

**BICAMERALISM**

For the Framers, historical and contemporary examples of both unicameral and bicameral legislatures abounded. Following the Revolution, a number of state legislatures were created unicameral, and the Continental Congress, limited in power as it was, consisted of one house. On the other hand, some of the ancient republics, upon whose example the Framers often relied, had two-house legislatures. Or, of direct historical relevance, the Parliament of Great Britain had two houses based on two social orders, the hereditary aristocracy represented in the House of Lords and the freeholders of the land represented in the House of Commons.

From the beginning of the Convention, a two-house Congress was called for in the Virginia Plan. The Great Compromise, one of the critical decisions leading to a successful completion of the Convention, resolved the dispute about the national legislature by providing for a House of Representatives apportioned on population and a Senate in which the states were equally represented. The first function served, thus, was federalism.<sup>33</sup> Coextensively important, however, was the separation-of-powers principle served. The legislative power, the Framers both knew and feared, was predominant in a society dependent upon the suffrage of the people, and it was important to have a precaution against the triumph of transient majorities. Hence the Constitution's requirement—that before lawmaking could be carried out bills must be deliberated in two houses, their Members beholden to different constituencies—was in pursuit of this observation from experience.<sup>34</sup>

Events since 1787, of course, have altered both the separation-of-powers and the federalism bases of bicameralism, in particular the adoption of the Seventeenth Amendment resulting in the popular election of Senators, so that the differences between the two chambers are today less pronounced.

**ENUMERATED, IMPLIED, RESULTING, AND INHERENT POWERS**

Two important doctrines of constitutional law—that the Federal Government is one of enumerated powers and that legislative powers may not be delegated—are derived in part from this section. The classic statement of the former is by Chief Justice Marshall in *McCulloch v. Maryland*: “This government is acknowl-

<sup>33</sup> THE FEDERALIST, No. 51, 250–257 (Madison) (J. Cooke ed. 1961).

<sup>34</sup> Id. at No. 51, 347–353 (Madison). The assurance of the safeguard is built into the presentment clause. Article I, § 7, cl. 2; see also id. at cl. 3. The structure is not often the subject of case law, but it was a foundational matter in *INS v. Chadha*, 462 U.S. 919, 944–951 (1983).