14

SECOND CHAMBERS

One of the vexed questions of political science is the problem of Second Chambers. The political thinkers of the nineteenth century were nearly unanimous in their support of a Second Chamber and, in the words of Sir Henry Maine, held that "almost any Second Chamber is better than none". But in the present century there has been a growing opposition to it, and even where a Second Chamber is allowed to continue or a new one established, the general tendency has been to restrict its powers. However, we find that almost all the important States of the modern world have Second Chambers and only very few, e.g., Turkey and Bulgaria, have dispensed with them. It must, however, be pointed out that, though Second Chambers are regarded as an essential element of federal constitutions, they are the exception rather than the rule in the constituent units of a federation. In the U.S.S.R. and the Union of South Africa the legislatures of the constituent units are all unicameral. Of the eight provinces in the Dominion of Canada only Quebec and Nova Scotia have Second Chambers. In Switzerland sixteen cantons are unicameral; two cantons and four half-cantons still have their old folk-moots or direct assemblies of all the citizens. In Weimar Germany, half the States were unicameral. But, except for Nebraska in the U.S.A. and Queensland in Australia, all the State constitutions in these two countries have Second Chambers.

The motives for creating or continuing a Second Chamber have usually been mixed. First, there is the force of tradition.

For example, in England the representative bodies of the middle ages were organised on the basis of status: the nobles, the clergy and the commoners sat in separate chambers. The first two bodies fused to form the British House of Lords. The Lords, from being the predominant partners, gradually lost their powers to the Commoners; but even as late as the passing of the Parliament Act of 1911, the Lords had in law, and to a large extent in fact, equal powers with the Commoners.

Secondly, the propertied classes have always looked upon a Second Chamber as a protective armour for safeguarding their interests. This is true of other minority groups as well. As Herman Finer has observed, " wherever there are interests which desire defence from the grasp of the majority, a bicameral system will be claimed; for even delay of an undesirable policy is already a gratifying deliverance". (*Theory and Practice of Modern Government* by Finer, *p.* 740). This is, for instance, seen in the framing of the French Constitution of 1875 when the monarchists, defeated at the polls, tried to entrench themselves in a Second Chamber.

Thirdly, many sincere democrats have often felt that there must be a check to prevent hasty legislation by the Lower House. They fear that a chamber directly and immediately responsible to the populace will be moved by gusts of passion of a momentary character. This is a point of view which has been forcefully expressed by Farrand in narrating an incident in the life of George Washington. " There is a tradition," he writes, " that Thomas Jefferson some two years later, upon his return from France, was protesting to Washington against the establishment of two Houses in the legislature. The incident occurred at the breakfast-table and Washington asked: 'Why did you pour that coffee into your saucer?' 'To cool it,' replied Jefferson. 'Even so,' said Washington, 'we pour legislation into the senatorial saucer to cool it'." * While the object is laudable, it has always been

* *The Framing of the Constitution, p.* 74.

found difficult to construct a Second Chamber which is responsive to public opinion and at the same time can act as a brake on the impulsive actions of the Lower House. The object is usually sought to be achieved by entrusting the work of choosing the members of the Second Chamber to a specially selected electorate as in Ireland.

Fourthly, a Second Chamber is often formed to provide representation for interests which could not be adequately provided for in the Lower House.

In federal constitutions seats are usually allotted to the constituent units in the Lower House on the basis of population and the members are elected directly by the citizens. But, in the Upper House, equality of representation of the constituent units is generally accepted, *e.g.*, in the U. S. A. and in Australia. Even where, as in Canada, the principle of equal representation has not been strictly adhered to, the principle of allotting seats on the basis of population is considerably modified to give weighted representation to the smaller units.

Again, those who desire the representation of economic groups in the legislature but cannot agree to the abolition of the territorial principle for the Lower House, see a way out in the institution of the Second Chamber. It is said that the Upper Chamber gives scope for representation of men of status and experience who do not care to face risks of popular election. It is also supposed to avoid majority tyranny: the interests of minorities are expected to receive a more patient hearing in a Second Chamber.

