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The Legitimacy of Having a Second Chamber of Parliament in Unitary Countries

Despite its ancient institutional roots and its foundation on democratic pillars, the bicameral parliament remains a controversial institutional arrangement. Throughout history, the functioning of the second chamber within parliament has often been the subject of lively debate, especially in the context of representation theory. It should be emphasised that such debates are also recurring today, at a time of important constitutional changes in the country. There is no single universal model of bicameralism, no single system within which all bicameral parliamentary orders function. They depend on internal conditions in the state, tradition, history, and solutions borrowed from model states. In view of the above, it is impossible to identify a single, universally accepted criterion that would legitimise the existence of a second chamber of parliament. There is no doubt that second chambers must enjoy special legitimacy in the eyes of the public due to the important and useful functions they perform within the constitutional system. This article attempts to answer the question of what factors cause constitutional framers to decide on more than one legislative chamber. What are the arguments in favour of a bicameral parliament, and what functions does a bicameral parliament perform in unitary states?

Keywords: bicameralism, second chamber, parliament

Introduction

Despite its ancient institutional roots and constitutional embedding in democratic pillars, a bicameral parliament remains a contested institutional arrangement (Dippel, 2003, p. 409-411). Throughout historical events, the functioning of a second chamber within a parliament has often been the subject of lively debate, especially in the context of representation theory (Mill, 1862, p. 249). Arguments in favor of the necessity of a second chamber of parliament have also changed. For example, during the 18th and 19th century revolutions, the existence of a second parliamentary chamber was primarily intended to influence the hegemonic aspirations of parliament, thus acting as a stabilizing force (Wąsiewski, 2006, p. 213). The argument for a bicameral legislature emerged from realpolitik as a constitutional or implicit recognition by the existing

elites, leading to a balancing of competing bases of representation (Muthoo i Shepsle, 2007, p. 9). It should be emphasized that such debates are also revisited today when important constitutional changes are being made in the state, especially during comprehensive systemic reforms. The ongoing questioning of the second chamber's function is evident in historical episodes of constitutional change, such as those in Poland after World War II (Osękowski, 2013, p. 34), in Iceland, and in Croatia, where unicameral parliaments were introduced despite the previous existence of bicameral assemblies. There is also an opposite trend, where a second chamber has been added to the parliamentary system. This happened in Spain (the Second Spanish Republic), Italy, and Poland after 1989 (Bjerken, 1992; Piotrowski, 1993; Sánchez-Beato Lacasa, 2005; Krysieniel, 2010). The Venice Commission's report indicates that the functioning of second chambers, unlike first chambers, is constantly being questioned. The exception is the federal model, where bicameralism is an essential feature of the constitutional system (European Commission for Democracy Through Law, 2005). As Zwierzchowski points out, within states, among representatives of political parties, one can observe both supporters and opponents of bicameralism. The first group includes representatives of right-wing parties presenting conservative programs, representing the interests of social groups positioned in society who avoid change. On the other hand, left-wing parties, favoring revolutionary traditions and representing the lower social classes, prefer a unicameral system (Zwierzchowski, 1996, p. 22).

What should definitely be emphasized is the fact that there is no single universal model of bicameralism, no single system within which all bicameral parliamentary orders function. The obvious justification for the existence of second chambers of parliament is the federal system, where constituent parts have their representation within the second chamber of parliament. However, the situation is different in unitary states. This article attempts to answer the question: what factors lead constitution-makers to decide on more than one legislative chamber? What are the arguments for and against a bicameral parliament and what functions does a bicameral parliament perform in unitary states?

To examine the set goals and answer the questions, I will use the historical analysis method (to trace the origins and evolution of bicameralism arguments), the dogmatic-legal method (for the analysis of constitutional provisions and legal doctrine concerning the separation of powers and the definition of parliamentary chambers), and the institutional-functional method (to assess the specific roles, powers, and added value of the second chamber in unitary systems). The purpose of this article is thus not the empirical verification of hypotheses, but a systematic, interdisciplinary analysis and synthesis of legal, theoretical, and historical arguments confirming or questioning the legitimacy of the second chamber in unitary states.

