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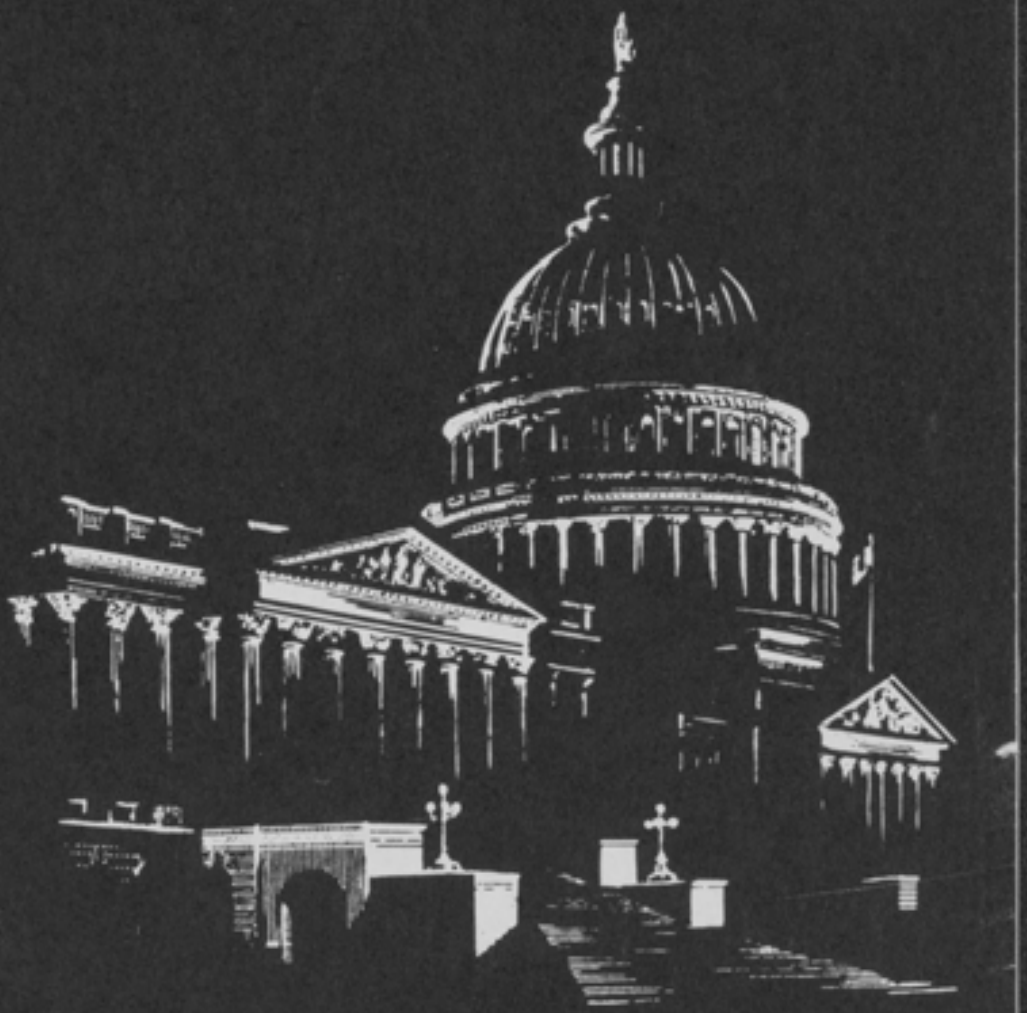
How Our Laws Are Made



91ST CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

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How Our Laws Are Made

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PRESENTED BY MR. CELLER

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CONGRESS: a time of renewal

Congress is under attack. There is a feeling abroad that it is not equipped to deal with today's problems or to uphold its part of the balance between the executive, legislative and judicial branches.

Ideas for change are legion, but if changes are to be made, they must be understood in all their implications; else the second state may be worse than the first. Community leaders can play a useful role in a time of flux: They can focus attention on the problems. They can help citizens weigh the potential effect of the cures being proposed. And they can build support for constructive change.

This COMMUNITY GUIDE provides background and current information on changes already underway in the opening days of the 1973 session of Congress as well as on those being proposed by congressmen and citizen groups. It also offers some practical suggestions on how to develop a constituency for reform.

Constitutional crisis?

The first session of the 93rd Congress convened in early January 1973 amid cries of "constitutional crisis" and demands for reform from citizen groups, the press, and members of Congress themselves. The crisis centered on the roles of the legislative and executive branches of the government in determining public policy and the steady increase of executive power at the expense of Congressional power marked most strikingly in the last two years by a series of confrontations over Vietnam and the control of spending for domestic programs. At the end of 1972, Senator Charles McC. Mathias Jr. (R. Md.) summed up the situation ". . . in relation to the executive branch of the government, the Congress today has become a third or fourth class power, a separate and thoroughly unequal branch of our national government."

The struggle between the Congress and the Executive is basically neither partisan nor personal, although the President's landslide vote in the last election no doubt reinforced the power of the executive branch. Congress could also claim a mandate from the voters, who returned a Democratic majority to both houses by an unusual amount of ticket splitting and crossing of party lines. As Sen. Majority Leader Mike Mansfield (D. Mont.) told Senate Democrats: "If there is one mandate to us above all others, it is to exercise our separate and distinct constitutional role in the operation of the Federal Government." The people have called for the reinforcement of checks and balances . . ."

Though Congress would have many problems even if it were ideally structured—problems stemming from conflicts of values and priorities in the nation—the inefficient structure and operation of Congress indisputably make it less effective than it might be. No one is more aware than the members themselves that Congress as an institution has to be modernized, if the system of checks and balances envisaged in the Constitution is to work in the next decades.

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A glance at the new Congress

The new Congress which opened in this mood for change was actually new in many respects, as the accompanying profile indicates. Because of deaths, resignations, retirements and defeats, the 1972 election climaxed a period of very rapid turnover in both houses, so that half the members of the new House and 45% of the senators have served in the Congress only since 1966. There are thirteen freshman senators—eight Democrats and five Republicans—with an average age 22 years younger than the members they replaced, and there are 71 freshman members of the House. The new Senate is considered more "liberal" than its predecessor and the new House somewhat less "liberal" than the Senate.

Because of retirement and primary defeats, five chairmen of major House committees and nine ranking House Republicans have been replaced, with major changes in direction expected in the Rules and D.C. Committees. Rep. Ray J. Madden (D. Ind.), new chairman of the Rules Committee and a liberal, will probably send more bills to the floor than did his predecessor, Rep. William M. Colmer (D. Miss.) who had occasionally used his power to hold back legislation on civil rights and social welfare. Rep. Charles C. Diggs, Jr. (D. Mich.), chairman of the D.C. Committee, is much more sympathetic to the idea of home rule and to the problems of the District than the former chairman, Rep. John L. McMillan (D. S.C.).

The gradual evolution of a two-party system in the South has now resulted in 10 Republican senators from the South and, for the first time in this century, Republican congressmen from Mississippi and Louisiana. The grip of conservative Southern Democrats on House and Senate leadership has been loosened, at least in this Congress.

The move to reform and strengthen the Congress, however, cuts across party, sectional, and even conservative-liberal lines to achieve a new kind of congressional unity.

community guide

League of Women Voters Education Fund
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The changed profile of the 93rd Congress

Senate

Democrats—57	Republicans—43
(Harry Flood Byrd, Jr., Va. Independent counted as a Democrat)	(James L. Buckley, N.Y. Conservative, counted as a Republican)
Gained two seats over 92nd Congress	
8 Freshman Democrats	5 Freshman Republicans
41 Northern Democrats	33 Northern Republicans
16 Southern Democrats	10 Southern Republicans

Senate leadership

Sen. James O. Eastland (Miss.) *President pro-tem*	Sen. Hugh Scott (Pa.) *Minority Leader*
Sen. Mike Mansfield (Mont.) *Majority Leader, Chairman of Democratic Conference and Policy Committees*	Sen. Robert P. Griffin (Mich.) *Assistant Minority Leader* Sen. Norris Cotton (N.H.) *Chairman of Republican (Caucus) Conference Committee*
Sen. Robert C. Byrd (W. Va.) *Whip*	Sen. John G. Tower (Tex.) *Chairman, Republican Policy Committee*
Sen. Frank E. Moss (Utah) *Secretary Democratic Conference Committee*	

New Senate committee chairmen

Sen. Frank E. Moss (Utah)
Aeronautical and Space Sciences
Sen. Howard W. Cannon (Nev.)
Rules and Administration

House of Representatives

242 Democrats	192 Republicans
1 vacancy due to death of Rep. George Collins (D. Ill.)	*Gained 13 seats over 92nd Congress*
27 Freshman Democrats	44 Freshman Republicans

House leadership

Rep. Carl Albert (Okla.) *Speaker*	Rep. Gerald R. Ford (Mich.) *Minority Leader*
Rep. Thomas P. O'Neill, Jr. (Mass.) *Majority Leader*	Rep. Leslie C. Arends (Ill.) *Minority Whip*
Rep. John J. McFall (Cal.) *Whip*	Rep. John B. Anderson (Ill.) *Chairman, Republican Conference (Caucus)*
Rep. Olin E. Teague (Tex.) *Chairman, Democratic Caucus*	

New House committee chairmen

Rep. Peter W. Rodino, Jr. (N.J.)
Judiciary
Rep. James A. Haley (Fla.)
Interior
Rep. Olin E. Teague (Tex.)
Science
Rep. William J. B. Dorn (S.C.)
Veterans Affairs
Rep. Ray J. Madden (Ind.)
Rules
Rep. Charles C. Diggs, Jr. (Mich.)
District of Columbia

Public support for reform

The move for reform within the Congress has been given impetus and support by the work of citizen groups such as the Committee for Congressional Reform, the Committee for an Effective Congress, Common Cause, Ralph Nader's Congress Project, and the League of Women Voters of the United States, all of which have been studying the issues, presenting specific proposals for change and actively working with individual congressmen and senators for their adoption.

The press, often criticized in the past for highlighting even minor activities of a President while neglecting the less glamorous activities of Congress, has been producing an extraordinary stream of news, editorials and special articles on congressional reform. Although this is due partly to the fact that Congress has been creating news by its activities, a significant segment of the press is interested in furthering reform and has been mobilizing public opinion behind it.

Perhaps the most striking example is Time, Inc. which has chosen an examination of Congress as the motif for the celebration of its own 50th anniversary. It has conducted five regional seminars at which academic experts, members of Congress, the press and community leaders discussed and analyzed the state of Congress and how to improve it. Out of them have come a cover story in *Time* on the "Crisis in Congress" and a lead article in *Fortune*.

The goals of reform

The question is no longer "Does Congress need reform?" (see LVWEF FACTS AND ISSUES, September, 1971) but rather "What are the goals of reform?" and "How can these goals best be achieved?" Most citizen groups have focused primarily on making Congress a more accountable and a more representative body, since it is the individual citizen's closest link with the federal government. Most reformers endorse the traditional idea that Congress, more than any other branch of the government, should be particularly responsive to its constituency; what they want is a broadened definition of "constituency." They acknowledge that it is quite proper for congressmen and senators to be attentive to the interests of their local constituents, but they argue that each congressman and senator has a national constituency too, and should therefore also act in a manner consistent with their responsibilities to meet broad national needs. In order to meet these criteria of accountability and representativeness, the reformers maintain that the Congress must be capable of making informed decisions and of determining priorities for national needs, in a time of accelerating change. In short, what they are saying is that if Congress is to keep pace and to provide national leadership the House and Senate must recapture former powers and alter some old ways of doing business.

The changes being sought therefore fall generally into two groups: those directed specifically at modernizing and democratizing its internal organization and procedures and opening them up to public view, and those directed to the longer-range goal of regaining its influence as a coequal partner with the executive branch in the conduct of national affairs.

Specific reform targets

Procedure In the first category are the most familiar targets of reform:

- ☐ the tradition of *seniority* as the sole criterion for committee chairmanships;
- ☐ the rules of *secrecy* under which much of the important work in House and Senate has been carried on;
- ☐ the organization and jurisdiction of *committees;*
- ☐ the "*closed rule*" in the House; and
- ☐ the *filibuster* in the Senate.

Ethics The problems of ethics and conflicts of interest are another area of concern for reformers. Dissatisfaction centers chiefly on

- ☐ *campaign financing*, and
- ☐ *disclosure* of personal finances.

Power More fundamental and more complex are the reforms which deal with the power of the purse, the power to make war, and the power to set national priorities. These are some of the specific problems reformers believe stand in the way:

- ☐ the inability of Congress to consider the federal budget as a whole—revenues and expenditures together;
- ☐ the need to revise the appropriations process so that Congress can be in a position to set priorities;
- ☐ the lack of adequate professional staff, technical resources and information, which forces it to rely on the expertise of the executive branch.