Opposition to the system is, however, not inconsiderable even at the present time. The principal ground of attack is that the system is undemocratic. It is held by the advocates of this view that the legislative process in the modern world is sufficiently long drawn-out and complicated even without a Second Chamber. Every measure before being passed by the legislature is usually discussed for months and sometimes for

years on the platform and by the press. Needless multiplication of checks would only make the government less dynamic. It is further held by them that the so-called impulsiveness of the Lower House is only an excuse which the propertied classes have invented to establish a Second Chamber for safeguarding their interests. They still quote Abbe Seyes that if a Second Chamber is in agreement with the first it is superfluous; and if it is not in agreement with it, it is pernicious.

Again, it is argued that experience has shown that it is very difficult to constitute a truly democratic Second Chamber on lines other than those of the first. If the franchise is fixed on a higher level than for the Lower House, power would be vested in the propertied classes; an indissoluble Second Chamber with members retiring in rotation or a Second Chamber with a life longer than that of the Lower House would not be in touch with current public opinion; the principle of equal representation to constituent units in federal constitutions often leads to minority rule; and the distribution of seats on a functional basis is at its best, to a large extent, arbitrary.

Further, the critics say, the politically backward countries suffer from insufficiency of leaders to man two chambers in small and poor countries and the expense is too heavy.

There are two main types of Second Chambers: the elective and the non-elective. Between these two types lie a variety of Upper Houses which partake of the characteristics of both. It may be convenient to consider the various Second Chambers of the world in the following order:

(1) hereditary, (2) nominated, (3) partially elected, (4) fully elected, and (5) special types.

(1) HEREDITARY SECOND CHAMBERS

GREAT BRITAIN—The British House of Lords is the only hereditary Upper House of any importance that is left now. But even this body is not, strictly speaking, wholly hereditary.

At present the House of Lords consists of persons who hold their seats—

(1) *by hereditary right:* the title to peerage and membership of the House of Lords are inherited according to the principle of primogeniture and the hereditary peers form the major part of the House;

(2) *by creation of the Sovereign:* the King has a prerogative right to create new peers at any time, but this power is in practice exercised by the Ministry of the day;

(3) *by virtue of office:* the Archbishops and Bishops of the realm and the Law Lords; and

(4) *by election:* the hereditary peers of Scotland elect 16 members from among themselves for the duration of each Parliament. At one time the whole body of the Irish peers also elected 28 peers for life, but this stopped with the creation of the Irish Free State.

At present the full House consists of about 740 members, but the voting strength is about 720.

Until 1911 the powers of the House of Lords were largely co-extensive with those of the House of Commons. This led to occasional conflicts between the two Houses and many important measures, such as the Reform Bill of 1832, were passed by the threat of creating new peers to overcome the opposition of the Lords. Finally, its powers were curtailed by the enactment of the Parliament Act of 1911.

At present, all money Bills, so certified by the Speaker of the House of Commons, if not passed by the House of Lords without amendment, become law without their concurrence on the royal assent being signified. Public Bills, other than money Bills or a Bill extending the maximum duration of Parliament, if passed by the House of Commons in three successive sessions, whether of the same Parliament or not, and rejected each time or not passed by the House of Lords, may become law without their concurrence on the royal assent being signified, provided that two years have elapsed

between the second reading in the first session of the House of Commons and the third reading in the third session. All Bills coming under this Act should reach the House of Lords at least one month before the end of the session.

(2) NOMINATED SECOND CHAMBERS

The main feature which distinguishes the nominated Second Chamber from its hereditary prototype is that while the office of the herditary peer is handed down from father to son and cannot be resigned, the office of the nominated Senator is terminable with death, or earlier in certain contingencies. Of the fully nominated Second Chambers, the most interesting instances are those of the Italian Senate under the constitution of 1848 and the Senate of Canada.

(*a*) *ITALY*—The Italian Senate consisted exclusively of the Princes of royal blood and those nominated by the King for life from certain classes, numbering 21 categories, as laid down by the constitution of 1848. Persons who paid over 3,000 *lire* [nominally about 600 pounds] in taxes, persons who had rendered distinguished service to the State, members of the Lower House who had served in three parliaments or for not less than six years, famous scientists or litterateurs and church dignitaries were eligible for nomination. Persons below 40 could not be nominated. There was no statutory limit to the number of Senators, so that the Ministry of the day, in whose hands lay the power of appointment, could utilise it for forcing laws through the Senate.

