# 3

# Why we need the concept of semi-parliamentary government

In Chapter 1, I suggested that existing democratic systems can be classified as semi-parliamentary when they have bicameral parliaments in which both chambers (a) are directly elected and (b) possess robust veto power over ordinary legislation but (c) only one of them selects and dismisses the prime minister and cabinet. Here, I ask whether we really need a new concept to describe such cases. This question requires an answer because new concepts are introduced too easily in political science; they should be "the last resort and backed by a demonstration of a clear deficiency of the existing vocabulary" (Toshkov 2016: 102). This demonstration is the main goal of this chapter. While I do not deny that the existing vocabulary suffices for some purposes, it does not help us to think clearly about constitutional design. Semi-parliamentary government describes a unique constitutional structure that can achieve the benefits of the branch-based separation of powers without accepting the perils of executive personalism.

The concept has so far been well received in the literature. Albert Weale (2018: 240) considers it "a genuine conceptual breakthrough in political science," and Robert Elgie (2018: 241) predicts that it will become "part of the standard political science lexicon." With respect to Australia, Marija Taflaga (2018: 252) welcomes it as a "simpler," "better," and "more coherent" description of the political process, and Rodney Smith (2018b) observes that bicameral politics "operates according to semi-parliamentary rules and norms." Khaitan (2021) defends a particular version of semi-parliamentarism as an attractive way to optimize four constitutional principles (see also Khaitan 2020). Weale (2019: 74–75) discusses it as the basis for a potential reform of bicameralism in the United Kingdom—one that would turn the House of Lords into "a house of laws" and thus meet "some of the objections to the practice of so called 'accountable' government in the Westminster system."

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Meinel (2021: 135-136) considers it as a potential response to the challenges faced by Germany's parliamentary system of government.

As welcome as this reception is, it raises the question of why the time-honored debate about different forms of government has not recognized semi-parliamentarism as a distinct type before. Part of the answer, I suggest, lies in complementary blind spots that characterize prevalent typologies of bicameralism and forms of government in political science. These typologies neglect how directly elected second chambers relate to the executive (Elgie 2018; Lijphart 1984). I highlight this neglect not to enter a more general typological debate but to offer an explanation.

The chapter proceeds from the concrete to the more abstract. It begins with an operational definition of semi-parliamentary government, identifies the cases that fall under it, and sketches their historical evolution. It then explains the blind spots of political science typologies. After responding to a number of worries about the concept of semi-parliamentarism, I compare how well the cases that fall under the operational definition express the underlying, more abstract logic of constitutional design. Finally, I generalize the analysis—and hence the definition of semi-parliamentarism—in two ways. First, I show that semi-parliamentary government can balance competing visions of majority formation at more fundamental levels: partisan and individual visions, electoral and sortitionist visions, democratic and epistocratic visions. Second, I explain why semi-parliamentary government does not require fully fledged bicameralism.

## Semi-parliamentarism as a descriptive category

Let us start with semi-parliamentary government as a descriptive category for forms of democratic government that exist today. I propose to use this category for a specific type of bicameral system, based on the following operational definition:

1. There is no direct (or popular) election of the chief executive or head of state.
2. The assembly has two directly elected chambers.
3. Only the first chamber can dismiss the cabinet in a no-confidence vote.
4. The second chamber has veto power over ordinary legislation that is not merely suspensory and/or cannot be overridden by a simple or absolute majority in the first chamber.

The crucial features of semi-parliamentary bicameralism are conditions (2) and (3): even though the second chamber is directly elected, it does not participate in the no-confidence procedure.[1] For the purpose of this book, condition (2) is applied strictly, so that only second chambers in which *all* members are directly elected qualify (see also Elgie 2018). For pragmatic reasons, condition (1) rules out systems that are semi-parliamentary and semi-presidential at the same time (compare Figure 2.2 in Chapter 2).