These interrelated problems mean that Congress too often is unable to exercise independent judgment, not just in fiscal matters but in many other areas as well.

Avenues for achieving reform

In the end, if reforms are to be made, it is Congress which must make them. It cannot be changed from the outside, despite the obvious role that "outsiders" can play in creating a demand for change and even in specifying the changes they want. Within Congress, the routes to reform are several. The principal ones are outlined below.

1 The *four party caucuses*, composed of all those in each party in each house, set rules which control procedures in their respective parties. The caucuses can also initiate and approve changes in House and Senate rules, which must then go to the floor.

2 The *rules* under which the House and Senate operate are a most important avenue for achieving reform, e.g., the anti-secrecy rule adopted by the House in the early months of the 93rd Congress. Reformers, of course, hope that 1973 changes will acquire the status of tradition, for the governance of future Congresses.

3 *Legislation* is an obvious method available to the Congress for internal reform. The bills discussed below, such as Sen. Lawton Chiles' (D. Fla.) "Government in the Sunshine" bill to open up committees, and another act sponsored by Sen. Mathias and Sen. Adlai E. Stevenson III (D. Ill.) to require financial disclosure by all congressmen are examples.

4 The Democratic and Republican *Policy and Steering Committees* play an important part in scheduling floor action and setting priorities on legislation.

5 Congress can appoint *special ad hoc committees* to study and report on a specific problem such as the Bolling-Martin Committee [Rep. Richard Bolling (D. Mo.) and Rep. Dave Martin, (R. Neb.)] which has been named to do an in-depth review of the House committee structure (and to propose legislation based on it) and the Joint Study Committee on Budget Control.

6 *Hearings* held by ad hoc as well as standing committees of Congress can also be a vehicle for change, e.g. the consciousness-raising hearings of the Mathias-Stevenson Committee on Congressional Reform in December 1972.

7 Congressmen can take their case to the *courts*, though they use this method for change infrequently and as a last resort. During the 93rd Congress, Sen. Edward M. Kennedy (D. Mass.) challenged the President's use of the pocket veto to kill a money bill for doctor-training, and Sen. Sam J. Ervin, Jr. (D. N.C.) and a number of Senate leaders joined a suit against impoundment of funds.

8 There are other more subtle but equally important ways in which Congress can move to modernize and improve its procedures. One of these is *voluntary cooperation* between House and Senate leaders, between majority and minority leaders of each chamber and between House and Senate committees. Probably every successful piece of legislation bears the marks of this cooperation and, in fact, could not have been passed without it. House and Senate Democratic leaders, for example, are now meeting regularly to coordinate their activities, whereas in the past four years their joint meetings were limited to resolving crises.

What Congress is already doing to reform itself

The new Congress was well prepared to go to work immediately and on many different reform fronts. Throughout the election campaign and on through the last weeks of the 92nd Congress, the press, public interest groups and members of Congress spelled out specific ideas and suggestions for change.

In December, Senators Mathias and Stevenson provided the opportunity for these diverse groups and individuals to express themselves in one forum. Noting that public confidence in Congress between 1966 and 1972 had dropped from 42% to 21% (Harris Poll) and concerned that Congress was not equipped to deal with current problems of national policy, the two senators formed an ad hoc committee on congressional reform. Twenty-three witnesses testified at the committee hearings, including representatives of public and political groups, members of the press, senators and former senators. The issues they raised indicated a deep concern for the state of the Congress. (See February 1973 *National VOTER*, "Staging a Comeback" for more details on the Mathias-Stevenson hearings.)

In its first few months, the 93rd Congress completed an impressive series of reforms designed to make the House and Senate more open, more responsive and more effective bodies. These changes in the rules under which Congress operates were achieved in the party caucuses more speedily and with less opposition than had been thought possible when Congress convened. Although much basic work remains to be done, pending legislation and studies underway give promise of more reform measures during the life of the 93rd Congress.

Reforming the committees

There are basic dissatisfactions with the workings of the committee system: the method of assigning members to a particular committee, the lack of adequate information and staffing and the matter of jurisdiction.

There has been no major revision of the 21 House committees since the Legislative Reorganization Act of 1946. Since then, new programs have been enacted and new problems and concerns have arisen. The result is that some committees are overloaded with work and in some cases several committees have jurisdiction over a single subject.

In an effort to deal with this problem, and at the request of House Speaker Carl Albert (D. Okla.), a 1½ year, $1.5 million in-depth review of the House Committee structure is underway. Rep. Bolling, the author of two books on reforming the House, and Rep. Martin head up the Select Committee on Committees of five Democrats and five Republicans which will study the powers and duties of all House standing committees with a view to updating them.

The group is authorized to propose legislation dealing with the number, size, jurisdiction and staffs of committees and subcommittees and is expected also to look into the problem of dealing with the budget and federal spending. Hearings are scheduled for May 1973.

> "I don't believe Congress will be able to uphold its authority unless it reorganizes . . . Congress can't cope with the executive branch if it is not willing to find some way to reform."
>
> —*Sen. John Sherman Cooper*

Rep. Bolling has said that the new committee will be "an absolutely essential step on the road to reform . . . I want to make this place work in such a way that it meets all its responsibilities."

Committee members are now chosen by four Committees on Committees, one for each party caucus in each house—each with quite different procedures.* In the absence of formal criteria, a great many factors determine selection, including preference of the chairman and the member, region, seniority, personality, interests, and sometimes luck and political clout.

In reform moves seen as liberalizing the committee selection process, House and Senate Democrats enlarged their assignment committees in 1973. The Senate Democratic Steering Committee added four new members, two of them freshmen. House Democrats, unlike House Republicans, do not have a special Committee on Committees; the Democratic members of the Ways and Means Committee serve in this capacity. In 1973, for the first time, the Speaker of the House, the majority leader and the caucus chairman were added to this group, an important departure from tradition which will tend to dilute the power of the Ways and Means Committee and reflect the wishes of the leadership.

*For a revealing description of how House Democrats and Republicans make committee assignments, see *Congressional Quarterly*, Feb. 10, 1973, pp. 279-83.

Assignments In important steps aimed at better assignments for freshman members, the House Democratic Caucus approved these rules: all members are entitled to serve on one major committee; no member may serve on more than one major committee; members of the three most powerful committees—Rules, Appropriations, and Ways and Means—may serve on no other; and junior members of committees are to be assigned to at least one subcommittee of their choice before senior members can get more than two subcommittee assignments. This is a move forward, but much remains to be done to insure that committee assignments represent diverse interests and areas and reflect the needs of the nation as a whole.

Support services There is fairly general opinion that the present disparity between the executive and legislative branches is so great as to make it all but impossible for Congress to function as a coequal branch of the government. For example, as was pointed out at the hearings of the Mathias-Stevenson Reform Committee, the Office of Management and Budget has a staff of 700 to review the Executive budget while the House and Senate Appropriations Committees have 85 staff members. The committees need larger professional staffs (including minority staff selected by and working for minority-party members) to handle a workload that is growing heavier and in many cases more technical. For the same reasons, more technological resources, including computer information retrieval, have now become a necessity.

The struggle against seniority

One of the most visible and at the same time most controversial reform issues has been the seniority system, the 60-year tradition (never actually incorporated into the rules) under which length of continuous service on a particular committee has dictated committee chairmanships. Moreover, once appointed, chairmen traditionally retain their positions until they are no longer in Congress. The result has been that able but junior legislators were denied the opportunity for leadership.

It has also meant that chairmen often came from "safe" districts—usually one-party districts from which they returned year after year with little or no opposition. In consequence, entrenched individuals have become immune to caucus, party leadership or committee influence and have retained positions of power without regard to whether or not they are representative of either their party or their country.

Despite some very evident abuses of power, reform of the seniority system doesn't come easily. Some want to keep it, believing that on balance it is probably better than the alternatives proposed. Some in Congress who have been waiting their turn view with alarm attempts to change the rules of the game. Even among those who want change, there are differences about which changes would be most effective, which most likely to get the necessary backing.

One reform suggestion is simply to limit the number of years chairmen may serve.

A major modification of the system was achieved in the first month of the 93rd Congress when the 240 members of the *House Democratic* Caucus voted to require an automatic vote on each committee chairman at the start of each Congress, with a secret ballot if requested by one-fifth of those present. The secret vote was considered necessary if congressmen were to vote without embarrassment or fear of reprisal. The caucus votes are subject to routine confirmation by the entire House. The liberal Democratic Study Group, chaired by Rep. Phillip Burton (Cal.) led the way to this significant change and the House Democratic Reform Committee, a moderate group chaired by Rep. Julia Butler Hansen (Wash.) approved it before the caucus voted. Citizens' groups and the press hailed the action as a major step toward reform.

The day after the caucus vote, House Democrats voted for the first time in a secret yes-or-no ballot on every committee chairman. Actually, not one chairman was unseated and seven ranking Democrats next in line for a chairmanship were also elected. However, the principle was established that a chairman could be rejected and some votes were cast against each chairman. Only one chairman, Rep. Chet Holifield (D. Cal.) of the Government Operations Committee, faced organized opposition but he too survived.

Prior to this vote, House Democrats since 1971 could vote on a chairman only if ten members stood up and challenged his nomination. Democratic members were organizing for just such challenges in this Congress, but with the successful vote in the caucus, they became unnecessary.

House Republicans had been voting by secret ballot on every ranking committee member since 1970.

On the *Senate* side, *Republicans* voted for the first time to allow minority members of each committee to elect the top-ranking Republican without using seniority as the exclusive criterion. The vote is subject to ratification by all Senate Republicans, with all votes to be recorded and published. However, the new rule does not apply to senators who were ranking members before the start of the 93rd Congress, but only to those five senators due to move up. This change in the rules was a compromise effected by Sen. Howard H. Baker, Jr. (Tenn.) and Sen. Jacob K. Javits (N.Y.) and was not as far reaching as one proposed and fought for by Sens. Robert W. Packwood (Ore.) and Robert Taft, Jr. (Ohio).

Senate Democrats have had the option for the past two years of asking for a vote in the Democratic caucus on any chairmanship.

Although no committee chairmen or ranking minority members in either House or Senate lost their positions because of the new voting procedures, the principle was established that seniority is only one of many criteria for leadership.

The idea that chairmen and ranking minority members must be more responsive and accountable to committee members may, reformers hope, make a gradual difference in the management of committee affairs.

Anti-secrecy drive

The Legislative Reorganization Act of 1970 sought, in part, to open up committee meetings and other congressional procedures to public view. For the first time,

- ☐ it provided for recorded "teller votes" in the House, which formerly had permitted votes on amendments without any record;
- ☐ it allowed broadcast and television coverage of House committee hearings and required that all committee rollcall votes be made public;
- ☐ it provided only that meetings of standing committees be open, though only if a majority of the committee favored it.

Mark-up sessions and executive sessions, where much of the real work of framing legislation is done, were still closed to the public and press. The result was that in 1971, the first year the act went into effect, 36% of all Congressional committee meetings were still held in secret session, about the same number as in 1969 and down only slightly from 41% in 1970.

This picture, however, changed dramatically in early March 1973 when the House, by a vote of 370-27, adopted a rule that all committee and subcommittee hearings must be open to the public unless a majority of the members by a rollcall vote with a quorum present decide to close a particular session because it might "endanger the national security" or defame someone's character. Moreover, all committee or subcommittee mark-up sessions at which bills are voted on must also be open unless closed by the committee in the same voting procedure.

> "During the Senate floor debate on committee secrecy, which itself was a departure from tradition, freshman Republican Senator Roth declared that "we feel very strongly that the public has the right to know about the public business," and Sen. Stevenson said: "Excessive secrecy breeds distrust. It prevents accountability. It does violence to the principle of government based on the informed consent of the governed."

While this rule does not guarantee open meetings, it reverses the present rule that mark-up sessions are closed unless the committee votes to open them and places the burden of action on those wishing to close a meeting. As a matter of practice, mark-up sessions have hitherto been consistently closed.

The House vote climaxed the action on a House Resolution (259) introduced by Reps. Bob Eckhardt (D. Tex.), Dante B. Fascell (D. Fla.), and Thomas S. Foley (D. Wash.). R. 259 was approved by the House Democratic Caucus, then sent to the House Rules Committee which in turn reported it favorably. But the House made two changes in the original resolution. As adopted by the caucus, the rule would have barred everyone from a closed session except members and their staff; this was aimed at executive branch officials who often sit in on mark-up sessions. But Ways and Means and Armed Services Committee members protested on the floor that they needed the technical expertise of Administration officials at mark-up sessions and they won their point by the narrow margin of three votes. The second change allows a committee to vote in advance and announce whether a hearing or meeting is to be closed. The original resolution provided that such a vote must be taken only at the beginning of the daily session.