In theory, the Senate had the same powers as the Lower House, and no Bill could become law without its consent. But as the Ministry had the power to appoint any number of additional members, the Senate could not effectively stand against the Lower House, to which alone the Ministry was responsible under the constitution.

(*b*) *CANADA*—The members of the Canadian Senate are nominated for life by the Governor-General, but in practice he is guided by the advice of the Ministry of the day. The constitution provides that the number of Senators should not exceed 104; but in case Newfoundland is admitted into the Union, the minimum should be 102 and the maximum 110. The present membership of the Senate is 96. According to section 22 of the British North America Act, 1867, as amended in 1915, in relation to the constitution of the Senate, Canada is deemed to consist of four divisions, namely, Ontario, Quebec, the Maritime provinces and Prince Edward Island and the western provinces, each of the divisions having equal representation consisting of 24 members. The distribution of the seats on the basis of provinces is as follows: (*a*) Ontario, 24; (*b*) Quebec, 24; (*c*) the Maritime provinces and Prince Edward Island, 24, *i.e.*, Nova Scotia, 10; New Brunswick, 10; Prince Edward Island, 4; (*d*) the western provinces, 24, *i.e.*, six members each for Manitoba, British Columbia, Saskatchewan and Alberta.

The constitution of the Senate of Canada is essentially an attempt to work the federal idea through an Upper House on the model of the British House of Lords. In giving effect to the federal idea all that has been possible to achieve is the equal representation of the four main divisions of the country and not of the provinces.

Each Senator must be at least 30 years of age, either a born or naturalised British subject and must reside in, and be possessed of property, real or personal, to the value of 4,000 dollars, exclusive of all encumbrances, within the province from which he is appointed. In the case of Quebec, he shall have his real property qualification in the electoral division from which he is appointed and shall be resident in that division. A Senator may resign his seat if he so desires. He must vacate it if he fails to attend the Senate for two consecutive sessions of the Parliament, or changes his allegiance,

or becomes a brankrupt or is arraigned for treason or is convicted of felony or any infamous crime, or ceases to be qualified in respect of property or residence. The power of appointment and removal of the Speaker of the Senate is vested in the Governor-General.

The powers of the Canadian Senate are, in law, equal to those of the Lower House, excepting that money Bills must originate in the House of Commons, and convention requires that they may be rejected but not amended. There are no adequate means to adjust differences between the two Houses: all that the framers of the constitution have done for this purpose is to provide for the appointment of additional members to the Senate, but since the total strength of the House cannot exceed 104, the maximum number that can be nominated at any time to resolve differences is eight.

Thus, in theory, the Canadian Senate is a very powerful body: it has powers nearly equal to those of the Lower House; the system of nomination for life secures its independence; and it cannot be cowed down by the threat of unlimited nomination as in the case of the British House of Lords. But in practice it appears to have been lacking in vitality and Professor Lees-Smith goes to the extent of saying that Canada has had "virtually a single chamber government". This appears to have been the result of the majority of the members being, for the most part, the nominees of the party in power.

(3) PARTIALLY ELECTED SECOND CHAMBERS

Other interesting examples are the Second Chambers of South Africa and Ireland and that of Japan under its constitution of 1899.

(*a*) *SOUTH AFRICA*—The South African Senate consists of 40 members; eight of these are nominated by the Governor-General-in-Council and 32 elected, eight from each of the

four provinces. Of the nominated Senators, four are selected mainly for their acquaintance with the reasonable wants and wishes of the coloured races. The Senators of each province are elected by an electoral college composed of the members of each Provincial Council (that is to say, the legislature of the province, which in each case consists of a single House) and the representatives of the province in the House of Assembly of the Union. Election is on the principle of proportional representation with the single transferable vote. Each Senator must be at least 30 years of age, a British subject of European descent, qualified as a voter for the election of members of the House of Assembly in one of the provinces and resident for five years within the Union. An elected Senator must be a registered owner of immovable property within the Union of the value of not less than £5,000 over and above any special mortgage. A nominated Senator holds office for ten years, both in the case of an original appointment and in the case of an appointment to fill a vacancy. An elected Senator holds office for ten years unless the Senate be sooner dissolved; but a Senator elected to fill a vacancy holds office only for the remainder of his predecessor's term.