Condition (4) defines a minimum level of legislative veto power for the second chamber. In Ganghof (2018a), I used the veto power of this chamber only in an ideal-typical definition of semi-parliamentarism. I now believe that some minimal level of veto power should also be part of the operational definition. If the second chamber is denied robust veto power, the constitution itself makes it clear that its role as an agent of the voters is subordinate to that of the first chamber, its democratic legitimacy notwithstanding. To cast the empirical net more widely, though, I do not require absolute veto power but only disregard second chambers whose veto is suspensory and/or can be overruled by a simple or absolute majority in the first chamber. One consequence is that I include Japan, where the veto of the House of Councillors can be overridden by the House of Representatives with a two-thirds majority of the members present.

Based on this operational definition, the empirical cases of semi-parliamentary government are the Australian Commonwealth and Japan, as well as the following five Australian states: New South Wales, South Australia, Tasmania, Victoria, and Western Australia.[2] My focus will be on the Australian cases, but the case of Japan highlights the importance of the electoral systems used in the two chambers of the assembly.

Other countries with wholly directly elected second chambers do not fulfill all four conditions. The Czech Republic, Poland, and Romania have wholly directly elected second chambers but also directly elected presidents. The more important reason for their exclusion, however, is that they all fail to fulfill one additional criterion. The Romanian second chamber has the power to dismiss the cabinet in a no-confidence vote. Romania therefore has a semi-presidential system with symmetrical bicameralism. In Poland and the Czech Republic, the legislative vetoes of the second chambers can be overruled by

[1] This does not rule out the possibility that the cabinet is partly drawn from the second chamber.

[2] The confidence requirements in Australia are generally based on conventions, rather than constitutional law. For instance, the Commonwealth constitution vests executive power in the Queen, exercisable by the Governor General. However, this is "to be understood in a purely formal sense, actual power being wielded by responsible ministers in Cabinet …" (Aroney et al. 2015: 412). The withdrawal of confidence will require the fall of the government. On the Australian states, see Carney (2006).

absolute majorities in the first chambers. Finally, the Senate in Italy's parliamentary system has the power to dismiss the cabinet and it is not entirely directly elected.

## The historical evolution of semi-parliamentarism

When was semi-parliamentary government established in our seven cases? If we focus on "full" democracies with universal suffrage, the answer is straightforward. Semi-parliamentarism began when the franchise in *both* chambers was free from property or educational restrictions. Based on this criterion, the first semi-parliamentary systems emerged in the two nation-states in our sample. When the Australian Commonwealth was established in 1901, it was the first democracy to combine a second chamber that was directly elected under universal suffrage with the constitutional convention that cabinets require only the confidence of the first chamber (Smith 2018a; Taflaga 2018). In Japan, semi-parliamentarism was established in 1947 and reflected a compromise between the constitutional ideas of the Japanese government and the Allied powers, especially the United States (Rosenzweig 2010: 294). These two cases were then followed by the Australian states of Victoria (1950), Western Australia (1963), Tasmania (1968), South Australia (1973), and finally New South Wales (1978) (Stone 2002).

This summary paints a somewhat truncated picture, however, because *directly elected* second chambers with robust (absolute) veto power had already been established in the period 1855–1856 in the Australian colonial parliaments of Victoria, Tasmania, South Australia, and Western Australia (Griffith and Srinivasan 2001; Sharman 2015). Moreover, by convention the executives in these polities needed only the confidence of the directly elected first chambers. The resulting bicameral systems departed from the logic of semi-parliamentarism because a restricted franchise in all four systems implied that "the electorates for these second chambers were considerably smaller than the electorates for their respective lower houses" (Smith 2018a: 257). Nevertheless, the move to directly elected second chambers reflected democratic pressures (e.g. Roberts 2016: 44), as well as the desire for a second chamber that would have sufficient "democratic" legitimacy and independence to provide a real and durable check on the first chamber. Even though the framers designed conservative second chambers to defend the interests of the wealthy, they understood that in a conflict between the two chambers, elected members were likely to have greater weight with the public (e.g. Waugh 1997: 343). Moreover,

some of them were able to anticipate that a nominee second chamber could be swamped by the government of the day (Serle 1955: 187; Waugh 1997: 344–345). A directly elected—and indissoluble—second chamber was seen as a stronger and more durable counterweight to the first chamber.[3] Crucial elements of semi-parliamentary government—of an assembly-based separation of powers—were thus already established in the Australian colonies in the 1850s.

