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STUDY
IN
MONTANA LEGISLATIVE ORGANIZATION

by

Mathias A. Himsel

B.A., St. John's University, 1934

Presented in partial fulfillment of the
requirements for the degree of Mas-
ter of Arts.

Montana State University

1940

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MONTANA'S BICAMERAL LEGISLATURE

Survey of Recent Sessions

CHAPTER I

INTRODUCTION

"To inquire into the best form of government in the abstract is not a chimerical, but a highly practical employment of the scientific intellect."¹

The complexity of modern society and its attending problems has given rise to a multitude of transitions which are at the present challenging all of our existing institutions. The fabric of social stuff is essentially the same but the styles have rendered the patterns questionable if not often obsolete. This evolutionary process has effected all branches of human activity and opens for discussion such topics of a universal dimension that a mere mention of them plunges a student into a fog of bewilderment.

It is due to the lack of social adaptation, adjustment, co-operation, and integration that governments--agencies instituted to render this service when individuals fail--have been receiving the acid test of pragmatism. Unfortunately, perhaps, the results of these popular measurements are most difficult to evaluate for the scales of service are constantly changing.

Our forefathers, in the development and exploitation of a

¹ John Stuart Mill, Representative Government, (Oxford University Press, N. Y.) p. 153

native country, became solidly imbued with the ideas of individualism. Opportunities were such that personal ambitions could well be fattened on the products of labor. Each was lord and master with a heaven of his own. This philosophy of independence envelopes the entire history of our country and received no serious obstruction until in the first part of the twentieth century.

It was not until after the closing of the geographic frontier that our society came face to face with the problems of social relationships on a national scale. The Great War, and its consequent conscription, united popular action in a concerted cause. The era which followed carried with it a continuation of regimentation and regulation--the spirit of individualism and personal independence weakened and all but disappeared.

The extent of the aftermath would defy all limitation. The political, social, economic, moral, and cultural repercussions were drastically felt in the depression period of the late twenties and thirties. The general upheaval toppled the traditional heritages of the past century and from the disorder came demands heretofore unknown in the history of American government. Pleas for additional services, outright subsidies, economic and social security, all contributed to the establishment of new administrative agencies, with multifarious boards, bureaus, and commissions. The federal scheme changed from a position of a protective state into a "Social Service State." To the people, the state changed from an instrument of national expression into an agency for safeguarding

general welfare.

This transformation in the function of the state has resulted in a challenging of the adequacy of the present institutions. The rapid assumption of these new obligations has offered problems which are rocking our democratic ship from stem to stern. Dr. Paul T. Stafford, commenting upon state governments, remarks: "That this traditional pattern of the state government has become increasingly incapable of bearing the burdens which modern conditions forced the states to assume, no one can seriously deny."¹

The difficulty with which the modern state is trying to cope with these new assignments has caused students of state government to issue very critical reports concerning its organization. It is not, however, the author's intention to present an acid-etching of the entire state structure but rather an attempt shall be made to offer a statistical report on the present legislative order of Montana. The writer holds no brief for revolutionary reform nor for a critical analysis of the present order except wherein the facts apparently justify a constructive recommendation.

In order to offer a substitute program for a possible rectification of defects the author has constructed such an organization for the pleasure of any frontier thinker and for the edification of any progressive student of political science.

¹ Annals of the American Academy of Political and Social Science, (Philadelphia), Vol. 195, January 1938, p. 200

CHAPTER II

BICAMERAL ORIGIN AND PRACTICE

Perhaps Professor Maxey is correct: "The modern legislature is in a very special sense democracy's gift to the world."¹ It is true that delegated groups of people met long before the English principle of representation was established but they lacked a specific classification until the Aristotelian idea of the three-fold separation of powers was expressed in the Constitution of the United States.

The origin of the modern representative system may be found in the folkmoets of the Northmen, Saxons, Angles, and other Teutonic peoples after they had moved into England from the north during the eighth century.² It is from these witenagemots, councils of wise men, after a period of drastic evolution, that England permitted a representative assembly and thereby gained for herself the title of "mother of parliaments."³ The establishment of the first real representative parliament did not take place until during the thirteenth century.⁴

The first assembly was not a representative body in the

¹ Chester C. Maxey, The American Problem of Government, F. S. Crofts and Co., N. Y. 1937, p. 213

² Congressional Digest, Vol. 16, Aug-Sept. 1937, p. 199

³ James W. Garner, Political Science and Government, American Book Co. N. Y., 1928, p. 596

⁴ Congressional Digest, Op. Cit., p. 199

terminology of today. The movement was started by Simon de Montfort, Earl of Leicester, in 1264 when because of tax oppressions he led the Barons in an uprising against King Henry III. Once successful the Barons quarrelled among themselves over the spoils of victory. Again Simon de Montfort led the way and promised a parliamentary government if his revolt were successful. He instituted a parliament in 1265.¹

For the next score of years the plan worked with fair success. In 1295 King Edward I brought forth an advance in the representative principle. He called two knights from each shire, elected by freeholders at the shire courts; and two burgesses from the cities, elected by fellow citizens.² The clergy occupied a special place in the guidance and supervision of all assemblages with the result that the parliaments were really tricameral, representing the three estates--nobility, commons, and clergy.³

The association of the nobles with the clergy soon gave the lords an air of divinity so that by the fourteenth century the division into the two houses was complete--the House of Commons and the House of Lords.⁴ But neither group really had any legislative power; rather they served to supply suggestions and

¹ Congressional Digest, p. 199

² Ibid

³ Garner, Op. Cit., p. 596

⁴ Ibid

to ratify the decrees of the monarch. "...it did little more than to receive petitions, consider grievances, and make its wishes known to the crown, which was the legal repository of all legislative power."¹

In 1649 Oliver Cromwell busied himself with disturbing the staid English order by beheading the King, Charles I, and by abolishing the office of the King and the House of Lords. In place of the latter he ordered a council of state composed of forty-one members appointed by himself. This group was to sit as a one-house legislature.²

The problems of the state soon forced the modest "Lord Protector" to dissolve Parliament in 1653. He promptly appointed the famous "Barebones Parliament"³ of 140 members which in turn duly surrendered its powers to Cromwell. The next step for the usurper was to disband the form of parliamentary government and to put in its place an independent council, a "gospel ministry," of twenty-one members appointed by the "Protector" for life. Two years later he junked the entire set-up: "I do dissolve this Parliament...and let God be judge between you and me"⁴ and resorted to military rule.

¹ Garner, Op. Cit., p. 600

² Congressional Digest, Op. Cit., p. 199

³ J. A. R. Marriott, Second Chambers, Oxford at the Clarendon Press, 1910, p. 33

⁴ John R. Green, England, Peter Fenelon Collier, 1898, Vol. III, p. 318

What follows is academic information: Cromwell dies; his incapable son Richard resigns his inherited post; and the "Merry Monarch," Charles Stuart II, ascended to the throne in 1660. Parliament comes back into its own when the Whigs succeed in passing the Habeas Corpus Act. The restoration of the Stuarts "was something more than a restoration of the Monarchy; it was a restoration of Parliament."¹ James II, following Charles II, gives way to the Revolution of 1688 and to William of Orange and Mary.

"The Declaration of Rights was turned into a Bill of Rights by the Convention, which had now become a Parliament, and the passing of this measure in 1689 restored to the monarchy the character which it had lost under the Tudors and the Stuarts. The right of the people through its representatives to depose the King, to change the order of succession, and to set on the throne whom they would, was now established. All claim of Divine Right or hereditary right independent of the law was formally put an end to by the election of William and Mary. Since their day no English sovereign has been able to advance any claim to the crown save a claim which rested on a particular clause in a particular Act of Parliament."²

"The supreme power was gradually transferred from the Crown to the House of Commons. Step by step Parliament drew nearer to a solution of the political problem of how to make its will the administrative action without itself undertaking the task of administration."³

The Restoration marks the triumph of an aristocratic parliamentary government. However, "Only special and privilege classes were represented in the Parliament and the constitution of England did not become in any sense democratic, until the

¹ Marriott, Op. Cit., p. 63

² Green, Op. Cit., pp. 49-50, Vol. IV

³ Green, Op. Cit., p. 340, Vol. III

Reform Bill of 1832. The real control of affairs after 1688 was in the hands of Parliament whose members were chosen by a comparatively small number of electors¹."

Such was the state of affairs when our colonial ancestors gathered repeatedly to solve the riddle of self-government and to perform what Gladstone described as "----the most wonderful work ever struck off at a given time by the brain and purpose of man." During the colonial period the crown reserved, directly or indirectly, its stewardship over the colonial political activity. The War of Independence severed the maternal apron strings and the "disobedient rebels" were cast upon their own resources in establishing a form of government, "a masterpiece of the Constitution-makers²." The controversy over individualism, confederation, and federalization are too well known to require treatment in this paper.

The history of conferences and conventions with resulting compromises gave us the skeleton structure of the present organization. The English traditional two-house legislature--which has more than legislative powers--was accepted as a pattern for Congress and not without argument and not for the same reason.

The stratification in Continental society made it convenient and acceptable to permit representation upon a caste basis.

¹ F. M. Colby, Outline of General History, American Book Co. N.Y., 1900, p. 432

² Marriott, Op. Cit. p. 89, Quoting Bryce.

Sweden at one time had four houses for this purpose.¹ In America there was no such obligation to meet but the Connecticut Compromise made necessary a bicameral legislature--area to be represented in a unit in the upper house, the Senate; population to be represented proportionately in the lower chamber, the House of Representatives. This compromise Bryce describes as a "happy accident."² Marriott explains: "The American Senate...owes its existence not to the anxiety of the Convention to adopt bicameralism, but to its anxiety to avert disruption."³

The plan was adopted but not without several misgivings. Benjamin Franklin "compared a double-chambered legislative assembly to a cart with a horse hitched to each end, both pulling in the opposite direction."⁴ Washington explained the need for these double-barrelled councils by illustrating the eup and saucer etiquette, de rigueur in those days, of the cooling off process--a principle well learned in the Continental Congresses. "None of the framers of the Constitution favored retaining the unicameral system."⁵ Alexander Hamilton writing in the Federalist declared the bicameral system "doubles the security of the people

¹ Marriott, Op. Cit., p. 3

² Ibid, p. 89

³ Garner, Op. Cit., p. 601

⁴ Ibid, p. 602

⁵ Garner, Op. Cit., p. 602

by requiring the concurrence of two distinct bodies in schemes of usurpation or perfidy, where the ambition or corruption of one would otherwise be sufficient."¹

And thus it was, through "a series of fortunate accidents"² and a faithful allegiance to their English heritage of political science, that our colonial fathers provided a constitutional government which though "...native; bears in every limb and every feature traces of its parentage"³--the English parliamentary form. That these learned gentlemen devised a system of two-house legislation is a self-evident fact and one with which the author picks no quarrel. The development of social circumstances with its increased demand for an extension of federal services would cause even an extreme liberal to join with Luce in that a "Structural change of the national government in our time being practically out of the question."⁴

"It thus seems evident that the representative system in America had its origin in the peculiar circumstances in which the early colonies were placed."⁵

¹ Maxey, Op. Cit., p. 216

² Marriott, Op. Cit., p. 6

³ Ibid., p. 91

⁴ Robert Luce, Congress, Harvard Univ. Press, Cambridge, 1926, p. 139

⁵ W. C. Morey, Ann. Amer. Acad. Pol. So. So., Vol. IV, 1895, p. 210

CHAPTER III

STATE GOVERNMENTS

When the states ratified the Constitution and when new states were admitted to the Union they had only to guarantee "a republican form of government"¹ with no restrictions upon the structure of the government. "The organization of the national legislature in two houses in 1787 has helped to maintain the two-chambered legislative organization in the states; although in the state legislatures there has not been the definite reason for organization in two houses which exists in the federal system."² By the time of the Revolution all of the states had bicameral legislatures with the exception of Pennsylvania (1776-1790), Georgia (1777-1789), and Vermont (1777-1836).³ "In the states later admitted to the Union, the plan was followed as a result of more or less conscious imitation of the older states, or of the national Congress, but with little of the justification which existed in earlier cases; in part it has been perpetuated through unquestioning adherence to the ancient formula of divided powers and checks and balances."⁴

Whatever the reason for the accepted structure, the bicameral system became part and parcel of the system of representative

¹ United States Constitution, Art. IV. Section 4

² Walter F. Dodd, State Government, Century Co. N. Y. 1928, p. 141

³ Ibid. p. 141

⁴ Ogg & Ray, Introduction to American Government, Century Co. N. Y. 1928, p. 674

government in the United States. Of recent years or "within the present century there have appeared a disposition to question the efficacy of having two houses in the state legislature¹." Several movements have been made in the direction of a single-house legislature--a movement which seems to be popular with the centralization trend and with the popular prayer for economy in government and its administration. Nebraska was the first of the states to give the idea root in 1934 but the trend was felt in Oregon in 1912, Oklahoma in 1914, Arizona in 1916, and in Kansas in 1913.² The first in over a hundred years, the Nebraska "Senate" produced an awakening in 21 states where some 41 similar measures were introduced during the 1937 sessions.³

This tendency has not been limited to the United States for some sixty nations of the world conduct their governments with unicameral legislatures and eight of the nine provinces of Canada, Quebec being the exception, employ the one-chambered representative government.⁴ Since the Great War more than one-half of the modern states of Europe have established single-house legislatures and as recently as 1928 Nova Scotia dispensed with her second chamber.⁵

¹ Bates & Field, State Government, Harper & Bros, N. Y., 1928, p. 138

² Dodd, Op. Cit. p. 142

³ "Unicameralism In Practise", The Debaters' Digest, East Orange, N. J., Vol. II, No. 7, October 1937, p. 46

⁴ Americana, Encyclopedia, Americana Corp. Chicago, 1936, Vol. 17, p. 217

⁵ "Shall We Adopt The One-House Legislature", The Debaters' Digest, East Orange, N. J., Vol. II, No. 6, Sept. 1937, p. 27

Even in "Mother England" the Parliament Act of 1911 curtailed the upper house until "The British House of Lords has been finally so shorn of its power as practically to leave a unicameral legislature for the British Empire."¹

The experience of the one-house legislature in the United States is not without encouragement. In Vermont, the last to turn to bicameralism (1836), D. B. Carrol² found that its membership was too large and unstable; that the town basis did not grant proper representation; and that the body had a suspensory veto power which was abused. The real cause for the abandonment of the single chamber, by a questionable vote of 116 to 113, was the Executive Council, or the Council of Censors, which with the Governor fought the enactments of the legislature.³ Apparently, the defect lay in the placement of powers and duties and not with the structure of the legislature. From the point of economic consideration Carrol found that the first ten years of the bicameral system in Vermont were 51.2% and 35.9% higher, the public and the private laws respectively, than the last ten years of the unicameral system.⁴

"The troubled political conditions in Pennsylvania from

¹ J. D. Barnett, "Bicameral System In State Legislation", Am. Pol. Sc. Rev., Vol. 9, 1915, p. 450

² D. B. Carrol, Unicameral Legislature of Vermont, Vermont Historical Society Proceedings, 1933, p. 65

³ Ibid. p. 70

⁴ Ibid. p. 72

1776 to 1790 did not encourage other states to try the experiment of a single chamber."¹

Such comparisons may be questioned for the services and the functions of government change very drastically over such a period of years. The new plan in Nebraska, however, reduced the legislative costs from \$219,054.89 in 1935 to \$166,959.30 in 1937.² This savings was effected during a time when conditions and services could hardly account for the difference.

