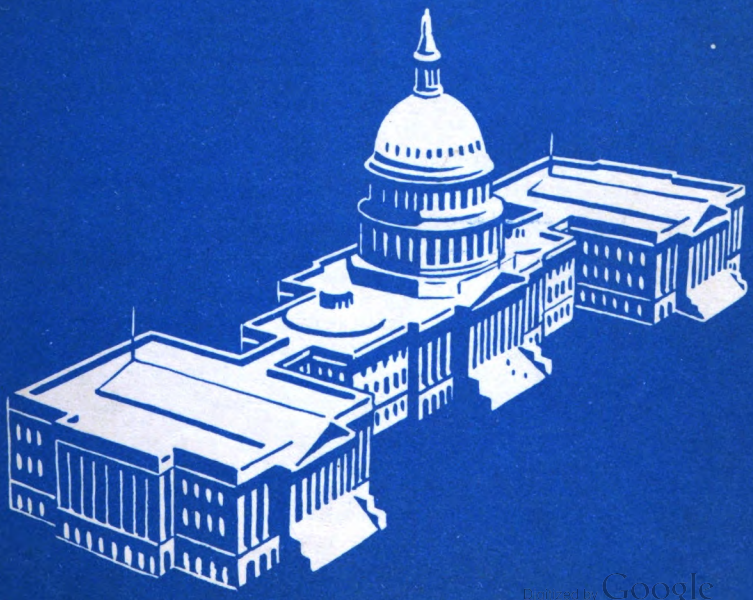
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PUBLIC AFFAIRS PAMPHLET No. 116

FOR A STRONGER CONGRESS

BY PHILIP S. BROUGHTON



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FOR A STRONGER CONGRESS

By PHILIP S. BROUGHTON

ON March 4, 1946, a Joint Committee which had spent a year studying Congress proposed thirty-seven changes in its organization.

"Grave constitutional crisis." "The fate of representative government is at stake." "Breach between government and the people." By such phrases the Congressmen characterized the issues which made prompt legislative reform necessary.

There is no indication that the press regarded the matter as a Number One public issue. Strikes. The future of Spain. The leakage of atomic bomb secrets. Foreign policies in Iran and Manchuria. These overwhelmed the story of Congressional reorganization.

Yet Congress is in bad public repute. And Congress must make the decisions which control these *major* public issues that hit the headlines. If Congress fumbles they will not be solved.

If, repeatedly, in a time of national crisis, Congress should

This pamphlet is based on a number of studies which are listed on page 32. Mr. Broughton is also author of the Public Affairs Pamphlets *Behind the Syphilis Campaign, Man Meets Job—How Uncle Sam Helps,* and *Prostitution and the War.*

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blunder, people might stop voting for the "ins" and the "outs." Voters might turn to a dictator who would promise to "kick out the politicians." They would see the failure of Congress, not as the failure of a faulty mechanism, but as the failure of democracy itself.

Congress, then, must be clearly and efficiently organized. Only in that way can it solve the problems of the atomic age. Only in that way can it save democracy—and itself.

Nobody Loves Congress—*as it is*

Among those who have given the matter real thought, whether within Congress or outside of Congress, there seems to be nobody who likes Congress *as it is*. These facts and figures may help to show how weighty and extensive the criticism is:

1. The last half-dozen years have seen more than sixty able magazine articles, many of them by Congressmen, criticizing Congressional operations and suggesting changes. In the same period a dozen full-length books have dealt with the condition of Congress; others have treated it as part of more general studies.

2. Two professional organizations have studied it intensively: The American Political Science Association and The National Planning Association. Each has issued reports suggesting reform.

3. The Joint Committee, headed by Senator LaFollette, which reported in March, took more than a thousand pages of testimony. It heard and cross-examined administrators, students of government, lawyers, and economists. Forty-five Congressmen, eight members of the Congressional staff, and several ex-Congressmen testified.

The Congressmen's complaints are especially constructive. They tackle real problems and suggest detailed reforms. They deal with staffing, committee structure, leadership, reduction of the legislative load, improving relations between Congress and the Executive.

Will Congress Reorganize Itself?

To read the well-reasoned proposals of the Joint Committee, one might suppose that Congress itself would soon take the reform action necessary. But inside Congress proposals for reform

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quickly bump up against vested interests and old traditions that are deep and strong.

The Joint Committee, for example, would cut the 33 Senate standing committees to 16. It would cut the 48 House committees to 18. That means only 34 committee chairmen, instead of 81. With such a fight on its hands the Joint Committee did not propose to end the seniority system, under which committee chairmen hold their office as a result of political age rather than intelligent leadership. It could not get agreement even in its own ranks for killing seniority rule.

Some subjects were labeled "untouchable" from the very start. The resolution under which Congress set up the Joint Committee on Reorganization contained this proviso:

> . . . nothing in this concurrent resolution shall be construed to authorize the committee to make any recommendations with reference to the rules, parliamentary procedure, practices and/or precedents of either House. . . .

The above passage sounds a good deal like "hang your clothes on a hickory limb, but don't go near the water." Little wonder that Charles A. Beard should say, "No small part of the weakness ascribed to Congress is the fault of Congress itself." Dr. Beard went on to list these charges against Congress:

> Congress insists on surrendering its essential legislative prerogatives to a loose aggregation of standing committees which has remained substantially unchanged since Jefferson's time, except for an increase in number.
>
> Congress wastes days and weeks of each session on petty business unworthy of a village council—trifling matters which it refuses to delegate to responsible agents. . . .
>
> It has failed to provide itself with a technical staff competent to deal with the complicated problems of public business.
>
> It has refused to regularize and institutionalize its necessary and proper relations to the Executive, preferring instead underground operations in both directions.
>
> It has allowed individual Members, endowed with large powers, to make roving investigations without regard to private rights, and permitted them to consume endless hours with prolix and absurd speeches wholly irrelevant to the public business in hand.

Dr. Beard wrote the above in an article entitled "In Defense of Congress." When defenders hold such opinions, you can imagine what carping and bitter attackers have to say.

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Can Congress defeat its own "Old Guard"? Do the Joint Committee proposals go deep enough? If so, they should have public support. If not, an informed body of public opinion should demand more basic changes. The proposals of the Joint Committee must be understood. They should be compared with other proposals and measured against the increasingly complex tasks our government faces in the future.

What Should Be the Yardstick?

There is little use talking about "reorganization" or "strengthening the Congress" unless we know our goal.

The criticisms suggest, to some degree, the kind of Congress people want. Congress is criticized for lack of program; for confusion; for delay; for wasting time in idle talk; for weakness in contrast to the Executive; for yielding to blocs and pressure groups; for resentfully rejecting Presidential leadership without being able to supply leadership of its own.

The first goal in reforming the Congress should therefore be to achieve clarity. Issues must be drawn so that the voters can see clearly the issues and the line-up of arguments and men on one side and the other. Separate policies must be considered in such a way as to relate clearly to a single total policy.

The main task of Congress is threefold:

—to determine broad policies clearly and decisively;

—to authorize organization, personnel, powers, and finances adequate to administer its policies;

—to review the effectiveness of the policy and the administration of the policy and to alter the policy or the organization when it becomes necessary to do so.