Members of the New South Wales second chamber remained appointed by the Governor, and Queensland stuck with this model when it separated from New South Wales in 1859. However, Queensland's second chamber was abolished in 1922, after a Labor government had chosen Labor Councillors for this very purpose (Massicotte 2001: 163). By contrast, New South Wales eventually converged on the semi-parliamentary model of bicameralism. Its second chamber was indirectly elected from 1934 and directly elected from 1978 (Clune and Griffith 2006: 494–515; Turner 1969). The first directly elected members took their seats in 1978 and the chamber was wholly elected from 1984 (Smith 2018a).

## The blind spots of existing typologies

The seven bicameral systems I classify as semi-parliamentary are typically described as parliamentary systems with "symmetrical" bicameralism (e.g. Lijphart 1984; Stone 2002).[4] I contend that this categorization fails to recognize their distinctiveness. To see why, we have to understand the blind spots in the prevalent typologies of bicameralism and forms of government.

### Typologies of bicameralism

The most influential typology of bicameralism was proposed by Lijphart (1984). Importantly, it was never intended to cover all major aspects of bicameral systems. He developed it as part of his particular theory of consensus

[3] It is also worth noting that franchise restrictions based on property or education initially also remained in place in three of the first chambers; only South Australia introduced adult male suffrage in the House of Assembly in 1855 (Carney 2006: 53).

[4] The notion of "symmetrical" bicameralism is closely related to that of "strong" bicameralism, but the latter also takes electoral rules into account (Lijphart 1984). Since the concept of semi-parliamentarism focuses on the constitutional structure, the appropriate comparison is with symmetrical bicameralism. I will say more about strong bicameralism in Chapter 7.

democracy (see Chapter 5) and therefore focused exclusively on how bicameralism contributes to *legislative power-sharing* (Lijphart 1984: 90). Other aspects of bicameralism were deliberately excluded; most notably, how second chambers relate to the executive.

While we are focused on the typological literature and, hence, Lijphart's (1984) seminal contribution, it is worth noting that the neglect of executive–legislative relations characterizes much of the positive and normative theory of bicameralism. For example, Tsebelis and Money (1997: 1–2) note at the outset that bicameralism "appears to have little effect on the relationship between the legislature and the executive" because in parliamentary systems the required parliamentary support of the government "is measured almost exclusively in the popularly elected lower chamber." They do not consider how executive–legislative relations change when the second chamber is directly elected but *nevertheless* lacks a no-confidence vote. Similarly, Waldron (2012: 45) emphasizes from a normative perspective that a second house "should be separated from the authority of the executive in a way that … the first house is not." But while he discusses, for example, rules that would disallow members of the cabinet to sit in the second chamber, the word "confidence" does not appear in his article.

For Lijphart's (1984) typology, the neglect of executive–legislative relations has two important implications. First, it disregards all potential features of second chambers that are specific to forms of government; for example, whether the second chamber participates in the no-confidence procedure (under parliamentarism) or what kind of role it plays in executive appointments or impeachment procedures (under presidentialism).[5] The Australian and Italian Senates are both deemed "symmetrical," even though only the latter has the power to bring down the government in a no-confidence vote.

Second, since the typology neglects second chambers' potential confidence authority over cabinets, Lijphart does not consider what kind of legitimacy would be needed to actually wield this power in a democracy; he focuses merely on what kind of legitimacy second chambers need to use their legislative veto power. As a result, his notion of symmetrical bicameralism does not require the direct election of second chambers. The German Bundesrat and

[5] Some of the subsequent literature has tried to build on Lijphart, while paying closer attention to the specifics of different forms of government. See, e.g. Swenden (2004), as well as Llanos and Nolte (2003). Other sophisticated measurement attempts remain focused on the legislative veto power of second chambers (Heller and Branduse 2014).