"The experience with unicameral legislative bodies in American states came at an early period in our governmental experience and has little value in its bearing upon the present proposal to adopt single-chambered legislatures."³

Many students of political science find a stimulation in the encouragement offered by Robert Luce in his writings of 1926:

"It may be that only radical alteration of our present representative system can meet the new situation. The suggestion does not impeach the wisdom of the men who framed our Constitution. For the conditions of the time that instrument was a miracle of sagacity. The conditions have changed."⁴

Victor J. West writing of "Our Legislative Mills" in 1923 was not so optimistic: "---he would be a bold prophet who would

¹ Dodd, Op. Cit. p. 141

² L. E. Aylsworth, "Nebraska's Unicameral Legislature Saves Money for Taxpayers", National Municipal Review, Vol. 27, no. 10 October 1938, p. 492

³ Dodd, Op. Cit. p. 146

⁴ Luce, Op. Cit. pp. 137-138

predict the establishment in its place of a unicameral body within the next generation."¹ But within the course of little more than a decade Nebraska actually established such a system--a system based well upon Samuel Orth's judgment of 1904: "Our theory of legislation by representation is not wrong, but our practice of the theory is antiquated."² In the by and large "...there have been increasing indications of a consciousness that the bicameral legislature has little or no place in a genuinely democratic and effective scheme of state government."³ And along with this trend it is only fitting and proper that a strict inventory be taken of our legislative stock; if it is outmoded, then an adjustment is surely in order.

¹Victor J. West, "Our Legislative Mills," National Municipal Review, National Mun. League, Vol. 12, July 1923, p. 376

²Samuel P. Orth, "Our State Legislatures," Atlantic Monthly Vol. 94, 1904, p. 739

³Ogg & Ray, Op. Cit., p. 680

CHAPTER IV

ARGUMENTS FAVORING BICAMERALISM

What then are the arguments, other than tradition, which have given support to the bicameral principle? Professor Garner concisely lists the most commonly accepted reasons for maintaining the bifurcated system:

Bicameralism offers:

- 1) a check upon hasty legislation
- 2) a guarantee against tyranny
- 3) a convenient means of representation

By considering each of these in brief it would seem possible to draw some fair conclusions. A few general surveys have been made in the individual states but the problem has not been worked on in a national scale. Hence, a summary of published practices will shed light on the issues at hand.

Taking the arguments in order, bicameralism provides a check upon hasty legislation:

D. L. Colvin¹ made a survey of the 1910 New York legislature and reports that of the 1036 bills passed by the Senate, only 69 were rejected by the lower chamber; and of the 1120 bills passed by the lower house, only 161 were rejected by the Senate. The revelation is also made that of the 967 bills which were passed

¹ Ogg & Ray, Op. Cit. reporting on Colvin's study, p. 676

by both houses, 505 went unamended by the second body but that 58 bills were recalled by the house in which they originated.

In Illinois¹ a survey shows that in 1919 the lower house nullified twenty-five per cent of the bills which were introduced into the Senate and that the Senate killed only nine per cent of the bills coming to it. A later study in 1921 found the percentages to be forty-five and eleven, respectively.

A report of the Wisconsin² legislative record in 1919 reveals that each house defeated about thirteen per cent of the bills coming from the other branch. Strangely enough a 1921 report gave both chambers a veto index of seventeen per cent.

Dorothy Schaffter³ reports that, in a study over a period of fifteen years, the Iowa Senate defeated approximately forty-nine per cent of its own bills and that the House took the same action upon about fifty-two per cent of its own measures. She further indicates that the Senate defeated about thirteen per cent of all the bills which were introduced into the House and that the House retaliated with negative action on about the same percentage. She also found that about thirty-seven per cent of the Senate bills became law while about thirty-four per cent of the House bills were finally entered in the statute books.

¹ Ogg & Ray, Op. Cit. reporting on Colvin's study, p. 676

² Ogg & Ray, Op. Cit. 676

³ Dorothy Schaffter, The Bicameral System in Practice, Doctor's Thesis, State Historical Society, Iowa City, 1928

Miss Schaffter in her Doctor's thesis on "The Bicameral System in Practice" draws the following conclusions after her intensive study of the Iowa legislature, supplemented by reports on bicameral operations in New York, Wisconsin, Illinois, New Mexico, and California:

Conclusions: "The Bicameral System in Practice"¹

1. Each house defeated more than one-seventh of all the bills introduced in the other house.
2. Each house defeated less than one-third of the bills which were passed by the chamber in which they originated and sent to the other house for consideration.
3. Each chamber defeated about one-half of all the bills which its own members initiated--a fifty per cent unicameral check.
4. Each house passed more than one-third of all the bills introduced in the other house.
5. Each house passed seven-tenths of all bills which were passed by the chamber in which they originated and sent to the other chamber for consideration.
6. About one-fourth of all bills introduced in the two houses and passed by the house in which they were originated were passed by the second chamber in the same form in which they were received from the chamber of origin, indicating no positive check by the second chamber.
7. About nine per cent of all bills introduced in the two houses and passed by the house in which they were originated were passed by the second house following amendment by the second chamber, indicating a definite constructive check on the legislation of the first chamber.
8. Of all the bills passed by one house and received in the second house, more than one-fourth

(continued)

¹Dorothy Schaffter, Op. Cit. pp. 95-97

were defeated, less than one-sixth were amended and passed, and more than one-half were passed without change. This indicates that almost one-half of all bills received from the first house were subjected to action definitely bicameral in nature, and it is quite possible that many of the bills passed without alteration were actually considered with care by the second chamber.

9. The bicameral principle of revision and check was actually operative in the case of slightly less than one-fourth of all the bills introduced in the Iowa General Assembly (sessions 38 to 42 inclusive) in so far as it is possible to measure revision and check by the number of amended and defeated bills.

10. Of all the bills introduced in the Senate and in the House, about one-third contain new subject matter and two-thirds propose changes in the existing law.

11. Throughout the period under consideration, the Senate defeated and amended on the average about five per cent more bills sent to it from the other chamber than did the House of Representatives. The Senate was to that extent more critical as a second chamber.

12. In the case of both the Senate and the House, almost one-half of the bills passed and sent to the second chamber for consideration had been previously amended by the house in which they originated. This would seem to indicate that neither house takes advantage of the bicameral opportunity to shift responsibility.¹

13. Both the Senate and the House showed a marked tendency to amend the same bills, and to defeat amended, rather than unamended, bills received from the other house, indicating considerable unanimity of opinion as to the desirability of proposed statutes.

14. Both in the amendment of its own bills and of those sent to it by the other house, the Senate

¹ Miss Schaffter's report of Iowa must be viewed with an understanding that Iowa is predominately a one-party state and that political party strategy may not be such a factor in gumming the actions of the legislature.

14. continued. enacted more amendments of a technical nature, and the House enacted more amendments changing the content of the Bill. This practice in Iowa illustrates the possibility of different types of consideration being applied to proposed measures in a bicameral system.

With few exceptions, the conclusion of Professors Ogg and Ray, seem most applicable: "At the very least, therefore, it may be said that these figures constitute no very impressive argument for the retention of the bicameral system on the ground that one chamber exercises a wholesome check upon the legislative output of the other."¹

The exercise of the executive veto power, granted in all the states except North Carolina,² has proved to be more of a check than the different deliberations of the chambers.

"Frequently measures pass one house which are never expected to become law and probably would not pass if there was a serious likelihood that they would reach the statute books. They are passed with the expectation that they will be defeated in the other house or vetoed by the governor."³

In New York (1910) 240 measures were vetoed by the governor and city authorities,⁴ or in other words twenty-five per cent were nullified after they had passed both houses.⁵ In 1911, in the same state, 252 vetoes were effected by executive authorities.⁵

¹ Ogg & Ray, Op. Cit., pp. 676-677

² Bates and Field, Op. Cit., p. 164

³ Dorothy Schaffter, Op. Cit., p. 73

⁴ "Acts affecting particular cities may, under the New York constitution, be accepted or rejected by the city authorities." Ogg & Ray, Op. Cit., ff. p. 676

⁵ Dorothy Schaffter, Op. Cit., p. 74

The Illinois executive (1919-1921) vetoed about five per cent of all the bills introduced.¹ Wisconsin had between six and seven per cent for the same period.² The governor of New Mexico (1925 session) vetoed four per cent of all the bills introduced or equal to about ten per cent of all the bills passed by both houses.³ California presents an extreme case with the executive vetoing from between fifteen and fifty per cent of the enactments.⁴ At the other extreme, in conservative Iowa, the governors vetoed only 57 bills in the entire history of the state before 1917.⁵

During 1923 the governors vetoed 1100 bills and only 104 triumphed over the executive opposition.⁶ Even in the now single-house "Senate" of Nebraska, in its first session (1937), the legislators found the governor acting as the check replacing a second chamber when he vetoed eighteen bills.⁷

It is, therefore, not without reason that one may pause and ponder with Daniel Colvin in his conclusion that "The check of

¹ Dorothy Schaffter, Op. Cit. p. 102

² Ibid. p. 102

³ Ibid. p. 102

⁴ Ibid. p. 103 (Includes items or parts of items of budget)

⁵ Ibid. p. 74

⁶ William Beard, Government and Technology, Macmillan Co. N. Y., 1934, p. 126

⁷ Congressional Digest, Op. Cit. p. 203

the second house does not seem very effective when one fourth of the measures passed by the legislature are of such a nature as to need checking by the executive."¹ Also "A much larger number of bills were defeated by the executive veto than through the checking device of the bicameral system." And that "...it can scarcely be claimed, therefore, that the bicameral system provides an effective check on hasty, ill-considered, and careless legislation."²

Bicameralism as a guarantee against tyranny: At the time of its conception one of the chief objectives of the two-house system was to safeguard the financial interests of the "commoners" and another, rather interrelated with the first, was to maintain a protection against political tyranny. Again the evolution of the party system has removed the real dangers of any personal tyranny but the scepter of power is now associated with an office and the office is likely to be constructed of partisan planks. Consequently, the tyranny to be warded off is not so much that of persons as that of the parties. The development of the popular power of initiative, in thirteen states; referendum, in all states except Delaware; and recall, in twelve states have offered modern guarantees against the despotism so well known to the Constitution makers.

Bicameralism as a convenient means of representation: As

¹Dorothy Schaffter, Op. Cit., quoting Colvin, p. 74

²Garner, Op. Cit., p. 610

explained on page eight, the bicameral system in the United States was popularized on the basis of representation. "As a general rule," writes William Morey, "the division grew out of the distinction already existing in the assemblies between the magistrates (i.e. the governor and assistants) and the deputies."¹ Carried into the Constitutional Convention the double chamber was the result of the Connecticut Compromise and thereby established the pattern for state representative legislatures.

Arthur Holcombe declared that "...the bicameral system facilitates the maintenance of the balance of power between city and county."² In some instances this assumption may seem valid but upon a close scrutiny, especially in Montana, New Jersey, Maryland, and South Carolina--where the Senators are representatives of a county--the cities suffer a lack of representation in the higher house.³

Quite true, as explained by Chief Justice Spencer, "The Senate was intended as the guardian of our property generally and especially of the landed interests, the yeomanry of the State."⁴ The opportunities for advancement for anyone with sufficient

¹ W. C. Morey, Op. Cit. p. 215

² Arthur N. Holcombe, State Government in the United States, Macmillan Co., 1920, p. 248

³ Bates and Field, Op. Cit., p. 139

⁴ W. F. Willoughby, The Government of Modern States, Appleton-Century Co. N. Y., 1936, p. 338

ambition soon destroyed most of the vestiges of whatever aristocracy may have existed in the early nineteenth century. "The idea that a bicameral legislature is necessary in order that different social and economic groups in the state may be represented no longer has any substantial foundation."¹

The most glaring defect in the representative order has resulted from the movement of industrialization and the growth of cities. While the country was largely agricultural the state membership was reasonably fair, but now: "The residents of our cities, who comprise more than half of the population of the country, are grossly under-represented both in Congress and the state Legislatures. This may explain why the performances of these legislative bodies are so frequently out of line with public opinion."²

¹ Ogg & Ray, Op. Cit. p. 675

² Maxey, Op. Cit. p. 225

CHAPTER V

OBJECTIONS TO BICAMERALISM

It is well in offering criticisms of any legislative structure not to lose sight of the many "contributions and industrial reforms which state and Federal legislative bodies have made during the last century."¹ But in order to be fair in an evaluation of an existing scheme it is necessary to focus the search light of criticism wherever defects appear to exist. If objections are found, then intelligence demands that adjustments and alterations be made.

In the matter at hand, many of the arguments for bicameralism appear to weaken in the surveys of actual operations. The common disadvantages and defects of such a system are as follows:

In bicameralism there is:

- 1) a diffusion of legislative responsibility
- 2) an apparent extravagance
- 3) an obstruction, delay and a preferential representation

In considering the lack of responsibility: The size of the lower houses varies from Delaware with 35 members to New Hampshire with 419. The average house has from 100 to 150 members. The Senates are smaller; in Arizona and Delaware the upper chamber has 17 members, in Minnesota the number is 67. The average memberships

¹ Haines and Haines, Op. Cit., p. 332

for the Senates are about 35.¹

No great amount of logic need be employed to reach the conclusion that the membership is too large for a responsible representation. It is entirely too convenient for each member to delegate his individual responsibility to the chamber as a whole thereby rendering himself innocent of perhaps otherwise indicting charges.

"Our legislatures have been needlessly large and unwieldy in an effort to give them a broadly representative basis, it being mistakenly supposed that there is a direct connection between the size of the body and its representative character. If the people are sufficiently represented in the lower branch of Congress under a system which gives but one representative to more than two hundred thousand inhabitants, it would seem that our state legislatures would not suffer in their representative character by a considerable reduction in size;..."²

Along with a large membership and a general irresponsibility of individuals, the effectiveness of lobbying and partisan activities have increased until "This extremely variable factor of party control and leadership may have much to do with the effectiveness of the bicameral system."³ Dodd Declares: "The lobby is almost as important in legislation as the two houses and the governor."⁴

¹ Maxey, Op. Cit., p. 231

² Ogg & Ray, Op. Cit., p. 680

³ Schaffter, Op. Cit., p. 102

⁴ Dodd, Op. Cit., p. 200

It is hardly necessary to expose abuses and corruptions on this score for their existence is a regrettable part of common knowledge. Suffice it, therefore, that the size of the legislatures, as a whole, is larger than necessary for representing their constituents and that this size is a cloak under which responsibilities may readily be shed.