By the Representation of Natives Act, 1936, provision has been made for the election of four additional Senators, each of whom represents one of the four electoral divisions into which the Union is divided. The Senators so elected hold their seats for five years. They should possess the qualifications prescribed for elected Senators and they enjoy all the usual privileges of Senators.

The Senate chooses its own President. He may be removed from office by a vote of the Senate, or he may resign by writing under his hand addressed to the Governor-General. Any member of the Senate may similarly resign his office. The quorum for the Senate is fixed at 12.

The South African Senate has only limited powers and is essentially a "House of review". Money Bills must originate

in the House of Assembly only. The Senate may not amend any Bill which imposes taxation or appropriates revenue or moneys for the services of the government, nor can it amend any Bill so as to increase any proposed charges or burdens on the people. In case of difference of opinion between the two Houses, the constitution provides for a joint sitting. Since the House of Assembly has three times as many members as the Senate, the will of the former generally prevails.

The South African Senate has the characteristic features of a unitary constitution. The non-elected members are appointed by the government of the Union and the members of the Union House of Assembly have a voice even in the selection of the elected members. The Parliament has also the power at any time to alter the composition of and the mode of election to the Senate.

(*b*) *IRELAND*—The Irish Senate (called 'Seanad Eireann') is composed of 60 members, of whom 11 are nominated by the Prime Minister and 49 elected. Of the elected members, three are elected by the National University of Ireland, three by the University of Dublin and the remaining 43 are elected from five panels of candidates containing respectively the names of persons having knowledge and practical experience of the following interests and services: (1) national language and culture, literature, art, education and such professional interests as may be defined by law for the purpose of this panel; (2) agriculture and allied interests and fisheries; (3) labour, whether organised or unorganised; (4) industry and commerce, including banking, finance, accountancy, engineering and architecture; and (5) public administration and social services, including voluntary social activities. According to the Seanad Electoral (Panel Members) Act 1937, the panel members are nominated by registered associations and by the members of the Dail Eireann, the Lower Chamber of the Irish legislature. Their election is by an electoral college composed of the members of the Dail Eireann and

seven persons elected by each one of the Councils of the counties or county boroughs.

The elections to the Senate are held on the principle of proportional representation with the single transferable vote. A person to be eligible for membership of the Senate must be eligible to become a member of the Lower House.

The powers of the Irish Senate in the matter of legislation are very limited. A money Bill must originate in the Lower House; and though it has to be sent to the Senate for its "recommendation", the Senate must return the Bill within 21 days. If the Bill is not returned within this period or if it is returned with a recommendation which the Lower House does not accept, the Bill is deemed to have been passed by both Houses at the expiration of 21 days. In regard to other Bills, the Senate has, in effect, a suspensory veto for a period of 90 days. It has, however, power to ask for a reference to the people if its view has the support of one-third of the members of the Lower Chamber. This does not extend to Bills amending the constitution.

(*c*) *JAPAN*—Under the Japanese Constitution of 1899, the Upper House of Japan, called the House of Peers, was composed of hereditary, nominated and elected members. Under the constitution, as revised after World War II, the House of Peers will have 300 members, instead of 404 as before. These 300 will include (1) such of the Imperial Princes as are specially designated by the Emperor, (2) 30 members chosen from among the hereditary Princes, marquises, viscounts, counts and barons, (3) a maximum number of 125 members nominated by the Emperor for "meritorious service", (4) four members of the Imperial Academy, (5) 34 corporative members nominated by the Emperor to represent agriculture, commerce and industry, and (6) 120 elected members from prefectural, urban or rural, districts, who hold office for six years, with half their number to be re-elected at three-yearly intervals.

Before World War II the House of Peers was noted to be a very conservative body and more powerful than the House of Representatives. It is to be seen whether the recent changes in its constitution will reduce the House to the position of a mere revising Chamber.

(4) ELECTED SECOND CHAMBERS

Elected Upper Houses may be considered under two heads:

(i) those in fully federalised States; and

(ii) those in unitary States.

The Upper Houses in fully federalised States, such as the U.S.A. and Australia, present the following salient features:

(*a*) the representation given to each of the component States is equal;

(*b*) the Senators are elected from and in the States individually, without any interference from the central authority;

(*c*) the term of office of the Senator is arranged in such a way as to ensure continuity of life to the Senate.