Dutch Senate are considered just as symmetrical as the Australian Senate, even though only the latter is directly elected.[6]

In sum, the deliberate design of Lijphart's typology is such that it cannot capture the distinctiveness of semi-parliamentary bicameralism. This distinctiveness results from the combination of (a) a directly elected second chamber that (b) has robust legislative veto power on ordinary legislation but (c) lacks a no-confidence vote. Only the second of these three conditions plays any role in his typology. Semi-parliamentarism describes a distinct and systematically important subset in the much broader category of symmetrical bicameralism.

## Typologies of forms of government

But not only Lijphart's typology of bicameralism has a blind spot when it comes to executive–legislative relations; the prevalent typologies of forms of government have a complementary blind spot when it comes to second chambers. These typologies assume from the outset that it does not matter whether or not the second chamber can dismiss the cabinet in a no-confidence vote—*even when this chamber is as democratically legitimate as the first chamber*. As Elgie (2018: 242) observes, they "are not concerned with where executive accountability lies in the legislature, only with whether there is collective responsibility to some part of it." Second chambers are simply taken out of the equation. And since first chambers can be implicitly assumed to be directly elected in a democracy, the resulting typologies do not need to formulate any democratic criterion for the assembly.

I find this asymmetrical use of the direct election criterion incoherent (Ganghof 2018b). We have seen, in Chapter 2, that the dominant typologies of forms of government take into account whether presidents are directly elected and, if so, whether they have the power to dismiss the prime minister and cabinet. The same treatment should be accorded to second chambers. When they are directly elected, it matters whether or not they also become the principal of the prime minister and cabinet. The concept of semi-parliamentarism is not only necessary to describe a distinct hybrid between parliamentary and presidential democracy, but this hybrid is also logically implied by a coherent application of accepted typological criteria (Chapter 2).

[6] This is also partly due to the fact that Lijphart allows absolute veto power and direct election to be mutually compensatory. Hence, Japan's second chamber is considered symmetrical because it is directly elected (even though the House of Councillors lacks absolute veto power), the Dutch second chamber because it has absolute veto power (even though it is not directly elected) (Lijphart 1984: 193).

Let me reiterate, however, that my aim is not to criticize existing typologies. Different typologies can have different strengths and weaknesses and, thus, must partly be chosen on pragmatic grounds. There are only two nation-states—Australia and Japan—that meet the minimal conditions of semi-parliamentarism, and we will see later in the chapter that these two cases also have features that dilute their semi-parliamentary nature. Depending on the purpose of a particular study, therefore, it may well be a reasonable simplification to treat them as pure parliamentary systems. From the perspective of *constitutional design*, however, the uniqueness of semi-parliamentary government should not be ignored.

## Concerns about the concept

Before we take a closer look at our seven cases, let me address some concerns about the concept and its name. One is that the actors that invented semi-parliamentarism did not perceive the resulting system as a hybrid: they "wanted to preserve parliamentarism" (Smith 2018a: 260). This might be a reason for resisting the concept. If it were, though, we would also have to reject the well-established concept of semi-presidentialism. Just as semi-parliamentarism was initially perceived as a parliamentary system counteracted by a strong second chamber, semi-presidentialism in Weimar Germany "was perceived as a parliamentary system counteracted by a strong presidency" (Sartori 1997: 127). It took a long time before the concept of semi-presidentialism was developed and even longer before it was widely accepted.

