

Pot-Luck Politicians

A Parliamentary Chamber from Sortition



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Chapter 1: An Introduction

“IT IS ACCEPTED AS DEMOCRATIC WHEN PUBLIC OFFICES ARE ALLOCATED BY LOT; AND AS OLIGARCHIC WHEN THEY ARE FILLED BY ELECTIONS”

*ARISTOTLE'S POLITICS
(BOOK IV)*

This paper seeks to outline the theoretical and practical benefits associated with the potential application of sortition within the political system of the United Kingdom. Sortition is, in effect, the selection of individuals by random lottery, and can in this instance be seen as a sort of political jury service whereby a group of individuals representative of the population as a whole are asked to vote in the legislative process as to whether they agree with the intentions and /or methods behind proposed laws. Whilst appearing initially ill thought through or novel it will be shown to be neither, with both extensive historical use in ancient, medieval, and to a lesser extent, modern Europe. Furthermore, sortition has long been described in classical political theory as the purest form of democracy on the basis of its equality and representativeness. The case will be also then be made as to why specifically the United Kingdom is apt to benefit from sortition's implementation as a consequence of its current political state of affairs, and then additionally as to in what way sortition might be worked into the existing legislative framework to best effect.

Chapter 2: History and Theory of Sortition

“EVEN FOOLISH MEN WOULD RATHER GOVERN THEMSELVES THAN BE
GOVERNED BY OTHERS”

THOMAS HOBBS' *LEVIATHAN*
(CHAPTER XV)

2.1: Historical Use of Sortition

It is fair to say that both the utilisation of sortition within political systems has waxed and waned over the course of the last two-and-a-half millennia and that there has been a recent uptake of interest in sortition within academia in the last fifty years or so. Nonetheless an appreciation of how sortition has been applied historically, often to immense success, is useful in order to objectively evaluate the likelihood of its application in the UK Parliament of today being a beneficial one.

2.1.1: Classical Athens

First being used in the 6th century BC, sortition was integral to Athenian democracy. Fundamentally its use arose out of the desire for each citizen to receive equality of legal and political rights; as such sortition was implemented in both the selection of legal juries and the Athenian Council. The Athenians operated a system whereby individuals had bronze cards with their names on which were then inserted into slots on a machine called a 'kleroterion' (which is pictured on the cover page of this paper). A row or column was then selected at random and the individuals whose cards were in that sample were selected. It is to be noted that the qualification for eligibility was limited to male Athenians over thirty, with: women, slaves, younger men and foreigners excluded. The Council was composed of 500 administrators and was responsible for developing legislation; overseeing the executive; and managing diplomacy. Each individual selected served a one-year term and it is estimated that 50-70% of all men eligible had served at least one term; this being possible due to the population of Athens being only in the tens of thousands during the period.

The Greeks argued that selection by lot was the most democratic method as it gave even the most unpopular an equal chance of selection – yet it was never the sole method used for the appointment of positions. Military commanders, for example, were not chosen by sortition with instead a man's military

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capabilities the determining factor behind choice. This recognition of the importance of expertise in leadership, even if not directly political leadership, has been a key factor of consideration ever since.

Beyond its equitable treatment of people, sortition was also highly regarded for its ability to prevent factionalism. As power was diluted given the size of the Council, and each member was selected not on the basis of their desire for power but their eligibility, collusion became rare. As the classical historian James Headlam-Morley wrote in his 1891 book *On Election by Lot at Athens*, “systematic oppression and organised fraud were impossible”. That is not to say that the situation was perfect, with the occasional levying of too high taxes being a problem: then again, to expect any political system to never make mistakes is perhaps to be asking too much. Indeed it shall be later seen in this paper that many philosophers of the time took great dislike to sortition, and Athenian democracy more broadly.

2.1.2: Medieval and Modern Periods

Alongside the adoption of classical culture in the Renaissance came the re-emergence of sortition. Bologna, Parma, and Vincenza all used random selection of legislators. Moreover, sortition was also used in Florence during the 13th and 14th centuries, and in Venice from 1268 until the Venetian Republic fell in 1797 where sortition played a notably key role in the selection of the Doge. The Kingdom of Aragon utilised sortition too with Ferdinand II extolling its virtues.

For an example of even more recent application one can look to San Marino where sortition was used until the end of the Second World War. San Marino used to randomly select its two Heads of State from its sixty councillors; a not insignificant fraction of its minute population. Even more recently Iceland, following its 2008-2011 financial crisis, assembled a committee of 950 citizens to provide advice on the development of a new constitution.

2.2: Sortition Within Political Theory

For the purposes of this thesis non-democratic forms of government such as communism are to receive little comment or analysis, instead the aim shall be to seek what form of democracy is either most pure or of greatest value.

There exists strong theoretical precedent for sortition’s integral role in democracies from both ancient and modern political thinkers alike. Of the Greeks: Plato, Aristotle, and Herodotus all comment that selection by lot is more democratic than elections. This belief can also be seen in the work of Baron de Montesquieu, who wrote in his *The Spirit of the Laws* that, “suffrage by lot is natural to democracy, as that

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by choice is to aristocracy”. Then again, care must be taken to differentiate various definitions of aristocracy with its translation from Ancient Greek being ‘rule by the best’ – ironically it is easy to see how one might question whether hereditary aristocracy in the modern world in fact leads to such an outcome.

Sortition’s inextricable link to democracy historically means we may often find objections to its validity within arguments against democracy in the work of Plato. Within the *Republic*, the character of Socrates argues that if statecraft is in fact a craft then it surely follows that a master craftsman, with greater intelligence and morality, is required to lead the state. Further, Plato wrote of the issues that pluralities of opinion often cause in democracies. Similarly to aristocracy though, one must take care to note that democracy is best translated from Ancient Greek as ‘rule by the mob’. It is on the basis of these two premises that Plato argues that the state should be led by ‘philosophers kings’ who benevolently rule in the best interests of everyone.

A complication is to be found though in that it appears Plato might have changed his mind in later life. His last dialogue *Laws*, which intriguingly is the only of his undisputed works to not feature Socrates as a character, seems to present a less extreme argument. Whilst still maintaining that the best form of government is that which is described in the *Republic*, Plato goes on to posit that the second-best state is one in which the citizens play an active role in sharing the activities of politics in a mixture of a monarchy and democracy. This ‘mixed constitution’ would later be adopted to great effect by the Roman Republic, and its theory developed by the likes of Cicero. Within the work of Aristotle there is also mention of sortition in an analogous manner, suggesting that its use is best for assemblies and juries but not for high office. Within Book 4 of his *Politics* Aristotle states that, “the power of veto, but not that of positive enactment, should be vested in the masses.”

Edmund Burke, the 18th century MP and philosopher, was even more critical of sortition than Plato’s early work – in stark contrast the same cannot be said of Burke’s views on democracy more broadly though because as will be described, Burke advocated an elitist form of representative democracy instead. It is because of the close relationship between sortition and democracy that, to be able to understand sortition within a 21st century UK perspective, an understanding of wider democratic theory is required. Hence it will be the subject of the next section.

2.2.1: Traditional Democratic Thought

Of all the definitions of democracy it is perhaps that delivered by Abraham Lincoln at Gettysburg that is most informative. A democracy must be, “of the people, by the people, and for the people”. Arguably

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however the democracy present in the 21st century UK fails on at least two of these criteria; many argue that we have an elite political class that rule in the interests of large corporations rather than the general citizenry instead.

Such arguments are predicated on the belief that one can truly assess a democracy's worth at all against certain criteria. Broadly, political theory suggests two ways in which this assessment may occur. On the one hand, there is an instrumental approach whereby the outcomes of said democracy are assessed and if they are good so too is the political system. On the other, a democracy can be good in and of itself, if it has desirable qualities inherent within its methods such as equality, justice, or fairness.

Further, it must be understood as to what makes a democracy legitimate: why the government is justified in undertaking a specific course of action. One approach, stemming from Immanuel Kant, is that the decision must have been arrived at commonly through public reason. An alternative, as proposed by Jean-Jacques Rousseau, is that democratic participation is that which is responsible for legitimacy. However the two schools are not mutually exclusive, with theories regarding deliberative democracy combining elements of both. The form of sortition that is to be proposed by this paper would be best classified as a form of deliberative democracy and therefore an analysis of it is to follow.

Deliberative democracy entails the people both being allowed to participate in political discussion and then, through debate, arrive at a decision as to the best course of action. One attack that is made is that people are self-interested, and as such deliberative democracy might not lead to what is in the country's interests. Indeed this description of individual behaviour is standard in traditional economic theory, and so some see its applicability to politics as self-evident. Others such as John Stuart Mill and Rousseau believe that people can be motivated by concern for abstract concepts such as justice or 'the common good' – it is actually argued by both that the process of deliberative democracy in fact enhances the propensity for this to occur. Whether one believes humans are capable of altruism then is likely to impact their desired design of democratic institutions considerably.