The element of extravagance: This may be closely related to the size factor. The quarters, supplies, clerical aids, per diem costs, and mileage are only a few of the items affected. The financial benefits accruing to the representatives are not sufficient to arouse public interest but taken collectively the expenses of the total are unduly high. Nebraska¹ found that her first unicameral legislature reduced operating costs \$52,938.63 or 24.17 per cent. Such a report is not in keeping with the conduct of the bicameral legislatures for the same period of time when government costs have been increasing in nearly all directions.

What has been expressed in the preceding pages will offer support to the contention that the bifurcated assemblies offer many obstructions, and delays in the legislative currents. Just how often these are beneficial and how often detrimental only subjective opinions can reveal. Many of the obstructions, if such they may be called, may be the instruments of special privilege exercised by an organized minority. The development of pressure groups and their activities upon the uninformed or the indifferent

¹ L. E. Aylsworth, "Unicameral Saves Money", Op. Cit. p. 492

members have produced marked effects in the majority of the assemblages.

Another channel through which modern politics flows is the committee system. The committees vary greatly in number and in size. The 1921 Illinois Senate had forty-three standing committees with only fifty-one members in the senate. California usually has forty senate committees and its senate membership is the same number. These and kindred illustrations prompted Professor Dodd to remark that "In most state legislative bodies there are too many committees, and the committees are too large."¹ He continues, in explanation: "It has been possible to maintain a cumbersome committee system in most state legislatures only because of the fact that many committees are useless and unnecessary."²

It is in the committee system that party strategy receives its major play. The placement upon committees and the balance of power therein is an advantageous reward for party popularity. Not all states grant the committee appointments without some check but with the majority party in power the checks are merely a formality. "The powers of committees vary materially under the rules of the different states, but in general committees have large powers, and are able to defeat bills referred to them, not

¹ Dodd, Op. Cit. p. 182

² Ibid. P. 182

merely by means of adverse reports, but by failure to make any report whatever."¹

This brief review of the origin and early practice of bicameralism along with a condensed survey of state adaptation leads to the consideration of a specific situation. Abbreviated arguments pro and con have been cited in order to establish a common premise upon which to measure the operation efficiency and adequacy of the Montana legislature.

The following survey is interspersed with comparisons of a general nature in other states, however, concentration has been effected upon the last session, 1939, supplemented with practices involving the recent sessions. At the outset, and perhaps not without significance, such investigations have been conducted in relatively few states of the nation--or if studies have been made they are conspicuous by a lack of publication.

The material disclosed herein must be weighed with care for it is too brief to permit many general and conclusive judgments. The revelations, however, may serve as guide posts indicating generalizations worthy of further study. In certain paths and byways the need for reform may readily be apparent but let the reader proceed cautiously lest he be caught in the entangling briars of untried ways.

¹ Dodd, Op. Cit., p. 181

"For forms of government let fools contest
That which is best administered is best."¹

¹ C. C. Maxey, Quoting Alexander Pope, Op. Cit., p. 408

CHAPTER VI
MONTANA LEGISLATIVE RECORD

Introduction

The information in the succeeding chapters treating with the record of the Montana legislature, its personnel, and a digest of expert opinion is the result of an intensive study upon legislative records. The research was conducted, in part, by the author in the Secretary of State's office where courteous cooperation made possible access to the original records and the results were verified by the state office.

The data on the personnel and expert opinion of the 1939 legislature, which includes many legislators in previous sessions, were obtained through the medium of a questionnaire directed to the legislators at their official residence. The response was indeed generous in that 62 out of 102 or 60 per cent of the House members answered the questionnaire. Thirty-two Senators or 57 per cent of the 56 responded to the questions, and like the representatives, they made valuable additional comments upon legislative operation.

Of the House members who responded 35 were Democrats and 27 Republicans. The Senate reports were sent in by 12 Democrats and 20 Republicans.

The percentage of replies was encouraging but was not achieved without determined effort. Three separate letters dated on November, 10, 1939, March 4, 1940, and April 29, 1940 were

addressed to the legislators who had not responded. Each appeal was accompanied by an additional questionnaire blank and included a self-addressed stamped envelope.

The failure to respond was explained by the more reticent legislators upon the grounds that they were cautious about expressing their opinions and others admitted that they were hesitant because they "just didn't know."

When asked permission whether or not their replies might be quoted with an identification, 45 of the House members replied "Yes", 30 "No", and two made no reply. In the Senate 22 granted permission, eight wrote "No", and two failed to declare themselves.

Supplementary letters from interested legislators offered much additional information which made possible certain generalizations not clearly found in the catechetical questionnaire. The questions asked seemed to perplex many lawmakers for they did not reply with any degree of consistency within their own paper. The results are enlightening and interesting and may prove to be of value to progressive students.

MONTANA'S LEGISLATIVE RECORD

Montana's legislative record of the past five years including three sessions, from 1935 to 1939 inclusive, does not differ greatly from the published experiences of other states. Perhaps because of her size, diversified interests, rural-urban complex, and special influential groups the record is somewhat an extension of the trends previously reported.

The Montana legislature is composed of 102 Representatives and 56 Senators. The House membership is determined upon the county population and the Senate has one member from each county. (See chart I and II, on the following pages.) With an official population (1930) of 531,000 persons, scattered over an area of 146,997 square miles, the average legislator is one for every 3,300 persons. If one-third of these are children, then the state solons represent, individually, only 2,200 adults. When first organized the Senate was composed of 16 members and the House numbered 55 representatives.

The State Constitution provides for the qualifications: "No person shall be a representative who shall not have attained the age of twenty-one years, or a Senator who shall not have attained the age of twenty-four years, and who shall not be a citizen of the United States, and who shall not (for at least twelve months next preceding his election) have resided within the county or district in which he shall be elected."¹

¹ Montana Constitution, Article V, Section 3

Representation, area, and population (Montana census 1930)

| County | Area | Pop. | Density | No. of Reps. |
|---------------|--------------|--------|---------|--------------|
| Beaverhead | 5657 sq. mi. | 6657 | 1.2 | 1 |
| Big Horn | 4966 | 8343 | 1.7 | 1 |
| Blaine | 4229 | 9006 | 2.1 | 2 |
| Broadwater | 1206 | 2738 | 2.3 | 1 |
| Carbon | 2060 | 12,571 | 6.1 | 3 |
| Carter | 5575 | 5375 | 1.0 | 1 |
| Cascade | 2708 | 41,143 | 15.2 | 6 |
| Chouteau | 3973 | 8636 | 2.2 | 2 |
| Custer | 3741 | 11,342 | 3.0 | 2 |
| Daniels | 1447 | 5653 | 3.9 | 1 |
| Dawson | 2359 | 9861 | 4.2 | 2 |
| Deer Lodge | 745 | 16,293 | 21.9 | 3 |
| Fallon | 1608 | 4600 | 3.8 | 1 |
| Fergus | 4522 | 16,531 | 3.6 | 4 |
| Fleethad | 5173 | 19,200 | 3.7 | 4 |
| Gallatin | 2465 | 16,124 | 6.5 | 3 |
| Garfield | 4657 | 4252 | .9 | 1 |
| Glacier | 2981 | 5297 | 1.8 | 1 |
| Golden Valley | 1216 | 2126 | 1.7 | 1 |
| Granite | 1717 | 3023 | 1.8 | 1 |
| Hill | 2892 | 13,778 | 4.8 | 2 |
| Jefferson | 1632 | 4133 | 2.5 | 1 |
| Judith Basin | 1860 | 5239 | 2.8 | 1 |
| Lake | 1506 | 9541 | 6.3 | 1 |
| Lewis & Clark | 3477 | 18,224 | 5.3 | 3 |
| Liberty | 1451 | 2198 | 1.5 | 1 |
| Lincoln | 3624 | 7089 | 2.0 | 1 |
| McCone | 2645 | 4790 | 1.8 | 1 |
| Madison | 5622 | 1323 | 1.7 | 1 |
| Meagher | 2369 | 2272 | 1.0 | 1 |
| Mineral | 1230 | 1626 | 1.3 | 1 |
| Missoula | 2605 | 24,021 | 8.4 | 4 |
| Musselshell | 1817 | 7342 | 4.0 | 1 |
| Nark | 2626 | 10,922 | 4.2 | 2 |
| Petroleum | 1667 | 2043 | 1.2 | 1 |
| Phillips | 5178 | 8208 | 1.6 | 2 |
| Pondera | 1656 | 6984 | 4.2 | 1 |
| Powder River | 4337 | 3909 | 1.2 | 1 |
| Powell | 2329 | 6202 | 2.7 | 1 |
| Prairie | 1742 | 3941 | 2.3 | 1 |
| Ravalli | 2391 | 10,315 | 4.3 | 2 |
| Richland | 2108 | 9653 | 4.6 | 1 |
| Roosevelt | 2353 | 10,672 | 4.5 | 2 |
| Rosebud | 4995 | 7347 | 1.5 | 1 |
| Sanders | 2861 | 5698 | 2.0 | 1 |
| Sheridan | 1675 | 9669 | 5.9 | 2 |
| Silver Bow | 726 | 56,969 | 78.6 | 10 |
| Stillwater | 1777 | 6253 | 3.5 | 1 |
| Sweet Grass | 1859 | 3944 | 2.1 | 1 |
| Teton | 2284 | 6066 | 2.7 | 1 |
| Toole | 1956 | 6714 | 3.4 | 1 |
| Treasure | 960 | 1661 | 1.7 | 1 |
| Valley | 5011 | 11,181 | 2.2 | 2 |
| Wheatland | 1411 | 3751 | 2.7 | 1 |
| Wibaux | 803 | 2767 | 3.4 | 1 |
| Yellowstone | 2611 | 30,786 | 11.8 | 6 |
| | | | total | 102 |

A review of the legislative personnel is interesting. In 1937 the Senate had a membership of 21 farmers, 8 lawyers, 6 ranchers, and others divided into memberships ranging from 2 dentists to a laundryman. In the same year the House enrolled 27 farmers, 12 ranchers, 9 lawyers, and 8 merchants, with the others split in vocations from a music teacher to a "Jack-of-all-trades."¹

In 1939 the Senate roster included 16 farmers, 10 lawyers, 8 ranchers, 7 merchants, 4 men of medicine, and others of the trades and crafts professions. The House membership was made up of 21 ranchers, 17 farmers, 8 lawyers, 7 miners, 3 bankers with the others well scattered in a wide range of employment.

Many legislators have listed themselves in double occupations, the majority of whom claim a close relationship to some form of agricultural pursuit. Also, the definition of the term "ranch" makes possible a high degree of flexibility in classification.

The political party affiliation of the past several years has given the Democratic group a majority and which placed the legislature in the same political party as the state executive. In 1937 the Senate was formed of 29 Democrats and 27 Republicans while the House included 81 Democrats and 21 Republicans.

In 1939 the political line-up likewise favored the administration party; the Senate consisted of 31 Democrats and

¹ Rules of the Senate and the House (1937)

25 Republicans, while the House membership numbered 58 Democrats and 44 Republicans.

Perhaps political creed is of secondary importance in the election of legislators, however, it may have a marked effect in the organization and the committee appointments which result. With a unity of power in both houses it would appear likely that harmonious conduct would be experienced in the legislative processes. But attendance of legislative operation as it takes place on the floor of the houses would lead one to believe that once the assembly is organized the complexion of political affiliation loses its distinctiveness.

Since the legislators are elected from counties it seems that most of them must rely more upon their personal prestige than upon party membership to win an election. National partisan issues do not figure greatly in the selection of local representatives.

The questionnaire method was employed to determine the formal educational credentials of the 1939 legislators. Sixty-two or 60 per cent of the House members responded and the following tabulation reveals the results:

| | | |
|----------------|-----------------------------|----|
| House Members: | College graduates..... | 20 |
| | Attended college..... | 13 |
| | High School graduates..... | 13 |
| | Attended High School..... | 10 |
| | Attended common school..... | 5 |
| | No reply..... | 1 |
| | total | 62 |

Thirty-two or 57 per cent of the Senators responded with the following results concerning formal educational preparation:

| | | |
|-----------------|-----------------------------|-----------|
| Senate Members: | College graduates..... | 17 |
| | Attended college..... | 6 |
| | High School graduates..... | 3 |
| | Attended High School..... | 3 |
| | Attended common school..... | 5 |
| | total | <u>32</u> |

It is difficult to determine the formal educational preparation of the legislators for the reason that attendance at business schools, normals, and short-term agricultural courses given at some colleges makes possible claims which cannot be readily substantiated. On a percentage basis Montana would appear to be on a par with most of her sister states in this respect. A survey in Pennsylvania indicates that the 1936 legislature of that state had approximately 58 per cent of her legislators with college training.¹

The Montana percentage is about 56. The new Nebraska one-house legislature is composed of over one-third or 33 1/3 per cent college graduates with 17 members of the 48 claiming some college training.² But in this instance, also, no accurate description is given of "college" work and hence it is most difficult to make proper comparisons. Courses of one kind or another of

¹ W. T. R. Fox, "Legislative Personnel in Pennsylvania", The Annals of The American Academy of Political and Social Science, Vol. 196, January 1938, p. 37

² L. E. Aylsworth, "Nebraska Nonpartisan Unicameral Legislature", National Municipal Review, Vol. XXVI, No. 2, Feb. 1937, p. 79

any special nature are often called "college" courses and those who take them find a certain pride in speaking of their collegiate experiences.

There is an active feeling among legislators and perhaps with considerable justification that formal training is no prerequisite for successful legislative service but each aspirant for re-election places no small amount of emphasis upon the benefits of previous legislative experience. The questionnaire offers an interesting supply of data upon this matter as it existed in the 1939 legislature. The report does not include the session service in the 1939 assembly.

| | | |
|----------------|----------------------------------|-----------|
| House Members: | No previous experience..... | 27 |
| | One session experience..... | 14 |
| | Two session experience..... | 10 |
| | Three session experience..... | 7 |
| | Four session experience..... | 3 |
| | Over ten session experience..... | 1 |
| | total | <u>62</u> |

| | | |
|-----------------|----------------------------------|-----------|
| Senate Members: | No previous experience..... | 4 |
| | One session experience..... | 7 |
| | Two session experience..... | 4 |
| | Three session experience..... | 5 |
| | Four session experience..... | 2 |
| | Five session experience..... | 4 |
| | Six session experience..... | 3 |
| | Seven session experience..... | 1 |
| | Ten session experience..... | 1 |
| | Over ten session experience..... | 1 |
| | total | <u>32</u> |

It is readily apparent that the Senate members had more legislative experience but this must be viewed with an understanding

that they are elected for four years while the House members are elected each two years. Approximately 43 per cent of the House members reported no previous experience. Another explanation for the higher experience in the upper house may be due to the practice of elevating House members to the Senatorial posts when opportunities permit.

A point worthy of passing mention is the lack of tenure for legislators. The House is deficient in having a membership of well seasoned legislators. Of those reporting 51 have served in only two sessions or less before 1939 and this number is just 50 per cent of the total membership with 27 having no previous legislative experience. The Senate shows a better trend but hardly indicative enough to lead to any happy career in the legislative chambers.

