

STATE OF NEW JERSEY
CONSTITUTIONAL CONVENTION OF 1966

Second Hearing

before

COMMITTEE ON STRUCTURE OF THE LEGISLATURE

HELD AT

RUTGERS UNIVERSITY

The State University of New Jersey

New Brunswick, New Jersey

April 21, 1966

Members of Committee present:

William F. Kelly, Jr.
Chairman

John R. Bennie
Oscar W. Rittenhouse
Albert J. Cucci
Austin J. Bozarth, Jr.
Richard S. Peer
Phelps Phelps
Anthony M. Yelencsics

Richard R. Stout
Chairman
Hugo M. Pfaltz, Jr.
Herbert H. Tate
Samuel P. Bartoletta
Mildred G. Willis
Geoffrey Gaulkin
Edwin B. Forsythe
Anton J. Hollendonner, Jr.

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INDEX

	<u>Page</u>
Thomas F. Connery, Jr. Delegate, Gloucester County	1 & 125
Hon. Philip Sorensen Lieutenant Governor State of Nebraska	2
Hugo Srb Clerk of the Legislature State of Nebraska	40
Joel S. Jacobson Delegate, Essex County	67
David Friedland Member of the General Assembly	72
Henry S. Haines Citizens for a Representative Legislature	91
William J. D. Boyd National Municipal League	98
Walter J. Bilder	110
- - - -	
Letter from Joseph A. Mackle, Jr.	129
Statement by Stanley Sredzinski	132

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SENATOR RICHARD R. STOUT [Chairman]: Gentlemen, we will call the hearing of the Committee on Structure of the Legislature of this Convention to order. I will call the roll.
[Chairman Stout called the roll and the following were present.]

William F. Kelly, Jr.
John R. Bennie
Oscar W. Rittenhouse
Albert J. Cucci
Austin J. Bozarth, Jr.
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Geoffrey Gaulkin
Edwin B. Forsythe
Anton J. Hollendonner, Jr.

All present.

I want to announce that we have invited Senator William Musto to sit with the Committee today inasmuch as he is the author of the proposal for the unicameral legislature in this State. Senator Musto.

Is Senator Connery present?

MR. CONNERY: Yes.

CHAIRMAN STOUT: Senator Connery, do you have a statement you would like to give?

THOMAS F. CONNERY, JR.: Mr. Chairman, in deference to the distinguished guests who have appeared here today from Nebraska, I would like to offer a written statement in support of unicameralism, joined by my fellow Delegate, Harris Cotton of Gloucester, and waive oral presentation.

CHAIRMAN STOUT: Will you present it to the Secretary?

[Mr. Connery presents written statement.]

MR. CONNERY: Thank you, Mr. Chairman.

CHAIRMAN STOUT: Thank you, Senator Connery.

["Statement Supporting a Unicameral Legislature for New Jersey," submitted by Mr. Connery, can be found on page 125 of this transcript.]

CHAIRMAN STOUT: The rules of the hearing are that the witness will be heard and there will be no questions during his testimony. After his testimony is completed, members of the Committee may ask questions of the witness and if there are any questions from Delegates on the floor, if they would submit them in writing to the secretary before the podium here, they will be asked by the Chairman of the Committee.

This is a hearing to discuss Proposal 1 presented to this Convention, namely, the establishment of a unicameral legislature for New Jersey. The proposal was submitted by Senator Musto of Hudson County and referred to the Committee on Structure. The Committee in an endeavor to ascertain the views of everyone interested and also in order to obtain the views of those who have firsthand knowledge of a unicameral legislature invited to join us this morning for the purpose of being heard Lieutenant Governor Philip Sorensen of Nebraska and Hugo Srb, the Clerk of the Nebraska Legislature since unicameralism was instituted there in 1936.

It is my pleasure to present to the Committee as the first witness the Honorable Philip Sorensen, Lieutenant Governor of Nebraska.

L I E U T E N A N T G O V E R N O R P H I L I P S O R E N S E N:

Mr. Chairman and members of the Committee: Again I would repeat that it is indeed a pleasure for me to be able to be here this morning and testify before this Committee.

As Lieutenant Governor of the State of Nebraska, one of my functions is to serve as presiding officer and President of our legislative body, the unicameral, and this has given me a unique opportunity to speak on a number of occasions about the advantages or disadvantages of the unicameral form of legislature.

Nebraska is the only state legislature in these United States that has the unicameral form of legislature. It was 1937 when the Nebraska Legislature first sat as a unicameral. It came about through an initiative petition drive which placed the constitutional amendment providing for the unicameral on the ballot in 1934. It was passed some say at that time by reason of the ballot bed fellows that went along with it. In 1934, when the unicameral was voted upon, they also had constitutional amendments to provide for pari-mutuel betting in Nebraska and for repeal of prohibition. Some say that the voters voted for all three in order to make sure that those other two were passed.

But the prime movers for the unicameral system of legislature in Nebraska were an unusual combination of initiator and state legislator, John Norton, who served a long time both as a legislator in the Nebraska bicameral system and as a congressman to the United States Congress, the head of the Political Science Department of the University of Nebraska, and then Senator George W. Norris. Senator Norris spent a long time stomping the State of Nebraska explaining what the unicameral would do, what it would accomplish, and why the people should vote for it.

Now the major reasons that the unicameral was adopted in the State of Nebraska were not necessarily the major factors or major benefits that we have discovered from experience. But at the time in 1934 when it was on the ballot, the reasons given for its passage or for its adoption by the people were about five in number.

First of all, the economy - Of course, in Nebraska in 1934 this was a time of depression and drought and the economy of a one-house legislature was an important factor to be considered.

Secondly, there was a good deal of dissatisfaction on the part of Nebraskans, a feeling that there was excessive influence being exercised by some special interests in the state and that a unicameral could bring about some correction of this. John Norton who was the primary initiator and mover for the unicameral used to campaign the state on the slogan that the unicameral will save time, talk and money, and I think that this was probably the slogan that was most important to the voters, the people.

Senator Norris campaigned on the basis in promoting the unicameral that the Conference Committee that acted to settle differences between the two houses was in fact a third house and that the undue amount of power that was concentrated in this one committee was excessive and created real problems in having the needs and the wishes of the people met.

Finally some people said that there was really just a secret desire on the part of the people to abolish the legislature altogether and that they were satisfied with half a

loaf.

But the question is often asked - Nebraska has had the unicameral form of legislature now for almost thirty years - "Why is it that no other state has adopted a unicameral?" Well, first of all, let me say that municipalities once had two houses, an upper and lower chamber, and this disappeared with the times. But we still find the bicameral system prevailing in our state legislatures with no changes being made except in Nebraska.

I think that the first and most important reason that we have not seen a unicameral otherwise adopted is the tradition of bicameralism. No one has really ever questioned why there should be a change. And, of course, only recently because of the decisions of the United States Supreme Court saying that both houses of the legislature must be apportioned on a population basis, people are beginning to ask: "Why have two houses?" I think also there is some feeling that I find of a distrust of legislatures in general, state legislatures, and a feeling that somehow if you have two houses, the one can watch the other - this sort of illogic that one can watch the other - and that if you only had one, that one might run wild. Another reason that can be given is that in many states you do not have the initiative and referendum which was the means by which the change was brought about in Nebraska. And, of course, legislators, themselves, are naturally reluctant to abolish their own house.

Now in talking about a unicameral or comparing it to a bicameral, it is almost impossible to draw a direct comparison

because it takes decades, maybe even centuries, to measure the effectiveness of any representative form of government. But I in my testimony here this morning have attempted to enumerate what I consider to be desirable attributes of any legislature and assess the unicameral against these attributes or against these standards as compared possibly to the bicameral. Now let me say that the desirable qualities that I list are arbitrary and these are qualities that I chose myself.

First of all, I think there are five basic qualities to any state legislature: first, and, of course, most important, that it be representative of the people; secondly, that it be deliberative - and by deliberative, I am including sufficient checks and balances; thirdly, that it be open to the press and public alike - that its actions be above board; fourthly, that it be direct, that nothing is accomplished in the legislative machinery by indirection, but rather by direction, where responsibility is well placed and well known; and finally, that it be simple, that it be understandable and economical.

I would like to spend just a few minutes in trying to determine or trying to explain how I feel the extent to which the unicameral form of legislature measures up to these attributes. Let me say at the beginning that I disclaim any knowledge as to the specific workings of the New Jersey Legislature, that any reflections that I might happen to make on a bicameral system are directed only in general at the problems that beset bicamerals at one place or another, and are not directed at New Jersey's legislature.

First of all, representativeness. To be representative,

I think it is necessary that the power in the legislature be distributed on the basis of legislative ability of members and the persuasiveness of their ideas rather than concentrated in small groups either because of their ability to handle the complexities of the parliamentary procedure of a bicameral system or because of the concentration of power that might result because of the bicameral machinery. Now what I am referring to here is basically the idea that Senator Norris expressed that too much power was concentrated in the Conference Committee between the two houses or in some states which do not have the Conference Committee, its equivalent, and that rather for a legislature to be representative, this power to determine what legislation is going to be passed or defeated must be distributed among the members on the basis of their abilities or the persuasiveness of their ideas.

As we will see, the unicameral system of legislature is fairly simple. The power is basically evenly distributed on the factors that I named and the machinery itself does not set up any one committee or any one group of people with any excessive concentration of power. I think this distribution of power also has a part to play in determining the amount of interest of lobbying methods of special interest groups, and certainly I am not one who is opposed to the legitimate methods of lobbying and so forth. But when you have a concentration of power, I think you have a danger of a loss of this power to special interest groups rather than to the will of the people at large.

But finally, and most important, as to representativeness

of the legislature, it must be responsive to the people. And I think the unicameral is responsive because it is subject, as I will later explain, to greater public understanding and scrutiny. There is no greater force for representativeness on the part of an elected official than the fact that that public official knows that the public knows what he is doing. In a one-house legislature the focus of attention is on that one house. The people understand the procedures of that one house. They know where bills stand and what is happening and the elected officials, their representatives, know that public opinion is following their every step. This brings about a true responsiveness on the part of the legislature.

Secondly, as I have listed as an attribute of the legislature, is its deliberativeness. In this, we are talking basically about checks and balances. I consider a second house of the legislature not a check and balance to the first house or to the other house, but rather merely duplication. The actual check and balance to legislation passed or not passed is the Governor's veto, is a judicial review, is initiative and referendum of the people, and finally and most important, a knowledgeable public opinion which truly serves as the real check and balance. I do not think that we can justify obstructionism or duplication by calling it a check and balance. The question of whether or not in a one-house legislature you might be faced with the problem of one house acting hastily, passing ill-considered legislation, is not met by creating a duplicative piece of machinery, creating a second house. But this problem is met by providing either in the constitution or the legislative

rules necessary procedures that require sufficient deliberativeness by the legislature in considering legislation.

Nebraska's experience has been that it has suffered no greater amount of ill-considered legislation than I think any state of the Union and that is because by its constitution and legislative rules sufficient deliberativeness is required.

Thirdly, I mentioned "open to the press and public" and by this I mean that the crucial decisions are made above board, that they are made as a part of the legislative process. This is not to say that in the unicameral system there is not business that is transacted off of the floor of the legislature. But the practice that we have seen in some bicameral systems of leaders from two houses, who have held back bills for leverage by one house over the other, getting together for session-breaking deals, is avoided in your unicameral system. The decisions in the unicameral are primarily made in the unicameral and as a part of the legislative process. You will have avoided the one house seeking to gain a position of control or leverage over the other house and the unicameral has been open both to the press and to the public and is understandable.

Fourthly I talked about the desirability of having a legislative system that is direct, where responsibility is squarely placed, and in the unicameral this is so. There can be no buck-passing to the other house. There can be no type of dishonest action by one house through an understanding with the other because in the unicameral you know who is deserving of the blame or who is deserving of the praise.

Then finally, a legislature should be simple to the

extent that it is understandable both to the members and to the public so that there are no special intricacies that are necessary to master by either the members or the public so that they can understand what is going on. The unicameral provides this simplicity. It is economical. The Nebraska unicameral in its first session was approximately one-half of the cost of the bicameral system and its simplicity prevents it from bogging down just by merely the weight of its own complexity.

All in all, and essentially, what I am discussing here before you is the machinery of government, not the basic substance or principles thereof. Nebraska does not consider herself somehow lacking because it lacks a second house. Nebraska feels her legislature to be representative. She feels her legislature to be deliberative and understandable. Nebraska finds her legislature economical and open to all its people. The unicameral form of legislature in Nebraska is firmly entrenched because of the almost total approval of the people of Nebraska, and this is based on her experience with the unicameral legislature. The original fears have been found to be baseless and the original hopes have come to be realities.

I admit in my testimony here to being generous in my praise of the Nebraska unicameral and attribution of qualities to that form of legislature. But, in fact, unicameralism will not alone solve any problems. It only provides the machinery to solve these problems, machinery that is a little more efficient, a little more responsive, a little more understandable to the people, and this, I suppose, is the stuff that progress is

made of.

Thus I would commend to you the unicameral form of legislature. Thank you.

[Applause]

CHAIRMAN STOUT: Thank you, Governor Sorensen.

Do any members of the Committee have a question they would like to ask the Governor. Senator Forsythe.

MR. FORSYTHE: Governor, you I don't believe in your testimony did cover the area of partisan elections in your legislature. From some reading I have done, it appears that this is a rather major consideration, at least it was in Senator Norris' campaign and so on. I wonder if you would comment on this phase of it?

MR. SORENSEN: Yes. The Nebraska legislature is non-partisan. The members are elected on a non-partisan basis and serve on a non-partisan basis. I consider this a separate quality from the unicameralism. As a matter of fact, in Nebraska we have had discussion over a number of years as to whether or not to return to a bi-partisan form of legislature or a partisan form of legislature, although there has never been any discussion of return to bicameralism. As a matter of fact, I happen to be one supporter of the return to a partisan legislature. Mr. Srb who is with me supports the non-partisan feature that now exists. As I say, this I consider to be a highly separate quality of your form of legislature.

George Norris was the major promoter of the non-partisan feature and, as a matter of fact, as I recall in my reading, Senator Norris required the non-partisan feature as

prerequisite to his support of unicameralism. Senator Norris looked upon state governments as functioning much the way business would be, that the governor is much like the president of a corporation, that the legislature is much like the board of directors of a corporation where there is no necessity for two boards of directors and the board should be kept small. Some of these arguments have not proven out over the years, but some have, and particularly the one feature of one house. Unicameralism, as I say, has been almost unanimously endorsed by Nebraskans.

MR. FORSYTHE: You do not then agree with Senator Norris that this was essential to the unicameral?

MR. SORENSEN: No.

MR. FORSYTHE: Thank you.

CHAIRMAN STOUT: Mr. Bartoletta.

MR. BARTOLETTA: Mr. Governor, along with the thought of unicameralism, has it ever been the intent or the purpose of the Nebraska legislature in order to simplify their state government to eliminate an election for governor and lieutenant governor by electing the governor out of the legislature in order to simplify it? Isn't that a real, true picture of unicameralism, to take the man out of the legislature as a governor?

MR. SORENSEN: This has never been a proposal as far as I know before the State of Nebraska and I think the separation of the executive and the legislative is still a necessary feature and a desirable quality of state government.

CHAIRMAN STOUT: Any further questions? Mr. Pfaltz.

MR. PFALTZ: Governor, I notice that one of the provisions of the Nebraska Constitution and something that you alluded to here is initiative and referendum which you apparently have in Nebraska and which we do not have in New Jersey. Now do you consider that these two aspects are in any way fundamental to the operation of the unicameral legislature or are they fundamental to the operation of a unicameral legislature in Nebraska?

MR. SORENSEN: Well, I would take the position, being a strong believer in initiative and referendum, that they are fundamentals in state government, but that they are not necessarily tied to a unicameral or a bicameral. I do not think there are any dangers of a unicameral running amuck any more than there are of the bicameral form of government. So I do not consider the initiative and referendum any more necessary to the unicameral than I do to the bicameral.

MR. PFALTZ: May I ask as a further element on that, how often is initiative and referendum exercised in Nebraska or recently how often has it been exercised either to repeal laws or to initiate laws that have not been initiated otherwise?

MR. SORENSEN: I think possibly the initiative has been exercised on the average of once every four years. Right now we have a referendum being exercised on an income tax passed by the legislature. We face much the same problem as New Jersey is going through right now. I think on the average of once every four years it has been exercised. This question would be better directed to Mr. Srb who has had a longer experience with the application of those two.

CHAIRMAN STOUT: Any further questions? Mr. Tate.

MR. TATE: Mr. Governor, one of your five basic qualities was deliberation. I am concerned whether or not a unicameral house does provide the careful scrutiny and check against hasty legislation. Would you elaborate a little bit more fully on that?

MR. SORESEN: Well, in our State Constitution, it is required that no bill can be passed until five days after introduction. The Constitution also requires that it must be read in full before the final vote is taken. The rules of the Nebraska legislature are extensive and were considered almost to be a part and parcel of the adoption of the unicameral form of legislature and the rules as set up require a committee hearing, a public hearing, on all bills that are introduced - there is an exception to this now, some statutory correction bills - that there is a public hearing, that we go through three major votes on the floor on each bill. We progress them on what we call files on the floor, from general file, to select file, to final reading, and through the constitutional minimum requirements and then through the legislative rules that add on to these, every bill that comes to final reading and passage has had sufficient time to be considered not only by members of the legislature, but to be scrutinized by the public.

MR. TATE: Mr. Governor, how many bills do you normally handle in a legislative year?

MR. SORESEN: In the Nebraska legislature, which meets once every two years, in the last session they had something slightly in excess of 900 bills.

MR. TATE: And how long did you stay in session?

MR. SORESEN: Seven and a half months.

MR. TATE: Thank you.

CHAIRMAN STOUT: Mr. Hollendonner.

MR. HOLLENDONNER: Governor, there is one point of interest I would like to raise and get your comment on. It has been said that a bill in the Nebraska legislature is not introduced unless it is assured of passage from the outset. Would you care to comment on that, whether that is true?

MR. SORESEN: No, that is not true at all. Approximately 40 per cent of the bills in the past - and I do not know what the percentage was in the last session - but in the past approximately 40 per cent of the bills have been killed that have been introduced in the legislature. The 60 per cent of passage is higher, I think, than the normal rate for most states. But there is no such written or unwritten rule.