Another worry about the label "semi-parliamentary" might be that it has already been used to describe other forms of government. Yet these other uses are not only mutually inconsistent (Duverger 1997: 137; Fabbrini 2001; Linz 1994: 48–49; Sartori 1994: 110), but they also lack a clear rationale. Here, too, the comparison with semi-presidentialism is instructive. Elgie (2011: 19–20) notes that the term "semi-presidential" had been used in widely different ways from the mid-1850s. The current understanding of the term developed much later. The use of "semi-parliamentary" suggested here has the advantage of expressing how this form of government mirrors semi-presidentialism (Chapter 2).

Finally, the prefix "semi" may invite a misunderstanding of the concept. Leading experts of Australian bicameralism, such as Campbell Sharman and Bruce Stone, have worried (in personal communication) that it might suggest the system to be defective and its parliamentary aspect to be watered

down. They emphasize that Australian bicameralism leads to a greater degree of parliamentary control (less executive dominance), especially compared to the Westminster model of parliamentarism (Stone 2008). The system is, in this sense, more "parliamentary," not less. This worry is important and parallels a common one about semi-presidentialism, which can also be misunderstood as implying some intermediate level of presidential power between parliamentary and presidential systems (Chapter 2).

My first response is that I agree with Stone and Sharman substantively. The potential for greater and more robust parliamentary accountability and control is one of the reasons why we ought to be interested in semi-parliamentary government. So the disagreement is entirely about the use of words. Sharman and Stone understand parliamentary government, at least in part, as a desirable *behavioral equilibrium*: some high level of actual legislative review and parliamentary control of government. By contrast, I follow common definitions that focus strictly on *formal institutions* and, in particular, the no-confidence vote (Strøm 2000). The two views are thus compatible: The institutions of pure parliamentary government tend to cause executive dominance (under some range of background conditions), whereas the institutions of semi-parliamentary government can reduce it.

My second response is that if we could come up with entirely new terms for all hybrid forms of government, the prefix "semi" should better be avoided altogether. Yet the concept of semi-presidentialism is here to stay, and the term "semi-parliamentary" therefore has the advantage of expressing the analogy between these two hybrids (Chapter 2).

## Comparing the cases

So far, I have only given a minimal, operational definition of semi-parliamentarism. Now I want to compare how well the seven cases express the underlying "logic" of semi-parliamentary democracy (Ganghof 2018a). I do so along the three analytical dimensions summarized in Table 3.1.

### Second-chamber legitimacy

The logic of semi-parliamentary government requires that the second chamber is at least as democratically legitimate as the first. If its legitimacy is

**Table 3.1** Semi-parliamentary systems, 2021

| | AUS | JPN | NSW | SA | TAS | VIC | WA |
|---|---|---|---|---|---|---|---|
| Is the second chamber's legitimacy compromised? | | | | | | | |
| (a) More malapportioned? | Yes | Yes | No | No | No | No | Yes |
| (b) Unequal term length? | Yes | Yes | Yes | Yes | Yes | No | No |
| Is second chamber's confidence authority strengthened (budget veto)? | Yes | No | No | Yes | Yes | No | Yes |
| Is second chamber's veto power compromised? | Yes | Yes | Yes | No | No | Yes | No |

*Source*: Adapted from Ganghof (2018a).

inferior, its lacking power over the cabinet's survival might reflect this inferiority, rather than establishing a different form of government. Even when the second chamber is directly elected under universal suffrage, though, two features may reduce its legitimacy. One is that electoral districts may be more malapportioned (i.e. create more procedural inequality between citizens) than those of the first chamber (Samuels and Snyder 2001). This is the case in the Australian Commonwealth, Japan, and Western Australia (Ganghof 2018a: 265).

The other legitimacy-reducing feature is that the terms of second chambers may be longer than those of first chambers. If the veto power of the second chamber is to be grounded in its equal democratic claim to represent citizens, the two chambers should be elected at the same time and for terms of equal lengths. When second-chamber members serve longer and staggered terms, the legislative program of the first-chamber majority could be blocked by second-chamber members elected several years earlier (Bastoni 2012: 231). This is the case in the Australian Commonwealth (six vs three years) and Japan and Tasmania (six vs four years), as well as New South Wales and South Australia (eight vs four years). Equal term lengths (of four years) have existed in Victoria since 2003 and Western Australia since 1987. In Victoria, the term of the second chamber is constitutionally tied to that of the first chamber (Economou 2019). In Western Australia, the two chambers have been elected

concurrently since 1963, but because the second chamber cannot be dissolved under any circumstances, concurrent elections are not guaranteed.

