

STATEMENT

by

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Delegate from Hudson County

New Jersey State Library

Now that the Committee on Structure of the Legislature has completed its public hearings on Proposal No. 1, which provides for a unicameral legislature, I respectfully urge that Committee, pursuant to Rule 56, to report that proposal to the Committee on Organization and Operations at their earliest convenience.

During its two days of hearings, the Committee heard a dozen witnesses. Not a single one rejected unicameralism; an overwhelming number of them recommended a one-house legislature without reservation or qualification.

The daily press in this State has been overwhelmingly in favor of a unicameral Legislature.

I submit that, on the basis of the evidence presented to the Committee, it should report Proposal No. 1 favorably and without delay to the Organization and Operations Committee for consideration by that Committee.

From the discussions and questions and answers of the past weeks, a considerable part of which were extraneous and not germane to the issue of unicameralism v. bicameralism, the following arguments for the adoption of a one-house legislature stand out:

1. Unicameralism does not produce ill-considered action or precipitous legislation any more than bicameralism.

Good legislation is the result of (a) the work of good legislators dedicated to the promotion of the public welfare, (b) a carefully devised set of legislative methods, practices and procedures established in the Constitution, in the laws of this State and in the rules of the house or houses of the Legislature, and (c) an adequate staff of competent technical aides to assist the Legislature, its officers, commissions, committees and individual members.

These factors can, or cannot, be part of either a unicameral or bicameral legislature.

On the contrary, unicameralism is more likely to result in good legislation because the legislative process is simpler, more direct, less circuitous, closer to the people, more understandable by the average citizen and more open to public scrutiny. All the checks within the legislative branch necessary and desirable to prevent ill-considered and precipitous action can be built in to buttress the checks and balances by the executive and judicial branches of government already present.

2. Unicameralism, as well as bicameralism, can provide for an accommodation of the delegates who recommend single-member legislative districts as well as those who recommend multi-member districts with at-large elections. I can understand the concern of those delegates who do not wish to take a position now which would lead to a convention stalemate on this issue and see a compromise of single-member districts

in one house and multi-member districts in the other house of a bicameral legislature as a likely product of this convention. But the evidence presented to the Structure Committee made clear that such a compromise, if desirable, can be accomplished, in a number of ways, with unicameralism as well as with bicameralism. Several proposals have already been submitted which provide for exactly this.

3. A unicameral legislature in New Jersey need not, and should not, be elected on a non-partisan basis, as is the case in Nebraska.

I have not in this Convention nor do I today intend to state or imply in any way that the bicameral Legislature of this State has not conducted itself properly and effectively. As one of its older members, I believe that it is one of the best in the Nation. At the same time, I believe it can do a better job in many respects and it can take a giant step forward by streamlining its organization by adopting a unicameral body. In 1947, a Constitutional Convention streamlined the judiciary and the executive. I trust that in 1955 we can do the same for the legislative branch.

Several weeks ago, I presented to this Committee and to the Convention my reasons why New Jersey should have a one-house legislature. I believe those reasons are as valid and as sound today as they were then and I recommend them to you for your consideration.

A UNICAMERAL LEGISLATURE FOR NEW JERSEY

William V. Musto, Delegate, Hudson County

I have urged legislative consideration of a unicameral legislature for New Jersey every year since 1954. I have proposed a specific type of a one-house legislature for the past three years in the form of a concurrent resolution proposing to amend our Constitution.

This committee, and all Convention delegates, I submit, owe it to themselves and the people of this State to give this subject their most serious consideration. Another convenient opportunity to consider the adoption of a unicameral legislature may not be available to the people of this State for a long time.

My study and investigation during the past 10 years has persuaded me that the advantages of a unicameral legislature far outweigh its alleged disadvantages.

Bicameralism was transported to America from Great Britain. There it served a legitimate and useful purpose in its day. It marked a significant step forward in the evolution of representative government as we know it today. Its initiation was a milestone in the march from feudalism to absolute monarchy to the present enlightened representative monarchy of Great Britain. In the class societies of past centuries, it provided a second and lower house comprised of representatives of the people who were not members of the privileged classes. But, as class distinctions became blurred, the British upper house withered, its strength sapped by the march of democracy. Today, for all practical purposes, Britain has a unicameral legislature; its House of Lords is limited to an advisory and ceremonial role.

Most of the royal and proprietary colonies in America modelled their legislatures after the Parliament of their Mother Country. In early New Jersey, as both a royal colony and a proprietary colony, two houses emerged: an upper house, the members of which represented the crown or the proprietors, and a lower house, with limited powers, representing the people. Our first State Constitution of 1776--which antedated our Federal Constitution--followed this pattern. The lower house, the General Assembly, was given additional powers, but the upper house, the Council, had considerably more power than the Senate today. This was a big step forward in a Constitution which limited membership in both houses to propertied citizens and which guaranteed to all members of any Protestant sect the right to hold public office. By 1844, these distinctions had disappeared and we adopted a new constitution which defined the legislature we had until this year. And, as you know, the Constitutional Convention of 1947, which drafted our present Constitution, was prohibited, by law ratified by the people, from disturbing the organization and composition of the Legislature defined more than 100 years earlier.

