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CABINET VS. COMMITTEE SYSTEM OF LEGISLATION

THE INTERSCHOLASTIC LEAGUE BUREAU
DIVISION OF EXTENSION



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**PUBLISHED BY THE UNIVERSITY FOUR TIMES A MONTH, AND ENTERED AS
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The benefits of education and of useful knowledge, generally diffused through a community, are essential to the preservation of a free government.

Sam Houston

Cultivated mind is the guardian genius of democracy. . . . It is the only dictator that freemen acknowledge and the only security that freemen desire.

Mirabeau B. Lamar

FOREWORD

In accordance with its usual practice, the Interscholastic League is issuing this bulletin for the help and convenience of students who wish to prepare themselves for entry into the debating contests of the League.

In the interest of economy, the League has discontinued furnishing free copies, and is thus enabled to reduce the price to 15 cents per copy. The large free distribution in former years to many schools not participating in debate increased the cost to those schools purchasing extra copies, and hence it seems wise to discontinue the free distribution, and reduce the cost to those schools actually using the publication.

The Extension Loan Library, University Station, Austin, Texas, will furnish any school official in Texas who applies for the same a package library on the present question, which he may keep for a period of two weeks. These libraries are arranged in four sets, each set containing fifteen articles. It is suggested that the debating coach order each of the four sets during the season, so that his pupils may have access to all of the sixty articles, some of which are general, some negative, and some affirmative.

The present bulletin was prepared by C. Edwin Davis in coöperation with the Government Department of the University of Texas.

The League endorses and commends to debating coaches and judges the following statement of the aims of this contest:

"The purpose of practice debating is to teach young men [and young women] to think, and to speak their thoughts effectively. Debaters who are so trained should be given precedence over those who recite vigorously memorized speeches. The college or high-school debater who declaims, in all probability has not written the speech himself. Too much help by the coaches [and commercial bureaus] is doing much to bring disrepute upon all debating. If judges have the courage to distinguish between declamation and speaking from the floor, they can do much to raise the standard of school debating."

Coaches are cautioned to study carefully the "Instruction to Judges" which appear in the "Rules for Debate" in the current issue of the Constitution and Rules, Bulletin No. 2822.

ROY BEDICHEK,

*Chief, Interscholastic League Bureau,
Extension Division, University of Texas*

"Good argument is a sharp process of investigation, leading by mutual criticism to some nearer ascertainment of truth."

J. L. GARVIN.

"The gods have given us speech—the power which has civilized human life; and shall we not strive to make the best of it?"

ISOCRATES.

"It is easy to say that in every dispute we should have no other aim than the advancement of truth; but before dispute no one knows where it is" . . .

ARTHUR SCHOPENHAUER.

"Remark likewise two things: that such prize arguings were ever on superficial debatable questions; and then that they were argued generally by the fair laws of battle and logic-fence, by one cunning in the same. If their purpose was excusable, their effect was harmless, perhaps beneficial: that of taming noisy mediocrity, and showing it another side of a debatable matter; to see both sides of which was, for the first time, to see the truth of it."

CARLYLE.

EXPLANATION

A large part of the preparation for a student who intends to debate this proposition is the acquiring of a thorough knowledge of the various agencies involved and the rules of procedure followed in the two legislative systems under discussion. He who has this knowledge at his finger tips can more effectively use the arguments advanced on both sides.

Because this technical knowledge is so essential, a large part of the bulletin is devoted to a comprehensive description of the two legislative systems. Although such material, or a lot of it, is not within itself pro or con argument, proof on either side must rest on it as a groundwork. Because of its importance, it is advisable for the student to read straight through the "General" section in order that he may not miss essential points.

Some of the articles listed on the affirmative side may have material in them that can be used as negative proof and vice versa. It was impossible to get articles, all of which championed only one side.

There is one point which the debaters should keep in mind: under the statement of the question the desirability or undesirability of a change from one system to the other is not to be debated. The point will be for the debaters to attempt to show that according to valid standards of efficient law-making the one system works better in its nation than the other does in its country. The debaters must also guard against letting their speeches take the nature of a general debate on the merits of the presidential system of government vs. the cabinet system. It is the *systems of legislation* that are involved and not the whole range of administration.

The brief included in the bulletin is prepared to give the debaters the broad outlines of the points around which the debate will probably center. Each team, however, should work up its own outline, get a larger quantity of proof than this brief includes, and arrange it in the manner which seems to be most appropriate.

C. EDWIN DAVIS.

University of Texas, August 1, 1928.

SUGGESTIVE BRIEFS

Resolved, That the English Cabinet Method of Legislation Is More efficient in England than the Committee System Is in the United States.

GENERAL INTRODUCTION

- I. The question of which of the two systems of legislation is the more efficient is a very important and timely one, because
 - A. Whether a country has good or bad government depends to a large extent on the efficiency of its legislative machinery.
 - B. The question has been discussed by every authority in the field of comparative government since the time when Woodrow Wilson's "Congressional Government" came off the press.
 - C. The last war tested the two systems to the utmost and opened anew the floodgates of discussion, for
 1. Certain new features appeared in the working of each system which excited attention.
 - D. The increasing necessity for social legislation makes the two systems the targets for the criticism of reformers in America and in England.

II. Definitions:

- A. The term "committee system," as used in the statement of the question, refers not only to the organization and functioning of the standing committees but also to the other agencies found in the two houses of Congress, such as the rules committee, the speaker, the caucus, etc., and to the rules of procedure under which these agencies function.
- B. The cabinet system in England is that system under which the principal public bills are drawn up, introduced into Parliament and defended in that body by the chief executive officers of the nation who are themselves members of Parliament and responsible to it.
- C. An efficient legislative system in democracies such as the United States and Great Britain may be defined as one which is responsible to the will of the people, which provides for the planning of a well-conceived legislative program, which provides for the expeditious handling of the mass of measures which confronts a modern legislative body, and which guarantees the enactment of sound financial measures.

III. Admitted matter:

- A. Both sides will admit that neither system is perfect in every particular.

IV. Issues:

- A. Is the English system more responsible to the will of the people than the American system?
- B. Does the English system provide for the enactment of legislation which is better planned than does the American system?
- C. Does the English system provide for greater expedition in handling the mass of proposed legislation that confronts every legislative body?
- D. Is the handling of financial measures more in line with sound financial policy in England?

INTRODUCTION TO AFFIRMATIVE CASE

- I. The cabinet system of legislation in its present form is the outcome of the evolution of English political institutions, because
 - A. The Cabinet has inherited much of the power once possessed by the king of England.

DISCUSSION OF THE AFFIRMATIVE CASE

- I. The English system is more responsible to the will of the people, because
 - A. In England there are definite leaders who can be held responsible for the measures enacted, whereas this is not true in America, for
 - 1. In England the Cabinet with the prime minister at its head is held solely responsible if the wishes of the people are not expressed in legislation.
 - 2. In the United States there are several agencies which divide the leadership and the public cannot fix the responsibility, for
 - a. The speaker, the rules committee, the floor leader, the steering committee, the chairmen of committees, the conference committee, and the caucus all play an indeterminate part.
 - 3. This divided sort of leadership operates in the dark, for
 - a. The caucus acts secretly.
 - b. The committees hold secret executive sessions.

- c. The speaker, floor leader, and steering committee act quietly and without publicity.
 - d. The conference committee is hardly responsible to anyone.
 - B. The House of Commons and the Cabinet maintain a closer contact with the people than is true in America, for
 - 1. In England the members of the House of Commons find how their constituents stand on major issues before they cast their vote, for
 - a. The possibility of a dissolution of Parliament is always imminent and the members want to stay in the good graces of the electorate so that they will be reelected.
 - 2. The Cabinet frames its bills only after discovering the popular will, for
 - a. In case of defeat by Parliament it must depend on a favorable verdict from the people to keep it in power.
 - 3. In America Congress need not pay so much attention to the will of the people, for
 - a. The members are elected for a fixed term.
 - C. The English system makes for the creation of a decided public opinion on points of public policy, for
 - 1. The debates in the House of Commons between the government and the opposition are watched with all interest by the people, for
 - a. There is an element of the spectacular in them, for
 - (1) The votes after these debates may oust ministries.
 - 2. In America debates over legislation rarely are read by the people, for
 - a. There is nothing sensational attendant on the outcome.
 - b. Most of the discussion takes place in secret meetings of the committees.
- II. The English system provides for the enactment of legislation which is better planned than does the American system, because
 - A. The Cabinet is in a better position to plan a connected program than are the party leaders in the United States, for
 - 1. The Cabinet initiates all public bills of major importance and thus it has a check on what Parliament will consider.

2. The Cabinet sees to it that private member's bills which do not harmonize with the Cabinet's program do not pass, for
 - a. The Cabinet can defeat any private member's bill by bringing its influence to bear against it.
 3. There is opportunity given for only a limited number of private member's bills each session.
 4. The Cabinet members know what laws are needed, for
 - a. They are in charge of administrative departments.
- B. In America there is no real leadership in the preparation of a program, for
1. Every individual member may introduce as many measures as he chooses.
 2. The committees are like so many independent and uncoordinated legislatures, for
 - a. The caucus exercises no comprehensive supervision over their work, for
 - (1) The records show that almost without exception the caucus ratifies the work of the respective committees.
 3. The President and the Cabinet can exercise no real leadership, for
 - a. All their work must be indirect, for
 - (1) They cannot debate on the floor of the Senate and House of Representatives.
 - b. History shows that three-fourths of our Presidents have not been in any sense of the word leaders of Congress.
 - c. Very often the President and the majority in Congress are members of different political parties.
- C. Expert aid is better provided in the framing of bills in England, for
1. In England the legislative counsellors can be and are used more effectively than they are in America, for
 - a. The English Cabinet members take all their measures to the office of the legislative counsel and the counsellors harmonize the proposed laws with past enactments.
 - b. In America the committee members are not forced to consult the legislative counsellor.

- c. The American congressmen regard the counsellor as exercising a power which infringes on their freedom so they are slow in visiting him.
- d. The counsellor can exercise no such co-ordinating influence in America as he can in England because he has to deal with proposals coming from many different committees instead of the measures coming from one committee.

III. The English system provides for greater expedition in handling the mass of legislation that confronts a legislature, for

- A. There is no last minute rush which leads to congestion at the end of the session in England, for
 - 1. The Cabinet has its program planned in advance of the session and can put it through in regular order.
 - 2. The private members have a chance to introduce only a limited number of bills.
 - 3. The Cabinet allows adequate debate, but it can apply an effective closure in case of a time-wasting filibuster.
 - 4. The debates are kept on the subject because they are directed by a Cabinet member.
- B. The American system makes for congestion, for
 - 1. A huge number of measures are introduced each year.
 - 2. Each committee tries to get action on its measures before the session ends and congestion results.
 - 3. Many bills are passed under a suspension of the rules without adequate discussion.
- C. The English system does away with the evils of a bicameral legislature, for
 - 1. The cabinet system has practically done away with the power of the Lords to check legislation, for
 - a. The cabinet system can only work efficiently when it owes responsibility to only one house.
 - b. The Cabinet acts as a sort of conference committee between the two houses and compromises their differences.
 - 2. The decrease in the power of the Lords is in line with advanced political thinking, for

- a. Many authorities say that the only purpose an upper house serves is to slow up legislation.
 - 3. In America the Senate kills many bills which have been painstakingly considered and passed in the House of Representatives, and the House does the same for bills coming from the Senate.
 - 4. The President vetoes bills which have passed both houses and which may be the results of years of hard labor in those bodies; *e.g.*, President Coolidge's veto of the farm relief measures.
 - D. The English system simplifies procedure by making it possible to cut out one type of bill which is very numerous in the United States, for
 - 1. The cabinet system allows the department heads to issue administrative orders which take the place of many bills, for
 - a. The Parliament does not fear to delegate this power to the Cabinet, for
 - (1) It maintains an effective check over the Cabinet officials.
- IV. The handling of financial measures is more in line with sound financial policy in England, because
- A. Responsibility for financial legislation is fixed in England, for
 - 1. The Cabinet compiles the budget and defends it against attacks on the floor.
 - 2. The Cabinet allows very few changes in the budget in Parliament.
 - B. Responsibility is not fixed in America, for
 - 1. There are many agencies which handle the budget no one of which is responsible to the others, for
 - a. The budget bureau, the standing committees in the two houses of Congress, and the committees of the whole house all play a part.
 - b. The finance measures practically always have to be sent to a conference committee where there is extreme irresponsibility.
 - C. The British system results in more economy, for
 - 1. In England the budget bills must pass in virtually the same form in which they are introduced or the ministry will resign.
 - 2. In the debates on the financial measures on the floor of the House of Commons the Cabinet members have to explain thoroughly what they intend

- to do with the money they are asking for if a question comes up about it.
3. In America many useless appropriations are voted, for
 - a. In the secrecy of the committee rooms in the House and in the Senate the "pork" is parcelled out.
 4. In the Senate there is no stern party control and the measures are sometimes amended beyond recognition.

INTRODUCTION TO NEGATIVE CASE

- I. The committee system is a natural outgrowth of the American system of separation of powers, because
 - A. Under the working of the theory of separation of powers the President and his Cabinet cannot take very much of the initiative in sifting the measures to be introduced into Congress, and
 - B. In legislative bodies as large as our House of Representatives there must be some way to divide the work and provide leadership, for
 1. It would be impossible for the whole House to examine critically even a small portion of all the measures which are introduced.

DISCUSSION OF THE NEGATIVE CASE

- I. The American system is as responsible to the people as is the English system, for
 - A. The party in power can be held responsible for good or bad legislation just as is done in England, for
 1. The organization of the House and Senate is on party lines, for
 - a. The committees are organized on party lines.
 - b. The accepted leaders are partisan, for
 - (1) The speaker, floor leader, etc., are all party workers.
 - B. The desires of the people in various parts of the country are better responded to under the American system, for
 1. The individual Congressman has more power to get his bills passed than is true in England, for
 - a. He serves on at least one of the committees.

- b. He can introduce as many bills as he cares to.
 - c. He is a member of one of the caucuses which are the policy-determining bodies of the respective parties.
 - 2. In England the only power which has been reserved to the private member is that of criticising the cabinet measures.
- C. The Cabinet in England is not really responsible to the representatives of the people except in theory, for
 - 1. It pays slight regard to the criticisms offered by private members, for
 - a. It can always muster a majority in support of its bills, for
 - (1) Party allegiance is strong in England.
 - (2) The Cabinet can threaten a dissolution which is expensive to the members of the House of Commons because they have to campaign for reëlection.
 - 2. The Cabinet deliberates in secret and the public doesn't have a chance to find out why a certain bill is proposed, for
 - a. The Cabinet members can easily evade the questions asked during the question-hour.
 - 3. The Cabinet is not selected after a consideration of the will of the people, for
 - a. The prime minister sometimes disregards the wishes of the House of Commons in selecting Cabinet officers.
- D. The American system provides safeguards to insure responsibility, for
 - 1. History shows that a system of checks and balances must be imposed on any one agency of government if it is to remain responsible to the people, and
 - 2. In the United States the two houses of Congress constitute an effective check on each other with the President as a check on both.
 - 4. The practically unlimited debate in the Senate airs policies.
 - 5. Under the English system practically the only check on the Cabinet is that imposed by the electorate and this is an indirect check, for

- a. The cabinet system has practically killed the value of the Lords as a checking body.
- II. The American system provides for the enactment of legislation which is as well planned as that in England, because
- A. The division of labor under the committee system helps in the planning of legislation, for
 - 1. Committeemen are assigned to the field they know most about and which they are interested in, and they can give all their time to arranging coherent legislation in that field.
 - 2. Many of the committeemen serve for long terms and they get better acquainted with their field than does an English Cabinet officer whose tenure is often short-lived.
 - 3. Measures are given a more critical examination than is true under the Cabinet-controlled English system, for
 - a. Hearings are conducted for months at a time by some of the important committees.
 - 4. Cabinet officials in England have too much to do to prepare a good legislative program, for
 - a. They both administer and legislate.
 - B. There is effective leadership in America to coördinate the program, for
 - 1. The President and Cabinet members influence legislation, for
 - a. The President is the recognized leader of his party with the duty of phrasing the program on the major policies to which the party is pledged.
 - b. The President's message, appeals to the country, veto, conferences with Congressmen all help him to put over his measures.
 - c. Cabinet officials attend committee meetings and give information, and thus have a tremendous influence.
 - d. It has been estimated that a large proportion of the public bills that find their way into Congress emanate from an executive department.
 - 2. Congress has an effective internal machinery to carry out an integrated program, for
 - a. The caucus binds the members of the majority party to act in unison on bills involving party policy.

- b. The rules committee, the steering committee, the floor leader, and the speaker act together to see that the party program is enacted.
 - C. There is more chance for a farsighted policy to be carried out in the United States, for
 - 1. The Cabinet in England is not sure of its tenure, for
 - a. It may be overthrown just after it has inaugurated a program which it would take three or four years to carry out.
 - 2. In the United States an administration is sure of a fixed tenure and a comprehensive program can be planned several years in advance.
 - D. Expert aid in drafting measures is as well provided in the United States as in England, for
 - 1. There is a legislative counsellor provided for each house of Congress.
 - 2. The Congressmen are showing an increasing tendency to seek his aid.
- III. The American system provides for as much expedition in the handling of the mass of work that confronts the legislative body, because
 - A. There is a scientific division of work in America, for
 - 1. The discussion of many bills is carried on simultaneously in the committee rooms.
 - 2. The Houses of Congress accept in most cases the report that a committee makes on a bill.
 - B. In England the benefits of the committee system are recognized, for
 - 1. Just after the war the House of Commons set up a committee system which more nearly approached the system in the United States than the one they had used previously.
 - 2. The present English committee system does not carry the division of work far enough, and the committees do not have the independent power that they have in America.
 - 3. Many Englishmen, including among their number such prominent political scientists as Lecky and Marriot advocate a more extensive use of committees in England.
 - C. The leaders in the American Congress can control the business of the two houses just as effectively as the British Cabinet controls the House of Commons, for

1. In the House of Representatives the majority floor leader prepares a schedule of work which is rigidly followed, for
 - a. The rules committee can be used to bring in a rule which will secure consideration for the measure which the leaders wish to consider.
 2. The leadership in the Senate is less rigid, but the party in power manages to guide legislation, for
 - a. The majority floor leader plans a program to be followed.
 3. At times the leaders of the two houses get together and work out a joint program.
- IV. The handling of financial measures is as much in line with sound financial policy as it is in England, for
- A. There is an efficient executive budget, for
 1. The estimates are prepared by the budget bureau whose head is responsible to the President alone.
 - B. Congress gives due weight to this budget in preparing financial measures, for
 1. The practice of "pork-barrel" legislation has practically disappeared.
 2. There is very little amendment of the appropriation measures after they reach the floor of the house in the House of Representatives.
 - C. Ample opportunity is given for all members to debate the finance measures, for
 1. In both the Senate and the House of Representatives they are considered in the Committee of the Whole House.
 2. The Senate debates the bills very thoroughly.

BIBLIOGRAPHY

NOTE.—For a bibliography of material in popular periodicals see the Package Loan Library Service, Extension Division, of your State University.

BOOKS

- Alexander, D. S. *History and Procedure of the House of Representatives*. Boston. 1916.
- Beard, Charles Austin. *American Government and Politics*. Century. New York.
- Bradford, Gamaliel. *The Lessons of Popular Government*. Macmillan. New York. 1899.
- Brown, S. R., *The Leadership of Congress*. Bobbs-Merrill Company. Indianapolis. 1922.
- *Ettrade, D. J. *Cabinet Form of Government*. (Reference Shelf) Wilson. New York.
- Ford, H. J. *Representative Government...* H. Holt & Co. New York. 1924.
- Hasbruck, P. DeWitt. *Party Government in the House of Representatives*. Macmillan. 1928.
- Kimball, Everett. *National Government in the United States*. Ginn. Boston. 1920.
- Low, Sidney, *Goverance of England*. Putnam. New York. 1914.
- Lowell, A. L. *Government of England*. Macmillan. New York. 1900.
- Luce, R. *Congress*. Harvard University Press. 1926.
- Luce, R. *Legislative Procedure*. Harvard University Press. Cambridge, Mass. 1924.
- Luce, R. *Legislative Assemblies*. Harvard University Press, Cambridge, Mass. 1924.
- Ogg, Frederic A., and Ray, P. Orman. *Introduction to American Government*. The Century Company. New York. 1926.
- Munro, W. B. *Government of the United States*. Macmillan. New York. 1920.
- Munro, W. B. *The Government of Europe*. Matcmillan. New York. 1925.
- Rogers, L. *The American Senate*. New York. 1926.
- Webb, Sidney and Beatrice. *Constitution for the Socialist Commonwealth of Great Britain*. Pp. 71-74. London. 1920.
- Wilson, Woodrow. *Congressional Government*. Houghton. Boston.

* (The Reference Shelf, Vol. I, no. 6.) Contains bibliography and briefs and selections on the cabinet system vs. the presidential system in general. May be purchased from H. W. Wilson Company, 958 University Avenue, New York, for \$1.25.

Wilson, Woodrow. *Constitutional Government*. Lenicke. New York. 1908.

PERIODICALS

Academy of Political Science. Proceedings. 8:29-411. Jl. 18.
Responsible Criticism. F. Cleveland.

American Historical Association. Proceedings. 109-28. *Defense of Congressional Government*. Freeman Snow.

American Political Science Association. Proceedings. 8: sup. 148 F.
14. *Legislative Procedure in Two Anglo-Saxon Countries*. A. M. Low.

Amer. Pol. Sci. Rev. *Ministerial Responsibility vs. The Separation of Powers*. 16:194-210. My. '22.

Amer. Pol. Sci. Rev. 9:68-92. *Sub-Committees of Congress*. B. L. French.

North American Review. CCV, 300-307. March, 1922. *Conference Committee Legislation*. L. Rogers.

GENERAL MATERIAL ON THE CABINET SYSTEM

THE HOUSE OF COMMONS

(Munro's "The Governments of Europe," pp. 168-169, 170-171, The Macmillan Company, New York, 1925.)

. . . In legislative bodies throughout the world a large part of the preliminary work is assigned to committees. The House of Commons is no exception. All bills now go automatically to one of its regular committees unless the House votes otherwise in particular cases. These committees of the House of Commons are of various types. First there are the *standing* committees, as they are called—committees which are appointed at the opening of a session and remain unchanged until Parliament is prorogued. To these standing committees, of which there are now six in all, certain classes of bills are referred; each committee receiving the measures which fall within its particular field of jurisdiction. Second, there are *select* committees, appointed to consider and report upon individual measures or questions which involve some new principle, or upon some subject which has not yet come before the House in the form of a bill. They differ from standing committees in that they rarely deal with public bills and very often are merely appointed to make a study of some timely subject. Some of these select committees continue through the session and hence are often called sessional select committees or, more briefly, sessional committees.

Finally, there is the Committee of the Whole House. In other words, the entire House sits as a committee; the Speaker leaves the chair and his place is taken by a chairman who is appointed afresh in each new Parliament and is a stanch party man; the mace is placed under the table as a sign that the House, as a House, has adjourned. This method of doing business goes back to Stuart times. When the House resolves itself into Committee of the Whole the more rigid rules of procedure are relaxed; a member may speak several times on the same question if he desires, and any matter which is voted upon can easily be opened for reconsideration. Because procedure in the Committee of the Whole House is so simple and flexible the practice of considering the details of measures in this way has proved popular not only in the House of Commons at Westminster but in the House of Representatives at Washington. When the Committee of the Whole House has finished with its consideration of a measure, item by item, a motion is made that the committee "rise and report." The Speaker then resumes the chair and the chairman reports the committee's action, in other words the House reports to itself and then proceeds to adopt its own recommendations. . . .

Committees in the House of Commons (with the exception of the Committee of the Whole House) are chosen by a committee of selection. This committee of selection, which contains eleven members, is named by the House itself at the beginning of each parliamentary session. But while ostensibly named by the House itself, the membership of the committee of selection is arranged in advance by a conference between the prime minister and the leader of the opposition. In making up the various standing and select committees, this committee of selection does not pay strict attention to party lines, although members of the different parties are selected in something like the proportion that they have in the House as a whole. Each standing committee ordinarily contains from forty to sixty members, but the rules of the House provide that from ten to fifteen supernumerary members may be added to serve during the consideration of any designated measure; the design being to strengthen the committee when some matter requiring special knowledge is before it. Select committees are much smaller; they ordinarily have fifteen members, except in the case of select committees on private bills, which have four members only. Each standing or select committee has a chairman but this official is neither named by the committee of selection, as is the practice in Congress, nor chosen by the committee itself. Instead, the committee of selection names a panel of chairmen and this panel chooses from its own membership a chairman for each committee.