Viewed in conjunction, these two aspects of second-chamber legitimacy imply that the logic of semi-parliamentary government is most clearly expressed in Victoria and is most diluted in the Australian Commonwealth and Japan.

## No-confidence authority

The operational definition of semi-parliamentarism requires that the second chamber lacks the right to a no-confidence vote against the prime minister and cabinet. A robust veto over the budget might be used as a functional equivalent (see also Chapter 7), but there is substantial disagreement on this matter.

In the Australian constitutional crisis of 1974–1975, the Senate's right to deny supply led the Governor General and the Chief Justice of the High Court to argue that the survival of the cabinet depended on both chambers (Aroney et al. 2015: 412–417; Bach 2003: 111–119; Barry and Miragliotta 2015; Taflaga 2018). Today, though, many authors doubt that the budget veto makes much of a difference, in part because of how informal constitutional norms changed after the 1974–1975 crisis (Smith 2018a: 258–259; Stone 2008: 181).

By contrast, experts on Japan suggest that the second chamber has "*de facto* power of no confidence" (Thies and Yanai 2014: 70), even though the constitution does not give it the right to veto the budget. They argue that constitutional practice deviates substantially from the text and approaches a bicameral form of pure parliamentarism. One reason is that the second chamber can veto budget-enabling bills. Another is that it has tried to turn formally non-binding censure resolutions against a minister into a no-confidence vote by combining it with a boycott of assembly deliberation (Takayasu 2015: 161). Takayasu suggests that this strategy also applies to the prime minister.

If we treat a robust budget veto as a sort of confidence authority in reserve, then its lack in the cases of New South Wales, Victoria, and Japan expresses the semi-parliamentary logic more clearly.

## Absolute veto power on ordinary legislation

Finally, the second chamber can hardly be an equal legislative agent of the voters if it lacks robust veto power on ordinary legislation.[7] As noted above, this is the reason why Japan stands apart from the other semi-parliamentary cases.

[7] The same is not true for the first chamber, whose lack of veto power may be balanced by its power to dismiss the prime minister and the cabinet. Chapter 8 considers such a design.

Even in some of the Australian cases, however, second-chamber veto power is not absolute. A veto of the second chamber in New South Wales can be overturned in a popular referendum, in which the first chamber is the agenda-setter. A veto of its counterparts in the Commonwealth and Victoria can be overturned by a joint session of both chambers, which favors the first chamber due to its size. Only the vetoes of the second chambers in South Australia, Tasmania, and Western Australia cannot be overturned in any way. These cases express the logic of semi-parliamentary democracy most clearly.

The discussion leads to two main conclusions. First, none of the cases express the logic of semi-parliamentary democracy consistently. Second, the two nation-states depart most strongly from it. This fact highlights how important it is to include the Australian states in the empirical analyses of this book, and it helps us to better understand why the comparative literature typically treats the Australian Commonwealth and Japan as parliamentary systems. Even in these cases, though, the combination of direct second-chamber elections with the lack of second-chamber confidence authority over the cabinet is at odds with the logic of a parliamentary system—a fact that has been recognized by country experts (e.g., Bach 2003: 330; Taflaga 2018; Takayasu 2015: 160; Takeshi 2005: 39).

## Visions of majority formation and normative balancing

Presuming an underlying logic of a semi-parliamentary democracy helps to highlight important design differences between our cases. But this logic is always relative to certain background assumptions. In this section and the next, I want to explicate and relax two of these assumptions in order to generalize the potential uses of semi-parliamentary government.