Bicameralism as a theoretical construct, rooted in a democratic state system

Research on bicameralism and its impact on democratic processes in a state should begin with the recognition of the principle of the separation of powers. It has its origins in Aristotle's (Aristoteles, 2006, pp. 126) philosophical thought and fully developed in the 18th century, when Montesquieu made the classic division of power, distinguishing between legislative, executive, and

judicial branches. Extremely important in his theory was preventing the concentration of all power in a single center, for fear of its tyrannical and despotic exercise. He pointed out the need to create a system that would ensure balance and separation of the various branches, while at the same time giving them the power to check and control each other, which would prevent the concentration of power (Morawski, 2009, p. 61; Montesquieu, 2011, p. 147). His theory became a cornerstone of modern democratic state systems, constitutionalism, and particularly research on the separation of powers, legislative power, parliamentarism, and more narrowly, bicameralism (Galster, 1998, p. 44).

The principle of separation of powers is a fundamental basis for the functioning of a democratic state, due to its aforementioned role in ensuring balance and control over the various branches of government. A state where power is concentrated in a single hand or body is significantly vulnerable to abuse, and the protection of civil rights and freedom takes a backseat. In current constitutional systems, each branch of government has clearly defined functions (depending on the adopted model of governance) and should remain independent, while simultaneously ensuring cooperation due to a certain system of interdependence between them.

While the state's task is to attempt to construct a system of government that ensures a balance between the various branches of power, it is impossible not to agree with the thesis that the legislative branch plays a special role in this system. It is understood as a legislative assembly that has the right to make laws within a political entity. Of course, we shouldn't generalize here and reduce the role of the legislature solely to the function of lawmaking. It was in parliaments that democratic processes began, which were strengthened by the fall of absolute rule, the development of republicanism, and constitutionalism. Members of parliament are representatives of the people, so they are tasked with representing them (Danel, 2020, pp. 5).

One of the characteristic features of modern parliaments is their model. For the most part, we can currently distinguish between a unicameral and a bicameral system. For the purposes of this study, attention will be focused on the latter form, known as bicameralism, although in the constitutional practice of modern states, this model is in the minority (IPU Parline,).

In discussions about bicameralism in parliament, representatives of the doctrine point to the ongoing democratic processes of electing members of parliament, as well as the debate about the justification for the existence of a second chamber itself. Bicameralism is embedded within the framework of parliamentary law, which deals with important branches of the democratic rule of law, such as electoral law. This necessitates a broader look at the above issues, which in turn will allow us to show how modern democracies function (Modzelewski, 2019, p. 216).

The name „bicameralism” comes from Latin and means two chambers. This is a common model for designing parliaments, which means the functioning of two legislative chambers, where each plays a role in national legislation, with the caveat that these roles do not have to be equal. Within the legislative branch, there is a bicameral representative assembly that plays an important role in the functioning of the political system, due to its legislative function, among others (Patterson i Mughan, 1999; p. 4 Russell, 2001, p. 443). Depending on the adopted system, their responsibilities also include the division of tasks in the areas of control, creation, budgeting, and others. They differ from each other in their scope of competence, often in their method of representation, internal regulations regarding the functioning of the chambers, or precisely in

their scope of competence, as well as in the relationships between the chambers. This difference stems from the constitutional system adopted in a given state, which has been emphasized in Polish doctrine by authors such as Garlicki and Bisztyga, who pointed out that there is no other body in contemporary constitutional law that, despite being universal, appears in many combinations, making it impossible to confine it within the shackles of a general model (Bisztyga, 2014. p. 5).

Nowadays in legal doctrine, when bicameralism is discussed, all attention is focused on the second chamber, as it is the conditional element of such a system and also a facultative body. Their recall is also not a *sine qua non* for the functioning of parliament. The latter can be seen by examining research on unicameralism. After all, in this system, one chamber of parliament successfully performs the functions of the legislative authority in a given state. The second chamber is therefore not essential; it is not a condition for the existence of a parliament, but rather an additional proposal for the functioning system (Szymanek, 2001, p. 213, 2003 p. 23; Sokolewicz, 2001, p. 3). On the other hand, the potential abolition of the first chamber would automatically lead to a restructuring of the functioning of the second chamber, as the second chamber would *de facto* become the parliament (Niedziałkowski, 1918, p. 79.). It should also be emphasized that a bicameral system is not based solely on the separate functioning of both houses of parliament. These chambers cooperate and function together within the constitutionally defined framework, as a National Assembly in Poland (Tsebelis i Money, 1997, p.36; Diermeier i Myerson, 1999, p. 1182–1196).

