

In the passage of the
parliament act



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In the United States, many historical factors intervened and bicameralism was found valuable for purposes of compromise between hitherto sovereign States, though here, too, the Senate was intended as the guardian of “ property generally and especially of the landed interests, the Yeomanry of the State.” The same reasons prompted the German Empire. In France, the experience with a single-chamber legislature was not satisfactory and their proceedings “ were marked by violence, instability and excess of the worst kind.” Other countries adopted it for giving expression to certain political principles that prevailed then. And for a long time it had become axiomatic that legislature should consist of two chambers. During recent years a great change has been witnessed in the theory and practice of the bicameral system of legislature and this, too, began in Britain.

While the struggle between the King and Parliament was continuing, there developed a struggle within Parliament as to which House should speak for Parliament in financial matters. The House of Lords never admitted the claim to sovereignty by House of Commons on financial matters, although by usage gradually the Lords acquiesced in the claims of the representatives of the people. But in 1860, the House of Lords began interfering in financial matters and in the beginning of the present century it made a bid to revive its powers by rejecting the proposals aiming to levy certain new taxes on landed property. The result was the passage of the Parliament Act of 1911, which not only confirmed the sovereignty of the House of Commons in money matters, but made it omnipotent in matters of ordinary legislation too. The position, today, is that while Britain continues to have a legislature that is apparently composed of two Chambers, the existence of the House of

Lords does not matter at all. If the House of Commons were to pass a law abolishing the House of Lords, there is nothing to obstruct it. This action by Britain in radically diminishing the status of the Upper House as one of the coordinate branches of the legislature had a profound influence on those States which were compelled after World War I to adopt new political systems or to modify their existing systems.

Many States discarded bicameral legislatures altogether, and those which adopted them followed the example of Britain, the mother of Parliaments. In the United States, too, the Seventeenth Amendment to the Constitution, adopted in 1913, largely nullified the prime consideration that had led to the original adoption of the bicameral system. Unicameralism, however, could not persist for long and at present the bicameral system is almost of universal prevalence. But with the changes referred to above, the force of the arguments originally adduced in favour of the adoption of a bicameral system have been greatly weakened, if not entirely destroyed.

To illustrate it, the first French Constituent Assembly in 1946 adopted the unicameral system. The second Constituent Assembly reverted to the system of bicameralism, but the powers given to the Council of the Republic were not even near to the weaker second chamber like the House of Lords. It was a Council for reflection, as one of the writers described it, and not a Council of action.

There was nevertheless a strong body of opinion to the effect that the bicameral system has certain intrinsic merits. To some extent bicameralism is based on a distrust of popular opinion and its expression in the popular

House. Following are the main arguments generally advanced in support of bicameralism. John Stuart Mill pointed out that the concentration of power in one single Chamber makes it despotic. This means that all power has a tendency to degenerate, and if not checked by a rival chamber, it is likely to go beyond its limits. Lord Acton, accordingly, maintained that the second chamber is “ the essential security of freedom.

” The necessity for two chambers was, thus, based, as Bryce said, on the belief that the innate tendency of an assembly to become hateful, tyrannical, and corrupt needs to be checked by another House. Second chambers are defended on the ground that popularly elected representatives can be overhasty and they need checking by a less impulsive and more experienced body. “ We need a mechanism that enables us to delay the first rough impulses of a body fresh from its contact with the electorate, and eager, in its inexperience, to experiment with every kind of novelty.” A popular chamber elected on the basis of adult suffrage is usually radical in its outlook. Its members are comparatively young and they are always keen to establish their mark by doing something radical and thereby ensuring their berth in the next general election.

Upper Houses are usually for longer terms and elected under conditions which make for greater conservatism among their members. Conservatism, the advocates of bicameralism assert, is needed to check the radicalism of the popular chamber and it is a brake of considerable political advantage. Moreover, when radicalism is injected with conservatism, the result is reason without passion and that is what law really ought to be. The essence of the second chamber is that it should not be subject to the same impulses and

the same pressures as the representative House. Bicameralism is, therefore, a necessary check upon hasty, rash and ill-considered legislation. It acts as a brake by revising the legislative activity of the popular House and there is a greater likelihood of temperate and deliberate discussion resulting in balanced, equitable and careful legislation. Interposition of delay is needed to crystallise public opinion on all bills before they become laws. In fact, it is of considerable advantage that the decision of the popularly elected chamber should be given a second thought and that, too, under conditions of a calmer atmosphere in a chamber which is less susceptible to immediate popular pressure.

Take, for example, the House of Lords. The Lords can afford to have full and free debates on issues which the Commons are too busy to discuss or which party leaders may consider too explosive to touch. By their debates the Lords prepare the public for the consideration of the important issues, educate public opinion, and make the government susceptible to public reaction. The House of Lords, thus, performs a useful function in influencing the people and the government. Reference of a measure to the second chamber, after having been passed by the first, provides a sufficient pause for reflection and deliberation.