One approach to democratic theory that is to be, in large part, rejected within this paper is elite theory. Modern elite theorists, such as Joseph Schumpeter and Anthony Downs, present a view of democracy that is solely instrumentalist with Schumpeter, in particular, rejecting any moral connotations to democracy. His definition of democracy is a simply a system whereby elites compete through elections for the right to rule; the sole role of the citizens is to ensure the smooth and peaceful circulation of these elites. Schumpeter, whose key work *Capitalism, Socialism, and Democracy* was released in 1942, believed the 'average citizen' to be incompetent and unequipped to lead. Indeed Schumpeter later justified this position using empirical studies from the 1950s and 60s showing high public ignorance to current affairs.

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One might be tempted to think that this was of frustration to Schumpeter, but far from it. He in fact argued that this apathy was highly desirable as it enabled the elites to do their job unimpeded.

Schumpeter's alternative was a highly motivated population of people who knew very little and were likely to pursue irrational yet appealing aims. Schumpeter did though think the people justified in overthrowing a tyrannical government – even if that does raise questions as to how such an ignorant population would be aware of such a phenomenon.

In relation to this thesis it is easy to see that an elite theorist would take issue with sortition, and likely any form of governance by the masses. Schumpeter did though see value in deliberation, so long as it were conducted by elites and in secret. It is also regrettably true that if Schumpeter were still alive he would likely cite the examples of people demonstrating political ignorance on social media as evidence as to why they ought not to be allowed a role in politics.

All of the above is not to say though that some of his work, even if unintended, might strengthen the argument proposed in this paper. One of the descriptions of democracy Schumpeter gave was that voters in fact play no role in political decision-making, rather it is politicians, and importantly political and economic interests, that do. As shall be discussed in the following chapter, this is in large part why so many are perhaps disenfranchised with modern politics in the UK. Furthermore, there is also merit in Schumpeter's views regarding the implementation of policy. It shall later be argued that even if a 'common good' is arrived at, it may still be hard to determine the means to that end; as such an elite theorist approach to the implementation of policy, once determined by the people, may be of use.

Charles Louis de Secondat, Baron de Montesquieu cannot go without mention here either. Montesquieu fervently advocated that, "a democracy must educate its citizens to identify their interests with the interests of their country". When a democracy fails to do so he argued that people begin to advance their own private interests at the expense of others through acquiring political power over them. It would seem then that, if successful, this process of aligning personal and national interest would resolve the issue early discussed regarding whether citizens are capable of truly voting for 'the common good'. Additionally, it is also helpful to understand the other reason Montesquieu provided for why democracies might fail, known as 'the spirit of extreme equality'¹. This phenomenon occurs when a country's citizens become no longer content with civil equality, instead desiring total equality. In this sense, we can see in the work of Montesquieu the seeds that would later grow into revolutionary socialism.

¹ Baron de Montesquieu, *The Spirit of the Laws*.

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Modern political theory must also be considered carefully, as if a chamber from sortition would exacerbate real-world political issues that have been identified within academia a significant blow to this thesis would be dealt. The first major issue surrounding modern democracies relates to an apparent lack of inherent equality, with Tom Christiano highlighting in his 2004 paper *The Authority of Democracy* that, “in order for people to be treated publicly as equals they must have an equal say in collective decision making”. A connected point is that the small role which citizens play in decision making leads to them having little responsibility for the outcome. Secondly, one must consider what the consequences of mass participation might be; for instance it can be argued that if all have equal political power it shall be diluted to the extent of impotence or, more commonly, that mass participation is not possible as it leads to the relative neglect of other key tasks in society. It is from this contention that one must then attempt to strike the balance as to what role the ordinary citizen should play, and then further as to whether they shall be capable of doing so. To theorise of the ideal democracy one must also ascertain how once the will of the people is found it is to be implemented.

Within economic theory there is a key concept called the ‘principal-agent’ problem. First appearing in Thomas Hobbes’ *Leviathan* the concept states that where actions are taken by an agent on behalf of someone else, in a circumstance where the agent disagrees with the intentions, then the task is completed less efficiently. Hence it can be argued that if a bureaucracy purely serves to implement public policy it has not determined then it is likely to do so in a worse manner than if the policy was of its own devising. In Hobbes’ words, “it follows that where the public and private interest are most closely united, there is the public most advanced.” For the purpose of this thesis it will later be argued that as a result of this, the executive ought to still play a role in the generating of legislation and / or receive recognition for successful implementation of policy.

2.2.1.1: Direct Democracy

A brief discussion shall now take place regarding what has been traditionally seen as the purest yet perhaps least viable form of democracy: direct democracy. Put simply, direct democracy can be understood as a system whereby every citizen of a state has a vote on each and every issue; as can be immediately seen though there are obvious logistical considerations that make it quite unpractical for large states.

Perhaps the most adamant defender of this form of governance was the 18th century philosopher Jean-Jacques Rousseau. In his 1762 magnum opus *The Social Contract*, Rousseau puts forward his defence of democracy and a conception of what provides it with greater legitimacy. To Rousseau, the citizens of a state should meet regularly to discuss issues and enact laws that magistrates are to implement. Pivotal to his framework is the conception that the majority decision represents the ‘general will’ of a people that is

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distinct from what is in the individual interest of each citizen. If one sees this using John Rawls' metaphor of the 'veil of ignorance', this concept can be interpreted that each citizen should vote for what is in the interest of the people as a whole so that if they didn't know their social position they would be happy of the outcome regardless. There is indeed an initial appeal to Rousseau's ideas, but it is issues of practicality that bring down its ingenuity. For instance, in all but the very smallest states it is not feasible for the entire populous to assemble, and to do so for every law would have a huge opportunity cost on the functioning of society. Moreover, Rousseau argues that in larger states it is harder for there to be shared common ground between citizens. As such it is evidently clear that the 21st century United Kingdom is not best suited to direct democracy and hence we use an alternative form which shall be discussed in the next section.

However, there are aspects of Rousseau's work which we might wish to consider in order to improve the UK's current legislature. Most crucially for this thesis, Rousseau's conception of political legitimacy ought not to be ignored: Rousseau argued that without active participation of ordinary citizens in politics, the system as a whole is illegitimate. Secondly, a modern interpretation of Rousseau's conception of legitimacy, which adds strength to the argument presented later in this paper, comes through an understanding of the Condorcet jury theorem. First highlighted in 1785 by the Marquis de Condorcet, the theorem states that if each voter is more likely to be correct than wrong, then a majority of all is also more likely to be correct than wrong. More interestingly however is the fact that the probability that a majority will vote for the correct outcome increases with the size of the body of voters. David Estlund in his 2008 work *Democratic Authority* has thus described Rousseau's conception of legitimacy as, "the correctness theory", given Rousseau's desire for the whole populous to assemble in order for the correct decision to be arrived at. Hence in Chapter 4 a discussion will need to be had regarding the balance between this phenomenon and logistical practicality in regard to the size of the parliamentary chamber from sortition proposed.

2.2.1.2: Representative Democracy

Given the impracticalities associated with direct democracies, most countries have long adopted a form of governance known as representative democracy whereby the populous elects individuals to represent them in the political process on their behalf. There are multiple methods to facilitate this, such as constituency elections or proportional representation, yet of huge importance is the distinction made by 18th century MP and philosopher Edmund Burke regarding the role of the representative. Either they are to be a 'delegate' who directly voice the opinions of those they have been chosen to represent or they act autonomously as 'trustees' and decide what is in the best interests of their constituents on their behalf.

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There are merits to both conceptions – delegation would seem a purer form of representation, yet trusteeship benefits from its representatives being better informed and equipped with the time and resources to carefully consider political decisions. It would seem though that a mixture of the two cannot be enacted within a single chamber authentically. Furthermore, an important additional form exists called descriptive representation which relates to how similar characteristically the group of representatives are to the group of electors; for instance whether there is a similar proportion of women. The American political scientist Jane Mansbridge has argued that this form of representation is required when marginalised groups distrust those not also experiencing said marginalisation. In Chapter 4 a further discussion on this issue will take place when the case shall be made for a tricameral parliament which would incorporate many of the benefits of each form whilst protecting against flaws too.

Intriguingly, in contrast to Jean-Jacques Rousseau in the previous section, some such as American founding father James Madison have argued on behalf of representative government not on grounds of practicality but rather that representatives are less likely to sacrifice the long-term prosperity of a country for short-term personal gain; an outcome which might be all too easy if every person had a vote on every issue. On the flip side, elected legislators might have more experience governing or competence at it, however they also tend to represent a smaller section of the population. This is compounded by the prevalence of single member district representation which often requires just a simple plurality for election victory, resulting in the suppression of minority opinion and interests. Consequently, it is this systemic underrepresentation of minorities that leads Bernard Manin to suggest in his *The Principles of Representative Government* that representative democracies aren't truly representative at all. Moreover Charles Beitz forcefully argued in his 1989 work *Political Equality: An Essay in Democratic Theory* that single member district representation encourages moderation in policy designed to appeal to the median voter in order to gain the most votes. Whilst this might initially appear a good thing, it can also be seen to lead to excessive continuance of the status quo even when it is entirely in need of fixing.