The first assumption concerns how the two parts of the assembly are selected. One main attraction of semi-parliamentarism is that they can be selected in different ways, so as to balance different visions of democratic majority formation. In Chapter 1, I discussed the standard political science debate about these visions, which is focused on the choice between majoritarian and proportional electoral systems. How semi-parliamentary government can balance the pros and cons of these systems is what I focus on in Chapter 6. But semi-parliamentarism could also be used to balance competing visions of majority formation at more basic levels, three of which I want to discuss here: (a) partisan and individualist visions, (b) electoral and sortitionist visions, and (c) democratic and epistocratic visions.

## Partisan versus individualist visions

When we center our conceptualization of the competing visions of democracy around electoral systems, we usually assume the democratic process to be dominated by parties. However, whether this is desirable is itself controversial. While many authors highlight the importance of programmatically principled and responsible parties, others worry about their negative effects (Muirhead 2006; Muirhead and Rosenblum 2020). Semi-parliamentarism can balance these different perspectives by electing the chamber of confidence in a party-based manner and the chamber of legislation in ways that strengthen the role of independents. We will see in Chapters 6 and 7 that the Australian state of Tasmania uses semi-parliamentary government in this way (Sharman 2013).

## Electoral versus sortitionist visions

Both kinds of normative balancing discussed so far implicitly assume that elections are the adequate way to legitimize assemblies, but this view has been challenged by political theorists, who think that selecting policymakers by lot instead of election would be an improvement (for a critical overview, see Landa and Pevnick 2020a). While some propose to replace electoral institutions altogether, thus creating a "lottocracy" (Guerrero 2014), others suggest merely supplementing them. And this is where semi-parliamentary bicameralism comes in. Abizadeh (2020) contends that elections are indispensable for facilitating political agency and the peaceful processing of political conflict but that—for reasons explained further in Chapter 4—sortition is more respectful of the values of political equality and impartiality. Hence, he suggests balancing the competing values by combining an elected first chamber with a randomly selected second chamber. While Abizadeh (2020) does not emphasize this point, only the former would become the principal of the cabinet, whereas the latter would have absolute veto power. In effect, therefore, he proposes a semi-parliamentary system of government in order to balance elections and sortition as competing visions of democracy.

## Democratic versus epistocratic visions

Another critique of democratic elections is that they put too much power in the hand of ignorant, irrational, and misinformed voters (Brennan 2016: 23).

According to these "epistocratic" (Estlund 2008) critiques of democracy, it might be better to restrict the franchise through competence-testing. Brennan acknowledges the injustice of historical restrictions grounded on morally irrelevant factors such as race, gender, or possession of property. Given the epistemic flaws of democracy, however, he suggests making suffrage conditional upon morally relevant epistemic qualifications. Just as prospective drivers must pass a driving test, prospective voters ought to pass a voting test.

Of course, this is a highly controversial position for many reasons. One is that even though one might concede that unobjectionable competence tests are conceptually possible, giving political elites the power to design them seems very risky in practice (Bagg 2018: 898). These elites could use these tests to entrench their rule. Many authors therefore conclude that Brennan's epistocracy ought to remain off the table.

This might indeed be the right conclusion. While I do not intend to take a position in this debate, it is worth noting that a semi-parliamentary constitution could balance universal and restricted suffrage in the same way that it could balance elections and sortition. We have seen in the section on "Comparing the cases" that semi-parliamentarism was already used in this way when it emerged in the Australian colonies. Yet, not only were the franchise restrictions based on morally irrelevant factors, but they were also more severe in the chamber of legislation, rather than the chamber of confidence. If morally more acceptable franchise restrictions were to be introduced, they would arguably better be placed in the chamber of confidence—the chamber that authorizes the government to directly exercise power over citizens. The chamber of deliberation, legislation, and control could still be elected under universal suffrage, so that all voices could be heard, new views and interests could form and grow, and the entrenchment of elite rule could be resisted. One way in which it could be resisted is to put the design of the competence test in the hands of the more fully democratic chamber.