The asymmetry between the chambers within parliament is reflected in the terminology used to describe the second chamber of parliament. So, terms like „second chamber,” „upper house,” or often „senate” were adopted. They describe the same institution but present different ways of perceiving it. The concept of an „upper house” is used as a result of the historical roots of the class system, formerly feudal assemblies and later the representation of the aristocracy. According to him, this chamber was composed of people from the upper social classes, distinguished by their wisdom or experience. It was also often due to this chamber being placed in a dominant role, intended to connect the head of state (ruler, king) with the people, serving them with advice and dedication. Therefore, a distinction was made between an „upper” and a „lower” chamber (Hadała-Skóra, 2021, p. 16).

However, this nomenclature is now being abandoned due to the actual competence of the chambers, which are often no less than those of the „lower house” (whose members are usually elected by universal suffrage, form a certain basis in the law-making process, including the budget, and also have instruments to overturn decisions made in the second chamber), as well as due to the development of electoral law and the confirmation of the democratic origin of „upper house” members in some parliamentary models. The „upper house” often, although not always, plays a somewhat more modest, sometimes subordinate role to the „lower house.” (Andeweg, 2004)¹. Over time, this division into an „upper” and „lower” house lost its significance due to changes in the competence of the individual houses that make up parliament, as well as due to the increasingly frequent democratic legitimacy of the „lower houses.” Currently, the „upper chamber” model is considered somewhat an anachronism, as the composition of second chambers of

¹ example is the Netherlands - the popularly elected lower house is the second chamber and the indirectly elected upper house is the first chamber.

parliament largely differs from the aristocratic model, and the forum of the second chamber is no longer a place for expressing the interests of individual social strata.

The doctrine is therefore increasingly inclined to use the conceptual framework resulting from the terms „first chamber” and „second chamber,” (Loewenberg i Patterson, 1988, p. 121; Zwierchowski, 1996, p. 25; Garlicki, 2011, p. 193-195)² which stems from the doctrine developing a certain definition. However, it should be emphasized that in Polish constitutional law doctrine, there is still a conceptual framework that divides chambers into „upper and lower”. In some countries, constitutional provisions dictate whether the parliament functions as unicameral or bicameral. Often, the constitutions of modern states treat bicameralism as a constitutional principle. In Polish doctrine, Dobrowolski characterized it, pointing out that the principle of a bicameral parliament is a norm of particular significance. It indicates the basic characteristics of legislative power and describes the political system of a given state. To examine the validity of a given norm under constitutional law, it is therefore necessary to point to this norm, which introduces two bodies with the characteristics of parliamentary chambers into the constitutional order. Another important premise is proving its significance, however, a condition for the principle of bicameralism in constitutional law to apply is the designation of two bodies within the legislative branch (Dobrowolski, 2004, p. 13-14). Sarnecki, on the other hand, mentions certain characteristic features of parliamentary chambers that go beyond the advisory framework. These include:

1. Establishment by provisions of constitutional rank;
2. Representative character of the body;
3. Collegiality;
4. Openness of proceedings;
5. Fulfillment of at least the legislative function;
6. Special position of the members of the body (Sarnecki, 1993, p. 42).

As Hadała aptly points out, bicameralism exists as a constitutional principle, but not always as a constitutional one, citing the example of Great Britain, which does not have a constitution in the formal sense, while the state system is defined based on a constitution in the material sense. The principle of a bicameral parliament is therefore a constitutional principle there (Hadała-Skóra, 2021, p. 17).

As Norton put it, „there are quite a few borderline cases.” (Norton, 2007, p. 15) For example, the Federal Republic of Germany refers to the Bundestag as its „parliament,” even though the Bundesrat, composed of members appointed by the federal states, is considered and referred to as the second chamber (Klepka, 2013, p. 119). Examining other cases of bicameral bodies leads to the conclusions that within individual systems, a second decision-making body is established, but with a questionable legislative role³, as well as other bodies that represent different social groups and play a consultative role⁴ (Maksymiuk i Trubalski, 2023).