One final theoretical interpretation of representative democracy that shall be discussed is that of John Stuart Mill. Like Burke, Mill was a strong defender of representative democracy although notably Mill didn't see the primary purpose of government representatives as the generation of legislation. Rather, in his eyes, parliaments are best suited to be places of debate on public opinion and further they should ensure that the executive is effectively administering the laws and policy that parliament has enacted. A summation of Mill's thoughts in his own words from *Of the Proper Functions of Representative Bodies* is as follows: "Their part is to indicate wants, to be an organ for popular demands, and a place of adverse discussion for all opinions relating to public matters, both great and small; and, along with this, to check by criticism, and eventually by withdrawing their support, those high public officers who really conduct

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the public business, or who appoint those by whom it is conducted.” It is along these lines that a chamber from sortition shall later be argued for.

As has been seen, on practical rather than malicious grounds, representative democracies are designed to exclude citizen participation. If instead ordinary people can be placed at the heart of government we might truly one day have government of, by, and for the people. In order to achieve this, it shall be later argued, we need sortition not voting, even if there does exist a 21st century assumption that democracy logically entails elections.

2.3: Current Applications of Sortition

Regarding sortition’s modern application it is to be observed that it plays a lesser role in modern political life. Indeed where it is used, as shall be outlined, it tends to be in order to decide upon specific issues as opposed to the creation of a body that will make many such decisions.

2.3.1: Common Law Juries

The United Kingdom has long utilised juries, selected randomly, for criminal cases with the argument for their use often that decisions relating to criminal cases are of such importance, for not only the individual being tried but society too, that they should not be left to a judge to determine. Instead, a verdict is returned by a twelve-person group of ordinary citizens and then a judge sentences or acquits accordingly. Since 1921 it has been the case that women have been eligible to be on a jury and so selection of jurors is now done randomly from the adult population as a whole. Other countries, ordinarily ex-colonies of the UK have adopted similar legal systems and so the process is repeated similarly throughout the common law world.

2.3.2: Citizens’ Assemblies

Another modern use of sortition that is vital to be understood in respect to this thesis is the selection of citizens’ assemblies. Citizens’ assemblies are bodies of quasi-randomly selected citizens and they intend to provide a forum for discussion on an issue, and then a decision reflective of the educated public opinion. In order to fulfil this function, the members of the assembly are provided with access to experts on an issue before they discuss and deliberate the topic collaboratively as to what is the best outcome. For the sake of manageability, and to ensure fruitful deliberation, the selection of participants tends to be limited to between 50 and 200 people and their selection is carefully intended to reflect a cross-section of the wider population. As shall be discussed, the process of formation is not without

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flaws but broadly speaking most would agree that they are fairly representative. Further, an inherent benefit is that they allow for the representation of the common person whilst ensuring that ignorance to an issue is not a factor. Deliberation, it is also argued, removes factionalism by emphasising a pragmatic resolution as opposed to partisanship.

2.3.2.1: In Practice

To grasp how and why citizens' assemblies function a few examples will now be given to serve as illustrations. In 2006 and early 2007 two Canadian provinces, namely British Columbia and Ontario, organised citizens' assemblies to discuss electoral reform – the Netherlands conducted a similar process in 2006 too. In all three cases participants were chosen by a semi-random process that ensured both geographic and demographic diversity: invitations were sent out randomly to people on the electoral register and they were asked to either consent or decline to be considered as eligible. The selection process was then applied to those who opted in, and then those selected were informed.

In the case of British Columbia those selected received introductory courses in electoral politics for twelve weeks in what was dubbed the 'learning phase'. After this the participants entered a 'public consultation phase' where dozens of hearings were held and over 1500 written submissions were discussed. After which they deliberated among themselves before voting on different options in three separate votes.

One major flaw in the process used was that due to the voluntary nature of participation there was a disproportionate number of members of the assembly who held strong views on the topic. In British Columbia's assembly, for example, polls showed that whilst the wider public were satisfied with the electoral system, the majority of participants were strongly dissatisfied. Amy Lang, from the University of British Columbia's Centre for the Study of Democratic Institutions, however noted two distinct benefits of the body chosen. The vast majority of participants showed an interest in learning about the issue, and a commitment to the process which she argues, "is likely to have contributed to the excellent working dynamic within the Assembly"². Michael Pal was more critical of the outcome in Canada saying, "the requirement of an equal number of members from each electoral district resulted in Assemblies that did not reflect the actual population"³. As such, perhaps a lesson needs to be learnt regarding whether to prioritise demographic rather than geographic representation.

² Lang, A. (2007). *But Is It for Real? The British Columbia Citizens' Assembly as a Model of State-Sponsored Citizen Empowerment*.

³ Pal, Michael. (2012). *The Promise and Limits of Citizens' Assemblies: Deliberation, Institutions and the Law of Democracy*.

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Citizens' assemblies have also been used in the Republic of Ireland recently, to perhaps surprising effect. Two assemblies, one in 2013, and another in 2016, were formed to discuss and debate the morally contentious issues of gay marriage and abortion respectively. Following similar procedures to other examples, both assemblies voted in favour of legalisation. Any critics of legitimacy were then proven wrong when their decisions were subsequently approved in national referendums by 62% and 66% of votes respectively. Given the role that Roman Catholicism has traditionally played in Ireland both outcomes were large breaks from any perceived existing status quo of moral sentiment. There is a strong argument to be made that if even these highly contentious issues can be deliberated upon by citizens' assemblies, in a manner reflective of wider public opinion, then it is surely the case that 'ordinary' laws can be too. It will later be argued that any complaint of competing claims to legitimacy regarding legislation can be avoided by implementing citizens' assemblies into the existing UK parliamentary framework.

2.3.2.2: Theoretical Implications

Intriguingly polls showed that during and after the process in Canada the perception from the wider public was that the assembly members were both technical experts and ordinary citizens simultaneously; an arguably ideal scenario for legislators. Further there is much to be desired in the manner in which issues affecting politicians can be dealt with *not* by said politicians.

Citizens' assemblies also lead to discussions about deliberative forms of democracy more broadly. Many have argued that deliberative models of democracy, to a greater extent than others, lead to ideal levels of impartiality, rationality, and knowledge of the facts. If one also accepts that an increase in these conditions leads to a greater probability of good decisions being made, then it follows that deliberative democracy has a value in producing good decisions.

A key question that does arise from the use of citizens' assemblies though is whether the assembly itself should be capable of choosing its own agenda or whether it should be pre-determined. As we have seen in the case of British Columbia, the participants had their agenda defined by the legislature rather than themselves. Many have stated, in agreement with Yale political scientist Robert Dahl that in an ideal democracy the ability to set the agenda must be vehemently protected. In Dahl's words, "the body of citizens ... should have the exclusive control to determine what matters are or are not to be decided".⁴

Another, arguably the most important, ramification of how citizens' assemblies function is that, due to the random selection process, they allow for a diverse range of problem-solving methods and ways of

⁴ Dahl, Robert A. (1983). *Dilemmas of Pluralist Democracy: Autonomy vs. Control*.

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seeing the world – a phenomenon henceforth referred to as cognitive diversity. Deliberation, it can be argued, is improved as a consequence. It is not hard to see that traditional politicians tend to have very similar environmental conditioning: they are almost all university educated for example. This narrowing of approach is recognised to be detrimental in all walks of life, with many companies admitting that it is their intention to hire graduates from a wide range of subjects for this very reason.

A common attack on citizens' assemblies is that they lack expertise, or in more elitist terms, they lack those people that have the skills to make political decisions: Schumpeter's argument follows a similar structure. If therefore it can be demonstrated that this lack of expertise is not to the detriment of sortition-selected assemblies but even to their benefit there are obvious benefits for the integrity and validity of sortition. Lu Hong and Scott E. Page have perhaps done so: the pair conducted a study where it was found that a team of individuals selected from a diverse population of intelligence outperformed a team comprised of the most intelligent people of the population only.⁵ Furthermore, this argument has been developed in a political context by H el ene Landemore who argues that the random selection of representatives would result in greater efficacy, diversity, and inclusivity than elections.⁶ Indeed it should be noted that this argument is not entirely new either, with the 19th century MP and philosopher J.S. Mill stating that governing assemblies should be a "fair sample of every grade of intellect among people" rather than "a selection of the greatest political minds".⁷

2.4: Proposed and Actual Political Implementation Outside the UK

This section shall outline other use cases that have been theorised for sortition whether they be relating to foreign legislatures or other ideological frameworks. Perhaps the simplest yet least descriptive application of sortition is that advocated by the French political activist  tienne Chouard who proposes replacing elections with sortition. Yet it would seem evident that a more complex implementation plan is likely to be required to both convince a sortition sceptic of its value and to ensure it could be implemented to good effect.

Perhaps the best starting point for a discussion of this nature would be with the Marxist political theorist C.L.R. James who wrote an essay in 1956 entitled *Every Cook Can Govern: A Study of Democracy in Ancient Greece, Its Meaning for Today*. Within it, James suggested that a large legislative body, such as the U.S.

