreseen by the men who set up the early state governments; and the operation of party government within the lawmaking body.

As time went on these levelling influences were aided by the system of popular education by means of which rich and poor alike were able to read the printed page; the improved means of communication including the telephone, the telegraph and improved highways; and the development of sources of political information such as the newspaper, the radio and propaganda facilities.

According to the bicameral theory, areas as well as population were represented in a two-house legislature. That is, a certain county or a certain town, no matter how few people lived in the area, was given a representative in the legislature. Now, representation for a lawmaking body is based, with few exceptions, on population alone. In the second place, as noted above, a bicameral body afforded representation to different classes and interests. Today the personnel of the two houses is identical as to economic and social interests, qualifications for membership (except in those states where the term for senators is longer than for representatives), age, experience and education. The duties and powers of the two houses are the same except for those relating to impeachment proceedings, origin of finance bills, and confirmation of appointments.

The chief argument for the retention of the two-house legislature is based on the fact that one house acts as a check upon the other, that two houses tend to more careful deliberation, that mistakes and defects are corrected in examination by a second house, and that hasty and ill-considered legislation is thereby prevented. The fact must be emphasized that in the early state legislatures political parties played a relatively insignificant role; whereas now if one party controls the senate and the other the house, the result is probably a deadlock and party conflict. If one party controls both houses, the same policy and the same program unite rather than separate one house from the other. In several states where statistical analyses have been made on the action of one house on the bills from the other, some striking facts have been revealed. In the first place, each house indefinitely postpones from one-third to seven-tenths of the bills it introduces, the low or high percentage depending upon the legislative practice in each state. Thus a large fraction of the measures introduced are never subjected to examination by the second house.

On those measures which pass the house where they are introduced, three courses of action are possible--amendment, passage without amendment or indefinite postponement. Statistics show that the smallest percentage of bills are amended. A larger number of measures are passed without amendment on the theory that the house where they were introduced has given the bills careful consideration and that its decision is correct. The largest percentage of bills are killed by the second house for two reasons--(1) the practice of introducing identical bills in each house, and 18158fr

(2) the fact that the bills reach the second house late in the session and indefinite postponement is the easiest way to dispose of the vast amount of legislation.

Lastly there is the necessary but undemocratic device in the two-house legislature--the conference committee--employed to reconcile differences between the two houses. A small committee of each house is appointed to iron out the points upon which the two houses differ. The report of this committee must be accepted or rejected without amendment and thus a majority of this small committee may determine the fate of the most important legislation of the session.

Since, if there is a check on legislation within the legislature it is in each house on its own bills, and since the second house does not prevent bad legislation from becoming a part of the state law, what did the people in the various states do to attempt to make the two-house legislature responsive and responsible to the will of the people? (1) They increased the authority of the governor by giving him the power to veto bills, supervise the administrative agencies of the state, control the budget, and to speak as the titular head of his party. (2) The power of the courts was increased to declare legislative acts unconstitutional. (3) Constitutional amendments were adopted by the people regulating the procedure of the legislature and limiting the kind of legislation which could be enacted. Lastly (4) almost half of the states adopted the initiative and referendum, the former giving the people power to initiate laws and constitutional amendments independent of the legislature and the referendum, conferring on the people the right to nullify acts passed by the legislature. As the legislature became more and more restricted in its powers, the field of legislation increased. Population grew and laws had to be passed so that people could live in close proximity with equal rights and protection. Business had to be regulated, health regulations enacted and so on.

The legislature in the meantime remained in structure the same as that created in the eighteenth century, although during the last hundred years an agricultural and self-sufficient life had given way to a vast industrial and commercial civilization. The reasons for the adoption of the bicameral system had disappeared. The personnel of senate and house, the qualifications for membership, the duties and powers of the two houses and their economic interests had grown to be practically identical. There was apparently no reason why two houses should do the same work in the same way, thus delaying and frustrating the lawmaking process as well as increasing the mounting cost of government. One house failed to act as a check upon the other. The effective checks on legislation had come to be the governor's veto, judicial review by the courts and the referendum.

Adoption of the Unicameral Plan in Nebraska

Thus the people summed up the defects in their state lawmaking bodies during the early years of the twentieth century and several states, between 1910 and 1916, advocated the one-house legislature as a means of improving the lawmaking process. These states were Alabama, Arizona, Arkansas, California, Kansas, Minnesota, Nebraska, New York, Ohio, Oklahoma, Oregon, South Dakota, Tennessee and Washington. The movement to modernize the legislature and in fact state government as a whole was retarded by the participation of the United States in the World War, and thereafter the rising costs of government caused the states to turn their attention to budgetary control and to reorganization of the administrative departments.