² However, this is not a rule without exceptions. Eugeniusz Zwierchowski points out that the term ‘second chamber’ is misleading, as historically they appeared first. The only criterion defining first chambers is the method of selecting their members, which is often more democratic (universal suffrage).

³ These include, for example, the Council of Chiefs in Botswana and the Council of Guardians in Iran.

⁴ Among such bodies, the Slovenian National Council can be distinguished.

Arguments in favor of bicameralism in unitary states

When trying to organize the arguments in favor of the existence of a second chamber of parliament one should look at the historical background. It is characteristic of those countries that can boast a rich parliamentary history, dating back to bicameral assemblies. In these countries, there is a belief that the durability of state institutions that have functioned over the centuries, regardless of changing factors, is the justification for their existence and a confirmation of their social utility. Undoubtedly, this is influenced by the significance and role the second chamber played historically, as well as how important the historical factor is perceived in a given society. This argument applies to countries where the political system is stable and the functioning institutions are considered proven. Such a factor is important, for example, in Great Britain, France or Poland. (Zwierchowski, 1996, p. 23; Coakley, 2014, p. 22-24.). These historical changes also influenced the assignment of certain functions to the second chambers.

Referring to tradition or history, in the so-called new democracies, the second chamber takes on a slightly different meaning. Her functioning sometimes had an impact on the history of statehood. Then this room can become a certain symbol of freedom or independence. In Poland, this argument was invoked by Józef Piłsudski. In the history of Poland (...) the work and perseverance of the senators influenced the fate of the country," (Piłsudski, 1937) but they were equally important in the debate regarding the restitution of the Senate in Poland after 1989.

The historical roots and resulting political stability arguments naturally lead to the instrumental function of the second chamber: improving the quality of the enacted law. As Hamilton and Esmain point out, in the most important function, the legislative process, bicameralism prevents the errors of a unicameral parliament (Banaszak, 2007, p. 427). The doctrine indicates that the quality of enacted law improves when bills are processed by both houses of parliament, as a unicameral parliament is unable to effectively resist the passage of unreasonable drafts. Esmain described this as preventing the „uprisings and errors” made by the first chamber (Trivelli, 1975, p.31-32; Norton, 2007, p. 7). Russel and Sandford are pointing here to preventing the implementation of ill-considered practices and impulsive lawmaking (McKechnie, 1909, p. 9; Russell i Sandford, 2002, p. 81). The second chamber’s processing of the same legislative solutions prolongs the decision-making process (although in this case it is seen as an advantage), encourages in-depth reflection, deeper insight, and also allows for consultation on the proposed solutions with various political or social forces, as well as allowing for consideration of the consequences of the reforms⁵ (European Commission for Democracy Through Law, 2005, p. 8). This mobilizes various pressure groups, allowing the project to be favorably amended. The second chamber thus becomes a place where the second opinion is represented, and consequently, it assumes a reviewing role in the legislative process⁶ (Lees-Smith, 1922; Wheare, 1963; Aroney,

⁵ As the Venice Commission has already noted: ‘Second chambers are often characterised as embodying a particular measure of wisdom, balance and expertise’.

⁶ In addition, Bryce’s report pointed to the advantages of delaying the passage of bills, highlighting the opportunity for public opinion to be expressed.; By enabling broader discussion of pending legislation, the democratic credentials of the entire political system were to be strengthened.