⁵ Hong, Lu & Page, Scott E. (2004). *Groups of diverse problem solvers can outperform groups of high-ability problem solvers*

⁶ Landemore, H el ene. (2010). *Deliberation, Representation, and the Epistemic Function of Parliamentary Assemblies: a Burkean Argument in Favor of Descriptive Representation*

⁷ Mill, John Stuart. (1861). *Considerations on Representative Government*

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Congress, could be selected through sortition from the adult population at large: arguably this work was responsible for reinvigorating academic interest in sortition. One development of this idea of James' has come from the anarcho-capitalist writer Terry Hulseley who proposed a 28th Amendment to the U.S. Constitution which would randomise the selection of every member of both chambers of Congress.⁸ A different advancement of James' proposition came from Ernest Callenbach and Michael Phillips in their book *A Citizen Legislature*. Callenbach and Phillips are less radical than Hulseley and suggest that only the House of Representatives should be replaced with sortition, and it should be done so on the basis of its provision of: fair representation for the people and their interests; a minimisation of realpolitik; and the removal of the influence of money – and any associated corruption. The combination of which, they argue, would lead to better legislation.

Similar types of application have been theorised regarding other countries too, with political science scholars from Copenhagen Business School positing a supplementation of the Danish parliament, the Folketing, with another chamber of 300 randomly selected Danish citizens in order to combat elitism and career politicians in a book entitled *Tam Eliten*, or in English *Tame the Elite*. Furthermore, during the French presidential campaign of 2017, Jean-Luc Mélenchon proposed a sixth republic for France whereby the upper house of its legislature would be formed through national sortition. Yet perhaps the best European example, or at least the best realised, is that of the Parliament of the German-speaking Community of Belgium. A permanent Citizens' Council, comprising 24 citizens randomly selected for an 18-month term, organises regular citizens' assemblies to discuss contentious political issues. Following the assemblies' verdicts, the German-speaking parliament is constitutionally required to discuss the recommendations made.

On a more abstract level, both the aforementioned Robert A. Dahl and Simon Threlkeld have presented a different take on the application of sortition. Dahl argued in his 1989 work *Democracy and Its Critics* that an advanced form of democracy could exist centring around *minipopuli*. Dahl argues that a group of ~1000 citizens selected randomly from the entire *demos* could either set an agenda of issues or deal with a particularly major one. These *minipopuli* would hold hearings; commission research; and debate and discuss. It should be noted that Dahl envisages them as supplementing rather than replacing legislative bodies. Threlkeld meanwhile proposes that laws are decided by legislative juries rather than by elected politicians or referenda.⁹ Existing legislatures would still exist, and could propose laws to the legislative

⁸ Hulseley, Terry. (2012). *Instituting Meritocracy After the Collapse of Democracy in America*.

⁹ Threlkeld, Simon. (1998). *A Blueprint for Democratic Law-Making: Give Citizen Juries the Final Say*.

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juries, but could no longer pass laws. Threlkeld also notes that individual citizens, as well as public interest groups, would also be capable of proposing laws to these legislative juries.

Arguably the most complete theory proposed however is that presented by David Van Rebourck in his *Against Elections*, designed by the political scientist and ex Vermont congressman Terill Bouricius. Bouricius was heavily influenced by classical Athens and suggests a system whereby there exists: an Agenda Council which chooses topics for legislation, thus addressing Dahl's complaint regarding agenda-setting; a Reviews Panel which develop legislation; and a Rules Council which can adjust the legislative process itself. The members of all three bodies are selected via sortition from volunteers for 3-year terms and are paid handsomely. That is not the full picture though, as Bouricius then proposes a Policy Jury, which holds the authority to vote bills into law. A new jury is assembled for each piece of legislation, and its 400 members are selected again through sortition, but this time from the entire adult population rather than volunteers: those selected are obliged to participate, much like a trial jury. The jurors only serve for a few days, during which time they receive objective information about the legislative decision in question and hear arguments for and against each of the options before voting in a secret ballot. The aim of Chapter 4 shall be to try and present a plan for implementation in the UK that describes the process to a similar degree of detail as Bouricius whilst also retaining the benefit of being through reform of existing political structures rather than reconstitution.

A last point of note is that whilst sortition was born out of, and should be directly linked to, democracy, some theorists have highlighted its applicability in a non-democratic sphere. Having been influenced by John Burnheim, the Marxist economists Allin Cottrell and Paul Cockshott have proposed that in a post-capitalist society sortition could be used to ensure that a new social elite would not form.¹⁰

2.5: Recent Improvements for Sortition

Since its first use, the manner by which sortition can be undertaken has changed dramatically. Furthermore, it has become easier for larger groups of people to be eligible and considered without complicating the process, as stratified sampling can now be used thus ensuring greater perceived fairness. Additionally, modern research by Carnegie Mellon University has shown that sortition leads to outcomes that are likely representative of a wide range of groups and opinions.¹¹

¹⁰ Cockshott, W. Paul. & Cottrell, Allin. (1993). *Towards a New Socialism*.

¹¹ Benadè, Gerduis & Gözl, Paul & Procaccia, Ariel. (2019). *No Stratification Without Representation*.

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Moreover, there is another piece of research applicable to this paper that is of great importance. In 2011, a study called *Accidental Politicians: How Randomly Selected Legislators Can Improve Parliament Efficiency* was published in a physics journal called *Physica*. The researchers from the University of Catania in Sicily found that when some legislators are selected randomly, with no party allegiance, the overall efficiency of the legislature improves with regard to both the number of laws passed and the average social welfare obtained from the new laws. Furthermore, the relatively recent phenomenon of extensive census and demographic data will be pivotal for the thesis presented in this paper.

Chapter 3: UK Government and Political Climate

“THE PEOPLE OF ENGLAND DECEIVE THEMSELVES WHEN THEY FANCY THEY ARE FREE; THEY ARE SO, IN FACT, ONLY DURING THE ELECTION OF MEMBERS OF PARLIAMENT: FOR, AS SOON AS A NEW ONE IS ELECTED, THEY ARE AGAIN IN CHAINS, AND ARE NOTHING. AND THUS, BY THE USE THEY MAKE OF THEIR BRIEF MOMENTS OF LIBERTY, THEY DESERVE TO LOSE IT”

*JEAN-JACQUES ROUSSEAU'S THE SOCIAL CONTRACT
(BOOK III, PART 15)*

3.1: Branches of Government

The United Kingdom is a liberal representative democracy and, as is typically the case, has three branches to its government: an executive, a legislative, and a judicial. It does not however have the inter-relationship between these branches, facilitated by checks and balances, that Montesquieu posited as ideal; in large part because it is a system that has been evolving far longer than Montesquieu's work has existed, let alone had influence. Consequently it is the case that there is a fusion of powers between the UK's executive and legislative branches with it being a constitutional convention that all ministers must be drawn from either House of Parliament. Moreover, a central tenet of the United Kingdom's unwritten constitution is that parliament is sovereign. The combination of these two points mean that the executive only remains in office so long as parliament has 'confidence' in it.

Historically speaking, as a result of the principle of parliamentary sovereignty, the judiciary has played a rather deferential role regarding political and /or moral questions, with it often having been the case that an issue will be decided to not be one for the courts but rather for parliament. Increasingly though that is changing, with Lord Sumption an ex Supreme Court judge, delivering the 2019 BBC Reith Lectures on the increased frequency with which the judiciary is being asked to resolve these contentions; even if that may be entirely undesired.

Sumption's line of argument within those lectures, and the book he subsequently penned, is that the UK is in a state of political turmoil where traditional practices and conventions are being increasingly ignored. The crux of his argument, that is applicable to this thesis, is that issues that are inherently controversial ought to be dealt with by a democratically accountable and representative body, in effect thus out ruling the courts. Yet, more and more, parliament is not dealing with these issues itself, instead

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choosing to defer to the courts. It is then suggested that the reason for this phenomenon is that parliament is perhaps unrepresentative of the wider public, and so the legislature is unsure of its legitimacy in determining laws on such contentious issues. Sumption doesn't however provide a solution to the trend, with his focus a negatively defined one regarding what ought *not* to happen. The remainder of this paper will present a potential solution to the issue that is consistent with all other aspects of Sumption's reasoning.

3.2: Parliamentary System

It has long been the case that the United Kingdom has had a bicameral legislature, with a House of Commons and a House of Lords; the former being elected, the latter not. Whilst historically speaking the Lords was the pre-eminent chamber of the two, within the last two centuries that has increasingly ceased to be the case. For example, it is now conventionally the case that the Prime Minister is drawn from the Commons rather than the Lords – this has not always been standard though, with more 19th century Prime Ministers being Lords than MPs.

The Parliament of the United Kingdom is best described, as first done so by Conservative peer and academic Baron Norton of Louth, as a policy-influencing rather than a policy-generating legislature, given that it is the executive that proposes bills. This is in contrast to the United States which has a greater degree of legislative independence. For a piece of legislation to enter UK law it must be passed in both houses before receiving the purely superficial Royal Assent. This split voting is, at least theoretically, to be desired as it provides a balancing of power and a check on potential tyranny, however in the last century or so this benefit has been of a lesser concern than it might have been traditionally. Whereas it used to be the case that both houses had to approve a bill, without exception, for it to become law, the Parliament Acts of 1911 and 1949 sought to change that on the basis of democratic legitimacy. The motive being that an unelected upper chamber should not be capable of blocking what is, theoretically at least, 'the will of the people'. The 1911 Act made it so that the Lords could block a bill for only two years after it had been passed in the Commons, and then the 1949 Act shortened the period to one. Consequently the balance of power shifted considerably towards the Commons.