In Nebraska in 1913, a legislative committee was appointed to study ways and means by which the state government might be made to function more effectively and to report to the 1915 session of the legislature. Its recommendations to the next session included a thorough revision of the rules of legislative procedure, the

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adoption of an executive budget, and a constitutional amendment for a one-house legislature to be submitted to the people by the initiative. The legislature of 1915 revised the rules of procedure but did not act upon the other two recommendations. The constitutional convention of 1919-1920 considered a proposal for a one-house legislature to be submitted to a vote of the people. A tie vote for consideration of this question, just before the convention recessed in 1920 was broken by the president of the convention who voted in the negative.

Three other legislative proposals for a unicameral legislature were introduced during the next thirteen years. These facts not only keep in mind the history of the one-house movement in Nebraska but also emphasize the point that the success of the campaign of 1934 for adoption of a constitutional amendment creating a unicameral legislature was due to the information and education on the subject over a period of twenty years and also to the fact that the people were becoming more and more aware of the defects of their bicameral legislature.

The unsatisfactory results of the sessions of 1931 and 1933, when the legislature had to cope with problems resulting from the depression, made it evident that the time was ripe to submit the question to a vote of the people. A citizens' committee, under the leadership of Senator George W. Norris, drafted an amendment to the constitution to be submitted to a vote of the people by means of the initiative. The amendment was ratified by the voters in the general election of 1934 by a most conclusive vote (286,086 for and 193,152 against.)

Provisions of the Unicameral Amendment

For an understanding of the one-house legislature in Nebraska, it is essential to know the provisions of the amendment adopted by the people in 1934. As ratified the amendment provides for a one-house lawmaking body composed of not more than thirty nor more than fifty members elected from single member districts. January 1937 was the date set for the convening of the unicameral legislature. The 1935 session was required to determine the exact number of members and to district the state in accordance with the membership decided upon.

The special unicameral committee appointed in the senate and in the house followed the scientific method of ascertaining the number of districts which would constitute the fairest distribution of representation between the east or urban section and the west, the agricultural and grazing section, and let the number of districts determine the membership of the one-house body. Extensive investigation and experimentation of combination of counties into districts revealed that forty-three districts would result not only in the most equitable distribution of representation between the east and the west but also in the least margin of variation in the ratio of population per member in the several districts. Hence the number of districts and the number of members was fixed at forty-three.

The members of the one-house legislature are elected on a non-partisan ballot. This provision is not as striking when applied to Nebraska as it would be in those states where political parties are more powerful and influential. Nebraska voters as a whole have not been accustomed to take their party adherence seriously nor have political party ties in recent years had a conspicuous influence upon legislation. Judges, school officials, regents of the state university and municipal officers have been elected on a non-partisan ballot for many years. Also at the November election in 1934 the voters of the state, for the first time, used a ballot upon which there was no party circle.

The salary of the unicameral legislature is fixed at \$37,500 per year to be divided equally among the members. Since each legislator is elected for a two-year term, with a membership of forty-three in the lawmaking body, each one receives \$1744.18 during his term of office. If the governor should call special sessions no additional salary can be paid to the legislators. The lieutenant governor is made the presiding officer of the one-house legislature but has no voice in its deliberations and, like the vice-president of the United States, he may vote only in case of a tie. The amendment does not change the two-year term or the biennial session. It does specify that other sessions may be provided by law and such a law was passed in 1937.

The provision in the constitution that the governor may call the legislature in special session has not been disturbed. As to procedure, the amendment sets up safeguards to secure greater publicity for legislation and prevent hasty action. A record vote may be demanded at any time by a single member. To prevent hasty action on newly introduced bills the amendment specifies that no vote on final passage of any measure shall be taken 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.

Election to the Unicameral Legislature

At the April primary election, 1936, the candidates were nominated for the first session of the one-house legislature. Why and how does a citizen become a candidate for the non-partisan unicameral lawmaking body? Perhaps a man wishes to have a law enacted on a certain subject and decides to attempt to be elected to the legislature so that he can get such a measure on the statute book. Or perhaps a bank, an insurance company, or the farmers of the district desire certain legislation and select a man whom they think will make a good representative for their purpose and ask him to file for nomination. A more satisfactory method and one which would make for the best public interest would be a meeting of the people of the district to select candidates for the office to be voted upon at the primary election.