On the Senate side, advocates of open meetings suffered a setback when the Senate rejected a rule similar to that adopted by the House that *all* of its committee meetings, including mark-up sessions, be open unless committees voted to close them. The Senate leadership and all but one committee chairman opposed this bipartisan proposal sponsored by Senators Bill Brock (R. Tenn.), Chiles, Hubert H. Humphrey

Checklist of reforms in the 93rd Congress

Committees

- ✓ Major study of committee structure and jurisdiction by Select Committee on Committees is underway in House.
- ✓ House Democratic caucus adopted new procedures to assure major committee and subcommittee assignments for freshman members.

Seniority

- ✓ House Democratic caucus overturned seniority as sole criterion for committee chairmanship by adopting rule which requires automatic, separate vote for each committee chairman at start of each Congress.
- ✓ Senate Republican caucus voted to allow Republican members of each committee to *elect* their ranking member subject to ratification by the caucus.

Secrecy

- ✓ House voted that *all* committee and subcommittee hearings must be open to the public unless they deal with matters of national security or personal privacy, and that all committee meetings, including mark-up sessions, be open to the public unless majority of committee votes to close a particular session.

"Closed rule"

- ✓ House Democratic caucus modified the "closed rule" procedure so that amendments to bills, particularly those from Ways and Means Committee, can be considered and voted on by the entire House.

Party leadership

- ✓ House Democratic caucus created new Steering and Policy Committee consisting of House leadership and a cross-section of 15 other members, which is expected to result in more democratic decisions on party policies and priorities.

Budget

- ✓ Joint Study Committee on Budget Control in an interim report, presented important recommendations to enable Congress to make decisions on budget priorities.

(D. Minn.), Mathias, William V. Roth, Jr. (R. Del.) and Stevenson. Instead, by a vote of 91-0, the Senate approved a rule allowing committees to vote to open all of their sessions, but the presumption is that most mark-up and executive sessions will continue to be closed to the public. There may be exceptions, however; the Senate Interior and Banking Committees, for example, voted to open up these traditionally closed meetings.

Modifying the closed rule

The House Rules Committee, which decides what legislation will go to the floor of the House, has been able to report out a bill under the so-called "closed rule" which prevents amendments from being offered on the floor and prohibits separate votes on separate sections of a bill. The chief effect of this rule has been that the Ways and Means Committee has consistently sent major tax, trade, social security and health insurance legislation to the floor under rules making amendment impossible. Modification of this rule has long been sought by congressional reformers.

Early in 1973 a new procedure was offered by Rep. Burton, chairman of the liberal Democratic Study Group, and adopted by the House Democratic Caucus. Under it, 50 or more House Democrats may bring a proposed amendment to the caucus. If the proposal is endorsed by a majority of the caucus, the bill will be sent to the floor under a rule allowing consideration of that specific amendment.

Filibuster in the Senate

Senate Rule 22 requires a ⅔ majority vote in order to invoke cloture (i.e., limit debate). Since it has always been difficult to get this ⅔ vote, a few senators have been able literally to talk a bill to death. Because the filibuster was successfully used in the 1960s against civil rights legislation and against labor legislation, liberal senators have fought each year without success to change the rule so that either ⅗ or a simple majority vote could stop debate.

Now, however, there is an interesting turn-about in Senate attitudes. After most civil rights legislation was passed, Senate liberals began to use the filibuster for their own purposes, for instance, to delay voting on Supreme Court nominees, to kill the SST bills, and ironically enough, in 1972, to kill anti-busing legislation. For this reason, the tradition of unlimited debate in the Senate is unlikely to be overturned in the near future.

A bill introduced in the 93rd Congress by Sen. Philip A. Hart (D. Mich.) and Sen. Javits is not expected to get serious consideration. The bill provides for a system of graduated cloture with a ⅔ vote still required to cut off debate in the first month, but only a ⅗ vote required in the following two weeks, and a simple majority vote thereafter.

Modernizing legislative machinery

While the work of the Congress has increased enormously in recent years, very little has been done to help Congressmen use their time more effectively. Various methods for rescheduling activities and streamlining the workload are being suggested but not many changes are expected in the near future.

One highly visible change, authorized by the Legislative Reorganization Act of 1970, is the recent installation of a million-dollar electronic voting system in the House. It flashes a running tally on overhead scoreboards and records each member's vote on a computer printout. This has cut in half the 30 minutes it used to take for each recorded vote or quorum call and should markedly increase the efficiency of floor operations.

Strengthening party leadership

The House Democratic Caucus voted in February 1973 to establish a new Democratic Steering and Policy Committee to be chaired by Speaker Albert and to include the majority leader; the whip and four deputies; 12 members to be elected by the caucus on a regional basis; and three others appointed by the speaker. The last three would assure representation of minorities if they are not already elected. The new committee, which replaces the existing but inactive Democratic Steering Committee, is expected to recommend legislative priorities and shape party policies. The House Republican Policy Committee meets weekly to take positions on pending legislation.

An attempt by House Democratic liberals to elect the House whip when Rep. Thomas P. O'Neill, Jr. (Mass.) moved up from whip to majority leader replacing Rep. Hale Boggs (La.) was narrowly defeated. Traditionally the majority leader has had the right to choose his whip, but many members felt that they should have some voice in choosing the person who by custom moves up the automatic escalator to majority leader and then to Speaker.

Financial disclosure

The suspicion of conflict of interest has been an important factor in the erosion of public confidence in government. Although citizens' groups and a number of senators and congressmen have favored legislation for public disclosure of personal finances, bills introduced since 1957 have gotten nowhere.

Senators Mathias and Stevenson, in another of their many-pronged efforts at reform, have now reintroduced a bill under which members of Congress and their top aides would have to report annually on the amount and source of their income, assets and debts, major financial transactions, and gifts of over $100. This would be, according to its sponsors, "the best medicine to restore the health of Congress' public image," and it is possible that there will be action on the measure in 1973. The bill has been referred to the Government Operations Committee, which is expected to hold hearings on it. Representatives Morris K. Udall (D. Ariz.) and Louis Frey (R. Fla.) introduced a similar bill on the House side, cosponsored by about 70 House members.

Campaign financing

Majority Leader Mansfield, commenting on the 1972 elections, observed: ". . . the factor of finance begins to overshadow all other considerations in determining who runs for public office and who does not . . . Ways must be found to hold campaign expenditures within reasonable limits . . . to insure open access to politics, I can think of no better application of public funds than . . . to use them for the financing of elections so that public office will remain open to all, on an unfettered and impartial basis . . ."

The Federal Election Campaign Act of 1971 was a major step forward in reforming the system of campaign financing, but as a compromise measure it fell far short of stringent reporting and enforcement procedures and effective guidelines. The new law requires that candidates disclose their campaign contributions and limits the amount they may contribute to their own campaigns. It also sets a ceiling on the amount to be spent for broadcasting and advertising. (See the LWVEF's FACTS & ISSUES *Campaign Spending: The Great American Treasure Hunt*, and the LWVUS' COMMITTEE GUIDE, *Five Finger Exercise in Representative Government.)*

Many reformers both in and out of Congress would like to see the law strengthened to limit the total amount a candidate may spend and possibly to institute some system of public financing of campaigns.

Senate Minority Leader Hugh Scott (R. Pa.), Senator Mathias and Senator Stevenson have re-introduced a bill providing for an independent Federal Elections Commission to regulate campaign spending. Other bills in the hopper deal with broadcast time, mail privileges and tax exemption for all political contributions. A bill for public financing of campaigns may be introduced later in this session.

Executive-legislative relations

The need for congressional reform is nowhere more dramatically illustrated than in the current congressional revolt against the President. The institutional weakness of Congress has been most pointedly revealed on three major issues—Vietnam, control of federal spending, and the use of executive privilege. In recent tests of strength on these issues, Congress has repeatedly seemed unable to exercise either its constitutional power to make war or its power of the purse.

Some argue that recent Presidents, all of them, have exercised power in these spheres precisely because Congress has not. There is also a spiraling dynamic at work: *exercising* power often *confers* power. Whatever its origins—executive encroachment or congressional abdication or both—Congress appears to be of a mind to do battle now, to recoup what it regards as usurped power.

Among the arguments invoked most tellingly is that Congess, not the President, best and most directly represents the wishes of the voters. But it is not always easy to determine "the will of the people" on complex matters about which the executive and legislative branches strongly disagree.

The power to make war

Earlier skirmishes over Vietnam are not necessarily ended by the ceasefire. Feeling over the Executive's failure to consult or even inform continues to run high and is carrying over into discussions about aid to North Vietnam. Early in the 93rd Congress, the two Democratic caucuses and a number of individual Republican congressmen made statements which foreshadow further rounds in this struggle.

Anti-impoundment action

The issue of impoundment of funds (withholding money appropriated by Congress) is being fought in both the judicial and legislative arenas. The confrontation between President and Congress was brought dramatically into focus on the first day of the 93rd Congress. Angered by the President's hold-up of appropriated funds, fourteen senior Democratic senators joined in a law suit to force the President to release highway funds to the state of Missouri, contending that he acted unconstitutionally. The issue was not new. It had arisen most recently in the 92nd Congress when the President withheld $6 billion, over half of the funds appropriated for water pollution. In the current fiscal year over $12 billion has already been impounded and the effects are being felt in communities around the country which are being forced to cut back a wide range of social, environmental, educational and agricultural programs.

An Impoundment Control Bill, introduced by Sen. Ervin, Chairman of the Subcommittee on Separation of Powers, and co-sponsored by 51 senators, would require the President to notify Congress within ten days of any impoundment action and would permit funds to be impounded only *if Congress specifically approved* the action within 60 days. At hearings on this bill in February 1973, senators insisted on their right to reduce the budget across the board to meet the President's fiscal ceiling and accused the Administration of imposing its own priorities through the use of what amounts to an item veto.

In the House, an anti-impoundment bill (H.R. 5193) introduced by Rep. George Mahon (D. Tex.), Appropriations Committee chairman, would, like the Senate bill, require the President to advise Congress of an impoundment within ten days and to specify his reasons. Unlike the Senate bill, the House measure would allow impoundments to go into effect *unless they were disapproved* by both houses in 60 days.

Speaker Albert accused the President of infringing on Congress' constitutional control over spending and of using impoundment as a "special instrument to reshape the direction and philosophy of the federal government." To statements that the President's reelection indicated wide support for his spending policies, Speaker Albert replied that voters had not known that domestic programs would be cut drastically, and he promised to push the anti-impoundment bill through the House quickly. As the battle heated up House minority leaders pledged their support to the President.

There were actions to match the words. Both House and Senate moved to retain programs which had been cut back or terminated by the President at the end of 1972 and to repass legislation vetoed by the President at the end of the 92nd Congress. In doing so, members of Congress continually expressed the view that the issue was not only the specific programs at stake but the question of whether Congress or the White House should set spending priorities.

The House passed measures to continue funding Labor and HEW programs for the remainder of the fiscal year at levels which the President had previously vetoed. Senate and House voted to restore rural assistance programs which had been terminated. The Senate passed bills to strengthen and expand old age assistance programs which had been pocket-vetoed and to retain rural electric loan programs. The Senate also overwhelmingly repassed two bills providing benefits for veterans which the President had pocket vetoed after Congress adjourned in the fall of 1972.

Sen. John G. Tower (R. Tex.), Chairman of the Senate Republican Policy Committee, predicted that Congress would be able to override about half of the dozen expected vetoes by the President of the pocket-vetoed 1972 bills now being repassed by Congress.

Reforming budget procedures

Underlying the impoundment battle is Congress' inability to shape and control the budget on a coequal basis with the executive branch. Basic reforms in the way Congress handles the federal budget are considered necessary before Congress can reassert its power of the purse. A bi-partisan 32-member Joint Study Committee on Budget Control, established in the 92nd Congress, is making important and far-reaching recommendations to enable Congress to play the role the Constitution intended for it.

In an interim report, the committee concluded that "the legislative process should include an opportunity for the

Sen. Lawton Chiles and some 25 cosponsors have again introduced a bill which would open up to public view the decision-making procedures of federal agencies as well as of the Congress. Called the "Government in the Sunshine" bill (S.260), it is patterned after Florida's Sunshine law. Besides requiring open meetings of all House and Senate committees, including *conference* committees, it also requires that all meetings for transaction of public business *in federal agencies* be open to the public and the media.

"Congress will be the story of the year, the place to watch for action to restore the balance of power in Washington."

Nelson Poynter in The St. Petersburg (Fla.) Times

Congress to examine the budget from an over-all point of view, together with a congressional system of deciding priorities." The committee declared that "it is essential that Congress develop ways of making its own decisions on budget priorities so that realistic control over the purse can be retained by Congress, as intended by the Constitution."