Congress has other constitutional tasks beside these. They include such things as treaties, impeachment, and canvassing the results of the electoral college. But the three tasks listed above are basic. Every proposal for reform should be measured against them.

The inquiring citizen will also want to estimate the relative importance of the proposals made. Otherwise he may be sold a few trivial improvements which won't do the job.

The inquiring citizen will wish also to look beyond the internal reform of Congress and examine its place in our scheme of government. If Congress and the Executive do not work as a team, patching up Congress will not solve the problem.

In this pamphlet there is no room to list all the proposals that

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have been made for reorganizing Congress. We shall examine only some of the most important. Can we get better Congressmen? What changes should be made in the Congressional committee system? Does Congress need more staff? How can Congress better control spending? How can conflict between Congress and the President be overcome?

No final answer to these questions will be attempted. The aim of this pamphlet is to provide a critical standard for examining the many proposals currently being made—a yardstick for the inquiring citizen.

CAN WE GET BETTER CONGRESSMEN?

YOU often hear people say: "There used to be statesmen in Congress; now there are only politicians." That idea is heard repeatedly in public discussion. So attractive is this idea—and so simple—that demagogues can often use it to gain power. "Kick the politicians out and elect me," they cry. With that battle cry and a little hillbilly music "Pappy" O'Daniel rose to be Governor of Texas, then Senator.

The idea is bunk. There are more well-educated, soundly experienced men of real knowledge and integrity in Congress today than at any other time in our history. Vulgar and idiotic antics were frequent a century ago that would not be tolerated today. The men of old gain in retrospect because their good speeches have been preserved. In contrast to the Shakespearian dictum, the good they did lived after them; the evil has been "oft interred with their bones."

Has Congress Really Declined?

So many people believe this hoary myth about a golden age of Congressional statesmanship that it may be worth while to examine it further. Let us look at the record. Which of these Congresses represents the golden age:

—The Congress that hedged, evaded, temporized, while Washington's men went cold, hungry, unshod, and often unarmed at Valley Forge?

—The Congress that forgot the Bill of Rights and sought to crush its opponents with the Alien and Sedition Acts of 1798?

—The Congress that stormed against Jefferson as a "usurper" for the purchase of Louisiana?

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—The Congresses of Jackson's day when feeling ran so high that Van Buren wore a brace of pistols for self-protection when he presided over the Senate?

—The Congresses that fiddled with the slave issue for thirty years, logrolling, leaderless, maneuvering for sectional or personal advantage while disunion threatened?

—The Congress that impeached President Johnson and imposed the vicious and vengeful "Reconstruction" on the South?

—The Congresses that destroyed the peace after World War I and through their ineptness, foreign and domestic, helped make World War II possible?

As F. P. A. discerningly remarked not long ago, "The Rankins and the Clare Hoffmans stand out today like sore thumbs. In 1866, they were in the majority."

No, there was no golden age of Congressional statesmanship. In solving the problems of the modern world we cannot turn to the past.

Will Better Pay Improve Congress?

Congressmen get only $10,000 a year. That is too low, as anyone who has lived in Washington can testify. Especially is it too low in relation to the special expenses a Congressman must bear: a home in his constituency, a home in Washington, campaign costs, contributions to all the do-good organizations that claim a root in his constituency, attendance at the many affairs where an unfrayed and well-pressed suit is desirable. Secretarial expenses and railroad mileage allowance do not balance his family budget.

President Truman and every independent student of Congressional reorganization have recommended a raise to $15,000 or $25,000 a year. Certainly it would seem that the same public which can afford $500 a week for the writers of grade B movie scenarios can afford a similar sum for those who set the policies that control our national life. The committee proposes $15,000.

It is unlikely, however, that the decision will be made on the basis of need or on the comparative importance of the job. The Congressmen must make it themselves. They fear their constituents. They know that $25,000 a year sounds mighty big in Buncombe County, on the prairies, and to most city dwellers.

Many voters, too, don't think of public office as a technical and exacting task for which the best and ablest should be re-

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cruited and adequately paid. This attitude serves to block increases both for Congress and for the federal administrative services. The public service suffers while both branches of government lose good men to private industry.

It must not, however, be assumed that raising salaries will, in itself, reform Congress. If a truck is overloaded and cannot make a hill, doubling the wages of the truck driver won't help. Raising salaries, like a sound retirement program, would add to the strength and independence of Congress. But something more fundamental is needed.

Why Do Congressmen Look Bad?

Put the best of men in a confused and conflicting organization and they will soon look bad. Give the best craftsman old-fashioned tools and he may not do a good job. Could Goethals have built the Panama Canal with the engineering tools that built the Erie? With better machinery Congress would work better and Congressmen would look better.

But, you may ask, why did Congress look better a hundred years ago? It had the same tools. Simple enough: for the same reason Governor Clinton looked good with the tools that built the Erie Canal. The legislative machine worked all right on a small enough job. The post roads of 1810. Dredging harbors for the ships of 1820. A new post office for Peoria. Debating the issues of a world in which our potential enemies or friends were a month of distance away. The 1840's made low-pressure demands as compared to the swift events of the 1940's.

We have already noted that Congress in the old days did not look so good to its contemporaries as it does to modern Fourth of July orators. Even then on large issues Congress did not move swiftly and wisely. No other civilized nation required a war to emancipate its slaves; in no other were the social scars so deep. Seldom in history has a peace been bungled as badly as "Congressional leadership" bungled it in the days following the Civil War.

Congress looks bad because its legislative operation is overshadowed by the task it faces. The public is not convinced that Congress tackles big problems in a big way. There is no firm "follow-through" between legislative decision and executive action. Congress itself has never at any time in our history produced leadership in terms of a unified legislative program.

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How to Get Better Congressmen

If the above is true, better Congressmen cannot be obtained by merely "kicking out the politicians." What is needed is a type of reorganization that will provide a program, a clear and well-defined legislative policy which the voters can see.

Only when party policy is clear and firm can pressure groups and logrolling be resisted, for only then can the true effects of concessions and petty trading be discerned.

Most important, only when issues are clearly drawn can Congressmen arise who will address themselves to the issues and educate their constituents to the real legislative policies the world today demands. Better organization is, then, one key to obtaining better men. Let us see what changes of organization will help us achieve a clear and resolute legislative program.

THE CONGRESSIONAL COMMITTEE SYSTEM

WE have seen what Charles A. Beard said of Congress' "surrendering . . . to a loose aggregation of standing committees." Many members of both houses are bothered by the way the committee system operates.

Yet a committee system of some kind is necessary. The real work of the Senate and House cannot be done on the floor because there are too many details to be considered. Some fifteen thousand bills and resolutions are introduced in each two-year Congress. They could not possibly be discussed in the general meetings of House and Senate. Bills are turned over to committees which can thrash out most of the points and recommend action to the whole House. Most of the members never have time to look into the details, but they can express themselves in regard to disputed points and general policy by voting on amendments and finally on the bill itself.