If the voters do not take an active part in persuading the most worth while men and women of their community to run for public office, the people have no valid complaint that there are no satisfactory candidates for whom to vote. The filing fee for candidates to the legislature is \$10.00. The names of the two candidates who receive the highest number of votes in each district at the primary election go on the non-partisan ballot at the general election, and the one who receives the higher vote becomes the member of the legislature from his district.

The Nebraska law providing for the nomination and election of members of the one-house legislature follows the provisions of the statutes relating to the election of judges and state superintendent of public instruction. The fear of the opponents of the unicameral amendment that one of the other of the major political parties would control the majority of members of the one-house legislature were not fulfilled in the election. Of the forty-three members, twenty-one were republicans and twenty-two democrats. Thirty-two of that number had had previous legislative experience. As to occupation, eighteen listed themselves as farmers, ten as lawyers, and the remainder as professional or business men.

Legislative Procedure

The first major problem before the 1937 session of the one-house legislature in Nebraska was the drafting and adoption of the rules of procedure. A set of rules modernized to fit the needs of the unicameral body was carefully formulated and, after exhaustive discussion, finally adopted. Perhaps the most important sections of the rules deal with the standing committees, sixteen in number, organized on the basis of major fields of legislation rather than on the basis of individual subjects.

The committees are:

- Agriculture
- Appropriations
- Banking and Insurance
- Claims and Deficiencies
- Commerce and Communications
- Committee on Committees
- Drainage
- Irrigation and Water Power
- Education
- Enrollment and Review
- Government
- Judiciary
- Labor and Public Welfare
- Legislative Administration
- Public Health and Miscellaneous Subjects
- Public Highways and Bridges
- Revenue and Rules

The membership per committee varies from five to eleven. The afternoon of each legislative day was set aside for committee sessions until committee work was completed.

A feature of procedure that was new and won widespread approval was the committee hearings. Every bill received fair consideration at a public hearing where those interested could present their views on the question at issue. The time, place, date of hearing and the bills to be considered were given publicity in the newspapers, the daily legislative journal and on the bulletin boards five days in advance of the hearing.

The interest shown in the hearings and the generous publicity given them by the press had a wholesome effect in procuring for every measure a fair consideration and in forcing procedure into the open. A complete record of action taken on each bill in committee, stating reasons for changes in the measure by the standing committee, accompanied the bill when reported by the committee to the house. While these reports do not appear in the daily journal, unless requested, they are preserved in the records filed in the office of the secretary of state, where they are available for inspection.

After a bill emerges from a standing committee with favorable recommendation it is placed on general file for consideration by the legislature. After a measure has passed the first consideration by the legislature it is then advanced to the committee on enrollment and review for a thorough examination as to phraseology, for checking against existing laws and scrutiny as to its constitutionality. From the committee on enrollment and review the bill passes to special file where it

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is considered a second time before the final, or third reading calendar, is reached. This double check, which provides every possible precaution for accuracy, deliberation and precision in the language of the bill, is not only peculiar to the unicameral body but also constitutes a distinct contribution to the process of lawmaking.

A bicameral legislature could not utilize this process because neither house has the full control over a measure as has the one house body. From three to five days must intervene between successive stages of the detailed deliberations on a bill. This spaced consideration affords time for mature judgment. One of the most important results of the simplified procedure in the one-house legislature is the ease and accuracy with which the electorate can follow the progress of bills as reported in the newspapers. During the session of 1937 the press did an admirable piece of work in its report of legislative proceedings.

But no matter how perfect the machinery is for the enactment of laws, if those who operate the machinery are careless or inefficient, the legislative product will be unsatisfactory. What then was the attitude of the members of the unicameral legislature, elected on a non-partisan ballot, toward their task as lawmakers? Some commentators have made the observation that the non-partisan feature was almost, if not quite, as important as the change from a bicameral to a unicameral body. There was a sincere effort on the part of the legislators to be non-partisan. In the subordination of partisan politics to the economic and social welfare of the state, members of the unicameral body were more adhering to the well-established legislative practice in Nebraska where, since 1920 at least, economic interests, rather than party politics, determined the success or failure of legislative measures. State legislation of the present day is so intimately concerned with social and economic problems that its relation to the principles enunciated by political parties is most remote.

The First Session - 1937

Observers of the legislative proceedings of the Nebraska one-house legislature were impressed by the dignity, yet informality of the lawmaking body. No matter how important, or how controversial, the question under consideration, there was little oratory. The discussion resembled that around a conference table. Members expressed their opinions without waiting for a signal from a leader. It may also be noted that the legislator who would hesitate to address a large house participated freely in the informal deliberations. The whole atmosphere of discussion, in this first session, was that of worth while consideration and is one of the best arguments for keeping a one-house legislature small in its membership. One noted a seriousness of purpose on the part of the legislators, probably due to the fact of their awareness that their consideration of a measure was final and that their work would not be overturned by the action of a second house.