MR. HOLLENDONNER: One more question, and I would like to pose the same question to Mr. Srb when he finishes with his presentation: I ask, Governor, for your opinion as to how effective you feel the unicameral system would be under a partisan form of government?

MR. SORESEN: I have always favored a partisan unicameral in Nebraska and so as I say I feel that the partisanship question and the unicameral question, unicameralism versus bicameralism, are actually separate questions.

MR. HOLLENDONNER: Do you feel that the partisan aspect of it would affect or not affect the system itself?

MR. SORESEN: No, I do not feel that it has any

impact on unicameralism or bicameralism as such or on the question of unicameralism.

MR. HOLLENDONNER: Under a partisan form of government, do you feel that you would still be less susceptible to improper lobbying methods or tactics?

MR. SORESENSEN: Yes, I do.

MR. HOLLENDONNER: Thank you.

CHAIRMAN STOUT: Mr. Cucci.

MR. CUCCI: Governor, I am particularly interested in the roll call feature of your unicameral setup. I was wondering whether or not you can elaborate a little more extensively on the efficacy of this particular phase of things.

MR. SORESENSEN: I am not sure that I understand your question.

MR. CUCCI: The roll call that is available to each and every one of the members of your legislature wherein they can demand a roll call with respect to what the feelings are concerning a certain bill.

MR. SORESENSEN: I believe this is written into the Constitution that any member of the legislature can demand a record vote at any time. I don't know whether it is an important part of unicameralism. It is just what we consider in Nebraska an important part of our legislative machinery, unicameral or bicameral.

MR. CUCCI: But you do find that it works very well for you.

MR. SORESENSEN: Yes.

CHAIRMAN STOUT: Any further questions? Mr. Tate.

MR. TATE: Mr. Governor, does not Nebraska have a single or multi-member district and in your opinion which is the better system?

MR. SORESENSEN: A single district. We have 49 legislative districts and I know nothing about the comparison between single and multi-member districts and so I could not compare them. Nebraska is divided up into 49 legislative districts and one member is elected from each. This is the only system I am familiar with frankly.

MR. TATE: Thank you.

CHAIRMAN STOUT: Mrs. Willis.

MRS. WILLIS: Governor, much has been said and I have read much about public participation in open hearings. To what degree does the public participate with the unicameral system?

MR. SORESENSEN: To a very high degree. Most public hearings are attended by members of the public to participate in the hearing and present testimony, depending, of course, upon what the matter is before the committee. But, as I say, every bill that is introduced before the legislature does have a public hearing.

MR. PHELPS: Has there been any more protest against rushing bills through in a unicameral than there has been in bicameral legislatures?

MR. SORESENSEN: We have never run into protests in rushing bills through. The only protests we have had have been directed to the length of the session, which I think most states face.

MR. PHELPS: Have you heard of any protest being made in many of the places where they do have unicameral, such as in all the Provinces of Canada, with the exception of Quebec, or New Zealand or Austria, which has unicameral? Did you ever hear of any protest that they rush legislation through?

MR. SORENSEN: No, I haven't. I don't know whether I would have heard of any if there were.

CHAIRMAN STOUT: Any further questions? Mr. Hollendonner.

MR. HOLLENDONNER: One more question: I was intrigued by your comments on Nebraska's experience, that there has been complete satisfaction. Has there been no protest or dissent raised by anyone?

MR. SORENSEN: I was asked for the Rhode Island Constitutional Convention to find someone in Nebraska who would appear before that Convention to testify against the unicameral form and I could not find anybody and neither could Rhode Island. I am sure there are those who do.

MR. HOLLENDONNER: Thank you.

CHAIRMAN STOUT: Mr. Cucci has a question.

MR. CUCCI: Would you tell me what the population of the State of Nebraska is and possibly could you tell me how many registered voters you have in the State of Nebraska?

MR. SORENSEN: The population of Nebraska is approximately 1,400,000. We do not have total registration in our state. The vote in the last election, the 1964 election, totalled, I believe, approximately 650,000.

CHAIRMAN KELLY: Governor, we have a question from Walter Jones, a delegate from Bergen County. He asks: "You have set forth some of the virtues of unicameralism. Would you be good enough to set forth any defects that you know of in such a system?"

MR. SORENSEN: Well, I think the important thing that I should emphasize by my testimony is what I said at the end that unicameralism as such is not going to solve problems by itself. We are talking about a basic machinery of government and to me I do not really see any defects in the unicameral form as compared to the bicameral. Now I have not had the experience with the bicameral form that Mr. Srb might be able to tell about here in his testimony. But I do not find any defects as such in the unicameral form of legislature.

The only possible problem that I see in a unicameral form of legislature is the passage of ill-considered legislation. You do eliminate the duplicative process and, after all, by duplication you sometimes catch mistakes that you did not catch the first time over. But I think we meet this problem of ill-considered legislation not by creating the second house, but by setting up in our constitution and in our accepted legislative rules sufficient procedures so that we eliminate the possibility of ill-considered legislation to the extent that I think it is eliminated in a bicameral system.

CHAIRMAN STOUT: Mr. Rittenhouse.

MR. RITTENHOUSE: Governor, what is the relationship

between your unicameral legislature in Nebraska and the county form of government and do you conceive of any difference between unicameral and bicameral systems with respect to the county system which you have?

MR. SORENSEN: Well, if you could explain your question more, how it relates to unicameralism versus bicameralism -- Of course, a county is a political subdivision of the state, controlled by the legislature as such.

MR. RITTENHOUSE: Well, first of all, I am not completely familiar with the county system as it exists in Nebraska and I wonder first whether you could comment on the relationship briefly of your county system and your unicameral legislature or your state body in your state.

MR. SORENSEN: Well, in Nebraska we have 93 counties which provide certain governmental services at this lower level or subdivision of the state. The county system of government provides some road services with regard to generally county roads, gravel and dirt roads. It provides a system of courts. It provides sheriffs by counties, also some law enforcement, although we have state law enforcement also. It provides the major tax collecting machinery for both the county itself, the school districts and the state. These are the primary functions of the county government. The county is a political subdivision of the state. It is, so to speak, a creature of the state government, of the legislature.

MR. RITTENHOUSE: Do you think that there would be any difference in the relationship between your state

legislature under a bicameral rather than a unicameral system?

MR. SORENSEN: A difference?

MR. RITTENHOUSE: Yes. Any difference in terms of the relationship between the two as to election to the legislature and distribution of power between the two.

MR. SORENSEN: Well, I think there is a difference that I think occurred after the adoption of the unicameral. Are you talking about between the bicameral and the unicameral or are you still also talking about counties?

MR. RITTENHOUSE: Well, I am speaking about the relationship which it has to the county system as an integral unit in the election of legislators, whether they be to the bicameral or unicameral system.

MR. SORENSEN: Well, many of our legislative districts now cross county lines and so I do not see that there would be any real difference between the relationship between the legislature and the counties whether it be bicameral or unicameral legislature.

MR. RITTENHOUSE: Thank you.

CHAIRMAN STOUT: Mr. Bennie has a question.

MR. BENNIE: Governor, the passage here in New Jersey of bills in one house creates interesting news to the public through the medium of the press. My question is: In the unicameral system, does the public get the awareness of the bill that is being proposed as much as it would in the bicameral system since once it is passed by one house, it

then has statewide and universal knowledge by the public?

MR. SORENSEN: The bills, in following their trail through the unicameral receive statewide publicity, depending upon their importance, of course. On a number of occasions the rules - and again I will have to inquire as to whether it is in the constitution. [Mr. Sorensen confers with Mr. Srb.] I enforce the rules and I forget whether some are in the constitution or just our regularly adopted legislative rules.

But on the introduction of a bill, the bill must carry a title which covers the substance of that bill and on the introduction of the bill the title is read before the legislature. At this time, both the legislators and the press and the public are alerted to what the subject matter and the substance of the bill are and it receives publicity, depending upon the news-worthiness of the bill. Then it is referred to a committee. The committee holds a public hearing after giving notice for at least five days and the notice of the hearing is published by all the news media and the public hearing is attended and again statewide news coverage is given to this hearing, depending upon the interest. Then the committee votes. It comes out on the floor and there is a major debate on the bill and a major vote taken. This is probably the point at which the bill receives the greatest amount of news coverage. After this major debate and the major vote is taken, the bill still has to go through two more major votes or two more processes - generally the debate is eliminated - but two more processes

before it is finally read for final reading and voted upon and passed. So there is sufficient time for the people of Nebraska to know what the bill is and what the implications are.

MR. BENNIE: This then would be similar to a municipal ordinance being passed where there is a publication of the ordinance and then the public hearing and then the subsequent voting on the proposed legislation.

MR. SORENSEN: To a great extent, yes.

MR. BENNIE: Thank you.

CHAIRMAN STOUT: I have a question in point from Delegate Duff of Essex: [Reading] "As I understand it every bill introduced in the Nebraska legislature must have a public hearing. Doesn't this lead to a rather long legislative session in Nebraska or more to the point, would it not lead to an unconscionably long session in a state such as New Jersey with a population four or five times that of Nebraska?"

MR. SORENSEN: This does lead to a longer session. There is no question about it. We consider the expense and the penalty we pay for the longer session to be worth the advantage that is gained by a public hearing on every bill. Those bills that do not have a particularly great public impact or much public interest, at their hearing, the public hearing can last only a matter of a few minutes. There may be only one person that appears to testify on that particular bill. So it is not always so time consuming. Every bill does not require a lengthy public hearing, just

a public hearing. It depends on the interest of the public.

CHAIRMAN STOUT: Another question in point from Delegate Frank Bate of Essex County: [Reading] "Question - You stated your rules required five days between introduction and final passage as well as other safeguarding rules. Is there any provision for the waiver of those rules in emergency and, if not, isn't there danger of hasty and ill-conceived action in such a declared emergency?"

MR. SORENSEN: The five-day rule is written into the constitution and cannot be waived. Furthermore, written into the constitution is the requirement that the bill has to be read as it is to be read on final reading, will lay one day printed in full upon the legislators' desks and then it must be read in full. And if it is attempted to be amended at that time, then the bill must go back and be reprinted and lay one full day. Now these are all constitutional requirements that cannot be waived.

CHAIRMAN STOUT: Well, then there is really no provision for a real emergency where legislation can be passed in a day or two.

MR. SORENSEN: No. No bill could ever be passed within one day. You would have to wait five days. We have never found the necessity as far as I know.

CHAIRMAN STOUT: Any other questions? Mr. Gaulkin.

MR. GAULKIN: Governor, one of the frequently-voiced justifications for a bicameral system is that there is an opportunity to get two different kinds of legislative attitude on a particular piece of legislation. I wonder

whether in your own experience you have ever felt the need or the advantage which would come from a second house which would be exerting a different attitude either because the members represent larger numbers of people, larger geographic areas or are in office for longer terms, different cross sections of people, etc.

MR. SORENSEN: Well, I do not feel, first of all, that -- The bicameral tradition, of course, started with the idea of the House of Commons and the House of Lords where there were two classes of people and in this country, of course, we do not face two classes. On the Federal level we have two houses; the House of Representatives is representing the people and the Senate is not representing area, but is representing actually sovereigns as such. I have never seen the need, and particularly since the recent United States Supreme Court decision where it is required that both houses be apportioned on the basis of population, for requiring two houses. I do not think that you have this much difference of attitude represented by having one house, for example, be of longer terms or representing more people.

MR. GAULKIN: Just to pursue that a little further, if, for instance, a legislator who now represents a section of urban Omaha were thrown into a different legislative house in which he represented part of Omaha and part of the outlying rural area, in your judgment would his attitude be different, substantially different, as a legislator?

MR. SORENSEN: Well, his attitude might be different,

but right now we have both Omaha and the outlying area represented.

MR. GAULKIN: That is so there. I don't know that it would be so in New Jersey.

MR. SORENSEN: You have it possibly now represented by two legislators instead of one representing both. I don't know that it would change his attitude that much. He still has to be yes or no on the questions if it comes down to an urban versus a rural problem.

CHAIRMAN STOUT: Any other questions?

I have a list of questions here from Mr. Evanko, a Delegate from Middlesex County, and the first one is: [Reading] "Are members elected to the unicameral legislature by political party organizations?"

MR. SORENSEN: No, they are not.

CHAIRMAN STOUT: They run independently.

MR. SORENSEN: Oh, yes. They run without political party identification.

CHAIRMAN STOUT: The second question is: [Reading] "Do you in effect have two major leaders to essentially guide legislation through the one-house legislature?"

MR. SORENSEN: No, we do not. The leadership in the legislature because of the non-partisan feature develops on the basis of the person's ability and interest in particular areas of state concern, whether it be commerce or whether it be power or whether it be electric power, utilities, or whether it be welfare programs or highways.

CHAIRMAN STOUT: His last question is: [Reading]

"What per cent of the total Nebraska state budget is saved with the unicameral legislature?"

MR. SORENSEN: A very minor per cent, a very minor per cent, because the legislative budget is a very minor percentage of the total state budget in Nebraska.

CHAIRMAN KELLY: Governor, we have several questions from Senator Sandman, Delegate from Cape May County. His first question I think you have answered to some degree. [Reading] "How does a bill pass?" I assume it is the process that a bill goes through to final passage.

MR. SORENSEN: As I have explained before, it is introduced and it is read by title. It goes to a public hearing and the committee acts on it. If the committee votes it out, then it goes to the floor where there is a major debate and a major vote taken upon it. Then it advances to what is called "select file" where it can be amended or returned to committee again where another vote is taken. And finally it advances to the final reading file where it is printed, laid on the desk for one day, read in full and voted upon for final passage.

CHAIRMAN KELLY: The second question is: [Reading] "What is the authority of the majority leader?" I think you have answered that, that there is no majority leader.

MR. SORENSEN: That is correct.

CHAIRMAN KELLY: "Does the Speaker have a veto power over placing bills on the board for a floor vote?"

MR. SORENSEN: The Speaker is primarily a position of honor rather than a position of power. The Speaker serves

on the committee, along with the Lieutenant Governor and one other Senator, to refer bills to committees, bills that are introduced, and the Speaker serves as presiding officer in the absence of the Lieutenant Governor. The Speaker serves in the line of succession to the governorship. But other than that, the powers of the Speaker are primarily honorary.

CHAIRMAN KELLY: "Does the Lieutenant Governor have such a veto power?"

MR. SORENSEN: No. The Lieutenant Governor is even more honorary than the Speaker.

CHAIRMAN KELLY: "Do you feel that the leadership in a single house has more or less power than in a bicameral legislature?" Or have you indicated there is no leadership in the unicameral?

MR. SORENSEN: No, I have not; absolutely I have not. I have a hard time making this comparison. Because of our non-partisan feature, the leadership changes form. Instead of having political parties where you have majority leaders and minority leaders and majority whips, and so forth - we have none of this and so it is hard for me to make a comparison. But I think the opportunity for leadership, based on a man's ability, and, as I said, the persuasiveness of his ideas or his programs is greater in the unicameral because of the lack of the concentration of power in one group that may be outside of his sphere.

CHAIRMAN STOUT: Governor, we have a great many more questions here which we won't have time to

cover before lunch. We have a tight lunch schedule for all the delegates and I would like to adjourn the hearing now until two o'clock sharp when we will return to this same room. Thank you for your testimony this morning.

[Adjournment for Lunch]

Afternoon Session

CHAIRMAN STOUT: Gentlemen, I will call the hearing of the Committee on Structure to order.

We will continue with the testimony of our guest here today, Governor Sorensen of Nebraska. Governor, are you prepared again to face this group?

MR. SORENSEN: Yes.

CHAIRMAN STOUT: Any further questions?
Senator Kelly has a few.

CHAIRMAN KELLY: Governor, these questions are from Robert E. Jacks, Delegate from Middlesex County. His first question - [Reading] "Is the apparent productivity of the Nebraska legislature really due to the unicameral structure or to the fact that whether or not political labels are used, the legislature is in fact dominated by one political party?"

MR. SORENSEN: I do not consider the Nebraska legislature dominated by one political party. They are non-partisan both in theory as well as in practice. The productivity of the Nebraska legislature on a comparative basis - it is hard to say whether this is a result of the non-partisan feature or whether it is a result of the unicameral

feature or even whether it is a desirable feature. But I certainly cannot say what is the cause for the fact that we pass some 60 per cent of our bills, a higher percentage than other states do.

CHAIRMAN KELLY: His second question: [Reading] "How is there any difference in 'influence peddling' or improper lobbying methods between one house and two?"

MR. SORENSEN: Well, I think if you have a legislative machinery where power is concentrated into a few hands, it is easier for the influence peddler to work through manipulation than through a limited contact with a limited number who happen to have this power. The feeling in Nebraska prior to the adoption of the unicameral was that power was concentrated in the Nebraska legislature in a few hands and that those special interest groups instead of using the legitimate means of lobbying, of presenting facts and arguments, and so forth, persuasion - instead of presenting this as a whole to the legislature, what was merely sought was control of those few who were in power. This was considered to be undesirable and something that could be eliminated by the elimination of the bicameral system which of itself concentrated this power in a few hands.

CHAIRMAN STOUT: Mr. Bartoletta.

MR. BARTOLETTA: Mr. Governor, do you have a primary election in Nebraska?

MR. SORENSEN: Yes.

MR. BARTOLETTA: For what distinguishing purposes

would there be a primary election outside of a popularity contest?

MR. SORENSEN: The primary election is to reduce the number of candidates for the legislature from a particular district to two in number in each district.

MR. BARTOLETTA: Do you also have in a presidential election a preferential partisanship relative to delegates to your conventions?

MR. SORENSEN: Yes.

MR. BARTOLETTA: Is that handled through the legislature as a law?

MR. SORENSEN: Well, the legislature sets up the law.

MR. BARTOLETTA: The mechanics?

MR. SORENSEN: Yes.

CHAIRMAN STOUT: Mr. Tate.

MR. TATE: Mr. Governor, has the State of Nebraska been ordered to reapportion?

MR. SORENSEN: Yes, they have reapportioned and their latest reapportionment has been approved by the state and the Federal courts.

MR. TATE: And this was apportioned on a single-member district?

MR. SORENSEN: Yes.

CHAIRMAN STOUT: Senator Forsythe.

MR. FORSYTHE: Mr. Governor, who appoints the committee chairmen of the committees?