On the basis of this study it seems logical to conclude, however, that Montana solons compare favorably in legislative experience with those in other states. In 1937 more than 58 per cent of all the state lawmakers had had legislative experience before the last session in which they participated.¹

In the 1939 Montana assembly no women were included in the Senate listings and only three were given a membership in the House.

The average age for House members of those answering the questionnaire was 50 years while the Senate members who reported

¹ H. W. Toll, "Today's Legislatures", The Annals of The American Academy of Political and Social Science, Vol. 195, January 1938, p. 7

averaged 53 years. This seems to be quite in line with the conclusions drawn by Dorothy Schaffter after her extensive survey of the matter in several states: "...there seems to be no way of considering the statistics given to prove that the Senate and the House are essentially different in their make-up, in so far as age of the members is concerned."¹

¹ Dorothy Schaffter, Op. Cit., p. 67

LEGISLATIVE OPERATION

The cost of the Montana legislative sessions has increased quite consistently from \$177,518 in 1921 to a peak of \$207,290 in 1939. (See chart III on the following page). This increase has not been the result of an enlarged membership nor due to an increase in the remuneration for legislative services but rather due to an expansion of legislative surveys necessary to satisfy the demands of the constituents.

Montana is not alone in the increased expenditure for legislative purposes and her regular costs are not apparently out of line with the legislatures of other states. (See chart IV on the succeeding page.) Henry W. Toll, writing on legislative trends, declares: "In recognition of the increasingly intricate and technical nature of problems upon which legislatures are required to act, more machinery is being installed to provide accurate information for a number of state assemblies."¹

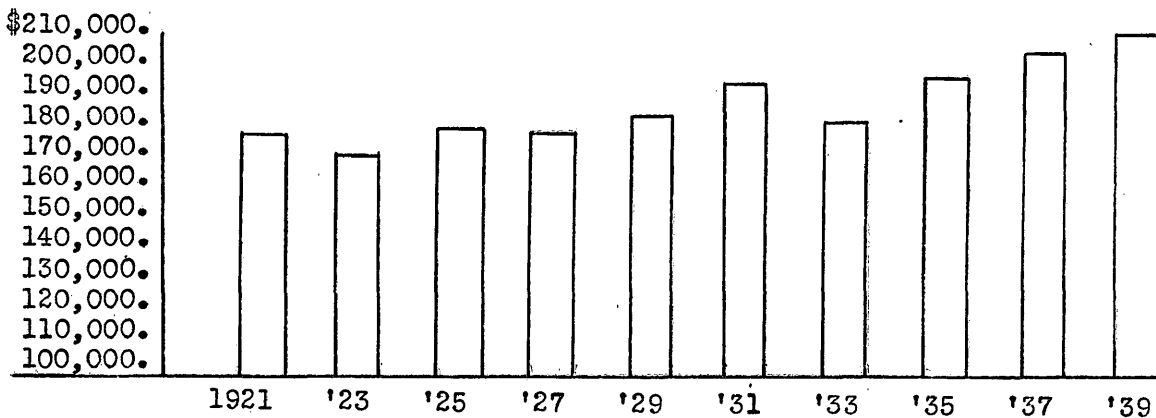
In complying with popular demand the legislative mill has steadily increased its production of legislation. The session books reveal that the 1931 legislature brought into being 196 laws; in 1933 the solons fathered 191 statutory amendments or new acts; in 1935 they produced 126 laws; 212 were put on the books in 1937; and 243 laws were added to the rule and order in Montana as a result of the 1939 session.

¹ H. W. Toll, Op. Cit., p. 10

COSTS OF LEGISLATIVE SESSIONS ¹

1921-1939

| | |
|--------------|---------------|
| 1921..... | \$ 177,518.00 |
| 1923..... | 169,718.00 |
| 1925..... | 178,490.00 |
| 1927..... | 178,443.00 |
| *1929..... | 183,761.93 |
| *1931..... | 191,112.53 |
| *1933..... | 179,956.84 |
| *1935..... | 192,074.01 |
| **1937..... | 205,085.91 |
| ***1939..... | 207,290.00 |



1 Montana Taxpayer, Vol. II, No. 3, December 1936
 * Communications from Secy. of State, November 6, 1935
 ** Montana Taxpayer, Vol. II, No. 4, March 1937
 *** Estimated cost, Montana Taxpayer, Vol. II, No. 11, March 1939

SALARIES AND COMPENSATION OF STATE LEGISLATORS IN 1937 ¹

| State | Salaries Regular session | Compensation Transportation allowance |
|----------------|-----------------------------|------------------------------------------|
| Alabama | \$ 4. per day | 10 cents per mile |
| Arizona | 8. per day | 20 cents per mile |
| Arkansas | 1,000.--2 years | 10 cents per mile one way |
| California | 2,400.--2 years | 5 cents per mile |
| Colorado | 1,000.--2 years | 15 cents per mile |
| Connecticut | 300.--2 years | 10 cents per mile |
| Delaware | 10. per day | 10 cents per mile |
| Florida | 6. per day | 10 cents per mile |
| Georgia | 7. per day | 10 cents per mile |
| Idaho | 5. per day | 10 cents per mile |
| Illinois | 3,500.--2 years | Actual mileage |
| Indiana | 10. per day | 20 cents per mile |
| Iowa | 1,000.--2 years | 5 cents per mile |
| Kansas | 8. per day | 15 cents per mile |
| Kentucky | 10. per day | 15 cents per mile |
| Louisiana | 10. per day | 10 cents per mile |
| Maine | 600.--2 years | 20 cents per mile one way |
| Maryland | 5. per day | 20 cents per mile |
| Massachusetts | 2,000. per year | \$4.20 per mile (once) |
| Michigan | 3. per day | 10 cents per mile |
| Minnesota | 1,000.--2 years | 15 cents per mile |
| Mississippi | 1,000.--2 years | 10 cents per mile |
| Missouri | 5. per day | 10 cents per mile |
| Montana | 10. per day | 7 cents per mile |
| Nebraska | 1744.18--2 years | Actual traveling expenses |
| Nevada | 10. per day | 10 cents per mile |
| New Hampshire | 200. per year | 10 cents per mile |
| New Jersey | 500. per year | Transportation |
| New Mexico | 5. per day | 10 cents per mile |
| New York | 2,500. per year | 10 cents per mile |
| North Carolina | 600. per year | |
| North Dakota | 5. per day | 10 cents per mile |
| Ohio | 2,000. per year | 3 cents per mile |
| Oklahoma | 6. per day | 10 cents per mile |
| Oregon | 3. per day | 15 cents per mile |
| Pennsylvania | 2,500.--2 years | 5 cents per mile |
| Rhode Island | 5. per day | 8 cents per mile |
| South Carolina | 400. per year | 5 cents per mile |
| South Dakota | 5. per day | 10 cents per mile |
| Tennessee | 4. per day | Actual mileage |
| Texas | 10. per day | 10 cents per mile |
| Utah | 4. per day | 10 cents per mile |
| Vermont | 400.--2 years | 20 cents per mile |
| Virginia | 720. per session | 10 cents per mile |
| Washington | 5. per day | 10 cents per mile |
| West Virginia | 500. per year | Mileage |
| Wisconsin | 2,400.--2 years | 10 cents per mile |
| Wyoming | 10. per day | Mileage |

1 H.W.Fell, "Today's Legislatures", The Annals of the American Academy of Political and Social Science, Vol. 195, January, 1936, p. 8

The tabulations and graphs on the following pages show the results of the last three regular legislative sessions in Montana, 1935, 1937, and 1939. In the three citations it is apparent that the two houses have very definitely expurgated the annals of considerable poor bills but this high percentage, 81.50 per cent in 1935; 58.10 per cent in 1937; and 58.94 per cent in 1939 may likewise indicate that there has been a high mortality of good proposed legislation.

In 1935 only 16.53 per cent or 126 bills became law out of 762 which had been introduced into the two houses, 541 in the House and 221 in the Senate. In 1937 the percentage was better with 36.70 per cent or 212 bills becoming law out of 578 bills introduced in both houses, 384 in the House and 194 in the Senate. The 1939 legislature hit a high in enactments when 37.79 per cent or 243 measures became law out of 643 bills introduced, 427 in the House and 216 in the Senate.

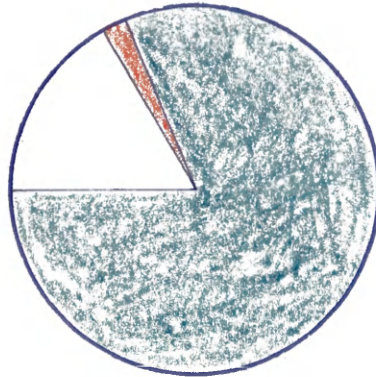
In the three sessions studied the House averaged about 460 bills per session while the more conservative Senate averaged 210 bills. With the House membership at 102 and the Senate composed of 56 members it seems to be a fair conclusion that the former body should present twice the number of bills if each of the members feels obligated to sponsor at least one measure. Upon a mathematical basis each Representative might sponsor about four bills while his colleague in the Senate would have approximately the same number for his attention. This, of course, is not the

LEGISLATIVE RECORD ¹

1935

| | |
|-----------------------------------------------|---------------|
| Bills introduced into the House..... | 541 |
| House bills killed or vetoed..... | 472 |
| House bills that became law..... | 69 |
| | |
| Bills introduced into the Senate..... | 221 |
| Senate bills killed or vetoed..... | 164 |
| Senate bills that became law..... | 57 |
| | |
| Total bills sent to the Governor..... | 141 |
| Bills vetoed by the Governor..... | 15 |
| | |
| Total new laws (session laws)..... | 126 |
| Total of bills introduced in both houses..... | 762 |
| Total number killed..... | 636 |
| Governor vetoed..... | 15 |
| Killed between the two houses..... | 621 |
| | |
| Cost of the session..... | \$ 192,074.01 |
| Cost of the session per day..... | 3,201.00 |
| Cost per law..... | 1,524.40 |

1935



- Killed between the houses 81.50 %
- Vetoed by the Governor 1.97 %
- Bills that became law 16.53 %

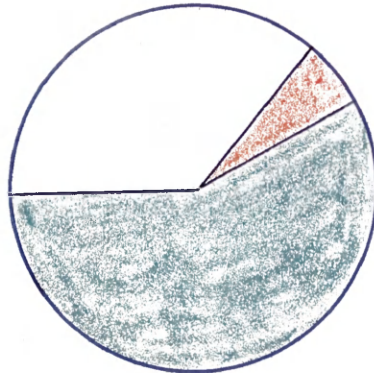
¹ Montana Taxpayer, Vol. I, No. 8, March 1935




LEGISLATIVE RECORD ¹

1937

| | |
|-----------------------------------------------|---------------|
| Bills introduced into the House..... | 384 |
| House bills killed or vetoed..... | 274 |
| House bills that became law..... | 110 |
| | |
| Bills introduced into the Senate..... | 194 |
| Senate bills killed or vetoed..... | 92 |
| Senate bills that became law..... | 102 |
| | |
| Total bills sent to the Governor..... | 242 |
| Bills vetoed by the Governor..... | 30 |
| | |
| Total new laws (session laws)..... | 212 |
| Total of bills introduced in both houses..... | 578 |
| Total number killed..... | 366 |
| Governor vetoed..... | 30 |
| Killed between the two houses..... | 336 |
| | |
| Cost of the session..... | \$ 205,085.91 |
| Cost of the session per day..... | 3,418.09 |
| Cost per law..... | 967.38 |

1937



| | | |
|-------------------------------------------------------------------------------------|---------------------------|---------|
|  | Killed between the houses | 58.10 % |
|  | Vetoed by the Governor | 5.20 % |
|  | Bills that became law | 36.70 % |

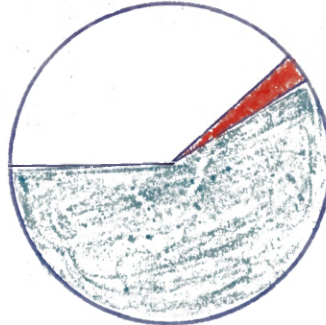
¹ Communications from the Montan Taxpayers Ass'n. June 29, 1937

LEGISLATIVE RECORD ¹

1939

| | |
|----------------------------------------------|----------------------------|
| Bills introduced into the House..... | 427 |
| House bills killed or vetoed..... | 276 |
| House bills that became law..... | 151 |
| | |
| Bills introduced into the Senate..... | 216 |
| Senate bills killed or vetoed..... | 124 |
| Senate bills that became law..... | 92 |
| | |
| Total bills sent to the governor..... | 264 |
| Bills vetoed by the governor..... | 21 |
| | |
| Total new laws (session laws)..... | 243 |
| Total of bills introduced in both houses.... | 643 |
| Total number killed..... | 400 |
| Governor vetoed..... | 21 |
| Killed between the houses..... | 379 |
| | |
| Cost of the session (est.)..... | \$ 207,290.00 ² |
| Cost of session per day..... | 3,455.00 |
| Cost per law..... | 853.05 |

1939



- Killed between the houses 58.94 %
- Vetoes by the governor 3.27 %
- Bills that became law 37.79 %

¹ Compiled after original research at State Capitol
² Montana Taxpayer, Vol II, No. 11, March 1939, p. 2

situation and a casual observation of legislative reports would indicate that the more aggressive solons sponsor a far greater number of bills while many of the inexperienced or more timid members of the legislature refrain from any single advocacy but lend their support as co-sponsors or as directing forces in the various committees.

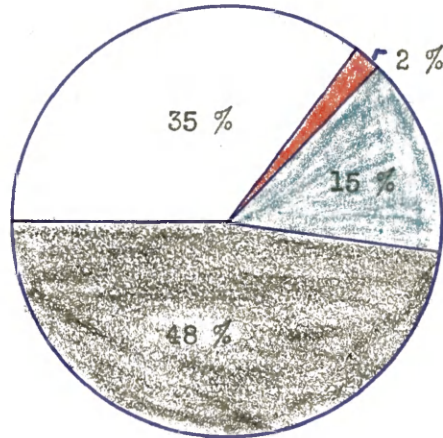
It is impossible, without a special code system and an actual attendance at the sessions, to determine just what per cent of the bills are killed by the house in which they are introduced. A survey of the clerk's day-by-day history of the bills for the 1939 legislature reveals that about 48 per cent of the House bills were killed by the House itself while the Senate killed about 15 per cent of the House bills which were introduced, but the Senate killed approximately 30 per cent of the House bills sent to it. (See chart VIII on the following page.)

The Senate killed about 40 per cent of the bills introduced by its members while the House killed about 12 per cent of the total Senate bills introduced or approximately 20 per cent of the Senate bills received into the House.