Co-chairman Rep. Al Ullman (D. Ore.) set out the following general principles: Congress should be enabled to

☐ determine the proper level of federal spending for the upcoming fiscal year, taking into account fiscal, economic, monetary and other requirements;

☐ set ceilings on both spending and appropriations for the fiscal year;

☐ determine the levels of revenue and federal debt required by those limits.

The committee also recommended that each house create a permanent legislative committee on the budget, including members of the appropriations and tax committees. After public hearings in March 1973 and further study, the committee plans to submit specific recommendations to implement these principles.

In an unusual move, 53 of the 69 House freshmen (43 Republicans and 10 Democrats) sponsored a resolution, in support of the interim report of the Joint Committee, calling for a congressional ceiling on spending and a single general appropriations bill.

A number of bills have been introduced on both sides of the aisle in both houses to implement these or similar reforms. For example, Senators Mathias, Stevenson, Ervin, and George S. McGovern (D. S.D.) have proposed legislation which would reform congressional procedures for reviewing the budget and allow Congress to set priorities in a fiscally responsible manner. Under the bill, Congress would be required to set an annual spending ceiling 30 days after receiving the President's budget. Instead of separate bills from each appropriations subcommittee, there would be an omnibus appropriations bill which could be amended in either house, but any increase in one area would have to be balanced by reduction in another to keep within the spending limit. The bill also prohibits impoundment for any reason other than technical fiscal management.

Sen. Edmund S. Muskie (D. Me.) introduced a bill requiring every agency to submit its budget requests to Congress at the same time it submits them to the Office of Management and Budget so that "Congress can assume a much greater role in priority-setting than is possible now, when the only information available . . . is furnished by OMB after it has established priorities for all the federal agencies." Sen. Brock, who opposes the anti-impoundment bill, is urging structural reform in Congress and has introduced a bill to enable it to formulate a legislative budget, set priorities for and control federal expenditures.

Sen. J. Glenn Beall, Jr. (R. Md.) has introduced a bill (S. 758) providing that congressional committees which have authorized funds report every few years on their oversight of these programs.

Executive privilege

The Senate has also been disturbed by the Administration's increasing use of "executive privilege," the President's right to withhold from Congress information which is confidential or which affects national security. Presidential appointees, including cabinet officers, have on a number of occasions in recent months declined to testify on the Hill or, when they have appeared, have pleaded "executive privilege" to withhold information.

This issue has been aggravated by the President's recent creation of a domestic "supercabinet" consisting of the five presidential assistants now augmented by three "counsellors" who are also Cabinet members. In this way the President has moved toward achieving the reorganization plan he proposed to the 92nd Congress and which it refused to approve. The Congress views the supercabinet as another step toward bypassing and weakening legislative oversight of executive actions.

The Senate, whose job it is to confirm top-level executive appointments, is preparing to counter the President's move. The Senate Subcommittee on Executive Reorganization, chaired by Sen. Abraham Ribicoff (D. Conn.) has scheduled hearings on the new "supercabinet" system. The Senate Democratic Caucus is demanding that all executive appointees be required to testify whenever summoned, with only limited rights to claim executive privilege. A bill introduced by Sen. Ervin and co-sponsored by the Democratic leadership and all committee chairmen would require confirmation of the Director of the Office of Management and Budget. The ranking Republican on the committee, Sen. Charles Percy (R. Ill.), told the press that he is negotiating with the White House for confirmation of all top presidential appointees, calling it "ludicrous" for the Senate not to have the power to confirm those who make the decisions that really count.

Conclusion

It would take a crystal ball to make predictions about the future course of congressional reform. But it seems fairly safe to generalize that the bulk of the internal "housekeeping" reforms are underway or already completed for this biennium . . . those changes tied to the organizing of a new Congress, done with a kind of now-or-never spirit and speed. Reformers have hopes, tempered by large dollops of realism, that if these changes are implemented in this and successive Congresses, they will measurably help to make Congress more responsive and more representative.

Though recent reforms are not unrelated to the issues of congressional power vis a vis the Executive, by themselves they cannot and will not bring about restored congressional might. That contest of will and power is only beginning to take shape and is likely to be the hidden if not the open agenda of much of the action on the Hill in the next year or two. Even as this publication goes to press, the tension is expressing itself in yet other forms—for example, in discussions about freedom of access to the information in administrative agency files and about realignment of committee structure.

The idea of congressional reform is by no means new. Even a cursory look at some of the books and material listed below will reveal that it has, in fact, a long history. It takes time to effect meaningful changes in an institution like the U. S. Congress. But Congress will have to continue to move, with vision and some dispatch, if it is to function effectively in the 21st century as well as in 1973. It has been suggested that what is needed is *sustained* attention to Congress on the part of citizens and members alike. The effort is a long-range one and each new Congress, each new issue, will bring the subject of congressional reform into new focus.

A publication such as this, written in a time of flux, cannot be a bulletin on what's happening day by day. It can, however, offer a frame into which readers can fit new events, new ploys, new arguments, new bills. And it can suggest some ways for citizens to play their part

—in creating understanding of the problems, the pluses and minuses of suggested reforms, the ebb and flow of congressional effectiveness.

—in working effectively for the reforms they want.

What citizens can do

"The coming months will see vigorous efforts toward reform by Congressmen. But you must help, too, by making support known. Congressional reform won't just happen, unless the Congress knows that the people demand it."

—Sen. Charles McC. Mathias, Jr.

Understand what reform is all about

To be effective in the community, you don't have to be a national authority, but you do have to know and understand the subject well enough to be able to communicate the facts and your ideas to others. Congressional reform is an easy catch phrase but it involves complex and sometimes controversial issues. Opinions differ about which reforms are most needed and most desirable and how to achieve them once the goals are agreed upon. What is unmistakable is a growing demand for changes in Congress. Community leaders are in a position to educate citizens about these issues and stimulate interest in them.

The material in this COMMUNITY GUIDE is intended primarily as an introduction to the subject—to give community leaders an *outline* of the major issues and of the *context* in which they are being debated in 1973.

For background, study the publications of the League of Women Voters Education Fund and the other organizations listed in "For your information" and look through some of the books and magazine articles on congressional reform. Once you are familiar with the subject, keep current by following the news on what is happening in Congress. This may or may not be easy to do depending on what newspaper you read. The *Congressional Quarterly Weekly Report*, the LWVUS *Report from the Hill*, the *Congressional Record* and reports of committee hearings can always fill in the gaps.

Watch Congress itself

Keep track of the progress of reform efforts in all three arenas for congressional action: caucus, committee and floor. Keep a box score on substantive and procedural changes. Follow the progress of pending legislation. Some bills will die in committee; others will be reported out favorably after hearings are held.

Monitor Congress' implementation of recent reforms, and make your findings known. Good ideas, new laws often die from lack of use and exposure.

Congress now has a special computerized telephone service for citizens wishing information on the status of particular bills. If you are in the Washington D.C. area, the number to call is: 225-1772. For persons out of the area, the code is 202. If you have information about a bill—name of sponsor, number, or even subject matter, this office will quickly give you the current status of the bill and the name of the committee handling it.

In addition to bills, there are two study committees whose hearings and reports promise to be interesting and useful:

☐ The House Select Committee on Committees, studying House committee structure and jurisdiction, and

☐ The Joint Study Committee on Budget Control.

Work with other organizations

Nobody—and no single group—gets any big project done alone. The political sphere especially is one in which things get done by coalitions—from citizen education to institutional change. If you go it alone, you are likely to end up being known as "them"—"Oh, they are always harping on open meetings," or "They've got one-track minds." Make friends.

Over 40 civic, religious, labor, professional and fraternal organizations formed an ad hoc coalition to press for reforms in the early months of 1973, as the 93rd Congress organized itself. Coalitions by their nature come and go, but the list of members of this Committee for Congressional Reform may give you clues about where to look for allies in your community (see below).

Some of the citizen groups most active in educating the public and lobbying the Congress are these:

☐ ***Common Cause,*** a nonpartisan national citizen's lobby, has conducted an extensive campaign for the last two years to mobilize citizen action and directly lobby Congress.

☐ ***NCEC*** (National Committee for an Effective Congress), a bipartisan citizen group, has raised campaign funds for selected candidates in both parties, and lobbies for specific reforms on the Hill.

☐ ***The League of Women Voters of the United States*** has taken a strong position on congressional reform, as a result of its members' recent two-year study, and is now lobbying hard for changes.

☐ ***Americans for Democratic Action,*** a liberal organization, has urged Congress to adopt a number of reforms and proposed legislation to effect them.

☐ ***AFL-CIO*** has not gone on record formally but is currently working with individual congressmen in support of specific reforms.

☐ Ralph Nader's ***Congress Project*** has used the services of volunteers in their communities and has dramatized and publicized the issues in congressional reform.

☐ ***CED*** (Committee for Economic Development), a business group, has issued a report on "Making Congress More Effective."

A number of national citizens' groups are forming coalitions to coordinate fact-finding and community education about the impact of impoundment and budget cuts. Some will be seeking to reorder national priorities through legislation. Watch for their local coun-

American Baptist Convention—Division of Social Ministries
American Civil Liberties Union
American Federation of State, County and Municipal Employees
American Federation of Teachers
Americans for Democratic Action
American Humanist Association
B'nai B'rith Women
Church of the Brethren—Washington Office
Church Women United
Common Cause
Congressional Action Fund
Delta Sigma Theta Sororities
Environmental Action, Inc.
Friends Committee on National Legislation
Friends of the Earth
Joint Washington Office for Social Concern
League of Women Voters of the U. S.
Legislative Affairs Project
Mennonite Central Committee
Michigan Student Environmental Confederation
National Alliance of Postal & Federal Employees
National Association of Social Workers
National Committee for an Effective Congress
National Consumers League
National Council of Christian Research
National Council of Jewish Women
National Education Association
National Urban League
National Vista Alliance
National Women's Political Caucus
People's Party, The
Sisters Network
Student (Advisory) Committee on International Affairs
Union of American Hebrew Congregations
Unitarian Universalists Association
United Auto Workers
United Church of Christ
United Methodist Church—Board of Church and Society
Urban Emergency Action Committee, Christian Church
Washington Research Project Action Council
Women's Division, Board of Global Ministries—United Methodist Church
Women's International League for Peace and Freedom
Women's Lobby
World Federalist Youth, USA

terparts in your community. Cutbacks in housing, welfare programs and water pollution control funds are some of the key issues.

Contact leaders of those organizations which are active in your community and with whom you feel you can work. Though congressional reform is not the primary interest of some of these groups, you should be able to turn to all of them for some degree of support and interest—in organizing a public meeting, for example, or in urging your newspaper or TV station to editorialize on the subject.

Work with the media

Since Congress has been making news from the day the 93rd Congress convened, the job of approaching the newspapers, radio and TV stations on the subject of congressional reform is easier than it may have been at any other time. Congressional reform will almost certainly continue to be a lively and important subject for the remainder of this session. Take advantage of this fact with the media! If your newspaper is burying or giving short shrift to wire-service news on Congress, urge the editor to give such news more prominent space. Suggest editorial treatment, especially if your congressman or senator is prominent in any aspect of the reform fight. A small-town newspaper editor might be glad to see a notebook of recent clips from magazines and major newspapers on this subject. Prepare it and present it. If your TV and radio stations give editorial time or air local discussion programs, offer to help arrange such programs.

Not only is more coverage desirable, but coverage in depth of some of the less visible aspects of congressional operations is important. Caucus activities, committee assignments and conference votes, for example, are far more important in the legislative process than speeches on the floor. If your newspapers ignore such material, bring it to their attention personally or by letters to the editor.

If your newspaper does a box score on important bills in Congress, urge that they enlarge it to include this subject—and to cover caucuses and hearings. If you are tracking the action well yourselves, you can offer your services.

Do a case study on your congressman

One way to bring congressional reform close to home is to do a case study on your own congressman. Whether or not he is himself an active participant in one or another reform effort, all his other work in Congress is deeply affected—for good or ill—by the customs and rules at issue and by the changes already made, as well as those being discussed. They make a difference in the fate of the bills he is most interested in, in the committees he gets to serve on, and in his own effectiveness.

Interview your congressman, check his newsletters, talk to his aides, check newspaper files, to develop your facts.

Outline for a case study on your congressman and reform

1 What committees and subcommittees does your congressman serve on?

Were they his first choice? Was he satisfied with the method his party used in making assignments?

Who are the chairmen of these committees and subcommittees?

Does your congressman play a significant role in committee operations?

2 Is your congressman a member of any committee or group specifically concerned with reform, e.g., the Bolling-Martin Select Committee, the House Republican Research Committee, the Democratic Study Group?

3 Has he proposed or sponsored a specific reform measure?

Has he testified or spoken out or written in favor of or against a specific reform measure?