Because the main work of Congress must be done in committees the proposals for reorganizing the committee system are basic. The recommendations of the Joint Committee represent a constructive minimum upon which students of government would generally agree. Perhaps there is no better way to reveal what is wrong with the old committee system than to examine the changes the Joint Committee recommends.

Reduce the 33 standing committees of the Senate to 16. Reduce the 48 standing committees of the House to 18.

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Congressmen, today, must spread their time too thin. There are so many committees that their meetings conflict, and each member has to choose which meeting he will attend. Often the member has to miss something in another committee that he was anxious to be in on. At one session of the Joint Committee on the Organization of Congress, the chairman, Senator LaFollette, suddenly got word that another of his committees was about to vote on the Reciprocal Trade Agreements Bill. As he rushed off he said, "You see, this is just what is the matter."

The jurisdiction of each reorganized committee should be defined clearly so as to avoid overlapping and duplication and conflicts of jurisdiction.

Many Congressmen have talked of overlapping and duplication in administrative departments. But Congress itself is a spectacular example of overlapping. The Senate has a Committee on Commerce, a Committee on Interstate Commerce, and several others that have a lot to do with commerce one way or another. This leads to conflict about which committee should take up a proposed bill, and sometimes there is jockeying to get the bill into a committee that is known in advance to be for or against it.

Standing committees should conduct a continuing oversight and review of legislation and agencies within their jurisdiction; they should have the power of subpoena on such matters. No special investigating committees should be created.

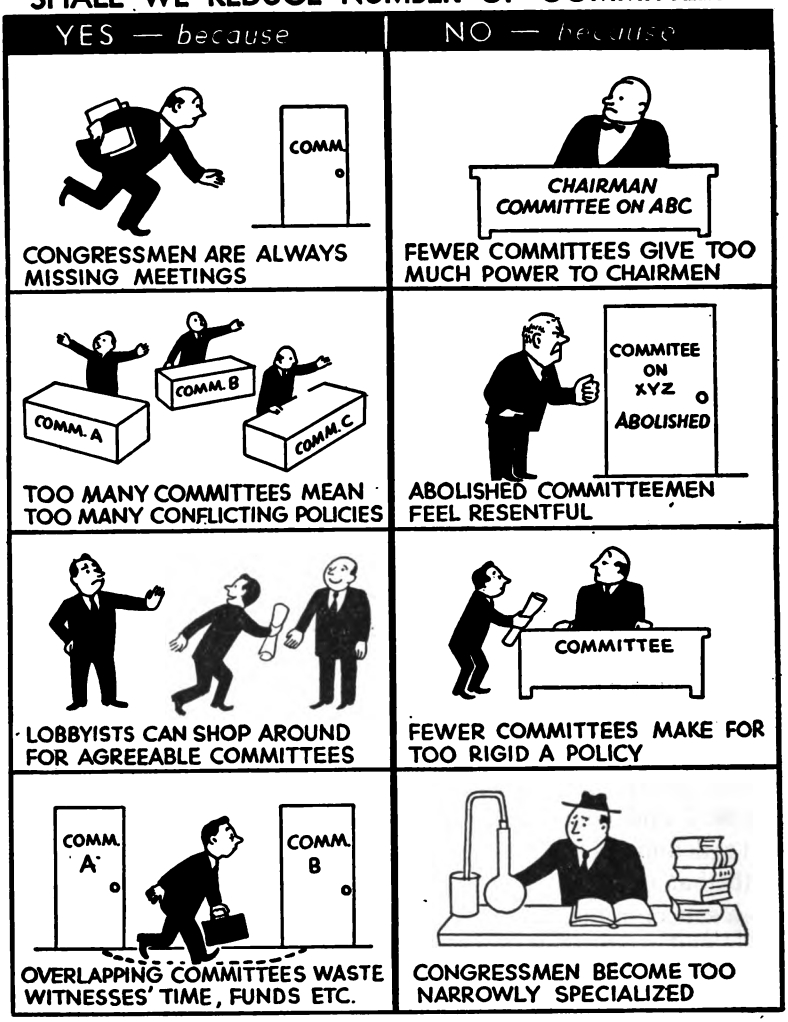
The basic principle of government should be to focus responsibility where it can be seen and understood—and therefore checked and controlled. If a regular standing committee is to have definite responsibility, a special committee would conflict with that responsibility. The regular committee could, itself, set up a subcommittee to handle special inquiries if such are needed.

Sometimes the fresh viewpoint of a special investigating committee has made a valuable contribution. Sometimes, however, the special committee has been the brainchild of a publicity seeker and has confused and embarrassed sound administration of a problem, as the Dies Committee amateurishly complicated the administrative function of the F.B.I.

Committees should set aside docket days for hearing members who have bills pending before them.

This is a fight against a heavy current of events. In these days of national policies, administration measures take precedence. Congress faces not only the question of the intrinsic worth of

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a bill, but also the question of how it relates to other measures. The submergence of the individual member is a real problem. It is true in every parliament of the world and has recently been the subject of heated debate in the British Commons.

Complete records of all committee proceedings (except executive sessions) should be kept. Attendance records should be kept

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and a record made of members' votes on all bills and amendments and the votes printed in the Congressional Record.

It may come as a surprise to many citizens that records are frequently not kept and that attendance records and votes are not available. The press is often indignant over the secrecy, or off-the-record character, of international meetings. Secrecy about domestic business in Congressional committees, in executive sessions, and in conference seems to be hallowed by usage.

Committee chairmen should be required to report promptly all bills approved by the committee and should act to bring them to the floor for consideration.

Many a bill never reaches the floor despite the fact that most members of the committee which has it in charge would like to see it voted on. When committee chairmen are chosen by seniority they may be out of sympathy with the policy of the majority of their party. Beyond actual holding-out on legislation, the deals and compromises a chairman can exact as the price of his cooperation often distort policy. "Each committee is a creature of Congress," declares the Joint Committee. Chairmen "should be bound by the decisions of the committee members." "Withholding of legislation from the floor . . . is not consistent with the authority and rights of the committee" or its chairman.

Conferees of the two Houses should be limited to adjustment of differences between the two Houses, and matters on which both Houses are in agreement should not be subject to change.

The average citizen probably assumed that this was always the case. Unfortunately it is not. Testimony showed numerous instances of conferees taking liberties with bills and making deals which defeated the intent of *both* Houses. When Senator Norris campaigned successfully for a one-house legislature in Nebraska, he stressed the iniquities of the conference committee.

A complete non-technical digest of each bill should be prepared with each committee report. This digest should show the changes made by the bill, the national interest served, the reasons for its passage, its cost, and the distribution of benefits.

Significant Omissions

Three frequently recommended changes are absent from the report. First is the proposal to make the committees of Congress parallel the main departments of government. Second is the proposal for joint hearings of House and Senate committees.

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Third, and most important, is the proposal to abolish the selection of committee chairmen by seniority.

(1) Clarity is the main argument for a committee set-up which parallels the main departments. Each department would have a natural channel of communication with the Congress. The affairs of a department would get coordinated study. One committee of Congress would have its fingertips on every phase of a unified departmental organization. It would simplify and strengthen Congressional review of administration. There would be an automatic pressure on the executive to group administrative responsibilities in the main departments, as Congress would so group them in its committees.