I have outlined this brief history of bicameralism in New Jersey for one purpose: to show that it is the product of tradition, that its initial purpose, legitimate, worth-while and desirable in its day, no longer exists, and that, today, it must be, and should be, judged on its merits in its present-day environment. I suspect, too, that bicameralism exists today largely because of inertia--human inertia to change--and the basic conservatism of American institutions.

In 1787, the several states joined together in a union with a bicameral Congress, but that bicameralism was largely the result of the Great Compromise between the large states and the small states. Both got half of what they wanted: the large states got representation based on population in one house, and the small states got equal representation regardless of population in the other house. (The earlier Articles of Confederation had provided for a unicameral legislature.) A large number of states were to follow this Federal pattern: one house based on population, another on area. And while this principle of representation withstood constitutional attack, bicameralism had a strong basis.

But Reynolds v. Sims, and Jackman v. Bodine in New Jersey, destroyed this argument. And without it, I submit, bicameralism lost its foundation. In Reynolds, Chief Justice Warren expressed the view that bicameralism is not "rendered anachronistic and meaningless when the predominant basis of representation in the two state legislative bodies is required to be the same--population." He then suggested that other differences may be provided: single-member districts in one house and multi-member districts in the other, different lengths of terms for the members of the two houses, different sizes of the two houses, larger districts in one house and smaller ones in the other house. He suggested, too, that bicameralism might provide an opportunity in one house to counter-balance population inequalities in the other house. These arguments, it appears to me, are those of one straining to defend his position knowing full well that his principal argument has been destroyed.

The Chief Justice listed one other reason in support of bicameralism--and this remains as the single, most frequently repeated argument of its present-day proponents. Mr. Warren said,

"A prime reason for bicameralism, modernly considered, is to insure mature and deliberate consideration of, and to prevent precipitate action on, proposed legislative measures." But let's look at this argument. Unfortunately, there are no objective, fixed standards that we can employ to measure accurately the degree of "maturity and deliberateness" in the legislative process and judgments in this area must necessarily be subjective.

But it seems to me that the belief that bicameralism insures deliberation and prevents hasty, ill-considered or irresponsible legislation is not borne out by the evidence. If anything, the evidence might well prove the opposite. There is nothing in comparative studies of the number of bills introduced, the percentage of those passed by one house, the percentage of those passed by both houses, or the percentage enacted into law and vetoed by the governor that lend support to the hypothesis that bicameralism insures more deliberation than unicameralism. Only one unicameral legislature exists in the 50 states today, in Nebraska, and, unfortunately, meaningful comparisons between that state and ours in terms of legislative deliberation are difficult to make. But the record does show that fewer bills are introduced in Nebraska and that a considerably larger percentage of them are passed by the legislature in Nebraska. And while these statistics, and others, are commonly employed by both proponents and opponents of unicameralism, they are

subject to varying interpretations. Is a small number of bills introduced indicative of careful consideration or lack of action in meeting the needs of the state? Is a large percentage of introduced bills passed a measure of deliberate consideration or precipitate action?

It appears to me that the primary concern with the legislative process in New Jersey in the recent past and today is not with precipitate action, but, rather, with lack of action in meeting the demonstrated needs of the State. And in this regard, unicameralism, in a sense, provides one hurdle in the place of two.

Certainly, we need a "check and balance" system. And we have it among the three branches of government. Every action of the legislature--be it unicameral or bicameral--is subject to a continuous check by the executive and judiciary in the form of absolute, conditional, line-item and pocket vetoes and by judicial review. Additionally, its every action is subject to public analysis and criticism.

Careful consideration of proposed legislation can be best insured by the adoption of proper procedural rules specified in the Constitution, in the laws of this State or in the rules of the house or houses of a unicameral or bicameral legislature. For example, the present procedures regarding emergency resolutions suspending the requirement that one full day shall intervene between the second and third reading of a bill might be reconsidered in light of our experience since 1947.

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The notion that bicameralism insures us against irresponsible and precipitate action is without demonstrable proof. Is it based on the assumption that all legislators are irresponsible and that, therefore, two irresponsible groups are better than one? Or on the assumption that one of the two houses might be responsible? Then why not two governors? Or, better still, an executive troika? The more reasonable course to guard against irresponsible legislative action lies in improving the quality of the legislative process and the legislators--in either a unicameral or bicameral legislature.

Can the frantic and near-chaotic sessions of our Senate and General Assembly at the close of each legislative year be considered deliberative? The record will show, I am sure, that a considerable percentage of the large number of bills passed in this recurring end-of-the-year rush is vetoed. If nothing else, a unicameral legislature would result in one, instead of two, such sessions. Incidentally, a more reasonable attack on this end-of-the-year problem would be the adoption of a two-year legislature, which I have proposed for 10 years or so.

Students of the legislative process generally agree that special interest groups--lobbyists--fare best when the process is complex and intricate and that they are more often interested in blocking legislation than they are passing it, and bicameralism gives them twice as many opportunities. The best antidote to special interest groups is a simple, direct, and uncomplicated legislative process.