These figures are not greatly at variance with the fifteen-year study conducted by Dorothy Schaffter (reported on page 17) wherein 37 per cent of the Senate bills became law and 34 per cent of the House bills were successfully passed. In Montana, with the exception of 1935 when only 16.53 per cent of the bills introduced became law, the average of passage would compare favorably: 36.70

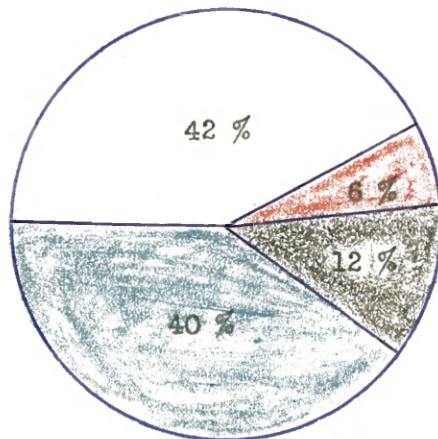
(Chart VIII)

DISPOSAL OF LEGISLATIVE BILLS 1939



HOUSE BILLS

- Killed by House
- Killed by Senate
- Vetoed
- Became law



SENATE BILLS

- Killed by House
- Killed by Senate
- Vetoed
- Became law

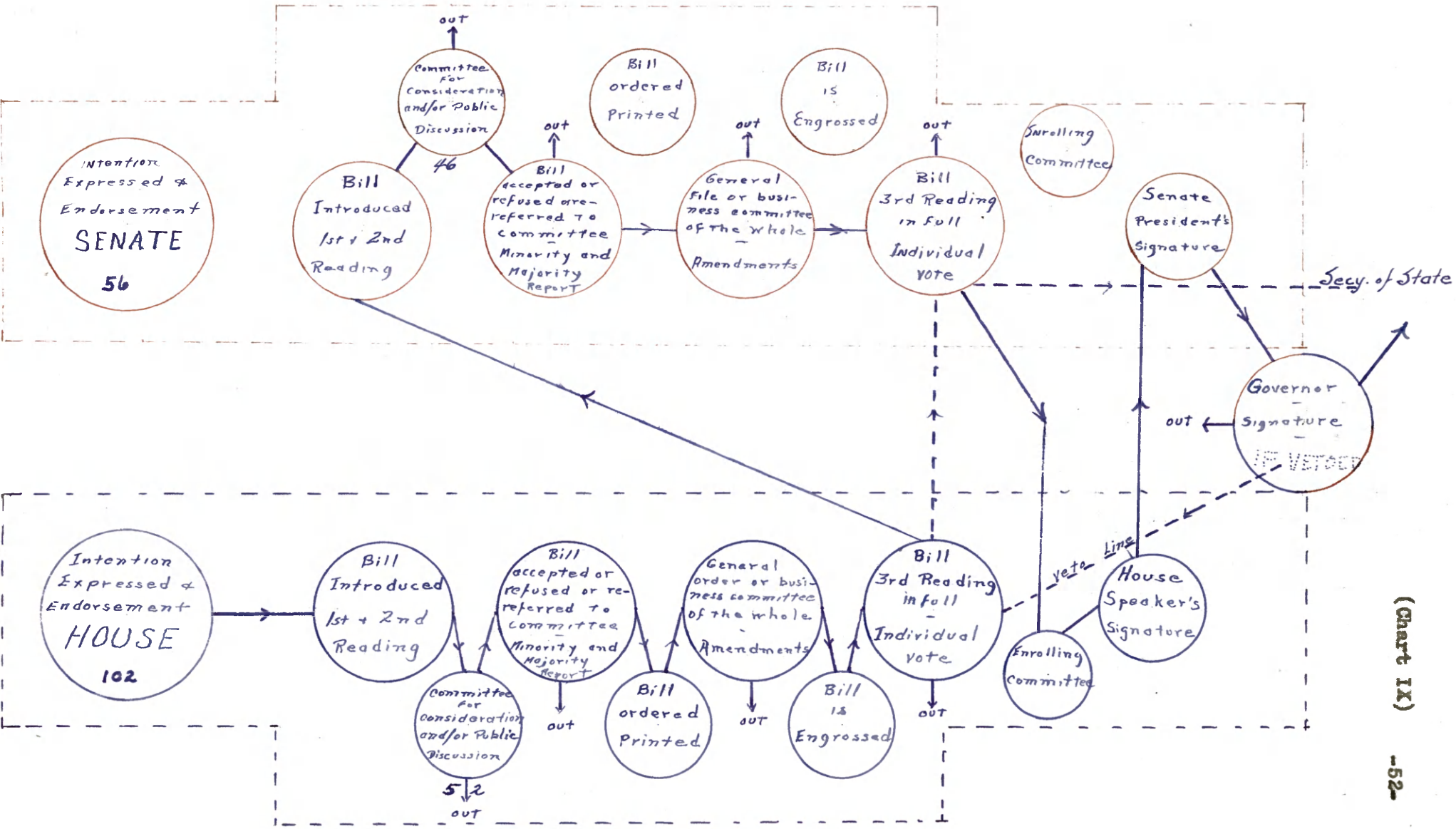
per cent of the total introduced in 1937 became law and 37.79 per cent of the total introduced in 1939 were enacted and entered into the statute books.

The percentages given for the inter-house mortality cannot be taken as conclusive evidence of bicameral expediency nor is it an absolute picture of the checking action of the two houses for "--there are always bills in both House and Senate which never reach the other body by reason of the fact that they either are not printed, that they die in committee or are killed by the body in which they are introduced."¹

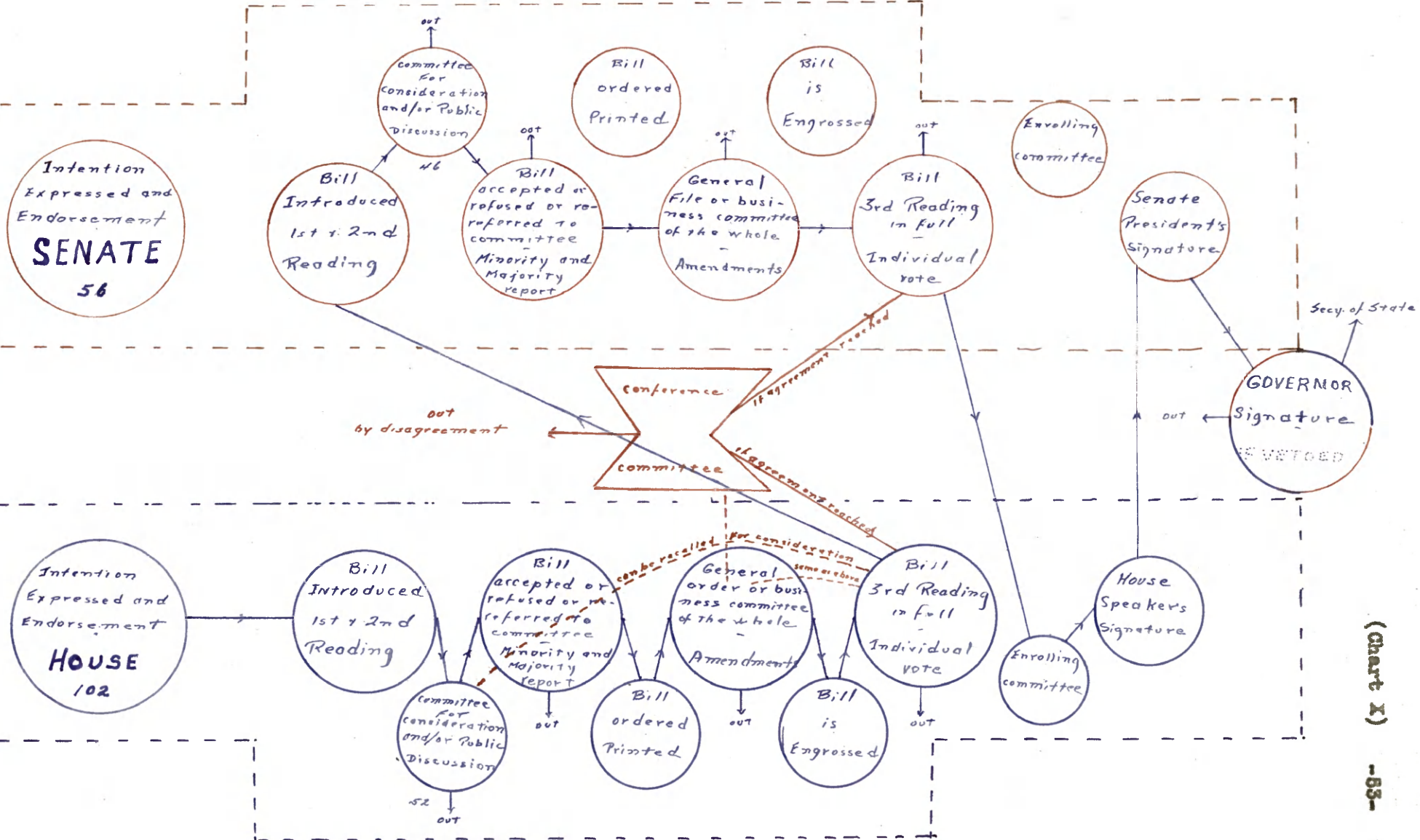
The charts on the following pages portray the complicated passage of bills through the Montana legislature. The diagrams are self-explanatory but it is noteworthy to point out that a bill in regular passage has nine places where it may be thrown out or killed. Also the committees, 48 in the Senate and 52 in the House, are diagramed in a group to show their important place in the legislative channel.

The chart showing the conference committee brings into being at least three more possibilities for fatalities. The joint committee may disagree or kill it in its own body or its recommendations may be voted down in the Senate or in the House and in any event is subject to the final approbation of the executive--unless the veto is not supported by the houses in turn.

¹ Sam Mitchell, Sec'y of State, Communication, Sept. 6, 1939



Regular passage of House Bill through Montana Legislature



Passage possibilities with Conference Committee action

The chart indicates either a very careful consideration of all legislation or a maze from which it is strange that any legal measures reach the Secretary of State for filing. Poor legislation may be killed but the same pitfalls exist for beneficial bills, and it is a mooted question whether or not all the checking leaves anything remaining in the balance.

Representative Mrs. R. T. Martin explains that the "Holding back bills of importance until latter part of session, while early part is flooded with bills of little or no value to the general public prevents proper time to acquire necessary information." This situation, expressed so often, in view of the legislative labyrinth through which it must pass offers grounds for a distrust of its efficiency. Its chief justification seems to be based upon mistrust as intimated by Representative E. J. Byrne: "...a spirit of distrust and even personal dislike and incivility generates between members and groups, particularly among those members who felt they had lost, which colors and seriously modifies much important legislation awaiting passage, but not in any wise connected with the matters that caused the ill feeling."

On just what premises the checking is done is a matter of conjecture but from reports it seems that there are other factors than the merit of the bill itself which are the determiners for the support given or the lack of support which attends certain legislation.

The nullifying activities of the two houses in the sessions mentioned have somewhat minimized the need for the executive veto. It was only in 1937 that the governor refused to sign a considerable number of bills already approved by the legislature. In that session Governor Roy E. Ayers vetoed 5.20 per cent of the bills introduced or about 12.4 per cent of the bills approved by both houses. In recapitulation, (see page 20), excepting the unusual record of 25 per cent vetoed in New York in 1910, Illinois had a veto record of about 5 per cent of all the bills introduced between 1919-1921. Wisconsin lost by veto between 6 and 7 per cent during the same period. In New Mexico the governor vetoed about 4 per cent of all the bills introduced or equal to about 10 per cent of all the bills passed by both houses.¹ The Montana veto average, based upon a percentage of all the bills introduced, is 3.11 per cent for the three sessions of 1935, 1937, and 1939.

In 1935 the governor vetoed 15 bills or 1.97 per cent of the total bills introduced and which was about 10.64 per cent of the bills approved by both houses; in 1937 the veto nullified 30 pieces of legislation or 5.20 per cent of the bills introduced and which was 12.4 per cent of the bills passed by the houses; in 1939 the executive refused to sign 21 bills or 3.27 per cent of the total bills introduced and which was about 7.37 per cent of the bills ratified by the House and the Senate.

¹ Dorothy Schaffter, Op. Cit., p. 102

Apparently the veto has not been an active executive weapon in Montana, however, the record reveals that it has been exercised on controversial legislation, e.g., the "easy divorce" bill which passed the houses but could not gain the approval of the governor in the 1939 session.

In comparison with the Nebraska unicameral legislature--first meeting in 1937--the members of the single-house deliberated on 581 bills and passed 244 measures with the governor vetoing 17 or approximately 3 per cent of the total, or about 7 per cent of the bills passed by the "Legislature"; 226 new laws were enacted.¹ In the same year Montana lawmakers considered 578 pieces of legislation, passed 242 bills, the governor vetoed 30 or 5.20 per cent of the total. Montana passed 212 new laws as a result of that session.

The objection to the gubernatorial power in one house concerning the veto power is apparently ill-founded for the record in this state (Montana) averages 3.11 per cent and is above the one-year record of 3 per cent set in Nebraska. Also it is well to keep in mind that the Montana assembly had a majority of the same party as the administration during the sessions cited.

From the foregoing statistics it would appear that the Montana legislature compares favorably with others and that the

¹ J. P. Senning, "Nebraska's First Unicameral Legislative Session", The Annals of The American Academy of Political and Social Science, Vol. 195, January 1938, p. 166

relationship between the governor and the lawmakers has been according to the national pattern. The political alignment may differ greatly but the results do not show any pronounced effects.

In general the entire structure, operation, and productivity is much in accord with the average state if these conditions may be judged from a limited survey.

The order is not progressive but appears to be an average example of conventional legislative orders. Liberal legislators have reported of their efforts to effect streamline phases of the assembly, but their political architecture has not won an appreciation from their rustic colleagues whose experience in marble halls is a rare enough compensation for them without delving into frontier fields of political thought.

CHAPTER VII

SYMPOSIUM OF EXPERT OPINIONS ON ORGANIZATION

The questionnaire contained sixteen pertinent questions relative to the organization and operation of the Montana bicameral legislature. The following pages carry a statistical report of their replies along with comments made by the legislators upon the question under consideration.

QUESTION 1. DO YOU BELIEVE THAT LEGISLATIVE RESPONSIBILITY IS OFTEN SHOVED FROM ONE HOUSE TO THE OTHER?

| | | |
|----------------|---------------|----|
| House Members: | Yes..... | 44 |
| | No..... | 1 |
| | No reply..... | 17 |
| | total | 62 |

| | | |
|-----------------|---------------|----|
| Senate Members: | Yes..... | 19 |
| | No..... | 10 |
| | No reply..... | 3 |
| | total | 32 |

Many of the answers were qualified with explanations like the one given by Representative Acher: "...not enough to have any bad effect." Others declared that responsibility was shifted "Sometimes not often," or "very seldom," or "would not say often but think it is done." Representative Leuthold, a legislator of four session's experience, writes that it is done "only in rare cases."

Senator S. C. Arnold, a legislator for over twelve years, comments: "occasionally, it seems so, though an erroneous idea used by some as an excuse of inability to cope with a situation."