(2) Joint hearings would be easier to hold if both Houses streamlined their committees in the same pattern. Today much time of executive officers and of expert witnesses is wasted delivering approximately the same testimony to separate hearings before House and Senate committees. On occasion there is further duplication before standing and special committees. Sharper focus, a better understanding between the Houses, a more efficient use of technical staff might be possible with joint hearings.

(3) So long as chairmen do not represent a well-selected team, chosen to lead and direct a party program, there can be no unity and little party responsibility. Inasmuch as the Joint Committee has, however, made recommendations that do not include an abolition of the seniority system it may be well to describe how it operates and state the case for it and against it.

Seniority Rule

It is the custom that in each committee the member of the majority party with the longest *continuous* service on that committee shall be chairman. A Representative who changes committees or is elected to the Senate starts over again as a junior.

When the Democrats are in power, the chairmen are usually Southerners, because they commonly stay in the Senate or House longer than the Northern Democrats.

The first argument in favor of the seniority rule is that it is automatic and thus avoids personal jealousies and fights.

Another argument is that even if a chairman is entirely unreasonable, the other members of the committee can get around him. If he uses his authority to block a bill, someone can start a petition on the floor. A petition signed by a majority of the

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members will drag the bill out of committee for a vote by the whole House. Actually, this is cumbersome and difficult.

Many critics of the seniority rule object to having the committees led by old men who are there merely because they come from districts where it is easy to get re-elected.

Another argument is that the seniority rule is contrary to the principle of responsible party government. The party leaders have these powerful chairmen imposed on them by accident, regardless of ability or agreement with the party policies. The party has come into power on a platform making certain promises. It can easily be made ridiculous if its bills get blocked by a chairman who cares nothing for the platform and who never had to promise his own constituents anything in order to be re-elected.

One suggestion is to have chairmen elected by secret ballot by the committees themselves. Another is to retire all chairmen at 65 or 70, not an extremely old age for Washington. Another is to limit the office to six years' service. Another is to have them elected by the party caucus, in which case they would, altogether, represent party policy and assume positive responsibility for carrying out the party program.

DOES CONGRESS NEED MORE STAFF?

THERE are two basic lines of argument in favor of more staff. First is the back-breaking workload of the individual Congressman. There is no debate on that point: the present demands are tremendous and are not likely to slacken.

Second, many people believe that Congress should have its own experts to analyze and evaluate the proposals of the executive departments.

Straight thinking on the first question requires an analysis of the Congressman's workload. The second should be answered only after careful study of the relations which have existed—and ought in the future to exist—between the legislative and executive branches.

The Congressman's Workload

Executive departments have often been criticized for solving all workload problems by asking for more staff. "The *bureaucracy* grows and grows," moan the critics. "They never try to see what nonessentials can be cut out before they ask for more."

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The criticism is good. It should be applied to executive departments—and to Congress. But it is especially important in the case of Congress for the problem is to free Congressmen for making major policy decisions. Staff should *not* be provided to enable Congressmen, individually, in committees, or collectively as a Congress, to hang on to unnecessary and unimportant operations.

Here our yardstick of page 4 helps. The basic job of Congress is *to determine policy, to authorize adequate organization, and to review policy.* Any activities which do not help free Congressmen for those three basic jobs should be cut ruthlessly.

Congress Should Delegate

Congress as a body does many things that have nothing to do with its main job—and thereby reduces its effectiveness as a legislative body. The following recommendations have been made:

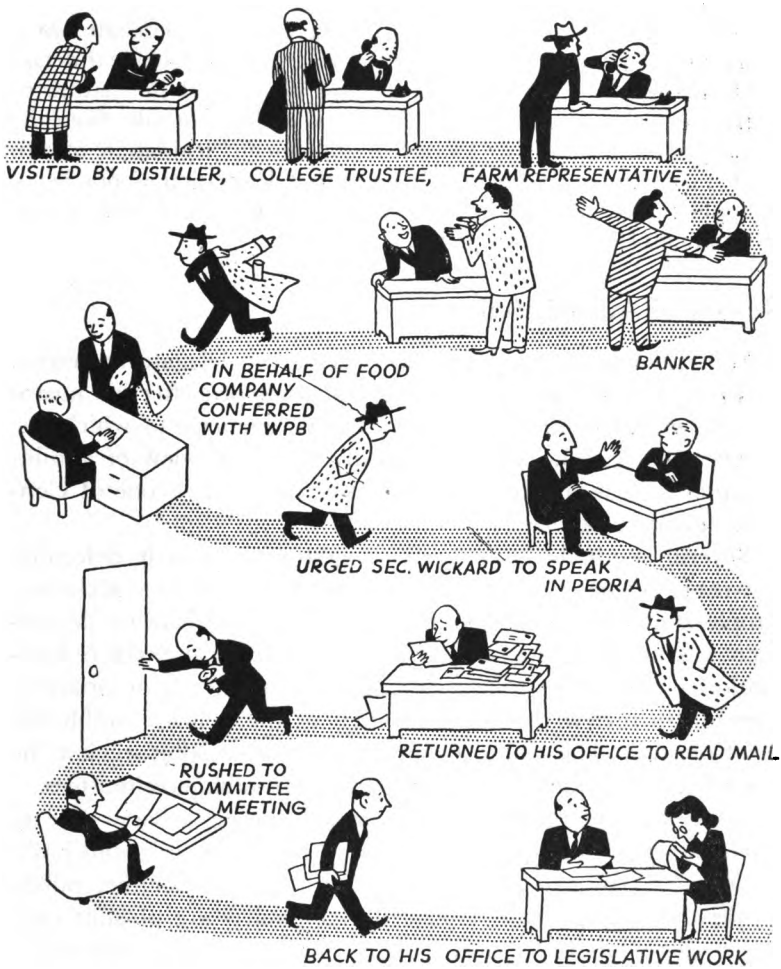
1. Congress should cease to sit as a common council for the District of Columbia. It should authorize a municipal charter, and should turn over District affairs to its now voteless citizens.
2. Congress should delegate to appropriate administrative and judicial agencies the settlement of private claims and pensions.
3. Congress should delegate technical matters and detail to administrative agencies.
4. In addition to the above, the Committee of the American Political Science Association proposes that Congress should delegate to government corporations certain types of problems requiring continuing co-ordinated action and flexible administration. Basing its recommendations upon the record achieved by TVA, RFC, the Export-Import Bank, and other agencies, the committee says:

> The Corporate device has many advantages. . . . [Government Corporations] offer a successful instrument in areas where government undertakes economic activities and where old-line departments are . . . incapable of acting . . . The corporate form permits greater internal control over their operations.

Estes Kefauver, able young Congressman from Tennessee, contrasts the heavy demands made upon him by his constituents regarding the business of the old-line departments with the light load of such mail relating to TVA activities.