Second chambers, accordingly, ensure that opportunity will always be given for a sober second thought, thereby exercising a controlling, modifying, retarding, and steadying, influence on legislation. There is careful scrutiny of legislation by both the chambers. The length of time that elapses between introduction in one chamber and final passage in both reduces the chances of the tyranny of the majority, haste and carelessness attendant thereon,

and ill-conceived legislation. Moreover, this pause also enables the opinion of the nation to be adequately expressed on the proposed legislation. It would be especially needed as regards bills which affect the fundamentals of the constitution or introduce new principles of legislation or which raise issues where on the opinion of the country may appear to be equally divided.

“ It is not,” says Carl Friedrich, “ really so much a matter of expression of opinion, as of crystallization. The cabinet governs in accordance with the general mandate of the majority, but there are issues upon which more than a majority may be desirable.” The system of bicameral legislature is the correct barometer of public opinion. A single chamber may, before the expiry of its term of office, grow out of tune and not keep in harmony with popular opinion. It does not hold any verdict from the electorate on questions of public importance which the legislature may be required to decide after the representatives have been elected.

But this defect can be conveniently remedied, if there are two chambers chosen at different times or for different terms. There will be a constant flow of fresh public opinions under a bicameral system as the legislature reflects the popular will at all times. The House of Representatives in the United States is elected for two years whereas the Senate is elected for six years, one-third of its members retiring after every two years. The House of the People (Lok Sabha) in India is elected for five years while the Council of States (Rajya Sabha) is elected for six years, one-third members retiring after every two years. The popular chamber in every democratic country is now flooded with work. Growth in the functions of the State has made legislation numerous, complex and specialised. Consequently, there is so

much rush of work that one chamber cannot have sufficient time to devote and to fully deliberate upon all measures. Second chambers avoid congestion of business and relieve the popular chambers of many arduous tasks, enabling them to concentrate on important measures.

Not only do non-controversial bills originate in the Upper Chamber and find an easier passage in the Lower Chamber after having been fully discussed and put into well-considered shape, but it also usefully does the examination and revision of bills after they have passed through all the stages in the Lower Chamber. This is now more needed since the time of the popular House is rationed and it is obliged almost on all bills to act under special rules limiting debates, thereby curtailing the possibilities of free and full discussion. Upper Chambers generally function under no such limitations. Their membership being reasonably limited and consisting of the best brains of the country, veteran statesmen and seasoned politicians with diverse experiences, there is intimate, practical and highly intelligent discussion and criticism. Moreover, a finished Act of Parliament must be word perfect.

For if mistakes are made, the government may be involved in administrative difficulties or confusion or it may place the community in grave difficulties as a result of legally correct but unexpected and disturbing decisions of courts. The second chamber is a valuable institution in this matter of spotting lack of clarity or doubtful matters of drafting. Bicameralism provides a convenient means of giving representation to different classes and interests and assures representation of minorities and for professional and vocational interests. Then, there are some talented persons in every country who are election-shy. In a system of bicameral legislature, they, too, can find an easy berth in

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the Upper Chamber, Take, for example, the Upper Chambers in India both at the Centre and in the States. The President is empowered to nominate twelve members to the Council of States, who should be persons having special knowledge or practical experience in respect of such matters as literature, science, art and social services. Similar provision is made for nomination to the Legislative Councils, wherever they exist, in the constituent states. Second chambers are indispensable for States with a federal form of government.

The Lower Chamber in a federation is elected on the basis of population and is a representative chamber of the people as a whole. The Upper Chamber is representative of the constituent units. In several States units are given equal representation in the Upper Chamber. Equality of representation is claimed to prevent the domination of the legislature by the bigger and prosperous units. Bicameralism thereby secures the spirit of compromise among different interests, as it did in the United States, in the absence of which national unity would not have been possible. The bicameral system protects individual freedom against legislative despotism. If there is no balancing of authority and all law-making were concentrated at a single centre, it is likely to become tyrannical in its transactions. It is a simple maxim of democracy that if liberty is to be real and lasting, political direction of authority should not concentrate at any one place.

“ In framing a government which is to be administered by men over men,” wrote Madison, “ the great difficulty lies in this: it must first enable the government to control the governed; and in the next place oblige it to control itself.” Bicameralism is a device to restrain and control the despotism

of either one chamber or the other. To sum up, bicameralism has been justified as a check on undivided power, rashness and irresponsibility, as a delaying and deliberative mechanism, as representing various interests in the community, as a reservoir of knowledge and wisdom, and as representing small and big states alike in a federation. It protects individual freedom against legislative despotism.