How has he voted on reform measures in his caucus? . . . committee? . . . on the floor?

4 How does he use his personal staff, and the staff of his committees for research, preparation of legislation, etc.?

What kind of research and resources do the people have who lobby him?

What research and technical services does he need or want?

5 What was the course and the fate of the three bills he worked hardest on last time? How were they affected by the customs and rules under discussion—seniority, cloture, filibuster, etc.?

6 Does your congressman support public financing of election campaigns or legislation for disclosure of congressmen's financial interests?

Use schools and libraries as resources

Political science and history faculty members of nearby colleges and universities may be professionals in the field of congressional reform. Engage their cooperation early. They may help you get started in your own research or share in the community education effort later.

High school social science and civics teachers might discuss the subject of congressional reform or the history of executive-congressional relations in their appropriate classes. Perhaps they would suggest topics in this field for independent study or for term papers. Schools that use the mini-unit approach in social studies programs might include this topic among them—especially if you make it easy for teachers and students to get pamphlet materials.

Ask public and school libraries and local book stores to feature a display of books and recent magazine articles on Congress and congressional reform. These are but a few ideas. A cooperating librarian will undoubtedly have many more. Don't forget the publications of the LWVEF, Common Cause and other organizations' material (see "For your information").

Hold a workshop

Cover one or more of the major issues in congressional reform in a workshop or a series of workshops. Be inventive about how you present ideas. A workshop should not only *inform* but also *engage* the participants, so don't just talk at them. If you are advocating specific reforms, do it persuasively. If your goal is not to advocate but simply to build community awareness of reform issues be scrupulously evenhanded in your coverage. A brief outline of possible workshop themes follows.

The seniority system

See FACTS AND ISSUES: *U.S. Congress—Minority Rights and Majority Rule* and *Reform: Does Congress Need It?*

See *Time*, Jan. 15, 1973 for brief history.

The tradition of seniority: what it means and how it works.

Committee chairmen—leadership.

What is good about seniority—assures expertise and experience in leadership, automatic character cuts down political infighting, etc.

What is bad about seniority—favors age over youth and discourages responsiveness and accountability of chairman to members and to citizens.

How each party caucus in House and Senate handles seniority.

Suggestions for change and actual changes in the 92nd and 93rd Congresses.

Secrecy

See LWV FACTS AND ISSUES: *Reform: Does Congress Need It?*

The pros and cons: the public's right to know vs. the Congress' right and wish for privacy.

When secrecy is necessary—national security; personnel matters, etc.

Secrecy in committee hearings, mark-up sessions, executive sessions, caucuses.

Legislation offered in 93rd Congress—"The Sunshine Bill"—Sen. Chiles (Fla.), and other legislation and rules changes suggested.

Committees in this session voluntarily opening their meetings.

Filibuster and cloture in Senate "Closed Rule" in House

See LWV FACTS AND ISSUES: *U.S. Congress: Architects of Compromise, Agents of Change? Minority Rights and Majority Rule*, and *Reform: Does Congress Need It?*

Filibuster and cloture—what they are and how they have been used historically—civil rights legislation, etc. Now used by liberals for their purposes. Suggestions for modification. Hart-Javits Bill.

"Closed Rule"—what it is (House Rules Committee) and how it is used—e.g., Ways and Means Committee legislation. Pros and cons for abolishing.

Committee structure and jurisdiction

See LWVEF FACTS AND ISSUES: *U.S. Congress: Architects of Compromise, Agents of Change?* and *Reform: Does Congress Need It?*

How committee members are chosen by caucuses and leadership.

Need for wider representation, etc.

Problems of overlapping and unclear jurisdiction; necessity for updating Reorganization Act of 1946.

Need for larger professional staffs, computers, etc.

The Bolling-Martin Committee recently appointed to study these problems.

Campaign spending

See LWVEF FACTS AND ISSUES: *Campaign Spending, The Great American Treasure Hunt*, April 1972.

Define the problem and abuses.

The Federal Election Campaign Act of 1971—a step forward.

Public financing of campaigns—is this the solution?

Bills in 93rd Congress

Other possible topics:

Executive legislative relations—budget, etc.

Ethics—financial disclosure, conflicts of interest.

Try an opinion poll

Polls can be used for many purposes: to collect information, to generate citizen interest in issues, to stimulate public awareness of the role of Congress and/or the impact of congressional practices and procedures on the issues.

Members of the League and other organizations can participate with a minimum of time and effort in polling individuals. Polls do not need to be highly scientific to be used as indicators of public sentiment; however, certain guidelines should be followed:

Keep the questions simple.

Poll at diverse times and in diverse places in order to insure a broad sample of the community (e.g., a shopping center at noon on a week day will exclude many working people).

Be sure to include young people and students.

Publicize the results by means of local newspapers, radio and TV stations and release to other organizations.

(SAMPLE) CONGRESSIONAL OPINION POLL

The (name of group) of _____ is conducting a poll as part of our national program on the U.S. congress. We'd like you to ask_____s their opinion of Congress and arouse their interest in congressional practices.

Your name_____Address_____Zip_____

DIRECTIONS: Poll as many people as possible, and return to: (name of group) not later than_____. Fill in the appropriate number(s) for each answer. Each sheet can be used for five interviews (#I - #V). Additional polls and cards are available at _____.

Please introduce the poll with "I'm_____from (name of group). We're conducting this poll to find out _____'s opinions of Congress and how well it's working. Will you answer a few questions?

	I	II	III	IV	V
A. How would you rate Congress' performance? (1)Good..(2)Fair..(3)Good..(4)Don't know					
B. Congressmen's votes on major issues make a difference to all of us. Which two factors do you think usually have the greatest influence on their vote? Which factor has the least influence? (1) letters from their constituents... (2) their political party...(3) the President...(4) the national interest... (5) lobbies...(6) campaign contributors (7) don't know					
C. Certain congressional practices have been criticized as obstacles to a responsive Congress. Do you consider that it is important to change any of these factors? (1) seniority...(2) filibuster...(3) powers of committee chairmen...(4) Rules Committee					
D. Have you ever written to your own congressman? (1) Never...(2) Occasionally...(3) Often Did he reply? Yes... No...					

Use your speakers bureau

Organize and publicize the availability of speakers. Organizations welcome the offer of a speaker, but give them plenty of lead time. Many groups have their September-to-May programs jelled by the preceding May. Develop some quick spots, too—five zippy minutes, a pamphlet and a word about where they can hear more. Here is a sample speech outline.

1

Identify major reforms most frequently proposed:

- —Modify the seniority system, especially by limiting the number of years the chairman may serve.
- —Make it easier to get bills discharged from committees.
- —Give more power to committee members, including adequate funding and staffing and the ability to more easily override the chairman.
- —Modify the cloture rule in the Senate.
- —Open up proceedings to the public and to other congressmen.
- Other

2

What do reformers say these would accomplish?

- —They would make a congressman more responsive and accountable to the people rather than to special interest groups.
- —They would make congressmen more accountable to one another—with more pressure upon the leaders to supply up-to-date and accurate information as an aid to decision making.

3

What is the job of Congress (theoretically)?

- —It acts
- —It authorizes (explain)
- —It appropriates (explain)
- —It watchdogs, e.g., oversight of executive (explain)
- —Other roles

4

What does Congress actually do and why?

- —Nowadays it chiefly reacts rather than acting: since Congress' staffing and funding are inadequate, the executive's experts prevail.
- —Bigness of job requires dependence upon experts, either within Congress or in the executive agencies.
- —Enormous power falls to committee chairmen so most of the "action" is off the floor, and sometimes even out of reach of committee members.

5

What structure and procedures most stand in the way of congressional effectiveness?

6

What can the public do? Be specific; for example:

- —Let their congressmen know by calling, writing, wiring, visiting their district offices that we expect more in the line of procedural reform and that we expect congressmen to use effectively those rules already available to them.
- —Let their congressmen know that they will have the public's backing when they go against the forces of the status quo in order to push for legislation which they feel to be in the public interest.
- —Write to newspapers on the subject of reform.
- —Pressure local papers into printing a weekly run-down of the voting record for district and senatorial representatives.

Be sure to invite ideas from the audience.

For your information

Books

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House Out of Order. Richard Bolling. E.P. Dutton, New York, 1961.

O Congress. Donald W. Riegle. Doubleday, 1972.

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Who Runs Congress? Green, Fallows and Zwick (Ralph Nader Congress Project). Bantam/Grossman Publishers, September 1972 (paperback).

We Propose: A Modern Congress. James C. Cleveland, Ed. House Republican Task Force on Congressional Reform and Minority Staffing. McGraw Hill, New York, 1966.

Periodicals

Congressional Quarterly. Weekly Service and Quarterly Guide, 1735 K Street, N.W., Washington, D. C. 20006.

Congressional Record. $3.75 a month from U. S. Government Printing Office, Washington, D. C. 20402, or free from your Congressman.

Fortune, "How to Make Congress More Effective," January 1973.

Time, cover story, January 15, 1973.

Materials from organizations

Americans for Democratic Action
1424 16th Street, N.W.
Washington, D. C. 20036

Committee for Congressional Reform
2027 Massachusetts Avenue, N.W.
Washington, D. C. 20036

Committee for Economic Development
477 Madison Avenue
New York, New York 10022
Making Congress More Effective. September 1970, $1.00

Common Cause
2030 M Street, N.W.
Washington, D. C. 20036
Operation Open Up the System, 1972, and other material

League of Women Voters Education Fund
1730 M Street, N.W.
Washington, D. C. 20036
The Appropriations Process. October 1971, 4 pp. #696, 15¢ (available in limited quantities)
Architects of Compromise . . . Agents of Change? March 1971, 6 pp. #418, 35¢
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news release

The League of Women Voters of the United States

FOR RELEASE MONDAY, APRIL 24, 1972

Washington, D.C.--The League of Women Voters of the United States today announced a new position in favor of extensive Congressional reform.

The recommendations of the 160,000 member organization are based on conclusions drawn from an 18 month study of the structure, procedures and practices of both houses of Congress.

League President Lucy Wilson Benson stated: "Leagues evaluated Congress in terms of four factors: accountability, representativeness, decision-making capability and effectiveness. They found plenty of room for improvement in each of these areas."

The changes which the League will support include:

Modifying the seniority system, particularly by limiting the years a committee chairman may serve.

Giving committee members more control over committee operations.

Reviewing the total committee system in terms of current needs.

Greater coordination of the budget and appropriations processes and the development of priority setting mechanisms.

Increasing professional staff available to Congressmen and committees and improving sources and flow of information.

Changing the cloture rule so that a three-fifths vote would cut off debate.

Requiring open hearings and committee meetings to the fullest extent possible.

Mrs. Benson commented: "The League's position on Congressional reform can be summed up in two words: greater responsiveness. This year millions of Americans will vote for the men and women they want to represent them in Congress. The fact of the matter is that without change and reform their vote will be diluted by the roadblocks and anachronisms which now limit the ability of Congress and Congressmen to function efficiently and effectively."

# # #

U.S. Congress: Action for Responsive Legislative Processes

The League of Women Voters of the United States believes that the structures, procedures and practices of the U.S. Congress must be characterized by accountability, representativeness, decisionmaking capability and effective performance. Responsive legislative processes must meet these criteria:

ACCOUNTABILITY: A Congress which is responsible to the citizens and which is able to hold its own leaders, committees and members responsible for their actions and decisions.

REPRESENTATIVENESS: A Congress whose leaders, committees and members represent the nation as a whole as well as their own districts and states.

DECISIONMAKING CAPABILITY: A Congress with the knowledge, resources and power to make decisions which meet national needs and reconcile conflicting interests and priorities.

EFFECTIVE PERFORMANCE: A Congress able to function in an efficient manner with a minimum of conflict, wasted time and duplication of effort.

Based on these criteria, the League supports the following changes in congressional structures, procedures and practices:

Leadership and Committees:

- Modify the seniority system, especially by limiting the number of years committee chairmen may serve.
- Implement a prescribed set of procedures to give the committee itself rather than the chairman alone control over committee operations.
- Make committee assignments in such a way as to achieve representation of diverse interests.
- Review and continually evaluate the committee system in light of contemporary needs and realities.

Decisionmaking:

- Develop mechanisms for determining national priorities.
- Coordinate fiscal processes in order to consider total programs, establish priorities and examine the expenditures and revenues of the budget as a whole.
- Eliminate unnecessary secrecy within the Congress and between Congress and the executive branch.
- Schedule congressional activities to make effective and responsible use of congressmen's time.
- Streamline congressional workload by transferring from Congress those duties which might more suitably be performed by other agencies.

OVER

- Provide adequate professional staff for congressmen and for committees to secure and make effective use of information.

- Improve the sources and the flow of information through computerization and other methods.