2014; Coakley, 2014). As Money and Tsebelis pointed out, this chamber functions according to a „quality control mechanism” (Money i Tsebelis, 1992, p. 28). Norton distinguishes between a reactive and a proactive approach here. The first refers to all functions performed in relation to the first chamber, while the second constitutes demonstrating initiative and proposing one’s own solutions (Norton, 2007, p.7). The formal scope of the second chamber’s powers, as constitutionally granted to it, is important for its ability to retain this function. Without significant powers, this chamber will not be able to exert real influence on the legislative process (Russell, 2013b, p. 371). However, as Tsebelis and Money point out, even these second chambers with limited powers can encourage greater quality control in the legislature⁷ (Tsebelis i Money, 1997, p. 40). Formal powers are not always necessary, but the symmetry of power between the two chambers is important. The existence of a second chamber of parliament also contributes to the improvement of parliamentary procedures (Wróblewski, 1985, p. 264). The Venice Commission points out that a bicameral parliament is a guaranty of effectiveness, precisely by improving the quality of legislation. Nowadays, we can observe what is called legislative inflation, as well as the complexity and technical nature of the issues covered by the legislative process, which „justifies the intervention of a second chamber responsible for both examining bills from a new perspective and for re-reading texts adopted by the first chamber”. The second chamber thus shares the burden of parliamentary work, and with its diverse powers and composition, it is better suited for detailed legislative work on technical aspects (European Commission for Democracy Through Law, 2005, p. 9).

The second chamber can also be a defender of public freedom (Money i Tsebelis, 1995, p. 192-193), acting as a guardian during constitutional revisions, as well as protecting the constitution when considering legally or politically sensitive issues(art. V Konstytucji, Pułło, 2002; Jirásková, 2009, p. 54). They therefore play an important role in constitutional amendment procedures, in decision-making regarding the conclusion of treaties in the field of supranational integration, in the appointment of high-ranking officials, and in impeachment procedures (European Commission for Democracy Through Law, 2005, p. 38). Thru their composition or term length, and at the same time their ability to maintain greater continuity in some systems, second chambers influence the preservation of stability and continuity in the political system, and can also contribute to strengthening public trust within a given state or on the international stage.

This stability is directly linked to the chamber’s ability to act as a counterweight against short-term political impulses. The second chamber can therefore act as a stabilizer of the system, protecting against changes that could have a negative impact on the state. This was to be guaranteed by the way the second chamber’s composition is chosen, which is rooted in tradition and history, and indicates that its members are characterized by experience, knowledge, and an age requirement (Brennan i Lomasky, 1993, p. 213-214; Patterson i Mughan, 1999, p. 2). The functioning of the second chamber of parliament was also intended to safeguard against the potential tyranny of a unicameral parliament (Kulwinder, 2023, p. 34). Montesquieu advocated for this model, pointing out the necessity of separating the legislative bodies, consisting of representatives of

⁷ Tsebelis and Money use an apt metaphor here: ‘the fact that someone else will examine the product makes the manufacturer more cautious initially, and even if mistakes are made, there is a system in place to detect and correct them.’

the aristocracy and the people, because he believed that in a single chamber, the voice of the aristocracy could be inadequately highlighted and outvoted. The above argument has survived for centuries. For example, after the French Revolution, the division of parliament into classes was not possible in most systems due to the growing respect for universal human rights, but this did not mean the exclusion of divisions of representation within parliamentary chambers (Marković, 2019, p. 24-26.). Thanks to this, referring to Constanta, the upper house could represent the power of opinion. A unicameral parliament can only speak on behalf of the entire sovereign, whereas other voices can also be heard in a second chamber. In contemporary constitutional solutions, the functioning of a second chamber provided a more convenient and also more flexible institutional arrangement than if different representations had met under a single-chamber roof. Representative diversity can therefore be a „driving force for bicameralism” (Wheare, 1963, p. 140-146).

Contemporary scholars of parliamentarism also point out that a second chamber is useful for maintaining the principle of „checks and balances.” It originates from the ideas of Montesquieu, who advocated for the equality of the chambers because in such a system they could balance each other and also restrain the legislative power against the executive (Russell, 2001, p. 451; Banaszak, 2007, p. 427; Montesquieu, 2011, p. 239). The doctrine thus indicates that in unitary states, the division of power is strengthened by the functioning of a second chamber of parliament. This contributes to mitigating the decisions of the first chamber and curbing its ambitions. Król put it aptly: „Today, a bicameral parliament exists to limit the omnipotence of the majority,” (Cybichowski, 1925, p. 158; Król, 1991, p. 49) or as Muthoo and Shepsle put it, „the upper house is a check on the passions of the people, thus limiting the possibility of majority tyranny” (Muthoo i Shepsle, 2007, p. 254). It is therefore important that the second chamber is equipped with mechanisms of checks and balances within the constitutional order, particularly within parliament, to maintain control over the chamber representing the people.