The Cabinet is not officially ranked as a committee of the House of Commons, yet it is in fact the greatest parliamentary committee of them all. It is the steering committee. It is the originator and the censor of all important business. Nothing of any general importance has much chance of getting through the House of Commons unless the ministry favors it or at least refrains from opposing it; on the other hand a measure has every chance of passing if the Cabinet lends its support. There are exceptions to this general rule, of course, and these exceptions were naturally more frequent during the time when a Labor ministry was in power without firm control of a majority in the House. But when a ministry controls a majority, as it usually does, there is no gainsaying its mastery of the legislative program.

Nevertheless the Cabinet's control of committees is by no means so strong as its control of the House. Party discipline is not so strict in the one as in the other. Hence it frequently happens that a standing committee amends a bill in a way which the ministers dislike. The minister in charge of the bill must then decide (usually in consultation with his colleagues) whether he will accept the amendment or ask the House to strike it out when the committee reports the bill. This the House will do if the ministry insists, but coercive tactics are not popular in England and the ministers often find it

wise to concede or compromise. In any event the minister in charge of a government measure must familiarize himself with every detail of it, must follow its course day by day in committee, and must guide it through the House. It is for this reason that the ministers are the real leaders of the Commons and collectively form "the great standing committee of Parliament." . . .

THE PROCESS OF LAW MAKING IN PARLIAMENT

(Munro's "The Governments of Europe," pp. 176-186, 192-193, The Macmillan Company, New York.)

. . . To the casual visitor, sitting in the galleries, the method of legislative procedure at Westminster and at Washington seem to be wholly unlike. But the differences, save in one important respect, are superficial only. They do not affect the underlying principles, which (with one exception) are the same in all English-speaking legislative chambers. Measures are introduced on both sides of the Atlantic in much the same way; they are given three readings, referred to committees, reported out, debated, amended, and sent to the other chamber. The differences relate principally to the organization and work of the committees and the limitations on debate. Congress has modified the original rules for the purpose of expediting business, but the fundamentals remain unaltered. The colonial assemblies of America borrowed their procedure from Parliament; the state legislatures which were called together after the Declaration of Independence continued these rules; and Congress, on its organization in 1788, took its procedure from the state legislatures.

There is, however, one important feature in which the process of legislation in Congress has diverged from that of Parliament. In Parliament a distinction has long been made, and is still made, between public and private bills; in Congress there is no such distinction. According to British parliamentary practice a public bill is one which affects the general interest and ostensibly concerns the whole people or, at any rate, a large portion of them. A measure for changing the tax laws is a public bill; so is a bill for altering suffrage, or raising the age of compulsory school attendance, or establishing a new administrative department. A private bill, on the other hand, is one which relates to the interest of some individual, or corporation, or municipality. A bill authorizing the construction of a new railway line, or the extension of an old one, or giving a municipality powers beyond those which it possesses by general law, is a private bill. There are some bills, of course, which come in the twilight zone between these two categories, but so many measures have been presented to Parliament and ruled upon during its long history that the precedents now cover almost every conceivable case, and the Speaker

merely follows these precedents in deciding, when doubt arises, whether a bill belongs in the public or the private class.

Public bills may be brought in by a member of a ministry, in which case they are known as government bills. All money bills must be so introduced. But public bills (other than those which relate to the raising and spending of money) may also be brought in by any private member; that is, by a member of the House who is not a member of the ministry. Such public bills are known as private members' bills, and a word of caution should be added lest the reader drop into the pitfall of confusing these "private members' bills" with "private bills." Government bills, money bills, and private members' bills are all *public bills* and in the process of legislation are so dealt with. Private bills, on the other hand, are based on petitions from the parties directly interested and go through a special procedure. Any bill, whether public or private, may be introduced either in the House of Commons or the House of Lords; the only exception being that money bills must originate in the Commons. As a matter of practice, however, the great majority of all measures originate in the Commons.

Most of the important measures laid before Parliament are government bills, which means that much preliminary consideration is given to them by the Cabinet. Important government bills are all cut and dried at Whitehall before being brought to Westminster. One of the ministers makes the first rough outline of a bill, stating only the main principles. This he lays before the Cabinet for discussion. If the principles are agreed to, he then turns his outline over to an expert draftsman for elaboration into a finished measure, with sections, subsections, and paragraphs. Thereupon the Cabinet gives it a final look-over and the bill is ready to be introduced. The introduction of every bill is preceded by a notice, printed in the Orders of the Day. When called upon by the Speaker, the minister or private member files his bill with the clerk of the House, who reads its title aloud. Thereupon, without hearing the contents of the bill and without debate, the House orders it to be printed and placed in line for a second reading. The measure must then wait its turn. On matters of great importance the opposition usually gets its first inkling of ministerial policy at the initial reading. Cabinet secrets are well kept in England.

In due course the bill is again reached by the House; it appears among the Orders of the Day, and its sponsor moves that it be "read a second time." This second reading gives opportunity for a debate on the principles of the bill. Discussions of individual provisions are tabooed, and amendments which merely aim to alter the phraseology of the bill are not in order at this stage. The question is whether the House desires legislation of the proposed type at all. If the opposition desires to test its strength with the ministry, here is the opportunity to do it. It may move that the bill be given its

second reading "this day six months," which would put it over to a date when the House is not in session, and hence is equivalent to an indefinite postponement. Or it may offer some resolution which is hostile to the general tenor of the bill. Long debates often mark this stage in the progress of important measures—debates which extend over several days. Such debates are usually followed by a vote (a "division" it is called in England) which determines whether the House approves or disapproves the principles of the bill. In the case of a government measure a defeat at this stage betokens a want of confidence in the ministry and under normal conditions would compel it to resign. Only on the rarest occasions, however, has a government measure been refused a second reading.

Having passed its second reading the bill enters the *committee stage*. It is referred to a committee for the consideration of its detailed provisions. Ordinarily every public bill (except a money bill) goes to one of the six standing committees; but in exceptional cases, the House sometimes orders it to a select committee. If the measure be a money bill, it goes to the committee of the whole house immediately after its second reading. Moreover, the House may at any time and for any reason order a non-financial measure referred to the committee of the whole house, but this is seldom done.

The organization of these various committees has already been explained. Every measure sooner or later reaches the House from a standing committee, a select committee, or from the Committee of the Whole House. Then it enters the *report stage*, being laid before the House in amended and reprinted form. Bills may come back from committees and be given their third reading forthwith, but important measures rarely have any such good fortune. If amendments have been made in committee, these may be debated during the report stage, and alternative amendments offered. All the old questions which were threshed out at the second reading may be debated over again—and in the case of a controversial measure they usually are. At the close of this debate the measure is ready for its third reading. In connection with the third reading of a bill no amendments are in order. If it is desired to change the substance or phraseology of a clause, even slightly, the bill must go back to committee. The House must now accept or reject the bill as it stands. Rejections at the third reading are not common. Here ends the action of the Commons and the bill goes to the House of Lords for concurrence.

British parliamentary procedure is based upon the theory that the initiative, as respects all public measures, belongs to the Cabinet and that government measures ought to have the right of way. Hence, although public bills may be introduced by private members, they have relatively little chance of passage or even of prolonged discussion. This is because most of the daily sittings of the House are reserved for government measures and only a few are available for

the consideration of private members' bills. Even these sittings, moreover, are taken over by the ministry for government bills when the pressure of business becomes heavy. Nevertheless, private members sponsor a great many public bills, and as there is no chance of considering them all, the rules of the House provide that a selection from the entire grist shall be made by lot. At an appointed hour, therefore, those private members who desire to introduce public bills are required to put their cards in a box at the clerk's table, and the clerk draws them out one by one. The member whose name is first drawn gets the opportunity to introduce his bill on the first Friday of the session; the second member gets the second Friday, and so on till the Fridays of the session are exhausted—twelve or fifteen of them in all.

Having had the good fortune to get his bill on the Orders in this way, the private member moves that it be read a first time and secures it a second reading; it then goes to one of the standing committees, and follows the same procedure as other public bills. "If a member is lucky in this lottery and can introduce a bill which is generally popular, and which neither the ministers nor any of his fellow-members dislike, and if he possesses the art of appeasing opposition, he may manage adroitly to steer his bill through a parliamentary session." But few members can hope to run this gauntlet successfully and although scores of private members' bills are prepared on the eve of each session it is unusual for more than a half dozen of them to gain places on the statute book before Parliament is prorogued or dissolved.

So much for public bills, whether introduced by the ministry or by private members. All other bills are known as private bills. The most numerous class among these private bills are bills introduced by municipalities asking for special powers. English municipalities have a broad range of powers laid down by general law, but from time to time they desire special powers in addition. These powers they seek, in many instances, by means of private bills. Every year Parliament gives special powers to individual cities (boroughs) in this way. A highly advantageous arrangement this is deemed to be, for it gives flexibility to the system of local government and enables Parliament to give one municipality additional powers as an experiment without committing itself to the same policy for all.

These private bills are presented to Parliament in a different way and do not follow the same procedure as public bills. They are presented in the form of petitions with the bills attached. They cannot be introduced by merely giving notice on the order paper but must first go before two parliamentary officials (one from each House) known as the Examiners of Petitions for Private Bills. Every petition for a private bill must be preceded by certain published notices, the object of which is to inform those whose private interests may be

affected by the bill. Copies must also be sent in advance to the government departments concerned—to the Board of Trade in the case of a private bill incorporating a gas company, for example, or to the Ministry of Transport in the case of a bill authorizing the taking of land for a street railway. It is the duty of the Examiners to see that these requirements as to notice and copies have been complied with. If they find that there has been full compliance, they so certify, and the bill may then be presented in either House. If they find that the requirements have not been fully observed they so report to both Houses which then refer the bill to two committees—one appointed by the House of Lords and the other by the House of Commons at the beginning of each session. These are known as the Committees on Standing Orders, and they decide whether the non-compliance shall be overlooked and the bill introduced at the current session. Either House, on the recommendation of its committee, will then permit the bill to be brought in. Otherwise, it is sent back to the petitioners and cannot be considered until the next session.

On introduction, all private bills are read a first time and ordered to be read a second time. After second reading, if there is no opposition, they are referred to a committee on unopposed bills, unless some new principle is embodied in one of the bills, in which case it may be sent to a select committee. If there is opposition a bill goes to one of the private bills committees. These are small committees of disinterested members, who are appointed by the committee of selection from lists prepared by the party whips. A private bills committee may be named to consider a single bill, but more often every such committee gets a group of measures. Before going on a private bills committee, however, each member must sign a declaration that he has no personal interest, and that his constituents have no local interest in the measures to be considered.

The private bills committees, each in its own committee room, give hearings to all who have a definite interest in the bills, whether for or against. Every private bill begins with a preamble setting forth the object of the bill. The committee first hears evidence and arguments on the question whether it is expedient to grant parliamentary powers for the fulfilment of this object. Then it decides that the preamble is proved or not proved. If the latter, the bill drops; if the former, the committee then proceeds with hearings on the clauses of the bill. These hearings are of the nature of fair and thorough investigations; they are conducted by paid counsel on both sides, with testimony as in a court of law and arguments at the close. They differ from the legislative committee hearings with which Americans are familiar in that none but persons who have a *locus standi*, in other words a demonstrable interest in the bill, are permitted to give testimony before the committee. The committee, examining the bill and the evidence, has at its disposal a report from the ministry of health, the

board of trade, the ministry of transport, or some other central department. In this way it is possible to make sure that the bill does not conflict with the general policy of the government or create an undesirable precedent. But it cannot be too strongly emphasized that the work of a private bills committee, while legislative in form, is largely administrative in effect, and is carried out in accordance with a procedure which is quasi-judicial in character.

When a private bill committee has reached its decision it reports each bill, favorably or unfavorably, and with or without amendments to the House which its members represent. The committee's report on the bill is almost invariably accepted, although there is no question as to the right of either House to reject a report on a private bill if it chooses to do so. But the members know that the committee has been impartially constituted, that it has given both sides a fair hearing, and that it has consulted the experts. They realize that recommendations coming before the House in this way should not be rejected by men who have had no opportunity to become acquainted with the facts. Occasionally, however, a private bill raises some issues of general policy and then the House may divide on the committee's report. But ordinarily it accepts the recommendation without discussion and thereafter the private bill takes the same course as a public bill.

The quest for private or special acts of Parliament has been considerably slackened by the use of "orders." These orders are issued by a central department and they become effective either automatically or when confirmed by Parliament. In the latter case they are known as "provisional orders." The reason for the issuance of these orders is that many general laws which have been passed by Parliament (such as the Public Health Acts and the various acts relating to railways, street railways, public lighting, poor relief, and education), authorize the various government departments, such as the ministry of health, the board of trade, or the home office, to grant certain powers to corporations and municipalities whenever proper cause for such action can be shown. When, therefore, a power not already conferred by law is desired by some municipality, corporation, or individual, an application is made to whichever department has jurisdiction in the matter.

For example, an application for authority to finance a hospital by the issue of municipal bonds goes to the ministry of health. The ministry, through its administrative officers, thereupon enquires into the merits of the application, and if it decides that the permission ought to be granted, an order is issued conferring the power desired. This order, as has been said, may be a provisional order, in which case it requires for its validity the subsequent ratification of parliament. The usual practice is to lump several provisional orders into a confirmation bill, and in that form they are

presented for enactment into law. As a rule there is no opposition to these confirmation bills, in which case they are referred to the committee on unopposed private bills, and go through the usual procedure. But if opposition arises they are referred to a select committee. It is less expensive to obtain authority in this way than by petitioning for a special act of parliament and the practice of applying for "orders" has become increasingly popular in recent years. Even to a greater extent than the private bill procedure this plan has the merit of relieving the House from what would otherwise be a heavy burden upon its time and attention.

It has sometimes been suggested that Congress, and the state legislatures as well, might unburden themselves in this way from the great pressure now placed upon them. They might authorize the various executive departments (such as the department of commerce in the National Government, or the department of education, or of public utilities in the state governments) to issue provisional orders which would have the force of law when confirmed by legislative enactments. But the American scheme of government by checks and balances does not lend itself readily to any such procedure. In Great Britain an executive department, being assured that there is a legislative majority behind it, can usually count upon the confirmation of its acts. In the United States there would be no assurance of such confirmation. The majority in Congress, or in a state legislature, is often hostile to the executive; and even when the two branches of government represent the same political party they do not always work in coöperation. Certainty of confirmation (save in very exceptional instances) is the feature which makes the English plan workable and no such certainty could be hoped for in America. To some extent in recent years, however, American legislatures have been giving to various administrative authorities and boards the right to issue orders having virtually the force of law—without the necessity of confirmation. The order-issuing powers given to the Interstate Commerce Commission, to the Federal Trade Board, and to public utilities commissions in the various states, afford good examples. . . .

In the House of Commons the rule relating to the previous question was devised and adopted more than three hundred years ago. But in its original form this rule did not accomplish much, as was shown during the debates on Irish questions, so the obstructionist tactics of the opposition led ultimately to the adoption of the *closure*, as it is called. This is substantially the previous question rule as followed in the House of Representatives except that the speaker of the House of Commons may refuse to put the motion if he believes it unfair to the minority; a power which the speaker at Washington does not have. But even this did not put an end to

obstruction where the clauses of a long bill were being taken up one by one in committee of the whole house. The previous question had to be invoked on every clause. So the House of Commons devised another weapon for handling obstruction. This is the process known as closure by compartments—which is the application of the previous question to a whole group of clauses in a bill. Somebody moves, for example, that clauses seventeen to twenty-three “stand part of the bill.” Then, if the speaker approves, and a majority agrees, the debate on these clauses is at an end. A variation of this is known as the “Kangaroo closure,” an arrangement which permits the speaker and the chairman of the committee of the whole house in ways and means to select amendments for discussion out of those which appear on the order paper and to pass over the rest. The chairman of a standing committee does not have this power. In the hands of an impartial speaker or chairman this is a valuable yet entirely fair arrangement for expediting business.

By majority vote the House may also fix a time limit for the consideration of the various clauses of a bill. Then the guillotine falls at the expiration of the allotted period whether all the clauses have been discussed or not. But the guillotine is not frequently used; it has not been brought into play except on one occasion during the past ten years. The practice now is to make a time-table when an important controversial measure comes up. The minister in charge of the bill asks the House to approve a resolution allotting so many days to the second reading, to the committee stage, to the report stage, and so on. The time-table may even assign specified hours to individual clauses. . . .

THE CABINET

(Munro's “The Governments of Europe,” pp. 62, 63–66, 68–69 78–82, The Macmillan Company, New York, 1925.)

. . . . For the past hundred years, therefore, the outlines of the British cabinet system have remained unchanged, but its various features have become clarified by a series of precedents. It has become an established rule, for example, that when a prime minister resigns the entire cabinet must go out of office with him, in other words that the cabinet's responsibility is collective. It has become settled, as will be explained a little later, that members of the cabinet are not only responsible to the king and to parliament, but also to one another. With the steady development of the party system, moreover, the functions of the Cabinet in the matter of framing the party program and materializing it into legislation have been given emphasis. The whole system has been shaking

itself down to a stable basis; it has done this slowly because it rests upon usage, and the evolution of usage is a slow process. Nor is there any reason to think that this evolution has yet come to an end. The English system of cabinet government is still evolving and through future generations will doubtless keep on doing so. . . .

How is the Cabinet organized, and what are its functions at the present time? Before entering upon such a discussion it is well to define certain terms which Englishmen use in describing the executive branch of their government. These terms are privy council, ministry, cabinet, and "the government." The privy council is the body of royal advisers which still, in theory, controls the actions of the crown. Most acts of the crown are declared to be "by and with the consent of the privy council." But in point of fact the privy council is a body with no real advisory functions at all. When a new cabinet is being formed, its members are appointed to the privy council unless they are already privy councillors, and they remain privy councillors for life. No one is ever officially appointed a member of the cabinet because the laws do not recognize the existence of a cabinet. Thus the privy council, at any given moment, contains not only the cabinet ministers who are in power, but all living members of former cabinets. Appointments to the privy council are made in the name of the crown, but always on the advice of the prime minister. Men are sometimes appointed to it, as an honor, with no intent that they shall become members of the cabinet. As a body the whole privy council is never called together except at the accession of a new monarch, and for other ceremonial purposes. It has become a mere piece of official machinery, inasmuch as the cabinet, not the privy council, now advises the crown and takes full responsibility for the advice which it gives.

Another distinction is somewhat confusing to the outsider, namely, the distinction between the ministry and the cabinet, between ministers and cabinet ministers. All members of parliament who hold important administrative posts of a political character, and who go out of office when a cabinet resigns, are known as ministers. There are more than fifty of them in all. But there are only twenty-one cabinet ministers. The ministry does not meet as a body for the transaction of business, for it has no collective functions. It is only the cabinet ministers who meet.

The functions of a minister (unless he is a cabinet minister) are individual functions only. The distinction may be illuminated, perhaps, by reference to the Government of the United States where the President, on coming into office, appoints a considerable number of higher administrative officials who ordinarily go out of office when his term expires. These include not only the ten members of the President's cabinet but an even larger number of assistant secretaries and other high officials who are not of cabinet rank. We

have no term which applies to this entire group of high officials. Englishmen would call it "the ministry."

The cabinet, therefore, is the smallest of the three groups and the only one that has a collective responsibility. Briefly, it may be defined as a body of royal advisers chosen by the prime minister, in the name of the crown, with the approval of a majority in the House of Commons. It is composed of those ministers whom the prime minister designates to membership, but the prime minister in making his designations is guided largely by precedent. Some high ministerial posts are always of cabinet rank; some less important ones invariably are not. There are a few which may or may not be of cabinet status as the prime minister decides.

Finally there is "the government," a term which Englishmen use in a sense unfamiliar to outsiders. When they speak of a change in the government, or a change of government, for example, they do not mean a change in the form of government. When they say that "the government is likely to fall" they do not mean that the monarchical system is about to be supplanted by something else. By "the government" they mean the executive authorities who are in control for the time being—namely, the prime minister and his ministerial colleagues. It is they who are responsible for the passage of "government measures" by parliament. The term most nearly analogous in America is "the administration," which is somewhat loosely used to include the President and his advisers.

Since the days of Sir Robert Walpole the chief adviser of the crown has been known as the prime minister. The king, although he goes through the gesture of selecting this official, has very little discretion in making the choice. He summons, and by usage must appoint, the leader of that political party which controls a majority in the House of Commons. If no single party controls a majority he appoints some leader who can either form a coalition or otherwise assure himself of a majority on important measures. Under the two-party system, which prevailed in England until recently, the king's task was very simple. When a prime minister resigned by reason of a defeat at the polls or on the floor of the House, he merely sent for the leader of the victors and invited him to assume office. But when three political parties are represented in the House, with no one of them controlling a majority the royal function is not so simple. He must then use his own judgment as to which leader he will summon. The main thing is that whoever takes office as prime minister shall be able to command a majority. If he can do this from within the ranks of his own party so much the better. If he cannot, then he must secure it by some coalition, compromise, or understanding with one of the other parties. When Mr. Ramsay MacDonald was invited to become prime minister in 1923 the Labor party did not control a majority in the House. But

before taking office he satisfied himself that a sufficient number of Liberals would probably support him as against the Conservatives—which they did for a time.

In any event, the prime minister is always chosen from among the two party leaders, or the three party leaders, as the case may be. It is inconceivable that anyone other than a recognized leader would be called upon. In 1894 when Gladstone gave up the prime minister's post, leaving his party for the moment without a leader, Queen Victoria did not call a successor until after she had assured herself that her personal choice, Lord Rosebery, would be acceptable to the Liberals. In 1922, when Mr. Lloyd George tendered his resignation, there was no recognized leadership in the ranks of the Conservatives. The king sent for Mr. Bonar Law who agreed to accept the post of prime minister in case the Conservative party should formally designate him as its leader, which it did. Each political party determines for itself the methods by which its own leader is chosen. Ordinarily, however, the selection is made by a caucus which is attended by the party's membership in the House of Commons together with various other prominent party workers. . . .

The king chooses the prime minister, and the latter proceeds to select both the ministers and the cabinet ministers. Ostensibly he has a free hand in making his selections, but there are various considerations of a practical nature which he must take into account. If a new prime minister were to regard nothing but his own personal preferences in constructing a ministry, he would make trouble in the ranks of his supporters. He must see that various interests are represented. For example, he cannot select all the members of his ministry from the House of Commons, taking none from the House of Lords. Both peers and commoners have figured in every British ministry for two hundred years. Even the Labor ministry which held office during the years 1923-1924 found place for four members of the House of Lords in its ranks. This, however, is a smaller proportions of peers than in any preceding ministry.

Every minister of the crown must be a member of parliament, of one House or the other. But this does not mean that he must be a member of parliament at the time of his appointment. It is enough that he become a member after his appointment as a minister. This can be arranged, of course, by making him a peer and thereby giving him a seat in the House of Lords, but the usual procedure is to "open a constituency" by inducing some member of the House of Commons to vacate his seat. This entails a special election (or bye-election) to fill the vacancy, and the newly-appointed minister becomes a candidate at this bye-election. He can do this the more easily because neither law nor custom in Great Britain requires that a candidate for the House of Commons shall

live in the constituency which he seeks to represent. When, therefore, a prime minister desires to include some outsider in his ministry he arranges that a vacancy shall be created in a safe constituency. The member who gives up his seat is sometimes rewarded for his generosity by being made a peer, or given some administrative position which does not necessitate his sitting in parliament. The newly-appointed minister goes to the scene of the bye-election, gets himself nominated, and is usually elected. The prime minister so arranges it with the party organization. But the plans occasionally go awry and the constituency does not turn out to be so "safe" as was assumed. . . .