- Use electronic voting and other timesaving devices.

Majority Rule and Minority Rights:

- Modify cloture rule to 3/5 majority.

- Provide measures that would facilitate discharge of bills from committees.

The Right to Know:

- Make available full information on congressional proceedings in committees as well as on the floor.

- Require open meetings to fullest extent practicable.

- Publish the Congressional Record as a clear and accurate report of the day's proceedings.

# # #

April 1972

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MEMORANDUM

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easy reason for not observing fiscal year deadlines. However, critics of this reform do suggest that any automatic appropriations feature should include incentives for action: a time limit or a 90%-of-prior-year funding limit.

5 Include tax expenditures in the process.
In 1982, Rivlin told the Senate Budget Committee that the budget process should cover tax expenditures (losses of tax revenue through special exclusions, exemptions or deductions) because, like spending and lending decisions, they affect the economy. Tax expenditures have increased recently, at a faster rate than federal spending. Setting limits on tax expenditures would enable Congress to control drains on the revenue base, and including them in the budget would make visible the policies being implemented through tax exemptions or exclusions. Opponents of a binding ceiling on tax expenditures in the budget include the CED. Its argument: tax expenditures are only a part of the larger problem of tax policy, which is very complicated and in need of review. CED did, however, advocate joint review of tax expenditures by tax-writing and spending committees in Congress.

6 Subject entitlements to the budget process.
Entitlements are laws requiring the payment of benefits to any person or class of beneficiaries that meets the legal qualifications, e.g. social security, veterans' benefits, federal pensions and the like. Professor Thomas Lynch, writing recently in the journal *Society*, noted that entitlements plus debt service and prior year obligations make 78 percent of the federal budget uncontrollable (precommitted by law) and only 22 percent the subject of annual discretionary budget decisions. The 1974 budget act discouraged further "backdoor" spending, but entitlements were already written in, reflecting policy decisions that our society has long supported. Their effect on the economy prompts some observers to argue they should somehow be brought into the budget process, a move also urged for tax expenditures and the credit program.

7 Improve the economic forecasting process.
During recent years there have been major differences between economic forecasts from the CBO and the OMB—for example, on the projected level of federal deficit. Realism, comparability and consistency in measuring revenue and spending levels are critical, according to Bowsher. Citing the "volatility" of estimates in the President's budget and the budget resolutions as extremely frustrating to all participants, he noted that large errors in estimates flow most often from mistaken assumptions about how the economy will behave, not from technical errors. The accuracy of forecasts "depends on the accuracy of the policy assumptions," which can be colored by political views. Even slight variations in economic behavior have large budget implications. A Bowsher example: a 1-percent increase above the projected rate of unemployment can cut revenues by $12 billion and increase expenditures by $5 billion.

Rudolph Penner, Rivlin's replacement at CBO, has proposed that to cope with this problem of inexact estimates and divergent economic assumptions, Congress and the executive agree in December to a common set of forecasts and predictions. The CED in 1983 called for a new Budget Concepts Commission to consider ways to strengthen the information used by all budget players.

8 Move to a biennial budget cycle.
Many who have observed the difficulty of meeting the timetable of the 1974 act have called for a shift to a two-year budget cycle. Advocates believe that such a change would reduce the legislative burden, make oversight easier and allow more time for deliberation. Rivlin, for example, told the Senate Budget Committee in 1982 that major issues like financing social security and national defense might receive greater attention. One plan introduced by Senator William Roth (R DE) would establish a two-year timetable with the first year devoted to passing a single concurrent resolution, an omnibus appropriations bill and spending authority actions—all applicable to a two-year fiscal year. The second year would be used by Congress for oversight on programs and authorizations. His bill reflects a concern about the budget process pushing out other policy matters that Congress must address. Another two-year-cycle proposal, by Senator Wendell Ford (D KY), keeps the basic format and steps of the budget process as outlined in the 1974 act but spreads them out over two years, with the budget applying for a two-year fiscal year. Under his plan, one year would serve as an authorizations year and one year as an appropriations year, and reconciliation instructions would be confined to the required second resolution. Deferred enrollment is also a part of the Ford bill.

The two-year budget concept has been supported in testimony by the Comptroller General, but he indicated that such a timetable would give new Presidents little time for developing their budget policy. Rudolph Penner pointed out the disadvantage of a two-year cycle in the frequent economic course corrections that would be necessary within a period. Others note that economic forecasting and budget development are so uncertain already because of changing economic conditions that extension of the cycle to two years could make timely legislative response very difficult.

9 Consider other legislative ideas.
Rep. David Obey (D WI) has proposed an omnibus budget bill for the House that would combine into one bill the 13 regular appropriations bills, all changes in tax and entitlement programs, and annual goals for spending and revenues. It would limit the influence of the appropriations and tax committees, but enhance the role of the budget committees. Not surprisingly, some authorizing committee chairs suggested another approach in 1983: give standing committees more of a role in the budget process, particularly by adding representatives of all other standing committees to the membership of the Budget Committee.

During 1983 a House Task Force on the Budget Process (under Rules Committee auspices) chaired by Rep. Anthony Beilenson (D CA) has been meeting to take a comprehensive look at these and other possible modifications.

The budget process has endured. As Allen Schick noted, it "has become a regular, accepted feature of the congressional landscape." The budget process functions as a crucible in which strongly held political views and competing prescriptions for the nation's economic health vie for acceptance. Yet, all in all, Rivlin's verdict stands: "The process has proved itself enormously resilient and adaptable in the face of extraordinary strains." Changes in its workings have been adopted by a pragmatic Congress and other changes are under consideration. All in all, Congress has held what it established in 1974: a means for examining in a comprehensive way and arriving at the money decisions it must make.

For further reading

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Readers may also consult the weekly publications *Congressional Quarterly Weekly Report* and *National Journal*.

This publication was researched and written by Mary Stone, Director, Government/Voters Service Department.

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Congress and the Budget Revisited

Nearly ten years ago, Congress gave itself a new system for developing the federal budget each year. In the decade since the Congressional Budget and Impoundment Control Act of 1974 was put in place, the budget process, with some ad hoc modifications, has survived severe stresses—the aftermath of Vietnam, raging inflation, recession, partisan politics, high unemployment and rising deficits.

It is worth recalling that the budget act arose as Congress's response to the increasing flow of budgetary power to the presidency. Through the President's power to spend and to formulate a budget—powers that President Nixon augmented through impoundments of congressional appropriations for various programs—the executive branch seemed to be overshadowing Congress in shaping national priorities. To restore balance between the two branches, Congress implanted the new process to help it regain its constitutional "power of the purse" and to enable it to consider the budget as a whole, something it was until then unequipped to do.

The act was designed to give Congress an orderly approach for considering spending and revenues together, evaluating economic conditions and then establishing congressional fiscal policy and budget priorities. By establishing a Congressional Budget Office (CBO), the act also provided Congress the kind of professional, technical support the White House had long had.

Overview of the congressional budget process

While recent practice has shaken up the original pattern, it is still useful to master the essentials of the timetable laid out in the 1974 act.

In the fall: Both the CBO and the President's Office of Management and Budget (OMB) work on their respective forecasts and budget preparations for the fiscal year that will begin on the following October 1st.

In late January: The President submits a budget to Congress, along with a "current services" estimate describing expenditures needed to keep all existing government programs at current funding levels for the coming fiscal year. The CBO also prepares "baseline" estimates on current level funding.

Next: The House and Senate Budget Committees hold hearings on the President's recommended budget, the economy and federal budget priorities. In February, the CBO submits to the budget committees its report covering the national economic outlook and the probable economic effect of alternative budget choices.

Meanwhile: Each House and Senate standing committee prepares an estimate of the budget authority and resulting outlays that it anticipates for programs under its jurisdiction.

By March 15: Deadline for these committees to report such decisions to their respective budget committees.

By April 15: The two budget committees are to recommend budgets to their respective houses in the form of First Concurrent Resolutions. These resolutions (which may differ) establish the next fiscal year's target figures for:

- ☐ the levels of *budget authority* (the authority to incur an obligation to pay out money, the most common being an appropriation) and *outlays* (money actually to be paid out);
- ☐ the budget surplus or deficit, based on estimates of money raised compared to estimated outlays;
- ☐ the recommended level of federal revenue (including recommended tax increases or decreases);
- ☐ the level of the public debt.

Accompanying reports point out economic assumptions and objectives; compare these figures with the President's figures; list revenue sources; give a five-year projection of spending, revenues, tax expenditures and deficits/surpluses; and describe the amount of "uncontrollable" spending (defined below, under entitlement discussion).

By May 15: The two houses must hammer out their differences and adopt a First Concurrent Resolution. Standing committees must also report all new authorization bills for new budget authority. (Authorization is a substantive law that sets up or continues a federal program or agency.)

Through the summer: Following adoption of the First Concurrent Resolution—and not until then—the House and Senate act on authorization, appropriations and revenue bills in line with the budget authority and outlay totals allocated to the committees under the First Concurrent Resolution.

By seven days after Labor Day: Congress completes action on new budget and spending authority bills.

By September 15: Congress must pass a Second Concurrent Resolution, establishing firm ceilings—not just targets—for budget authority, outlays, the deficit and the debt. This resolution also establishes a revenue floor below which legislation may not reduce revenue.

By September 25: This is the deadline for reconciliation if the second resolution totals differ from the target figures in the first resolution due to economic changes or to actions Congress took over the summer. Reconciliation is a two-step process wherein (1) the relevant committees are instructed to recommend substantive changes to bring specific spending or revenue bills into line with budget resolution aggregate figures, and (2) bills or resolutions incorporating the changes are passed. Congress may not adjourn before it passes the Second Concurrent Resolution and any necessary reconciliation measures.

By October 1: The new fiscal year begins.

The budget process at work: Evolution by necessity

Like any institutional procedure, the congressional budget process has had to be adapted to changing situations, and, at times, to seemingly impossible pressures.

One pattern running through several years' experience with the budget process is that its neat—and tight—timetable has sometimes been forsaken as legislators grappled with uncertain economic conditions and changing forecasts. For example, in 1979, Congress did not pass a Second Concurrent Resolution until November 28, nearly two months after the start of the new fiscal year. The reasons: economic pressure from inflation and disagreements over the level of defense spending. In 1980, the First Concurrent Resolution wasn't passed until June 12, nearly a month late, for the same reasons. But this time a new process emerged, as the reconciliation stage was used for the first time but was moved forward and incorporated into the First Concurrent Resolution. Reconciliation instructions called for spending cuts and tax increases to mesh figures with the resolution's budget totals.

After the summer's committee work, final reconciliation efforts

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began in September 1980, but took months to complete. With changing circumstances and a presidential election in the fall of 1980, Congress did not even vote on the Second Concurrent Resolution until November 20, two months into the fiscal year. Even then, since the resolution embodied significant deficits, a reconciliation measure was still needed, and that bill was not passed until December 3. Late though it was, it was nonetheless a notable landmark: it was the first time Congress availed itself of the reconciliation process, cutting spending levels for many programs and increasing revenues to meet budget limits and shave the deficit.

In 1981, different forces came into play. A newly elected President called for major changes in budget policy. He gave Congress a budget for fiscal year (FY) 1982 that called for greatly reduced domestic spending and a large tax cut, predicting that these measures would trigger a lessening of inflation and a "return to prosperity." The cuts did not apply to military spending or certain "safety net" social programs.

Adhering closely to the budget timetable, Congress agreed to most of the President's program in the First Concurrent Resolution. As in 1980, the first resolution, not the second, contained instructions for reconciliation, this time of about $36 billion. Within two months Congress passed an "omnibus" reconciliation bill that cut $35.1 billion from the budget. Congress also gave the President much of what he wanted on tax cuts, paring back federal revenues for FY 1982 by about $37.7 billion. The reconciliation bill added a multi-year scope to match the President's multi-year plan for taxing and spending reductions. The bill contained binding totals for the next fiscal year plus targets for two succeeding "outyears."

The combination in the FY 1982 budget of spending cuts and revenue reduction added up to a very significant change in federal fiscal policy—a change sought by the President and accomplished through the workings of the budget process. One member of Congress complained that "Congress surrendered its budgetary independence from the executive branch." That assessment, however, proved premature.

The budget that the President submitted to Congress in January 1982 set the stage for another story. It continued the emphasis on increased defense spending and cutbacks in nondefense spending, and it stuck to his 1981 three-year tax cut program. It also contained a large deficit.

In the face of this projected deficit, congressional budget and tax committees developed and passed their own spending and revenue proposals, demonstrating they could act together through the budget process to assert congressional priorities, even under the circumstances of divided partisan control of Congress, necessitating bipartisan cooperation. The First Concurrent Resolution, passed on June 18, 1982, provided for military spending cuts, for other nondefense cuts and for increased revenues. These changes would have reduced the deficit more than the President's original request. But deficits were still high. During the summer of 1982, Congress worked on adjustments to the 1981 tax cut law in order to restore some revenues. Other reconciliation efforts continued.