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A DAY OF A CONGRESSMAN



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In delegating powers Congress does not "surrender its powers." Speaker Rayburn in a notable speech in Dallas, in November, 1940, admirably stated the case for delegation as follows:

> This procedure gives promise of improving rather than impairing both the character of the legislative debate and the quality of the legislative product. It enables the Congress to debate broad matters of policy without being lost in a mass of technical detail. It enables the Congress to know and understand the nature of the legislation upon which it votes. And it does not take from the Congress the power to amend or supplement legislation of this character at any time that it finds that legislation is not being applied and enforced in accordance with Congress' own understanding of its declared policy.

Review of Administration

Some people don't like to have Congress delegate authority. They point out that Congress has not developed effective means to review and control the administrative agencies to which the power is delegated. This undoubtedly is true. Review of administration is weak, ineffectual, and disorganized. It is one of Congress' greatest failures.

Several methods have been suggested by which delegated powers could be reviewed by Congress. Representative Kefauver proposes a question period for the heads of executive departments. The Committee of the American Political Science Association proposes that the subcommittees of the Appropriations Committee review the administration of the policies established by Congress. The Joint Committee proposes that review be placed in the hands of the reorganized standing committees.

Whatever the method, the answer is proper review—not to have Congress "retain its powers" and handle more detail itself.

Sound review and an effective control that holds either public or private management responsible for its acts are possible only when there has been clear policy and well-defined delegation of responsibility in the first place. Without clear policy and delegation of responsibility there is no yardstick against which the progress or shortcoming of the administrator can be measured.

Without such clarity in governmental affairs there is often no way that Congress, the administration, or the press can tell the individual citizen just where he stands.

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Can Congressmen Eliminate Unessentials?

Congressmen as individuals do a great many trivial errand-boy jobs that take time from their main task. Take these items gleaned by the magazine *Fortune* from a day in the life of Representative Everett Dirksen of Illinois:

1. A visit from a distillers' representative who had heard a rumor about 99 per cent wartime prohibition. He wanted to know if it was true. (Mr. Dirksen telephoned James F. Byrnes personally and reassured his caller.)

2. A visit from a college trustee who wanted his college selected as a military training center. (Such favors are usually sought when the merits of the request are of low value and might not appeal to administrators of the program.)

3. A farm organization representative came in. He wanted appointments with James F. Byrnes and several other high officials. (These appointments are asked for through Congressmen when the nature of the business might make it doubtful that a direct request would win an appointment with the top man. Congressional acquiescence is good politics and insures that much of the administrator's day will also be devoted to low priority jobs.)

4. Telephone calls from (a) another college official with the same worries as the first; (b) a banker who wanted an appointment with Leo Crowley; (c) a steel company official who wanted to protest his lend-lease quota of ingots and billets. (We wonder what the steel executive would say if the lend-lease administrator had tried to deal with him through a member of his Board of Directors—and what the director would do.)

5. At the request of a representative of a powdered and compressed food organization, important in his district, Mr. Dirksen conferred with WPB about getting more steel for dehydration machinery. (This intervention would be useful if the applicant were not on a high priority list. If he were a high priority applicant, he would get it without the Congressman.)

6. He failed to persuade Secretary Wickard to go to Peoria for a speech. In the previous year he had spent an hour in face-to-face talk persuading Leon Henderson to make a dinner speech to a club in Peoria. (If a Congressman is persistent, this can usually be done. It might later win an administrator friendly treatment in a tough committee hearing. There is no principle

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involved, save the use of government funds to make the trip and the waste of time that might be devoted to more urgent duties. And, after all, a Congressman votes the funds—not only for the trip but for the agency as a whole.)

7. A mountain of mail on similar subjects.

This is not a full account of Mr. Dirksen's time for the period covered. Beyond all these, he did a heavy job of important legislative business—in committees, in the House, and in his office.

Not the Main Job

Clearly none of the above listed activities bears any relation to the main tasks of Congress. They suggest a lack of clear delegation of authority on administrative matters. Instead of even-handed, equitable administration, they result in favoritism. If "all the constituent gets is justice," it is a sort of accidental justice meted out to those who happen to use their Congressmen as petty lobbyists before executive departments.

"But doing favors for constituents is 'practical politics'!" the harassed Congressman sometimes replies, "We have to do that."

Time was when most government jobs were handed out on the basis of such "practical politics." Few, in Congress or out, would want to go back to the political patronage system today. Congressional intervention in individual cases could be eliminated. If Congress wished to take such action, it would be able to do its main job much better.

Some Folks Like It This Way

Don't get the impression that *Fortune* editors, from whose articles Mr. Dirksen's day is derived, feel that way about errand-boy activities. They would not abolish intervention by Congressmen in private cases. "If it were," they ask, "who then would be the people's friends at court? As the Federal Government reaches out to regulate more and more concerns of the people's lives, as the bureaucracy grows ever bigger and more complex and centralized, this function of Congressmen becomes steadily more important. They are the men and women who humanize 'Big Government,' who temper the edicts issuing from the vast, impersonal bureaucracy . . . etc. . . . etc."

Plunkett of Tammany Hall once reasoned the same way on his own operations. Tammany, however, was more efficient. It did

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not waste the time of important, policy-making officials to run its errands. The *Fortune* editors see that, too. They go on to propose that each Congressman be given staff to carry on this intervention for constituents with administrative agencies.

The magazine *Look* recently urged its readers to "Write Your Congressmen" with "definite requests." In a persuasive picture story, the editors showed how promptly a Congressman's intervention would get action out of the War Department or OPA. Such a recommendation springs, in part, from the same philosophy as the *Fortune* story.

Many years ago the late Senator Pat Harrison said to me earnestly in discussing such requests that "Most people in my state don't know how to approach the federal government except to write to me." He was stating a fact. But be it also noted that Congress has hesitated to provide the kind of organization and personnel which will enable administrative agencies to make themselves intelligible and prompt. Many Congressmen believe they see votes in helping their constituents do business with government agencies. The Joint Congressional Committee recommends for each Congressman an $8,000 assistant to perform "nonlegislative business." Such action is likely to increase the amount of lobbying—not relieve the Congressmen.

✓ Two Views of Government

In brief, there are two views on government itself. One is that the job of Congress is to establish administration that will work fairly in each case—and to see to it that it works that way.

The second view is that Congressmen should act as enlightened lobbyists to "temper" administrative decisions "to the needs and problems of individual citizens." (The reader of history will recall that in many states a hundred years ago judicial decisions could be "tempered," too.)

In part, this second view involves the old idea that the job of the Congressman is to get things for his district and the people in it—not to think nationally and internationally.

Can this Tammany approach—now so strangely found in enlightened publications like *Fortune* and *Look*—achieve even-handed justice for 140,000,000 people? Will it leave Congressmen enough time to do the legislative policy job the atomic age requires? Or, will it merely insure that the real thinking will have to be done on the executive end of the avenue? Is it wise to

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encourage Congressmen to depend on anything except their legislative record for re-election?

No Way to Estimate Real Need for Staff

Other elements of bad organization add to the workload of Congress. Numerous and overlapping committees, long-winded procedures, lack of clear policies—all these are wasters of time for Congressmen and Congressional staff.