MR. SORENSEN: The committee chairmen are chosen

and the memberships of the committees are approved by the legislature, but as a practical matter their selection is made by the Committee on Committees. The Committee on Committees is chosen by caucusing of various regions of the state. The Chairman of the Committee on Committees is elected at large by the legislature and then the membership of the Committee on Committees is chosen by these regions and it is this Committee which selects the makeup of the other standing committees.

MR. FORSYTHE: By regions, you mean -- you have what, 49 legislative districts --

MR. SORENSEN: Well, they take it by congressional districts. They take the old four congressional districts. We now only have three congressional districts. But they take the old four and select two members from each of the old four congressional districts, by caucus.

MR. FORSYTHE: The caucus of each of these four districts then elects a member of the Committee on Committees or two members or whatever it is.

MR. SORENSEN: Yes.

MR. FORSYTHE: This then builds your Committee on Committees.

MR. SORENSEN: Yes.

MR. FORSYTHE: The Chairman is elected at large by the legislature.

MR. SORENSEN: By the legislature.

MR. FORSYTHE: Thank you.

CHAIRMAN STOUT: Mr. Pfaltz.

MR. PFALTZ: I would like to ask a few more questions on the operation of your committee system. First of all, what staff, if any, is provided for the respective committees?

MR. SORENSEN: We have a secretarial staff. We have no research staff other than for the committees as such. We have a research staff for the legislature at large.

MR. PFALTZ: And what power do these committees have to prevent legislation from getting on the floor? Is it required that it be voted out by committee or can the legislature as a whole vote bills through the committee or out of the committee?

MR. SORENSEN: Both ways. The committee can vote out a bill. It must act either one way or the other on the bills that are referred to that committee and if they vote the bill out, they state their reasons and it is forwarded to the floor of the legislature. If they vote to kill a bill, the legislature as a whole can raise that bill.

MR. PFALTZ: Is there a time limit within which the committee must consider a bill presented to it?

MR. SORENSEN: There is a time limit that after they have held a bill so long the legislature can require them to hold a public hearing on it. But our rules require that bills be introduced in the first 20 days of the session and you can by a greater vote or by suspension of the rules introduce bills after that. But most of our bills are introduced in the first 20 days and it takes about four or five months to complete the committee hearings on these bills.

CHAIRMAN STOUT: Mr. Hollendonner.

MR. HOLLENDONNER: Governor, does the legislature in Nebraska have the function of, say, confirming appointments made by the Governor, for example, judicial appointments that we have in New Jersey, advice and consent?

MR. SORENSEN: Not on the judicial appointments. We have the Missouri plan for appointments of our judiciary. But the other appointments by the Governor of department heads and members of commissions need to be confirmed by the legislature. First the nomination is submitted to the Committee on Committees who will hold a hearing on the nomination and then submits it with their recommendations to the floor of the legislature and the legislature must confirm it by, I believe, a 3/5ths vote.

MR. HOLLENDONNER: Governor, we have heard a lot in New Jersey about the phrase "senatorial courtesy" and many newspapers have considered this one of the prime or chief abuses in our system. Can you find anything comparable in your system where a member of a committee or the committee as a whole has the authority or through manipulation of the rules of procedure to bottle up or forestall such an appointment?

MR. SORENSEN: No, they do not. They never have.

MR. HOLLENDONNER: This Committee on Committees in considering appointments, can they take any sort of delaying action by refusing to confirm the appointment and thus tying the Governor's hands?

MR. SORENSEN: Well, they have not and then the appointee

will serve during the time whether the committee has acted or not.

MR. HOLLENDONNER: If the Governor makes a nomination to, say, a judicial appointment, does he automatically serve then pending approval of the legislature?

MR. SORENSEN: Yes.

MR. HOLLENDONNER: Thank you.

CHAIRMAN STOUT: Any further questions? One question here, Governor: Does Nebraska retain the county as a political subdivision?

MR. SORENSEN: Yes.

CHAIRMAN STOUT: And the corollary to that: Are counties recognized in any representative manner in the Nebraska legislature?

MR. SORENSEN: Well, it used to be that you could not cross county lines. Our constitution did precisely provide that way. You could not cross county lines as such in setting up legislative districts. So as such there was some recognition given to counties. But today county lines are crossed and so they play very little or no part in the determination of the makeup of the legislative districts.

CHAIRMAN STOUT: I have a series of questions here which concern the formation of blocs in the Nebraska legislature. It mentions the farm bloc, the cattle growers bloc, and I was wondering if you could comment on this development in the unicameral legislature, the development of blocs, which in turn might form coalitions against others.

MR. SORENSEN: Well, there are no blocs that have

been formed, at least in recent years, that have ever really stuck together as such. The representatives from the urban areas often will attempt to caucus together to discuss urban problems and to try and meet those problems as one group or as a bloc. But generally they are independently minded enough or what have you that they are not cohesive when it comes to the voting. The rural blocs, the cattle raisers and so forth, do not stay together as blocs as such. But, of course, where their interests coincide, often they will vote similarly. But there is no real bloc voting as such in the Nebraska legislature.

CHAIRMAN STOUT: I have a question here I think you might have answered this morning from Delegate Perry of Camden. [Reading] "Did Nebraska do the job of educating the people to unicameralism or do you feel that the other features of your referendum was paramount to the acceptance of unicameralism?" I am sure he means the other two, the repeal of prohibition and the --

MR. SORESENSEN: No. George Norris came back from the United States Senate and stomped the State of Nebraska explaining unicameralism, why it should be adopted. He was opposed by every newspaper in the state but one or two. He was opposed by most of the legislators and almost without exception all of the various special interest groups. As a matter of fact, George Norris became so bitter near the end of the campaign because he could find no support from any of the newspapers or special groups that he complained that if he offered the Lord's Prayer as an amendment, they

would oppose that too. But he found out when the vote finally came around that the people did support the unicameral and that he had done his job of educating the people of Nebraska.

CHAIRMAN KELLY: Governor, these questions are submitted by Senator Farley of Atlantic County, a Delegate to the Convention. He asks first: [Reading] "What are the terms of the legislators?"

MR. SORESENSEN: Four years.

CHAIRMAN KELLY: "Are they all elected at one time?"

MR. SORESENSEN: No, half every two years.

CHAIRMAN KELLY: Half every two years.

MR. SORESENSEN: Now this is something new. It used to be that the terms were two years and the whole legislature was elected for every two years. But they have lengthened the terms now to four years and they alternate.

CHAIRMAN KELLY: I think you have answered this already. [Reading] "What is the average number of bills at each session?"

MR. SORESENSEN: Well, it has been increasing every year and this last session it was something in excess of 900. I forget the exact number. Two years before that, it was seven hundred and some bills.

CHAIRMAN KELLY: And finally: "What is the salary of the legislators?"

MR. SORESENSEN: Two hundred dollars per month for the full biennium and they will meet, say, in a seven and one-half month period in a biennium if there are no special sessions.

They will get a total of \$4800 with no expenses except for one trip to the legislature and one return home.

CHAIRMAN KELLY: And that salary will hold true for the newly-apportioned legislature in the lengthier term of four years?

MR. SORENSEN: Yes. It will hold true. It is considered inadequate by most.

CHAIRMAN KELLY: By most legislators.

MR. SORENSEN: Well, by most of the people who have ever given it any consideration, including the legislators.

CHAIRMAN STOUT: I have two last questions here, Governor, from Delegate Novins of Ocean County. [Reading] "What provision has been made to take care of the fluctuation of population in any election district?"

MR. SORENSEN: Well, the Nebraska Constitution provides that the legislature must reapportion itself to take in the population changes. Now as far as the changes in population, these will have to be met by the legislature and it must reapportion itself every so many years as we have population changes. Our pattern of population changes is fairly well established in Nebraska.

CHAIRMAN STOUT: And the last question and I will combine it with one I just received here: "What is the basic population in each election district and how do they refer to a member of a unicameral legislature, Representative, Senator or what?"

MR. SORENSEN: Well, there are approximately 30,000 population in each legislative district. The problem

of referring to our legislators was one of the major problems they faced when they first were created. Somebody said that they ought to be called senator, but somebody else said, "Well, we don't have a senate." And somebody else said, "Well, we can't be called representative." Finally one of the members suggested, "Well, actually our names ought to in some way tie in with the type of body we are and since we are unicameral, we ought to be either eunuchs or camels." They are referred to as senators though.

CHAIRMAN STOUT: So on this note -- Oh, there is one more question. Mr. Tate.

MR. TATE: Mr. Governor, you said that the term of a legislator or a senator was four years and you have just gone through a reapportionment.

MR. SORENSEN: Yes.

MR. TATE: -- which would mean you have to reapportion anyhow every ten years?

MR. SORENSEN: No, we will have to reapportion after the 1970 census.

MR. TATE: How will you reconcile four year terms?

MR. SORENSEN: Well, this is a problem I always wondered about myself. But the Federal court has reconciled it and has gotten by this problem and the fact that they will be able to reapportion and actually add to or take away from a district where a representative will carry over. So it will be possible for it to reapportion even though in that particular district --

MR. TATE: In your opinion do you think it would be

constitutional under the "one man, one vote" principle to have a holdover for two years?

MR. SORENSEN: Yes. This is the way the court has ruled.

CHAIRMAN STOUT: Governor, thank you very much for appearing here this morning and on behalf of the Committee and the Convention, we appreciate the time you have given us. Now we will look forward to hearing from your travelling companion and colleague. Thank you again very much.

MR. SORENSEN: Thank you.

[Applause]

CHAIRMAN STOUT: I will call Mr. Hugo Srb, the Clerk of the Legislature since 1936, former member of the Senate, the mother of unicameralism and well known to many members of our legislature through their visits to the convention cities of the Council of State Governments.

HUGO SRB: Thank you, Mr. Chairman and members of the Committee. I was pleased to see Henry here the first thing I walked in, my old friend in legislative circles.

You can see it will be pretty hard to cover this subject after the excellent job that the Lieutenant Governor has done in presenting the manner in which our unicameral legislature operates, and I will take only one exception. But he endorsed the entire program, so I am going to take it that he is also endorsing the non-partisan feature. But I will talk about that a little bit later.

I welcome the opportunity to talk to you about our

legislature because of the importance of the subject, whether the people of the other parts of the world are to be represented in their law-making bodies by people of their own choosing. What can be more democratic than to permit any elector to file for this important position and to have the two receiving the highest vote become the nominees in the general election. Without a law, we would have chaos. With too many or ill-considered legislation, we have confusion. The difficult position the legislator finds himself confronted with is that he must make decisions based upon what will happen in the future and no one knows with certainty what will happen in the future.

Government is based on confidence and to live by faith one must have faith. As our forefathers had faith in the future, we likewise must build for a better future for tomorrow. Some one said there are three kinds of people, those who watch things happen, those who make things happen and those who don't know what happened. I think this group is certainly in the group of those who can and I hope will make things happen.

It is just such a group as this that gathered to discuss the unicameral system in Nebraska and it didn't happen overnight. It didn't have unanimous support. It started way back in 1913. John Norton introduced a resolution to have a one-house legislature. It didn't get through the legislature. He had another one in 1917. It didn't get anywhere. It was offered in 1920 in the constitutional convention and it lost by a very narrow margin in

that constitutional convention. Then in the '30's, 1931 - that's when it was my privilege to serve in the legislature where it was both partisan and two house, those things that some think are absolutely necessary, and that's the only time in the history of the state we went home without a budget. It happened because of the support of both parties, going together. It wasn't all Republicans on one side and all Democrats on the other, but it had to do with the passage of the budget. And they said if you stay by the recommendations, if you don't vote more money, you are going to close our state institutions. Well, I happened to be on the side that was voting for the lower budget. We went home without a budget. The Governor called us back into special session and we cut a million and a half off the budget.

Two years later we came with the same Governor and his recommendations were taken by the House Committee and they circulated petitions in the House and they got signers, a majority of the members of the legislature, saying that they wouldn't raise the budget and cutting it by one-half. Just imagine that! They couldn't possibly do it. Yet that was when corn was selling for ten and twelve cents a bushel. They were taking judges off the bench for signing moratorium decrees. We had a march on the Capitol. Three thousand farmers marched demanding relief. Something had to be done. It was done. We passed moratoriums, deficiency judgment laws, interest-cutting rate bills, salary reductions and so forth. But here I was on the other side again. I was for the high budget. The time

before I was for the low one. So in speaking for these I said, "Two years ago you said we would close all of our state institutions. Today you are saying we want to play Santa Claus to those same institutions." So the legislature has a problem to provide adequately. And on that non-partisan feature -- I just can't see anything partisan about highways. I can't see anything partisan about schools. I can't see anything partisan about providing adequately for the needy. Every legislator wants to provide what he thinks is necessary, what the state can afford, and that takes the big budgetary propositions out of the hands of the governor.

Now we had a Democratic governor in the first session of the unicameral. Governor Cochran had as his budget committee chairman one who was elected by the body and he happened to be a Republican and yet he would walk into the legislature and say, "The Governor wants this," or "He doesn't want it," and he got his program through, the closest of working harmony between a non-partisan body and the governorship.

In the next election we had a Republican governor and he had as his chairman a Democrat. It doesn't hardly sound as though that would be practical politics, that it would work. But it does and after all it stood the test - Does it work? Has it worked? So on that non-partisan feature, I think that that is the strength of the program. And as the Lieutenant Governor said, Senator Norris insisted on it being there.

And I heard Dr. John P. Senney who was one of the strong advocates and proponents of the plan say that Senator Norris said, "Now, gentlemen, I have yielded on every proposition." He wanted to have a small group like a corporation with its board of directors. He said, "I have yielded on every point. But on this point I will not yield." That was the non-partisan feature. He said, "Either make it non-partisan or let's drop the whole thing." So they took the non-partisan feature and it has worked successfully since that time. That is why I think it ought to be tried that way. What can you lose? Just do not put the designation of a particular candidate's party affiliation. That doesn't mean he has given up his party affiliation. It just means that you are not going to have a straight cross up there and elect everybody on one ticket or everyone on the other. Then by one vote of one member in the legislature, you can have the entire legislature go the other way.

I was talking to a fellow in Arizona. He said, "Oh, we can't have it non-partisan. It wouldn't work at all." I said, "Well, you let the minority party vote on the committee, don't you?" "Yes." But he said, "You couldn't get anything out of the committee. You couldn't get a bill out of committee." Well is that the kind of government that is best?

I think that this plan of ours has met the test - the representation. I will try not to be repetitious here on this. We have the same thing. We didn't compare notes

before we came down here. But I put representation first. Anyone who is an elector can run for the job of a member of the legislature, our highest law-making body in the state. Maybe I feel differently on this because my parents both came from the old country. I ran for the Senate when I was 26 and I came within 33 votes of getting elected. I know that that kind of opportunity doesn't happen in the country from where they came, Czechoslovakia, and I have felt that we have a heritage here that we ought to try to preserve. We have people coming - tomorrow I will be meeting with a man from Zombia, North Rhodesia. He holds a title comparable to the governor of that state. What is the purpose of his visit? - to study about the unicameral. We have had them from Libya in North Africa. We have had them from the Fiji Islands, from Guam, from Formosa. We have had them coming from all parts of the world. Why? - to meet that problem of learning how to live together. Isn't that what it is? - as simple and as hard as that proposition there, learning how to live together. We think we have solved it. We have all races, creeds, color, no distinction. Everybody is somebody in that one-house legislature.

We don't have our preliminary organization and so forth. But their votes are equal.

Now I said the membership was important because anyone can run. It carries with it a greater prestige because it is a larger district. The district that I had represented, we had three representatives and one senator. Now we have one representative and they have even taken

part of that district away - greater prestige.

Of course, with that goes responsibility. That is one of the big factors, responsibility. First, representation; then responsibility. I think with that we should always think of rights and responsibilities as going together. When we set up one, we should think of the other.

In our system, as we said, one member can ask for a record vote on any proposition in the legislature. The presiding officer says, "A record vote has been demanded. All in favor, vote 'aye', opposed 'no.'" Each one has an electric voting machine. I think you have one, do you not? Yes, you have it. Some of the states don't. About half of the states I don't believe have voting machines. But we do. We were third, I think, in the Nation to have the electric voting machine. So you have fixed responsibility there. You can tell how the people stand. Leadership is in one place, even though you have different parties.

I have discussed the non-partisan elections. That was the third point I mentioned in that brief that I submitted as to what I would talk about.

I put the operation as more efficient. No question about that. Anybody can see that one house can operate more efficiently than two. Somebody has asked, what is the economy? We cut the cost of the legislative session in 1937 right in half and I have pamphlets here that I would like to have someone distribute later on to the members here, showing a brief comparison of the bicameral and the

unicameral legislative session, if I can find them in my bag here. That shows a brief comparison which was gotten up as a result of inquiries that came from the entire United States. It was a national debate subject for high schools in about 1939. So we just put on the questions that they asked and the answers to them, showing the comparison between the two houses. After all, isn't that the way to evaluate a legislature? Compare it with the old system or with that of any other state. As the Lieutenant Governor said, we don't claim it is perfect, and the members don't all vote the same. I wouldn't vote for a lot of legislation that passes the legislature. But it is our system. It's the system. How do you get it? People select the people that sit in the legislature, fix responsibility and there it is.

It operates more efficiently certainly. But I wouldn't want things to work so efficiently that they don't know what is going on - go so fast. That's the danger. The legislature is a deliberative body. I think one of the difficulties and I have recommended this to the committee that is studying legislative improvements - to have each standing committee a sifting committee. That is one respect in which our old committee was better. I think so many are afraid that you aren't going to get enough legislation through. But what concerns me is to get the best legislation, that which is most needed, that the legislature feels is of greatest importance. Get that up first and dispose of that. Then if you don't have hearings

on all of these bills, that's all right too.

Reduces power to defeat needed legislation.

Well, we have with nine hundred and some bills and with some of the states going 8,000 - that's a problem. How are you going to find sufficient time to adequately inform yourself on a portion of those which come to you for decision. But we are speaking here of the mechanics, just getting it through. It prevents deadlocks, of course, because you only have one house. It eliminates the conference committee which gave tremendous power to the presiding officer to appoint two that voted for it and one that voted against the bill from each house and, of course, if you had one strongly for it and one strongly opposed and the one in the middle just sort of luke warm, he would be the only that would help finally determine the thing. There was tremendous power there. You couldn't amend a conference committee report in Nebraska. Now, of course, we don't have that. If it dies, you know where it died and who helped kill it or who helped pass it and that certainly is fixing of responsibility.

Talk about more effective relations with the executive and administrative departments. If you only have one house, it is easier to have more effective relations.