3.2.1: House of Commons

The House of Commons today is a democratic body that is elected using first-past-the-post on a supposedly five-year basis, as stipulated by the Fixed-term Parliaments Act of 2011. It consists of 650

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members who each represent a geographic constituency of ~70,000 people.¹² Almost all MPs, the abbreviated term for members of the House of Commons, belong to political parties. A consequence of this is that MPs are under the control of their party with regard to policies and agenda; which tend also in turn to be controlled by other economic or political interests. The largest party in the house then ordinarily forms a government and becomes the executive.

In theory, the House of Commons is supposed to fulfil a number of non-legislative functions including: debate, representation, and scrutiny of the executive. Both the latter and legislation itself though are massively affected by party membership. All ministers are bound by the convention of collective ministerial responsibility which means that they cannot vote against the government; this is important as it means that their constituents' best interests are often not being represented. Further, MPs are instructed by their parties as to how to vote on legislation which means that often they cannot vote with their conscience as to what path of action is actually best. Whereas the Commons is supposed to deliberate on what is in the country's best interest, it is often, as political scientist John Dryzek described Australia's federal parliament, "a theatre of expression where politicians from different sides talk past each other in mostly ritual performance". It is not a stretch to suggest that party politics crowds out true deliberation. A further point for discussion is how representative the House of Commons actually is. The politically active are over-represented given that the vast majority of ordinary citizens not affiliated to a party. Furthermore, the Commons is far from descriptively representative with only 34% of MPs women, while 51% of the population are female; there is a similar such issue with ethnic representation with 10% of MPs non-white and 14% of the population so.¹³

3.2.2: House of Lords

The House of Lords' function and membership have drastically changed in recent times. In the past only a member of the hereditary peerage or senior Anglican clergy were eligible for a seat whereas that has significantly changed. In 1958 the Life Peerages Act was introduced which initiated the now common process whereby a person is given a seat in the House of Lords and the associated title of Baron or Baroness but only for the period of their lifetime – it cannot be inherited by their children. As a result of this, over time the makeup of the House of Lords has shifted considerably with more and more people with backgrounds in public service entering the chamber and providing it with increased specialist expertise; a large number of which sit with no party association. Furthermore, those from finance and

¹² <https://www.ons.gov.uk/releases/electoralstatisticsuk2019>

¹³ <https://bbc.co.uk/news/election-2019-50808536>

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industry bring skills that are much needed for policy revision. By the 1990s almost half of the chamber consisted of these ‘Life Peers’ with the other half being the traditional hereditary peers. As shall be eluded to in the next section, this would dramatically change when New Labour came into office in 1997, following large public desire for reform. A last point to note is that some members of the House of Lords do indeed serve in the executive, some even in the cabinet, although this is uncommon.

3.2.2.1: Recent Reform

When Labour won the 1997 General Election many expected the House of Lords to be significantly reformed, and in some senses it was but just perhaps to a far lesser extent than was expected. The following section seeks to outline the actions that were taken by that government to reform an institution that many argued was undemocratic and outdated. A fair assessment can be made that suggests the focus was on the composition of the Lords rather than its relationship with the Commons. After entering government, Tony Blair appointed Lord Wakeham to lead a Royal Commission into House of Lords reform and a large number of proposals were submitted and then recommended. Many of those not acted upon shall be discussed in the following section, but the largest change made was to expel all but 92 hereditary peers from the Lords in order to reduce its then enormous size. Additional important changes were made to the role of Lord Chancellor but for the purposes of this thesis they are of little relevance.

During the Cameron-Clegg coalition there was further appetite for reform, especially from the Liberal Democrat contingent, and Nick Clegg himself introduced the House of Lords Reform Bill 2012 which would have, amongst other changes, made the upper chamber mostly elected. Despite being issued a three-line whip, an effective compulsion, 91 Conservative MPs voted against the bill and it failed. Two years later however the House of Lords Reform Act would pass enabling Peers to retire, and to be removed from the House if convicted of a criminal offence and imprisoned for longer than a year.

3.2.2.2: Non-Demarchic Proposals for Reform

The following section will outline many of the proposals for reform that were not adopted, so long as they did not advocate a replacement of the House of Lords with sortition. It should be understood that most opposition to proposals of sortition were predicated on belief in either the need for expertise or that democracy necessitates an elected upper chamber. A point of note though is that the 2007 Power Inquiry found that 68% of the public felt that the future of the House of Lords ought to be decided by a ‘jury of the general public’; a method of facilitating such a state of affairs is precisely the purpose of this proposal. In contrast, only 17% responded that they felt it ought to be by elected politicians.

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In broad terms almost all are critical of the current House of Lords, they just happen to differ in regard to why. The smallest and most radical group promote its removal, others suggest an entirely elected chamber, whilst some argue for the complete opposite in the form of an entirely appointed chamber. However, to further complicate, some suggest a mixture of the two, with no agreement then as to the proportion.

The simplest of reproaches against the Lords is that they lack diversity and thus representation, to a worse extent than the Commons even; and indeed statistically speaking they are right. As has been mentioned many, like Tony Benn, favour an elected house on the grounds it is more democratic. There are however difficulties regarding how this might be achieved without impacting the supremacy of the Commons.

Lord Steel meanwhile provided the best expression of the argument in favour of a fully appointed house in 2007 when he stated, “the great strength of the Lords is that it contains not just a bunch of experienced retired MPs but a whole raft of individuals with specialist knowledge and experience from the worlds of commerce, medicine, the services, the civil service, academia, the unions – the list is endless – none of whom would likely to be available to stand for election”. All of the aforementioned groups, it would seem at least, add value to the chamber in a way the current 92 hereditary peers perhaps don’t. Regarding a combination of election and appointment, it has been suggested that in doing so there would be a dichotomy between members, with potentially those who were elected suggesting they had greater legitimacy.

In summary, reform to the House of Lords appears to be a fine balancing act between a number of factors such as: how best to achieve a range of representation; the maintenance of specialist expertise; continuity of membership; the independence of the Lords; cost; and the potential clash between the legitimacy of members selected through different means.

3.3 Political Participation

Political participation refers to the role that the citizens play within the political process and, with rising populations and relatively static government size within representative democracies, less and less people are actually directly involved with the functioning of the government. Instead, when we talk of political participation in the 21st century most commonly we are referencing the level of political engagement of the public in response to not only issues but processes too.

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Developing technology undoubtedly impacts the methods by which people can engage with politics in a positive way regarding ease, but many have argued that the modern world is full of ‘clicktivism’ as opposed to true activism; the signing of a petition or the liking of a social media post, it has been argued, does not represent true engagement. Many have gone as far to suggest that the UK is experiencing a ‘participation crisis’, leading to decreasing democratic legitimacy. This section will assess the methods that are available to citizens of the UK *polis* in the 21st century and how, if at all, they are being utilised and by how many. Assessing the status quo inevitably leads to historical comparison and indeed the English word for idiot comes from the Ancient Greek for ‘one who does not engage in political life’.

A study by the Hansard Society in 2019 is vital in providing an overall understanding of political satisfaction in the UK: 72% of those polled say that the system of governing needs ‘quite a lot’ or ‘a great deal’ of improvement, with 37% choosing the latter option.¹⁴ Furthermore, the poll found that Britons have more confidence in the military and judges than in politicians to act in the public interest. These statistics must be continually remembered throughout the discussion in the following two subsections.

3.3.1: Elections and Referendums

Of all the methods to participate in a representative democracy the most obvious and direct ways are to vote in elections and referendums; closely related is party membership and so it shall be discussed too. Whilst electoral turnout has increased since the first election of the century in 2001, it has perhaps still not risen to an acceptable level. In 2001, following the landslide election of four years prior, only 59% of people voted; 18 years later the figure was 69%. Arguments made relating to the civil rights struggles for suffrage suggest that this lack of voting is to be a serious concern, and there is obvious merit in their justification. Indeed in terms of legitimacy, it is the case that the second Blair ministry of 2001-2005 achieved a mandate from only 27% of the population eligible to vote and then orchestrated one of the most politically contentious actions in modern history upon deciding to enter the Iraq war. Following that decision, 750,000 people marched in protest in London alone: the UK’s biggest ever demonstration.¹⁵

The integrity of elections must also be considered with: money, lobbyists, and the media hugely deterministic on the outcome. The UK admittedly has had less of an issue with monetary influence than the U.S. but it is still the case that vast quantities must be spent for a party and /or individual to stand

¹⁴ <https://hansardsociety.org.uk/publications/reports/audit-of-political-engagement-16>

¹⁵ <http://news.bbc.co.uk/1/hi/uk/2765041.stm>

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any chance of being elected to political office. In fact, turnout was higher in the 2016 EU Referendum at 72% than the election of the year before, which had been 66%. Further, the frequency of referenda has increased significantly in recent times which some have suggested puts strain on the integrity of parliamentary sovereignty, even if they are theoretically ‘advisory’. It is because of claims of competing legitimacy that this thesis shall argue a quasi-referendum system within the workings of parliament would not cause an issue for the democratic legitimacy and the sovereignty of parliament.