Historically, two models of bicameralism have developed: the British and the American. The first represents different social classes, while the second reflects the territorial divisions within the state. This difference in representation is crucial, as it allows the second chamber to institutionalize the balancing of interests of individual groups, making the legislature more inclusive. This form of the chamber would limit the tyranny of the first chamber through differences in representation within the parliamentary chambers. Harrington pointed out that bicameralism is a remedy against parliamentary despotism. Both chambers influence and check each other precisely because of this difference in representation⁸ (Harrington, 1977, p.771).

This risk was pointed out by John Stuart Mill, who advocated for a bicameral parliament, arguing that any body with power, whether a single person or an assembly, should not make decisions even temporarily without seeking advice. The majority of members of a single assembly, who come from the same political background and work together, create a certainty of victory

⁸ As early as 1659, Harrington observed: „In a state, there are always people who stand out because of their birth, wealth or honours; but if they were mixed with the people and had only one vote, like the rest, common liberty would be their bondage, and they would have no interest in defending it, since most arguments would be against them. Therefore, they have an advantage in the state if they form a body that has the right to control the activities of the people, because the people have the right to check the power.“

within their own chamber, which becomes despotic, excessive, and freed from the necessity of considering whether a given project will align with the established authority's line (Mill, 1862, p. 250-251). This was intended to hinder potential populism, and the role of the second chamber was to create an opportunity for other interests, which are absent from the first chamber, to be heard (Zwierchowski, 1996, p. 24; Russell, 2013a, p. 44). Among the justifications for bicameralism is the argument that it serves as a second chamber to oversee potential abuses or omissions by the first chamber (Chauhan, 2013, p. 42).

This function, although it lost importance as liberal democracy began to gain prominence and suffrage became the norm, still holds significance. Even in Great Britain, the House of Lords had to undergo deep reforms to adapt to the prevailing reality (Danel, 2014). In unitary systems, the second chamber often serves as a functional substitute for federal representation by institutionalizing asymmetric representation of groups that lack a voice in the proportionally elected lower house. This includes the constitutional representation of local communities and self-government interests (e.g., the Polish Senate's original intended role, or the Slovenian National Council), or specific socio-economic groups, which provides a crucial check against the centralizing tendencies inherent in unitary governance. This happens thru the aggregation of those categories of representation that are not included by the first chambers. This could apply to the representation of certain professions, languages, ethnic or religious categories⁹ (Lijphart, 1999, p. 90-105; Russell, 2001, p. 442).

The second chamber of parliament is also an important factor in ensuring the stability of the policies and government, and bicameralism is better suited to controlling and balancing executive power. In unitary systems, where the executive and legislative branches often experience a fusion of power (especially in Westminster models), the second chamber is especially critical. It provides an institutional mechanism for control that is often less susceptible to rigid party discipline than the lower house, thereby acting as a necessary, de-centralized check against the dominance of the government and its parliamentary majority. Madison, for example, mentions this during the Philadelphia Convention in 1787, pointing out that the basis for having two chambers is the need for checks and balances in a republican government¹⁰ (Patterson i Mughan, 1999, p. 15).

In the Federalist Papers, this phenomenon is described as a *cooling effect* (Druckman, Martin i Thies, 2005, p. 532). Both of these branches of government (legislative and executive) are equipped with mechanisms that allow them to influence each other, control each other, and, if necessary, have the power to dissolve (e.g., through a vote of no confidence). Thanks to the rights granted to it, it can operate more independently of the executive branch and bring a fresh

⁹ One such example is Slovenia, who have 22 representatives of local interests – appointed by electoral colleges of local communities, 4 representatives of employers – representing employers' organisations, 4 representatives of employees (trade unions) – representing employees, 4 representatives of farmers, craftsmen and independent professions – covering various economic and professional sectors (agriculture, crafts, liberal professions), 6 representatives of non-commercial fields – including one representative each from the following areas: education (universities, colleges), care and education (teachers), scientific research, culture and sport, healthcare, social activities (e.g. social assistance).