QUESTION 2. DO YOU BELIEVE THAT THE TWO HOUSES SERVE AS A CHECK ON HASTY LEGISLATION TO SUCH AN EXTENT THAT THE PRESENT BICAMERAL SYSTEM IS INDISPENSABLE?

| | | |
|----------------|---------------|----|
| House Members: | Yes..... | 38 |
| | No..... | 21 |
| | No reply..... | 3 |
| | total | 62 |

| | | |
|-----------------|----------|----|
| Senate Members: | Yes..... | 28 |
| | No..... | 4 |
| | total | 32 |

In commenting upon the question Representative E. J. Byrne writes:

"The bicameral system permits evasion.---This does not mean that responsibility is definitely and permanently evaded under the bicameral system. On the contrary, responsibility is generally accepted at some point. I believe that point would be reached more quickly in a unicameral set-up, with a saving of time, expense and worthy legislation. I feel there would be a substantial psychological gain for the public generally, resulting from more efficient operation, and the hoped for avoidance of duplication, frustration and futility always evident in bicameral legislative proceeding."

Representative Emil Bjorneby, a veteran of three sessions, joins with the progressive school of House members to declare:

"We have no more use for two groups to form our laws, than a corporation would have for two sets of directors to conduct the business of the corporation."

The Senators appeared to hold more to the traditional system and gave a few arguments such as: "Yes", "Under the present controlled legislature." Senator M. R. Henderson

qualifies as follows: "I believe that the two houses serve as a check on hasty legislation, but not to the extent that our present system is the only one under which we could do business."

QUESTION 3. DO YOU BELIEVE THAT THE LARGE NUMBER OF
LEGISLATORS RESULTS IN A LACK OF A SENSE OF INDIVIDUAL RESPONSIBI-
BILITY?

| | | |
|----------------|---------------|----|
| House Members: | Yes..... | 31 |
| | No..... | 28 |
| | No reply..... | 3 |
| | total | 62 |

| | | |
|-----------------|---------------|----|
| Senate Members: | Yes..... | 13 |
| | No..... | 17 |
| | No reply..... | 2 |
| | total | 32 |

To answer the preceding question was difficult and an interpretation of the result need be explained. It is reasonable to conceive that those answering could not well determine whether or not they could be relieved of responsibility under the cloak of large numbers. The explanations: "not necessarily so" "to a certain extent," and "not in the right type of men" would lead one to conclude that, particularly in the House where a larger membership exists, many do gain an absolution under the guise of numbers. The many references to the "type of men" causes one to conclude that each person does not find himself seeking such an excuse but at the same time he apparently find cause to accuse their fellow members of such an escape.

QUESTION 4. IS IT POSSIBLE FOR A CONSCIENTIOUS LEGISLATOR TO BECOME INTELLIGENTLY INFORMED UPON ALL OF THE MATTERS ACTED UPON?

| | | |
|----------------|----------|----|
| House Members: | Yes..... | 19 |
| | No..... | 43 |
| | total | 62 |

| | | |
|-----------------|----------|----|
| Senate Members: | Yes..... | 15 |
| | No..... | 17 |
| | total | 32 |

The affirmative answers of both houses carried the modification that "This entails a lot of work but it can be done on major legislation" or "Yes--if he so cares." One house member explained: "I have answered yes, but for all practical purposes the answer should be no." Another declares: "Only in a general way except important bills he is particularly interested in."

Senator Robert Pauline with a service of over twenty years in the legislature answered "yes" with the reservation: "after the first session." Senator Leonard Plank, a veteran of over ten sessions, modestly informs: "Some members do."

Most of the additional comment centered about the time element and the number of bills. Notations of "Too many bills in only sixty days," "not in sixty days," "not enough time," "not on usual procedure," and "not fully" were common supplements to the answers given.

One more confident house member reported: "I firmly believe it is possible for a conscientious legislator to be somewhat familiar

with all pieces of legislation which comes before the House and Senate. At my first session I carried about 100 bills in my head and could refer to them by number or subject matter. At various times I had thirty or forty amendments to various bills and I never missed presenting the proper amendment when these bills came up for consideration, even when they had laid in committee for several weeks."

QUESTION 5. DO YOU BELIEVE THAT TWO HOUSES ARE NECESSARY
TO ADEQUATELY REPRESENT THE PEOPLE?

| | | |
|----------------|---------------|----|
| House Members: | Yes..... | 38 |
| | No..... | 23 |
| | No reply..... | 1 |
| | total | 62 |

| | | |
|-----------------|----------|----|
| Senate Members: | Yes..... | 27 |
| | No..... | 5 |
| | total | 32 |

The foregoing tables clearly indicate that the Montana legislators desire to cling to the bicameral organization not that they think it is the only one but they apparently were thinking of a local situation. The affirmative answers carried such reasons as: "Yes, of this state, Montana," or "Yes, under our form of government." Another legislator declared "Two houses are very necessary until such a time as the Legislators are honestly elected by the people and not by propaganda of the corporate interests."

Senator Lars Angvick with six-session experience writes: in referring to a unicameral legislature, "--would perhaps work all right in a state like North or South Dakota, Wisconsin, Nebraska, Iowa, and Indiana where the entire state has really one industry, mainly agriculture. But in Montana, where we are divided with a large mining industry, ranching, stock raising, and farming, and the oil business, it is very important that we have a check and balance and that each county or each district, has an equal representation in the State Law-making body."

QUESTION 6. WERE YOUR COMMITTEE ASSIGNMENTS SUCH THAT YOU WERE PLACED INTO A FIELD IN WHICH YOU HAD A SPECIAL INTEREST AND A SPECIAL KNOWLEDGE?

| | | | | | |
|-----------------|----------------|-----------|----|-------------|----|
| House Members: | Yes.....54 | Democrats | 30 | Republicans | 24 |
| | No..... 3 | Democrats | 3 | Republicans | 0 |
| | No reply.... 5 | Democrats | 2 | Republicans | 3 |
| | total 62 | | | | |
| Senate Members: | Yes.....27 | Democrats | 9 | Republicans | 18 |
| | No..... 4 | Democrats | 3 | Republicans | 1 |
| | No reply.... 1 | Democrats | 0 | Republicans | 1 |
| | total 32 | | | | |

Senators Pauline and Plank, both with over a decade of legislative experience, answered the question in the affirmative, the former is a Republican and the latter a Democrat. This leads one to agree with Senator Charles Mahoney: "I believe as a general rule in the present Legislature of Montana that each Senator is given as much as possible the Committee appointments of his own choosing." Senator S. C. Arnold and others colored their answers with "quite generally so."

But not all legislators would grant such harmony and among others Senator A. J. Plumer, a veteran of six previous sessions and a Democrat, summarizes: "Committee assignments are so distributed as to render appointees to such committees innocuous, i.e. from the standpoint of the views of the Committee on Committees. During the whole of my tenure of twelve years, four in the House and eight in the Senate, this committee has been selected to serve the exploiting corporations."

All three of the negative answers in the House were given by Democrats and the other members who answered "Yes and No" were classed as no reply. In the Senate three of the four "No" responses came from Democrats. Party affiliation, it appears, has not produced a completely satisfied political family.

QUESTION 7. DO YOU BELIEVE THAT MOST OF THE IMPORTANT
LEGISLATING TAKES PLACE IN THE COMMITTEE? OR IN THE PLACER
HOTEL? OR IN LOBBYING GROUPS?

| | | | | |
|-----------------|--------------------|----------|------|------------|
| House Members: | In Committees | Yes...42 | No 3 | No reply 4 |
| | In Placer Hotel | Yes...10 | No - | No reply - |
| | In Lobbying Groups | Yes...19 | | |
| Senate Members: | In Committees | Yes...26 | No 3 | No reply 1 |
| | In Placer Hotel | Yes...10 | | |
| | In Lobbying Groups | Yes...9 | | |

The question, at best, offers too many possibilities for a definite answer and is of such a design that perhaps legislators would hesitate to disclose just where their ideas and opinions are formed. There is one general conclusion, however, which is not new but interesting in that it exerts such a powerful influence upon the inexperienced yet conscientious legislators and that is the effect of the lobbyists for pressure groups. Very few responses did not in some place and in some manner inject an expression concerning the force of this legislating agency.

One well seasoned representative figured that 10 per cent of the legislation took place in Committees, 15 per cent in the Placer Hotel, and 75 per cent in the lobbying groups. The most conservative of the legislative responses indicated that the lobbyists were "very influential" for the reason: "The average citizen pay no attention to legislative matters. He does not support a member for voting for general good on the other hand pressure groups never forget if one votes against a measure designed for their special benefit."

Few of the legislators admit that lobbyist supply them with definite arguments for a legislation and that their reasoning is accepted "for information." But others, especially the newer men find the pressure more than they really desire. "There is altogether too much lobbying done in Helena, both at the Capitol and at the Placer Hotel but have found that good men who are elected to serve the people are not the ones who are controlled at the Placer Hotel or elsewhere---."

One House member added a supplement to the questionnaire:

"On various questions that came up in the last session, I could have come (sic) back home with perhaps \$3,000 more than my salary of \$10 per day, and I could have gotten my room rent taken care of for the 60 days should I have sold out to the Big Interests, but my honesty of policy to my constituents would not permit me to do it, but I cannot say this for a lot of my fellow Legislators that the people put their confidence in to send up there as their law makers."

Representative J. A. Liggett modifies the factor of lobbying with "While there is a great deal of lobbying, yet I am of the opinion that outside influences have been somewhat magnified."

As intimated previously it is quite impossible to form a definite conclusion from the question asked for the formation of opinions is such a variable and unstable procedure which knows no objective location and hence is hardly productive of information of much statistical value.

QUESTION 8. IS THE FINANCIAL REMUNERATION FOR YOUR SERVICES ADEQUATE ENOUGH TO ALLOW YOU TO MAKE YOUR LEGISLATIVE DUTIES YOUR CHIEF INTEREST?

| | | |
|-----------------|---------------|----|
| House Members: | Yes..... | 24 |
| | No..... | 35 |
| | No reply..... | 3 |
| | total | 62 |
| Senate Members: | Yes..... | 13 |
| | No..... | 19 |
| | total | 32 |

The rate of compensation in Montana is ten dollars a day and seven cents a mile to and from the Capitol. The session lasts, ordinarily, for sixty days and begins in January of the odd numbered years. This amount is not sufficient, according to the report of most legislators, to allow them to forsake their regular business for legislative matters. Many report that they "lose money," others express a satisfaction for the remuneration "during the session," and again others very emphatically declare that the amount is "ABSOLUTELY NOT" sufficient. "The financial remuneration is adequate to allow one to make his legislative duties his chief interest while in session but does not take care of other obligations that goes with his position." This thought was echoed time and again in the reports.

One successful rancher expressed a patriotic sentiment in that "I feel every taxpayer should give a part of his time to the affairs of government without thought of salary." But a business man and a representative remarked in substance that the amount

was perhaps sufficient for ranchers and farmers who could more easily have their interests taken care of by ordinary laborers for the session generally meets during the winter season--the first two months of the odd numbered years--but that business and professional men served the state at a loss to their own interests where substitution is quite impossible. This generalization is not supported in the questionnaire for in the Senate responses nine farmers and ranchers thought it a sufficient compensation while an equal number answered "No". In the House thirteen of the agriculture group gave an affirmative answer while eleven declared that the amount was not enough.

In conversing with ex-legislators it is often revealed that they did not see re-election, at least one reason, because they could not afford the sacrifice which it necessitated. It is apparent that those in active businesses cannot well afford to sacrifice their personal interests for the cause of legislation even though the compensation is equal to or above the national average.

This condition also raises the question concerning the amount of influence certain agencies might exert upon the members in unfortunate financial circumstances. Temptation to accept "offers" grows out of proportion when the remuneration is not high enough to insure security ordinarily obtained from financial independence. This cannot be held as any justification for "contributions" but it renders their acceptance much more likely.

QUESTION 9. DO YOU BELIEVE THAT A ONE-HOUSE LEGISLATURE OF ABOUT 25 TO 30 MEMBERS COULD ADEQUATELY SERVE THE PEOPLE OF MONTANA?

| | | |
|----------------|----------------|----|
| House Members: | Yes..... | 16 |
| | No..... | 42 |
| | No reply..... | 2 |
| | Uncertain..... | 2 |
| | total | 62 |

| | | |
|-----------------|---------------|----|
| Senate Members: | Yes..... | 7 |
| | No..... | 23 |
| | No reply..... | 2 |
| | total | 32 |

This query brought forth considerable comment ranging from "I do not believe in a one-house legislature" to a decided "Yes," "If the people would elect statesmen instead of politicians."

From the replies one would gather that by far the majority had no sympathy with unicameral organization but a subsequent question upon the size of the body gives a different color to the answers. Perhaps the question was faulty in setting a number so low for many of the negative reports suggested larger bodies. "Must have at least 50 members," "One for each county," "If they were the right ones," "If (they were) intellectually honest" and such responses would indicate that there is an interest but because of the large rural and the concentrated urban areas they fear any such organization.

QUESTION 10. WOULD YOU SERIOUSLY CONSIDER A REORGANIZATION PROGRAM WHICH GAVE INDICATIONS OF AN INCREASED EFFICIENCY ALONG WITH NO ADDED EXPENSE?

| | | |
|-----------------|---------------|----|
| House Members: | Yes..... | 57 |
| | No..... | 4 |
| | No reply..... | 1 |
| | total | 62 |
| Senate Members: | Yes..... | 29 |
| | No..... | 3 |
| | total | 32 |

The above tabulation corresponds favorably with the indications resulting from the previous questions. Obviously, the replies are nearly unanimous in favoring some definite improvements which grow out of a recognition of many needless faults of the present organization.

Senator Leonard Plank after over ten years of service replies: "Yes...provided such a reorganization would guarantee a fair representation for our less populous communities, not absolutely controlled by the large cities, with fair consideration for our farming and ranching industries." This judgment seems to be characteristic of the group for they all question the manner of adequate representation.

One of the objectors in the House very definitely made known his opposition with the explanation to the question, "No--About like all of the New Deal." The others gave no reasons for their negative answers, which may have been due to a general animosity toward all progressive reorganization plans. In the words of one legislator: "If I don't know anything about it, I am against it."

QUESTION 11. DO YOU BELIEVE THAT THE LEGISLATURE, SERVING A PEOPLE, MAY BE JUSTIFIED IN BEING INEFFICIENT IN FAVOR OF THE DEMOCRACY WHICH IT OFFERS?

| | | |
|----------------|---------------|----|
| House Members: | Yes..... | 22 |
| | No..... | 27 |
| | No reply..... | 13 |
| | total | 62 |

| | | |
|-----------------|---------------|----|
| Senate Members: | Yes..... | 12 |
| | No..... | 17 |
| | No reply..... | 3 |
| | total | 32 |

The question above produced considerable comment upon supplementary sheets. On the whole the legislators did not like to answer it and classed the question as "unfair," "muddy," and "Dictatorship is the most efficient form of government, if that is what you want."