I said it was more economical and I put that along towards the end of my remarks because I think that is last. It did cut the expense of the session right in half and it took twenty years before we spent as much, as indicated by the brochures that we will pass out, during

the legislative session. It took from '37 to '57 before we spent as much. So that is the answer to the question on the matter of economics.

Then the last is a better informed public. The Lieutenant Governor has told you about that. Our bills are prepared, and I know yours are also - many of the states do it - so that you can tell at a glance what they are doing. Now our old bicameral didn't do that. We didn't have nearly as good a system. You could throw in any kind of a bill. They called them skeleton bills, a bill for an act to do so and so. In California the man who is head of the Rules Committee there or who has authority on rules said that they have a separate bill introduced at each session for every different kind of fish. Well, see, if you have too many things, you just can't do justice to them.

Preparation of bills. We have the bills go through the bill drafting office so they are correct as to form because we send them out and people want to know - "What's the bill about? What's it going to do to me?" They write in and we send them. We send them out to the schools and people that want to get them. Last time they charged five dollars for the service, for the postage to mail it out, if they wanted all of the bills.

Now the bill drafting office prepares those and they all have to go there before they are introduced.

The Reference Committee with the Lieutenant Governor as the presiding officer and chairman of that Committee refers the bills to the proper committee.

Notice of public hearings. That can be waived.
That is just a rule regulation.

Committee reports and records. We never used to keep any records - standing committee reports or records. Now we do and they are continually coming in there to find out, if there is a question as to what the legislature intended. They come in and get copies of it if they want and a certificate that this is what the legislature did. This is a copy of the record. In the last two regular sessions of the legislature the rules have been amended to provide that we shall take down - it is recorded - the debate and it is transcribed in our office and that is available to the public or anybody else to see what has taken place.

Five days for passage of a bill. We have talked about that. That is constitutional so you can't set that aside.

Press and other news media. It is much easier to report a one-house legislative body than it would be to report two. If you have two going at the same time with committee hearings and everything, which was the case previously, it is difficult. So there is a much better informed public. In the 30 years that I have been there, we have had a lot of people come and view the legislature, especially at the first session. I remember the cartoon that they had in the World Herald which said, "Unaccustomed as I am --" and then it showed a fellow about ready to make a speech.

The man from Colliers said, "I have visited 34 legislatures in operation and I want to congratulate you on the efficiency and dispatch with which you perform." There hasn't been an article written to my knowledge that hasn't been complimentary to the unicameral system. I am talking about the system. You gentlemen are interested in more than just the system, but we are talking about the system, the way you get the things before the legislators. You want to make it as easy for that legislator to be conversant with the problem that he faces as possible because their problems are most difficult. And I don't like the articles that appear in the national magazines that just run down the legislature because they have an awfully hard job and especially when their mechanics are such that it makes it impossible for them to do the things that they want to. I couldn't get a bill through to repeal old and obsolete laws even. Who ought to oppose that? I wanted to cut down the statutes a little bit so you don't have dead timber. But it didn't pass the first session - just the mechanics of the thing. It got over to the house and it passed the senate, but it died over there. See, it was the system. We passed a motion in the senate in '33 to have a committee study ways of improving legislative processes and the committee was appointed and the house wouldn't pass it - not to do anything, but just study it, mind you. I think many legislators are caught in that mesh. They are just unable to do the things that they want to. They are a dedicated, hard-working bunch, and as far as our

legislature goes, we have kept a record of how many appear and so forth at their meetings, their attendance, 41 out of the 43 average per session. Isn't that remarkable. Every morning from 9:00 to 12:00 they are in session; in the afternoon, from 2:00 to 5:00. It hardly gives them time to write letters and answer correspondence. It is most difficult. It is harder than the two house, I will grant that, with the fixed responsibility.

This is a historic meeting I think. I made a few notes here. I was going to comment on the Lieutenant Governor's remarks, but I did talk on that non-partisan feature. I talked about the visitors coming from all parts of the world to study our system. And isn't it strange in all these years, you wouldn't have had someone that would find fault with it and that the people would fall in with the system? That was quite a radical departure. And yet that is representative government, I think, at its best. I notice in back of you it says 1766. I think 1966 could be a most memorable year for the State of New Jersey if you changed your setup when you are making your changes, which you probably will in accordance with that ruling of the Supreme Court. Try it. What could you lose? We have tried it and it works. What's the better test than that it works?

That is all. If you want to ask me questions, I will be glad to try to answer them.

[Applause.]

CHAIRMAN STOUT: Thank you, Mr. Srb. We have a

question from Mr. Tate.

MR. TATE: Mr. Srb, did I understand that the legislator's salary is \$200 a month?

MR. SRB: That is correct.

MR. TATE: -- and that approximately 900 bills are introduced?

MR. SRB: Correct.

MR. TATE: -- and that the term generally runs seven and one-half months?

MR. SRB: Right.

MR. TATE: -- and you sit on a five-day week?

MR. SRB: A five-day week, yes, sir.

MR. TATE: -- from 9:00 to 12:00 and 3:00 to 5:00?

MR. SRB: From 2:00 to 5:00.

MR. TATE: 2:00 to 5:00.

MR. SRB: Yes.

MR. TATE: Will you tell me what sort of representatives you attract that could afford seven and one-half months away from their homes and businesses at approximately \$10 a day?

MR. SRB: You'd be surprised.

MR. TATE: But do they truly represent the people?

MR. SRB: Yes. You'd be surprise. I read an article that said after a fellow served once in the legislature, he felt like he had to go back to protect the commonwealth. See, he has a feeling of responsibility. It is kind of like being on a school board or like being on a church board or something like that. You are never

paid for that. That is the attitude that these people take. They are leaders in their community and it isn't the dollars and cents. I don't like the long session. I'll be frank with you. I'd like to see the committees, the 15 committees, go through the bills so that we would get out of there in about four months or so. Then we could still keep lawyers in the legislature. We only have about six lawyers now. The judicial was all attorneys. They don't come.

MR. TATE: Would you know what the average income would be of your legislators?

MR. SRB: No, I wouldn't guess. But it does tend to attract those who can afford it.

MR. TATE: In other words, it is a rule by the rich?

MR. SRB: What was that, please?

MR. TATE: Would this be a rule by the rich?

MR. SRB: Well, they aren't all rich. I was there in the old bicameral. We have teachers - some that teach on the side. We have farmers. We have stock men and so forth.

MR. TATE: What teacher could afford three-quarters of a year away from the school system?

MR. SRB: Well, they teach part time. They teach evenings or so many courses.

MR. TATE: Do you have any lawyers?

MR. SRB: Lawyers?

MR. TATE: Yes.

MR. SRB: We have about six.

MR. TATE: Only six?

MR. SRB: That's right.

MR. TATE: Are they retired?

MR. SRB: No. One is a newspaper man also and the others are -- I don't believe we have that many now. I guess we have about six.

MR. TATE: What is the period of time that they campaign?

MR. SRB: The period of time?

MR. TATE: Yes.

MR. SRB: Well, it would differ considerably. Some campaign considerably. Here's another thing - I am glad you brought that up - about a third of the membership don't have opposition. Now you could construe that two ways. One is that the people are apathetic or the other is that they are satisfied. If he isn't doing too bad a job, they are going to not have any opposition for him. He just goes again. Maybe it is because of the expense feature and that certainly is an item. They serve at a very definite sacrifice.

MR. TATE: In your opinion, Mr. Srb, do you think a highly urban state like New Jersey could afford the luxury of a unicameral system on that basis?

MR. SRB: Well, it wouldn't be a luxury. That would be a real economy, wouldn't it? How much do you pay? How much do they get here? What does a legislator draw here?

MR. TATE: Seven thousand five hundred.

MR. SRB: Seven thousand five hundred. See, ours get \$2400.

MR. TATE: And that's one day a week when it is in session.

MR. SRB: Yes. Well, the people of Nebraska have voted to increase from \$1744.18 or \$872.09 a year because the first act when it was set up provided for \$75,000 to be divided equally among the membership.

MR. TATE: We have bills backed by labor for \$1.50 an hour for a minimum wage in New Jersey.

MR. SRB: Well, those are the tough ones, I know.

CHAIRMAN STOUT: Mr. Bartoletta.

MR. BARTOLETTA: All I have heard is the economy of operating your legislature. You have about a million people in Nebraska --

MR. SRB: A million, four hundred thousand.

MR. BARTOLETTA: -- a million, four hundred thousand, and you have 49 representatives and I think in the County of Essex they have somewhere around a million. They only have 13 state representatives in number. I think that the economy factor is not a big factor in your place because you are spread out with 49. Essex has 13 taking care of a million people. You have 49. Maybe you have too many.

MR. SRB: But two of your United States Senators take care of three and one-half million apiece, don't they, if you are just thinking of representation on the basis of population? Our's too. We have two with a million, four

hundred thousand.

MR. BARTOLETTA: But you are talking about the theory of economics, of the cheapness of operating your legislature. But I think we do just as good a job. We have one county with only 13 state legislators covering a million people. I don't think the theory of economy enters into this picture because you don't distinguish your districts. You don't cut through county lines. You stay on county lines. You don't cut up a county for a district according to your map.

MR. SRB: Now we do.

MR. BARTOLETTA: You cut through county lines now?

MR. SRB: Yes, this last time. Maybe you have a map that doesn't show the crossing of the county lines. But they did in the last reapportionment bill and the State Supreme Court upheld it because the Constitution had previously provided that you couldn't cross it, you must stay by county lines, excepting where one county was entitled to more than one representative, then you could cut it up, see. When they attempted to go beyond that to other counties besides our two large ones. They thought they couldn't pass it, but they took a chance on it. It went to the Supreme Court and the State Supreme Court upheld it.

MR. BARTOLETTA: Thank you very much.

CHAIRMAN STOUT: Mr. Hollendonner.

MR. HOLLENDONNER: Mr. Srb, I am intrigued somewhat by your remark that you felt a bi-partisan legislature was not practical. I wonder if I might pose this question

to you: Going back to the adoption of the system in Nebraska, would you say that perhaps one of the reasons for the adoption of unicameralism was based on a desire to have a non-partisan legislature rather than one house? Would that have been a motivating factor? Was the desire of the people greater to have a non-partisan legislature as opposed to a one house and perhaps the one house was the only method by which they could achieve a nonpartisan legislature?

MR. SRB: I think it was a combination of those. They wanted one house because you see we went from 133 - 100 in the house and 33 in the senate - to 43. That is eliminating two-thirds of the legislators. So there is where your economy was. Some of them voted for it because of the economy feature because we were in difficult times. Then the other factor again, the one house.

MR. HOLLENDONNER: Mr. Srb, I don't think it is quite accurate to say - and this has been emphasized, the economy feature. I mean, if we wanted to carry it to a ridiculous extreme, we could say the ultimate economy would be to abolish the house altogether. But I think that would be rather ridiculous.

MR. SRB: Well, I think that's right. That's why I put it last, the economy feature.

MR. HOLLENDONNER: Based on that, would you say then that if Nebraska had a unicameral house on a partisan basis that it would not work as effectively in your opinion as it does now?

MR. SRB: Very definitely, and I'll tell you why,

because the governor and the party members would be campaigning on the same ticket and you would eliminate one of your three branches of government, your executive, your legislative and your judicial. I think that that must be kept separate and I feel deep down inside that if we went to a partisan legislative body, we would go back to the two house, which I don't believe is as good as the one house.

MR. HOLLENDONNER: Now you made a reference, sir, to the fact that history could be made in New Jersey in 1966 by adopting or having this Convention adopt the recommendation for unicameralism. Would you also then recommend that we have a non-partisan unicameral house?

MR. SRB: Oh, very definitely.

MR. HOLLENDONNER: Just one last question, sir: Do you have the problem or has the problem of conflict of interest among the legislators arisen in Nebraska?

MR. SRB: It certainly hasn't.

MR. HOLLENDONNER: It is no problem.

MR. SRB: It hasn't been.

MR. HOLLENDONNER: Thank you very much, sir.

CHAIRMAN STOUT: Senator Forsythe.

MR. FORSYTHE: On the manner of the committee system of handling of bills, I know that it is constitutional that there is this five-day matter before a vote can be taken. Can they bypass the committee system?

MR. SRB: Yes, sir.

MR. FORSYTHE: This is a matter of rule that can

be suspended?

MR. SRB: Yes.

MR. FORSYTHE: A bill then can be introduced and handled by the house --

MR. SRB: That's right.

MR. FORSYTHE: -- without the hearing procedure.

MR. SRB: That is correct.

MR. FORSYTHE: Thank you.

CHAIRMAN STOUT: Mr. Cucci.

MR. CUCCI: Mr. Srb, we have learned today that you are in favor of a non-partisan legislature.

MR. SRB: Very definitely.

MR. CUCCI: And we have learned that the Lieutenant Governor is in favor of a partisan legislature.

MR. SRB: Yes, sir. May I add something there?

MR. CUCCI: Yes, sir.

MR. SRB: You know George Norris was for the non-partisan feature and the Governor is for it, the non-partisan feature. And I can furnish you with the names of others who were instrumental in getting this through in Nebraska -- Dr. John P. Senney who was one of the strong initiators and helped draw the petitions and fix the districts afterward and Charlie Warner who served longer in the legislature than any man in its history and was Lieutenant Governor also -- strongly in favor of it -- and another Speaker of the Legislature, C. Petras Peterson, who served in the old bicameral, served in the unicameral, served in the constitutional convention. I have his article in which he says the only

difference he could see between a partisan group and a non-partisan was that at the beginning of the session in the selection of their officers it made a difference, but after that, he said, we were non-partisan in the legislature itself.

MR. CUCCI: I was leading up to that. I wanted to say that I think we would have a right to assume that each one of the legislators had certain political philosophies, notwithstanding the fact that he was a member of a non-partisan legislature.

MR. SRB: Oh, yes, sir.

MR. CUCCI: And on the basis of the fact that we could reasonably make this deduction, do the legislators as a matter of general practice, after they have been elected, have an inclination to sort of choose up sides?

MR. SRB: It is surprising how they will be on both sides. We had a contest for the governorship and the governor who lost out -- he was in -- wanted a recount and he happened to be Republican. But here is a prominent Republican, one of the leaders, he voted against the recount. And here is a Democrat who got in by a small margin -- and here a Democrat votes for the recount. Even on a thing like that in a partisan legislature, you'd have to go down party lines. You'd say, "Well, that's party responsibility." But there they will vote their convictions.

MR. CUCCI: Say, for instance, when our good friend Lieutenant Governor Sorensen runs for the governorship of your state, quite obviously he could expect the support of

many of the legislators who perhaps undoubtedly have the same political philosophies that he has. Wouldn't this in a way by simple deduction indicate some partisanship as against a strict non-partisanship?

MR. SRB: Oh, yes. That's right.

CHAIRMAN STOUT: Mr. Bartoletta.

MR. BARTOLETTA: I am going back to economy. In your brochure that you have here, you have 133 representatives in the bicameral who were getting \$800 per year.

MR. SRB: That's right.

MR. BARTOLETTA: And at the end of the year they received somewhere around \$106,000. When you went to unicameral, you went to 49 who were getting \$2400, which shows an increase of \$117,600, so they got a raise. You didn't reduce the cost of your legislature, did you? You increased it \$11,000.

MR. SRB: Oh, yes. It crawled up with the higher costs. But at the time the '35 and the '37 had a difference of one-half. Then as costs went up, why wouldn't legislative costs equally rise?

MR. BARTOLETTA: The cost of running a unicameral government from the transition over increased itself by \$11,000 basic salaries to your 49 legislators.

MR. SRB: Yes.

MR. BARTOLETTA: So the economy is not there.

MR. SRB: Well, not on that particular part of it.

MR. BARTOLETTA: Well, the money is spent, no matter how you figure it. It's the same money whether it is

bicameral or unicameral.

MR. SRB: Well, compare the '35, which was the last bicameral, with the first unicameral, and you will see that they cut it right in half, \$100,000.

MR. BARTOLETTA: I would like to ask: Is there a salary for Lieutenant Governor?

MR. SRB: Yes.

MR. BARTOLETTA: How much is the salary of the Lieutenant Governor and the Speaker?

MR. SRB: \$6,000.

MR. BARTOLETTA: \$6,000 for the Lieutenant Governor?

MR. SRB: \$5,000 he says.

MR. BARTOLETTA: And the Speaker - yourself - you all get a \$5,000 salary? All the leadership in your legislature, your Senators, your Lieutenant Governor and you and your Clerk - they all get around a \$5000 salary?

MR. SRB: No, he is just there during the session. I am there all the time. I am also secretary of the Sundry Claims Board. I get out the session laws for the legislature which they used to hire an attorney separately. They put those duties and responsibilities in our office. So they have a year-round clerk.

MR. BARTOLETTA: Well, during the time of the legislature, the Lieutenant Governor gets a salary of \$5,000.

MR. SRB: Yes.

MR. BARTOLETTA: Thank you.

CHAIRMAN STOUT: Mr. Hollendonner.

MR. HOLLENDONNER: Mr. Srb, what is the total budget for the State of Nebraska for last year?

MR. SRB: \$400,000,000.

MR. HOLLENDONNER: \$400,000,000, and of that \$235,200 represented the cost attributed to the legislature; is that correct? That would be what - about 2 per cent?

MR. SRB: You have many factors to figure when you figure the legislature because you should have research facilities - those are in your legislative council - which I think are very needed in this complex age in which we live - the facts and figures. That, of course, is a part of the legislative expenditure too. But we didn't have it before so we don't count it now as a comparative cost. You don't compare something with nothing.

CHAIRMAN STOUT: Senator Musto has a question. He is the sponsor of the proposal.

MR. MUSTO: I would like to clear up one point, Mr. Srb. I know that the governor favors a one-house legislature, be it on a non-partisan or a partisan basis. I would like to ask you so we can confine this at least in my mind to whether we want a one- or two-house legislature: Do you favor a one-house legislature, be it partisan or non-partisan or do you favor a two-house legislature? I am confused by your testimony in one respect.

MR. SRB: I think that the non-partisan feature is the strength of the unicameral body.

MR. MUSTO: I appreciate your non-partisan position.

But I have to clear up in my mind once and for all whether you want a one-house or a two-house legislature. Do you want a one-house or a two-house legislature?

MR. SRB: One.

MR. MUSTO: Thank you.