(i) Second Chambers in Federal States

(*a*) *UNITED STATES OF AMERICA*—The Senate in the U.S.A. consists of 96 members, two members from each of the 48 States. They are chosen by popular vote, one-third retiring or seeking re-election every two years. A Senator must not be less than 30 years of age, must have been a citizen of the U.S.A. for nine years and a resident of the State from which he is chosen.

The United States Senate is " the only example in the world of a Second Chamber that is incontestably more powerful than the first ".* It has complete freedom in the matter

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* Lees-Smith: *Second Chambers, p.* 154.

of initiating legislation and can amend or reject any Bill, including a money Bill, which originates in the Lower House. The consent of both the Houses is essential for the enactment of any law and there is no provision for resolving conflicts between the two Houses. In addition to its legislative functions, the consent of the Senate, by two-thirds majority, is required for the ratification of all treaties initiated by the President with foreign Powers. Its approval is also necessary for major appointments made by the President. It has further the sole power to try all impeachments.

The Vice-President of the United States of America is the President of the Senate.

(*b*) *AUSTRALIA*—The Australian Senate is composed of 36 members, six from each of the six States of the Commonwealth. Like the American Senate, the Australian Upper House embodies the federal idea. The Parliament may make laws, increasing or diminishing the number of Senators for each State, but only in such a way that the equality of representation of the various States is maintained and that none of the original States has less than six members. The Senators are chosen for a term of six years, half of the members retiring every three years. In the event of a prolonged disagreement between the two Houses of Parliament, the Governor-General may dissolve both Chambers, in which case the continuity of the existence of the Senate is lost and a wholly new Senate will have to be elected.

The electorate for the Senate and the House of Representatives is the same. But in the former case, the entire State forms the constituency, each voter having as many votes as there are seats to be filled. The qualifications of a Senator are also the same as those of a member of the House of Representatives. Accordingly, every Senator must be a natural born subject of the King or must have been for five years a naturalised subject under a law of the United Kingdom or of a State of the Commonwealth. He must be at least

21 years of age, must possess the electoral qualifications and must have resided for at least three years in Australia.

Unlike the American Senate, the functions of the Australian Senate are purely legislative. The Senate has equal powers with the House of Representatives in respect of proposed laws except that money Bills must originate only in the Lower House and cannot be amended (though they may be rejected) by the Senate. The Senate may, however, at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting by message the omission or amendment of any items or provisions therein. But if there is a deadlock between the two Houses, the Senate can force the dissolution of both the Houses even in regard to money Bills. If the deadlock continues even after the reconstituted Chambers meet, it is resolved by a joint sitting of the two Houses.

The Australian Senate has not allowed its powers to lapse by disuse and it is considered to be the most powerful Second Chamber in the British Dominions.

(ii) Second Chambers in Unitary States

FRANCE—Under its latest constitution, France has a Parliament consisting of two Houses, the National Assembly and the Council of the Republic. The Assembly is constituted on a territorial basis by universal suffrage. According to the constitution, the number of members of the Council cannot be less than 250 or more than 320. The present strength is 315. Of these, 50 are elected by the National Assembly by the method of proportional representation; 65 are allotted to Algeria and the overseas territories; and 200 are elected by groups of communes and Departments. For the election of members allotted to Departments, electoral colleges based on the canton are formed. One delegate is allowed for every 300 registered voters and the delegates are elected by universal

suffrage on the principle of proportional representation. Of the 200 seats allotted to Departments, 125 are filled directly by the electoral colleges, each Department forming a constituency for the purpose with one councillor for every 500,000 inhabitants. Where a Department is allotted only one seat, the candidate who obtains the greatest number of votes is elected without an absolute majority being necessary. Where more than one seat is allotted to a Department, seats are allotted to party lists according to the rule of the largest average. The remaining 75 seats are filled by a Central Commission in Paris from among the candidates who have not been returned in such a way as to make up for inequalities in the representation of parties resulting from the departmental elections.

Each of the Chambers is the judge of the eligibility of its members and the regularity of their election; it alone receives their resignations. The two Chambers hold their sittings simultaneously.