The senate members gave evidence of more of a political philosophy in their responses. Senator Paul Smith writes: "I do not think a legislature can be inefficient in favor of a democracy. If it is inefficient, it always works to the detriment of a democracy. A democracy needs an efficient legislature and to have an efficient legislature its members must be efficient." Senator S. C. Arnold points: "There is no good reason for any legislative body to be inefficient, if the people exert due care in their selection." After eight sessions of legislative experience Senator A. J. Plumer in voting "yes" writes:

"It is not per se a question of efficiency but rather more one of integrity. Granted, there is

room for vast improvement in efficiency of the most erudite amongst us and of course, a woeful deficiency of the commodity on or about the persons of the others; nevertheless, each one of us has sound judgment and if sufficiently informed on some subjects, especially those in which he or his constituents are most interested. Of course, if you are referring to the "mechanics" of legislation, the old time chronic stooges have a decided advantage for obvious reasons. My observation has led me to the inevitable conclusion that (with some notable exceptions) the more efficient ones have been the most harmful to the welfare of the people."

Representative E. J. Byrne concludes: "Loss of time through duplication and consideration of fuzzy schemes in legislation is serious, but all views, ideas, ideals, etc., may well be given a considerate hearing. Democracy must progress by climbing over its own errors or by going around them."

By the term "efficiency" the majority of legislators made reference to the mechanics of legislation rather than to more abstract operation of the entire legislative structure. From the opinions so well expressed, it is apparent that they do not wish to sacrifice "every man's government" for an "expert government" just in the name of increased efficiency. Then too, there is a common suspicion leveled against the prospects of reducing numbers or in closing up the gaps. As yet they appear unwilling to trust anyone and their experience entitles them to draw an intelligent conclusion.

QUESTION 12. WHAT NUMBER OF LEGISLATORS WOULD YOU CONSIDER TO BE SUFFICIENT TO HANDLE THE LEGISLATIVE PROBLEMS FOR THE STATE OF MONTANA?

The response to this question indicated a lack of concentrated study or a very wide division of thought if it had been preceded by any reflection for the number suggested by the House members varied from one to 160 members. Seven listed the present number as desirable, 9 suggested 56 members, and 5 favored between 60 and 75 representatives. The others ran the scale with no decided trend except that the number could well be smaller than the present body of 102.

A House member suggested: "One--But NOT myself." Others favored cutting both "Houses in half" or "about 80 members," with one despairingly commenting: "Not much use in changing."

The senate men favored a legislature of about 75 members for six reports favored that number. Four would keep the same and the others would rather see the assembly reduced with the highest suggested figure reaching 125 members.

Senator Leonard Plank pondered: "I seriously doubt whether the membership can be reduced by legislative act, considering the jealousies of each county to hold its representation.--An initiated measure would undoubtedly upset our present balance of farm, labor, professional and industrial groups with all the advantage going to our large civic centers."

Perhaps the reply "Numbers not important" is about the answer to the question which is explained with another senatorial comment: "depends upon calibre of legislators."

If a single conclusion may be drawn from this topic it is that the legislators have not given much thought to the number of persons necessary to represent the people at large for there is no consistency, other than chance, in the returns. Some of the legislators must have done some individual thinking or were stimulated by the question to construct an arbitrary apportionment. Several who could not grant an adequate assembly of 25 to 30 men in question number nine were able to imagine a necessary number of representatives to be about the same figure in response to question twelve.

Regardless of the amount of reflection several legislators gave evidence of frontier thinking. One suggested three representatives for each major industry of the state, another would divide the state into districts from which a senator would be elected with the representatives being determined according to the population in each district and in "this reduce very materially the number in each house."

In general, they are, with few exceptions, united on one agreement and that is that the assembly is too large but they are unable to indicate any popular suggestions for an improvement.

QUESTION 13. WHAT SALARY WOULD YOU RECOMMEND IN ORDER THAT ONE COULD SATISFACTORILY DEVOTE HIS FULL TIME TO THE STUDY OF LEGISLATIVE PROBLEMS?

Like the previous question the legislators apparently had not given such a matter much consideration for sixteen of the House members gave no reply at all. Those who did give an estimate ranged from no change--perhaps a careless response or a misinterpretation of the question--to as high as \$10,000. Eight were satisfied with a possible salary of \$3,000 and seven set the figure at \$3,600 with the next most popular estimate at \$2,500.

In explanation of their statements some declared: "Full time not necessary" or "I don't believe in full time;" but others commented that "\$500 per month would interest intelligent men" or "Amount to cover time spent."

The Senators were quite in agreement with members of the lower house for eight made no reply and the most popular estimate was \$3,000 with \$2,500 ranking second as a favored remuneration. One tersely reported that "Montana can't afford it" implying that either the amount in mind would be too high or that a large membership would not allow such an arrangement.

Again the state solons give no indication of much thought about career work in government and so consequently have not formed any school of thought concerning the costs of such a possibility.

QUESTION 14. WHAT PLATFORM DID YOU RUN ON?

It was expected that in answering this question many different statements or slogans would be offered but it is surprising to note that so few had any program in mind at the time of election. Such expressions as "fair representation," "economy in government," "General welfare of Montana," "Adequate Old Age Pension," and "Progressive legislation" were common. Several frankly admitted that they had no definite program in mind and as one House man wrote: "I promised nothing and did little." As would be common many listed their party affiliation as a platform upon which they won their way into the halls of the state Capitol.

The Senators were no more specific than the House members. "None but honesty" and "Economy" appeared as a sufficient platform. Perhaps the best explanation of the platform or program of a legislator is given by Senator S. C. Arnold:

"(I) Have found that most office seekers for the legislature who form hard and fast platforms use them to run on, afterward find that the line of least resistance is to forget them. The best platform for a legislator is a demonstration of being observant, studious, a desire to do that which is right and vote your convictions for the most good for the greatest number never taking your personal interest into consideration."

Again the question might not have been well put for one Senator answered "No room to list" which would indicate a large program of prospective accomplishments or a platform of the many promises made in order to gain the election.

QUESTION 15. DO YOU FAVOR JOINT COMMITTEE ACTION?

| | | |
|----------------|----------------|----|
| House Members: | Yes..... | 39 |
| | No..... | 8 |
| | Sometimes..... | 6 |
| | No reply..... | 9 |
| | total | 62 |

| | | |
|-----------------|----------------|----|
| Senate Members: | Yes..... | 12 |
| | No..... | 5 |
| | Sometimes..... | 8 |
| | No reply..... | 7 |
| | total | 32 |

Joint or conference committee action seems to be the choice of the majority in carrying on the legislative work. One representative would limit the joint committees with "all right for hearings only" but a colleague in the senate wrote that "All legislation is a compromise."

From this report it appears that the legislators welcome the cooperative assistance of the other house and this reception gives rise to the question of why does a one-house legislature seem so objectionable if they prefer to work in joint or conference committees? The answer might lie in the fear of a reduced house and the consequent reorganization for their judgment leads one to believe that they prefer to work under such arrangements.

This report might have been different but several explained that they did not feel qualified to answer the question and therefore made no reply to it.

QUESTION 16. WHAT IS THE GREATEST PROBLEM YOU HAVE IN TRYING TO HONESTLY REPRESENT YOUR DISTRICT IN THE LEGISLATURE?

The replies to this question brought a varied tale of woe from many legislators. But it is interesting to observe that many of the House members claimed they had "no problems," however, a greater number found their efforts failing in appreciation.

The following are typical comments: "My own inefficiency. But lobbying in the state house and the Placer Hotel as well as different interest for the east and western part of our state has some bearing on legislation."

"Combating outside influence and personal requests."

"Trying to get votes for desirable legislation without promising votes for other legislation in return."

"What helps one group hurts another."

Difficulty in trying "...to make my constituents understand that I am trying to represent them honestly to the best of my knowledge and ability."

"Demands from constituents for or against a subject on which they have been ill informed."

These and kindred problems confront the House members and add to a common difficulty: "Lobbying groups representing the different big interests," "the big power companies," and "Special pressure groups."

The Senators find their problems much in common with the Representatives. Few of them could report "no problems" and one confessed that his "County don't expect much."

Again the pressure groups seem to offer one of the greatest problems as one writes his biggest difficulty is in trying to "Keep lobbyists out of my hair." Another puts the same thought in a more violent form: "To counter sheep-killing-dog combination lobbyists" and still other puts it in "overcoming the influence of the corporation lobby which has controlled one or both houses for years and which can threaten every piece of important legislation merely to retain its control."

Among others given are the "Limitation as to ability" and the time element in connection with "Too many bills to study," and "To separate the wheat from the chaff. To discover the truth or falsity of proposals advocated by various pressure groups." Not to be forgotten is the difficulty of being able to "overcome corporation propaganda through newspaper, civic organization and lobbyists."

Without much reservation one may conclude that the chief concern of the legislator is that his work be appreciated by his constituents for his efforts are sincere but he finds that pressure groups who "never forget if one votes against a measure designed for their special benefit" are the agencies or groups who have the means of scattering misrepresented reports of the integrity of the legislators. This appears to be the whip which controls the votes of many for they fear the notoriety but love the praise that these

bodies can disseminate to the folks back home. One legislator reported that he knew men who ducked under their desks in an effort to remain inconspicuous when some consequential legislation was on the floor and which was being carefully watched by special interest agents.

The power of the press and the radio, though only intimated, plays no small part in the vote of the legislator. The least bit of editorial comment is flattering if it is in support of a man's policy but they dread to the point of inactivity the least displeasure of the interests or the agencies which may reach their constituents with reports not very conducive to re-election.

CHAPTER VIII

SUMMARY

To summarize the foregoing study in great detail would involve much repetition of statistical data which would be sheer redundancy, however, it seems entirely within the province of a paper to offer generalizations at the conclusion of a survey.

For the convenience of a casual reader the inductions are set apart and may be verified by making reference to the particular topic in the body of the report.

The following conclusions are based upon an intensive study of the 1939 legislature with supporting evidence gathered from the 1937 and 1935 assemblies with some reference being made to previous sessions when the data were readily obtainable. The opinions and the personnel reports naturally involve more than one legislature for many of the comments and statistics were received from legislators who have served in previous sessions and, according to their status, will serve in at least another session before going on the ballots for re-election.

1. The study of personnel and expert opinions was made possible by a questionnaire response of 62 of 102 House members and 32 of 56 Senators, 60 per cent and 57 per cent respectively.

2. The partisan complex apparently plays a minimum role in the election of legislators and their organization in the legislature. On the other hand, industrial differences seem to be the main cause for political maneuvering.

3. Legislators give evidence of their sincere interest in their public trust but that many are reticent to commit themselves upon matters of personal preparation, progressive reforms, or expert opinion on the existing organization. The reason appears to be found in self-abasement concerning formal objective qualifications, a lack of knowledge upon matters of progressive legislation, and a distrust of their opinions which they prefer not to claim as their own for fear of disclosure and misrepresentation. Only 45 of the 62 House members granted permission to be quoted while 22 of the 32 responding Senators were willing to be identified with their comments. Of the 54 Senators (two having died) there were 22 who did not answer for reasons unknown and of the 101 Representatives (one address no longer known) 39 did not reply, indicating an unwillingness to be questioned after three pleas mailed first-class were addressed to them.

4. The Montana Senators represent counties, one for each county, and the Representatives are apportioned according to the population of the county.

5. The State Constitution provides a minimum age for legislators, 21 for a Representative and 24 for a Senator, with a citizenship and residence requirement but no other qualifications are required.

6. The personnel of the legislatures, 1937 and 1939, have included farmers and ranchers as the largest single occupational group. In the former year this group formed about 42 per cent and

in 1939 they constituted about 40 per cent of the total membership. From the number of double occupations it appears to be an advantage to claim an interest in agricultural pursuits.

7. On formal education preparation: the House members claim that a third of the number reporting (62 out of 102) have graduated from college and that about 21 per cent of those reporting had attended college. The same per cent had graduated from high school and that 16 per cent had attended high school. From the reports of the Senators, 50 per cent were college graduates and about 20 per cent had attended college.

These figures are the result of a 60 per cent response and it is possible that many of the less trained did not answer the questionnaire bringing the subjective percentage below the figure cited. Also the term "college" is so much abused as to be misleading in the responses.

Formal education may be no fair criterion for legislative aptitudes but nevertheless the Montana men, with a 36 per cent with college training, compare in this respect quite favorably with those other states.

8. The matter of previous legislative experience as a substitute for educational qualifications does not compliment the 1939 Representatives for 27 assembly men had no previous experience in a legislature, 14 had been in a single session before, and 10 had served in two previous sessions. About 50 per cent had served in two sessions or less and mostly less.

The Senate with its tenure of four years in office rates much better in comparison which might also be explained that successful House men are commonly advanced to the senatorial chamber.

Legislative tenure, slightly poor in Montana, is not far behind the other states for a survey of the 1937 legislatures reveals that 58 per cent of all the lawmakers had had previous legislative experience.

9. No women were in the 1939 Senate but three were members of the lower house.

10. The average age of House members reporting was 50 with the Senate averaging 53 years old. Age seems to be of no significant consequence in the Montana legislature.

11. The cost of legislative sessions is continually increasing with the last session being the most expensive, estimated at \$207,290. Added expenditures have been caused by requested investigations and an increased demand for beneficial legislation.

12. The pressing economic conditions have boosted legislative fertility with the result that more bills are being introduced into the legislatures and more new laws are being placed upon the statute books: 762 bills with 126 new laws in 1935; 578 bills with 212 new laws in 1937; and 643 bills with 243 new laws in 1939.

13. The question of bicameral "checking" utility receives some support from a survey of the 1939 legislature for about 48 per cent of the House bills were killed in the House while the Senate killed about 30 per cent of the House bills it received. The

Senate killed about 40 per cent of its own bills while the House failed to concur in about 20 per cent of the bills sent to it from the Senate.

These results must be viewed with an understanding that they are approximate and with a knowledge of legislative procedure in which it is commonly admitted to pass legislation to the other house with an understanding that it be killed. Perhaps it is not a "checking" system as much as it is a "passing" system.

14. Bills passing in regular order must survive nine mortal possibilities before they become law through the Montana legislature. If the conference committee is used, the possibilities increase to twelve places wherein fatalities might result. If this is indicative of deliberate consideration to remove poor legislation, it is also the course of oblivion for much good legislation.

15. The executive veto has not been employed to an undue proportion in averaging a nullification of 3.11 per cent of all the bills introduced in the three sessions, 1935, 1937, and 1939. But numbers mean little in determining the effectiveness of veto power, it is rather the particular bills vetoed which makes the weapon powerful.

16. Most of the House members, 44 out of the 62 questioned, admit that legislative responsibility is often shoved from one house to the other but only 19 out of 32 responding Senators would confess to the same practice. That it is done is beyond question.

but to what degree must be answered subjectively.

17. The members of both houses believe that the bicameral system offers such a check system as to render the structure indispensable. The House members are not so much in favor of the present order and give indications of being more progressive, however, they are less experienced.

18. Half of the House members studied believe that a large membership results in a lack of individual responsibility but the Senators are divided about half-and-half with a slight margin to those who answered in the negative. The location of responsibility is entirely subjective, hence a knowledge of mob psychology might yield a more accurate answer to the query.