Further arguments regarding referenda can also be assessed with relevance to the proposal of a parliamentary chamber through sortition too. For example, some argue that referendums provide an opportunity for direct democracy, yet a fair response would be that the arguments favouring direct democracy, over representative forms, tend to be attacks on representative democracy rather than strengths of direct – as such they are also favourable to a chamber from sortition. Further, whilst it is an unknown, the argument that referendums check executive power is likely to be applicable too. Yet even stronger is the obvious applicability of the argument that referendums enhance the legitimacy of a decision to a chamber from sortition, given that ‘real people’ are being consulted. Moreover sortition, as will be argued in this thesis, can be introduced without undermining representative democracy’s expertise either. There are also additional flaws with the nature of how governments choose the wording and timing of referenda that would be addressed, and so too would inaccurate assertions during campaigning be avoided. Of huge weight also is that the proposed system would attempt to avoid self-interested voting, instead promoting a Rousseau style ‘common good’.

Regarding party membership, it was once seen as a cornerstone of political participation although in the last half century the figures have dramatically decreased. In the 1950s the Conservative party had a membership of 2.8 million people; the figure is now 180,000¹⁶. With less people participating in traditional political methods, for a complete assessment of the health of political participation in the UK we must now turn to less formal methods.

3.3.2: Social Movements and Pressure Groups

As previously eluded to, technology has provided opportunities for political participation not previously available such as: e-petitions, blogging, protesting on social media, and the organisation of protests online. In one sense it is hard to attack the opportunities that more people have to engage with politics, yet on the other it must not be to the detriment of other methods to have been a net improvement.

¹⁶ <https://commonslibrary.parliament.uk/research-briefings/sn05125/>

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Both social movements and pressure groups have undoubtedly played increasingly larger parts in modern political life in the UK, with governments being incapable of just ignoring their arguments. In the last few years alone both Extinction Rebellion and Black Lives Matter have played a significant role in shaping the focus of both the media and politics. It is also the case that those advocating on behalf of both causes tend not to be those with great traditional political influence and so the popularity of both on social media has been integral to their furthering.

As such, it might be unfair to suggest that the citizens of the UK are politically disengaged but perhaps instead they are just disenfranchised with the current state of affairs. It has been seen that 72% say that the UK's system of governing needs 'quite a lot' or 'a great deal' of improvement, and perhaps sortition would go some way to enabling issues such as these to be taken more seriously within the traditional political sphere.

Chapter 4: The Application of Sortition to the UK Parliament

“EVERYONE WHO RECEIVES THE PROTECTION OF SOCIETY
OWES A RETURN FOR THE BENEFIT”

*J.S. MILL'S ON LIBERTY
(CHAPTER IV)*

4.1: Unicameralism

Within this chapter, a description of how a parliamentary chamber from sortition might work in the UK will be given on three different models. First will be a representation for if both current Houses of Parliament were replaced with a chamber from sortition, which is to be referred to as the House of The People. Secondly, there will be a description of how the House of Lords could be replaced with such a chamber whilst retaining the existing House of Commons; and then finally it shall be argued that the best scenario possible would be to reform both of the existing houses and implement the sortition-generated House of The People at the same time.

Unicameralism, the term used to refer to legislatures with only one chamber, is less common than bicameralism, or two-chamber legislatures, and is theoretically less desirable due to the lack of the effective check that a second chamber is supposed to provide. The following section seeks both to explain how The House of The People itself would function and why it would almost certainly function better in conjunction with another chamber.

Within a unicameral system, the House of The People would be free to set its own legislative agenda and to debate any issue it saw fit; moreover parliament as an institution would remain sovereign and any and all laws enacted by said house would be of equal standing to all existing UK statutes. As a randomly selected group of citizens, all well informed about an issue, motivated to find a good solution, and descriptively representative of the population, the house will come to embody the ‘median voter’ – as such its decisions will be seen in the same terms as Rousseau’s ‘general will’. The selection process would favour demographic rather than geographic diversity, with as best attempt as possible being conducted to ensure that the house is a microcosm of society at large. Compulsory voting would be used with the rationale that otherwise members are refusing to perform their function – much like how legal juries function. The house would have the right to call on expert witnesses, and much like a jury trial an impartial speaker would function as the judge to marshal the proceedings. Regarding how this person is to be selected, it should either be a member of the house who is elected by the other members; an

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appointed ex civil servant; or it is to be a role that the general public can vote for. Members would be expected to attend all sessions of the house – in that sense it would be a full-time job – and as such would be paid a commensurate salary with current MPs. There would also be expenses and an allowance for those unable to commute daily to stay in London during the week – an unfortunate necessary evil. Members, like trial jurors, are to be compelled to not be influenced by friends or family on an issue, and necessarily each member must be fluent in English and be a UK citizen. The term length would be one year, and it would be seen as a civil duty to complete the term if selected; one wouldn't be capable of excusing themselves, as otherwise there would be a skew towards those most politically opinionated, unless of course it was on health grounds. The final procedural point to note is that once the chamber is selected algorithmically each year, there is to be a statement released highlighting the demographic accuracy figures whilst maintaining privacy of specific information about individual members.

There are many potential solutions to the question of how the will of the chamber would subsequently be executed; for example it could, in line with historical precedent, elect magistrates. Or, more likely, the current civil service would be retained, with the house monitoring its activity to ensure it is undertaking its policy implementation effectively. It is here where the idea of a unicameral parliament from sortition first falls down. As it stands, ministers have portfolios for which they are responsible and parliament can scrutinise their behaviour, yet under this system there would be no such executive accountability – this also raises broader points regarding the accountability of members of the House of The People too. Unlike the current system, the members would not be standing for re-election and thus there is no mechanism for the population to express its assessment on how each member is performing. Moreover, there is a contradiction in the idea that a deliberately autonomous member of the chamber should be subject to assessment in this manner in the first place. Unfortunately, this would lead to the only formal method of accountability for members of the executive being judicial review through the courts if wrongdoing was suspected.

A further contention that must be resolved is what size this chamber ought to be. As has been earlier discussed, direct democracy is not practical due to the numbers involved, yet the Condorcet jury theorem seems to suggest that the larger the body is the better. Indeed of note is a 2019 survey of UK citizens by the Royal Society for the Encouragement of Arts, Manufactures, and Commerce which found that 57% of people thought that a citizens' assembly would not be sufficiently democratic because it was not large enough.¹⁷ A proposed resolution would be that the house consisted of 1000 members, as this would be the largest size possible before its functioning would become impossible. Furthermore, as

¹⁷ <https://www.thersa.org/discover/publications-and-articles/rsa-blogs/2019/02/assembly-poll>

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a multiple of 100, it would be easy to demonstrate percentages of representation effectively and simply to the population. Admittedly a house of this size would require compromise and effective procedures, but undoubtedly the benefits outweigh any negatives.

The last two issues that must be addressed in this section are how best to ensure that the whole population has faith in the house, hence leading to legitimacy; and also which factors ought to be prioritised over others in the process of achieving descriptive representation. The latter is an issue to which there is no easy answer, as one cannot easily ascertain which descriptors lead to which viewpoints and hence diversity of political opinion; a balance ought to be found between accurate representation of: age, education level, gender, religion, and sexual orientation though. To the first point, as was previously mentioned, there is a powerful conceptual connection in the modern world between democracy and elections and so it is likely many would be suspicious of sortition when implemented at all; let alone as a replacement for both existing parliamentary chambers. However this reticence to sortition as a concept entirely ought to be easily overcome once the case is made for sortition to the public: education is likely to override instinctive fear.

The easiest benefit to convey is that under sortition, there would no longer exist those ‘career politicians’ which as Chapter 3 demonstrated are so distrusted. Closely related to this is that members of the House of The People would not be compelled by their party as to how to vote and are free from the reward-and-punishment system that operates in party politics – there would no longer be the warning to those unsure on an issue that if they don’t tow the party line then they can expect little career progression. The role of political lobbying by economic and political interests would also be removed too. Simpler than either of those however is the basic argument from equality; sortition is truly egalitarian as all citizens have an equal chance of impacting law-making unlike the current system whereby ordinary citizens compete against those that have the backing of party support, and the resources that this support tends to bring.

Moreover, those that argue that sortition might be theoretically sound but don’t believe it can be applied in practice need only look to the aforementioned citizens’ assemblies in Ireland. In simple terms, a chamber from sortition would facilitate many of the benefits of direct democracy within a practically achievable framework that promotes equality and mass representation. Lastly, as we have seen, greater cognitive diversity – lesser intelligence and /or expertise included – leads to better outcomes than an approach focussed on bringing the best together. John Stuart Mill saw this phenomenon, in this exact context, nearly 200 years ago and yet some still make arguments that others are unfit to take part in political deliberation.

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One can even argue that the implementation of sortition, and the potentiality of selection, is likely to lead to greater political engagement and self-education too. Regarding the classification of the type of representation that the house would bring, one can see evidently that near-perfect descriptive representation would be present, but more than that it is also true that, as a whole, the house acts as a delegate for the wider country; it is the mouthpiece for the amalgamation of all personal opinions that is popular opinion in the UK. It is from here that this thesis will attempt to polish the rough edges of sortition and propose how one might retain the benefits and dilute the downsides.