All of these more fundamental forms of normative balancing raise many further questions. The goal here has not been to endorse them, but to highlight their commonalities. They are all based on the assumption that the moral and/or practical requirements for selecting a chamber of confidence may differ from those for selecting a chamber of deliberation, legislation, and control. In the rest of this book, I will focus on the kind of normative balancing that we already find in the real world and that is associated with different electoral systems.

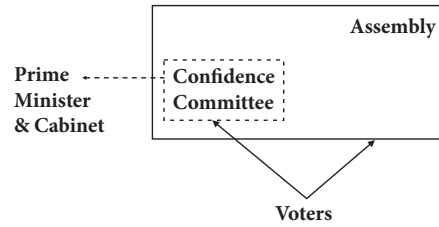


**Fig. 3.1** A semi-parliamentary system with a unicameral assembly
*Notes*: → = election, ⇢= dismissal.
*Source*: adapted from Ganghof (2016a).

## Semi-parliamentarism within a single chamber

The second background assumption we can relax is that semi-parliamentary government always requires a fully fledged bicameral system with two completely separate chambers. When the goal is to balance the pros and cons of different electoral systems, it is not clear why we need two separate chambers in the first place. If the deliberation and scrutiny of legislative proposals happens predominantly in the (at least) equally legitimate second chamber, while the purpose of the chamber of confidence is mainly to "manufacture" government majorities, the bicameral structure may be inefficient. We might potentially improve upon it by systematically differentiating the right to a no-confidence vote within the assembly. Figure 3.1 illustrates this basic idea by modifying the depiction of semi-parliamentarism in Chapter 2. Rather than having two separate chambers, one part of the assembly, the confidence *committee*, is now embedded within the assembly at large.

Chapter 8 discusses various ways in which the members of the confidence committee can be determined. Here, it suffices to mention one particularly simple option for illustration: a legal threshold of confidence authority. Many electoral systems have legal thresholds of *representation* such that parties whose vote share remains below the threshold are denied seats in the assembly. Analogously, a threshold of *confidence authority* would deny parties below a certain vote share participation in the vote of no confidence procedure. The larger parties with confidence authority would thus form a large confidence committee within parliament. The rules of interaction between the confidence committee and the assembly at large would resemble those between two separate chambers.

This potential design shows once more that we have to distinguish between the operational definition of semi-parliamentary government used to identify

empirical cases and a more abstract, ideal-typical definition of the underlying constitutional design. The latter helps us to see new design opportunities. A more general and abstract definition of semi-parliamentarism might go as follows:

> Under semi-parliamentary government, no part of the executive is elected directly. The prime minister and cabinet are selected by an assembly with two parts, only one of which can dismiss the cabinet in a no-confidence vote even though the other has equal or greater democratic legitimacy and robust veto power over ordinary legislation.

This definition does not assume a bicameral system or that both parts of the assembly are elected; and it allows for the possibility that the part of the assembly without confidence authority possesses greater democratic legitimacy than the chamber or committee of confidence. It insists on the robust veto of the former but does not require it for the latter. Chapter 8 also discusses semi-parliamentary designs, in which the chamber or committee of confidence lacks an absolute veto.

## Conclusion

We need the concept of semi-parliamentary government because it describes a unique and under-appreciated constitutional structure. This structure is attractive because it establishes an assembly-based separation of powers that can balance different visions of democratic majority formation. We can describe this structure at an abstract level in order to see the full range of design possibilities or based on a minimal definition to identify empirical cases. The cases I have identified as minimally semi-parliamentary are the Australian Commonwealth and Japan, as well as the Australian states of New South Wales, South Australia, Tasmania, Victoria, and Western Australia. The existing literature treats these cases as parliamentary systems because prevalent typologies in political science neglect how directly elected second chambers relate to the executive. While the first fully democratic semi-parliamentary system was the Australian Commonwealth, the basic logic of semi-parliamentary powers separation was already established in the Australian colonies in the 1850s.