

THE ORIGIN AND DEVELOPMENT OF THE UNITED STATES SENATE

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The Origin and Development of the United States Senate by Clara Hannah Kerr

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CLARA HANNAH KERR

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UNITED STATES SENATE**

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OF THE
UNITED STATES SENATE

BY

CLARA HANNAH KERR, PH.D.

Univ. of
California

ITHACA, N. Y.
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P R E F A C E .

IN the following study an effort has been made to trace the development of the United States senate from the time that a second house was first proposed in the convention of 1787 to the present. In this discussion especial attention has been paid to the way in which the senate has exercised the powers granted to it by the constitution, and to the ways in which, either by an increase or a decrease of those powers, it has deviated from the purpose of the framers of the constitution. In doing this the three functions exercised by that body, legislative, executive and judicial, have been separately treated.

It has been impossible to obtain a full knowledge of the proceedings of the senate during its early days, as the debates were not reported and the sessions, for some time, were held in secret. Our chief sources of information regarding the period are the "Annals of Congress" and the "Senate Journal." These are supplemented by the "Journal of Maclay," covering the period of the First Congress, and the writings of the early statesmen, especially those of Washington, John Adams, Jefferson, Hamilton and Madison.

The same difficulty exists throughout for the executive proceedings, as the executive sessions are still held in secret, and none of the debates have been made public, except in the few instances in which the injunction of secrecy has been removed from them. As the "Executive Journal" since 1869 has not been published, it is still more difficult to obtain an adequate knowledge of the executive proceedings since that date.

A list of the more important sources of information consulted in the preparation of this paper, including all those cited in the foot notes, is given at the end. Following established precedents, the document known as the "Pinckney Plan" has several times been cited, although the genuineness of that document is now seriously discredited.

The work has been done under the direction of Professor Moses Coit Tyler, to whose suggestions and assistance I am much indebted. I am also indebted to the Honorable Henry Cabot Lodge for aid while making personal observations of the senate, and to Mr. A. R. Spofford for help while using the Library of Congress.

C. H. K.

*Cornell University,
Ithaca, New York,
July, 1895.*

THE ORIGIN AND DEVELOPMENT OF THE UNITED STATES SENATE.

CHAPTER I.

THE FORMATION OF THE SENATE IN THE CONVENTION OF 1787.

THE states, in adopting the articles of confederation which created a government in which all legislative power was vested in a single house, had departed from nearly all of their traditions of government. At that time, the division of the legislative power between the house of lords and the house of commons was considered an essential part of the English system ; and, in all of the colonies except Pennsylvania, two houses had been developed, and were provided for by all of the state constitutions except those of Georgia and Pennsylvania. It was, therefore, but natural in framing a new form of government to replace that of the articles of confederation, which had proved inadequate, that a legislature of two branches should have been thought of. Both Randolph's and Pinckney's plans, introduced immediately after the organization of the convention, provided for two houses ; and two days later the convention decided, without debate, Pennsylvania alone voting against it, in favor of such a distribution of the legislative power. Later, however, after the arrival of the New Jersey delegates, who wished only the amendment of the articles of confederation, the question was again considered, and New York and Delaware voted with New Jersey for a legislature of a single branch.

It being decided that there was to be a second house, the convention next proceeded to determine the manner in which its members should be chosen. During the colonial period, in the royal colonies the councillors were regularly appointed by the king, and in the proprietary colonies by the proprietor; while in the popular colonies they were either chosen by the general legislature, as in Massachusetts, or directly by the voters, as in Rhode Island and Connecticut. In the formation of the state constitutions the more popular method of election of Rhode Island and Connecticut was followed by most of the states.¹

Each of the three plans submitted to the convention, however, provided for a secondary election: Pinckney's for an election by the lower house, Randolph's by the lower house from nominations made by the state legislatures, and Hamilton's for a choice by electors chosen by the people, as in Maryland. A proposal by Mr. Read of Delaware removed the choice still farther from the people by giving to the executive the appointment of senators from a certain number nominated by the individual legislatures. This, however, was too monarchical to meet with approval, and was not supported; though later Gouverneur Morris, who at this time was absent, went still farther and declared that he was in favor of the simple appointment of senators by the executive.

The direct election of senators by the people, proposed and warmly supported by the committee to whom the Randolph plan was referred, was objected to on the grounds that the people could not safely be entrusted with the power, and because it would give to the landed interests an undue preponderance; and the plan adopted by many of the states in choosing members to the congress of the confederation, namely, choice by the state

¹ Under the first constitutions, of S. C. and N. H. the members of the upper house were chosen by those of the lower; and in Maryland by electors chosen by the people.