As I have said, only 1 state today has a unicameral legislature. But at the county and municipal level in this State and throughout the country, almost without exception, the policy-making branch of government is unicameral. And there is no serious consideration of changing to bicameralism. Many national governments outside the United States are unicameral, including Austria, Finland, New Zealand, Israel, Norway, Portugal, Turkey and Switzerland. All the Canadian provinces except one, Quebec, have unicameral legislatures.

Unicameralism, I submit, is a worthy alternative to bicameralism.

In the context of the situation here today, it has the considerable advantage that it will simplify the task of this Convention. It will make legislative apportionment or redistricting a job at least one half as difficult as with a bicameral legislature, not only for this Convention this year but for the Legislature (or whatever other body may be designated) following every future Federal decennial census.

Unicameralism concentrates legislative authority in a single body. It fixes responsibility and accountability in one body, and the responsibility and accountability of both the majority and minority parties will be much more easily identified. It will promote party responsibility. It will effectively eliminate "passing the buck" to the other house. It will obviate the present expedient practice of one house passing a bill, knowing full well that the other house will bury it.

Legislative leadership, the lack of which has in the past hampered the development and enactment of desirable legislative programs, will be strengthened. Where we now have dual leadership, we would have single leadership.

Unicameralism will effectively surmount the frequent obstacles to the passage of legislation because of the lack of communication, coordination and cooperation between the two houses and between the leaders of the two houses.

Unicameralism will simplify the legislative process, resulting, I believe, in improved public scrutiny, understanding, appreciation and participation. The citizen of this State will identify himself with one legislator or one set of legislators and with one legislative district, rather than two sets of legislators and two legislative districts. It will bring the legislator and his constituent closer together.

The unicameral legislature is not only simpler, but less costly. There will be one set of legislative committees, instead of two. It will eliminate duplicate staff and duplicate public hearings. Fewer bills will, I believe, be introduced with a saving in printing costs. It will, at least, eliminate the present practice of introducing identical bills in both houses. And while I do not consider the savings in the dollars spent for legislative purposes to be a major factor, it would not be inconsiderable.

The concentration of legislative authority and responsibility in one house will, I am convinced, strengthen the legislative

branch in relation to the executive and judiciary branches. It is generally conceded that one of the major reasons for the general decline of State governments in meeting the needs of the people is the weakness of their legislatures. The 1947 Constitution strengthened the office of the Governor immensely; today, the New Jersey Governor is regarded as one of the strongest, if not the strongest, of all 50 governors. The 1947 Constitution devised a judiciary that is generally regarded as one of the finest in the Nation. But the powers of the legislature were not strengthened. If anything, they were weakened. I do not mean to imply that the weaknesses the Legislature has displayed since 1947 can be blamed on the Constitution; there is no question in my mind that the Legislature has not always effectively used its constitutional powers. But, a change from bicameralism to unicameralism will strengthen its hand and the legislative branch needs strengthening if it is to function as a truly "equal and coordinate branch".

Now is the time to propose a unicameral legislature. Leaving the proposal of such a constitutional amendment to the Legislature, involving as it does the seats of incumbent legislators, I am afraid, comes close to dooming it to a certain death in one of the Legislature's standing committees.

Unicameralism will, I am convinced, improve executive-legislative relations, simply because the Legislature will be represented by one set of leaders instead of two.

Unicameralism has the support of many eminent political scientists (including Belle Zeller, Alfred Willoughby and Jefferson B. Fordham). Since 1921, the Model State Constitution, formulated by the National Municipal League, has recommended a unicameral legislature.

More American states have not adopted the unicameral legislature, not because it has been considered less meritorious, but simply because of tradition, conservatism and political inertia. And once bicameralism has been established, change has been difficult to accomplish. In many states, as in New Jersey, the constitutional amendment necessary has been difficult to get before the people. And constitutional conventions have been surprisingly few in number. Only twice in this century has a proposal to adopt a unicameral legislature gone to the people: successfully in Nebraska in 1936, unsuccessfully in Missouri in 1945.

For these reasons that I have recited briefly, I respectfully request that this Convention, through this Committee, give the question of adopting a unicameral legislature its most deliberate consideration. And I trust that you will become convinced, as I have, that it should be incorporated in the proposal to be submitted to the people this November.

I am not today recommending a specific plan. In the past, I have recommended a unicameral legislature based on legislative districts coterminous with our congressional districts. There

have been other plans discussed. A proposal that has received some serious attention lately is one employing the 21 counties as legislative districts and assigning to them varying numbers of legislators based on population, much like the composition of this Convention. And I am sure that many other reasonable plans can be devised. And they will involve the same questions as any bicameral proposal, such as whether or not we should retain county lines and whether we should have single-member or multi-member districts. These questions should be tackled later. At this point, I urge this Committee to recommend to this Convention--to this unicameral Convention--the adoption of a unicameral legislature.

Come to think of it, I don't recall anyone proposing that this Convention be bicameral. Why? Because of tradition? Or was it because we subconsciously recognized unicameralism as being the right structure?

I thank you for giving me your attention.