No announcement of what has been done at meetings of the cabinet is ever published, and it is accounted a breach of etiquette for members to disclose, either in parliament or out of it, anything that is said at the cabinet table. If there is disagreement among the members, some rumors of it may leak out, but the public does not get the whole story. Most of the cabinet discussions pertain to matters of general policy or to questions which involve the establishment of some important precedent. Routine details which relate to a single department are not usually laid before it. Each minister is supposed to deal with these on his own responsibility or after conference with the prime minister alone. A cabinet discussion is not followed by a vote save in very exceptional instances. If the discussion discloses a marked difference of opinion among the members, the matter is left open until some compromise can be reached, for the action of the cabinet, whatever it is, must be outwardly unanimous. No divided counsel can be tendered to the king, nor can the cabinet go before parliament with a division in its rank. It must act as a unit. If any member, after a decision has been reached, feels that he cannot support this decision, it is his duty to resign and make way for someone who feels differently. This solidarity is essential to the effectiveness of the cabinets' leadership in parliament.

The collective function of the cabinet is to formulate the policy of the nation on every great question that arises. It is the cabinet that determines how the authority vested in the crown shall be exercised in all matters of nation-wide importance. It also prepares the legislative program for each session of parliament. The various items in this program are then introduced as government measures with the prestige of a unanimous cabinet behind them. Not only this but the measures are advocated, explained and defended upon the floors of both chambers by members of the cabinet, and the votes of the party majority are summoned to put them through. Not all bills are brought before parliament by the cabinet, of course; but practically all measures of general importance must come up through this channel or they have slight chance of being

passed. The cabinet, therefore, is the steering committee of parliament; it provides a recognized and effective leadership.

This is the most conspicuous difference between the English and the American process of lawmaking. In the United States the cabinet does not have any official responsibility for the preparation of government measures; its members do not sit in either House of Congress and hence cannot direct the debates as the English ministers do. Both plans have some advantages, and some defects also. The arguments are not wholly on one side, as many admirers of the English system have assumed. Ministerial leadership in the House of Commons is, if anything, more despotic than was that of the American speaker before his powers were curtailed.

Much has been written about ministerial responsibility as it exists in British government. No principle is more firmly established and none is of more far-reaching importance. It is not a simple principle, easy to understand, for it has a three-fold application.

First of all, the English ministers are responsible to the king. This is, for the most part, a merely technical responsibility. The king cannot dismiss a member of the cabinet in the way that the President of the United States sometimes does it. An English minister, so long as he possesses the confidence of the premier and the House of Commons, could not be ousted by the king without bringing the whole mechanism of the government to a standstill. The entire cabinet would resign in protest; a majority in the Commons would support its action; a general election would have to be held; and the king would be giving a hostage to fortune. So ministerial responsibility to the king is not a very serious affair. Nevertheless the legal fiction of such responsibility remains.

Second, the members of the cabinet are responsible to one another. This is necessarily so because solidarity is the essence of the cabinet system. So it is a matter of each for all and all for each. The fault of one minister may bring the wrath of the Commons upon the ministry as a whole. For this reason every minister is constrained, not merely as a matter of prudence but of honor, to seek the opinion of his colleagues before taking any action that might evoke criticism. This principle of intra-cabinet responsibility was definitely established in 1851 when Lord Palmerston, without consulting his colleagues, expressed to the French ambassador his approval of a *coup d'état* which had taken place in France. For doing this Palmerston was dismissed from the ministry. On the other hand, so long as a member of the cabinet acts only in accordance with a policy which has been approved by the whole body, he has nothing to fear. His colleagues in the cabinet will stand solidly behind him. The whole strength of the majority in the House of Commons will be rallied to his support if any attack is made upon

him. To drive him from office would necessitate forcing the whole ministry out. That is a drastic measure for a House of Commons to take, and nothing but a very unusual situation would ever induce such summary action.

Finally, and most important, the members of the ministry are responsible to the House of Commons. That is what the term ministerial responsibility really means. There is no statutory requirement that a ministry shall go out of office whenever it loses the support and confidence of a majority in the House, but by a custom which has now prevailed for nearly two hundred years it is bound to do so. The ministry must always be able to demonstrate, by vote of a majority in the Commons, that it possesses the confidence of the country. Loss of this confidence means loss of office.

There are various ways in which the House of Commons may show its lack of confidence in the cabinet and may thereby force it to resign. When the financial estimates are under consideration the House may vote to reduce the salary of a minister. Cabinet solidarity then requires his colleagues to defend him against this attack, and the whole body of ministers must stand or fall by the outcome. Or the House may reject some government measure. An amendment to such a measure does not necessarily imply want of confidence unless the cabinet opposes the amendment and makes an issue of it. Amendments brought forward in the House are often accepted by the minister in charge of the bill. Again, the House may undertake to pass some private member's bill which the cabinet opposes, and the issue may be made one of confidence in the government. Finally, if the House is dissatisfied with the cabinet's general policy, without reference to any particular measure, it can at any time pass a resolution declaring its want of confidence. British cabinets, as a matter of fact, have rarely been forced to resign during the past hundred years by reason of an adverse vote in the House of Commons. They have gone out of office, for the most part, as the result of adverse action by the people at the polls. On the other hand the decision to dissolve the House and call a general election has sometimes been necessitated (as in 1924) by a setback in the House.

It is always the privilege of the cabinet, when it finds itself faced by defeat in the House, to make an appeal to the people. In other words the prime minister can advise the king to dissolve parliament and order a general election. During the election campaign the ministry continues in office, but if the result of the polling is unfavorable it does not usually wait for parliament to assemble. The practice is for the ministers to hand over their seals of office and make way just as soon as pending business can be cleaned up. This is a matter of a few days, or, at most, a few weeks. Thereupon the king sends for the leader of the victorious

party and asks him to go ahead with the forming of a new ministry. This summons, of course, is not unexpected, and the new prime minister may have the organization of a cabinet well lined up in his own mind before it comes.

Ordinarily the cabinet is made up of members drawn from one political party, but in times of national emergency, when it is desired to have all the parties work together, a coalition cabinet may be formed. When the world war began in 1914 a Liberal ministry headed by Mr. Asquith was in power. A year later, when the immensity of the struggle became recognized, the prime minister suggested that his parliamentary opponents should be represented in the cabinet and they accepted. A coalition ministry, made up of Liberals, Conservatives, and Labor members, was accordingly formed, Mr. Asquith continuing as leader until 1916 when he was replaced as prime minister by Lloyd George. This coalition continued for a time after the war was over, but went to pieces in 1922. Thereupon a general election was held and the Conservatives were successful. But their tenure of power was brief, for they went to the country in 1923 on the issue of inaugurating a protective tariff and were defeated. . . .

THE HOUSE OF LORDS

(Munro's "The Governments of Europe," pp. 118-119, The Macmillan Company, New York.)

The essential functions which a second chamber ought to perform have already been stated. To what extent does the existing House of Lords perform them satisfactorily? On the whole it appears to be doing the work fairly well. It examines and revises non-financial measures. It insists, when the occasion arises, that ample time be given for a full public discussion of such bills before they become part of the law of the land. It compels sober second thought and gives opportunity for passions to subside. It says, now and then, to the House of Commons: "The opinion of the country seems to be about equally divided on this matter. Suppose you hold up the bill until the minds of the people have become clarified." On the other hand, the House of Lords has not shown itself disposed, during recent years, to go clearly beyond its province and obstruct the passage of measures which the country is obviously in a mood to accept. It has accepted the diminution of its powers with tolerably good grace and shows no resentment. Its members no longer feel impatient because great questions of public policy are being finally settled by the House of Commons alone.

The procedure followed by the House of Lords in considering the various measures which come before it is different from that

of the Commons. In the Lords there are no standing committees for public bills. All bills, after two formal readings, are debated in committee of the whole house before reading a third time. Debates in the House of Lords, when they take place, cannot be shut off by using the closure. If amendments are adopted in the upper House, the measure goes back to the Commons for concurrence. Then the Commons either agrees to the amendment, or insists on its own way, or some compromise is reached by an informal conference. Failing this, the bill is deemed to have been rejected and the Commons must then decide whether the measure is of sufficient importance to warrant its repassage in accordance with the procedure laid down by the Parliament Act.

GENERAL MATERIAL ON THE AMERICAN SYSTEM

CONGRESS AT WORK

(Beard's "American Government and Politics," pp. 256-283, The Century Company, New York, 1928.)

To the average observer, Congress is a vast and complicated legislative organ, with rules, committees, and methods, beyond the ken of ordinary mortals; but a somewhat careful examination of the procedure of that body from day to day reveals certain principles and practices which, when properly grasped, make the working scheme of the organization fairly clear—at least clear enough for the citizen who does not intend to become a legislator but merely wishes to watch the operations of the national lawmakers with a reasonable degree of understanding.

THE MASS OF BUSINESS BEFORE CONGRESS

I. The first important fact to grasp is that the business before Congress is intricate in character and enormous in amount. It involves every problem in political economy and international relations. Taxation in all its branches, the administration of the postoffice, natural resources, and other property, technical questions of defense (guns, battleships, and airplanes), the regulation of railways, the government of the City of Washington—these and a hundred other matters equally complex and involved are constantly pressed upon the attention of the members. The demand for new legislation from every quarter is steady and insistent. Large problems in policy and problems minutely special in nature call for judgment of the highest order and knowledge deep and wide-reaching.

In sheer bulk the business is immense. Each Congress in the course of its two years' life is confronted by about thirty thousand bills, joint resolutions, concurrent resolutions, simple resolutions, and reports. Any member may introduce as many bills as he likes by handing them to the clerk if they are of a private nature (such as a bill conferring a pension on some person) or to the presiding officer if they are public in character. He does not have to secure the permission of anyone in advance or assume any responsibility for them even if they carry a charge upon the treasury. Many of them are introduced "by request" just to please this or that group of voters and without any thought of enactment into law.

It is not enough to say that thousands of bills are laid before each Congress; the character of these measures must be analyzed, for it has a close relation to leadership in both houses. Some of the

measures are general in nature; these are called "public bills." Others pertain to particular persons, localities, or objects; these are "special bills." For every important public bill there will be hundreds of special propositions laid before Congress.

The public bills usually affect vital economic interests throughout the country such as railways, manufacturing, shipping, and farming; they concern the whole nation as well as special groups. It is over them that the more serious party divisions occur; it is to carry their public bills through Congress that the leaders of the majority party must bring pressure to bear on the rank and file. It is in this connection that cleavages between the right and left wing of each party appear and threaten the disruption of the regular organization. Illustrations abound in the debates and votes on railway bills and ship subsidies.

Great as may be the interest of the ordinary member in the fate of the public bills, his own political fortunes are likely to be bound up with obscure special bills making appropriations for postoffice buildings, river and harbor improvements, and pensions in his district. The local party machine and active citizens among his constituents expect him to get all he can out of the Federal treasury for his section. The member of Congress on seeking reelection must be in a position to "point with pride" to the amount and importance of the favors he has secured for "his people." If he fails to obtain advantages for his constituents, they will turn against him and support some more energetic and pushing person. Legislation of this character is called "pork-barrel legislation," a term reminiscent of plantation days. It was the old custom on southern estates to allot periodically a certain amount of pork to the slaves; at the appointed time the pork-barrel was rolled into view, the head knocked in, and the contents distributed among eager beneficiaries. The applicability of the figure of speech to the legislative process above described needs no elucidation.

If the member does not "get his pork" from the treasury, he is generally regarded as a failure by his constituents. In order to get it he must do two things. In the first place, he must secure the consent of his party leaders who control legislation, and to obtain that consent he must usually vote as he is told on public bills. Thus he may have to sell his birthright for a "mess of pork." In the second place he must cooperate with other members bent on the same enterprise. Such cooperation is called "log-rolling." In olden times pioneers on the frontier helped one another to cut trees and roll up logs for their cabins. This process was known as "log-rolling"; like the term "pork-barrel," the phrase affords a homely but accurate characterization of the legislative procedure to which it is applied.

So when the member of Congress with his eager eye on the pork-barrel is not busy placating his party leaders, he is likely to be engaged in log-rolling with his friends.

If thirty thousand bills, resolutions, and reports were taken up in order by one of the houses and ten minutes were devoted to each of the measures, five thousand hours would be spent in the process, that is, about eight hours every week day during the life of Congress. Obviously, therefore, every measure cannot be brought before Congress. There must be a selection from the enormous mass of business. It follows that some person or group of persons must be made responsible for choosing the measures to be debated and passed upon. Since the time is limited, methods must be devised for putting an end to debates. The power to select measures and to control proceedings is, of course, a fundamental power; it is in effect the power to decide what laws shall be passed and how they shall be passed. Since the laws go deep into the pocketbooks of the citizens or otherwise affect their property and liberty, control over the procedure of Congress touches the most vital interests in the country.

PARTY ORGANIZATIONS AND LEADERSHIP IN CONGRESS

II. The second fact to be grasped is that the working methods of Congress are largely determined by the existence of two political parties—one, a majority in control of one or both houses and regarding itself as responsible for the principal legislative policies; the other a minority, in opposition, bound under ordinary circumstances to criticize and often vote against the measures introduced and advanced by the majority. In England, party organization is carried frankly into the House of Commons, where the majority and minority sit facing each other, and where the government is avowedly that of the predominant party—a government of men, not even theoretically of constitutional law. In the United States, the party rules none the less, but its organization and operations are, as we have seen, unknown to the formal law of the Federal Constitution. It is true that the votes on measures in Congress are by no means always cast according to party divisions, but it is likewise true that the principal legislative work of a session is the work of the majority party, formulated by its leaders, and carried through under their direction.

This is not all. Each party in the Senate and the House has a separate caucus for each chamber, in which is frequently determined the line of party action with regard to important legislative questions. It is in a party caucus held before the opening of each Congress, that the majority in the House chooses the Speaker and the minority decides upon its leader whom it formally presents as a candidate for Speaker, knowing full well that he cannot by any chance be elected.

At the same meeting provision is made for selecting the committees. It is in the caucus that the majority decides whether it will adopt the rules of the preceding Congress or modify them; and it is seldom that the decision is overthrown. It is in the caucus that bills and resolutions of high importance are discussed and decided upon before they are formally presented for final vote in the House or Senate.

The exact weight of the caucus in determining party policies and the extent to which the rank and file influence its decisions are difficult to ascertain. Its powers and methods vary from decade to decade. There are periods of concentration when the leadership of the houses is centralized in the hands of a few forceful men and the proceedings of the caucus become formal. Such was the state of affairs during the opening years of the twentieth century. The operation of the system in those days is tersely described by Robert M. La Follette, in a speech delivered in the Senate in 1908: "I attended a caucus at the beginning of this Congress. I happened to look at my watch when we went into that caucus. We were in session three minutes and a half. Do you know what happened? Well, I will tell you. A motion was made that somebody preside. Then a motion was made that whoever presided should appoint a committee on committees; and a motion was then made that we adjourn. Nobody said anything but the Senator who made the motion. Then and there the fate of all the legislation of this session was decided. . . . Mr. President, if you will scan the committees of this Senate, you will find that a little handful of men are in domination and control of the great legislative committees of this body, and that they are a very limited number."

Then there are periods of laxity and dispersion when the caucus reasserts itself and the members, high and low, are heard at length and have weight in party councils. Such a period opened in 1910 when discontented Republicans of progressive leanings united with the opposition Democrats in a war on concentrated leadership. The Democrats on coming to power shortly afterward sought to give vitality to the caucus. Hence-forward, they said, speakers and committees will be chosen in a full and free council of party members in each house. The Speaker of the House sank into the background; power and responsibility were diffused among the rank and file; decisions were difficult to secure; and legislative leadership was transferred to President Wilson.

When Wilson passed from the political scene and Harding came to the presidency, stern and dominant executive control over legislation was relaxed. As a matter of principle the new President restored liberty of action to both houses of Congress. Thus concentrated leadership, executive and congressional, was lost; the theory of diffusion was applied. The caucus became more important and the voice of the rank and file, uncertain and discordant, was heard again in

party councils. So the pendulum swings forward and back, and it is difficult to say just where it is at any particular moment. Even in a period of decentralization, the caucus acts quickly and without serious dissension on matters referred to it by party leaders. Bills and amendments to bills laid before it by party committeemen are usually approved. But party members of the left wing often insist on asserting their independence.

Whatever the methods followed by the caucus, it is always accused of being tyrannical. The party member is usually bound to obey the decision of the caucus and vote in the legislative chamber for any measure it approves; to refuse would be an act of party treason, subject to the penalties imposed for such heresy. The meetings of the caucus are secret; attempts of insurgents to throw them open to the public have been without avail. Important decisions are sometimes made by only a fraction of the party members, and this means that laws are sometimes enacted by a minority. Again and again it happens that the minority in a party caucus, united with the opposition party, could defeat a measure, but refrains from action through party loyalty.

An interesting attempt to cut across caucus and party lines was made in 1921 when the so-called "Farm Bloc" was formed. This was the outgrowth of conferences attended by representatives and senators of both parties who were united by common interests and principles. Especially did they speak for the farmers. After discussing the issues before Congress, they agreed to act together on all measures of common concern to the agricultural interests of the country. As a matter of fact, coöperation between kindred groups in the two parties—secret or open—has been fairly continuous from early times.

LEADERSHIP IN THE HOUSE OF REPRESENTATIVES

III. The caucus works only a partial concentration of power in the houses of Congress in the matter of selecting the propositions to be considered and passed. It is too large and miscellaneous in membership to act on all measures or even to discuss critically very many of them. Most of the technical decisions and recommendations presented to it by experienced committee chairmen it must accept on faith; it cannot pretend to expertness. Moreover if the caucus did in fact frequently reverse the decisions of committee chairmen, it would force their resignation and break down the working party organization.

In practice, therefore, a still smaller number of members than is embraced in the party caucus must perforce assume the responsibility for selecting the measures to be considered, directing congressional procedure, and deciding what bills shall be enacted into laws. In England this power is vested by law and custom in the hands of the

Cabinet, composed of twenty or more persons (most of them members of Parliament) who are in fact chosen by a conference of the dominant party. Among the Cabinet officers, the acknowledged leader is the prime minister. Indeed he is chosen first and accepts as colleagues only those who can work in a fair degree of harmony with him. He is responsible before the whole nation for carrying into effect the principles of his party, and if he is defeated it is his duty to resign or to bring about a new election.

In the United States neither law nor custom vests the open and avowed leadership in the House of Representatives or the Senate in any small body of men known to the public and held accountable for the measures debated and the laws passed. In fact, however, there is and must be leadership and a certain degree of concentration in power. As the authority of the rank and file of the members in the party caucus expands and contracts, so the leadership varies in extent. With political changes, too, the leadership shifts from one center to another. Now it is the Speaker and the rules committee in the House that direct policies; now the chairman of the ways and means committee occupies the dominant position. Wherever the leadership is, it is certain to be attacked by those members who feel their interests neglected or their sense of importance offended. Attacks long continued are sure to work a dispersion of prerogative and a new localization of it.

At the opening of the twentieth century, the directing power in the House was unquestionably concentrating in the Speaker, the majority members of the rules committee (of whom the Speaker was one), and the chairman of the important committees. The positive leadership of these men and their responsibility were definitely recognized throughout the country. They were working toward something like an inner council of government; they formulated policies and brought the other party members into line under a regime of severe discipline. In fact, the Speaker was the outstanding figure in this little group of dominant leaders. As a writer at the time observed: "The Speaker's control over legislation is now, under the rules and practices of the House, almost absolute. The people know this now. The time has passed when the Speaker could exercise his vast power unsuspected. Nor can he shirk his responsibility. No bill can pass the House without his passive approval, and that in effect is the same thing as active advocacy." He appointed all the members of all the committees and named the chairman of each; he and two of his party colleagues formed a majority in the committee on rules which could in fact (with the approval of the House, that was always given) decide what measures should be debated, when and how long they should be debated, and when the vote on them should be taken.

Against this system, the Democrats protested as a matter of course, for it destroyed their influence in the House; but their objections

would have availed naught if there had not arisen discontent among the newer Republican members, particularly among the more radical representatives from the West. They disliked many measures which their own party leaders forced through Congress and they failed to get a hearing for their own plans. Moreover, the Speaker, Joseph G. Cannon, was harsh in his rulings and unconciliatory in conducting proceedings. At length, in 1910, the Democrats, aided by disgruntled Republicans, overthrew the Speaker; they carried a resolution enlarging the rules committee, provided that it should be elected, and ousted the Speaker from membership. When the Democrats, victorious in the election of that year, took possession of the House, they provided that all committees should be elected by the House. Thus the Speaker was shorn of all his power over the appointment of committees and their selection was transferred in fact to the party caucus—which indeed had always enjoyed more or less authority in the matter. Amid cheers for “the fall of the Czar” and the end of “despotism,” a dissipation of leadership was effected.

The “revolution” did not, however, make the rank and file of the members equal or destroy leadership. Through all such changes a certain concentration of power has remained. As the shots at a target, wild though some of them may be, tend to group around the center, so attempts to build up directing leadership in the House are found grouped around five sources of influence: the Speaker, the rules committee, the chairmen of the important committees, the floor leader, and the “steering committee.” This has long been true and is true today.

The Speaker of the House of Representatives, a party man chosen by a party caucus, cannot be simply a presiding officer, like the Speaker of the House of Commons in England. There the prime minister assumes responsibility for his party measures, but at Washington the position of the Speaker is entirely different. In the beginning of our history, he was regarded as a mere moderator, but as the House grew in size and the business to be transacted increased to enormous proportions, it became impossible for him to sit passively and see the measures advocated by his party delayed indefinitely or defeated by dilatory tactics on the part of the minority. Though he can no longer appoint party committees, his powers over procedure are great. He may refuse to put motions which he thinks designed merely to delay business; he may recognize or refuse to recognize anyone who wishes to debate a question or call up a measure for consideration; he may rule members out of order and decide questions of parliamentary law—subject, of course, to appeals from the decision of the chair. In spite of recent changes these powers yet remain. The Speaker, therefore, inevitably holds a sector in the line of influence. He is not as imperial in his sway as were Cannon and Reed in the old days, but he is no mere figurehead.

Closely associated with the Speaker, no more dominant than he, is the rules committee composed of twelve members of whom eight speak for the party that has a majority in the House. It has a right to be heard at almost any moment in the House. It may bring in resolutions stating what measures shall be considered, how long they shall be debated, and when the vote shall be taken. Members of the party for which the rules committee speaks may revolt and refuse to vote for such resolutions, but if they do they incur all the risks inherent in party "treason."

The third element in leadership in the House of Representatives is composed of the chairman of the important committees in charge of the weightiest measures brought up for debate and action. The premier among them is the chairman of the ways and means committee which prepares tariff and tax bills. Indeed when the Speaker was stripped of his regal authority, his influence and prestige temporarily went to the head of this powerful committee. Next in order of precedence may be placed the chairman of the appropriations committee, which, under the budget law of 1921 and the rules associated with it, exercises great weight in decisions as to how much money shall be spent and what purposes it shall be devoted to. Then follow in uncertain order the heads of other great committees, ten or fifteen in all, with the minor men swinging off loosely on the edges of power.

Finally in considering leadership in the House we must take account of the floor leader chosen by the party caucus. Each party has such an agent. It is his duty to keep in close touch with the rank and file of his party colleagues, to learn their opinions, to understand their prejudices and ambitions, and whenever necessary to "line them all up" in support of some measure on which the party leaders have reached a decision. The floor leader is influential in determining who shall speak on bills, because by conferences with party members he helps to make up the list of members whom the Speaker will recognize. On important matters the majority leader will take counsel with the minority leader and reach an agreement as to when the vote shall be taken on measures and who is to speak for the minority. In short, the floor leader has succeeded to many of the prerogatives formerly exercised by the Speaker; in terms of power he ranks next to the Speaker; and if he is clever in management he may hope to rise to the honor of presiding over the House. But he must be circumspect. His power is uncertain. He is subject more or less to the direction of a "steering committee" chosen by the caucus, *i.e.*, by "natural selection" for the purpose of exercising general supervisory powers—an informal group of seven or eight members who operate quietly behind the scenes. He must deal gently with independent members, especially if their votes are needed to carry party measures.

In the Senate, the problems of leadership are not so difficult to work out. The number of members is small. The majority in control

seldom consists of more than fifty or sixty members. Among them are always several men of experience derived from long service and thus marked for leadership. The presiding officer, under constitutional provision, is the Vice-President of the United States, who though himself a partisan is more of a moderator than a director. Often indeed he represents the minority, not the majority in the Senate. In such circumstances leadership falls to a few committee chairmen, among whom the chairman of the finance committee takes first rank. There is a party caucus, of course; and its power, like that of the House caucus, expands and contracts with passing events. Floor leaders and steering committees are to be found also in the Senate; their function, however, is not dictation; their business is to secure party harmony by informal methods. The individual Senator enjoys more weight in party councils and more independence of action on the floor than the member of the House.