4.2: Bicameralism

Bicameralism is not only more common, being currently utilised in the United Kingdom, but it also has aforementioned theoretical benefits. As was eluded to in the previous chapter, many proposals were made to the Wakeham Commission arguing that the House of Lords ought to have been replaced with a chamber from sortition and it is to be remembered too that the likely reason for their lack of favour was the argument propounded by Tony Benn that democracy should logically entail a democratically elected second chamber. This section shall outline how the House of The People might function as a second chamber alongside a reformed House of Commons. Furthermore, a discussion will take place as to whether The House of The People would be capable of adequately fulfilling the role of the current House of Lords.

In simple terms, the suggestion in this thesis is that the current House of Commons would functionally remain the same, albeit it would change in name to the House of Representatives. As such, the executive would still be drawn from the House of Representatives, it too functioning in a similar manner to how it does now. Further, the executive would still be responsible for the proposing of laws to parliament. It is clear that under such a system the de facto election of officials in the executive adds both democratic accountability and legitimacy. Moreover, this would also solve the principal/agent problem.

Whilst the role of the House of Representatives can be clearly conveyed, there is a degree of ambiguity regarding the best manner for the House of The People to function alongside it. On the one hand, it can, and has, been argued by some that a sortition-generated chamber would be capable of handling all of the existing functions of the House of Lords. Alternatively, there is some merit to the proposal of the House of The People acting as a convenient policy jury within the framework of the legislature. Both options will later be considered in turn, however before doing so a comment must be made on an intriguing proposition for how the House of The People could be generated in a bicameral system.

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Michael Donovan in his 2012 work *Political Sortition for an Evolving World* suggests that the ratio of legislators elected versus selected through sortition should mirror voter turnout. Thus every individual who does not exercise their right to vote is in fact choosing sortition. For instance, if turnout was 60% then 3/5 of the parliament would be the House of Representatives whilst the remaining 2/5 would be members of the House of The People. In this way it is, in a certain sense, true that each and every election is also a referendum on electoral versus lottery representation. As interesting a proposal as Donovan has made, it shall not be adopted in this thesis on the grounds of simplicity and purity. Having round numbers of members is incredibly useful for voting purposes; and, in addition, for the relative size of both houses to be forever changing would take away a certain continuity that is to be desired. Instead, a similar selection process would be implemented as was outlined in the prior section. It is to be noted that fundamentally many of the benefits of sortition are unchanged in a bicameral application as in a unicameral one and so there will be little repetition regarding the benefits of sortition in and of itself, as the case for that has already been made clear.

Turning to the first of the two options, namely that the House of The People replaces the existing House of Lords, it would seem that there is an initial appeal. Many disagree with the partly appointed, partly hereditary, system that the House of Lords uses and perhaps sortition is the ideal replacement. The House of The People could consist of the same 1000 people, all lacking party affiliation, and they would also serve a one-year term, in line with the length of time the current Lords can block a bill from the Commons. However, on closer inspection, it becomes clear that perhaps the current function of the House of Lords is not best suited to sortition. As it stands, the vast majority of the work the Lords does is to scrutinise and revise policy, and to provide expertise – neither of which unfortunately sortition is suited for. Moreover, when it comes to scrutinising the actions of the executive, there too sortition is likely to be less efficacious given that the members selected are unlikely to have ever held public office themselves. Hence it would seem that this proposal is significantly flawed.

On the other hand the idea of the House of The People as a policy jury, by comparison, appears to result in a lesser number of issues. No longer would it be expected to actively edit policy, and no longer would specialist expertise be crucial. Rather the basic role of said house would be to agree or disagree with the intentions behind a bill, and in doing so provide a view reflective of the population as a whole, if they were to have the requisite knowledge necessary to make such a decision. Perhaps the best way this could be implemented is through a two-stage advisory then veto process. When a bill is proposed by the government to parliament, in the first instance the House of The People provides an advisory opinion reflective of whether they agree with the intentions, which of course the executive could entirely ignore. However, once the bill has completed all stages of revision it is again put to the House of The

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People for a binding vote. If a simple majority vote in favour of the bill it passes, and if the reverse is true then it has been vetoed. Once again, the suggestion would be that members serve one-year terms and are incapable of abstention. By implementing this process within the existing legislative framework one also avoids claims of competing legitimacy, and it is for this reason too that the final decision of the house must be binding rather than advisory. This does, of course, require one to believe the house to be representative of the view of the wider public, however, as has been empirically shown, this is the case.

Regarding procedural detail, it is fair to say that significant change would be required to implement such a system. Members of the House of The People would need to be protected from direct lobbying, and the flow of information regarding a law would need to be managed and unbiased. One way of perhaps facilitating this would be an extension of the legally influenced process outlined in the previous section. Alongside the speaker of the house, whose job would be to martial proceedings, there would also be members of both the executive and opposition parties who would make their case for or against a bill. It is of crucial importance that opposition parties are allowed to voice their views, and for practical reasons every party with a member of the House of Representatives would be given the right to present. Perhaps there is also even some merit in there being a cabinet minister whose role is to oversee the proposal of policy to the House of The People, like lead counsel in a legal trial.

A further point for discussion is the correct role for lobbyists and social movements under such a system. Given that there would be an enshrined protection of members of the House of The People from lobbying it would only be prudent to outline an alternative. The easiest solution to this problem is to suggest that lobbyists make their case to the government and opposition parties who in turn promote their causes when addressing the House of The People. Unfortunately, such a system would only entrench many of the political practices that a chamber from sortition seeks to eradicate, such as the issue of insider political and economic interests having disproportionate influence on legislation. It would be all too easy for large corporates to lobby expensively given that their economic interests regarding an issue are great; meanwhile those with little influence might struggle to promote an issue that they care about just as intensely. Indeed unfortunately for this thesis, it would appear that there is no easy answer to this conundrum and as such it shall be left answered with instead an appeal to the net positives found elsewhere serving as justification.

Finally, a further hypothesis on the positive consequences of implementing sortition in this manner is that pointless bills are likely to be less common, hence increasing legislative efficiency. To see why this is relevant one need only think of a government with a large majority who is capable of passing a great many bills in an attempt to appear to be implementing new policy, whilst in fact all that is actually

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occurring is a confusion of the body of statutes. Thus if an attempt can be made to limit legislation to cases with real justification it ought to be done so.

4.3: Tricameralism

As a model for legislatures, tricameralism has far less historical and theoretical precedent than its lesser chamber counterparts. That is not to say it has never been implemented, however the best example is a rather unfortunate one. In 1983, apartheid South Africa introduced a new constitution which established a parliament with three chambers. The first chamber was called the House of Assembly and consisted of 178 only white members; the second was called the House of Representatives and composed 85 coloured, or mixed-race people; the final chamber, called the House of Delegates, was reserved for Indians with a membership of 45 members. Other examples include Simón Bolívar's model state and the three chambers of France's legislature during the Consular and then Napoleonic period. Many arguments are made against tricameralism, ordinarily on the grounds of its potentiality to be complicated, but the following section will seek to demonstrate why in fact the UK would be better off if it reformed its two existing chambers and introduced a new one.

Having it been demonstrated in the prior section that the House of The People would not be best equipped to fulfil the current role of the House of Lords, the case shall now be made as to why the House of Lords ought to be reformed into a new House of Appointees and at the same time a House of the People should also be introduced in a manner similar to that described in the previous section.

Under such a system the Commons would also change into the House of Representatives and the first-past-the-post voting system would be retained given that proportional representation, it will be shown, is achieved nonetheless in the form of the House of The People. Moreover, in terms of theorising the role that these representatives are to play, they are best described as simultaneously trustees and party representatives. In this sense they are likely to be bound by their party on many issues, and on free votes they are allowed to exercise their judgement autonomously in line with their outlook; thus indirectly reflecting the views of those that voted for them. In much the same manner as proportional representation becomes irrelevant in the House of Representatives, so too does the idea of requiring delegates.

Meanwhile, the House of Appointees would be composed entirely of appointed individuals, with the current hereditary Lords and the Lords Spiritual removed. The role of these appointees would be to act, independent of party affiliation, in the revision of policy proposed by the House of Representatives. This does though mean that no longer would members of the executive be drawn from the upper

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chamber. Further, once a member of the house is appointed they retain the role for life and are barred from standing for election again. Of note is that those who once held party affiliation are also eligible for consideration of appointment, although they do so on the proviso that they act autonomously from any future party guidance. In many senses this House of Appointees would retain the same constitutional role as the current House of Lords, however the issue of peerage must also be considered. On the one hand it can be argued that a life peerage is recognition of public service, yet on the other the House of Appointees ought to be seen as indistinct from the wider population, except on grounds of expertise. Perhaps a solution would be to replace the existing life peerages with a similar system as is used for High Court judges where individuals are knighted, but do not receive a Barony and the associated title of 'Lord'. By doing so, these individuals retain a reward for public service without the contradiction that arises if one changes the name of the House of Lords to the House of Appointees without altering the nomenclature of the individuals that it is composed of.