Article 14 of the constitution lays down, "the National Assembly alone votes the law. It cannot delegate this right." The President of the Council of Ministers and the members of the Parliament can initiate laws. The members of the Council submit their proposals through their own Council office and they have to be forwarded without debate to the office of the National Assembly. The latter will not accept any Bill which will result in any decrease of receipts or creation of expenditure.

A Bill is placed before the Council of the Republic after it has been voted in the first reading by the National Assembly. In the case of non-budget Bills it must give its opinion within two months after it has been transmitted by the Assembly. If it is a Bill relating to the budget, the period taken for consideration by the Council should not exceed that taken by the National Assembly. So also, where the Bill is of an urgent character and if the Assembly so decides, the Council cannot

have more time than that taken by the Assembly itself. A Bill or part of a Bill rejected by the Council can be passed into law by an absolute majority of the members of the Assembly.

(5) SPECIAL TYPES

(*a*) *SWITZERLAND*—In Switzerland the Upper House is called Standerat or the Council of States. It consists of two members from each of the 19 cantons and one member from each of the half-cantons into which the remaining three cantons are divided. The total membership of the House is 44. There is thus equality of representation among the various units. The constitution leaves the details regarding the election and term of office of the members to the cantonal governments themselves. At the present time the people in 21 cantons or half-cantons directly elect the members; in the four remaining cantons or half-cantons the members are elected by the cantonal legislatures. The term of office of the members varies from one to four years, the term being long in the cantons with direct election of members and short in cantons where they are elected by the legislature.

The Swiss Second Chamber has in general equal powers with the first. The two Chambers sit together as one body to elect the executive, judicial and other officials, to issue amnesties and pardons and to settle administrative disputes and conflicts of jurisdiction. For all other matters they function separately. The ministers are responsible to neither House, though they must answer questions put to them equally in both. Proposals for legislation may be initiated in either House and there is no special sanctity in regard to money Bills. Everything that comes before the Federal legislature requires the concurrence of both Houses. If a difference of opinion arises between the two Chambers their respective committees try to arrive at a compromise. Normally this is not difficult and in the absence of party government there is

no incentive for any section to adopt an uncompromising attitude.

The position of the Swiss Council of States is often considered to be anomalous. It is in the strict sense not a federal chamber, for it is not part of its business to safeguard the interests of the cantons as opposed to those of the Confederation; nor is it purely a Second Chamber, since it has no definite functions of legislative revision or veto.

(*b*) *U.S.S.R.*—The legislative power of the U.S.S.R. is exercised exclusively by the Supreme Soviet of the U.S.S.R. which consists of two Chambers, the Soviet of the Union and the Soviet of Nationalities. The Soviet of Nationalities is elected by the citizens of the U.S.S.R. according to Union and autonomous republics, autonomous regions and national areas on the basis of 25 deputies from each Union republic, 11 deputies from each autonomous republic, five deputies from each autonomous region and one deputy from each national area.

The Supreme Soviet of the U.S.S.R. is elected for a term of four years. Both Chambers of the legislature have equal rights, including the right to initiate legislation. A law is considered adopted if passed by both Chambers by a simple majority vote in each. The sessions of both Chambers begin and terminate simultaneously. If there is disagreement between the Soviet of the Union and the Soviet of Nationalities, the question is referred for settlement to a conciliation committee formed on a parity basis. If the conciliation committee fails to arrive at an agreement, or if its decision fails to satisfy one of the Chambers, the question is considered for a second time by the Chambers. Failing agreement between the Chambers, the Presidium of the Supreme Soviet of the U.S.S.R. dissolves the Supreme Soviet of the U.S.S.R. and orders a new election.

The Supreme Soviet of the U.S.S.R., at a joint sitting of both Chambers, elects the Presidium of the Supreme Soviet of the U.S.S.R.

(*c*) *WEIMAR GERMANY*—Under the Weimar Constitution of Germany there was a Reichsrat (also called the Reich Council) " formed in order to represent the German State in the legislation and administration of the Reich ". In the Reichsrat, each State had at least one vote. In the larger States one vote was assigned to each million inhabitants. Any surplus not less than the total population of the smallest State was reckoned as a full million. No State could be represented by more than two-fifths of all the votes.*

The number of votes allotted to the States could be readjusted by the Reichsrat after each general census of the population.