There are in addition many practices and customs which work for a concentration of power and direction in Congress. The President, as we have seen, may through his prestige, his party leadership, and his control over appointments to office, exercise an immense influence on the work of Congress. In times of party crises, there may be informal conferences of the leaders in both houses and party officers and workers on the outside. But here we pass from the known to the unknown, out into the realm of complex social forces which press in upon Congress from every part of the country.

Leadership, once secured, thrives upon the meat with which it is fed. Every member of Congress, as we have seen, has schemes of his own relating to his district and demanded by the constituents who elected him. He must get a hearing and favorable action. Otherwise he becomes a nonentity and fails to satisfy the clamor of his constituents. His political career depends upon "getting what he is sent there for." In the press of things he cannot get it without the consent of one or more powerful committee chairmen. What can he give in return? His vote on the measures recommended by party leaders, his loyal support to the program formulated by the party leaders. So the net is drawn tightly and power concentrates—until accumulated discontent dissipates it again. Thus centripetal and centrifugal forces alternate, but, whenever business is to be transacted, leadership must come into play. A Senator recently put the matter at the opening of Congress in a crude parody on Kipling's "Recessional":

The tumult and the shouting dies,
The captains and the kings depart.
And the steam roller is about to start.

What after all is the cause of the continual uproar over the organization of Congress? Why are there always insurgents raging against established leadership and demanding a redistribution of

power? What is it that they want? The answers are difficult to formulate, but an attempt may be made. Whenever any party has a long tenure of office such as the Republicans enjoyed between 1897 and 1911, two things happen. The older men of longer service gather in all the power they can, for men thirst after it for its own sake and for the loaves and fishes connected with it. In the meantime new men appear and there is discontent on the left wing of the triumphant party. That is natural and inevitable also.

Now the new men will receive little or no recognition unless they obey orders; that means they will get no power and no spoils; their measures will be smothered in committee and never see the floor of the house. They want, therefore, two reforms: (1) the dispersion of the committee assignments and the party authority among all the members of the majority, and (2) some kind of rule which will permit a certain number, let us say one hundred members, to call up any bill from the recesses of any committee and force a vote on it. Some even go beyond this, and demand that every bill introduced in the house shall be automatically brought out from committee and put to a vote. In this way they hope to get a consideration of their measures and to put all the members on record for or against their propositions. Indeed there are a few reformers who would like to destroy the party machine in Congress, give all bills and measures introduced a fair and automatic hearing, and allow all members an equal share of authority in controlling procedure. It is not likely that such a utopian reform will take place soon; it is more probable that we shall witness the continuance of the old struggle with changes only in emphasis.

THE COMMITTEES OF CONGRESS

IV. A very important and fundamental element in congressional leadership is found in the standing committees. As the bills brought into Congress become more and more technical with the advance of the industrial age, so the power of those who have special knowledge and experience in various fields must increase. This is inevitable. It is highly desirable. Therefore, the legislative work of each house is done mainly by committees composed of men more or less expert in the several branches of legislation. Each committee is dominated by a majority of members representing the party which is supreme for the time being. The chairman of the committee is nearly always a prominent leader in the majority party. The number of committees varies from time to time, but at the present there are about thirty in the Senate and sixty in the House.

Each committee has a well furnished office and many perquisites which are not despised by members of Congress; that is, it has an allowance for clerk hire, stationery, and other purposes. Often

members employ their wives or relatives as clerks and assistants. A great deal of money is wasted in useless activities, but criticisms of the system fall on deaf ears. Not long ago when a member from Massachusetts, shocked by the careless expenditures for committees that never met, resigned his post by way of protest, his action met merely with indifference or laughter.

The committees vary greatly in importance. In the lower house, the leading committees are on ways and means, appropriations, rules, banking and currency, interstate and foreign commerce, rivers and harbors, military affairs, naval affairs, postoffice and post-roads, public lands, labor, and pensions. In the Senate, the committees on appropriations, finance, foreign relations, judiciary, military affairs, naval affairs, interstate commerce, and pensions take high rank.

Formerly all standing committees of the House of Representatives were appointed by the Speaker, but this system was changed in 1910-1911 in favor of election by the House itself. The difference in practice made by this change in the rules is more apparent than real. Since the beginning of the party system in the United States, the selection of the members of committees in each house has really been in the hands of the party caucus, under the leadership, and perhaps dominance, of a few men experienced in the arts of management. To borrow a term from economics, we may say that the committee assignments are determined by a "higgling in the market" and that the various posts fall to members roughly according to seniority, their abilities, their power as leaders, their skill in management. This "higgling" begins long before a new Congress meets; most of the important assignments are determined probably before the party caucus assembles, and the caucus only ratifies the work of the pre-caucuses as the houses ratify the work of the caucuses. The minority party chooses representatives on each committee, somewhat in the same manner, but they seldom count for much in the determination of policies.

After the "revolution of 1910," the Democrats adopted a new plan; they named the Democratic members of the ways and means committee at a caucus and authorized that group to act as a "committee on committees" and to nominate for approval at another caucus the members of the other committees. When the Republicans came back to power in 1919, there was an attempt to make the dispersion of authority mechanical; the party caucus created a committee on committees, composed of one member from each state having one or more Republicans in the House—each member to have as many votes in choosing the other committeemen as there were Republicans in the delegation from his state. In short, an effort was made to mirror the entire Republican majority in the agency formed to select the Republican members of committees. The recommendations of "committees on committees," no matter how composed, are

always submitted to the party caucuses for approval, and then laid before the House for formal ratification.

It is usually the custom of party leaders in both houses to assign all the important committee positions to members who have seen long service, in accord with the "seniority rule." It is only natural that the direction of affairs should fall to the most experienced. However, on the occasion of the Democratic victory in 1910, after a long session out of power, the new incoming members made a great outcry against allowing the older congressmen to monopolize all the choice committee assignments on the principle of seniority. The progressives in both parties, looking upon old age as a sign of inherent and irremedial conservatism, protested against the time-honored practice, but the principle, in the main, is still applied—with exceptions. Another line of attack on concentrated leadership and experience takes the form of preventing any member from serving on many committees. Ordinarily a Senator or Representative does not serve on more than two powerful committees.

It is in the committee room usually behind closed doors and secure from public scrutiny that the real legislative work is done. Every bill, important or unimportant, is sent to the committee having jurisdiction over the subject matter to which it relates. The recommendations contained in the President's message are distributed in the same manner. But a committee is not limited to suggestions from the outside; it may and does itself originate bills relating to the matters placed under its authority.

Thousands of bills which go to committees are not considered at all. Only measures to be reported to the house for action receive a more or less severe scrutiny. In such cases papers and documents may be secured from the President or high officials; department heads may be requested to appear personally and answer questions propounded by committee members. Friends and opponents of propositions in the hands of a committee are frequently admitted to state their views; witnesses may be summoned to appear and give testimony; the committee may travel about the country, hold hearings, and gather evidence.

In almost every case the measures in charge of a particular committee are considered or formulated by a sub-committee (in which the minority receives scant recognition), and the whole committee generally accepts its report. When it comes to a strict party question, such as the tariff, the majority members of the committee draft the bill; and after the measure is completed, they may invite the minority members in to vote on it as a matter of form; they may even overlook that courtesy. With regard to action on any measure in hand, a committee may recommend its adoption, amend it, report adversely, delay the report indefinitely, or ignore it altogether. In

the House it rarely happens that a member is able to secure the consideration of a bill which the committee in charge opposes; but in the Senate a greater freedom is enjoyed in this respect.

Owing to the pressure of business in the House, it is impossible to consider each bill on its merits and arrive at a vote after searching debate and mature deliberation; it often happens, therefore, that very important measures are forced through as they come from the committee without any serious discussion or a single amendment. This, of course, places an enormous power in the hands of committees and changes the House at times from a deliberative into a ratifying assembly.

Naturally there has been a great deal of criticism directed against the committee system. As early as 1880, the Independent National, or Greenback, party demanded "absolutely democratic rules" for the government of Congress and advocated taking away from the committees "a veto power greater than that of the President." Complaints are constantly made in the House itself, especially by members of the minority. "You send important questions to a committee," once lamented a member, "you put into the hands of a few men the power to bring in bills, and then they are brought in with an ironclad rule, and rammed down the throats of members; and then those measures are sent out as being the deliberate judgment of the Congress of the United States when no deliberate judgment has been expressed by any man."

The division of each house of Congress into a large number of separate committees, no doubt, does lead to many deplorable results. These committees work with little or no reference to one another, each preparing its own bills with slight regard to the measures in other committees. As a result there is a great deal of ill-adjusted and conflicting legislation, even on matters of fundamental importance. But it is easier to criticize than to find better methods for conducting business.

Only two outstanding remedies are offered for the evils of the committee system. One is the creation of the kind of unofficial leadership and direction which was built up by the Republicans in the early part of this century. The other is the adoption of the English cabinet system which openly vests control in the hands of a responsible group, the Cabinet. The first has been tried and rejected as a form of "invisible government." The second, striking as it does at the very root of the congressional system, receives little consideration outside academic circles. Indeed there are signs that the House of Commons is looking with favor on the adoption of the standing committee system.

After this survey of the methods by which the majority in the House of Representatives may control reports of committees and the discussion and passage of measures, it might be assumed that the

minority party is without power to influence in any effective manner the course of legislative procedure. This view, however, is not strictly correct. By exercising certain constitutional privileges, the minority may block proceedings and go a long way toward forcing the majority to adopt policies which it would not initiate on its own motion. The Constitution provides that on the request of one-fifth of the members present, the roll of the House must be called on any question and the yeas and nays of the members entered upon the journal. The Constitution furthermore provides that no business shall be done unless a quorum is present. The minority, in the House or Senate, may therefore raise at will the question of the presence of a quorum and force one roll-call after another, thus consuming time and making endless delays. Finally a great deal of the legislative business is done under the rule of unanimous consent which, of course, may be steadily refused by the minority members.

More than once the leader of the minority party has thrown down the gage to the majority leaders and frankly informed them that unless certain policies were adopted the minority would exercise all its privileges under the rules for the purpose of obstructing business. In this way the minority may defeat bills by threats or by delays continuing until the end of the session. It sometimes even forces action on its own measures by threatening to refuse unanimous consent on all propositions and to call for the yeas and nays on every bill and resolution until the majority leaders capitulate and bring in the propositions which the minority demands.

RULES OF THE HOUSES OF CONGRESS

V. Whatever may be the nature of the leadership in Congress, there must be rules governing the daily procedure of the respective houses, which make it possible for leadership to direct, limit, and in a measure dictate action. The rules are a part of the system of control and their changes reflect the periods of concentration and expansions of power noted above. At all times, however, certain principles remain fairly fixed.

1. In the first place, the Speaker of the House may refuse to put motions which he regards as dilatory—that is, designed merely to delay business.

The immediate cause of the adoption of this principle was the practice of filibustering by the minority or by small groups. In the Fiftieth Congress, on one occasion, the "House remained in continuous session eight days and nights, during which time there were over one hundred roll-calls on the iterated and reiterated motions to adjourn and to take a recess, and their amendments. On this occasion the reading clerks became so exhausted that they could no

longer act, and certain members, possessed of large voices and strenuous lungs, took their places. If this was not child's play, it would be difficult to define it. Then, again, when a measure to which the minority objected was likely to pass, the yeas and nays would be ordered."

In the succeeding Congress, in which Thomas B. Reed was the Speaker, the Republicans had only a narrow majority, and it soon became clear that the opposing party, by making dilatory motions and refusing to answer to the roll-call on a quorum, could prevent the majority from doing any business at all. It was under these circumstances that Speaker Reed, in January, 1890, refused to put motions which he regarded as purely dilatory, and was sustained by the House. Mr. Reed defended his ruling as follows:

The object of a parliamentary body is action, and not stoppage of action. Hence if any member or set of members undertakes to oppose the orderly progress of business even by the use of the ordinarily recognized parliamentary motions, it is the right of the majority to refuse to have those motions entertained and to cause the public business to proceed. Primarily, the organ of the House is the man elected to the speakership; it is his duty in a clear case, recognizing the situation, to endeavor to carry out the wishes and desires of the majority of the body which he represents. Whenever it becomes apparent that the ordinary and proper parliamentary motions are being used solely for the purposes of delay and obstruction; . . . when a gentleman steps down to the front amid the applause of his associates on the floor and announces that it is his intention to make opposition in every direction, it then becomes apparent to the House and the community what the purpose is. It is then the duty of the occupant of the Speaker's chair to take, under parliamentary law, the proper course with regard to such matters.

This principle was shortly afterwards (1890) embodied in the rules, and the Speaker now has regular sanction for refusing to entertain purely dilatory motions. However, the constitutional right of a member to demand the yeas and nays cannot be denied even if the purpose is dilatory.

2. In the second place the Speaker may count as present those members who are physically present but refuse to answer to their names on a roll-call for the purpose of compelling an adjournment in the absence of a quorum. This principle was established by Speaker Reed about the same time as the ruling on dilatory motions, and also embodied in the revision of the rules.

3. In the third place, the rules of the House provide for automatically shortening debate; they prescribe that the time occupied by any member in discussing a legislative proposition shall not exceed one hour. This limit was imposed in 1841, and at the time Senator Benton declared that it was "the largest limitation upon the freedom of debate which any deliberate assembly ever imposed upon

itself, and presents an eminent instance of permanent injury done to free institutions in order to get rid of a temporary annoyance." It is difficult to see, however, in what way the House could meet the enormous pressure upon it, if any member from among the 435 could talk as long as he pleased on any measure.

A member may, if he chooses, yield a portion of his time to some other member or members wishing to speak on a measure, but he may occupy no more than one hour, except by obtaining unanimous consent. Neither may he speak twice upon the same measure unless he introduced it, or is the member reporting it from committee. When going into the committee of the whole, the House fixes the time of debate, which cannot be extended by the committee; and in many other ways freedom of debate is arbitrarily limited. Moreover it is in order to move "the previous question" and shut off debate automatically.

4. In the fourth place, to enable party leaders to force the consideration of certain measures whenever they see fit, several important committees may report on specified subjects practically at any time in the course of the procedure of the House, no matter what may be under discussion.

The Senate also has its code of rules, but it has not adopted any of the drastic restraints obtaining in the House. When the Senate rules were revised in 1806, the right to move the previous question, and thus close debate summarily, was omitted, and all attempts to restore control failed until 1917. At the session convened in March of that year, the Senate found all business blocked by an apparently endless debate. By a certain irony of fate the Democrats, who had always been the most ardent champions of free debate, were forced to insist upon some method of cutting it off. Acting on the recommendation of a committee composed of an equal number of members from both parties, the Senate adopted a new rule providing that: (1) on petition of sixteen Senators a motion to cut off discussion on any bill can be served on the Senate and (2) if approved two days later by two-thirds vote debate will come to an end, after each member has enjoyed the right to speak for not more than one hour on the pending measure. After such a closure is adopted amendments to the bill under consideration can be made only by unanimous consent.

In practice it has been found impossible to bring the rule into frequent use, and long filibusters have often blocked the business of the Senate. Exasperated by this "inefficiency," Vice-President Dawes tried to launch a national campaign to force the adoption of an easier method of closure. The Senate has been obdurate and not without reason. As Lindsay Rogers cogently argues in his book, *The American Senate*, liberty of debate acts as a salutary check on the administration, gives the minority the right to be heard, and

assures at least one open forum in the country for the free discussion of issues which might otherwise be smothered.

THE ORDINARY COURSE OF PROCEDURE IN CONGRESS

VI. . . . Bills, are introduced in the House in several ways. Any member may introduce any measure he likes by depositing it on the clerk's table or handing it to the Speaker if it is a public bill; or he may introduce a petition for a bill which will be referred to an appropriate committee for drafting. All really important bills, however, such as tariff bills, currency measures, and the like are drafted by the majority members of the committees in charge of the subject matter. Sometimes, the committee of the House coöperates with the committee of the Senate having charge of similar business, in preparing a bill. If the question is very significant, the President of the United States may join some of the committee members in drawing up the bill; prominent party leaders not in office may be consulted. A caucus of party members may be held on the bill even before it is brought up for consideration.

On its introduction, each public bill is referred by the Speaker to the appropriate committee, which may hold hearings and give the matter any amount of attention it sees fit. The committee may report the bill to the House favorably unamended, or it may amend it and report it in such form, or it may report unfavorably, or it may neglect it altogether.

Debates in Congress are often perfunctory, seldom animated, and very rarely have any effect upon the decisions taken. As to important bills reported from committees, decisions have already been made by party leaders; accordingly there is little to be said on such measures by members of the dominant party. The opposition is allotted a certain amount of time as a matter of form, but no one expects arguments from that quarter to produce any results of significance. In the Senate, where, as we have noted, debate is more free than in the House, speeches may really change opinions and votes.

A great many speeches that appear in the pages of the *Congressional Record* are delivered to empty benches during sessions of the committee of the whole, or not delivered at all. Frequently they are not directed to members of Congress, but to the constituents of the orator. The "leave to print" is rather freely granted so that members have complete liberty to address the voters of their districts through printed speeches supposed to have been delivered in Congress. Even such entries as "Cheers," "Laughter," and "Prolonged Applause" may be inserted by the member in preparing his copy for the printer of the *Record*.

When a bill has passed either house, it is transmitted to the other body for consideration. For example, when the Senate has passed a bill, it thereupon dispatches the measure to the House. If the House passes the bill thus brought in, the Senate is notified; the measure is then signed by the President of the Senate and the Speaker of the House, and is sent to the President of the United States for his signature. If he approves the bill, he notifies the house in which it originated of his action, and sends it to the Secretary of State for official publication. If he vetoes the measure, he returns the bill to the house in which it originated, with a statement of the reasons for his action, unless that body has adjourned. If a bill originates in the House, it is sent to the Senate and goes through a similar process.

Whenever a bill originating in one house is amended in the other, it must be returned to the first for reconsideration, and for adoption or rejection as amended. If, at last, the houses are unable to agree upon a measure—a regular occurrence in the case of important bills—it is the practice for the presiding officer of each body to appoint representatives to a conference committee, as it is called, authorized to discuss the differences, to come to some agreement upon the disputed points, and report back to the respective houses their agreement, or their inability to come to terms. As a general principle the conference committee, in coming to an agreement, should introduce no new matter into the measure which it has under consideration—that it, no provision that has not been already adopted by either the Senate or the House. It is, of course, not easy to determine whether new matter has been introduced into a long and complicated measure. Certainly the conferees are not limited in their action to the adoption of the provisions as actually passed by one house or the other. They may, and often do, draft a compromise proposition, perhaps midway between the extremes demanded by the two houses, and in drafting it they may, in fact, change the language of the bill. When a conference committee report is submitted, each house adopts it, or rejects it as a whole; it does not amend.

SECURING INFORMATION FOR LEGISLATIVE ACTION

In the exercise of its legislative functions, Congress frequently makes use of a special committee of investigation. For example, it instituted by an act of June 18, 1898, an industrial commission consisting of five members of the House of Representatives, five Senators, and nine persons appointed by the President—the last to be paid salaries. This commission was instructed to investigate questions appertaining to immigration, labor, agriculture, and business, to report to Congress, and to suggest desirable legislation on

these subjects. The commission made a long and exhaustive investigation and reported to Congress a voluminous mass of testimony and many proposals for legislative action. A few years later, namely, in February, 1907, Congress created a joint commission on immigration, consisting of three Senators, three members of the House of Representatives, and three persons appointed by the President—charged with the duty of making a full investigation into the subject of immigration. In 1913 Congress established an industrial relations commission which conducted an elaborate inquiry into labor and agricultural problems and startled the whole country by the radical character of its findings. . . .

The chief sources of information for legislative purposes are, of course, the hearings and investigations conducted by the various standing committees of Congress. Each of the important standing committees has commodious and well-equipped quarters in one of the magnificent office buildings constructed for the Senate and the House. Every leading committee has a library of materials bearing on the subjects referred to it and also has at its command the extensive resources of the Congressional Library. Committees may also call upon the Legislative Drafting Service, of which there are two branches, one for the Senate and another for the House. The Library of Congress maintains a division of Legislative Reference charged with the duty of furnishing information on questions pending before the houses.

The student may naturally inquire whether debates in Congress do not afford information on legislative questions. In the Senate, it frequently happens that speeches, particularly on constitutional law, really illuminate problems before that body; but it cannot be said that the House derives much information from the desultory and partisan speeches delivered there. Mr. Bryce attributes this absence of informing debates to the committee system itself.

In fact, the average member of the House is absorbed in his own affairs and the work of the committees to which he is assigned. He is, therefore, not strongly inclined, as a rule, to question the wisdom of the results reported by the committees. He assumes that the members of the other committees know more about their business than he does, and furthermore he does not like to stir up trouble for himself by criticisms of their work.

THE LOBBY

When we pass outside the realm of official inquiry and debate into spheres of influence associated with congressional action we have to deal with more or less elusive forces. Yet certain facts lie on the surface of things. Washington is the headquarters of many powerful organizations which concentrate their energies on advancing

or blocking legislation. Without attempting to take them in the order of importance, there is first the National Chamber of Commerce, a federation of the local chambers throughout the United States, with an elaborate organization and machinery for taking the opinion of American business men on issues arising in Congress. Not far away stands the large building which houses the American Federation of Labor, always indefatigable in its support of friendly legislation and its warfare on measures deemed inimical to labor interests. Equally active are the three nation-wide farmers' associations. Ever on watch and ever busy disseminating its views on legislation is the American Association of Railway Executives which speaks for the combined railway interests of America. Then descending to details we find each one of the leading manufacturing and mercantile interests organized and prepared to bring powerful influences to bear on Senators and Representatives in season and out.

It is estimated that there are in all about one hundred and fifty economic organizations (to say nothing of moral reformers) represented in the lobbies of Congress. Among them are the Standard Oil Company, the Farm Bureau (the conservative farmers' organization), and the spokesmen of the coal, leather, beef, railway, silk, glove, fertilizer, cotton, banking, wire, steel, express, drug, advertising, lime, beet sugar, and other interests. The capitalistic and the conservative farming group are organized into a loose coöperative society known as "the Monday Lunch Club." All these interests have skillful and astute agents, paid large salaries, and granted generous expense accounts for entertainment and other purposes; one of the agents is said to be paid as much as the President of the United States. Sometimes former members of Congress are found among them; often "lame ducks" or members defeated for reelection are offered retainers' fees from concerns whose interests are involved in legislation. All the legislative agents are expert in the ways of Congress and keep an eagle eye on every bill that affects their respective spheres. They know every Congressman, his past record, his mistakes, his weakness, his debts, the skeletons in his family closet. They work as quietly as mice sometimes and thunder through the newspapers at other times. They have their thousand cords of influence stretching away from Washington to every home, shop, farm, and office; they can set in motion potent forces which no Senator or Representative can ignore. They can drench or deluge Congressmen with letters, telegrams, and phone calls.

Here is a vast and tangled network of agencies, having large sums at their disposal to spend in agitation and publicity, maintaining research bureaus to accumulate facts favorable to their special interests, and equipped with all the mechanisms of modern society for bringing "pressure" to bear on members of both houses. Under the burning spotlight of their scrutiny, constantly bombarded by

their pleas, threats and promises, "gassed" by their publicity, the legislator who tries to see things as they are and as a whole and to do his full duty in the midst of clamor and perplexity must have poise, discrimination, and courage. As we have noted above, there are students of government who boldly advocate giving up the fiction of political equality and frankly incorporating manufacturing, labor, agricultural, and professional interests into the government itself. Whether these interests are inside or outside the government they are potent influences in shaping the opinions of Congressmen.

PREAMBLE AND RULES ADOPTED BY A DEMOCRATIC CAUCUS

(From "Materials Illustrative of American Government," by Rodney L. Mott.)

It frequently happens that the party caucus occupies quite as important a place in legislation as does the House of Representatives itself. The burden of work which often falls on the caucus, together with the size of the body, demands that its proceedings be guided by rules which are almost as formal as those of the House. In some respects the Democratic caucus is less rigidly organized than is the Republican; yet when occasion demands, its rules may be applied with equal force. As will be seen from the following statement, the caucus of the minority party is recognized as having a very definite place in legislative procedure; and it is not without significance that the rules of both majority and minority caucuses are printed by the Government Printing Office at public expense.