By November 1982, however, Congress had still not passed the appropriations bills needed to keep government services going in the new fiscal year. The President called Congress back after the election to finish its work, but even then the 97th Congress ended up passing a contingency budget resolution to fund for the rest of the fiscal year those functions not yet provided for.

For FY 1984 the President again submitted a budget reflecting priorities similar to those in his previous two budgets. The administration's defense spending requests remainded high, and President Reagan declined to modify the third installment of the 1981 income tax cut. Among his revenue proposals were reforms in social security and a stand-by tax increase to go into effect if the deficit remained high. He also proposed to freeze discretionary nondefense spending for three years, the equivalent of a reduction each year because of inflation.

The First Concurrent Resolution on June 23, 1983 reflected different priorities. In it, Congress aimed for higher taxes, higher domestic spending levels and lower military spending. The resolution set a spending goal of $849.6 billion. It created an antirecession "reserve fund" for ten programs that were not yet authorized. Continuing high deficits were projected, and $73 billion more in revenues had to be found. The resolution contained instructions for reconciliation measures to reduce the deficit and incorporate any new revenue measures and spending cuts. Although the First Concurrent Resolution called for reconciling revenue and spending adjustments by July 22, that goal proved impossible to meet. Both houses agreed to defer reconciliation until September 23, citing difficulties in devising so hastily the new revenue provisions that would be adequate to the scale of the problem.

Several practices stand out in this quick budget review. Congress has begun to treat the First Concurrent Resolution as binding. It has also been willing to press for reconciliation early on, instead of waiting until the second resolution. Experience has also shown that Congress can miss deadlines without destroying the process. On the negative side, no one defends the failure to pass a budget before a new fiscal year starts with all the attendant problems that delay can bring.

The 1974 act created a budget committee in each house to manage the new budget process. The discipline of the budget system has at times constricted the role of the authorizing committees. The major reconciliation bill of 1980, especially, surfaced these tensions between the budget committees and the committees that pass authorization bills. The 1980 bill broke new ground by forcing actions by standing committees in conformity with the budget resolution. How much the built-in conflict between budget committees and authorizing committees comes to the fore depends on the political skill with which the budget chairpersons work with other committee leaders.

Another point seems obvious in the perspective of nearly a decade's use: the congressional budget process is neutral, neither liberal nor conservative. Sometimes the President has used it to advantage to push his economic program into place, as in 1981. Sometimes Congress and the President have used it smoothly together, as in 1980. And sometimes Congress has developed its own budget imprint, as in 1982 and early 1983.

Many criticisms of the budget *process* have in fact been criticisms of budget *outcomes*—or even of economic forces beyond the power of the federal budget to constrain. The process often comes in for attacks born of a wish to "shoot the messenger" who bears bad news—when the bearer of bad news (the process) is castigated about the news itself (recession, deficits, or high unemployment).

Focus on defense

The preparation of the nation's defense budget provides a good, up-close example of how the budget process works *within* a federal department. Defense spending constitutes about 28 percent of the FY 1984 budget and includes funding for six major components: *procurement* of new weapons systems; *research and development* of new weapons technology; *operations and maintenance* of existing forces; *military construction; military personnel* pay and benefits; and *retirement pay*. How the Department of Defense (DOD) decides on its budget request for these components and how Congress acts on that request are known as the "defense budget process." (For details about defense spending issues, see *Dollars for Defense: Translating Military Purposes into Spending Choices*, Pub. #534, $1.25, 75¢ for members.)

The defense budget process begins at the Pentagon in November, prior to the fiscal year timetable outlined on page 1, with preparation of the Consolidated Guidance, a classified document that instructs the military services on major initiatives and provides broad guidelines on force structure and personnel levels for the next five years. From the following February through the summer months, the services formulate their budget proposals based on the guidance they have received. These proposals are submitted to the Secretary of Defense, who must make final decisions and then forward the budget request to the Office of Management and Budget in September. There DOD's request in reviewed, hearings are held with DOD to allow for appeals of OMB decisions, and the request is adjusted to fit in with the remainder of the Administration's budget proposals. Based on OMB's decisions, the final DOD budget is prepared in December and January for submission to Congress.

After Congress receives the defense budget request, both the budget committees and the authorizing committees (the House and Senate Armed Services Committees) go into action, with the former setting overall spending totals for the national defense over the next three years and the latter establishing defense programs and funding levels for the coming year. After these committees have ensured that the funds authorized match the budget resolution totals, the appropriations subcommittee on defense (and ultimately the full committees) establish the check-writing authority for DOD through the budget authority. By the time this process is completed and the new fiscal year begins, the Pentagon is well into the preparation of the next five-year defense plan.

In addition to DOD programs, the national defense budget umbrella includes nuclear weapons programs of the Department of Energy and miscellaneous defense activities such as the Selective Service System. Some analysts claim that to obtain a true picture of defense spending, veterans' programs, NASA space activities, military assistance and foreign military sales credits (arms sales) should also be factored into "national defense." If these categories were added to the national defense budget, spending for defense-related activities would equal about 64 percent of the FY 1984 budget.

Red ink: How deficits complicate budget making

The budget process does not *cause* deficits—taxing and spending choices do—but deficits, especially the large ones currently projected, have a powerful impact on the economy and thereby on budget decisions. Deficits occur when outlays exceed revenues. Most economists hold that some "deficit spending" at the federal level—borrowing to cover outlays that exceed income—can be beneficial under certain conditions. But the current projected deficit of nearly $200 billion a year can be a serious threat to economic growth.

Economists speak of two deficits—one cyclical, the other structural. The cyclical or *actual* deficit rises rapidly during a recession when unemployment is high, income declines and tax receipts drop. During economic expansion the opposite is true: the cyclical deficit diminishes or disappears. The deficit that remains is the "built-in" structural deficit, which exists even when the economy is operating at a healthy level with no more than 5–6 percent unemployment. The annual Brookings Institution analysis of the federal budget states, "The budget problem Congress now faces is the result of decisions made over the past two years to increase defense spending and reduce taxes." Analysts predict that the structural deficit will be unusually steep in the foreseeable future.

High deficits mean increased federal borrowing, which means that the federal government's credit needs compete with those of state and local governments and/or private borrowers. When this happens, interest rates rise, and some private and state/local borrowing is crowded out. Private spending is curtailed, demand is reduced, and economic growth is threatened.

Spending cuts alone are not enough to reduce current, large projected deficits, according to many experts. Significant tax increases also will be necessary to bring the structural deficit down to an acceptable one or two percent of Gross National Product (GNP). It was about 2 percent of GNP during the 1970s, according to Penner, and is projected at 4.2 percent of GNP by 1988, if no improvement occurs.

Suggestions for improving the budget process

Economists, budget specialists, members of Congress and others have suggested a number of improvements to strengthen the congressional budget process.

1 Make the First Concurrent Resolution binding.
Most agree this would recognize officially what Congress has been doing anyway in recent years. Alice Rivlin, the first—and until mid-1983 the only—director of the CBO, has noted that "the hard decisions to cut spending or raise taxes must be made early in the year." Making the first resolution binding is a change that would force all participants to deal seriously with hard budget choices at an early point in the budget cycle. Changing the second resolution from a mandatory to an as-needed status could save Congress time. The private, business-backed Committee for Economic Development (CED), which strongly endorsed the congressional budget process in 1983, supported this reform among other specific improvements.

2 Increase the use of reconciliation bills.
U.S. Comptroller General Charles Bowsher has endorsed use of reconciliation measures any time after the First Concurrent Resolution is passed as adding "flexibility." Again, this change would merely formalize what Congress has found necessary to do since 1980. Rivlin praised the practice of using reconciliation earlier in the process, but noted that reconciliation instructions should allow sufficient time for drawing up necessary bills.

Budget expert Professor Allen Schick believes that reconciliation is an evolving and potentially powerful procedure. In his opinion, it may greatly modify the way Congress does business in the future years because reconciliation can affect budget outcomes and matters of substance in revenue and spending policies. It also can force deadlines, mandate dollar changes in spending and/or taxing measures and affect entitlements, appropriations and authorizations. He further notes that reconciliation instructions can force committees to bring to the floor "matters they might prefer to pigeonhole." Clearly, this procedure is an important part of the budget process.

3 Expand budget resolutions to cover the federal credit budget.
Federal credit activity has a great impact on private financial markets, yet much of the federal credit program (direct loans and loan guarantees) has been classified as off budget. Budget experts maintain that placing credit program limits in the budget resolution (a direction Congress has already begun) would help government to plan and control federal credit programs, which recently have expanded twice as rapidly as federal spending.

4 Improve the appropriations schedule.
During recent years, Congress has relied increasingly on continuing appropriations resolutions to fund activities for which normal appropriations bills have not yet been passed. Why? Often political differences between Congress and the President, or between the two houses of Congress, prevent timely completion of all budget steps. Delays have also occurred because a controversial rider has been attached to an appropriations bill, further complicating the process. Some observers feel that delays and the resulting recourse to the continuing resolution is one of the most serious problems in budget making.

Experts have suggested several remedies. One is a single omnibus appropriations bill that would resolve any conflict with budget totals. Critics warn that this technique might offer a large target for a presidential veto, in cases of severe policy conflicts over parts of the budget, thereby delaying the budget further. (The U.S. Constitution does not allow the President an item veto.)

Another concept is "delayed enrollment": individual appropriations bills that exceed either the committee allocation or the functional category allocation made with the First Concurrent Resolution (OMB lists 19 functional categories) can be held up—not sent to the President for signature. Such "budget busters" could be lumped into a single omnibus measure by September 15 to enable Congress to conform appropriation action with budget resolution totals.

A third idea is to use an automatic continuing resolution that would continue appropriations at the prior year's level and assure continued functioning of the government if Congress missed the budget-making timetable. Critics point out that it would remove the incentive to resolve budget problems early and give Congress an

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current focus

Congress and the Budget: from chaos to control

Passage of the Congressional Budget and Impoundment Control Act in 1974 has given Congress an opportunity to reassert its role in formulating the national budget. That role had long been eclipsed by the executive branch's domination of the budget-making process, but Congress can now move back into a decisive position in the process. Under the new act, Congress can:

☐ examine the budget as a whole—that is, consider spending and revenues together;

☐ evaluate economic conditions and then establish in the budget congressional fiscal policy and budget priorities.

Completion of the budget for fiscal year 1977 (which began October 1, 1976) marks the first full year of congressional experience with the new process. Observers of Congress have been watching closely to see how well the new procedures work, superimposed as they are on the ongoing, traditional patterns of congressional activity. This CURRENT FOCUS explains the changes made by the new act, the problems that gave rise to the changes, and unanswered questions about the extent of congressional budget reform.

The power of the purse: executive versus legislative authority

Budgetary powers, like many other powers in government, are shared by the legislative and executive branches and are subject to checks and balances between the two. The Constitution gives the basic "power of the purse" to Congress when it stipulates, in Article II, Section 9, "No money shall be drawn from the Treasury, but in consequence of appropriations made by law"—that is, by act of Congress. However, it is the executive branch that actually manages government programs and spends the money.

Through the years, the proper budget-making role of each has been an issue between the two branches. Before 1921, each government agency sent its budget request directly to Congress, which made budget decisions through the appropriations process. Although Congress technically had the upper hand, it never fully exercised its powers because it considered appropriations through a fragmented committee system and because it failed to approach the budget as a total entity. Recognizing its inability to generate a coherent budget and hoping that the Executive could exert effective controls on spending, Congress authorized the President to initiate budget proposals—and thus to shape national priorities—in the Budget and Accounting Act of 1921.

This legislative milestone had one salutary effect: the Executive formulated and proposed a coordinated federal budget for Congress to consider each year. The act also gave the President an important staff resource by establishing the Bureau of the Budget (BOB) (at first under the Treasury Department; after 1939 in the Executive Office of the President). In 1970 the BOB became the Office of Management and Budget (OMB). OMB prepares the President's budget, evaluates departmental programs, clears departmental budget requests, and assists departments in organizational and management matters.

Besides using the delegated power of budget initiation, recent presidents also have shaped national priorities through their broad discretionary power over spending decisions, notably through impoundment. Former President Nixon's impoundments of public works, agriculture, housing, clean water and other funds that Congress had appropriated—though by no means the first—were so sweeping that they gave added impetus to congressional efforts to shift the balance back toward legislative control over the budget. The result was the 1974 budget reform act.