CHAIRMAN STOUT: Mr. Srb, I have been impressed with your enthusiasm for the one-house legislature and also for your knowledge of its workings and you indicate that you have had many visitors to Nebraska since 1936 and apparently they have all gone away enthused. Now have there been any results of this enthusiasm in other states from which the people came?

MR. SRB: Yes. I was asked that question down in New Orleans. They said, "I don't want to embarrass you, but if it's so good, why haven't other states adopted it?" Well, it is because half the states don't have the right of initiative and the other half of the states would have to go by the petition method, circulate the petitions, and it is costly, time consuming and it is a great big job. It took us 20 years. It took the proponents of this plan that long before it was adopted. We get letters daily from Washington, from Alaska, all parts of the country. They say, "We have heard about the unicameral and we are studying about the unicameral and we want to know how you operate." We have been sending material. North Dakota had petitions out. But they designated one house composed of the number they had in the senate, and immediately the house members said, "Wait a minute. They want to eliminate

the farmers." See there were more farmers in the house than in the senate. So they said they were trying to eliminate the farmers and they killed the proposition. It didn't get on the ballot. I think if it got on the ballot in a few places and if it were explained --

CHAIRMAN STOUT: Senator Forsythe.

MR. FORSYTHE: Mr. Srb, I would like to go back to the question that Senator Musto just raised where you said you preferred a one-house system above all. Don't you still tie together a non-partisan with unicameral?

MR. SRB: I do.

MR. FORSYTHE: Didn't you say if it went to bi-partisan, you would go back to the bicameral?

MR. SRB: I would say that I would fear that if it went partisan, we would go back to a two house. It wouldn't be too long because the executive and the legislative would start to get in there together and we would lose the benefit of the distinctive branches of government.

CHAIRMAN STOUT: Senator Musto has another question.

MR. MUSTO: Again, Mr. Srb, I want to clear up Senator Forsythe in this regard so that it is clear to us all. Do you or do you not if you had your selection to make favor the one-house or two-house legislature?

MR. SRB: One house.

MR. MUSTO: Thank you, sir.

CHAIRMAN STOUT: I have a question from Delegate McGowan of Union County. [Reading] "The previous speaker

stated that 60 per cent of the bills introduced are passed by the legislature. Mr. Srb says 900 bills have been introduced in the last two years. Does this mean 540 bills have been enacted in the last two years?"

MR. SRB: Five hundred and eighty-four have been passed out of nine hundred and thirty-seven introduced.

CHAIRMAN STOUT: Any further questions?

There being no further questions, Mr. Srb, we would like to thank you for coming here today and we have appreciated your remarks and your testimony. Have a good trip home. Remember, in spite of that difference on the non-partisan feature, you are both going back on the same plane.

MR. SRB: We came together and we are going to leave together.

[Applause]

CHAIRMAN STOUT: I will call Mr. Joel Jacobson.

J O E L R. J A C O B S O N: Mr. Chairman, Mr. Co-Chairman, and members of the Committee: My name is Joel R. Jacobson and I am a delegate to this Constitutional Convention from Essex County. I am appearing before this Committee to urge the adoption of a unicameral legislature for New Jersey.

Let me hasten to state that I will not needlessly take the time of this Committee to repeat many of the arguments already presented by our two distinguished guests from Nebraska and previously presented to this Committee by

Senator Musto and Delegate Phelps. I am in agreement with the major substantive points presented to this Committee by them.

I must say, however, as a parenthetical aside, that I was impressed with the line of questioning of the previous witness by Delegate Tate concerning the possibility of the system employed in Nebraska leading to a rule of the rich, and I would submit to Delegate Tate that one way we could prevent that from happening in New Jersey is to do what the labor movement has been suggesting for New Jersey for a great number of years, the passage of a minimum wage bill.

I would like to emphasize what I consider to be a most important reason for espousing unicameralism.

It is a recorded historical fact that the emergence of bicameralism was motivated by the desire to place a restraint on the "masses." The fear of the "little man" was evident at every turn in the early history of our country. The President of the United States was not to be popularly elected, but rather by an electoral college. The United States Senate was not to be popularly elected, but rather by the state legislatures. The Judiciary was to be appointed by the President - not popularly elected - and confirmed by the Senate - not popularly elected.

And in the other arenas, such as the House of Representatives and the State Legislatures, men could not even become candidates to these offices unless they could demonstrate they were substantial holders of property. At every turn the structure of government demonstrated the

fear of the rabble, the rabble so eloquently portrayed in the novels by Kenneth Roberts, such as "Oliver Wiswell" and "Rabble in Arms."

The bicameralism in both the Congress and in the State Legislatures was a further continuation of the attempt to prevent the "masses" from having an influential voice in the operation of our government.

I am not here to pass judgment on the decisions of our Founding Fathers. But I am here to state that whatever reasons existed for such decisions in 1789, they do not exist today.

Bicameralism is the system devised to thwart, to frustrate and to make more difficult the passage of legislation designed to help today's "masses," the little or common man.

In our New Jersey Legislature today are men who subscribe to the theory, "that government is best which governs least." I would submit that this theory has validity under a dictatorship or tyranny, but it has no merit if the governmental structure is securely based on the principles of democratic, representative government.

Today, New Jersey has tremendous needs. Apparently, the members of the Legislature concur, for in each year over one thousand bills and resolutions are introduced, each one fondly embraced by its sponsor. It is true that not all bills are either wise or necessary. It is equally true that many are.

Today, New Jersey's needs can best be fulfilled,

not by the erection or maintenance of governmental obstacles to hinder harmful action, but rather by the expediting of the legislative process to permit the passage of necessary legislation and institution of necessary reforms.

The potential harm which may be temporarily rendered to our state by unwise action - action, by the way, which must be concurred in by the executive and judiciary - is more than outweighed by the permanent damage which may result from the failure, or delay in, legislating to meet sorely-required needs in New Jersey.

Unicameralism will minimize the dangers of "too little, too late" action. I would set forth five additional reasons, in summary, in support of unicameralism.

1. It is simple.
2. Under certain structures, it costs less to operate.
3. It permits prompt action, still subject to the traditional checks by the executive and judiciary.
4. It enhances the principles of representative government through the means of a direct, authoritative representation of the electorate.
5. It permits responsibility to be clearly pinpointed. A rather nebulous attempt to do so in the New Jersey Legislature often fails.

I do understand the reluctance of many to tamper with the structure which has been for so long rooted in our nation's standard operating procedures.

I would suggest that we not become mired in the semantics of conservatism. For what is hallowed tradition to one man is nothing more than dull conformity to another.

I earnestly urge this Committee and this Convention to give the most serious consideration to the establishment of a unicameral legislature in New Jersey.

CHAIRMAN KELLY: Thank you, Mr. Jacobson. Are there any questions? Senator Forsythe.

MR. FORSYTHE: Would you comment on your preference on the question of partisan versus bi-partisan in the unicameral?

MR. JACOBSON: I think the Lieutenant Governor really answered that question when he referred to eunuchs. I think a legislature which is non-partisan consists of political eunuchs. I strongly emphasize and would desire the continuation of partisan elections in New Jersey.

MR. FORSYTHE: Thank you. Second, would you comment on the preference of single-member versus multi-member district?

MR. JACOBSON: I think this is a completely different issue, Senator, that has nothing to do really with the question of a one- or two-house legislature. Inasmuch as this question is now being considered by the Apportionment Committee of which I am a member and testimony is being received on that issue, I would like to wait until these hearings have been held before I express my opinion about that.

MR. FORSYTHE: You think it has no connection.

MR. JACOBSON: I don't believe it has any connection.

CHAIRMAN KELLY: Any further questions? [No response]

MR. JACOBSON: Thank you, Senator.

CHAIRMAN KELLY: Thank you, Mr. Jacobson.

I think Assemblyman Friedland is the next witness.

D A V I D F R I E D L A N D: Thank you, Senator Kelly.

Gentlemen of the Committee and gentlemen of the Convention: I know that this Committee has had an opportunity to listen to the missionaries from Nebraska and has been deluged with a mass of material relating to unicameral legislatures. The advantages and disadvantages of both the unicameral and bicameral structures of government have been clearly set before this Committee, and excellently set forth in the remarks prepared by Senator Musto, and I have no desire to litter the record with a repetition of the broad-based arguments which have been presented for and against a unicameral legislature.

In the past five years, however, I have had an opportunity to examine the problem of legislative apportionment in the State of New Jersey; and I hope to be able to bring to this Committee some of the experience which I have obtained in these past five years.

I want to begin by noting that anything this Convention does with respect to the problem of legislative reapportionment will constitute a radical departure from New Jersey's past history. This will be true whether this Convention adopts a bicameral structure or a unicameral structure. I think it would probably be more accurate to say that a radical departure

from New Jersey's prior history has already occurred by reason of the United States Supreme Court and New Jersey Supreme Court decisions. As the members of this Committee know, the New Jersey Supreme Court held that both houses of a bicameral state legislature must be based upon population. This decision requires a change in the essential theoretical structure of state government in New Jersey. As a result, the Legislature temporarily apportioned the Senate and increased its size to 29 members. A critical examination of the fundamental structure of the Senate reveals that both houses of the New Jersey Legislature are now temporarily apportioned on the same theoretical basis. I would like to put it this way. The Senate - and when I talk of the Senate, I want to make it clear that I am talking about the Senate as an institution and not as the statesmen who inhabit that particular body - but the Senate is simply a long and telescopic microcosmis view of the Assembly. I mean that if you put a telescope and looked at it through the wrong end at the Assembly, you would see revealed therein all of the essential theoretical principles which are present in the current apportionment of the Senate.

The old Senate, that is, the 21-member Senate, is for all intents and purposes consigned to the ancient relics of history. It is, in a sense, like the Parthenon. And because of our long history with it and because we have the advantage of having current members of that body here, a great deal of appropriate nostalgia surrounds its demise.

But by reason of the decision of the United States

Supreme Court and the New Jersey Supreme Court, both houses of our State Legislature must be apportioned on a population basis. Under our State Constitution, both Houses of our State Legislature have virtually, with some exceptions, the same legislative authority. There is no division in our State or between the Houses along aristocratic lines and there are no qualifications of wealth or property. These Supreme Court decisions thus give rise to a number of essential questions which I will deal with today. These questions are:

1. Since our New Jersey Supreme Court has ruled that both Houses of our State Legislature must be apportioned on the same basis - population - is there any longer any need for a second legislative branch of government in the State of New Jersey?

2. Would having just one House in the State of New Jersey destroy the checks and balances system commonly associated with a two-house system?

3. Would it be easier for one man or a small group of people or any state official to control a one-house legislature to the detriment of the people?

4. And finally, if a one-house legislature is so good, why haven't the other states adopted it?

I will attempt to answer these questions in the order in which I presented them.

The first question, since the New Jersey Supreme Court has ruled that both houses of our State Legislature must be apportioned on the same basis - population -, is there any longer any need for a second house in the State of New Jersey?

As I have pointed out previously, members of the two branches of our State Legislature are apportioned on the basis of population. It would appear to be that there is no reason to give the two branches of our State Legislature the same authority to do the same thing when they possess the same qualifications for office and where the work of the two bodies is identical. Such a structure would provide, in so far as the Legislature is concerned, that the work shall be done twice requiring identical procedures by each branch, although each branch has the same jurisdiction. Such unreasonable and illogical action is not required in any other governmental activity.

A case in court may involve a lifetime of savings; it may involve the liberty of one or more of the litigants; it may even involve human life. But however important may be the issue, it is unnecessary to have more than one trial. Under the guidance and control of the presiding judge, each side presents all the relevant evidence. When all of the evidence is in, the attorneys argue the case to the jury. Then the judge instructs the jury. The jury retires and comes in with its verdict. The determination of the case is then handed down, unless the judge or jury has violated some constitutional provision, in which case the verdict is set aside, and a new trial ordered.

The same check would exist in legislative matters if we had a one-house legislature. If the Legislature exceeded its constitutional authority in the enactment of any law, it would be set aside by the Supreme Court. There would also

exist the veto power of the Governor, who could exercise his right to veto undesirable legislation.

And so I ask the question, why should a state have a legislature composed of two bodies with the same qualifications? The idea of a two-branch legislature comes to us from England. In those days two branches were created - the House of Commons and the House of Lords. One branch represented the aristocracy and the other branch the common people. The House of Lords was selected by the King, and the House of Commons by the people. The House of Lords was not intended to be responsible to the people. It was intended that the House of Lords would act as a check upon the right of the people to exercise their right to create legislation. These two bodies were selected in entirely different ways and represented entirely different constituencies. And they were intended to be a check upon each other so that neither class would be able to legislate to the detriment of the other. Assuming that two such classes exist and that their interests conflict, there is some reason for a two-house legislature, but in this country we have no such classes and the constitutions of our various states are built upon the idea that there is but one class. If this be true, there is no sense or reason in having the same thing done twice, especially if it is to be done by two able bodies of men elected in the same way and having the same jurisdiction.

There is no more reason for a two-house legislature in the State of New Jersey than there is for a bank to have two boards of directors or for a city to have two separate

boards of councilmen. In addition, there is no more reason for a two-branch legislature than there is for two governments. In the words of Governor Norris of Nebraska, there is no more reason for a state to have two branches of its legislature than there is for a "wagon to have five wheels."

As I have stated previously, the idea of a two-branch legislature in this country was originally copied from the experience in England, which later dropped that idea. So today we adhere to an ancient form of government, while the substance of this form has been entirely changed by the country from which we adopted it.

Other countries too have recognized that a one-house legislature is a more efficient form of government. Eight of the nine provinces of Canada have adopted this system.

The little Republic of Finland has been so well governed that it is the only European power that has been able to meet the financial debts of the Second World War to the United States. Finland has had a unicameral government for 17 years.

The government of the Philippine Islands, the newest republic in the world, whose ship of state is being launched under the supervision of the American Government, is to have a one-house legislature.

It is not necessary for me to direct this Committee's attention to the experience in other countries for we have had considerable experience in the State of New Jersey. This Convention, as has been pointed out, is a unicameral structure, as was the Convention in 1947. And each member of this

Convention will have an opportunity to observe directly the nature of the unicameral process.

So I can sum up my answer to the first question by stating that since the United States Supreme Court has held that both houses of a state legislature must distribute seats on the same basis - population - it would appear that there is no reason for a second branch of government.

My second question - Would having just one house destroy the checks and balances system that is commonly understood to be a part of the two-house system?

I want to begin by noting that the term check and balance no longer has the meaning that it did in the days of England. This was quite amply pointed out by the United States Supreme Court when it pointed out that the result of bicameralism could be, and I quote from Reynolds v. Sims, "... frustration of the majority will through minority veto in the house not apportioned on a population basis." The Court said, and I quote: "In summary, we can perceive no constitutional difference, with respect to the geographical distribution of state legislative representation, between the two houses of a bicameral state legislature." With these words, the United States Supreme Court cast out the notion that one house of a bicameral state legislature was intended to serve as a check upon the other. But in all fairness, I must say that the Court did not believe that bicameralism was rendered meaningless. It did point out that one of the prime reasons advocated by those who support bicameralism is a desire to insure mature and deliberative consideration of

legislative proposals and to prevent quick and precipitous action on proposed measures. The Court pointed out that different constituencies could be represented in both houses; that one body could be composed of single-member districts, while the other could have at least some multi-member districts; and that the length of the terms of the legislators could be made to differ; the numerical size of the two bodies could be made to differ, and the geographical size of districts could be made to vary.

Now I have come here today not to argue for the destruction of the Senate - but in a truer sense, for the elimination of the Assembly, because I hope to be able to convince you with the suggestions that will immediately follow that all of the advantages which are claimed for a bicameral structure can be transplanted into a unicameral structure, so that the people may be provided with the advantages of both systems in one house.

So I ask the question again: Would having just one house destroy the system of checks and balances? I know that this Committee is concerned only with the proposed structure of government in the State of New Jersey, and that other committees are wrestling with other difficult problems which must be solved by this Convention. But it is my hope to convince this committee that the choice of a unicameral structure of government would in no way limit the flexibility of this Convention in deciding upon the other issues which are presented for action.

I know it has been advanced to the Convention that if

a bicameral structure of government were adopted, it would be possible to structure one house on the basis of elections at-large in some of the counties, and possible to structure the other house by having elections from single-member election assembly districts. The question now arises whether or not that system, if it is to be adopted by the Convention, could be transplanted into a unicameral structure. For if it can, we will have achieved within the unicameral structure one of the advantages claimed for a bicameral structure, namely, the election of representatives from different and differing constituencies. The question may be stated even more specifically. Is it constitutionally permissible under a unicameral system of government to provide for elections at-large within a specific county and at the same time to conduct elections within limited assembly districts? And I am prepared to give an unequivocal answer to that question. The answer is that such a system is constitutionally permissible for the State of New Jersey. For my authority for this proposition, I draw upon the current experience in two states of our Union, Virginia and Oregon. Although both of these states have bicameral structures, in each of these states one house of the state legislature is apportioned in the system I have just described; namely, at-large elections are conducted on a county basis and legislators are also elected from single-member districts within these counties.

The question may now be asked whether a combination of single- and multi-member districts within one house is constitutional? And I am prepared to give an unequivocal

answer to this question. Only this past month, the United States Supreme Court in the case of Yancey v. Faubus, arising from a decision of the United States District Court for the Eastern District of Arkansas, decided that such a system was permissible.

In Wyoming, in the case of Schaeffer v. Thompson, a United States District Court had created state senate districts creating single-member and multi-member districts in the same legislative districts. In both of these cases, the United State Supreme Court only last month held that the use of single-member and multi-members districts in one house of a state legislature was valid.

I bring these matters to the attention of the Convention because I believe that there is a serious dispute in this Convention relating to the use of assembly districts and multi-member districts and because this Convention appears to be divided on that issue, thereby providing the kind of balance which the Supreme Court utilized as a justification for the bicameral structure. I suggest that a unicameral house would permit the kind of flexibility for decision by other committees and by the Convention itself upon these other issues.