PREAMBLES

In adopting the following rules for the Democratic Caucus, we affirm and declare that the following cardinal principles should control Democratic action:

- a. In essentials of Democratic principles and doctrine, unity.
- b. In non-essentials, and in all things not involving fidelity to party principles, entire individual independence.
- c. Party alignment only upon matters of party faith or party policy.
- d. Friendly conference and, whenever reasonably possible, party coöperation.

DEMOCRATIC CAUCUS RULES

1. All Democratic Members of the House of Representatives shall be *prima facie* members of the Democratic Caucus of the House of Representatives; failing to abide by the rules governing the same shall thereby automatically cease to be a member of the Caucus.

2. Meetings of the Democratic Caucus may be called by the chairman upon his own motion and shall be called by him whenever requested in writing by twenty-five members of the Caucus or at the request of the party leader.

3. A quorum of the Caucus shall consist of a majority of the Democratic members of the House.

4. General parliamentary law, with such special rules as may be adopted, shall govern the meetings of the Caucus.

5. In the election of officers and in the nomination of candidates for office in the House, a majority of those present and voting shall bind the membership of the Caucus.

6. In the election of officers and in the nomination of candidates for office in the House a majority of those present and voting at a Caucus meeting shall bind all members of the Caucus; *provided*, the said two-thirds vote is a majority of the full Democratic membership of the House: And *provided further*, that no member shall be bound upon questions involving a construction of the Constitution of the United States or upon which he made contrary pledges to his constituents prior to his election or received contrary instructions by resolutions or platform from his nominating authority.

7. Whenever any member of the Caucus shall determine, by reason of either of the exceptions provided for in the above paragraph, it shall be his duty, if present, so to advise the Caucus before the adjournment of the meeting, or if not present at the meeting, to promptly notify the Democratic leader in writing, so that the party may be advised before the matter comes to issue upon the floor of the House.

8. That the five-minute rule that governs the House of Representatives shall govern debate in the Democratic Caucus, unless suspended by a vote of the Caucus.

9. No persons, except Democratic members of the House of Representatives, a Caucus journal clerk, and other necessary employees, shall be admitted to the meetings of the Caucus.

10. The Caucus shall keep a journal of its proceedings, which shall be published after each meeting, and the yeas and nays on any question shall, at the desire of one-fifth of those present, be entered on the journal.

THE PRESIDENT AND CONGRESS

(Ogg and Ray: "Introduction to American Government, pp. 263-265, The Century Company, New York, 1926.)

. . . Convening Congress in special session, transmitting messages, and wielding the veto power do not exhaust the President's means of influencing legislation; there are a half-dozen well-recognized modes of less direct, but often equally effective, control. The first is the

threat of veto. By letting it be known that he will veto a given bill unless certain features are added to it or other changes are made in it, the President may be able practically to determine the form which the measure will finally take. President Roosevelt went so far as to warn Congress publicly that he would veto certain measures which it had under consideration. Protest was raised against such virtual use of the veto power in advance, but no one could find anything in the Constitution or laws to prevent a president from thus making his views and intentions known. A second source of presidential influence on legislation is the patronage. Long custom has made it the rule that senators and representatives shall be consulted, and shall be permitted to bring forward candidates, when important offices are to be filled in their state or district; and their political power and general prestige among their constituents are determined largely by their success in securing the appointment of such candidates. The President, therefore, holds the whip hand: if congressmen do not accept his ideas on legislation he can cut them off from a share in the patronage. There is no reason to believe that bald threats and bargains of this sort are made. Yet members of Congress can hardly be expected to be oblivious to the practical advantages of being numbered among the President's dependable supporters.

A third source of presidential influence is the personal interview. The President cannot appear on the floor of either branch of Congress to take part in debate, or for any other purpose, save to deliver a formal message. But this does not prevent him from discussing measures with members, individually and in small groups, in his office at the White House, or even in the room set apart for him at the Capitol. Chairmen of committees and other influential members are frequently called into conference, especially when important legislation, *e.g.*, a great tariff bill, is pending; and on such occasions the President may urge or demand that a given measure be postponed, that it be advanced on the calendar, or that a bill be amended in specified ways. He may make a bold personal appeal, or even issue an ultimatum. In any case, his views, promptly carried back to the two houses by the conferees, are not likely to be without influence. "Stand by the President" is, as a rule, a potent catch phrase in congressional halls. Executive control over legislation through this channel was notably broadened by Presidents Cleveland, Roosevelt, and Wilson. There arises, indeed, at this point a real presidential initiative in legislation. For, while neither the President himself nor any other member of the executive branch can actually introduce a bill in Congress, the President may, and occasionally does, bring about the drafting of a measure, which formally introduced by a supporter and spokesman in the appropriate house. President Roosevelt was the real author of much of the legislation enacted during his seven years in the White House, and President Wilson had hardly less to

do with the formulation of the Federal Reserve Act, the Clayton Anti-Trust Act, and other great measures of his first term than with the legislation of the ensuing war period.

If all else fails, the President may carry his cease by appealing directly to the people, capturing the confidence of the country, and demanding of Congress compliance with the popular will. Jackson did this, and so did Roosevelt and Wilson. It is a risky procedure, and the President who undertakes it "shakes the iron hand of fate." The cause must be a good one and the President himself of real stature and even brilliance. Smaller men generally fail, sometimes in humiliating fashion; Andrew Johnson's famous "swing around the circle" in 1866 was absurd and little short of pitiable.

From what has been said, it is apparent that the President derives much of his actual power over legislation from his position as a party leader: he usually consults only his fellow-partisans in Congress on proposed appointments; he commonly seeks interviews with, and initiates legislation through, them alone; he must work in a reasonable degree of harmony with them if much is to be accomplished. Originally, the President was not a party leader; Washington thought of himself as responsible to no party and leader of no faction. But when parties took definite form and presidents began to be elected as party men, party leadership became as truly a function of the President as it is of the English prime minister; and it is nowadays hardly a less important source of power than is the authority expressly conferred in the Constitution. Jefferson, Jackson, Lincoln, McKinley, Roosevelt, and Wilson may be mentioned as presidents who in a preëminent degree dominated their respective parties. Tyler, Hayes, Garfield, and some other chief executives had less influence in this way, and Cleveland was, during his second administration, disavowed by his party following. But in most of these latter instances the circumstances were exceptional, and all pointed to the practical desirability of full and recognized presidential leadership. . . .

GENERAL MATERIAL ON BOTH SYSTEMS

THE DRAFTING OF BILLS

(By Dr. C. P. Patterson, 1928)

John Stuart Mill's theory that legislative bodies should not make laws but should restrict themselves to the approving or rejecting of measures framed by experts is becoming more and more a matter of practice. The proper wording of law has always been a difficult matter. In fact, inefficient lawmaking was considered one of the evils of the Confederation and a cause for the remodeling of the governments in 1787. . . .

The matter of expert aid to legislators in drafting laws is not a new device in legislation. It was adopted in Great Britain in 1837 where it proved sufficiently helpful to warrant the establishment of the Parliamentary Counsel to the Treasury in 1869. The counsel and the assistant counsel are well paid and adequate legal assistance may be used by the employment of barristers who are paid fees based on the amount of work done. The Parliamentary Counsel prepares all government bills and gives instructions concerning the private bills which receive the support of the government and are, therefore, subject to its amendment. It has been estimated that four-fifths of the legislation of Parliament comes under the direction of the Parliamentary Counsel.

American legislatures by virtue of their extensive use of the committee system have possibly had less need for such assistance, although an analysis of their laws indicates that they could profit considerably from its use; at least they have made much less use of this device than European parliaments. State legislatures have made much larger use of expert aid in the drafting and revision of legislation than Congress. A large part of our litigation and its costs to both governments could be eliminated if our laws were made unequivocally clear by the substitution of brevity and lucidity for prolixity and obscurity.

Congress, however, has made a beginning. In 1919 the office of legislative counsel under the direction of two legislative counsellors, one for the House and one for the Senate, was created. One is appointed by the President of the Senate and the other by the Speaker of the House without reference to political affiliation and solely on the basis of special fitness for the duties to be performed. Each House now has a legislative counsel, an assistant counsel, law assistant, clerk, and an assistant clerk.

The duties of the Legislative Counsel are to aid in the drafting of bills, resolutions, and their amendments at the request of the

committees of either House of Congress under the supervision of the Library Committee of each House, which may for their respective Houses determine the order in which the requests of the committee shall be considered. Mastery of language, lucidity of style, familiarity with technical terms, knowledge of both statutory and constitutional law, insight into the structure of society, foresight as to the probable effects of legislation are some of their qualifications. They should be not merely legal priests but diagnosticians of society as well. There are indications that the committees, executive departments, and commissions are making increasing use of this assistance. The growing volume of legislation and heavy draft on the time of members of Congress for various purposes will undoubtedly in due course assign a much larger sphere of usefulness to the office of the Legislative Counsel.

ORIGIN OF THE TWO SYSTEMS

(From Hasbrouck, "Party Government in the House of Representatives," pp. 58-59, The Macmillan Company, New York, 1928.)

The American committee system, as well as the modern English cabinet, is a natural development of earlier parliamentary practice. When the fathers of colonial legislatures left England, in fact, Parliament had shown some tendency toward a system of standing committees with specialized function, such as that which has become the distinctive feature of Congress. Similar committees arose in many colonial assemblies, notably in Virginia, Maryland, and Pennsylvania.

The cabinet system, on the other hand, was a later growth, resulting from conditions which were only faintly reflected across the Atlantic. While the Restoration placed the Stuarts again on the throne, Parliament continued to assert its supremacy. Under Charles II, it used frequent impeachments as a means of holding the royal ministers in some measure responsible to itself. But after the Revolution of 1688, cabinet government began to take its modern form. The system of control by a committee of the majority in the House of Commons became firmly rooted in England during the following century, under a succession of foreign kings (the Hanoverians).

The cabinet, in brief, was a "posture of defense" against an irresponsible executive. No necessity called forth a similar development in the United States.

PARLIAMENTARY FINANCE

(Munro's "The Governments of Europe," pp. 220-223, The Macmillan Company, New York.)

. . . . It will be noted from the foregoing outline that the British national budget is framed, presented, debated, and passed in two divisions, one dealing with expenditures and the other with revenue. But both divisions emanate from the same source, namely, the cabinet, and they are considered by the same body, that is, by the House of Commons sitting in each case as a committee of the whole House under two different names. The essential unity of the British financial system arises from the fact that the cabinet is responsible for preparing the entire budget, responsible for what it contains, and responsible for getting it adopted by parliament. The concentration of financial responsibility is complete, which is not yet true of budget procedure in Congress despite the marked progress which has been made during recent years.

In the United States the estimates of expenditure are compiled by the director of the budget from figures submitted to him by the various departments. The director of the budget transmits these estimates to the President, who, in turn, forwards them to Congress with his recommendations. Thus far the British and American procedures are substantially alike, inasmuch as the executive in both countries takes the initial step and submits to the legislative body a general plan of national expenditures. But there our parallel ends. In the House of Representatives the estimates go to a committee on appropriations which may recommend changes in them at will, either up or down, and from this committee they go before the whole House which has an unrestricted right, both by law and by usage to increase, decrease, insert, or eliminate. There is no rule, as in the House of Commons, that additions may only be made on recommendation of the executive. And after the House of Representatives is through with the estimates the Senate of the the United States (unlike the House of Lords) takes them in hand, making such further changes as it may desire. In a word, there is no such executive control over financial measures in Congress as is exerted by the British ministers in parliament, and hence there is no such complete fixation of responsibility.

There is a further difference. In Congress proposals for raising the necessary revenues sometimes come from the President, but they may also be brought forward by any member of the House on his own initiative. And in either case they are considered by a different committee from that which handles the appropriations. Expenditures are handled by one set of men, and revenues by another, each working separately. The chairmen of the two committees confer frequently, and a certain amount of team play is secured;

but there is a good deal of room for work at cross purposes. Finally, it will be noted that in parliament, when appropriations or revenue measures are under discussion, the heads of the executive departments are present to explain, defend, and answer questions. In Congress this is not the case. The head of a department may be asked to submit explanations in writing or to come in person before a congressional committee; but he does not appear before the whole House and is not responsible to it.

All this does not mean, however, that the British budgetary system, taking it as a whole, is necessarily superior to the American. On the contrary there are some respects in which it is inferior. Concentration of responsibility is an excellent thing in its way; it makes for economy in public expenditures, but it inevitably involves a concentration of power. In Great Britain the cabinet, not the House of Commons, is the body which really controls the finances of the realm. To this it will be replied, of course, that the cabinet is merely the agent of the House and is responsible to it; but the fact remains that the House cannot insert or increase any item. It can only reduce, and even this it cannot well do unless the ministers acquiesce. To reduce an estimate against the will of the ministers would be to drive them from office. On the other hand, it is only fair to state that the ministers do not usually press the issue to this point. They are, in fact, quite sensitive to the general opinions of the House and do not usually submit proposals which are sure to arouse antagonism among their own supporters. Even on the floor, after the proposals have been presented, they sometimes give way. With due allowance for ministerial sensitiveness and courtesy, however, the English cabinet is the real controller of the national purse. And as James Madison once said, they who hold the purse control the government. If the British budget were put directly into effect as soon as it has been approved by the cabinet, without going to the House at all, its final figures would not be appreciably different. But in that case the opposition would be deprived of what is now its best opportunity for launching its criticisms against the ministers.

It should be noted, of course, that the rule against inserting new items in the estimates, or increasing items already there, is one which the House of Commons can repeal at any time. It is merely a self-denying ordinance which the House in its wisdom imposed upon itself more than two centuries ago and which it can abolish if it ever makes up its mind to do so. But there is no probability that it will ever do anything of the sort, for the rule is one which most Englishmen (and many American students of government, also) look upon as highly beneficent in its operations.

But in any event the fact that private members cannot insert or increase any item causes many of them to lose interest in the budget.

Why should they display any concern over figures that have no relation to their own constituencies? So, night after night, when the House is "in supply," the chamber remains half empty. As an Irish member once complained, it is "overrun with absentees." It is hard to imagine anything more dreary than these "debates"—dreary for everybody except the minister who is putting his items through and the few opposition critics who are nibbling at him. The ministers can well sit snug, for they know that time is on their side. When the twenty days are up the estimates must be voted on, and they have the votes to put them through. Hence, although the discussions in supply appear to an onlooker to be conducted in a most leisurely manner, the estimates are really put through the House under much greater pressure than is the case in Congress. Sometimes half the entire estimates go through at Westminster in a single day—the last day. This means that millions are voted without any parliamentary discussion at all. It is a fair criticism of the British House of Commons, and one often voiced by its own members, that inadequate discussion is devoted to the financial problems of the realm and that much time is wasted in providing safeguards against dangers which may have existed centuries ago but are wholly non-existent now. . . .

PRESIDENTIAL VS. CABINET GOVERNMENT

(Ogg and Ray: "Introduction to American Government," The Century Company, New York, 1926.)

The relations existing between the executive and the other branches of government involve numerous questions that cannot be taken up here. Fundamentally, they hinge on the distinction between "presidential government" and "cabinet government." In a presidential system the chief executive derives his powers directly from, and is immediately responsible to, the electorate. He is not chosen by the legislature; he holds his office for a fixed term, regardless of whether his relations with the legislature are or are not harmonious; he stands on a common footing with the legislature, and in most of his acts cannot be controlled by it. Such is the system which we have in the United States. On the other hand, in a cabinet government the titular executive counts for little and the actual, working executive, i.e., the cabinet, while not elected by the legislature, is composed of persons who are members of that body, who are indeed its leaders, who retain office only so long as they can collectively command the legislature's support (at all events, the support of the majority of the Lower House), who accordingly form a sort of executive committee of that body and are responsible directly to it, rather than to the electorate, for all of their acts.

This is the type of executive found, with some variations, in England, France, and most other European countries.

It is obvious that the presidential system is based on the principle of separation of powers, both organically and personally; although, as is true in the United States, the executive and legislative branches may retain authority to check one another at important points.

AFFIRMATIVE MATERIAL

CONGRESSIONAL LEGISLATION

(Bryce's "The American Commonwealth," pp. 165-173, The Macmillan Company, New York, 1893-1895.)

Legislation is more specifically and exclusively the business of Congress than it is the business of governing parliaments such as those of England, France, and Italy. We must, therefore, in order to judge of the excellence of Congress as a working machine, examine the quality of the legislation which it turns out.

Acts of Congress are of two kinds, public and private. Passing by private acts for the present, though they occupy a large part of congressional time, let us consider public acts. These are of two kinds, those which deal with the law or its administration, and those which deal with finance, that is to say, provide for the raising and application of revenue. I devote this chapter to the former class, and the next to the latter.

There are many points of view from which one may regard the work of legislation. I suggest a few only, in respect of which the excellence of the work may be tested; and propose to ask: What security do the legislative methods and habits of Congress offer for the attainment of the following desirable objects? Namely:

1. The excellence of the substance of a bill, i.e., its tendency to improve the law and promote the public welfare.
2. The excellence of the form of a bill, i.e., its arrangement and the scientific precision of its language.
3. The harmony and consistency of an act with the other acts of the same session.
4. The due examination and sifting in debate of a bill.
5. The publicity of a bill, i.e., the bringing it to the knowledge of the country at large, so that public opinion may be fully expressed regarding it.
6. The honesty and courage of the legislative assembly in rejecting a bill, however likely to be popular, which their judgment disapproves.
7. The responsibility of some person or body of persons for the enactmentment of a measure, i.e., the fixing on the right shoulders of the praise for passing a good, the blame for passing a bad, act.

The criticisms that may be passed on American practice under the preceding heads will be made clearer by a comparison of English practice. Let us therefore first see how English bills and acts stand the tests we are to apply to the work of Congress.

In England public bills fall into two classes,—those brought in by the ministry of the day as responsible advisers of the sovereign,

and those brought in by private members. In point of law and in point of form there is no difference between these classes. Practically there is all the difference in the world, because a government bill has behind it the responsibility of the ministry, and presumably the weight of the majority which keeps the ministry in office. The ministry dispose of a half or more of the working time of the House, and have therefore much greater facilities for pushing forward their bills. Nearly all the most important bills, which involve large political issues, are government bills, so that the hostile critic of a private member's bill will sometimes argue that the House ought not to permit the member to proceed with it, because it is too large for any unofficial hands. This premised, we may proceed to the seven points above mentioned.

1. In England, as the more important bills are government bills, their policy is sure to have been carefully weighed. The ministry have every motive for care, because the fortunes of a first-class bill are their own fortunes. If it is rejected, they fall. A specially difficult bill is usually framed by a committee of the cabinet and then debated by the cabinet as a whole before it appears in Parliament. Minor bills are settled in the departments by the parliamentary head with his staff of permanent officials.

2. In England, government bills are prepared by the official government draftsmen, two eminent lawyers with several assistants, who constitute an office for this purpose. Private members who are lawyers often draft their own bills; those who are not generally employ a barrister. The drafting of government bills has improved of late years, and the faults of form still observable in British Acts are chiefly due to amendments made hurriedly in committee of the whole House.

3. Harmony of one government bill with others of the same session is secured by the care of the official draftsmen, as well as by the fact that all emanate from one and the same ministry. No such safeguards exist in the case of private members' bills, but it is of course the duty of the ministry to watch these legislative essays, and get Parliament to strike out of any one of them whatever is inconsistent with another measure passed or intended to be passed in the same session.

4. Difficult and complicated bills which raise no political controversy are sometimes referred to a select committee, which goes through them and reports them as amended to the House. They are afterwards considered, first in committee of the whole, and then by the House on the stage of report from committee of the whole to the House. Such bills are now often referred to what are called **grand committees**, i.e., committees of at least fifty appointed in each session for the consideration of particular kinds of business, discussion in which replaces the discussion in committee of the

whole. Many bills, however, never go before select or grand committees. While measures which excite political feeling or touch any powerful interest (such as that of landowners or railroads or liquor-dealers) are exhaustively debated, others may slip through unobserved. The enormous pressure of work and the prolixity with which some kinds of business are discussed, involve the hurrying of other business through with scant consideration.

5. Except in the case of discussions at unseasonable hours, the proceedings of Parliament are so far reported in the leading newspapers and commented on by them that bills, even those of private members, generally become known to those whom they may concern. There is usually a debate on the second reading, and this debate attracts notice.

6. A government bill is, by the law of its being, exposed to the hostile criticism of the opposition, who have an interest in discrediting the ministry by disparaging their work. As respects private members' bills, it is the undoubted duty of some ministers to watch them, and to procure their amendment or rejection if he finds them faulty. This duty is discharged less faithfully than might be wished, but perhaps as well as can be expected from weak human nature, often tempted to conciliate a supporter or an "interest" by allowing a measure to go through which ought to have been stopped.

7. Responsibility for everything done in the House rests upon the ministry of the day, because they are the leaders of the majority. If they allow a private member to pass a bad bill, if they stop him when trying to pass a good bill, they are in theory no less culpable than if they pass a bad bill of their own. Accordingly, when the second reading of a measure of consequence is moved, it is the duty of some member of the ministry to rise, with as little delay as possible, and state whether the ministry support it, or oppose it, or stand neutral. Standing neutral is, so far as responsibility to the country goes, practically the same thing as supporting. The opposition, as an organized body, are not expected to express their opinion on any bills except those of high political import. Needless to say, private members are also held strictly responsible for the votes they give, these votes being all recorded and published next morning. Of course both parties claim praise or receive blame from the country in respect of their attitude towards bills of moment, and when a session has produced few or feeble acts the opposition charges the ministry with sloth or incompetence.

The rules and usages I have described constitute valuable aids to legislation, and the quality of English and Scottish legislation, take it all and all, is good; that is to say, the statutes are such as public opinion (whether rightly or wrongly) demands, and are well drawn for the purposes they aim at.

Let us now apply the same test to the legislation of Congress. What follows refers primarily to the House, but is largely true of the Senate, because in the Senate also the committees play an important part.

In neither House of Congress are there any government bills. All measures are brought in by private members because all members are private. The nearest approach to the government bill of England is one brought in by a leading member of the majority in pursuance of a resolution taken in the congressional caucus of that majority. This seldom happens. One must therefore compare the ordinary congressional bill with the English private members' bill rather than with a government measure, and expect to find it marked by the faults that mark the former class. The second difference is that whereas in England the criticism and amendment of a bill takes place in committee of the whole, in the House of Representatives it takes place in a small committee of sixteen members or less, usually of eleven. In the Senate also the committees do most of the work, but the committee of the whole occasionally debates a bill pretty fully.

Premising these dissimilarities, I go to the seven points before mentioned.

1. The excellence of the substances of a bill introduced in Congress depends entirely on the wisdom and care of its introducer. He may, if self-distrustful, take counsel with his political allies respecting it. But there is no security for its representing any opinion or knowledge but his own. It may affect the management of an executive department, but the introducing member does not command departmental information, and will, if the bill passes, have nothing to do with the carrying out of its provisions. On the other hand, the officials of the government cannot submit bills; and if they find a Congressman willing to do so for them, must leave the advocacy and conduct of the measure entirely in his hands.

2. The drafting of a measure depends on the pains taken and skill exerted by its author. Senate bills are usually well drafted because many Senators are experienced lawyers: House bills are often crude and obscure. There does not exist either among the executive departments or in connection with Congress, any legal office charged with the duty of preparing bills, or of seeing that the form in which they pass is technically satisfactory.*

3. The only security for the consistency of the various measures of the same session is to be found in the fact that those which affect the same matter ought to be referred to the same committee. However, it often happens that there are two or more committees whose spheres of jurisdiction overlap, so that of two bills handling cognate matters, one may go to Committee A and the other to Committee B.

*There was established in 1919 the office of Legislative Counsel.

Should different views of policy prevail in these two bodies, they may report to the House bills containing mutually repugnant provisions. There is nothing except unusual vigilance on the part of some member interested, to prevent both bills from passing. That mischief from this cause is not serious arises from the fact that out of the multitude of bills introduced, few are reported and still fewer become law.