As soon as the first session of the one-house legislature adjourned, commentators began to evaluate the lawmaking body on the basis of its achievements. All agreed that a fair estimate cannot be made of the unicameral system as applied to state legislatures as judged by a single session which not only enacted laws but also formulated and adopted rules of procedure. Moreover the membership was made up of a majority of men who had served in bicameral legislatures. The remarkable fact is that, without exception, they were in favor of the one-house body at the close of the session. Perhaps the outstanding feature which should be noted was the very determined effort on the part of the legislators to improve the mechanics of lawmaking, a marked contrast to the attitude in the bicameral lawmaking body where little or no change for improvement had been made in the last twenty years.

A statistical summary of the first session reveals that 579 bills were introduced during the ninety-eight day session; 226 measures were enacted into law; the governor vetoes sixteen acts and one veto was overridden by the legislature. Space does not permit a complete discussion of the laws enacted in 1937. The greater portion of the legislation was corrective and amendatory of existing laws.

The legislature passed two proposals for constitutional amendments which will be voted upon by the people in 1938. One repeals that section of the state constitution which required double liability for stockholders in state banks. The other, which many contend is the most important action taken by the lawmaking body, is a short ballot proposal. By its provisions the governor, lieutenant governor, superintendent of public instruction, and auditor are to be elected for four-year terms. The three officers eliminated from the ballot--the secretary of state, treasurer, and attorney general--are to be appointed by the governor with the consent of the legislature. The amendment includes a recall provision for state officers.

The social security program, passed by a special session of the legislature in 1935, was continued with the addition of the passage of an unemployment compensation act. The real estate mortgage moratorium was continued to March 1, 1939. Acts were passed for bindweed eradication, soil conservation, motor transport control, highway patrol, budget control and accounting for counties. Another statute permits the voters of the state to cast an advisory vote on proposed amendments to the federal constitution. Besides the creation of a legislative council and the office of constitutional reviewer, another law relating directly to the legislature provides that upon request of twenty-nine legislators a special or annual session of the legislature may be called without dependence upon the governor. The most widespread disapproval with the action of the legislature was caused by its refusal to ratify the federal child labor amendment.

The People and the Legislature

A few generalizations on the relation of the people to the legislature may be pertinent. The structure of the Nebraska lawmaking body has been modernized to meet present day conditions. However at the close of the 1937 session criticism was advanced that the one house legislature had introduced too many bills, had enacted too many laws, and had been in session too long.

Governmental reform is slow in being brought about and when reform is accomplished there is the background of the past which must be gradually reconstructed to meet the problems of the present age. For instance, the one-house legislature found itself encumbered with all of the laws on the statute book, good and bad, which had been enacted by previous legislatures. They could not all be amended or repealed at once and a new body of law set up for the state. The modernizing of the statute law must be gradual process. The formulation of the rules of procedure took the better part of a month but the necessity of a workable and simplified procedure was the foundation of a smoothly operating legislature. The introduction of too many bills was due to the political thinking of the people, many of whom still think that the legislators are the agents of their constituents and thus not representatives of the entire state. Hence the voters insist that their representatives introduce bills dealing with small problems which could be settled without legislation. Furthermore the local governments, city, county and township, have formed the habit of passing on difficult problems, which should be solved in the locality, to the legislature for solution.

Again, administrative departments are set up by the legislature to take care of, for example, regulation of game, insurance, banking, agriculture and the like. Instead of allowing these departments to carry out the function for which they

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were created, the legislators are asked to introduce bills whose provisions are actually the work of the administrative departments. Lastly the interrelation of the state and federal governments requires legislation constantly as conditions change.

In this age of scientific achievement the people equip their homes with electric machinery. If the machinery is complicated they take the time and make the effort to learn its intricacies so that it can be made to do the greatest amount of work possible. The same procedure should be used in relation to government. If the machinery of government becomes antiquated or unworkable, the people make little or no attempt to improve it but excuse their inaction by saying that politicians control the government.

If the people devoted as much time and thought to their local, state, and national governments as they do to the scientific mechanisms with which they are surrounded, the improvement in government would better keep pace with scientific invention. Thus, for example, we note the one-house legislature. The structure of the state lawmaking body has been modernized to meet twentieth-century conditions. The next step is up to the people to use this modern governmental mechanism so that it functions according to the needs of the modern age in Nebraska.

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