Suppose a really efficient organization were produced; the number of committees reduced; single joint hearings held for House and Senate; committee jurisdiction related to responsibilities of the executive departments. Suppose non-Congressional matters were delegated and Congressmen no longer handled private cases with executive agencies. How much staff would then be required? And what kind of staff?

Obviously one cannot answer until he sees the organization proposed and can calculate its work. This should be clear, however: Congress should have all the staff it needs to do its legislative job.

Congress should pay enough to compensate adequately top-quality staff at all points. The Legislative Reference Service pays its specialist on banking and finance $2,600. Either he is grossly underpaid or Congress is getting grossly incompetent service. The same applies to social welfare, foreign trade, and other important topics. It is fortunate that on matters of real importance higher salaried (though still not necessarily well-paid) specialists from the executive departments are called.

Must Congress Have Its Own Experts?

The second line of argument for more staff is competitive—Congress versus the Executive. Congress, it is argued, must have its own experts. Otherwise it will have to take the word of experts from the executive departments.

This presents a nice administrative question. As Professor Lindsay Rogers has well pointed out:

> If, for example, the Committee on Banking and Currency had an economic advisor who would brief committee members to criticize proposals coming from the Treasury and frame cross-examination for the Treasury's witnesses, experts would be pitted against experts. The extreme situation would probably result if

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the Naval and Military Affairs Committees had their own soldiers and sailors as experts.

How far, too, shall the staffing go? Suppose in this contention of experts the Congress consistently took the side of "Congressional experts" as against "executive experts." The only logical answer would be for the administrative officers concerned—or the Chief Executive himself—to resign. An executive would be a fool to accept responsibility for a program he did not believe sound —to accept it from a Congress that had already expressed its lack of confidence in him.

The job of any administrative staff Congress may add should be clearly defined. The purpose of such staff is not to determine policy, not to oppose department experts. Its job should be simply that of sifting the wheat from the chaff, whether the testimony being studied comes from executive departments or from the far larger output of trade associations and private business.

Both in Congress and out the debate suggests that the demand for independent experts has not been thought through. Often it is groping for a need, a need that can be fully solved only through an organic relation between the executive and legislative branches of our government. Certainly the solution of our 150-year-old conflict between the executive and legislative branches does not lie in setting up a self-contained bureaucracy at both ends of Pennsylvania Avenue.

Who Drafts the Bills?

One of the arguments for additional Congressional staff arises out of the complaint that too many bills are drafted by government departments. "Congress ought to draft its own legislation and tell the Executive what to do," the critics say. How much of this complaint is honest criticism? How much is sheer politics?

The need for a better-paid, better-staffed Legislative Counsel, or bill-drafting service, in Congress is generally accepted today. But it has not always been. Twenty-four years ago the idea of setting up a drafting service was denounced on the floor of the House as "monarchial." "People are capable of electing members of Congress who can do their own work," cried Congressman Sisson. "We are getting away from representative government." Claude Kitchen, once head of the Ways and Means Committee, would not use the Legislative Counsel. He told Cor-

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dell Hull, then a Congressman, that he would not have "some kind of a professor telling me what to do." So fumed the old guard of that day.

Not many people realize what drafting service is now provided or how thoroughly Congress reviews administration bills. Political campaign charges of "rubber stamp" action cloud the real facts. Take one example: the Securities and Exchange Act.

The financial community in Wall Street has a myth that the SEC Act of 1933 was "sprung" on Congress by President Roosevelt and forced through. Cohen and Corcoran, Frankfurter and Landis were the archconspirators. Congress hardly got a chance to look at it. So the story goes—and after two cocktails, almost any broker can elaborate the plot.

But listen to the testimony of Middleton Beaman, House Legislative Counsel, on April 30, 1945, to the Joint Committee:

> . . . that is totally and absolutely untrue. In all our experience we hardly can think of an act that received more attention. . . .

Mr. Beaman then described the many weeks of day and night work with the subcommittee of the House, the drafts and redrafts, the sessions with the full committee. He concludes, "I do not know of any act that received more careful attention from the legislative committee than that act did."

Mr. Beaman told the Joint Committee his office had worked on "pretty nearly all" the public bills (that is, those that represented legislative policy). Only a small percentage of the private bills, dealing with claims and similar matters, were dealt with.

Mr. Beaman had no objection to departmental bill drafting. What matters, he said, is not where the legislation originates, but how accurately it expresses the intent of Congress. "If it meets that test 100 per cent, it makes no difference where it comes from. . . ."

THE CONTROL OF SPENDING

THE historic means by which a legislature controls the executive is through "the power of the purse." Because Parliament alone could tax, Parliament could control the King.

That principle has been written into all our state constitutions and it is basic in the federal constitution. Every executive dollar has been justified to an Appropriations subcommittee and voted

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by Congress. Any expenditure in the regular civil departments can be disallowed by the Comptroller General.

Yet review of expenditures, like review of administration generally, is a failure—and for very much the same reasons. Attempts at control take the form of legalistic efforts to dictate details of expenditure. Broad and clear policy determinations which might guide and control spending have hardly been tried, for the creation of clear policy broad enough to meet the facts the executive must deal with is not one of the proved abilities of Congress.

The issue is not new. It was not created by any recent administration. Both of George Washington's Secretaries of the Treasury were under fire for their accounts. Hamilton, a critic complained, "preferred no doubt the public good, which he thought he had in view, to a strict compliance with the appropriation laws." When in 1794 he was asked for an accounting of the public debt, he stated that this would interrupt departmental routine and condemned "the practice of such unexpected demands." Abraham Lincoln advanced $2,000,000 from the Treasury to three private citizens to help provide equipment for the war. He had no authority under the law to do so; he did not tell the Congress for many months and did so then because the matter leaked out.

How can Congress exercise a satisfactory control over government expenditures? The full answer would be long and technical, but the proposals made by the National Planning Association and the American Political Science Association Committee have much in common:

1. Broader appropriation bills, with emphasis on policy rather than detail.

Lucius Wilmerding, a foremost student of federal spending, recommends that Congress state the main lines of expenditure and leave it to the Budget Bureau to determine the lesser lines and the departments to set the details. Robert Heller, an industrial engineer who wrote the NPA report, supports the policy of broad appropriations as follows:

a. Because of the heavy demands on Congress' time, every minute it devotes to the details of expenditures is likely to be one less minute given to the more important matter of expenditure policy.

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b. Real expenditure control consists, not of delving into minor items of executive expense, but rather of evaluating an administrator's accomplishments in terms of (a) the objective established for his department by Congress and (b) the amount allocated to his department by Congress.
c. If Congress in advance exercises excessive control over administrative detail, its position is weakened as regards holding the executive accountable for failure to achieve objectives stipulated by Congress.
d. Stringent and detailed restrictions, necessarily drawn up considerably in advance of the actual expenditure, do not permit the administrator sufficient flexibility to operate most efficiently.

2. *How shall spending under these broader appropriation bills be viewed?* Both reports recommend an Auditor General with power to audit all agencies and a Congressional Joint Committee on Public Accounts to see that action is taken on his reports.