4. The function of a committee of either House of Congress extends not merely to the sifting and amending of the bills referred to it, but to practically re-drawing them, if the committee desires any legislation, or rejecting them by omitting to report them till near the end of the session if it thinks no legislation needed. Every committee is in fact a small bureau of legislation for the matters lying within its jurisdiction. It has for this purpose the advantage of time, of the right to take evidence, and of the fact that some of its members have been selected from their knowledge of or in the topics it has to deal with. On the other hand, it suffers from the non-publication of its debates, and from the tendency of all small and secret bodies to intrigues and compromises, compromises in which general principles of policy are sacrificed to personal feeling or selfish interests. Bills which go in black or white come out gray. They may lose all their distinctive color; or they may be turned into a medley of scarcely consistent provisions. The member who has introduced a bill may not have a seat on the committee, and may therefore be unable to protect his offspring. Other members of the House, masters of the subject but not members of the committee, can only be heard as witnesses. Although therefore there are full opportunities for the discussion of the bill by the committee, it often emerges in an unsatisfactory form, or is quietly suppressed, because there is no impetus of the general opinion of the House or the public to push it through. When the bill comes back to the House the chairman or other reporting member of the committee generally moves the previous question, after which no amendment can be offered. Debate ceases and the bill is promptly passed or lost. In the Senate there is a better chance of discussion, for the Senate, having more time and fewer speakers, can review to some real purpose the findings of its committees.

5. As there is no debate on the introduction or on the second reading of a bill, the public is not necessarily apprised of the measures which are before Congress. An important measure is of course watched by the newspapers and so becomes known: minor measures go unnoticed.

6. The general good-nature of Americans, and the tendency of members of their legislatures to oblige one another by doing reciprocal good turns, dispose people to let any bill go through which does not injure the interest of a party or of a person. Such good-nature

counts for less in a committee, because a committee has its own views and gives effect to them. But in the House there are few views, though much impatience. The House has no time to weigh the merits of a bill reported back to it. Members have never heard it debated. They know no more of what passed in the committee than the report tells them. If the measure is palpably opposed to their party tenets, the majority will reject it: if no party question arises they usually adopt the view of the committee.

7. What has been said already will have shown that except as regards bills of great importance, or directly involving party issues, there can be little effective responsibility for legislation. The member who brings in a bill is not responsible, because the committee generally alters his bill. The committee is little observed and the details of what passed within the four walls of its room are not published. The great parties in the House are but faintly responsible, because their leaders are not bound to express an opinion, and a vote taken on a non-partisan bill is seldom a strict party vote. Individual members are no doubt responsible, and a member who votes against a popular measure, one for instance, favored by the working men, will suffer for it. But the responsibility of individuals, most of them insignificant, half of them destined to vanish, like snowflakes in a river, at the next election, gives little security to the people.

The best defense that can be advanced for this system is that it has been naturally evolved as a means of avoiding worse mischiefs. It is really a plan for legislating by a number of commissions. Each commission, receiving suggestions in the shape of bills, taking evidence upon them, and sifting them in debate, frames its measures and lays them before the House in a shape which seems designed to make amendment in details needless, while leaving the general policy to be accepted or rejected by a simple vote of the whole body. In this last respect the plan may be compared with that of the Romans during the Republic, whose general assembly of the people approved or disapproved of a bill as a whole, without power of amendment, a plan which had the advantage of making laws clear and simple. At Rome, however, bills could be proposed only by a magistrate upon his official responsibility; they were therefore comparatively few and sure to be carefully drawn. The members of American legislative commissions have no special training, no official experience, little praise or blame to look for, and no means of securing that the overburdened House will ever come to a vote on their proposals. There is no more agreement between the views of one commission and another than what may result from the fact that the majority in both belongs to the same party.

Add to the conditions above described the fact that the House in its few months of life has not time to deal with one-twentieth of

the many thousand bills which are thrown upon it, that it therefore drops the enormous majority unconsidered, though some of the best may be in this majority, and passes most of those which it does pass by a suspension of the rules which leaves everything to a single vote, and the marvel comes to be, not that legislation is faulty, but that an intensely practical people tolerates such defective machinery. Some reasons may be suggested tending to explain this phenomenon.

Legislation is a difficult business in all free countries, and perhaps more difficult the more free the country is, because the discordant voices are more numerous and less under control. America has sometimes sacrificed practical convenience to her dislike to authority.

The Americans surpass all other nations in their power of making the best of bad conditions, getting the largest results out of scanty materials or rough methods. Many things in that country work better than they ought to work, so to speak, or could work in any other country, because the people are shrewdly alert in minimizing such mischiefs as arise from their own haste or heedlessness, and because they have a great capacity for self-help.

Aware that they possess this gift, the Americans are content to leave their political machinery unreformed. Persons who propose comprehensive reforms are suspected as theorists and crochet-mongers. The national inventiveness, active in the spheres of mechanics and money-making, spends little of its force on the details of governmental methods.

The want of legislation on topics where legislation is needed breeds fewer evils than would follow in countries like England or France where Parliament is the only law-making body. The powers of Congress are limited to comparatively few subjects; its failures do not touch the general well-being of the people, nor the healthy administration of the ordinary law.

The faults of bills passed by the House are often cured by the Senate, where discussion is more leisurely and thorough. The committee system produces in that body also some of the same flabbiness and colorlessness in bills passed. But the blunders, whether in substance or of reform, of the one chamber are frequently corrected by the other, and many bad bills fail owing to a division of opinion between the Houses.

The President's veto kills off some vicious measures. He does not trouble himself about defects of form; but where a bill seems to him opposed to sound policy, it is his constitutional duty to disapprove it, and to throw on Congress the responsibility of passing it "over his veto" by a two-thirds vote. A good President accepts this responsibility.

THE HOUSE OF COMMONS OF TODAY

(By Gerald B. Hurst in the *Nineteenth Century*, January, 1921.)

In spite of all its adherence to old phrases and old customs, the Mother of Parliaments is still the most efficient. Its wonderful adaptability is evidenced by its never-failing success in fitting ancient forms to meet modern needs. Notwithstanding a cumbrous method of procedure, its output of laws is prodigious, if not too prodigious. The cabinet system reconciles the sovereignty of Parliament with the maintenance of the executive powers, once enjoyed by the Crown, but now delegated to ministers, more effectually than any other known constitutional expedient. No statute is legally more fundamental than any other; so that a change in public opinion, however sudden and however revolutionary, can be mirrored in the statute book with unequalled speed. No other state possesses so elastic a Constitution. Men and newspapers may criticize the Government and the House of Commons with all their customary vigor, but not one in a thousand would wish to substitute "direct action" for so complete a democracy. Whenever parliamentary rule has been challenged in recent times by anarchical bodies like the Council of Action or the Sinn Fein organization, or by any other plotters against social order, the bulk of the nation has stood whole-heartedly by the Constitution.

The best test of a political machine is its actual working. The glory of the House of Commons is to have responded to this test throughout its history. In every age it has stood first in the world for its genius in harmonizing time-honored customs with the demands of successive ages and advancing civilization. Its fame is founded on its practice, not on its logic; and it is thus typically English. . . .

There is a common belief, much encouraged by the press, that the House of Commons fails to exercise proper control over the executive. It is quite true that the private member has little scope for his own initiative, owing to the absorption of the time of the House by Government business. If the coalition leaders will only promise the people at the next general election to pass fewer laws in the future he may again come into his own. For the moment he pressure of Government bills is overpowering. The private member's right to ballot for months on private bills in the early part of a session is a minute and elusive privilege. Questions to ministers, although no doubt they serve a purpose, are usually sterile. On many large questions of diplomacy and finance parliamentary supervision is reduced to the vanishing point. The argument, however, may well be carried too far. The majority of the House still retain the ultimate power of refusing to vote supply or to pass the Army (Annual) Bill, and a coalition ministry would be the last to

flout its opinions. The Commons in fact have a real influence on every issue, for a minister will rarely combat what is called the sense of the House; no man has ever gauged it better than Mr. Bonar Law. In committee, moreover, the process of obstruction is still a frequent expedient. In the hands of a tiny group of reactionaries it killed the Plumage Bill. In the hands of another group it emasculated the Ministry of Health (Miscellaneous Provisions) Bill. If Mr. Lloyd George seems all-powerful, it is merely because he is still regarded as first in peace as in war, and on essential issues he has a united country at his back.

THE PROCESS OF LAW MAKING

(Munro's "The Governments of Europe," pp. 190-191, The Macmillan Company, New York.)

. . . . Much has been written about the concentration of party responsibility in England and the fidelity with which party pledges are redeemed. A British political party, when it makes a promise to the people, is enabled by the organization and procedure of parliament to fulfil this promise. If it triumphs at the polls, it controls both the executive and legislative branches of government. The cabinet then proceeds to crystallize the party's promise into government measures with the assurance that these measures will be enacted into law. But in America the organization and procedure of the government does not so readily lend itself to the redemption of party pledges. Candidates for the presidency make all sorts of promises, express and implied, during the election campaign. But without the coöperation of Congress there is no way in which most of these promises can be carried out. Senators and representatives also make pledges, but unless the administration is ready to help in fulfilling them they go mostly unredeemed. The same is true, *mutatis mutandis*, in state government. Party programs are, therefore, a much less accurate forecast of future legislation in America than in England. Party pledges are more set at naught here than there. English parliamentary procedure is based upon the principle that the dominant political party, through its majority in the House of Commons and under the leadership of the ministry, is unequivocally responsible for the fulfilment of its program. No checks and balances stand in its way.

THE POWER OF THE SENATE

(By Dr. C. P. Patterson)

The Senate largely controls the House and the President, but does not like to be controlled itself by even the majority of its own

members. "Indeed," said Woodrow Wilson, "the Senate is, *par excellence*, the chamber of debate and of individual privilege." This is one of its chief elements of strength, but it enables a few Senators to paralyze the operations of the whole Government. In the Sixty-fourth Congress, this feature of the procedure of the Senate prevented the passage of such a large amount of much needed legislation that President Wilson, on March 4, 1917, when the measure for the defense of the American merchant ships was under consideration made the following appeal to the nation: "In the immediate presence of a crisis fraught with more subtle and far-reaching possibilities of national danger than any other the Government has known within the whole history of its international relations, the Congress has been unable to act either to safeguard the country or to vindicate the elementary rights of its citizens. More than 500 of the 531 members of the two Houses were ready and anxious to act; the House of Representatives had acted by an overwhelming majority; but the Senate was unable to act because a little group of eleven Senators had determined that it should not.

THE COMMITTEES OF CONGRESS

(Bryce's "The American Commonwealth," pp. 159-164, The Macmillan Company, New York.)

. . . . What are the results of this system?

It destroys the unity of the House as a legislative body. Since the practical work of shaping legislation is done in the committees, the interest of members centers there, and they care less about the proceedings of the whole body. It is as a committee-man that a member does his real work. In fact the House has become not so much a legislative assembly as a huge panel from which committees are selected.

It prevents the capacity of the best members from being brought to bear upon any one piece of legislation, however important. The men of most ability and experience are chosen to be chairmen of the committees, or to sit on the two or three greatest. For other committees there remains only the rank and file of the House, a rank and file half of which is new at the beginning of each Congress. Hence every committee (except the aforesaid two or three) is composed of ordinary persons, and it is impossible, save by creating a special select committee, to get together what would be called in England "a strong committee," i.e., one where half or more of the members are exceptionally capable. The defect is not supplied by discussion in the House, for there is no time for such discussion.

It cramps debate. Every foreign observer has remarked how little real debate, in the European sense, takes place in the House

of Representatives. The very habit of debate, the expectation of debate, the idea that debate is needed, have vanished, except as regards questions of revenue and expenditure, because the center of gravity has shifted from the House to the committee.

It lessens the cohesion and harmony of legislation. Each committee goes on its own way with its own bills just as though it were legislating for one planet and the other committees for others. Hence a want of policy and method in congressional action. The advance is haphazard; the parts have little relation to one another or to the whole.

It gives facilities for the exercise of underhand and even corrupt influence. In a small committee the voice of each member is well worth securing, and may be secured with little danger of a public scandal. The press cannot, even when the doors of committee rooms stand open, report the proceedings of fifty bodies; the eye of the nation cannot follow and mark what goes on within them; while the subsequent proceedings in the House are too hurried to permit a ripping up there of suspicious bargains struck in the purlieu of the Capitol, and fulfilled by votes given in a committee. I do not think that corruption, in its grosser forms, is rife at Washington. It appears chiefly in the milder form of reciprocal jobbing or (as it is called) "log-rolling." But the arrangements of the committee system have produced and sustain the class of professional "lobbyists," men, and women too, who make it their business to "see" members and procure, by persuasion, importunity, or the use of inducements, the passing of bills, public as well as private, which involve gain to their promoters.

It reduces responsibility. In England, if a bad act is passed or a good bill rejected, the blame falls primarily upon the ministry in power whose command of the majority would have enabled them to defeat it, next upon the party which supported the ministry, then upon the individual members who are officially recorded to have "backed" it and voted for it in the House. The fact that a select committee recommended it—and comparatively few bills pass through a select committee—would not be held to excuse the default of the ministry and the majority. But in the United States the ministry cannot be blamed, for the cabinet officers do not sit in Congress; the House cannot be blamed because it has only followed the decision of its committee; the committee may be an obscure body, whose members are too insignificant to be worth blaming. The chairman is possibly a man of note, but the people have no leisure to watch fifty chairmen: they know Congress and Congress only; they cannot follow the acts of those to whom Congress chooses to delegate its functions. No discredit attaches to the dominant party, because they could not control the acts of the eleven men in the committee room. Thus public displeasures rarely finds a

victim, and everybody concerned is relieved from the wholesome dread of damaging himself and his party by negligence, perversity, or dishonesty. Only when a scandal has arisen so serious as to demand investigation is the responsibility of the member to his constituents and the country brought duly home.

It lowers the interest of the nation in the proceedings of Congress. Except in exciting times, when large questions have to be settled, the bulk of real business is done not in the great hall of the House but in this labyrinth of committee rooms and the lobbies that surround them. What takes place in view of the audience is little more than a sanction, formal indeed but hurried and often heedless, of decisions procured behind the scenes, whose mode and motives remain undisclosed. Hence people cease to watch Congress with that sharp eye which every principal ought to keep fixed on his agent. Acts pass unnoticed, whose results are in a few months discovered to be so grave that the newspapers ask how it happened that they were allowed to pass.

The country of course suffers from the want of the light and leading on public affairs which debates in Congress ought to supply. But this is more fairly chargeable to defects of the House which the committees are designed to mitigate than to the committees themselves. The time which the committee work leaves for the sittings of the House is long enough to permit due discussion did better arrangements exist for conducting it.

It throws into the hands of the chairmen of committees, especially, of those which deal with finance and with great material interests. They become practically a second set of ministers, before whom the departments tremble, and who, though they can neither appoint nor dismiss a postmaster or a tide-waiter, can by legislation determine the policy of the branch of administration which they oversee. This power is not necessarily accompanied by responsibility, because it is largely exercised in secret.

MODERN POLITICS—AN INTERPRETATION

(Haines' "Your Congress," pp. 38, 40-41, 1915.)

Big politics, more than big business, is the immediate and common problem which we have to face.

Politics is the gateway to everything government has to offer or to withhold from the people. At present no real advancement in industrial conditions, no vital change in government, can come excepting through political action. No economic theory, no moral idea, can become a reality excepting through the instrumentality of politics. And that is the only legitimate function that politics has—to serve as the agency for the application of economic and

moral principles to the life of the people. Politics should be only the means to that end; but modern political organization has become an end in itself. This end is office and the ever-increasing perquisites of office.

In the last short session of the Sixty-third Congress there were passed 244 bills and resolutions. Of this number 229 related to one or both of the basic elements in the political system—patronage and pork. Less than thirty were measures in which the general public had an interest. Adding such perennial incidents as the mileage garb and misappropriated clerk hire, and special events like the sham attempt to make members earn their salaries and the Mulhall-McDermott matter, one gets a startling, but not an unfair, picture of the American Congress in action.

Congress is the source and center of practically all that is perverse in modern politics.

Whatever is national in scope must come out of Congress. Congress as at present constituted and controlled is 99 per cent politics—perverted politics. Politics is always the first and last and intermediate consideration. Economics, national morality, the common welfare, are only incidental. The first concern of every legitimate economic and moral interest should be to reverse this relationship. Then only can there come a fair, out-in-the-open consideration and choice among economic principles.

The great economic problem today is the labor question, but until the hold of the political system upon Congress is broken there can come no adequate and lastingly equitable changes in that field.

Those who embrace socialism as the best economic doctrine are confronted with the same political problem: No part of the national ownership program will be possible excepting through congressional action.

Advocates of the single tax face the same necessity for acting through perverted political agencies.

You may regard equal suffrage, or social legislation such as old age pensions, or prohibition, or conservation, or national highways, as of chief importance; whatever your interests, if national in scope, they can be realized only through congressional, which means political, action.

Many hold that governmental institutions must be changed, that the machinery of government should be made more democratic: in the field of "popular government" the same common problem appears, only more perplexing because attended by more duplicity and double dealing. A national initiative and referendum can come only out of a Congress in which politics and political objects occupy the center of the stage. It is the same with a gateway amendment to the Constitution, and proportional representation, and a one-branch legislature. Even the changes that would help to change

Congress must come out of Congress—where politics and politicians dominate in their own interests, which are not public interests.

Politics, the servant, the incidental thing, has grown so great as to overshadow and subordinate all else in government. The problem, then, the first task of all groups, regardless of conflicting economic convictions, is to unite to break up the vicious, bi-partisan political plunder system, and reduce politics back to its only legitimate function, that of serving as the instrumentality for the application of economic and moral principles to the common welfare of the people. . . .

METHODS OF LEGISLATION

(Sir Courtenay Ilbert's "Methods of Legislation," pp. 27, 47-49, University of London Press. 1912.)

All I can say is that absence of responsibility for the preparation of legislative measures, and absence of security for their conformity to general principles and their consistency with each other, are among the chief defects noted by competent critics in American legislative procedure.

. I believe that most Americans would agree that the amount of sifting which bills undergo in Congress, and the amount of attention and criticism which is brought to bear upon them both inside and outside the legislature are far less than in the case of bills introduced into the Parliament at Westminster.

Another difference lies in the greater or less use made of the power of the executive government to supplement parliamentary legislation by means of rules or orders having the effect of law. All free countries recognize the importance of maintaining the principle that a distinction ought to be drawn between the legislative, judicial and executive functions of government, and that these functions ought to be exercised by separate bodies. But they differ very much in the application of this principle. The principle of separation of powers, as it is sometimes called, was a leading tenet in the political philosophy of the eighteenth century, and is nowhere more emphatically affirmed than in the Constitution of the United States, with results which are not always conducive to good government. There is always and everywhere a tendency on the part of those responsible for the three great branches of government respectively, to regard the others as rivals, to fret at limitations of their own powers, and to poach on the provinces of their neighbors. And this tendency is increased and accentuated if too hard and fast a line is drawn between organs and functions which ought to work in harmony with each other, and the relations of which to each other require the most delicate adjustment for their proper working. One result of denying to the legislature at Washington the control

which the legislature at Westminster exercises over the executive, is that Congress is always trying to regulate by bill matters of detail which in this country would be left, and in the opinion of most of us would properly be left, to be regulated by administrative action and administrative regulations.

CLOSURE: THE HOUSE

(Rogers' "The American Senate," pp. 142-144, 145-147, Alfred A. Knopf, New York, 1926.)

. . . . The increasing activity of the Rules Committee in reporting special orders for the consideration of legislation has not been given the attention it deserves. The practice, as I have said, began with the Speakership of Mr. Crisp in the Fifty-second Congress. It was in part an attempt to prevent filibustering which had been freely resorted to in the previous Congresses. The special orders, which could be reported by the Rules Committee at any time, limited both amendments and debate and made it certain that the House would take action at a time and in a way determined upon by the leaders.

Increasing use has been made of special orders. At the first session (special) of the Sixty-third Congress (April 7 to December 1, 1913) only six special orders were reported and four of these applied to appropriation bills. This, it will be recalled was the session when the new Democratic administration (making full use of the caucus) was passing its currency, trust, and tariff legislation. These six special orders were hardly in excess of the number at the first session of the Sixty-first Congress (March 15 to August 5, 1909). Then the Census Bill, the Tariff Bill, the conference report on the Tariff Bill, and an amendment to the urgent deficiency bill were the only matters on which the Committee on Rules proposed to suspend the general procedure of the House. By the Sixty-seventh Congress, however, important business was largely regulated by special orders imposing a rigorous form of closure. Frequently the special orders were presented without any notice, and there was thus raised in an acute form the difficult question which, as I have said, confronts every legislative assembly: how to square the necessity for certainty and a time-table in legislative business with due notice to members and freedom of discussion. The matter is, of course, more acute in the American Congress because there is no centralized authority over legislative business such as is found in a cabinet form of government. When the House of Representatives revised its rules at the beginning of the Sixty-eighth Congress, it was provided that a special order shall lie over one day unless immediate consideration was authorized by a two-thirds vote.

Neither the number of the special orders nor their applicability to important legislation, however, has of itself a decisive influence on the deliberative functions of the House of Representatives. It matters little that at the second (short) session of the Sixty-eighth Congress eight special orders were reported, or that in the first session there were nineteen and at the second session of the Sixty-seventh Congress twenty-nine. Nor is it important of itself that these rules covered the whole *ambit* of congressional business—appropriations, buildings, interstate commerce, agriculture, taxation, and constitutional amendments. From the standpoint of the House as a deliberative assembly or a rubber stamp, the vital thing is what the orders provided in opportunities for debate and amendment. Their ungenerous character is not difficult of demonstration. . . .

One of the most extreme cases of this sort occurred in May, 1920, when the House acted on the first bonus bill. This provided for insurance, education, land settlement, and "adjusted compensation," and levied taxes to raise the billion dollars that would be required. It was an extremely complicated measure, approved as a whole by probably only a tiny section of the House, but the leaders had determined that it should be passed as part of the Republican campaign strategy. It was certain that it would not be considered in the Senate. The Republican Steering Committee considered various forms of closure, and at first determined upon a rule limiting debate to five hours, preventing any amendment, and allowing a single motion to recommit to the committee that had reported the bill. There was a great deal of opposition to this proposal and it was abandoned, but in the end the measure was forced through with the House even more effectively, although not so openly, gagged.

On May 29, 1920, with Congress slated to adjourn on June 5 to permit the members to attend the presidential nominating conventions, the Rules Committee proposed a rule, "That it shall be in order for six legislative days, beginning May 29, 1920, for the Speaker to entertain motions of members of committees to suspend the rules under the provisions provided by the general rules of the House." This proposal but poorly concealed its real purpose; suspensions for the final six days of a Congress had been resorted to, almost without exception, only during the short sessions, when Congress must adjourn on March 4, and when there is the greatest congestion of business. There were no special reasons to make such a procedure necessary at this time. Nevertheless, the rule was adopted, and Representative Fordney immediately moved "that the rules be suspended and that the House pass H. R. 14157, known as the soldiers' bonus bill." Twenty minutes a side were allowed for debate, the rules were suspended, and the bill was passed. As Representative Mann, one of the ablest parliamentarians in the

House, said, no bill as important and complicated had ever been forced through with no opportunity for amendment. . . .

LEGISLATING WITH A DARK LANTERN

(Haines' "Your Congress," pp. 75-78, 80, 1915.)

THE PART THE CAUCUS PLAYS

Leadership, to be effective, must be based upon something more than personal power. The party "leader," in order to have a following, must have at his disposal spoils with which to reward his followers. In the House these rewards take the form of favored committee places, patronage, perquisites, prestige, etc. It is instructive to note how Mann and Underwood came to occupy the positions they undeniably held as respective leaders of the Republican and Democratic regulars in the last House. The method is simple. It should be understood, however, because it illustrates the comparative importance of caucuses and committees, their dependence each upon the other, their respective contributions to the building of the organization.

Take the case of Mr. Mann. Before the last Congress was organized, the leaders of his party apparently affected a tentative combination of reëlected Republicans. (The new members are always excluded from real participation in the organization.) With this *assumed* power they went into the Republican caucus. The caucus ratified their tentative action, making Mr. Mann their candidate for Speaker, their floor leader, and giving him authority over the Republican membership of committees. Thus was the *assumed* power made *real*. Mr. Mann then had actual control of the regulars of his party because their congressional fortunes were largely in his hands. It was much the same on the Democratic side, only the procedure in that camp was more complex and mystifying.

Neither party caucus could have become a dominating force in the beginning without a tentative "organization" to bring it into being. Neither caucus could long remain intact without a real organization back of it. In fact, a caucus is only the manifestation of an organization. One man, or a few men, can control a caucus only when they have gained control of the membership of the caucus through domination of the machine—which means the regular committees.