The States were represented in the Reichsrat by members of their governments. This was a survival of the system obtaining under the old German Empire. But unlike the old Bundersrat the Reichsrat was entirely overshadowed by the Reichstag, which was the popularly elected House.

The Reichsrat had no power to initiate legislation. The laws of the Reich were passed by the Reichstag alone, but the consent of the Reichsrat was necessary for the introduction of any Bill in the Reichstag by the government. Should the government and the Reichsrat not be in agreement, the former could nevertheless introduce the Bill; but, in doing so, it had to state the divergent view of the Reichsrat.

The Reichsrat, however, had an important and peculiar veto. It could lodge an objection with the government against a law passed by the Reichstag, within two weeks after its passage. The law was then to be reconsidered by the Reichstag, and if the two Houses could not still agree, the President of the Reich, could, within three months, order a referendum on the subject in dispute. If the President did not make use of this right, the Bill would not become law. Should the Reichstag decide by two-thirds majority against the objection raised by the Reichsrat, the President was required

* This was provided to prevent the domination of the State of Prussia.

within three months either to promulgate the law in the form approved by the Reichstag or order an appeal to the people.

The Reichsrat, under the Weimar Republic, thus occupied a peculiar position. It has been claimed that the German Parliament was not a bicameral legislature, and that the Reichstag alone constituted the German Parliament. "The Constitution of Weimar provided a one chamber system. Nor does the existence of the Reich Council (Reichsrat) disprove this fact. For the Reich Council, an Assembly of instructed representatives of the various German Lands (States) is no more an Upper Chamber similar to the United States Senate, than was the Federal Council (Bundesrat) of the Imperial Constitution." *

(*d*) *NORWAY*—The Norwegian Parliament, the Storting, consists of 150 members elected once in four years by universal adult suffrage by the method of proportional representation. Soon after it is constituted, it elects from among its own members one-fourth to constitute the Second Chamber, the Lagting; the remaining three-fourths constitute the first Chamber, the Odelsting. The membership of the Lagting remains unchanged for the whole life of the Parliament by which it is elected, except for the filling of casual vacancies which is done by special nomination. Provision is also made for joint sessions of the two Chambers, the Storting *in plenum*.

The constitution does not define clearly the purposes for which the two Chambers must meet separately or in joint session. By the provisions of the constitution and by usage, Bills involving questions of finance, concessions for works of public utility, the naturalisation of foreigners, amendments to the constitution and motions for controlling the executive are considered at the joint session and decisions are reached by a bare majority vote. All records of such diplomatic matters and of such matters relating to military command as are to be kept secret are laid "before a committee consisting

* J. H. Kraus: *Crisis of German Democracy*, *p.* 151.

of not more than nine members chosen from among the members of the Odelsting, if any member of the committee moves that the Odelsting gives its opinion on the subject, or that an action be brought in the High Court of the Realm ". The only purpose for which the two Chambers sit separately is in respect of ordinary legislation. Even here it is provided that " every Bill shall first be introduced in the Odelsting ", thus denying the Second Chamber any right to initiate Bills. For resolving deadlocks between the two Chambers provision is made for a joint session of the two Chambers at which two-thirds majority is required for the passage of the contested Bill.

The Lagting is vested with certain judicial powers. In conjunction with the Supreme Court of Justice, it constitutes the High Court of the Realm which pronounces judgment " in the first and last instance in such actions as are brought by the Odelsting against members of the Council of State (the members of the Storting) for criminal offences which they may have committed in that capacity ".

There is great diversity of opinion among scholars as to whether the Norwegian Parliament is unicameral or bicameral. Commenting on this, Lees-Smith observes, " the best summary of her (Norway's) reply to the Second Chamber problem is that she possesses a one-Chamber system with the rudiments of a two-Chamber system. This is the broad conclusion reached by the chief Norwegian Professors of Law ".* Again, Marriott observes " that the Lagting fulfils some of the functions appropriate to a Second Chamber is evident; but, on the other hand, the members of it possess no differentiating qualifications; they are merely selected from among, and by, the members of the Storting and do not sit by virtue of any independent right conferred either by the electorate, or by official nomination or by hereditary privilege. Norway, then, must still languish in the shade of ambiguity ".†

* *Second Chambers in Theory and Practice, p.* 201.

† *Mechanism of the Modern State,* Vol. I., *p.* 408.