As you will recall, I have directed the attention of the Committee to two different types of institutional devices which may be used within the confines of a unicameral structure, namely, the use of at-large elections, multi-member district elections and single-member district elections. I want to point out that any combination of these plans may be

used under a unicameral structure. In addition to these two theoretical approaches, which I present to the Committee, I also want to note that it is possible to elect two different classifications of legislators within a unicameral house. For example, if the Convention so desires, it is constitutionally permissible to elect some of the legislators serving in a unicameral structure for a period of two or four years, and others for a period of six years. It is permissible to have one representative apportioned to each county and elected for a period of six years, while the remaining representatives in the unicameral structure are elected for lesser periods of time. I am sure that the members of this Committee are fully aware of the effect which such a procedure would have upon the structure of a unicameral legislature. The legislators who were elected for longer periods of time would, by reason of their seniority, I suppose, be entitled to the same type of privileges which are accorded now in the Senate of the State of New Jersey. In fact, I am prepared to state that the only method in which the old 21-member Senate can be resurrected is within the structure of a unicameral legislature in the fashion I have just described.

While I do not mean to suggest how these problems ought to be solved, I do want to bring before the Committee the full scope of possibilities. I might also suggest that it would be constitutionally permissible to place any of these considerations, except the question dealing with the terms of the legislators, upon a local option basis. Such traditions are deeply rooted in the State of New Jersey and

analogy for them may be found in the provisions of the Faulkner Act. It is constitutionally permissible for this Convention to provide, within the scope of a unicameral legislature, that a referendum be held within certain counties for the purpose of permitting these counties to choose between a system of at-large elections or single-member district elections. I have pointed out that in addition the people may provide for both systems if they so desire, and the Supreme Court has so ruled. I also want to point out that other institutional methods may be utilized to provide the kind of check and balance which is permissible under the Supreme Court's ruling. The best example that I can draw is the functioning of this Committee. This Committee is functioning within a unicameral structure and the chairman of this Committee and the members of it will exercise a more fundamental influence upon the course of government in the State of New Jersey than many of them would as members of either house of the State Legislature. In this respect, I direct my remarks to those members of the Committee who serve now or have served in the State Legislature. I am sure that they realize that if the problem of legislative apportionment had been left to the State Legislature that their ability to influence the structure of government would be less significant than it is today. My point is that the effective use of a committee system in a state legislature can have an important effect upon the course of legislation within, and particularly within, a unicameral legislature. I bring these matters to the attention of the Committee with the hope that I have been

able to convince you that considerable flexibility is present within a unicameral structure and that if this Committee decides to recommend such a structure to the entire Convention, that it will not tie the hands of the Convention with respect to other proposals. In this respect, I must say that I hope that this Committee will at least recommend that the subject matter of a unicameral legislature be debated by the Delegates of the Convention in public, because I believe that it would be quite unfortunate that consideration not be given by the entire Convention to a proposition which in recent times has commanded the attention and thought of nearly all profound students of political science in the entire country.

Now I want to deal with the third question which will be brief, and then I will close. Would a unicameral structure lend itself to hasty or ill-considered legislation?

I believe that the answer to this question really depends more upon the quality of legislators that are elected to a legislature than upon the legislative structure itself. Frankly, there is no evidence whatsoever to support the conclusion the two houses of a legislature produce better legislation. If the argument is that a more cumbersome, complex system of passing legislation is desirable because it slows down the legislative process, then I can only reply to you that if you desire to transplant these cumbersome and complex procedures into a unicameral legislature, the opportunity is present. I have already pointed out the considerable influence which a committee system can exert

upon a one-house legislature by drawing analogy to the procedures with respect to this Convention. There may be those of you who consider the incorporation of these procedures desirable in a unicameral system. Again, I would not take issue with you, for I have not come here to propose, but to explore. But it seems to me that the whole range of decision is open to this Convention and that any of these decisions may be made within the structure of a unicameral legislature.

And finally, I would suggest that if you decide to have a unicameral legislature and if the people of the State of New Jersey make the serious mistake of electing representatives who by maligned pressure could be too easily stampeded into a vote which is not in the best interest of the citizens, that it is just as true that such representatives once elected would be subject to the same pressure in a bicameral structure. It has been sometimes said that precipitous action is the potential disease of a unicameral structure, and that no action is the potential disease of a bicameral structure. I believe in my suggestions today, that I have pointed out a number of ways of providing inoculations against both of these diseases within a unicameral structure. Thank you.

CHAIRMAN KELLY: Thank you, Mr. Friedland.
Are there any questions?

MR. HOLLENDONNER: Mr. Friedland, your reference to the Convention being an example of a unicameral group, don't you feel that the fact that all of the Delegates ran on a non-partisan basis had some effect on that?

MR. FRIEDLAND: I might say this, that my theory is that the structure of government - that the government structure which is utilized - has very little effect, if any, upon the course of legislation, that rather it is the quality of representatives present within such a structure that determines whether or not good or bad legislation flows from it. I would suggest to you that if the gentlemen who are present at this Convention had the opportunity of serving in a unicameral legislature, we would probably have the same kind of good representation that we are getting here in a unicameral structure.

MR. HOLLENDONNER: Perhaps, Mr. Friedland, the point I am making - perhaps the reason why we have good representation here is because of the law that assured and the practice of the various county political organizations that assured fair representation.

MR. FRIEDLAND: I must say to you that I do not adopt that as a valid consideration for this reason: Frankly, I believe that partisan politics is deeply rooted in the State of New Jersey and for that reason I do not concur with that portion of the remarks of the Governor from Nebraska who suggested that his system works only because of its non-partisan nature. Frankly, I think that our Senate is a fine example of the functioning of a partisan structure and I would not in any way suggest its elimination. Instead I would suggest that those experiences which we have obtained over the years in government in the State of New Jersey be incorporated into the form of a unicameral legislature

and I think probably one of the best examples of that is the functioning of the partisan Senate in the State of New Jersey today.

MR. HOLLENDONNER: One more comment, Mr. Friedland - as I understand some of your suggestions - and I presume that they are not proposals - you are just throwing them out - one would be, as I understand it, that you could have within one county certain representatives at-large serving different terms and you could have other representatives from sub-districts. Aren't you then in effect having the same bicameral legislature, although they are housed under one chamber under one roof? You would still have certain groups who represent larger areas than certain other members. Would you not as a practical matter be having a bicameral legislature, although you may call it a unicameral legislature?

MR. FRIEDLAND: Yes. This was my point, that in effect you would not have a bicameral structure; you would have a unicameral structure. But what you would be doing is taking those particular functions of a bicameral structure which are desirable and incorporating them within the structure of a unicameral legislature. Now I say "desirable." I don't mean to express a comment upon the merits because I think the Supreme Court indicated that there may be some advantage in having representatives elected from different constituencies. But I did want to point out to the Committee, less it feel that if it adopted a unicameral structure it was tying the hands of the Convention and preventing debate upon these other measures, that all of these

considerations may be had, all of these decisions may be made, within the structure of a unicameral legislature. So if you decide to recommend to the Convention the adoption of a unicameral system, the Convention is still free to pick and choose among the other systems of government which are presently available under the bicameral structure.

CHAIRMAN KELLY: Mr. Gaulkin.

MR. GAULKIN: I am not quite sure that I understand your concept of the constitutional issues here. Let me ask you this: Let us assume the state is divided first into 60 districts, each sending a single member to a unicameral house. Then you overlay another districting plan of 30 districts.

MR. FRIEDLAND: This is not what I mean. I suggested that it might be possible to utilize one or two types of plans and indeed there are subdivisions of each. But let me broadly phrase the two types of plans. Assume for one moment that we had elections at-large in some of the counties. Keep in mind all the while the guiding principle is that an equal number of people must represent these legislators so that this would in a sense control the size of the body and in a sense, indirectly control the size of the district. But it is possible and permissible the Supreme Court has just said to have elections at-large within a particular district and at the same time within that very same particular district construct single-member constituencies. I can cite a number of examples. They do it, as I said, in Virginia and Oregon. And in fact, there are a number of

states in the area of congressional redistricting where they have one at-large congressman for the state and still have representative districts within that state.

MR. GAULKIN: That is what I want to ask. To go back to my example, you start out with 60, each district with 100,000 population. Then you take two districts and merge them into a larger district of 200,000 and those 200,000 people would elect one more legislator. Is that right? When I go to vote, I vote for two different people, one in my 100,000 district and one in my 200,000 district. Is that right?

MR. FRIEDLAND: Let me say I haven't my calculator here and I don't know whether or not that would produce equal representation in fact. But I would say that in principle, the theory permits the utilization of a multi-member district, as you pointed out, and a single-member district or several single-member districts within that multi-member district.

MR. GAULKIN: That is what I am not sure of. I can understand your proposition about local option where a given district would have the opportunity either to elect at large or to subdivide.

MR. FRIEDLAND: Let me make it very clear. In Hudson County we have approximately 600,000 citizens. There would be no constitutional inhibition against electing - let's see, we are entitled to ten members - whatever we are entitled to. Assume we are entitled to ten. I haven't done the arithmetic. It might not come out even. It might be

eleven or twelve. But let's work on the hypothetical ten representatives. Assume that we have ten. There is no constitutional inhibition against electing three of these ten at-large within the County of Hudson and having single-member districts for the purpose of electing the remaining members. Now that has already been passed upon by the United States Supreme Court and exists, as I pointed out, in two states. Mind you, I don't want to be held to the arithmetic here because you are going to have to struggle with these figures. But it is possible to achieve equal representation in such a system, in such a structure, just as easy as it is to do it within the structure of a bicameral legislature.

MR. GAULKIN: Well, I take it you are making no proposals of any kind; you are just suggesting.

MR. FRIEDLAND: No. I have a number of plans which I would have submitted to this Committee, but I was informed that the Committee was primarily concerned with the question whether the State of New Jersey ought to have a bicameral structure or a unicameral structure. My purpose for presenting these plans is to indicate to the Committee that if it makes a decision to recommend a unicameral structure, it would in no way foreclose any other compromise proposals that the Convention might avow.

CHAIRMAN KELLY: Any further questions? [No response.]

Thank you, Mr. Friedland.

The next witness is Senator Henry S. Haines, speaking on behalf of the State Chamber of Commerce, New Jersey Farm Bureau, New Jersey Manufacturers Association and other

organizations not designated.

H E N R Y S. H A I N E S: My name is Henry S. Haines of Burlington, New Jersey. I am chairman of Citizens for a Representative Legislature, which has been formed for the purpose of making recommendations to this Convention on behalf of a number of citizens and statewide organizations. I appear here today, authorized to speak for a number of citizens and the following organizations who have endorsed this policy statement of Citizens for a Representative Legislature. The Chairman, Senator Kelly, helped me out by identifying those organizations so that I will not repeat them here now.

The central purpose of our group is to work toward the development and adoption of a plan for reapportionment of the Legislature that will carry out the mandate of the Court, and at the same time insure a Legislature that will be truly representative of the entire population of the state.

Before presenting our specific recommendations, we would like to indicate our general approach to legislative apportionment and the responsibility of this Convention.

We applaud the wisdom of the Legislature and the people of New Jersey in the composition of the delegate body of this Convention. The decisions reached by the Convention and subsequently approved by the voters will fundamentally influence the future of our state and its most important political institution.

The legislative process in New Jersey has a long and proud history. Viewed in this historical perspective, the legislative branch of our state government has served the needs and aspirations of our people well. The present high level of our political, economic and social advancement is ample evidence of that fact. The over-all purpose of this Convention should be to make sure that whatever plan of apportionment is devised, it is carefully calculated to continue and advance this record of steady achievement so as to insure that the legislative branch of our government grows in stature and significance; and continues to serve the best interest of all of our people.

As a group of responsible citizens and associations representing a broad cross section of the economic and political community that is New Jersey, we are concerned about the status of the Legislature. We insist that the Legislature be in a position to perform its vital role as the full equal of the executive and judicial branches of government. Only the election of men and women of stature to the Legislature can fully insure this goal; but the framework in which it can be achieved must be provided.

It is the construction of such a framework that has been assigned to the Delegates to this Convention. If this framework is to be sturdy and true for the future, it needs to be as free as humanly possible from the purely partisan considerations of the present or future members of the Legislature. The goal of this Convention must be to provide a legal framework for the Legislature that will protect the

welfare of all citizens, regardless of where they live, their present political coloration, or their community or economic interests.

With these general considerations in mind, we wish to make the following specific recommendations:

1. We believe the present size of both houses of the Legislature is about right; and that neither body should be appreciably increased or reduced.

2. We believe the bicameral type of legislature should be retained in New Jersey, provided that senators are elected from larger districts than assemblymen. The Nebraska system has been pointed to as an example of a successful unicameral legislature, but we do not believe that such a nonpartisan legislature with only one body would serve the diverse interests of New Jersey as well as a bicameral system with its inherent checks and balances.

The Legislature must be a deliberative body, where all interests can be represented and all viewpoints expressed and considered. Any desired improvements in the operation of the Legislature can be achieved as well with a bicameral system as with a unicameral system. The change brought about by the present mandate of the courts will be enough shock to our legislative system without the unnecessary radical change to a unicameral system.

This does not mean, however, that we completely rule out a unicameral legislature for New Jersey. If it could be demonstrated that such a legislature could be apportioned in such a way as to maximize the preservation of county lines

with single-member districts within such lines; and if the rules governing the procedures of such a legislature were to be written into the Constitution as they are in Nebraska, then we would give consideration to a unicameral system.

3. We believe that both houses of the Legislature should consist of members elected from single-member districts. These districts should be compact, contiguous and substantially equal in population, as determined by the United States census. In the drawing of district lines, municipal and county boundaries should be respected and retained wherever feasible.

Single-member districts will make it possible for every voter to vote for one congressman, one state senator, and one assemblyman, regardless of where he or she lives. It is important that each citizen be able to identify himself with his congressman, his state senator, and his assemblyman. In multiple-member districts, this relationship is not possible since a citizen in such a district must contact several such assemblymen or senators. He cannot identify with any one such representative.

It is possible that the courts might consider multiple-member districts invalid since some citizens would have the opportunity to vote for only one senator or assemblyman, whereas other citizens would have the opportunity to vote for several such representatives.

We believe that single-member districts will result in smaller legislative districts that will better assure representation of community interest, that such district

lines can be more finely drawn to achieve a more precise population equality of representation, and that such districting will make it possible to preserve some regional interest in our Legislature, and prevent absolute domination by well-organized special interests.

Multiple-member districts will inevitably lead to serious under-representation of the suburban and rural areas of the state. This could occur despite the fact that a majority of the people in New Jersey do not live in the larger municipalities. As a matter of fact, it takes the combined population of at least 52 of the largest municipalities in the state to equal half of the total population. Multiple-member districts too often result in bloc or boss control.

We are as aware as anyone else of the desirability of maintaining county boundaries in legislative representation, but we believe that the "one man, one vote" decision of the Court makes such boundaries almost impossible to use in all cases in drawing the lines of legislative districts that are equal in population.

4. The Convention should go beyond mere constitutional guidelines in the determination of legislative districts for the 1967 election. We believe the bipartisan composition of the Convention will better assure an apportionment plan that will be fair to all concerned. The Convention should actually draw the lines for the 1967 election by designating such districts in an amendment to the Constitution, subject to the approval of the voters, and provide that subsequent districting be accomplished by the Legislature following

the promulgation of the next decennial United States census and every ten years thereafter.

5. A definite plan for the control of gerrymandering should be a part of the proposals of the Convention. It is true that moving boundaries of single-member districts could result in excessive gerrymandering, but this can be controlled to a large extent by constitutional safeguards. The Constitution should provide that all districts must consist of contiguous territories, that each district must be as compact as practicable, measured by a definite yardstick of compactness. The Constitution also should provide that no local unit of government be divided unless it contains enough population to justify a division, and that maximum deviation in population among districts should not exceed a plus or minus five per cent.

6. We favor a provision in the Constitution, giving the Legislature primary responsibility for reapportionment, as set forth in the Constitution. To forestall future delay and uncertainty in re-districting, however, we recommend an amendment to the Constitution providing for a definite system of reapportionment within one year following the promulgation of each decennial United States census. Such an amendment should provide for the establishment of a Legislative Apportionment Commission that would be empowered to prescribe congressional and legislative districts if the Legislature failed to act within one year following the promulgation of each decennial census.

7. The basis for apportionment should be total population, as determined by the census. For purposes of

drawing district boundaries for the 1967 election, however, we believe that the Convention should use the 1965 population estimates published by the State Department of Conservation and Economic Development, since they are obviously more current than the 1960 United States census.

This would make it possible for this Convention to create districts that most nearly adhere to the Court's population guideline, and would mean any needed changes in district lines following the 1970 census will be minor in nature.

8. In drawing the district lines, the Convention should give first consideration to the objective purpose of apportioning seats in the Legislature on the basis of population and community of interest, rather than purely personal or partisan considerations of preserving or protecting the interests of either political party or any present member of the Legislature.

In conclusion, we plead with you to do the job assigned to you by the Legislature and the courts. This responsibility should not be passed along to the Legislature itself, or to the courts. We look with dismay at the situation that has developed in some of our sister states where the courts have been forced to district the legislature or at-large elections have become necessary. The people of New Jersey are looking to the Delegates to this Convention for definite constitutional recommendations on legislative apportionment. They have elected you for that purpose. We are confident that the delegates to this Convention will

accomplish this historic mission.

We appreciate the opportunity to present our views.

CHAIRMAN KELLY: Thank you, Senator Haines.

Are there any questions? [No response] There being no questions, again thank you, Senator Haines.

The next witness is William J. D. Boyd, Senior Associate, National Municipal League. The Committee wants to express his appreciation to Mr. Boyd for his extreme patience, which he has so well exercised here today in waiting to be called.

WILLIAM J. D. BOYD: I have found it interesting. Thank you very much, Mr. Chairman and members of the Committee on Structure.

I am very pleased to accept the invitation to come here and speak. I think I shall try and cut out some of the remarks I had intended to make since many of these points have been stressed. There will be some repetition, however, I am afraid.

I believe to begin with I should explain for those of you who are not familiar with the National Municipal League what we are and what we are not. We are not an association of municipalities nor are we in any way associated with the many organizations in the various states that are organizations of municipal officials. We antedate all of these organizations by a good many years and have an unfortunate name, it now seems, that leads to confusion.

We were founded by Theodore Roosevelt and Louis Brandeis

and men of that type as a private citizens' organization interested in the structural reform of state and local governments. We are the oldest organization in the United States to endorse the idea of a unicameral legislature and take great pride in the fact that Norris came and spent a couple of days in our office and at that time we gathered together a group of experts from all over the country who spoke with him and he used the ammunition which he gathered at that time to go back to Nebraska and lead the campaign for the adoption of the unicameral system in that state.

We have felt always that it would be best for a state legislature to be apportioned essentially upon the basis of population and to have a unicameral legislature.