19. The huge amount of legislation introduced makes it impossible for a legislator to become very accurately informed upon the matters in question within the space of sixty days. The House readily admits this but the Senate qualifies its doubts by declaring an adequate knowledge on important bills is possible amid the handicaps of time and the pressure groups.

20. On the whole Montana solons feel the necessity of two houses to serve the people of the state. They see possibilities of reducing the size but place emphasis on numbers as the only means of keeping the various industries in the state within a working balance. The House is somewhat divided on the issue, 33 declaring "Yes" and 23 writing "No," but the experienced Senate is nearly unanimous in favor of two houses for Montana.

21. Both the House and the Senate are quite in agreement that their members have been placed on committees in which they had a special interest and a special knowledge. Political party adherence apparently made little or no difference for the objectors in both houses were Democrats--the party with the majority in the legislature.

22. The committees were given as the battle ground for most legislative activity with some leaning to the extra-legislative chambers of the Placer Hotel. No small number, 19 in the House and 9 in the Senate, granted the lobbying groups an important place in the legislative process.

23. Of the 62 House reports, 24 were satisfied that the present legislative salary was sufficient to permit legislative duties to be a chief interest while 35 answered in the negative. In the Senate 13 replied "Yes" and 19 disagreed. Both groups qualified the question by declaring the adequacy existed only during the session. There is little evidence to support the contention that farmers and ranchers can be satisfied more easily than professional men and wage earners.

24. The House and the Senate members, with few exceptions, are opposed to a one-house legislature of 25 to 30 members. They indicate an interest in such an organization but would set the number to between 60 and 75 with a guarantee that the industrial interests of all kinds be held in a balance.

25. Both houses report an almost unanimous interest in a

reorganization program which gave indications of increased efficiency without an added cost but most answers carried a plea for a proper balance of rural-urban areas and a fair representation of all state industries.

26. As to whether or not a legislature serving a people might be justified in being inefficient in favor of the democracy it offers, the replies are not clear. The total of answers were greater for the negative but it is apparent that the question called for more reflection than was given by the average responder and no definite generalizations, other than that, could be supported by this study.

27. As to the number of representatives necessary to handle the legislative problems of the state of Montana, the House men guessed from the present number (102) to a possible 56 which was the next most popular choice. The Senators favored above other numbers, "about 75." Only one thing is readily apparent; there has been no wide school of thought upon this question with the result that the responses were perfunctory estimates of the necessary membership.

28. The salary necessary for full time legislative service brought about such a varied collection of answers that one could only conclude that little thinking had been done previously on the topic. Both the House and the Senate favored between \$2500 and \$3000 per year with greatest regularity--a figure which might easily have been calculated without much detailed research and

with little aforesight.

29. On the issue of platforms it is evident from the replies that pre-campaign promises are small factors in the election of state legislators. Few used commonplace slogans, others generalized their platforms, and still others picked vote-getting interests as "Adequate Old Age Pensions" but on the whole it appears that personalities are voted for and not policies or platforms elected.

30. There is a reasonable correlation between the replies of shifted responsibilities and those favoring joint or conference committee action. Only 13 members of the two houses did not favor such a recourse although several failed to answer this question, possibly due to a lack of familiarity with such procedure.

31. Any interrogation as to the difficulties legislators have in honestly representing their districts will yield a multifarious collection of answers and this study is no exception. In general it appears to simmer down to a few common problems of truly weighing the demands of pressure groups and their lobbyists, of trying to be of aid to one group without engendering rebukes from those affected adversely, of gaining support and appreciation for efforts honestly put forth, and of convincing the public that a difference of opinion is not sufficient grounds upon which to discharge diatribes of discredit upon a legislator's ability and integrity.

CONCLUSIONS

The vision of a unicameral legislature for Montana disappears in the smoke of opposition and in the fog of ignorance if this study is any indication of the prospects. There lies hope, however, in the confession of faults, in the expressed inefficiency, and in the general dissatisfaction with the existing organization. There also appears a ray of encouragement in the reports of the present legislators for they readily concede that a reduction in size would be desirable, that responsibility is not fixed, that pressure groups work a hardship on the present assembly, and that the remuneration is really not sufficient to entice leading talent or to allow what talent exists to give its proper attention to legislative matters.

Opinion seems to favor unicameralism in the abstract but an application of such a structure to Montana would destroy the balance--if any really exists now--between the densely populated urban areas of the west and the sparsely settled plains regions of the eastern part of the state. Coupled with this is the issue of corporate industries versus the agricultural interests, an opposition self-styled or not, threatens any progressive legislative reform. These factors must be properly adjusted before any reorganization would receive the attention of legislators.

The pressure brought on the solons by lobbyists cannot be over emphasized if judgment may be based upon the expert opinion

of the lawmakers. Perhaps this is the reason that so much mention is made of the moral rectitude and integrity of the representatives. This stress is suggestive that the present personnel may be lacking in sufficient fortitude to cope with the temptations offered under the present structure and that something should be done to insure the public of more competent representatives or that the present representatives be given the protection of financial security and social prestige in order to withstand enticing bribes.

There has been a tendency of late years for the lawmakers to transfer legislative action to the people and to declare referendums on consequential measures of public concern. For instance: the county consolidation question; the eight-hour day; the proposed Montana Trust and Legacy Fund; the State Highway Treasury Anticipation Debenture Act; the liquor control measure, county office terms; and the University Millage question have been placed upon the ballot for popular action. The referendum implies the power of popular veto but it also implies a lack of self-confidence in the legislature itself. The "Gin Marriage Act" was stopped by the people and the famous Chain Store tax was invalidated because of a faulty enacting clause.

There is no criticism of this action for it is purely democratic but it may be so democratic as to make the services of 158 legislators an extravagance. Perhaps a much smaller body could make recommendations for public approbation or condemnation.

A point worthy of reflection was raised by Senator H. H. Haight in his question: "Do I represent a district or do I represent the State?" The legislator is elected by a sub-division of the state government but is called upon to deliberate upon matters of general as well as local concern. This position of being loyal to constituents yet serving the general public deserves a finer definition; the existing ambiguity is one barrier preventing a mutual understanding in the present legislative operation.

The prospects for an immediate correction are nil but in the dim horizons of the future may be seen the shadows of sensible reform.

- The time may come when the general public will, by initiative, institute a legislature composed of skilled lawmakers, prepared for their tasks by competent educational institutions, elected by their constituents from newly arranged districts or possibly be apportioned among the occupational groups in the state. Professional legislators? Yes, men trained in the letter of the law as well as in the spirit of it and capable of matching interests with the highly trained legal technicians.

Would such an organization threaten democratic rights? Not any more than now exists when trained legal men find it easy to exonerate their clients through technical avenues of escape. The power of the courts increases in proportion as the quality of legislation becomes poorer because of an inability for a lay-man

to properly legislate on the numerous bills rushed upon him.

Even in the legislature one wonders with Senator G. G. Davis in his conclusion: "My contention is that we have no democracy--no Christianity--no brotherhood--no liberty. Our democracy, our Christianity, our brotherhood and our liberty are in name only. It's all a preachment and not a scintilla of fact."

Democratic representation is questionable upon the evidence that most legislation takes place in committees and men who have a special interest in a particular field receive committee assignments therein. Can one represent the whole when he has a biased interest in a part? True, his knowledge should entitle him to such service but would he not be human enough to consciously or unconsciously favor his own interests? He cannot be a disinterested party, therefore can he honestly sit as a judge at law and fairly consider the arguments of the opposition?

There is a crying need for career men in government, men who by salary and position, elected from a selective list of eligibles by the people--as are judges, placed in an office of respect, honor, and security and thereby be able to render full-time legislative service. Men, it seems, will be honest if it is not more profitable to be dishonest.

The present members and the past personnel have rendered and are giving all they have but, with exceptions and collectively speaking, they do not have enough. They are sincere men who often frankly question their own competence. They have done well but

the increased demands of a more complex social order will soon call for technical experts for the day of subjective law is rapidly passing into oblivion.

In a general consideration Montana legislators and the state lawmaking organization have given a fair justification for their existence and being intelligent men they manifest an interest in the inevitable transformations which are the complements of progress. The problems of the state are complicated but as long as Montana can continue to produce honest, energetic, and fearless men her destiny as the bonanza state will never be questioned.

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APPENDIX

-100-

LEGISLATIVE SURVEY QUESTIONNAIRE

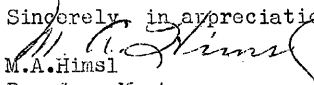
PLEASE fill in ALL of the blanks, unless they are exclusive

Name _____ Age _____ Check: Rep. _____ Sen. _____
 Occupation (chief interest) _____ Nationality _____
 Check: Married _____; Single _____; Divorced _____. Home: In city _____; Country _____.
 Check: American born _____; Foreign born _____. Race _____ Church _____
 Check: Democrat _____; Republican _____; Other _____ (name).
 Check: Number of regular sessions of service before last legislature (1939).
 0 _____, 1 _____, 2 _____, 3 _____, 4 _____, 5 _____, 6 _____, 7 _____, 8 _____, 9 _____, 10 _____, Over ten _____
 Education: Attended Common School _____ (what grade). Graduated? Yes _____, No _____.
 Attended High School _____ Graduated? Yes _____, No _____.
 Attended college _____ Graduated? Yes _____, No _____.

In order to form a symposium of expert opinion will you kindly express yourself upon the following points?
 Yes _____, No _____ 1. Do you believe that legislative responsibility is often shoved from one house to the other?
 Yes _____, No _____ 2. Do you believe that the two houses serve as a check on hasty legislation to such an extent that the present bicameral system is indispensable?
 Yes _____, No _____ 3. Do you believe that the large number of legislators results in a lack of a sense of individual responsibility?
 Yes _____, No _____ 4. Is it possible for a conscientious legislator to become intelligently informed upon all of the matters acted upon?
 Yes _____, No _____ 5. Do you believe that two houses are necessary to adequately represent the people?
 Yes _____, No _____ 6. Were your committee assignments such that you were placed into a field in which you had a special interest and a special knowledge?
 Yes _____, No _____ 7. Do you believe that most of the important legislation takes place in the Committees? Or in the Placer Hotel? _____ Or in lobbying groups? _____
 Yes _____, No _____ 8. Is the financial remuneration for your services adequate enough to allow you to make your legislative duties your chief interest?
 Yes _____, No _____ 9. Do you believe that a one-house legislature of about 25 to 30 members could adequately serve the people of Montana?
 Yes _____, No _____ 10. Would you seriously consider a reorganization program which gave indications of an increased efficiency along with no added expenses?
 Yes _____, No _____ 11. Do you believe that the legislature, serving a people, may be justified in being inefficient in favor of the democracy which it offers?
 12. What number of legislators would you consider to be sufficient to handle the legislative problems for the state of Montana? _____
 13. What salary would you recommend in order that one could satisfactorily devote his full time to the study of legislative problems? _____
 14. What platform did you run on? _____
 15. Do you favor joint committee action? _____
 16. What is the greatest problem you have in trying to honestly represent your district in the legislature? _____

17. Will you grant permission to be quoted on the above answers? Yes _____, No _____.
 (If your answer is in the negative, no personal reference shall be made but the information shall be incorporated without any personal identification).

Further comments upon the reverse side will be most welcome. Any suggestions will be a valuable contribution to the survey.

Sincerely, in appreciation,

 M.A. Himsel
 Broadus, Montana

Broadus, Montana
November 10, 1939

Dear Legislator:

As a representative of the electorate I am fully aware that you have rendered valuable service to your constituents and that in such a capacity, you find that innumerable demands are made upon you for reports and opinions. It is in recognition of your conscientious application that you have been singled out of the common masses and have been paid the very complimentary honor of public office. May I prevail upon you to extend your contribution in filling out the enclosed questionnaire in its entirety and then returning it to me in the self-addressed stamped envelope?

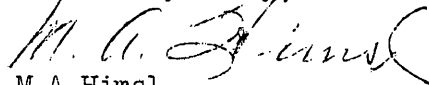
The data received will be incorporated in a thesis as a partial requirement for a Master's Degree at the Montana State University. Therefore, your co-operation will not only be appreciated by me but it will lend encouragement to a more detailed study of the problems of State Government and will be so memorialized as to receive the serious reflections of students of progressive government.

The purpose of this thesis is not to identify personalities nor to have any political significance attached to it. As a legislative survey, involving the personnel of the State houses, it is being directed for the purpose of making comparative studies with the trends in other states.

Any supplementary comments will be treated with respect and confidence, as you might prefer to indicate, of course, permission to generalize will be reserved.

Will you, therefore, please join me in an effort to complete an accurate survey? Thank you. Your assistance will be, not only gratefully received, but long remembered.

Yours very truly,



M.A. Himsl
Broadus, Montana

BROADUS PUBLIC SCHOOLS

M. A. HIMSL, SUPT.

BROADUS, MONTANA

March 4, 1940

Dear Legislator:

As Confucius say---with little delay, try, try again!

Last November I asked the co-operation of the legislators of Montana in answering the enclosed questionnaire which is to be part of a thesis for a Master's degree. Thus far 63 faithful public servants have replied and their contributions are surely a compliment to the people who elected them. They are more than thinking representatives; they are acting statesmen of whom we have too few.

Of course I know that you have misplaced the first questionnaire intending to answer it later and in the rush of activities it has been lost. Will you please, however, take a few minutes off to fill out the enclosed sheet?

The data collected from your individual opinions will NOT be used in any political sense and if you so indicate your judgments will remain without identification.

It is necessary for me to complete the survey by June so a prompt consideration on your part will be most welcome.

Your assistance, which is absolutely necessary, will be gratefully received and sincerely appreciated.

Yours very truly,



M. A. Himsl
Broadus, Montana

BROADUS PUBLIC SCHOOLS

M. A. HIMSL, SUPT.

BROADUS, MONTANA

April 29, 1940

Dear Legislator:

Persistency might not be a jewel in Shakespearean lingo but it is a precious bit of necessity which prompts me to again appeal for a response to my questionnaire---survey upon the Montana Legislature. I dislike to appear insistent but I have no choice if my survey is to be complete.

In repetition may I explain that the purpose of these efforts is purely scholastic. The data received is to be used in fulfilment of a Master's thesis and absolutely will NOT be used in any political sense. Only general and impersonal compilations will be made so that reflections will be impossible. In some instances---if permission is given---the opinions of outstanding legislators will lend weight to the subsequent conclusions.

To date 31 of the 56 Senators have replied; 55 of the 102 Representatives have expressed their convictions.

Some may hesitate to give an affirmative or a negative answer to the questions, but for statistical purposes it is necessary to be explicit; interpretations will explain the qualifications made by those who so indicate.

Won't you please sit down for a few minutes and answer the questionnaire? A digest of your opinions will be a very worthwhile contribution to the study of government and may lead to corrections or improvements of what we now have.

This compilation must be made this summer, hence I urgently repeat my request for your co-operation.

Thanks a lot ! And I hope you will be tolerant in gracefully accepting my persistency.

Yours very sincerely,


M. A. Hinsl