The power of the caucus lies in the popular belief that it is an institution of real power. It is not. It has no power except that born of the fear of it. When its bluff and bluster fail, the caucus is a weak, timorous thing that shies at his own shadow. So false is its foundation, so indefensible is its place in the machinery of legislation that, by bolting and advertising their insurgency throughout

the country, no more than ten determined members can bring about its disruption at any time.

This misunderstanding of the people is based largely on the belief that the caucus can bind reluctant members to unanimity. That is false. The action of a caucus binds only those members who were bound by the "organization" before the caucus acted. No one ever heard of a caucus where the leaders were not in harmony as to the course to be taken. Why did not the Remocrats caucus and unite in the fight to repeal free tolls?

The greatest fallacy of all is the contention that the caucus sometimes is used to probote good legislation. The caucus in its influence is always obstructive, and never constructive. Not once in the last Congress did the caucus contribute the deciding factor of strength to secure the passage of a measure. On the other hand, it was employed repeatedly to shield and mantle with vague, shifting irresponsibility the obstructive tactics of so-called leaders.

The caucus assumes and exercises responsibility for the organization and activities of the House. But who in the caucus is responsible? There's the rub. How is it possible to reduce the responsibility down to individuals? If the caucus has any power, regardless of what form of power it may be—negative, obstructive, or even a kind of positive power based on the tolerant ignorance of participants and people—it is an irresponsible power. When you try to fix responsibility for anything the caucus does or does not do, the outlines of individuals, dimly seen even at first, gradually dissolve into a misty mass.

Yet the majority party caucus, an unofficial institution, essentially secret, its meetings held behind barred and bolted doors, with no record of the debate, not even a sound escaping; with no assured integrity of the meager records it does keep; with absolutely no power to prevent dodging or the manipulation of quorums; with its portals ever open to pork-barrel bargainers, and all the underground influences of politics; with rarely more than a fourth of the whole membership of the House doing the deciding, has often usurped the official functions of the House itself.

A small minority may prevail over the whole House through the caucus. The caucus is the instrument of a minority; it means minority rule, the most undemocratic thing in the catalogue of political perversities.

It is indefensible enough when a minority in the caucus presumes to act for the House, but that is not the worst of it. The caucus has become the last refuge of the dodgers. Those actually responsible for not bringing politically dangerous questions before the House for an open vote seek shelter in the failure of the caucus to command them to do so.

"Log jams" are the modern politicians' chief delight. When the calendars become so congested and obstructed with appropriation measures and special orders that dangerous issues cannot be reached, then ordinary Congressmen are in bliss. In the first session of the last Congress, the caucus passed a resolution forbidding standing committees to report bills to the House without express permission from the caucus.

During all that period this meant a double check upon committees. The "reformed rules" gave the House no practical power to compel reluctant committees to report business; that was one side of it. On the other hand, if standing committees desired to act on bills and advance the work of Congress, there was this caucus mandate to obstruct them. In that way the caucus contributed to a "log jam" which was so complete as to make the Rules Committee almost the absolute dictator of what the House did or did not do.

Then, with Calendar Wednesday filibustered and disregarded out of countenance, the only possible way to get anything not privileged before the House was through a special rule from the Rules Committee, and the Rules Committee, although the caucus may not have whispered "thou shalt not," refused to act until the caucus thundered "thou shalt." Neither the Committee on Rules nor any other committee is in any official way responsible to the caucus, but the game worked because the excuse was convenient and the people too far away to understand.

Partyism is the parent evil in Congress. The caucus is the last and fullest expression of partyism. . . .

DISFRANCHISING MEMBERS

In practical operation the caucus disfranchises every Congressman who does not participate in caucus legislation. That means all minority members, in the last Congress one-third of the membership of the House. As will be shown, many more are indirectly disfranchised by being outvoted in the caucus.

Members who participate in a caucus, either through ignorance of its straw-man strength or a desire to justify their position before the public, feel that they are bound to abide by the decisions of the caucus, and to carry out its decrees. Take away from a caucus that cardinal fiction and it is no longer a caucus. Without assuming the power to bind its members to a unanimity, a caucus becomes only a conference. Obviously, then, a majority of the caucus "controls" its own minority, and, when it is a caucus of the predominant party, a majority of the caucus controls the whole membership of the House. . . .

DISADVANTAGES OF CONFERENCE COMMITTEE PROCEDURE

(Ogg and Ray: "Introduction to American Government," pp. 397-398, The Century Company, New York.)

. . . . In Congress, as in the state legislatures, the conference committee is an exceedingly useful device. It is more necessary than in European parliaments (although it is by no means unknown in them) because, in the first place, our national and state legislatures are organized in accordance with a more extreme bicameral theory than are most foreign legislatures, and, in the second place, because, whereas in cabinet-governed countries the ministers, comprising in a sense a continuous conference committee of the two Houses, are able to coördinate the Houses' actions, our system of balanced government leaves the legislative Houses legally isolated and devoid of coördinating machinery except such as the Houses set up for their own convenience. The machinery employed is, of course, the conference committee. Some questionable features, however, appear. Almost without exception, conference committees work in secret. Doubtless it would be difficult for them to make headway otherwise. Yet, in view of the power which they wield, strong objection can be, and is, raised. For while the committee is supposed to deal only with actual differences between the Houses and to stay well within the bounds set by the extreme positions which the Houses have taken, it often works into the measure, as reported, many features of its own, even going so far as to rewrite whole sections with the sole purpose of incorporating the views which the majority members happen to hold. Conference committee reports are likely to reach the Houses near the close of a session, and, as has been said, are very likely to be adopted. There may be little time for critical scrutiny or debate; anything that the committee reports has a strong presumption in its favor; failure to act might entail embarrassment. In practice this often means the enactment of important provisions without consideration by either House—in other words, legislation nominally by Congress but actually by conference committee.

NEGATIVE MATERIAL

CRITICISMS OF THE AMERICAN SYSTEM

(Luce's "Legislative Procedure," pp. 189-200, 1922, Harvard University Press, Cambridge, Mass.,

It will be seen that in weighing the comparative merits of the English and American systems, we are to determine whether it is better to have the preliminary investigation and the discussion of minute detail conducted by the whole House or a sizable fraction thereof, or by small groups to each of which is entrusted all measures relating to one field of governmental activity.

FACILITIES FOR INTRIGUE

In criticism of small groups, American committees, it is averred that, like all other small and secret bodies, they tend to intrigue; that they furnish facility for the exercise of underhanded or corrupt influences; that they are the easy prey of the lobbyist. It is charged that though semi-judicial in their nature, they rarely give both sides of a question equal opportunity for presentation; and that the advantage lies with the side supported by able counsel, skilled in argument and accustomed to the conditions of committee hearings. Furthermore, it is argued that small groups are peculiarly exposed to the temptation to compromise matters of principle, as well as to sacrifice broad policies to personal feeling or selfish interest. These are charges that can be brought with more or less force against many kinds of small working groups, and the answer is that though the evils do exist, they are found relatively unimportant in the activities of boards of directors, trustees, commissioners, and the like, which for generations have been justified by their fruits, and have become customary organs of joint effort.

DISSIPATION OF ABILITY

More unusual are the conditions found in the make-up of legislative committees. Unlike working groups in other fields, fitness and capacity or not the predominating tests for their selection. Every member of a legislature or Congress must by custom have at least one committee position; often he gets two or three positions, sometimes several, or, indeed, in the case of Senators, they might be called many. It is generally felt that on every committee there ought to be at least a few men of recognized capacity, for bills are to be assigned by classes of topics, making it impossible to concentrate all

the important questions, and in advance there is no certainty that any single committee in the whole list will have nothing but unimportant work. As the strong men in any legislative body make up only from one-fifth to one-tenth of its membership, in practice the result is that they are scattered through the committees, and the chances are that the majority of each committee will be made up of men without experience or without marked capacity. This is said to dissipate ability, where instead ability ought to be concentrated on the really important problems.

This criticism is weighty. It can be met only by pointing out that it applies to all representative bodies gathered as a result of popular suffrage, and that the situation is saved by the familiar workings of leadership, whereunder the few of greater ability guide the many of lesser ability. Legislatures might or might not be more effective if they were composed only of the strong few. The American theory has been that democracy is safer, if not wiser, when it is guided by the many.

RESTRICTION OF INTERESTS

Another result of what may be called topical committees is that the interest and activity of each legislator is for the most part restricted to the topics dealt with by the committees to which he is assigned. Only as a witness can he share in the work of any other committee. Assuredly this has its unfortunate side. On the other hand, there are few men so gifted that they can do many things well, and on the whole it may be advantageous to secure concentration of legislative study. The man who wants a finger in every pie is apt to be a rather useless sort of man, of the busybody variety. Now and then a legislator may well chafe because he cannot share activity in more matters than his committee assignments bring to him; he may be justified in feeling that he could really help in the work of this or that other committee. Individual hardships no doubt follow. Yet there is usually work enough to go around, and the man willing to apply himself to whatever comes to his lot need rarely be idle.

Undoubtedly the system throse much power into the hands of chairmen, but where is the harm? Somebody must lead. If it is not the strong, it will be the weak. If it is not the experienced, it will be the inexperienced. Otherwise chaos. But, it is said, this is leadership without responsibility. The objection is fanciful. It carries the demand for responsibility to an absurd extreme.

RULE OF LITTLE LEGISLATURES

Next consider the allegation that most of the laws are really made by committees—that we are ruled by “little legislatures” This

is a phase of the subject to which much attention has been given by those writers who state a simple fact with a context implying that it is necessarily reprehensible. As an example, take Francis E. Leupp's description of a familiar scene at Washington, the same sort of a scene that is to be observed on a smaller scale in every legislature of the land. "Perhaps the most cheerful pleasantry ever perpetrated by Congress," he says, "is the bit of comedy enacted in the Senate nearly every day when the clerk's desk is heaped with bills for private pensions and relief. It may be that only one Senator is in his seat, and he reading or writing. One by one the bills are called by title, the presiding officer reciting the usual formula: 'The question is, Shall the bill pass? Those in favor will say "Aye"; those opposed, "No." The ayes have it and the bill is passed.' Not another voice is heard, and millions of the people's money is voted away at a sitting without the sound of an 'Aye' or a 'No'—the bills floating through on nothing but the silence which is assumed to give consent."

This breathes the notion that the practice must be evil. The same impression can be produced by a statement of fact without any comment at all. Thus Professor Reinsch says in a footnote: "On one day in January, 1905, 459 bills were passed in eighteen minutes. In 1899 the River and Harbor Bill carrying appropriations amounting to \$30,000,000 was passed after a debate of ninety minutes." Here the very absence of explanation permits the reader to draw an unfavorable conclusion because on their face the facts suggest nothing else. Even so candid a man as President Cleveland described the practice in a way to give the impression that there is but one side to the question. It was in a message vetoing the Elizabeth S. De-Kraft pension bill, June 21, 1886, that he said: "In speaking of the promiscuous and ill-advised grants of pensions which have lately been presented to me for approval, I have spoken of their 'apparent congressional sanction' in recognition of the fact that a large proportion of these bills have never been submitted to a majority of either branch of Congress, but are the results of nominal sessions held for the express purpose of their consideration and attended by a small minority of the respective Houses of the legislative branch of government."

UNFAIR CRITICISM

In the previous year Woodrow Wilson, who was destined to be a successor of Mr. Cleveland, had published his book on "Congressional Government," with strictures on the same point. Said he: "The House never accepts the proposals of the Committee on Ways and Means, or of the Committee on Appropriations, without due deliberation; but it allows almost all of its other standing committees virtually to legislate for it. In form, the committees only digest the

various matters introduced by individual members, and prepare it, with care, and after thorough investigation, for the final consideration and action of the House; but, in reality, they dictate the course to be taken, prescribing the decisions of the House not only, but measuring out, according to their own wills, its opportunities for debate and deliberation as well. The House sits, not for serious discussion, but to sanction the conclusions of its committees as rapidly as possible. It legislates in its committee-rooms; not by the determination of majorities, but by the resolutions of specially-commissioned minorities; so that it is not far from the truth to say that Congress in session is Congress on public exhibition, whilst Congress in its committee-rooms is Congress at work.

In spite of criticisms from such eminent sources, I hazard the belief that the practice is not bad, but, on the contrary, is positively good, and whether bad or good is at any rate absolutely necessary as long as our legislative bodies persist in concerning themselves with administrative detail. Not a word is to be said in defense of what is virtually the delegation of legislative power to committees in matters of public policy involving important governmental principles. These, however, are numerically a very small part of the questions confronting every Congress and Legislature. The overwhelming mass of the business is technical, administrative or quasi-judicial.

CHOICE BETWEEN EVILS

How is it to be handled? Take, for example, the much criticized river and harbor appropriations. Granted that a committee of Congress is an unfit body to decide whether new harbor or old harbor or some other harbor should be dredged. But Congress itself, sitting as a whole, is a vastly more unfit body to decide. Something anyhow is gained by reducing the number of incompetents passing judgment. They are not incompetent for certain things, but what can the mass of Representatives be certain that they know about the needs of some little harbor of which most of them never before heard? Or take the pension bills that brought applause to President Cleveland because of his vetoes. You say the pension committee did bad work. Very likely, but would not House or Senate have done far worse? The committee has at least the opportunity to hear and examine evidence as well as to deliberate. House or Senate cannot spare time to study the facts in these matters of administrative detail. It would take those bodies a century to go into each matter with the thoroughness of committee procedure.

Undoubtedly we do not do the thing in the best way, but it is the only way if our lawmaking bodies are to make rules and regulations as well as laws, if they are to dispense justice to claimants,

if they are to continue the pretense of being expert in administration. Only by having thirty, forty, or fifty "little legislatures" can even a sizable fraction of the work be done. That is the real reason why we legislate by small groups, subject to the revision of the full assembly. Perforce this revision is hasty and inadequate. It must be assumed that most of the committee work has been done right. The marvel is that under the conditions so much of that which is imperfect is detected and corrected.

Of course there is complaint that the scrutiny is not close enough, that too much reliance is placed on the judgment of the committees, and that the tendency to follow them blindly permits them to prevail with much that ought not to be approved. For instance, Professor Beard, in his "American Government and Politics," says, "it is by the committee that good measures are often smothered or riddled by amendments, and pernicious measures carried through the Legislature without adequate scrutiny." Had he served in such a Legislature as that of Massachusetts, he never would have given space to such an argument. He would have found that amendment in matters of detail is far more wisely made in committee than on the floor. The judgment of the committee in respect thereof is usually sound, and experience proves it more often correct than the judgment of the House as a whole. If the proposed change goes to the essence of the matter, previous study by a committee more often helps than hurts.

COMMITTEES NOT INFALLIBLE

Yet committees are not infallible and it would be unfortunate if in fact their use precluded amendment by House or Senate itself. That is not the case in Massachusetts; amendments are readily and freely made in the course of debate. It is not the case in Iowa. The "Legislative Manual" of that state says committee amendments are considered first and often are amended before adoption. Then come amendments from the floor, and the Journals show a large number of these are offered. In a recent Senate more bills were amended that had no committee recommendations than those that had amendments proposed by committees; and a number of bills to which there were proposed committee amendments were rejected. Surely of these states it cannot be said that, because some committee has reported, "pernicious measures are carried through the Legislature without adequate scrutiny." No proof comes to my notice that elsewhere such a regrettable consequence generally follows. In the very nature of things it is improbable. Although the backing of a committee may have much influence, yet the measure that is pernicious almost always arouses too many enemies to let it run the gauntlet of the House and Senate without criticism.

EXAMPLES OF FOREIGN GOVERNMENTS

Under the system of ministerial responsibility, which is usually favored by those who condemn American committees, it is significant that the forward-looking men urge committees for the very purpose of greater freedom of amendment. In the German Reichstag, where bills were not always referred to committees, Lowell said it was noteworthy that the more advanced Liberals constantly urged such a reference in the case of Government bills, because the authoritative influence of the ministers was thereby diminished, and greater opportunity was given for criticism and amendment; while the more moderate parties, following the lead of the Government, often preferred an immediate discussion of important measures by the full House, without the intervention of any committee at all.

Even in England, with the cabinet system so often held up for our admiration, it is urged that more questions should be handled after the American fashion. There is no small significance in the opinion of such a man as W. E. H. Lecky, who rarely saw the good in anything democratic. "The House of Commons," he said, "as a whole is becoming so unfit for the transaction of the details of business that it will probably more and more delegate its functions to committees; and these committees submit great questions to a thorough examination, bring together the most competent practical judges and the best available information, weaken the force of party, and infuse into legislation something, at least, of a judicial spirit." Thus English thinkers urge imitation of the United States, while American reformers urge imitation of England. Distant hills are always greenest.

COMMITTEE BARS INTRODUCER OF BILL

Another of the objections raised to the American system is that the introducer of a bill gets no chance to protect his offspring, at least in its infancy, unless he happens to be a member of the committee to whose mercies it is entrusted. There is something in this argument, but it militates with equal force against the bicameral system, which precludes the parent of an idea from fighting for its life in the body of which he is not a member. Furthermore, if experience proved this to be a really serious objection, the logical deduction would be that no bills are likely to come of age except those born within the legislative chambers, which everybody knows is far from the case. It may be doubted whether often there is likely to be great value in a measure that has but one warm friend, its parent.

No more serious is the objection that the committee system creates unfortunate rivalries for the right of way. Nothing of the sort develops in Massachusetts or in other states where every petition

gets an answer, every bill that has been introduced gets a report, every report gets its place on the calendar, and the calendar is disposed of before prorogation. In legislatures that do not finish their work, as also in the overburdened Congress, committee rivalries may do harm, but if there must be preferences, why are not committee rivalries as likely to meet the need as any other system? The blame, if blame there be, should fall on the situation and not on the methods it produces.

MAKES LAW-MAKING UNATTRACTIVE?

Even of less weight seems to me the criticism that the committee system, by shifting the center of gravity from the floor to the committee room and lessening the opportunity for debate in the open, disastrously reduces the attractiveness of legislative life for strong men. Yet as keen a man as E. L. Godkin declared this to be the most serious defect in the committee system, and the hardest to remedy. Said Mr. Godkin: "In recent days, legislatures in all the democratic countries have been made repulsive to men of mark by the pains taken 'to get business done' and to keep down the flood of speech. Everybody who enters a legislature now for the first time, especially if he is a man of talent and character, is bitterly disappointed by finding that the rules take from him nearly every opportunity of distinction, and, in addition, condemn him to a great deal of obscure drudgery. It is only by the rarest chance that he finds an opening to speak, and his work on the committees never shows itself to the public. It consists largely in passing on the merits of the thousands of schemes concocted by inexperienced or ignorant men, and has really some resemblance to a college professor's reading of 'themes.' In fact, the committee room may be called the grave of honorable ambition. We find, accordingly, that only few men of real capacity, who have once gone to the Legislature or to Congress, are willing to return for a second term, simply because they find the work disagreeable and the reward inadequate."

This so hopelessly confuses causes and results that one is at a loss to know where to begin refutation. It ignores the fact that somewhere, somehow, by somebody, the work now done in committees must be done. If it is not agreeable to men of real capacity, shall it be left to men without real capacity? Will it be less disagreeable if it is transferred to the floor? How will that increase the speaking opportunity for the man of talent and character? Is it the rules that deprive such a man of the opportunity for distinction, or the volume of business that compels the rules? And is it the case that any considerable number of men with or without capacity decline a second term in Legislature or Congress? True, it is that long terms of service either in Congress or the Legislatures are not the rule,

but that is from causes having nothing whatever to do with the committee system.

PUBLIC INTEREST IN LEGISLATION

Akin to this particular criticism is that which blames committees for the decadence of public interest in the proceedings of Congress and Legislatures. This strikes me as far-fetched, but Bryce includes it in his list of defects, and it should therefore get at least a word. It may be that lack of interest is in some measure due to the small proportion of debate that has any elements of the dramatic, the picturesque, or the vital, but evidence is wholly lacking to show that this proportion is smaller than of old. The colonial Journals indicate that in olden days too the bulk of the business was trivial. Men who served in the early Congresses were constantly complaining of the waste of time on inconsequential things. May it not be that the wonderful increase in the abundance and diversity of social interests in these later years has made it impossible for the petty phases of lawmaking to draw and hold public attention?

Another complaint is that committees by working independently produce conflicting and bad results. In Mr. Wilson's epigrammatic phrase, "our legislation is conglomerate, not homogeneous." Elsewhere he has described it as "haphazard, incoherent." Bryce thought the system lessens the cohesion and harmony of legislation. This type of criticism assumes that there ought to be cohesion, harmony, homogeneity. Why? The purpose of government is not single, save in the most abstract sense. The common welfare is to be advanced in a thousand directions that have no closer relation than the thousand fields of social activity with which they are concerned. The comparison with a single industrial enterprise is wholly fallacious. The directors of a great corporation may well devise a unified program for the sole purpose of earning dividends from a group of closely allied activities. Nothing of the sort appears in government. Who but a dreamer can conceive any relation between the suppression of crime and the building of good roads? . . .

SCATTERING RESPONSIBILITY

As if the two faults were related, lack of coördination and loss of responsibility were intermingled in a scathing criticism by Joseph H. Choate, Jr., in the *North American Review* for January, 1916. "The present pernicious committee system," he declared, "is the bane of all American legislative bodies. This system, by scattering responsibility among a score of separate committees, which act without reference to each other, and consist of men not known to the public in connection with their duties, makes the work of any Legislature

inharmonious and uncorrelated, and deprives the people of all real power of holding any one accountable for bad measures." Mr. Bryce and Mr. Wilson had each blamed committees for their impairment of responsibility. Surely it is audacious to question so eminent a trio. Yet one may gain courage from recalling that Madame Roland found crimes to have been committed in the name of Liberty, and from reflecting that likewise follies may be committed in the name of Responsibility.

Responsibility is as hard to define as Liberty. Without trying to frame an adequate description of its purport, let us assume that the sting of its lies in punishment. A man is to suffer for an error that can be justly laid at his door, the theory being that certainty of punishment will make him cautious and virtuous. With the theory there can be no quarrel. Its application to government brings the rub. Government may be chiefly a matter of one man—the monarch where (if anywhere) autocracy survives, the Prime Minister of England, in time of war the President of the United States. Or there may be sharing of leadership—the National Assembly of France, the American Congress in time of peace, the State Legislatures, each dividing power with Cabinet, President, Governor, or party leaders, as the case may be. The two methods, inexactly described by the words "autocracy" and "democracy," shade into each other, but their outlines are distinct enough to give contrast. Democracy secures responsibility through the devices of political parties. It makes little attempt to punish individuals as such. It holds that in such a matter as the making of laws, wherein many men are asked to share, it would be unjust and impracticable to individualize responsibility. The vast range of legislation goes far beyond the mental capacities of any one man or any small group of men. No single human being so nearly approaches omniscience that he can reasonably be expected to pass intelligent judgment on the wisdom of all the proposals coming to even a single session of a State Legislature, much less the thousands on thousands flooding Congress every two years.

CRITICS TAKE PARTIAL VIEW

What the critics really have in mind is that very small number of important and vital measures upon which there may usefully be party division. By reason of these they damn the whole committee system. Some day we may learn how to separate from the mass the few great questions of public policy. Meantime it is idle to denounce by reason of irresponsibility an effective, practical, sensible way of handling the great mass of the business, in regard to which there would be gross injustice, marked lessening of efficiency, and no

compensating advantage, were a system securing individual punishment substituted.

Even the critics of the committee system admit it has various advantages. Under it far more measures can be handled. Worthless bills can be easily and quickly killed. The chance of hasty and ill-considered legislation is lessened. Work is more fairly divided. Every member gets an opportunity to have a share in lawmaking, where, with only debate on the proposals of a ministry, the great mass of members can do nothing but vote. In committees many men can apply facilities and capacities developed by their usual vocations, which the lack of ease in public speech keeps them from exercising on the floor of a House. Each committee acquaints a few men with some one field of governmental activity. They become specialists, with all the gains that modern development has proved to spring from specializing and the subdivision of labor. Some of the members are almost sure to serve on the committee several years, thus carrying to the newcomers knowledge of the routine of business, together with other benefits of experience. Particularly useful may be their acquaintance with the capacities and failings, hobbies, and prejudices, resources and limitations, of the administrative officials whose recommendations are to be accepted or rejected in whole or in part.

COMMITTEES HEAR BOTH SIDES

Furthermore, committee hearings disclose in some degree the attitude of public opinion and the extent of public demand. They give chance to hear both sides without the bias of partisanship and the prejudice of personality, better than is possible under the conditions of legislative debate. They permit the taking of testimony, the preservation of evidence *in extenso*. They facilitate the use of experts. They furnish an easy means of communication between the legislative and executive departments.