Since the courts have now said that it is mandatory for states to have legislatures apportioned on the basis of population, we feel that the only mean argument left for bicameralism is one which emphasizes that one house can act as a brake on impetuous action by the other. It is really upon the validity of that statement that one must judge the retention of bicameralism.

If an act is unconstitutional or damaging to the fundamental rights of any individual or group, there is the ultimate check of judicial review and an even more important factor in modern America, which did not exist at the time that most of our states came into the Union, is the fact that today's governors possess the veto power. If there is any ill-advised or hasty legislation, it can be vetoed by the governor and it requires a large majority

of the legislature in each state to overrule him. If any hasty action is taken which is actually unconstitutional, the courts can take care of it.

The relative obscurity of the state legislatures is a valid argument against bicameralism. State legislatures unfortunately have a low level of public visibility; that is, that the activities of the legislature and the very identify of all too many of our legislators are unknown quantities to large numbers of the electorate. The activities of the Federal congress are well reported in the major news media, making United States Senators and Congressmen far better known personalities than they are on the state level. The day-by-day activities of state government are less dramatic in that they deal with the so-called routine, but very fundamental, aspects of every citizen's life. Since these are routine matters, it is many times hard to capture the public's imagination.

With members distributed between two houses, the average citizen rarely can identify his state senator or representative. Were there a reasonably-sized unicameral body, it would be much easier for the citizen to know and to follow the activities of his legislators.

Since the 1920's the states have tended to lack initiative on the policy level and failed to gain public confidence. It is interesting that from the end of the Civil War until the 1930's it was the states that were the great initiators of new policy in this country and only

later would the Federal government adopt it. This was true of public utility and railway rate regulations, woman suffrage, child labor laws and other reforms. Historically one of the strongest arguments for federalism has been the fact that the states can serve as individual laboratories for experiments with new policies, new programs and new administrative procedures. Unfortunately in recent years our states have fallen further and further behind on that. There have been a few exceptions, but they are all too few.

I believe it is generally recognized that reapportionment in and of itself will not correct this nor will unicameralism in and of itself correct this. State legislatures and state governments generally need many more reforms to become more viable instruments and to recapture their former independence.

In recent years some progress has been made in streamlining the administrative and judicial sides of state government. In this New Jersey has been one of the outstanding leaders. State constitutions have begun to shorten the ballot. Numerous purely administrative posts have been made appointive rather than elective and the public's attention has become centered upon the important office of the governor. It knows him and can hold him accountable for the good or bad performance of the administrative side of government. Unicameralism offers a similar means of concentrating the voters' attention upon the state legislator. Greater public awareness heightens the importance of a legislative career. A single house would

further strengthen the legislature as an institution of state government by eliminating one set of checks and balances.

Checks and balances are best exercised among the three branches of government, not within one. Would it be logical to elect two governors, the second to stop administrative action initiated by the first governor or to veto bills the other had signed? Should there be two state supreme courts, one to nullify the rulings of the other?

Supposedly our system provides for co-equal branches of government. Unfortunately a series of obstacles have been placed in the path of the legislative branch to make it less powerful and less efficient than the executive office or the judiciary. Not the least of these obstacles is bicameralism. Little known state legislators are hardly in a position to challenge a popular and powerful governor. But a single house would help redress the present imbalance. The role of leading individuals within the legislature would be enhanced with only one majority leader, one chairman of the Committee on Education, one head of the Committee on Labor and Industry. These men and their positions would come under closer public scrutiny. A poor performance could be punished more easily and a good performance could be rewarded with greater influence or higher office. Men would become known as experts in their own field and their voices would carry greater weight whenever a legislative-executive dispute broke out.

Restoring a balance between the legislative and

executive branches could do much to restore public faith and interest in the state. This in turn could help solve the so-called trend to big government in Washington. Single-house legislatures would be closer to and more respected by the public, while at the same time strengthening and streamlining the legislative function.

One possibility that has been suggested is to have a state experiment with unicameralism for a limited period of time. Such procedure is unusual these days, but it was not at all uncommon in the formative years of the Nation. The secret ballot, for instance, was instituted in several states for a trial period, at the end of which time the legislature was to re-examine the effectiveness of the written ballot versus the old method of voice voting. As it turned out, the written ballot became universal. But early experimentation was accompanied by a great deal of skepticism.

There is no reason why a state could not adopt the unicameral system for a set period, say, ten years, and then resubmit the question to the electorate.

At one time bicameral municipal councils were used in almost one-half of the cities of the United States. Today only two small New England towns use them. States are unitary forms of government. They are sovereign over the territorial jurisdiction that they encompass. The United States of America is a federal system, wherein sovereignty is shared between the national government and the states. The use of two different system of representation on the federal level, therefore, has much to recommend it.

Within a unitary body, such as a state, it would appear that bicameralism's major virtue is obstructive, not constructive.

New Jersey has one of the most efficient, streamlined state court systems in the Nation. New Jersey has one of the most efficient, stream-lined executive offices in the Nation. Both of these were the products of the Convention of 1947. It would be interesting in 1966 to see New Jersey now give the same attention to strengthening and streamlining the legislative branch. Thank you.

CHAIRMAN KELLY: Are there any questions?

MR. RITTENHOUSE: We have heard some discussion here this afternoon about the mixed single-member and multi-member system under a unicameral legislature. Do you have any opinion or does your organization have any stand on such a structure?

MR. BOYD: As an organization we have never taken a stand on it. However, it would be perfectly legal according to -- well, in fact more rulings than those that were mentioned. Arkansas, Georgia, Virginia and Wyoming, all four had cases that went to the United States Supreme Court in which they used a mixed single-member and multi-member district and all were upheld by the court.

MR. RITTENHOUSE: One other question - Does your organization advocate non-partisan elections for state legislatures?

MR. BOYD: At the time we spoke to Senator Norris, yes. We have completely reversed ourselves. Our model

state constitution is always revised every ten years or so. And frankly, we have come to the conclusion that it is not practical - it is not realistic - particularly in most of the states of the country where you have a very viable two-party system. It is an essential part of our system and we don't see why non-partisan election and unicameralism should be tied to each other at all. They are two distinctively separate issues and we would not favor the non-partisan election any longer.

CHAIRMAN KELLY: Are there any further questions?
Mr. Gaulkin.

MR. GAULKIN: You seem to have dismissed as unimportant the argument or the observation that two houses can possibly bring to bear on any particular piece of legislation two different attitudes, stemming from the different types of constituencies or term or what have you.

MR. BOYD: I think if this is an important factor in people's thinking, I think it is quite possible to make a mixed system where so many men are elected countywide and so many come from a single-member district. You can make any combination like that that you want within a single house. Oregon uses this. Multnomah County where Portland is located is broken down into four multi-member districts and then they have one man that runs countywide. There are some other counties in the state where they reverse the process and have several run countywide and a smaller number run from single-member districts.

MR. GAULKIN: And you see no loss of that function

if it is all in one house.

MR. BOYD: No. Your object is to try and get people who are going to reflect a different electorate and you achieve that. It is just that it is put all in one house. You both have the virtue - if you consider it a virtue - of bicameralism carried over into the unicameral, which has separate virtues.

MR. GAULKIN: Do you have any doubts about the constitutionality of a single house in the unicameral legislature in which all districts are multi-member districts?

MR. BOYD: No. Thus far the Supreme Court has upheld -- The court really I believe has been far more lenient on the states than most people realize. They have insisted only really that the individual voter have the same power as any other individual voter. How the states have structured their legislatures - there has been an amazing latitude - you know, let the states play around with it and come up with what they want.

MR. HOLLENDONNER: If I understood you correctly, you said that the partisan or non-partisan aspect of the unicameral house would not work very well. Is that correct? You don't think too much of it.

MR. BOYD: It's that we do not recommend it any longer.

MR. HOLLENDONNER: How do you account then for the apparent success in Nebraska?

MR. BOYD: I think Nebraska would be an entirely different state than New Jersey on particularly this one

issue. You do not have as strong a two-party system in Nebraska as you have in this state.

MR. HOLLENDONNER: Are you then disagreeing with the two witnesses from Nebraska saying --

MR. BOYD: Quite the contrary. I believe there was a misstatement here by an earlier speaker saying that Governor Sorensen had said that he favored the non-partisan. He did not. He said he very definitely would like to go to the partisan.

MR. HOLLENDONNER: That is true. But I think when I questioned him, he did not admit - at least I didn't understand him to admit - that the system would work any better under a partisan form of government. It has been working supposedly for thirty some years on a non-partisan basis. And when they come here and tell us that they can't find one individual in Nebraska who is against it, we can assume--

MR. BOYD: He didn't say that he couldn't find an individual against the non-partisan feature.

MR. HOLLENDONNER: Maybe he didn't look hard enough. I don't know.

MR. BOYD: No. He said that he didn't find anyone who was opposed to unicameralism, not that he couldn't find anyone opposed to the non-partisan ballot. There is a great deal of opposition to the non-partisan ballot. In fact, it has become a party issue in Nebraska at the present moment. It is definitely a matter in which the Republican Party is on record for the retention of the non-partisan and the Democratic Party is on record as opposing

it. Therefore, since the Democratic Party is in the minority in the state, they haven't been able to get rid of it. But it was on the ballot.

MR. HOLLENDONNER: Your feeling then is that even if it has worked successfully in Nebraska, with a partisan makeup or complexion in New Jersey it would probably work better.

MR. BOYD: That would be my own personal opinion. As an organization, we don't advocate for a particular state unless asked, as in this instance to come here, any change one way or another. It is just that as a model, we do not feel that for most states non-partisan elections would be practical.

MR. HOLLENDONNER: And you feel for New Jersey a partisan election would be more practical.

MR. BOYD: Yes.

MR. HOLLENDONNER: My final question: Would your group also advocate certain changes in the constitution to assure some of the procedures as we have heard discussed in Nebraska, concerning the bills, their introduction and the like. Would you also advocate that?

MR. BOYD: Not necessarily. On a situation like this particularly, a state as old as New Jersey has developed its own traditions and its own procedures. Now there would certainly be some that you might want to look at and incorporate. But I think that undoubtedly the procedures of the legislature of New Jersey are already pretty well established and they could be easily tailored to meet a

unicameral situation that would continue the traditions and the general feeling that the people of New Jersey want. Certainly some of them you probably want to change.

MR. HOLLENDONNER: Except with reference to the claim that a unicameral house will prevent the introduction of hastily-drawn or some legislation that might not be the best. The answer from the representatives from Nebraska was that their constitution provides for certain limitations on introduction. You wouldn't go that far though, would you?

MR. BOYD: No, I would not.

MR. HOLLENDONNER: Thank you very much.

CHAIRMAN KELLY: Mr. Gaulkin.

MR. GAULKIN: I wonder if you could give us your thoughts on the length of term and the staggering of terms in a unicameral legislature.

MR. BOYD: We have taken no particular stand on that. I think it is interesting that the courts have upheld this. I can see a few problems with the idea of a man elected for, say, four years and two years through his term, his district is changed underneath him. I mean, there has been a reapportionment. But the courts in several states have said that that is valid and, therefore, it obviously is permissible for the states to do it.

MR. GAULKIN: Is there any judgment that you have as to the optimum length of term for a legislator, aside from the apportionment problem?

MR. BOYD: Not particularly. So many times it varies with the states and their traditions.

MR. GAULKIN: How about the staggering of terms - would that be wise?

MR. BOYD: Many times it is very advantageous to stagger terms to avoid -- well, you had an interesting landslide here just recently. You had a similar situation that took place in 1964. Many times to cushion the impact of a landslide -- I mean, this is certainly a valid argument for staggering terms.

MR. GAULKIN: But it is not necessarily bad government to elect an entire legislature in one election.

MR. BOYD: No. Again I would say this is strictly in the realm of what the people of the state want to do themselves, what they feel best suits their needs.

CHAIRMAN KELLY: Any further questions? [No response.]

Thank you, Mr. Boyd.

The next witness is Mr. Walter Bilder. I want to thank you for your patience, Mr. Bilder, in waiting.

W A L T E R J. B I L D E R: I thank you for giving me a hearing at the tail end of a very exacting session and I was hoping that you wouldn't all fold your folders and say, "This is a day," without giving me a chance to say just briefly what I have to say.

CHAIRMAN KELLY: It's too early for that.

MR. BILDER: The division of legislative bodies in this country into two parts had its historical origin in a form of social structure which was composed of two social classes, namely, an aristocracy and the common people,

an upper class and a lower class. The prototype for two-house legislatures was the English Parliament. The respective names of the two houses of the English Parliament, namely, the House of Lords and the House of Commons, are historic monuments to the two-class society to which the bicameral form of legislature owes its origin.

In the course of many centuries the governmental power of the House of Lords diminished to the vanishing point so that today all legislative power in the government of Great Britain is possessed by the House of Commons, and the House of Lords has virtually become a governmental vestige. Thus today England, the historical parent of our own bicameral legislative system, has a unicameral legislature.

During the 17th century, the American colonial legislatures almost without exception were unicameral in form. In their unicameral form the colonial legislatures consisted of the colonial Governor and his Council and a group of deputies elected by the people. However, the people of the colonies came to recognize that the Governor and his Council really were the spokesmen of the royal or proprietary rulers and that only the Deputies were the agents of the people. This idea that the members of the single Assembly represented two distinct and different social orders led gradually to the division of the legislature into two houses, meeting and voting separately; and by 1763 all of the colonies except Pennsylvania and Delaware had bicameral legislatures.

The Declaration of Independence in 1776 necessitated

the establishment of state governments and between 1776 and 1781 eleven of the thirteen colonies framed new constitutions. Nine of these state constitutions provided for bicameral legislatures and two of them, namely, Pennsylvania and Georgia, adopted constitutions providing for a single legislative chamber.

The adoption of the bicameral form of legislature by most of the colonies after they became independent states was attributable to the fact that, although there was no aristocracy in the colonies, there were well recognized social distinctions based on wealth instead of on birth. Accordingly, the upper house of the bicameral legislature in the independent states was regarded as a convenient device for the special representation of the wealthy and propertied class. What secured this special representation was the fact that there were two general types of political restrictions on the right to vote or the right to hold office. These restrictions were based on the ownership of property or the amount of income, and the amount of property or income which a person was required to have in order to be qualified to vote for the election of members of the upper house of the legislature or to hold office in the upper house was much greater than the amount of property or income which was required with reference to the lower house. In this connection it is notable that Thomas Jefferson objected to Virginia's maintaining the same qualification for the electors of both houses of the legislature in that state on the ground that if both houses represented the

same electorate, one of the houses would be superfluous and should be dispensed with. And I interpolate that that is the situation in New Jersey today and that is my thesis. The Constitution adopted by New Jersey in 1776 required that a member of the upper branch of the legislature should be a freeholder of the county and be worth at least 1,000 pounds, while a member of the lower branch was only required to be worth 500 pounds. In other words, in 1776 our first Constitution recognized a class distinction by prescribing a different grade of wealth for the Upper House member from that which was prescribed for the Lower House member.

With reference to this difference between the qualifications which the voters were required to have in respect to the upper house of the state legislatures and the lower house respectively, a noted historian says and I quote: "The barriers to universal manhood suffrage in the early American states served as a defense for property rights, and in most of the states the Senate afforded special representation to wealth. The representation of mere man was left to the lower house . . . this was a conscious purpose in the formation of the second chamber."

When the Federal Convention met in Philadelphia in 1787 and drew up a Constitution providing for a bicameral federal legislature, the delegates were naturally under the influence of the example of the bicameral system which existed in most of the states from which they came. But the real cause of the provision for a bicameral Congress was the deadlock between the small states and the large states,

the small states demanding that there should be a single chamber in which all of the states would have equal voting strength. This was known as the New Jersey plan. The large states demanded a two-house Congress with membership in both houses to be based on proportionate representation. This was known as the Virginia plan. This deadlock was broken by the Connecticut Compromise under which the states were to have equal representation in the Senate and proportional representation in the House of Representatives. This arrangement was copied in the states like New Jersey, where representation in the State Senate was afforded to geographical units as such, as in our case, the counties.

In another very important respect the example of the Federal Constitution was followed by the states, and this has a great significance for New Jersey, namely, the assignment of special powers and functions to the upper house not shared by the lower house. In the case of the Federal Constitution this governmental differentiation between the Senate and the House of Representatives was dictated by the fact that the Federal Constitution-makers actually feared the possession of too much governmental power by the people. To quote a noted historian, the delegates to the Constitutional Convention "were almost without exception members of the upper, propertied classes. They were alarmed by such signs of incipient democracy as Skay's Rebellion . . . in Massachusetts. To them democracy was synonymous with confusion and licentiousness."

In the same vein Alexander Hamilton said: "All communities divide themselves into the few and the many. The first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give therefore to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second, and as they cannot receive any advantage by a change, they therefore will ever maintain good government." And that is the source and origin of the so-called check and balance system of which we are so proud and which is stressed as the principal argument for the retention of the bicameral system.

In line with this view, the Federal Constitution originally was framed to provide for the election of the Senate by the state legislatures so that the Senate would not be subject to popular control and therefore would be a bulwark of the propertied classes against the propertyless masses. This is something which we forget because since we have the amendment providing for direct election of senators, we have forgotten that the founding fathers gave us a constitution which provided for the election of the senate by the legislature, thereby, as I say, providing a distinct and separate representation for the property classes in contrast with the different representation for the propertyless masses. This view was expressed by Edmund

Randolph, one of the delegates to the Constitution Convention of 1789, in the following words: "The object of the second branch is to control the democratic branch of the national legislature." I stress again that this is the reason we have bicameral legislatures in the United States and this is the only reason, the historic reason. It is thus plainly evident that in adopting the bicameral form of legislature, the states were endorsing an idea that an upper house of the legislature was needed in order to afford special protection to the interests of the relatively small wealthy portion of the electorate against legislation adverse to their interests by the lower house which represented the mass of the electorate who were without wealth.

In considering the question of whether the proposed new Constitution of New Jersey shall provide for a bicameral legislature or a unicameral legislature, it is of transcendent and critical importance to realize that if a bicameral form of legislature is adopted, the people of New Jersey will not be following an example furnished either by New Jersey's present Constitution or the Constitution of 1844 which preceded it. For, under those Constitutions, representation in the upper house of the legislature is based, not upon proportional representation, but on geographical divisions of the state treated as political units.