¹⁰ The name comes from a famous dialogue between Thomas Jefferson and George Washington. Thomas Jefferson asked Washington, 'Why did the founders create a second chamber of Congress, the Senate?' Washington asked, 'Why did you pour coffee into a saucer?' Jefferson replied, 'To cool it down.' Washington responded, 'That is why we pour legislation into the Senate saucer, to cool it down.'

perspective to ongoing political processes, strengthening the parliament's overall control over the government. This is particularly significant in the Westminster system, for example, because it is there that a fusion often occurs between the executive and legislative branches, with the executive branch often being dominant. This is because the executive branch representatives come from a party that enjoys the confidence of the first chamber of parliament. There is therefore a concern that members of the first chamber will adhere to strict party discipline, fearing the loss of their position in the party or being prevented from running in future elections (Russell, 2001, p. 447). In the second chamber, the executive branch does not need to have a majority. Even if such a situation arises, its members tend to act more independently, as voting against government legislation here will not be equivalent to a vote of no confidence, as is more often the case in the lower house.

The theoretical arguments (historical legacy, checks and balances, quality control) are universal, but their implementation and intensity differ significantly among unitary states. To avoid the generic defense of bicameralism, it is necessary to highlight how unitary models leverage the second chamber to address structural needs beyond federal representation. These differences are most evident in the configuration of powers and the mode of representation.

For instance, the function of legislative quality control is strong in unitary states where the second chamber is composed primarily of experts and non-partisan figures (e.g., the historical role of the Senate in France or the current structure in Ireland), whereas this function is often diluted in systems where the second chamber merely replicates the political composition of the first chamber (which has historically been a critique of the Polish Senate). Similarly, the check on executive power is most effective where the second chamber has different electoral legitimacy or tenure than the lower house, allowing it to act independently of the current government majority (e.g., the stabilizing role of the Italian Senate despite the unitary structure, or the historical function of the Second Spanish Republic's Senate).

Criticism of the Legitimacy of a Bicameral Parliament

The legitimacy of a bicameral parliament (bicameralism) has been one of the central points of constitutional debate for years, with critics presenting arguments that undermine the rationale for maintaining a second chamber in modern states, especially in unitary states. This analysis goes beyond merely referring to traditions which, although socially important, do not in themselves guarantee any benefit in the current legal order. The key factors here are the current function of the chamber and the citizens' awareness of the legitimacy of its existence. If it does not meet any of these criteria, its maintenance is unjustified (Banaszak, 2007, p. 427).

A significant strand of criticism relates to the very essence of the division of legislative power. Historically, Benjamin Franklin pointed out that a bicameral parliament is like a cart pulled by horses pulling in opposite directions. Emmanuel J. Sieyes argued similarly, claiming that the nation as sovereign has only one will, which logically should be reflected by a single chamber. Sieyes raised a fundamental dilemma that remains relevant today: "if the upper chambers do the same thing, they are unnecessary; if they do something different, they are harmful" (Weber,

1972, p. 572; Szymanek, 2013, p. 10). To paraphrase this, the division of the power of a single sovereign into two chambers may prove harmful to the entire state system.

When the second chamber is almost an exact copy of the first, political and functional duplication occurs. As Jean Mastias put it, in relation to the first chamber, it loses its personality and becomes “nothing more than a superfluous branch of the same tree” (Szymanek, 2013, p. 10). This thesis is reinforced by the words of Jacques Cadart, quoted by Eugeniusz Zwierchowski: “the second chamber is unnecessary if both chambers are elected at the same time, for the same term and in the same manner, i.e., by the same voters and in the same procedure”. It is then merely a copy that serves no purpose (Cadart, 1990, p. 369). In unitary states, where clearly distinct regional interests are difficult to find, there is often duplication of political composition in both chambers, which leads to the conclusion that such an arrangement is unnecessary (Banaszak, 2007, p. 366; Klepka, 2011). In Poland, there have been voices for years arguing that the Senate, in its current form, is unjustified.

There are also significant differences of opinion on how the second chamber should be elected. The search for diversity, e.g., through undemocratic or different forms of representation, serves as an argument for maintaining bicameralism, but at the same time gives rise to critical arguments. Konstanty Grzybowski summed it up succinctly, pointing out that the second chamber is “either unnecessary or undemocratic” (Grzybowski, 1946).