Joint Committee Recommendations

The Joint Committee apparently believed that its streamlined committee system would make review of accounts by a single joint committee unnecessary. It proposes that the Comptroller General make annual audits, but these are to be reviewed by the appropriate fiscal committees of each House. With that one exception it places special emphasis on a unified fiscal policy.

It points out that there is not now any "over-all fiscal policy that would consider both the income and the expenditures of government. . . . Control over revenues and expenditures is divided not only between the House and Senate, but also within each House between its revenue and appropriating committees. Neither of the two appropriations committees imposes any over-all limitations upon its total appropriations before the individual supply bills are voted. . . . Nor do they attempt to coordinate appropriations with revenues so as to fix an over-all fiscal policy for the year. With this divided authority existing, not only between the appropriation committees of each House, but also among their many subcommittees, and among the revenue-raising committees, how could Congress have a general fiscal policy or follow it if it had one?"

To meet this situation and to provide clearer public view of the fiscal operations of the government, the Joint Committee made the following recommendations:

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1. By joint action the Revenue and Appropriations Committees of both Houses shall submit to the Congress early in each session a concurrent resolution setting forth both the total estimated income and expenditures. If expenditures exceed income, Congress must vote to increase the debt. If it does not, its operating appropriations will be automatically cut to meet revenues.

2. A series of procedural changes are recommended. These include: consideration of appropriation bills by full committee, instead of piecemeal in subcommittees; an end to the present practice of holding all Appropriations Committee meetings in secret; presentation of appropriation bills to the House at least three days before floor consideration; additional expert staff; and improved accounting practices.

3. There should be annual audits by the Comptroller General.

4. All appropriations bills should be made for definite amounts of money. Unexpended balances should be returned to the Treasury and fund transfers between agencies should be ended.

5. An end of "finagling" with appropriation bills through the attachment of riders, and an end of phony "economy limitations" which are really intended to hamstring agencies or influence legislative policy.

To the extent these measures permit greater clarity of focus on fiscal policy they are contributions to sound reform.

CONGRESS vs. THE PRESIDENT

BETTER Congressmen—so the prestige of Congress *against the President* will be re-established!

Fewer, better-coordinated committees—so Congress can have a program of its own *and can reject the President's program!*

More staff for Congressmen—so things won't have to be delegated *to the bureaucrats!*

Special experts for Congress—so Congressmen won't have to take the word or policies of those it entrusts with administration!

There are other and better arguments for each of these reforms. But many arguments for reform seem to go right back to our 150-year-old conflict between the two branches of our government. The visitor from Mars might easily by persuaded that Congress and the President are not working on the same team at all.

Management specialists when they find such a conflict per-

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sisting despite repeated changes of personnel, usually discover its roots in faulty organization. A bad organization can create conflict, ineffectiveness, and enmity among the best and ablest of men.

Such specialists in government as Walter Bagehot, Woodrow Wilson, and James Bryce pointed out the weakness more than half a century ago. It lies in our system of separation of powers —and the precedents and practices which politicians have woven about that concept.

How can this eternal American conflict be resolved?

A Responsible Government

No business would long succeed if the Management and Board of Directors remained in conflict year in and year out. No businessman would tolerate a corporation charter which did not enable that deadlock to be broken. Yet that is what happens in the United States Government today.

The businessman would point out the obvious necessity of resolving the conflict—either through firing the general manager, or, if he had strong enough stockholder support, acquiring a new board that would enable the general manager to act.

That is just the way democracy works under the parliamentary system. Policy cannot be stalled between the Prime Minister and the Parliament. At the first lack of confidence the Prime Minister resigns. Either a new one is selected, who is given the confidence of the House, or the voters decide the issue.

Many believe the parliamentary system should be adopted in this country. Henry Hazlitt, an able editor of the *New York Times,* has written a book called *A New Constitution Now.* It is a strong plea for a parliamentary government and describes how it might be adapted to American needs. The reader will find it a thoroughly documented case, plus a fine digest of the criticisms which Bagehot, Wilson, and Bryce directed against our Congressional government.

Paths Toward Unity

Few practical political reformers believe that the United States is likely to adopt the parliamentary system. The mechanics of constitutional reform would seem to make the attempt hopeless. Moreover, the task of winning public acceptance and sympathy would be a long one.

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Dr. Beard and others have pointed out that the conflicts do not necessarily lie in the Constitution. They are rooted in practices which Congress has created and can freely amend. Thus, the responsibility rests on Congress. A solution of the problem would be applauded by the whole people, and no arduous campaign of popular political education is necessary to bring it to pass.

Dr. Beard proposes in his book, *The Republic,* a legislative council—a "grand committee" of each House to which the measures of real national importance would be referred. Professor Corwin in *The President: Office and Powers* suggests a new kind of cabinet which would include the leading majority members of both Houses and the heads of the principal executive departments. Roland Young, in his book *This Is Congress,* has suggested a legislative cabinet; it would consist of the chairmen of the principal standing committees who, to insure party responsibility for a program, would be selected by the party caucus.

Joint Cabinet

These several proposals have been recently developed by Thomas K. Finletter into a plan for a Joint Cabinet. His book is entitled *Can Representative Government Do the Job?*

The Congress-State Department Committees, which President Roosevelt and Secretary Hull developed for handling UNO, Bretton Woods, and other difficult wartime issues, provide a precedent for such a Joint Cabinet. These committees included leaders of the executive branch and leaders of the responsible Congressional committees. Together they jointly created a program and took responsibility for its passage.

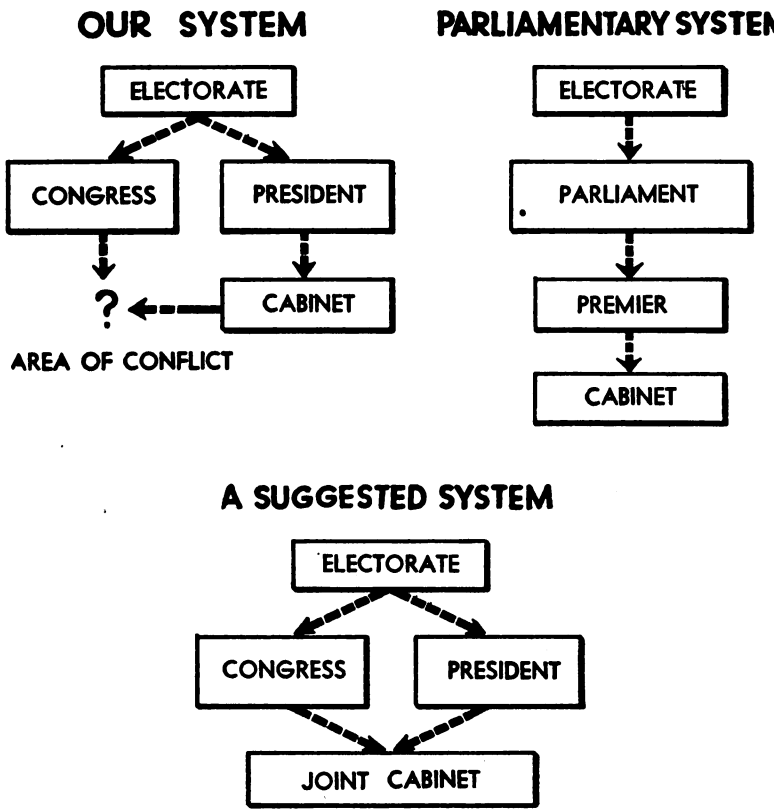
Because party responsibility and party support for a program would be necessary, the members of the Joint Cabinet would, unlike the wartime committees, be the legislative leaders of only the majority party in Congress.