However, if the proposed new Constitution of this state provides for a bicameral legislature, both houses of the legislature must be based upon proportional representation. This means that a bicameral system under the proposed new

Constitution would be something totally novel and untried in the history of this or any other state. Therefore, it would lack totally the powerful support which any form of social action always derives from historical precedent or past experience. A bicameral system in which both houses are based upon proportional representation would be a political innovation. It follows from this important fact that all of the usual arguments advanced to justify a bicameral system would be wholly inapplicable. The incontrovertible fact is that a bicameral legislature in the proposed new Constitution of New Jersey would produce a sheer duplication in the legislative portion of the structure of our state government.

Chief among the traditional arguments advanced to justify a bicameral legislature is the claim that an upper house is needed to check the legislative power of the lower house. Obviously, such an argument is inapplicable to a bicameral legislative system in which both houses are based on proportional representation. For, if so applied, the argument would amount to saying that the people of the state need to elect two sets of legislative representatives so that each set can act as a check on the other. Such an argument is self-evidently absurd. Indeed, if each of two sets of legislative representatives were really to perform the function of checking the action of the other, the resulting situation could only be aptly described by Benjamin Franklin's statement in which he likened a two-house legislature to a wagon with a horse hitched to each

end pulling in the opposite direction.

I have said that if the people of New Jersey now adopt a Constitution which provides for a bicameral legislature, they will not be following any historical political precedent, but will be making an unheard-of political innovation. Yet, in another sense, the provision of a bicameral form of legislature in the proposed new Constitution will not be the breaking of new political ground, but will be the continuing occupation of very old political ground - ground which is utterly unsuitable for and incompatible with a democratic society. For the bicameral form of legislature originated in a two-class society, one in which there was an upper social class and a lower social class; the bicameral system has always derived its claimed justification from the alleged need for protecting the interests of the upper class from injury by the legislative action of the lower class and the inclusion of the bicameral system in the proposed new Constitution of this state will serve to perpetuate a socially-invidious and socially-obstructive political anachronism.

In conclusion, I would like to call attention to the all-important fact that this Constitutional Convention affords to the people of this state a golden opportunity to do away with one of the most harmful and anti-democratic features of the state's present governmental structure, namely, the power of each member of the Senate virtually to control appointments to office in his county which are within the appointive power of the State's Executive to make. Not the least of the salutary results of a

unicameral legislature in this state will be the abolition of this ditatorial anomaly in our democratic form of state government.

Let me add just one thing, if I may to my text and that is this: It has been over a century now since Charles Darwin in his celebrated "Origin of the Species" explained how animal life which had existed over millions of years had become extinct as conditions for which they were adopted to survive changed; and, for example, the dinosaur is offered as an example and the mastodon whose skeletons are found and who existed many hundreds of thousands of years is given as an example. In other words, nature has provided a method by which animal life which was not adapted to changed conditions would become extinct. Unfortunately, there is no such process which operates upon social institutions. The life of a social institution is ruled by a principle of inertia. Once you set it going, it keeps going for centuries or thousands of years until it comes into collision with some tremendous social force which stops it.

I say with all due respect and without meaning any disrespect, the bicameral system in New Jersey is a social institution which has long since failed to meet the needs for which it was created. It no longer answers the purpose of its originators and yet it has survived because, as I say, there is no social process similar to the natural process which operates upon the species of animal life which makes extinct, which kills off, institutions

which no longer are adopted to the needs of the times. And this is, I think, in an outstanding manner illustrated by the bicameral system of legislature which I say was created originally to represent two distinct social classes and which has long since ceased to serve that purpose and indeed has come to the end of its road today when not only is there universal manhood suffrage which gives every citizen the right to vote regardless of whether he has little or much wealth for the membership of both houses, but has now brought it about that both houses must be based upon proportional representation.

I stress again and conclude with the statement - the bicameral legislature is as extinct from the standpoint of being fit to survive as the dinosaur. Thank you very much.

CHAIRMAN KELLY: Are there any questions?

MR. BARTOLETTA: Do you feel in the unicameral system that there will be no social standards?

MR. BILDER: That there will be no social standards?

MR. BARTOLETTA: Yes. On your page one you say that the legislature is made up of two social classes. Now do you feel that if you had a unicameral system you will have no social classes?

MR. BILDER: No. What I said, sir, is that the bicameral system has its historic origin in a social structure in which there were two social classes and I named them, the aristocracy and the common people.

MR. BARTOLETTA: Do you recall that the man that

was speaking here today said something to the effect, when the question was asked about the salaries of the legislators, that they devote seven and one-half months of their time to the government and they only get \$200 a month. Apparently it looks like in a unicameral system the aristocracy is the only group that can run. The people who have money are the only ones who can run in a unicameral government. Won't you have a social position here also in unicameral government?

MR. BILDER: May I answer your question in this way, that I disagree with a great deal of what I heard said before me, and for one thing, I think that much was spoken by those who preceded me, and I say this with all due respect, which had nothing to do whatsoever with whether we should have a bicameral legislature or a unicameral. And one of the things that in my humble opinion has nothing to do with that question is this question of how much should a member of the legislature be paid. What on earth has that got to do with what kind of a legislature we shall have? This is a matter as far apart as the North and South Pole intellectually from this question. The two questions are totally separate and distinct. How much you shall pay the members of your legislature is a question that is totally disconnected from the question of whether you shall have one house or two houses.

MR. BARTOLETTA: You are dealing with a political unit and how many people do you know that can give up seven and one-half months of their life for such small

remuneration?

MR. BILDER: I agree with you completely. I was thinking to myself - where can they find people who can afford to do that?

MR. BARTOLETTA: Then you will go to the position of social classes because a man who can afford it is a man who will have the social stature to be able to afford to sit seven and one-half months and enjoy the life of being a legislator.

MR. BILDER: Sir, with all due respect, are you asking me to subscribe to the argument which I repudiate? I repudiate this man's argument and I cannot support it. On the contrary, I will argue against it.

MR. BARTOLETTA: Isn't this an evil of the unicameral system?

MR. BILDER: It has nothing to do with the unicameral system. I stress again the unicameral system stands on its own bottom. What possible logical or intellectual connection or political connection or common sense connection has the question of how much you will pay the members of the legislature with whether you shall have one house or two houses? This is a question for you to decide before a totally different committee dealing with a totally different question. I am not arguing the question of whether you should have people become members of the legislature who are rich or whether you should have people become members of the legislature who are poor. I am not concerned. I am not addressing myself to this.

Many things that were said, and I say this with all due respect - many things that were said by the very highly-esteemed representatives of the State of Nebraska, it seems to me, had nothing whatsoever to do with the question with which this Committee is concerned. I sat there for an hour and a half and listened in vein for what I thought was argument germane to the matter which is before you and I was so happy to hear Senator Musto stand up twice and ask the Speaker from Nebraska what he believed in because his belief was as obscure to me, Senator, as it was to you.

May I say too, and I say this with all due respect, the last thing that the highly-respected and esteemed Lieutenant Governor of Nebraska said, I thought, was the worse thing that he could possibly say in support of the unicameral system. He said something which I am sure he thought was quite humorous, but this is no occasion for humor. He said something about out there in Nebraska they didn't know whether they should call - I won't repeat the word - the members of their legislature A or B. I was shocked by that. I am sure that if he had bethought himself of the impact that would have, he would have seen how damaging it was. This is a very solemn occasion. It is disrespectful of me even to say that it is a solemn occasion. It is obviously a solemn occasion. You gentlemen are engaged in framing this Constitution for a commonwealth of five or six million people, one of the richest states in the Union, a Constitution which may govern the lives of

the citizens of this state for two centuries hence.
So this is no joking matter. This is a matter upon which we must all be dead serious and I join most heartily with Senator Musto in sticking to the point - Are you in favor of the unicameral system or not? - and not what shall we pay the members of our legislature or any of the other utterly extraneous and irrelevant things which were brought in here, brought in, I am sure, in the best of faith, and I mean no disrespect in alluding to them.
Thank you very much.

CHAIRMAN KELLY: Thank you, Mr. Bilder.

CHAIRMAN STOUT: I have a communication from Joseph A. Mackle, Jr. of Kearny, New Jersey, on behalf of unicameralism, together with some charts and statistics, which I would like to give the secretary for the record.

Are there any further witnesses? [No response.]

We will now adjourn this hearing.

[Letter and proposed plans submitted by Mr. Joseph A. Mackle, Jr. can be found starting on page 129 of this transcript.]

STATEMENT SUPPORTING A UNICAMERAL
LEGISLATURE FOR NEW JERSEY

Thomas F. Connery, Jr., Delegate
Gloucester County

Harris Y. Cotton, Delegate
Gloucester County

A unicameral legislature, in my opinion, can be more easily and simply adapted to meet the requirements of the Court's one man-one vote rule than a bicameral system. It seems to me that we are only complicating our problems and making it more difficult to find solutions when we insist that New Jersey must continue with the old historic and traditional two house legislature. Now that representation in both houses must be based primarily on population factors, the reasons that long sustained the arguments for a bicameral system have become moot. Many in the past have unquestionably felt that a smaller upper house, with representation based on geography and regions, served as a brake or a buffer against hasty ill-considered legislation passed by a lower house, where representation was based on population. In view of the Supreme Court's decision, whether we agree or disagree, these justifying arguments can no longer be considered by us in designing a proposal or plan for submission to the voters in November to apportion on the basis of equal representation for equal numbers of people.

In my discussions with interested citizens and other delegates in this Convention, I believe that a considerable majority prefer a plan that would preserve the integrity of county lines and avoid the many and varied problems that arise when several or more counties are merged to form a single legislative district.

A unicameral house could easily be designed, conforming to the standards and guide lines delineated by the Courts and still retain 21 county political subdivisions as separate and independent legislative districts. The very method by which the varying number of votes based on population were assigned to the 21 counties in this Convention could well serve as a precedent to follow in apportioning a unicameral legislature. In this Convention, every county has at least one vote and the median, based on the 1960 Census, is 54,168 people per vote, with the highest deviation of minus 17 occurring in my own county of Gloucester, which has been assigned three votes. However, as Senator William V. Musto has pointed out in his statement filed with this Committee, many plans have been discussed that could easily be adapted to a unicameral legislature, but I too am refraining at this time from recommending a specific plan.

Much has been written about the advantages and disadvantages of unicameralism versus bicameralism and therefore, it is not my intention to burden this record with repetitious time-worn arguments, nor do I feel we should necessarily be controlled in our judgments by the experience, be it good or bad, that the State of Nebraska has had since 1937 with a unicameral legislature. But again, I repeat that logic and common sense should lead us to the conclusion that since the Courts have now declared that the predominant basis of representation in both legislative bodies is required to be the same, namely population, then the most cogent and persuasive arguments for bicameralism have been destroyed.

I sincerely urge that the members of this Committee give this ^{subject} ~~suggestion~~ their most serious consideration and permit this issue to reach the floor of this Convention and eventually, the citizens of this State for their determination.

Respectfully submitted,

THOMAS F. CONNERY, JR.
Delegate, Gloucester County

HARRIS Y. COTTON
Delegate, Gloucester County

PROPOSED CONSTITUTIONAL CONVENTION

112 Delegate Votes

1. County	2. County Population	3. No. of Votes Assigned	4. Population Per Vote	5. Deviation Per Vote	6. Relative Deviation Per Vote	7. Total County Deviation
Atlantic	160,880	3*	53,627	- 541	- 1.0	- 1,623
Bergen	780,255	14	55,733	+1,565	+ 2.9	+21,910
Burlington	224,499	4	56,125	+1,957	+ 3.6	+ 7,828
Camden	392,035	7*	56,005	+1,837	+ 3.4	+12,859
Cape May	48,555	1*	48,555	-5,613	-10.4	- 5,613
Cumberland	106,850	2*	54,425	+ 257	+ 0.5	+ 514
Essex	923,545	17*	54,327	+ 159	+ 0.3	+ 2,703
Gloucester	134,840	3*	44,947	-9,221	-17.0	-27,663
Hudson	610,734	11*	55,521	+1,353	+ 2.5	+14,883
Hunterdon	54,107	1*	54,107	- 61	- 0.1	- 61
Mercer	266,392	5*	53,278	- 890	- 1.6	- 4,450
Middlesex	433,856	8	54,232	+ 64	+ 0.1	+ 512
Monmouth	334,401	6	55,734	+1,566	+ 2.9	+ 9,396
Morris	261,620	5*	52,324	-1,844	- 3.4	- 9,220
Ocean	108,241	2	54,121	- 47	- 0.1	- 94
Passaic	406,618	8	50,827	-3,341	- 6.2	-26,728
Salem	58,711	1*	58,711	+4,543	+ 8.4	+ 4,543
Somerset	143,913	3*	47,971	-6,197	-11.4	-18,591
Sussex	49,255	1*	49,255	-4,913	- 9.1	- 4,913
Union	504,255	9*	56,028	+1,860	+ 3.4	+16,740
Warren	63,220	1*	63,220	+9,052	+16.7	+ 9,052
	6,066,782	112	54,168	±1,785	± 2.9	± 9,519

1. 112 votes allotted to 21 counties.
2. 1960 Federal Census
3. Per method of Equal Proportions (Same result attained by Vinton Method, by Method of Major Fractions and by Method of Harmonic Mean.)
4. Col. 2 ÷ Col. 3.
5. Average, or ideal, population per vote (i.e., State population, 6,066,782, ÷ total number of seats assigned, 112, or 54,168) ± Col. 4.
6. Col. 5 ÷ 54,168.
7. Col. 5 x Col. 3.

*Each county is allotted a number of delegates equal to number of votes assigned to it, except that in each county assigned an odd number of delegates an additional delegate is allotted and 2 delegates in that county shall be entitled to cast 1/2 vote. This results in a total of 126 delegates.

C O P Y

170 Luarel Ave.
Kearny, N. J.
April 20, 1966

Committee on Structure Constitutional Convention at Rutgers

Gentlemen:

Last week after the hearing, I asked Senator Stout if I might testify at this week's hearing. He said it would be all right and to notify Mr. Dimon.

I did so, but I now find due to a priority project in my work at Picatinny Arsenal, I will be unable to attend the hearing.

As a management analyst with the Federal government, I know the importance of good organization. I believe the unicameral legislature would be a great benefit to New Jersey.

While the one house is not a solution to apportionment, it makes the solution easier and makes for a more responsible legislative body. Your committee seemed interested in sizes of the legislature. I have enclosed three sample plans for your information. The convention could adopt any size body and easily fit it to the one house.

The gentlemen from Nebraska will probably mention it, but in case they do not, I would call to your attention that the voters in Nebraska turned down a chance to return to a two house legislature.

Respectfully yours,

Joseph A. Mackle, Jr.

J. Mackle, Jr.
170 Laurel Avenue
Kearny, New Jersey

SUGGESTED PLANS FOR A UNICAMERAL LEGISLATURE

Each county shall elect one senator for each (A) 50,000 -

(B) 75,000 - (C) 90,000 people or major portion thereof.

SEE EXAMPLES ATTACHED.

ADVANTAGES OF ONE HOUSE.

- ADVANTAGES
1. ONE BODY IS RESPONSIBLE FOR LEGISLATION.
 2. MORE ECONOMICAL.
 3. EACH COUNTY WOULD HAVE AT LEAST ONE REPRESENTATIVE.
 4. ONE HOUSE IS EASIER TO APPORTION AND KEEP APPORTIONED.

NUMBER OF SENATORS[illegible]

STATE SUBMITTED BY STANLEY SREDZINSKI, Linden, N. J.

Comments delivered before Structure Committee April 21, 1966 Constitutional Convention held at New Brunswick, New Jersey, The Honorable Senator Richard R. Stout, presiding.

As a taxpayer's advocate of forty years experience in Public Domain, I am pleased to endorse Senator William V. Musto's resolution to establish a Unicameral legislature.

In the age of General Motors and Con Edison the Bicameral system is archaic. The business enterprises don't wait for streamlining. I fully agree with the contents and timely remarks made by the Honorable delegate, Phelps Phelps, April 14 before your Committee on Structure. It was an inspiring address!

"The public lacks confidence in our State Governments" said Charles Edison and President Eisenhower deplored constant expansion of the Federal Government into the States. He stated one main reason: "State inaction, or inadequate action." I would urge the legislators to seek advice from taxpayers and not only from powerful Corporations and their lawyers, maybe then, when given all the information they could do a better job and translate ideas into concrete programs for the benefit of all taxpayers instead of "Spoils System."

C. H. Pritchett of the University of Chicago, writing in the American Political Science Review summed it up: "State Legislatures, all too often have seemed engaged in a original conspiracy against the future."

Presently the Federal Government is taking over more and more of State's Rights, does more of what needs to be done.

As time ticks our legislators may wake up one morning and find they are no longer sick, but dead.

It was to everlasting glory of one Charles Rhyne, the attorney for the Tennessee plaintiffs who based his appeal on the 14th Amendment of "Equal-protection of the laws," who stuck his neck out for the people and history will record his deeds on a par with George Norris, Bob La Follette, Estes Kefauver and recently Dr. Frances Kelsey.

On March 26, 1962 in the celebrated case, Baker vs. Carr, the Court ruled that legislative apportionment was a legitimate judicial issue.

Later Chief Justice Earl Warren wrote in a majority opinion that "Legislators represent people not trees or acres, and that Legislators are elected by voters, not farms or cities or economic interests."

Any prudent citizen is convinced that there is no longer any need for Bicameral legislation if both houses are to represent only one thing, the "people".

The Unicameral system will demolish the infamous phrase "Okay" I'll introduce this bill for you and then the running to the other house to say, "Boys, kill this bill." The lobbyist, then would not dare talk from both sides of his mouth and offer enticing favors. The incompetence and the dullness of the legislature, to a great extent, has been caused by public apathy. I am sure that Unicameral legislature will increase public interest and hence public awareness.

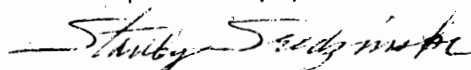
A statesman, the Honorable William V. Musto, who is an ardent student of Thomas Jefferson's philosophy, and who is proving by preponderance of evidence, how to shelve the obnoxious Bicameral system, deserves the esteem and reverence of all the people.

Benjamin Franklin compared a Bicameral legislature to a cart with a horse hitched to each end pulling in opposite directions.

Jean De La Bruyere said: "If a second chamber dissents from the first, it is mischievous; if it agrees, it is superfluous."

May God guide you in your deliberations for public good and tranquility.

Respectfully yours,



Stanley Sredzinski