Bryce noted as an advantage of committees their replacing of the system of interrogating ministers in the House that prevails in most European chambers. Curiously enough, where Bryce, an Englishman, saw gain in this particular, Woodrow Wilson, an American, saw loss. Said Mr. Wilson: "Resolutions which call upon officials to give testimony before a committee are a much clumsier and less efficient means of eliciting information than is a running fire of questions addressed to ministers who are always in their places in the House to reply publicly to all interrogations." It may be that to secure the attendance of officials by means of resolutions is a clumsy method, but there is no need whatever for it and as a matter of fact it is rarely used. Customarily officials cheerfully present themselves in committee rooms whenever invited, and experience

does not suggest that this method of eliciting from them fact and opinion fails to produce all the desired results.

Committees, too, furnish better means for the scrutiny of administrative departments, study of their efficiency, investigation of their defects. If this is to continue a province of the legislative department, the functions of committees in connection therewith should be elaborated rather than replaced.

SPENDING PUBLIC MONEY

(Luce's "Congress," pp. 82-86, Harvard University Press, Cambridge, Mass.)

. . . . In each of the last three years the appropriations have been more than \$10,000,000 below the budget figures. Contrast this with the statement made by the English Committee on National Expenditure in 1918, that there had not been a single instance in the preceding twenty-five years when the House of Commons by its own direct action had reduced on financial grounds any estimate submitted.

Yet Congress has a reputation for waste and extravagance that is notorious. Why this injustice, so wide of the facts? It is partly because in all times and in all countries where representative government has prevailed, many of the people have taken a keen delight in abusing their representatives. It is partly an inheritance from days when the standards of public service were far below what they are today. For example, undoubtedly there was once a "pork-barrel," a metaphorical barrel from which legislators pulled out "pork" to satisfy the ravenous appetites of greedy constituents. There is no longer any pork-barrel and there has been none for years. Yet the memory survives in what is now little else than sheer slander.

The baneful fiction is attached chiefly to two classes of expenditure—one for the improvement of rivers and harbors, the other for the erection of public buildings. The charge is that untold millions are wasted despite the protest of the few honest men in House and Senate, against the advice of the Government experts, and to the abhorrence of the whole administration.

What are the facts?

When a Congressman thinks that money should be spent on a river or harbor in his district, he must first persuade a committee to recommend and the House to agree that a survey shall be made. This must be repeated in the other branch. If that were the whole story, there might be just criticism, for so far attention to the project will have been largely perfunctory. The story, however, has only begun. Now comes the technician, assumed, and usually with right, to be expert, unprejudiced, disinterested, honorable. The chief of engineers of the War Department, through his staff, which is supposed

to be composed of very capable engineers, directs a preliminary examination to be made by a district officer. If this officer is convinced by his examination that the project would be useful and probably ought to be undertaken, then a regular survey is authorized, followed by an estimate of cost. If the report is again favorable, it goes to the Board of Engineers for Rivers and Harbors, consisting of seven men, a brigadier general, colonels, and majors, all of practical experience in this field. They make careful examination. If they in turn favor, their report must be approved by the Chief of Engineers before recommendation will be sent to Congress by the Secretary of War.

The Budget Committee of 1919 was made up of some of the ablest men in the House, men of long experience and the highest standing. They were agreed that not in their time had a single expenditure for improvement of river or harbor been advised by the Committee on Appropriations unless it had been recommended by the Army Engineers and approved by the Secretary of War.

No unprejudiced man can deny that in the last ten years the total of appropriations for rivers and harbors has been far below what the needs of commerce and the prosperity of the nation would have justified.

In the matter of public buildings Congress has been still more shortsighted and miserly. It is grossly wasteful in the extent to which it persists in paying rentals rather than build. Much work is carried on under crowded conditions that are bad economy. Not since 1913 has there been a public building bill. One was attempted in the Sixty-eighth Congress (1923-1925), for the purpose of meeting the unbusinesslike, deplorable situation, but it failed of passage. The episode added to the reasons why, if Congress is to be blamed, it should be for parsimony and not for extravagance.

Another misconception about Congress is that in the face of the recommendations of its committees and against their protests, it greatly increases the appropriations by amendments on the floor. Log-rolling is alleged to be a habit. Importunity and favor are supposed to waste millions. The fact, however, is that the House rules make it very difficult, indeed usually impossible, to add or enlarge by amendment. Senate rules are not so strict, and the Senate appears to be by nature more liberal than the House. In fact, most Representatives would be likely to put it more uncharitably and say that the Senate is the less careful, cautious, and economical body. Anyhow, the man who thinks that the House has been stingy, tries to get a Senator to move to amend by inserting what the House has omitted, or increasing what it has voted. The result is that a good many increases or new items go from the Senate to the inevitable conference committee. In practice this institution long resulted in giving the Senate its way much more often than the House

relished; but of late that has been checked by a new House rule forbidding its conferees, unless specifically authorized by separate vote, to agree to any Senate amendments that would have violated the House rule had it been offered in the House. As the House rule thus controlling is very strict, the Senate is no longer able to force appropriations that do not commend themselves to the House.

Records for many years show that the net increase of appropriations on the floor, beyond the committee reports, has been less than one-tenth of 1 per cent. Most of this was undoubtedly for purposes about which honest and sincere men might well differ in judgment. The figures explain why, at least in Congress, no great importance attaches to one of the most mooted issues in the matter of budget reform, that of executive control. In Parliament no member may move to increase a single item of expenditure as proposed by the Government, that is to say, the ministry. Not a few friends of the budget reform have insisted that the same rule should be put in force here. Congress in enacting the system refused to abdicate its powers in this particular. It has seen no occasion to regret the decision. Its self-respect was worth saving. It is chosen to carry out the will of the people and ought not to shirk its responsibility. That in matter of thrift it one the whole meets this responsibility in praiseworthy degree, should be the verdict of every fair-minded observer. . . .

FOUR YEARS OF CONGRESS

(By James Miller Leake, in *The American Political Science Review*, May, 1917.)

. . . . During the whole of President Wilson's first term of office at no time has he failed to lead his party, to shape its program, to dominate its policies. Concerning the wisdom of his course, the methods he has used, the legislation he has sponsored, his relations with Congress, there is room for, and there is undoubtedly, decided difference of opinion; but on one point all are agreed, friend and foe alike,—President Wilson's leadership in his party has been paramount. Two illustrations will suffice to show his influence during the Sixty-third Congress: first, his reestablishment of the custom, followed by Presidents Washington and John Adams, of reading his message to Congress; second, his conferences in the President's room of the Capitol with Senators and Representatives regarding important legislation or business before Congress. With the wisdom or expediency of these customs one may disagree; of their influence in securing favorable action from Congress on bills in which the administration is interested there can be no question. Throughout his administration, Mr. Wilson has made the presidential message a potent influence in shaping the legislative program of the session and in

winning for the administration program congressional and popular support. In the hands of the President the nature of the message has been changed entirely. Instead of the message being, as in former administrations, a long executive document droned through in a perfunctory manner to an inattentive Congress by a reading clerk, it has become a short dignified state paper appealing for needed legislation. It is delivered with a certain amount of dignity and ceremonial, is listened to attentively by Congress, and is read and understood by the public. In delivering his address in this manner the President focuses the attention of Congress on the administration program, and focuses the attention of the public on Congress. In this way public sentiment may be created or made audible in support of certain legislation. That President Wilson appreciated the significance of the personally delivered address is evident from the manner in which he has made use of it.

. . . . The second custom also seems to be a sensible one. Although certain Senators and Representatives, who still believe in Montesquieu's doctrine of separation of powers, have shown some resentment at Mr. Wilson's presence in the Capitol when conferring on legislation before Congress,—one Senator even charging the President with lobbying,—there seems to be no valid reason why the President in his capacity as party leader and as head of the administration should not use his influence with Congress in every legitimate way to secure the passage of his legislative program. It seems a trifle inconsistent that some of those who early in his administration attacked Mr. Wilson for trying to coöperate with Congress and for not seeking the counsel and advice of its leaders. . . .

Congress adjourned on October 24, 1914, after a continuous session of one year, six months, and seventeen days, the longest continuous session on record, during which it had transacted a vast amount of important business. The Democratic party had held its majority unbroken, had done much to redeem its platform pledges, and had established an enviable record for constructive legislation. . . .

THE LONG SESSION OF THE SIXTY-FOURTH CONGRESS

. . . . An important bill passed largely through the active support given the measure by President Wilson is the Keating Child Labor Bill. Indeed, it is not too much to say that it was mainly due to the President that the matter was brought up for consideration in this session, and that without his insistent demand for its passage it could hardly have come to a vote. So selfish was the opposition of the interests that opposed the passage of the bill that most of the Senators who sympathized with the abolition of child labor, but voted against the bill on constitutional grounds, repudiated the methods of the business interests which fought its enactment. During

the Sixty-fourth Congress there were introduced in the House of Representatives 21,104 bills, 393 joint resolutions, 79 concurrent resolutions, 387 resolutions and 1,141 reports. There were enacted by the Sixty-fourth Congress 384 public bills and 209 private acts. . . .

PARTISANSHIP

(Luce's "Legislative Procedure," pp. 502-504, Harvard University Press, Cambridge, Mass.)

The whips are the agents through whom party machinery is used for the conduct of the business of the House. They are the eyes and ears of their party chief. It is their business to try to discern the direction in which sections of opinion are moving, to hear any mutterings of discontent, and to suggest methods for its mitigation or removal.

The Government whips are paid officials, with official titles that do not indicate their real work. The chief of them is a Secretary of the Treasury, others are junior Lords of the Treasury, and one of them often holds a post in the King's household. They have an office in Downing Street beside their official rooms at the House of Commons, and perform important duties in connection with the arrangement of the business of the House. They sketch out a forecast of the probable work of the session, or of a part of the session, estimating the time each item of work will occupy and how much time for it can be spared. The chief whip settles, under instructions from the Prime Minister, the program of Government business for each sitting of the House of Commons, and sees that the necessary notices are handed in at the table of the House. He ascertains, by communication with the whips of the other parties what kind of opposition the items of the program are likely to encounter, and how many and which of them have a reasonable chance of being reached and disposed of before the end of the sitting. He also arranges in the same way the days on which it would be most convenient to take particular votes of supply, and how committees appointed by the House are to be constituted so as to give a fair representation to various sections and interests. These are the arrangements that are referred to when members of either of the two front benches talk of communications passing through the usual channels. It is by means of arrangements and understandings of this kind, carried on through the agency of the Government whips, that a great part of the business of the House is conducted, and the belief is that it could not be got through with in any other manner.

The whips of the other parties do not enjoy the advantage of official posts or official salaries.

One of the whips told the Select Committee on Procedure in 1914 that he thought, if it was found a member was constantly voting against his party on important questions, the fact ought to be brought to the attention of his constituents. Our inference from this may be that an English member who shows any independence exposes himself to discipline at the polls through the agency of the party servants in the House.

Most American legislators would strongly resent any such control. In our National House of late we have had whips, but they would be promptly suppressed if they undertook to carry tales back home. All we want and ask of them is that they shall incite members to be on hand at moments of party importance. Very likely they may yet develop functions of more consequence, but they will not match their English prototypes as long as the great bulk of our legislative work remains as it is today—non-partisan. This, be it remembered, is a particular in which there is fundamental difference between the lawmaking institutions of the United States and those of Europe. Under ministerial responsibility, any bill may endanger the Government, may turn its members out of office. To oppose is the business, the prime purpose, of the opposition. So inevitably the first question asked about any proposal is, not whether it is in itself wise, but whether it will help to maintain or tend to subvert an administration. In the United States the political is usually the secondary consideration if it is brought up at all. With us no party leaders will at once lose or gain places of power upon a vote adverse to the majority. Here no serious danger attaches to independence of thought and action. Personal responsibility is not eclipsed by party responsibility.

The result is that even in Congress the public welfare is for the most part the immediate rather than the ultimate consideration. In other words, the wise result is reached directly, and not through a partisan medium. Note the declaration of James W. Good, of Iowa, Chairman of the House Committee on Appropriations of the Sixty-sixth Congress, after ten years of service on that committee, both when of the majority and when of the minority: "If I were to make a rough estimate of the appropriations that are actuated or controlled at all by political considerations, I would say that not 1 per cent of them has any party consideration at all. I do not recall now a single instance during my work on the Committee on Appropriations when the party lines were drawn. I think the situation is just contrary to what the public has in mind with regard to political consideration." . . .

INVISIBLE GOVERNMENT

(Brown's "The Leadership of Congress," pp. 222-224, Bobbs-Merrill Company, Indianapolis, Ind. 1922)

. . . . The successful conduct of party management in the House of Representatives is naturally dependent upon the extent and the reliability of the information possessed by the leaders as to the state of mind of the House. This was as true of the old system as it is of the new. Under the old régime the Speaker and his floor leaders, obtained their information through the "whip," a member, thus designated, whose duty it was to round up members as occasion required, to ascertain how they would vote, or to instruct them in that respect, and to see to it that the leaders were informed accurately as to those who could not be counted upon, for or against a measure, as the case might be. Under the new régime information is obtained in a more formal way, and in one which generally has proved more satisfactory to the membership of the House.

Information is thus obtained sometimes by careful polls of delegations by states, and sometimes through series of conferences which the floor leader calls. In this way the latter is able to ascertain whether the majority favors or opposes a given measure, and to take action appropriate to the situation.

Under the new system the floor leader and the Steering Committee lack the power to compel a member to do a thing against his judgment. The member cannot be removed from a committee except by action of the House. Hence, logic, persuasion and the party welfare are the compelling influences. Members of the House quickly learn that in such a body nothing can be accomplished except by coöperation. There must be a certain amount of give and take, an accommodation of interest, a yielding here for the sake of a gain there. The floor leader becomes the medium through which the friendliness and the understanding of the House are enabled to work their way.

Under the system of Reed and Cannon the House did not know for any considerable period in advance what the program of the House would be. Such knowledge as the leaders had they kept to themselves for good and sufficient reasons. Advance information might enable opposition to become strong enough to overturn the most carefully laid plans. Such a condition was bad for the House in that it did not enable members to prepare in advance for the work on the floor they might be called upon to do. In the closing days of the Sixty-sixth Congress the floor leader began to give notice by word of mouth of what might be expected on the program for a few days in advance, and later for a number of days in advance. In the following Congress the floor leader inaugurated the policy of posting a tentative program for a week in advance, and not long after a copy

of the program for the following week was sent to each member on Friday or Saturday. It was not always possible to carry this program out exactly, but members were given reasonably accurate information, and had time to prepare for the consideration on the floor of bills which might not have been considered by committees of which they were members, but in which their constituents were interested. This program is prepared by the floor leader after conferences with the Steering Committee, the Speaker, and chairmen of committees. The Speaker is kept informed of all plans, since he is presiding officer of the House as well as a member of the House, but under the new system the floor leader has become the general manager of his party in the House, the counselor of his colleagues, the harmonizer of their conflicting opinions, their servant, but not their master.

The advantage of the new system lies in its greater flexibility and its friendlier democracy. The House is freer under the new régime than under the old. With democratization has come a consciousness of power and a greater intellectual integrity.

WOMAN SUFFRAGE IN PARLIAMENT

(By Evans Clark, in *The American Political Science Review*, May, 1917.)

. . . . The question for us, then is: does the commons control the cabinet, as we are told by the constitutional theorists; or does the cabinet control the commons, and through it, reign supreme?

A review of the votes for women movement in Parliament presents as strong a line of evidence in the case as could be garnered from any one source. It is claimed by suffrage supporters that there has been a clear majority of the members of the House of Commons in favor of womens' suffrage since 1886. There is no data at hand that will stand the test of non-partisan reliability to prove this contention. But we have an astonishing story of persistent and continuing efforts to pass suffrage bills spread out on the records of the House of Commons from the year 1866 to the opening days of the great war—a story which goes far in that direction. That these efforts resulted, as early as 1897, in the conversion of at least one-third of the total membership of the House to suffrage is attested by the passage of an enfranchisement bill on its second reading in that year by a vote of 228 to 157.

In 1906 a clear majority of the party in power, to whom the government of the day is supposed by the theory of parliamentary supremacy to be responsible, went on record in favor of suffrage. A suffrage bill was passed through two readings as far back as 1870; and since that time no less than six more bills have been similarly passed, some with overwhelming majorities. Yet no cabinet has agreed to make of one a government measure; there has never

been an opportunity even to register a vote on a final reading; and no bill has been made into the law of the land.

In other words, there has been on the one side a rising tide of suffrage sentiment that has in thirty years swept with it what is perhaps a clear majority of the House, and at least a clear majority of the party in power, and on the other a cabinet which, unlike Canute of old, has rolled back the tidal wave. . . . All the evidence in the case is now in. A review of the record will disclose first that individual members of the House of Commons, even though they include a large majority of the party in power as well as a voting majority on the opposition benches cannot make over their convictions into the law of the land in the face of cabinet opposition. There is some evidence to indicate that a majority of the entire membership of the House is equally powerless. The record also shows the convictions of a majority of voting members were blocked from effective expression no less than seven times. It further reveals twenty instances where what may have been a majority of the members were not allowed to register their convictions even on a second reading. . . .

The pressure of business is now so great that the members of the House in their capacity of rubber stamps have sanctioned rules giving Government bills right of way to an extent which in their capacity as individuals they bitterly and openly resent. These rules have given power to the cabinet to plot out the course of legislative business at all sessions except a very few reserved for private members measures. Their time is limited to Tuesdays and Wednesdays from 8:15 to 11 P.M., and on Fridays from noon to 5:30. After Easter, however, the Tuesday period is eliminated, and after Whitsuntide only the third and fourth Fridays following are allowed to the private member. Even these days are not secure against Government aggression. The private members have less than 10 per cent of all the time of the House at their disposal,—and the individual member must ballot for any share in it at all,—and even that small fraction may be eaten into by Government business. The way this works out in practice and a suggestion of how it can be used as a club on offending legislation by the cabinet may be seen from the fate of the suffrage measures of 1874, 1881, 1884 (second bill), 1885, 1887, 1895, 1896, 1899, 1900, 1901, and 1903. . . .

It is practically impossible, as this page of parliamentary history bears eloquent testimony, for a private member's bill to dodge the fatal blows of the cabinet big stick, if they see fit to use it. Of course such private measures do pass. Some ten or fifteen usually find their way into the statute books each year.

THE POWER OF THE PURSE

(By J. A. R. Marriott, in the *Nineteenth Century*, August, 1917.)

Among the functions at present imperfectly performed the control of public expenditure is unquestionably the most important. Where is the remedy to be sought? . . .

Plainly the first step to be taken is to insure a real and not merely a formal examination of the estimates. But a real examination is not possible at the hands of the whole House, nor indeed at the hands of any smaller body—such as a select committee—unless and until the national accounts themselves are presented in a simplified, coherent and complete form. This is a point on which Mr. T. Gibson Bowles, whose absence from the House at this juncture is nothing less than a public misfortune, repeatedly and rightly insisted. The national accounts, he wrote in 1904, are “unsystematic, unscientific, complicated and so presented as to conceal and even falsify the facts.” With the latter charge I do not associate myself, with the former I emphatically do. The first thing, then, is that the accounts should be presented in form comprehensible by average intelligence. The second is that the estimates should be closely scrutinized by a committee or perhaps a series of committees—one for each class of votes—specially appointed for this purpose and charged to make a report to the House before the estimates are approved in committee of supply. An estimates committee was, I believe, set up for two or three sessions before the war, but how it worked or what has become of it I have not been able to ascertain. Another reform greatly to be desired is the limitation of supplementary estimates. There has been of late (I speak of pre-war days) an increasing tendency to have recourse to this device, in itself an indication of slipshod methods of administration. To eliminate supplementary estimates altogether is obviously impossible, but there can be no comprehensive and critical review of public expenditure if an exceptional expedient is permitted to become a part of the normal practice.

Something more is needed, however, than reform of procedure. Clearly there must be such reform if the House of Commons is to keep a hold upon the purse-strings. But that is not enough. A distinguished public servant who has recently retired, after long and intimate experience of the Treasury, contributed to the May and June numbers of this *Review* two papers on “The Business of Government.” His conclusion may be stated in a sentence: “If the House of Commons,” he wrote, “really wishes to obtain control over expenditure it must concentrate itself not on estimates but on the *financial side of legislation*.” I venture to italicise the last few words. They go to root of the matter. I have no desire to revive half-forgotten controversies, but it is notorious that in the years

immediately preceding the war Parliament passed a series of measures, some of them generally and ardently desired by the country, some of them long overdue, but involving nevertheless a vast increase of expenditure, and passed them with a very imperfect apprehension of the financial responsibilities which they were likely to entail upon the taxpayers. We want, therefore, not only an estimates committee, but also a committee whose duty it shall be to examine the financial aspect of every bill which involves the expenditure of public money—a committee which shall have the power to examine ministers and permanent officials, and shall make a detailed report to the House before it goes into committee on the bill. It may be objected that such an innovation would involve a great expenditure of time and interpose a tiresome delay upon proposed legislation.

Let it be frankly admitted that it would. But is the objection fatal? Is it not demonstrably true that much of the waste of public money which we are deploring today is due to over-haste in legislation? The process of legislation if the product is to be sound and to stand the test of experience must necessarily be slow. . . .

There is another feature of recent legislation which deserves in the present connection close attention. It used to be said of Englishmen that they were distinguished from their continental neighbors by their "instinctive scepticism about bureaucratic wisdom!" Consequently they attempted to provide beforehand by statutory enactment for every contingency which might reasonably be expected to arise. This naturally rendered the form of statistics elaborate and detailed. Owing to the increasing complexity of modern life, to the break-down of the economic principle of *laissez faire*, to the widening range of governmental guidance and bureaucratic control, this characteristic feature of English legislation has tended to disappear, and much more discretion is left, perhaps necessarily left, to the administrative departments. Parliamentary statutes are increasingly content to lay down general rules and to leave it to the departments concerned to issue the detailed orders. . . . The regulations made under this delegated authority are of two kinds: provisional orders and statutory orders. The former, commonly made by local authorities or private companies, require statutory confirmation; the latter become operative after lying on the table for a given number of days. In both cases, therefore, Parliament does in form retain control; in neither case is the control in practice effective.

Whether this delegation of the legislative functions of Parliament be right or wrong, expedient or the reverse, is not the point with which for the moment I am concerned. In any case, it is unquestionable that the practice makes against public economy and tends still further to loosen the control of Parliament over public expenditure. Each department is naturally disposed to magnify its own office, to extend to the utmost limits the powers conferred upon it by

the supreme Legislature; nor is it immediately concerned by the relations between expenditure and administration. That is a matter for the superior authority by whom the powers were conferred.

It all comes back, therefore, to the House of Commons, and to the necessity for insisting upon a vigilant exercise of the powers which that House unquestionably possesses. But it is one thing to possess powers, and another thing to know how they can be effectively exercised. That the House is gravely perturbed by the growth of expenditure and not less perturbed by its own impotence to restrain it, was clearly demonstrated in the course of the debate to which reference has already been made. A proposal was then made by Major Godfrey Collins for the appointment of a committee, consisting of members of the House of Commons, with power to review all national expenditure, examine ministers, and officials and report to the House. The idea, as the proposer explained, is that the House should appoint a committee with a Treasury official as secretary; that the main committee should appoint several sub-committees to review expenditure in various departments. Mr. Montagu, in characteristic front-bench fashion, attempted to side-track this direct and simple motion by proposing instead the appointment of a departmental committee to consider and report what changes are necessary in the forms in which estimates and accounts are laid before the House, and further to appoint a select committee on parliamentary procedure. The general sense of the House proved, however, to be strongly opposed to Mr. Montagu's amendment and unmistakably in favor of the more direct method suggested by Major Collins and his supporters. So unmistakably indeed that the Government so far yielded as to propose the appointment of a select committee, for two purposes: firstly, to consider whether the House can, in permanence, secure more adequate control over expenditure, and by what specific means it can exercise it; and, secondly, to go into the spending departments, examine their methods of expenditure, accountancy and so forth and make recommendations either to the House of Commons or to the several departments or to both. This proposal, made by the Chancellor of the Exchequer, was favorably received by the House, and there, for the time being, the matter rests.

P. S. (By the author): Since this article went to press the Government has settled the terms of reference to the select committee which is to be set up immediately.