If the upper house is to represent other communities or narrow elites, its different method of appointment automatically calls into question its democratic nature. Representing different interests inevitably leads to conflicts, mainly between selfish groups, especially in countries where the second chamber is elitist in nature (Zwierchowski, 1996, p. 26). On the other hand, if both chambers are appointed in the same way, then the repetition of the political composition makes this body unnecessary (Banaszak, 2007, p. 366). As a result, regardless of whether the chamber is elected in an undemocratic manner or duplicates the representation of the first chamber, it is sometimes perceived as unnecessary for the system.

Beyond the aspect of representation, the issue of function also concerns the slowing down of the legislative process—an argument used by both supporters and critics. While some see this as an advantage (the introduction of an “amendment” element), Jerzy Jaskiernia wrote that the need for a bill to pass through two chambers can be “an additional factor forcing excessive haste in legislative work [...] with clear damage to the quality of the laws being created” (Jaskiernia, 1991, p. 72).

A bicameral system can lead to a weakening of legislative power, generate unnecessary conflicts and political disputes, and even hinder or block initiatives from the first chamber (Zwierchowski, 1996, p. 26; Banaszak, 2007, p. 366). Critics argue that a second chamber is not necessary to improve the quality of legislation. Better results can be achieved by increasing the expertise of the legislative service of the first chamber, improving legislative planning, and co-ordinating activities (Jaskiernia, 1991, p. 72).

In this context, the economic dimension cannot be overlooked. If the second chamber is a faithful copy of the first, does not occupy an important position in the political system, and is viewed negatively by society, maintaining it involves high costs (building, deputies’ allowances, staff). It is believed that changing the parliament to a unicameral system, even with an increase

in the number of deputies in one chamber, would be a much less costly solution. Such changes (from a bicameral to a single-chamber parliament) were made, for example, in Croatia in 2001, Denmark (1953), New Zealand (1951), and Sweden (1971). It should be emphasized, however, that economic considerations were not the only argument supporting the changes. However, they were an important addition to the debate on abandoning the bicameral system. Although there is a counterargument, that an independent state is a privilege that requires rigid and non-negotiable expenditure, the economic calculation remains important in assessing the legitimacy of maintaining a duplicated body of power.

The complexity of the debate lies precisely in the lack of a single, uniform model of bicameralism among unitary states. The legitimacy of the second chamber is, therefore, not a simple binary 'yes/no' question, but a continuous evaluation of its ability to meet specific structural and political needs of the unitary state, from France's expert Senate to Poland's politically aligned upper house. This diversity of institutional solutions in unitary states, rather than the universality of arguments, is the primary factor determining the second chamber's success and added value.

Conclusion

Second chambers of parliament are institutions that have played an important role in the political systems of many countries, both federal and unitary, for centuries. Their establishment is not solely a matter of constitutional tradition or the historical development of a given country, but stems from a deeper need to complement the democratic mechanism. In systems where the first chamber is usually elected by universal suffrage, the second chamber plays a complementary and sometimes even corrective role. Its existence is intended to introduce an additional level of reflection and to counteract an overly rapid and ill-considered legislative process, which in practice can lead to the destabilization of the legal order.

Ultimately, the analysis confirms that the legitimacy of second chambers in unitary states is grounded in both theoretical principles and practical considerations. Bicameralism strengthens the separation of powers, broadens social and territorial representation, and improves legislative quality by introducing an additional layer of scrutiny. Although its effectiveness depends on the specific institutional design, the idea itself offers important safeguards against the dominance of a single parliamentary majority and the risks of accelerated lawmaking.

In contemporary constitutional debates, particularly in countries where the future of the upper house is being questioned, these findings acquire direct relevance. The absence of a second chamber may lead to greater concentration of power, weaker internal checks within the legislature, and a loss of expert or regional input into the legislative process. Conversely, a properly designed second chamber—one with clearly defined and balanced powers—can fulfill its functions without generating excessive legislative delay.

Therefore, the discussion on the role of upper houses should remain open, combining both legal-theoretical reflection and empirical assessment of their performance in specific political systems. Only such an approach allows for an informed evaluation of whether bicameralism

continues to serve as a necessary element of modern parliamentarism or whether institutional reforms are justified.

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