Alongside the House of Representatives and House of Appointees there would be the introduction of the new chamber from sortition, also in this instance named the House of The People. Its role would be to supplement the current legislative procedure by acting as a policy jury in much the same manner as described in the previous section. At the point of policy proposal the house would vote in an advisory manner, and once both of the other houses had voted in favour of a law it would be voted on again in the House of The People which would have the power to veto. Given that, currently, a law having been passed in both the Commons and Lords then receives Royal Assent, it is to be proposed that this vote by the House of The People on whether to veto a bill ought to be called 'The People's Assent'. Beyond this stage, ideologically at least, it would be preferable if at that point a bill became an Act of Parliament, however if the current Royal Assent were continued this would have little meaningful effect on the symbolic power of The People's Assent. Another consideration to note is that the margin by which a bill passes in the House of The People would also be capable of being used as evidence to opposition parties of which issues they might wish to campaign on at the next general election. For instance if a bill passed with 90% in favour, then there is little ground to question its repeal, whereas if that number were closer to 55% the same would not be true. Once again, it is proposed that members of this house serve a term length of one-year, and it is also crucially again true that the House of The People would truly facilitate both descriptive and proportional representation within the legislature of the UK. Given that in this manner the benefits of sortition can be obtained, whilst also retaining the expertise necessary in an upper chamber, without an incredibly complex legislative process, it would seem obvious that if sortition is to be implemented in the UK, then it is in this manner it would best be achieved.

Chapter 5: Conclusion

“THE BEST AREN’T FORCED TO RULE, SO DEMOCRACIES GET WORTHLESS
POLITICIANS WHO PRETEND TO BE THE PEOPLE’S FRIENDS”

PLATO’S REPUBLIC (BOOK VIII, 557)

5.1: Further Potential Issues

It is understandable that any major political change is often met with reticence, and as such when proposing said change one should take care to address any concerns; not in the least because you wish all to be comfortable with the process of evolution or revolution, but also as it enables you to consider the potential weaknesses of your proposition and how you might attempt to rectify them. As such, the following section shall discuss some issues that might be encountered were a chamber from sortition to be implemented in the UK parliament.

First, a moral consideration regarding forced participation ought to be considered. In a liberal democracy citizens have, to a greater or lesser extent, control over how to live their lives and, of course as such, the suggestion that an individual be forced to fulfil a role against their will is incomprehensible. However it is also true that in order for a House of The People to function effectively it must be truly descriptively and proportionally representative. Perhaps the best solution to this problem is to make participation a moral imperative – it should be seen as a civic duty in compensation for the benefits that society provides. This does though mean that individuals could, in theory, still opt out. Yet, much like jury service, there ought to be an associated stigma with doing so out of self-interest. Indeed hopefully being a member of a parliamentary chamber from sortition would be an enjoyable and rewarding role – even if not all sortition theorists would agree that this is ideal.¹⁸ It goes without saying that if individuals chosen decide to opt out then the process of selecting a replacement must find an individual who fits the right descriptive profile.

It is also evidently clear that the information presented to the House of The People would need to be impartial and objective. Clear standards must be followed, and all assertions justified – this is to avoid similar such situations as those we currently experience during referendums where inaccurate information affects the outcome significantly. One of the strengths of allowing opposition parties to present information is that interpretations by experts can differ, thus enriching the variety of advice

¹⁸ León, L. (1988). *The World-Solution for World-Problems: The Problem, Its Cause, Its Solution*.

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presented. A related, but incredibly weak, argument against such a system is that this process of presentation would be both time-consuming and costly. However, in light of the severity of the task that the House of The People would be performing, such an argument would appear misplaced – if legislators don't deserve requisite resources then quite frankly who does? Moreover, another concern regarding time might be that the process of serving as a member of the House of The People is too time consuming to be practical – yet it is precisely because only 1000 individuals have to devote their working hours to the task that it is practical. Further, once again, any time expended as a member of the House of The People ought to be seen as time well spent fulfilling a civic duty to one's country. Closely related is that members of the House of The People would not have actively chosen to take on the associated workload of being a legislator, unlike their elected counterparts. This lack of will might then lead to less effective functioning of deliberation too. In response, the only reasonably defensible position to take, once again, is to ensure that the role of being a member of the House of The People is seen as one that should be undertaken in spite of personal hesitance.

Whilst it has already been highlighted, it is worth re-considering the lack of accountability of members of the House of The People. It is true that they would not be elected, but the same argument is also true of current members of the House of Lords. As has been seen though this in no way diminishes the importance of the role that the Lords currently play. The same would be true of members of the House of The People. Furthermore, when one considers that the only action the house can take is to veto rather than positively enact it becomes clear that the scope for tyranny is actually quite small. Lastly, one can also circumvent the problem entirely by suggesting that the members of the House of The People *are* the very people that they are to be held accountable to.

Integral to the entire argument for sortition presented in this thesis is that sortition, when implemented properly, leads to a microcosm of society as a whole. As such, even if it seems an obvious point to make, extreme care must be taken in the demographic stratification process to ensure that the House of The People is truly representative of the population as a whole. As has been seen, this is far easier given modern technology, yet it cannot be forgotten that this process could quite easily be interfered with. Hence, the safeguarding of the computation process is of paramount importance.

Finally, an attempt to address some of the inherent problems associated with deliberation must be had. The two most pertinent are group polarisation, and the issue of how to deal with the contention between an apathetic majority and a passionate minority – in other terms, the balance between the number and the strength of preference. Cass Sunstein wrote in her 1999 work *The Law of Group Polarisation* that, “In a striking empirical regularity, deliberation tends to move groups, and the individuals

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who compose them, toward a more extreme point in the direction indicated by their own predeliberation judgments.” This issue can however be somewhat tempered by accurate briefing materials and unbiased expert testimony. Moreover, it is importantly also true that each member would be morally compelled to vote in ‘the common good’, not necessarily in line with their own personal views. Regarding the second issue, perhaps the best solution might be to make clear that the role of the legislator is not always to instigate policy but also to prevent unnecessary policy entering into law. Just because a few people are incredibly passionate about an issue it does not necessarily follow that to appease them is the best course of action; then again it might be, but this decision is still one that ought to receive the due care and attention it deserves.

It would seem then that sortition is not perfect, but then again is it ever really possible for a political system to achieve perfection? What must be considered, in truth, is whether on balance the case for a parliamentary chamber from sortition outweighs the potential downsides. It would also seem that there is a strong case to be made in support of sortition, and perhaps it is also true that many of the downsides discussed in this section are actually complaints that can just as easily be levied on existing UK political institutions. Ultimately though, as with anything, the decision regarding sortition is a personal one, and fundamentally it boils down to whether you agree with the analogy provided in the next, and last, section of this thesis.

5.2: A Synthesis of Plato and Rousseau

Whilst the details regarding the implementation of an idea are incredibly important, they are perhaps less so than the reasons as to why something ought to be done. Many of history’s greatest achievements might never have happened were it not for the taking of a metaphorical leap-of-faith. It has in fact in many ways been shown that sortition is not new, and it can be applied in a manner consistent with existing principle and precedent. Those who wish to conserve tradition can find a lot in sortition’s application within a UK parliamentary chamber that is to be desired. Indeed the most important aspect of the United Kingdom’s constitution is the principle of parliamentary sovereignty, and here has been presented a way to increase the democratic legitimacy of the UK political system *without* infringing on that concept. Through sortition, the most pertinent issues regarding the functioning of democracy are given solutions. It combines the practicality of representative democracy with the greater legitimacy of direct democracy. Furthermore, it is arguable that as a consequence of the lack of political party affiliation that would be present within the House of The People it would be better equipped to fulfil its vitally important legislative and deliberative functions.

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The most effective way to summarise the thesis presented within this paper requires a return to classic political theory. As has been seen, Plato and Rousseau in many ways could not be more different. One advocated an, albeit supposedly benevolent and enlightened, absolute monarchy and the other fervently advocated on behalf of direct democracy stating that, “If there were a nation of Gods, it would govern itself democratically”. Rousseau then went on to say, “A government so perfect is not suited to men”, arguably due to the logistic complications of organising direct democracy – yet as has been demonstrated many of the benefits of direct democracy may be achieved through sortition without these complications. I shall now attempt to reconcile these apparently opposing thinkers.

Plato’s analogy of the ship of state argues that in the same way a ship should be led by an experienced captain, government should be led by an expert; he believed that the populous did not know how to, or indeed were not capable of, sailing the ship for themselves. In many ways, one must agree with Plato’s suggestion that expertise is vital – we cannot imagine being treated by an untrained doctor – yet his analogy of the ship of state is not entirely water-tight. Surely it is the case that the passengers on the ship, representative of the *demos*, ought to play a role in deciding the destination – the Rousseauian ‘general will’. As has been demonstrated throughout the course of this paper, in order to achieve this consensus of what is to be desired, a chamber from sortition is necessary. It is at that point, once the direction has been decided, that the captain’s skills, found in the executive composed of skilled elected members of the House of Representatives, are required – to guide the ship to the desired destination. In this way, we can indeed have the best of both worlds.

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