The Congressional leaders would meet with the President and his Cabinet in drafting the legislative program. Together they would thrash out differences. The wishes of executive departments and the wishes of Congress would find a meeting ground in frank top-policy discussion.

A secretariat for the Joint Cabinet would have access to expert counsel and assistance wherever it might be found—inside or outside the government. The question of whether these were

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"executive" or "Congressional" experts would not be at issue, for the Joint Cabinet would represent both.



When the legislative program now goes to Congress, it goes as "the President's" program. There is some real resentment and much opportunity for dishonest opposition to masquerade in the robes of "Congressional prerogative." Congress feels today that the only way it can express its "independence" is by delay, amendment, and rejection. Under the Joint Cabinet the legislative program would not be "the President's." It would be the Joint Cabinet's program. The leaders of Congress participated in its creation. They would have a joint stake in seeing it through.

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Beneath this cabinet, the standing and special committees could work as before. Their study and recommendations would feed the cabinet hopper, and they would study the legislative recommendations that come from the Joint Cabinet.

The Joint Committee proposes the creation of majority and minority policy committees in each House. They would be appointed by their party conferences and would formulate, respectively, the legislative program and the "loyal opposition."

The majority policy committees would meet with the President and his cabinet for the formulation of policy.

Properly put into effect, this *is* the Joint Cabinet. In time it may prove to be the most significant recommendation made.

When Deadlock Arises

But there is still one unsolved problem which Mr. Finletter recognizes and faces squarely. That is the old specter of a President of one party and a Congress of the other.

Mr. Finletter sees no remedy for this but to permit the President to call a general election. His proposal is a six-year parallel term for the House-Senate-and-President with the President empowered to dissolve the Houses and call a general election once in the six-year period if he found it necessary to break a deadlock. This would, of course, require a constitutional amendment.

Those who oppose dissolution and the calling of a general election should consider the alternative. No one can say how much the depression of 1929–33 was accentuated because Mr. Hoover had lost his Congress within three weeks after he took office—and never regained it in four tragic years. The Congress would not accept Hoover's leadership. Hoover, on the other hand, opposed and obstructed the proposals of Congress. In the face of the grave crises that may threaten our democracy in the years ahead, can we afford another such deadlock—another government incompetent to act?

FOCUS ON THE MAIN PROBLEM

SEVERAL of the commonest suggestions for "improving" the Congress have not been discussed.

1. One suggestion for bringing the two branches closer together is that cabinet members should appear on the floor of Congress for questioning.

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The right should be routine, but of itself it would not bridge the gap. Questioning on the floor of Parliament is effective because the questions can be related to a policy. The government has a legislative program. Consequently, there is a clear line between defense and opposition. Nothing of the kind exists in our Congress. As noted in the section on delegation of power, there is no way to measure the executive action until a clear legislative policy has been established. Given clarity of policy, such questioning is a means of reviewing executive action.

2. Wide publicity has recently been given the proposal to broadcast Congressional debates. There is undoubtedly something to be said for letting the public know in this way just what goes on in every Congressional session, including committee meetings. This could not be done by a few, special, full-dress presentations, but would require a special federal radio station. The proposal is interesting and dramatic but hardly a remedy for Congress' inability to create clear and forthright policy or to review and control the application of that policy. Apart from telling the voter what his Congressman is doing, it is difficult to see how it would improve the legislative product.

3. The filibuster is a commonly condemned evil. It is a practice which makes the august Senate seem puny, ineffectual, and gibbering to millions of voters. Its only objective is to prevent a clear decision on the merits of the case.

The filibuster is only a symptom of a much deeper malady—the manner in which our system enables Congress to avoid issues. Congressional machinery is not well designed to obtain clear decisions. It all too often obscures decisions and enables special interests and minorities to obstruct and confuse issues. Some will say, "There have been few successful filibusters." But for every filibuster, there must be scores of real issues leaders fear to raise because they know filibusters are possible. The filibuster is merely the big, dramatic "run-around," the climax to all the little "run-arounds" of our complicated Congressional system.

Out of the filibuster may come reform. It is big, dramatic. It makes millions angry or contemptuous. The emotions it arouses may so floodlight the need for Congressional reorganization that the public will support general reform.

4. "Riders" are often attached to bills, that is, provisions which are unrelated to their main content. These represent, again, an evasion of clear issues, an unwillingness to let ques-

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tions be settled on their merits. Clear determination of policy and clear responsibility for carrying out policy are not possible so long as the "rider" is common.

5. Registration of lobbyists and organizations testifying before Congressional committees is wise and necessary. But improper influence cannot be effectively checked so long as there is no policy against which a Congressman's record may be judged. Clarity of policy, clear objectives, clear responsibility would go far to deprive special interest groups of their power over individual Congressmen.

Only the Best Will Do

The recommendations made by the Joint Committee are good as far as they go. But do they go far enough? And will Congress support them as far as they go? America cannot afford any solution but the best. The second best—the machinery of legislation that leaves room for delay or evasion—may destroy democracy.

"Practical politics" will suggest that Congress tinker with the easy evils but avoid the big issues.

If "practical politics" holds sway, Congress will protect vested interests—the seniority committee chairmen, the errand-boy functions for the home districts, personal privileges will be considered and saved. Congressmen will not be freed for the policy job our difficult future requires. Dynamic cooperation between the legislative and executive will not be established.

Congress is *not* unpopular because it fails to run enough errands for hometown voters; it runs too many now. Congress is not unpopular because it delegates detailed administration to the Executive; it already hangs on to too much detail. And the voters don't really give a hoot whether the precious prerogatives of committee chairmen are preserved or not.

Congress *is* unpopular because it has not shown capacity for clear, decisive, and understandable policy. It has not always authorized adequate and properly empowered agencies to carry its policies into effect. Most of all it has failed to review and to guide the administration of its policies.

The way to a popular and a strong Congress is through clarity and decision in carrying out the main legislative responsibility—*to determine policy, to authorize adequate organization, and to review policy.* All else is whistling in the wind.

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FOR FURTHER READING

The Joint Committee on the Organization of Congress has produced the indispensable collection of material on this subject. Its publications, obtainable from the U. S. Government Printing Office, include:

Report of the Joint Committee on the Organization of Congress: 35-page report of recommended changes. March 4, 1946

Hearings: Parts 1, 2, 3, and 4, and index (4 volumes), 1088 pp.

Summary of Hearings: a 60-page digest of the above.

Symposium on Congress: A collection of 60 magazine articles and speeches by Congressmen and others. 364 pp.

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First Edition, April, 1946

Printed in the United States of America

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