The new process for legislative consideration of the national budget set up:

☐ new House and Senate Budget Committees;

☐ a Congressional Budget Office with a permanent staff of budget analysts;

☐ new dates for the fiscal year;

☐ a strict timetable for congressional action on the budget;

☐ controls on so-called "back-door" spending (see box);

☐ a method for imposing a ceiling on the amount of money the government can spend, establishing a floor below which revenues should not fall, and specifying the size of the deficit it can create;

☐ procedures under which Congress can disapprove an executive branch impoundment of funds previously authorized and require their expenditure.

Authorizations and appropriations

Under both the old and the new process, Congress must first authorize programs and then appropriate funds for those programs (for definitions, see box p. 2). Authorization bills are processed by various legislative committees. For example, foreign aid authorizations go to the House International Relations Committee and the Senate Foreign Relations Committee before being sent to the floor in each house. If budget authority is not provided in the authorization, appropriations bills giving budget authority for various programs then go through the Appropriations Committees, beginning in the House. (The Constitution states that all *revenue* bills must originate in the House; the principle has been extended by tradition to all "money" bills, including appropriations.) The tax bills that raise revenue to cover government

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Budget terminology

Before the government can spend money, Congress must pass authorizing legislation and budget authority. Below are some terms related to this process.

☐ An **authorization** is the substantive law that sets up or continues a federal program or agency. It usually does not, by itself, provide budget authority. Authorizations may limit the amount of money that can later be spent on a program or they may allow the appropriation of amounts "necessary." Authorizations may be for a specific time or may last indefinitely.

☐ Before agencies are allowed to spend, however, Congress must create **budget authority**—the authority to incur an obligation to pay out money. Budget authority is not to be confused with authorizations; budget authority itself actually allows an agency to start spending.

☐ The most common form of budget authority is an **appropriation act.** Appropriation acts permit federal agencies to incur obligations for specific purposes and actually to make payments. Congress makes *most* of its spending decisions by this process.

☐ **"Back-door" spending authority** either bypasses the appropriations process or limits the Appropriations Committees' power to control funding amounts for a program. Back-door authority has in the past placed about one-third of the budget outside the normal appropriations process. Examples of back-door spending categories are:

- **contract authority,** which permits an agency to incur obligations in advance of appropriations. Appropriations must be made later when funds are required to liquidate the obligation (e.g. for construction grants for waste treatment facilities under federal water pollution legislation).
- **borrowing authority,** which permits an agency to incur obligations and to pay these with money raised by borrowing, either from the Treasury or from the public.
- **mandatory entitlement programs,** which come from authorizations and require the federal government to make payments to any government or person meeting eligibility requirements stated in the legislation (e.g. food stamp program, veterans pension increase). The entitlement programs *require* an appropriation and, in this way, obligate part of the budget regardless of other factors.
- **permanent appropriations,** which make budget authority available without current action by Congress (e.g. trust funds for social security or highway aid).

☐ Money actually paid out by a government department or agency is called a **budget outlay.**

spending go through the House Ways and Means Committee and the Senate Finance Committee.

These traditional steps and the responsibilities of the various committees are essentially unchanged by the new act. However, the authorization and appropriation steps are now part of a four-stage process in which Congress considers the budget as a whole. The stages must conform to strict timetables; they are coordinated within congressionally determined priorities, spending ceilings and a revenue floor. The act also brings "back-door" spending under some controls.

Lost in the money maze

Few citizens realize how uncoordinated and almost random were Congress's budget decisions before the budget control act. Growing federal budget deficits did make it increasingly evident, however, that Congress did not do what most citizens and businesses take for granted—compare how much it wanted to spend with how much it was going to raise—nor were spending priorities being consciously established.

Among the flaws in the system:

☐ When the President (backed by numerous budget analysts in OMB and economic analysts in the Council of Economic Advisors) sent his proposed budget to Capitol Hill, there was no congressional committee or staff to examine it closely *as a whole* and to propose a coherent congressional alternative. Rather, the President's proposed budget was parcelled out in numerous pieces corresponding to the jurisdictions of congressional committees, where each made isolated decisions on its own segment without knowing what the other committees were doing. Each house of Congress then voted separately on each bill creating budget authority as it was reported out of each committee, with no certain idea of how much it was all adding up to—until the end of the next fiscal year, when the Executive tallied the total amount spent that year.

☐ Not only did Congress lack a workable way to compare anticipated income with planned spending, but decisions on whether to increase or lower taxes or to change the tax structure were also made without this rudimentary information. Thus, Congress was never able to make a conscious choice on the size of the deficit, a situation that left Congress with no real control over national fiscal policy—the particular mix of government spending and taxing that would contribute the most to a healthy economy.

☐ With Congress convening in January and the fiscal year beginning on July 1, Congress used to have little time to consider all the bills creating budget authority for that fiscal year. Often Congress gave up trying to meet the July 1 deadline. Instead, it resorted to passing continuing resolutions providing temporary funding at the levels of the preceding year, just to keep many government offices from having to close down. Not one regular 1974 appropriation bill was enacted before fiscal year 1974 started.

☐ These problems were further complicated by the fact that close to 75 percent of all budget outlays are for items classified as "uncontrollable under present law," because of entitlement legislation, the carryover of obligated balances from prior years, and permanent appropriations that become available without current congressional action. Further, back-door authority placed about one-third of the budget outside the normal appropriations process.

☐ Congress often used "supplemental" appropriations bills to increase appropriations for a program after the regular appropriation was passed.

☐ Agencies did not always spend the full amount appropriated for a program in a given fiscal year. Each year, then, there were—and still are—carryover balances from budget authority previously given by Congress, in addition to outlays from budget authority newly provided for the current year.

While the federal budget was growing tremendously, Congress was without a mechanism for determining the nation's goals and economic policy. The President, on the other hand, had gained increasing power over spending, not only through the ability to generate his own budget, which Congress could only deal with piecemeal, but also through the practice of impoundment: not spending money Congress had appropriated. A growing sense of frustration over this lopsided state of affairs led Congress to pass the Congressional Budget and Impoundment Control Act of 1974.

The new players

When it set up the new budget process, Congress also created several new actors to handle it: standing Budget Committees and their staffs in each house and a fledgling bureaucracy in the form of a joint Congressional Budget Office (CBO). All together, approximately 350 new staff positions were created, including clerical and other support personnel.

The two Budget Committees, which differ somewhat in makeup, are responsible for considering various budget alternatives and recommending to Congress a budget that has a distinctly congressional imprint. The House committee has 25 members, including five from the Ways and Means Committee, five from the Appropriations Committee, thirteen from other House standing committees, and one member each from the majority and minority leadership. Partially in an effort to keep it from becoming an entrenched power base, the House allows Budget Committee members to serve for no more than two out of five successive Congresses. The Senate Budget Committee consists of 15 members, chosen at large from the whole Senate, with no limit on time of service.

The two committees are also responsible for studying the spending effects of current and proposed legislation, coordinating so-called tax expenditures (losses in revenue that come from giving a tax break of some sort), and reviewing the work of the Congressional Budget Office.

The job of the CBO is to give Congress, and particularly the Budget Committees, the information they need to make budget decisions. It provides analyses of economic conditions, alternative budgets and the projected costs of proposed legislation. It also handles scorekeeping on spending bills: tracking the myriad spending decisions Congress makes and keeping a running total of the estimated size of the outlays that are being authorized.

The CBO is headed by a director appointed on a nonpartisan basis for a four-year term by the Speaker of the House and the president *pro tempore* of the Senate on the recommendation of the two Budget Committees. The first director was Alice Rivlin, a former Brookings Institution economist. Early in her term, Dr. Rivlin explained that her office was ". . . going to be laying out issues and options in a way that makes clear what the choices are," providing policy analysis and budget analysis, so that Congress can consider alternatives.

The new process in four easy steps and two resolutions

The new four-stage budget process has two focal points: first and second concurrent congressional resolutions on the budget. These resolutions establish government totals for spending, new budget authority, revenues, the deficit and the level of the public debt. The resolutions also establish subtotals for spending and budget authority for each major budget function.

The First Concurrent Resolution merely sets targets for these categories, but the Second Concurrent Resolution, scheduled just before the new fiscal year starts on October 1, turns the targets into spending ceilings and a revenue floor. The passage of concurrent budget resolutions allows Congress to debate and decide on overall national spending priorities. Regular individual spending and revenue bills are then considered within the framework of a total congressional budget.

Step one: preparation

The first step of the process is to prepare for the First Concurrent Resolution. It begins on November 10 when the President submits an estimate prepared by OMB of the expenditures needed during the next fiscal year if all existing government programs and activities were continued at current funding levels. This **current services budget,** as it is called, gives the CBO and the two Budget Committees a base line from which to start looking at any budget proposals. The Joint Economic Committee is required to review the President's current services budget and report its evaluation by December 31. Within 15 days after Congress convenes in January, the President submits the Administration's recommended budget. The Budget Committees hold hearings on the President's budget recommendations, the overall economic situation and national budget priorities.

Meanwhile, all the other standing committees are preparing their own estimates of the budget authority and resulting outlays they expect to recommend for programs under their purview. These committee reports are submitted to the Budget Committees by March 15, to give an overall indication of what the standing committees plan for the next fiscal year.

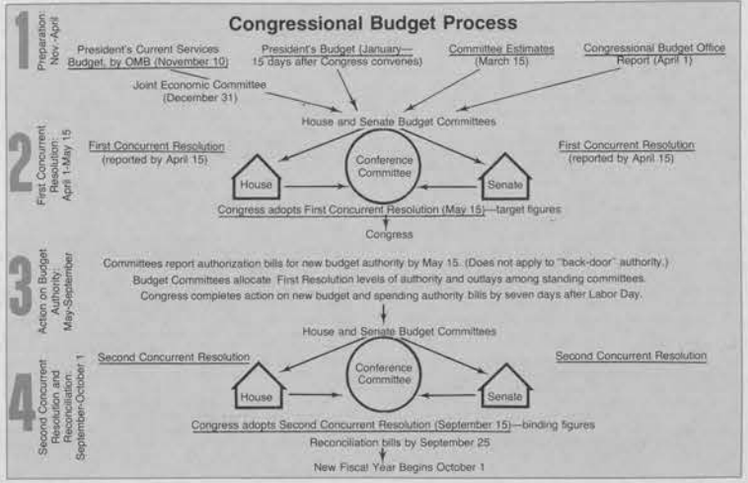
The CBO completes the preparation stage by April 1, when it submits its major budget report, which analyzes:

☐ the national economic outlook for the next year,

☐ the probable economic effect of different fiscal policies that could be followed (including the specific mix of spending and taxing recommended by the President), and

☐ several different spending and taxing alternatives.

This analysis, along with the President's budget, the current services budget and the committee estimates, constitute the major documents for the Budget Committee as they prepare the First Concurrent Resolution.



Step two: passing a First Concurrent Resolution

By April 15, just two weeks after the deadline for receipt of the CBO report, the two Budget Committees each recommend budgets to their respective houses in the form of concurrent resolutions that establish the next fiscal year's target figures for:

☐ the appropriate levels of *budget authority* and estimated *outlays,* both for the overall budget and for each of 17 major government functions—

National Defense
International Affairs
General Science, Space and Technology
Natural Resources, Environment and Energy
Agriculture
Commerce and Transportation
Community and Regional Development
Education, Training, Employment and Social Services
Health
Income Security
Veterans Benefits and Services
Law Enforcement and Justice
General Government
Revenue Sharing and General Purpose Fiscal Assistance
Interest
Allowances (e.g. pay raises for certain federal personnel)
Undistributed Offsetting Receipts (not a spending category; includes intragovernmental payments and receipts from the public, such as loan repayments, which offset or reduce both total budget authority and total outlays);

☐ the recommended level of federal revenue;

☐ the appropriate budget surplus or deficit based on money raised compared to estimated outlays (*not* compared to budget authority);

☐ the appropriate level of the public debt.

By law, the committee reports accompanying these resolutions must also contain more specific information, including: economic assumptions and objectives; a comparison of the recommended spending and revenue estimates with those of the President; a breakdown of the recommended level of revenues among the major revenue sources (for example, personal income taxes, corporate income taxes, excise taxes); a five-year projection of spending, revenues, tax expenditures and deficits or surpluses; an indication of how much spending would be relatively controllable and how much relatively uncontrollable; funds intended for assistance to state and local governments; and other pertinent information.

The two houses of Congress must then agree on a concurrent resolution on or before May 15. This is also a key date for other reasons. All new authorization bills must be reported by their respective committees by May 15. And special waivers are required for either house to consider any authorization bill that was *not* reported out of committee by May 15.

Step three: action on budget authority

May 15 also marks the start of the third stage, when the full House and Senate can begin acting on authorization bills and budget and entitlement authority for the next fiscal year. Waiting until May 15 means that budget authority action will not occur until *after* Congress has the targets of the First Concurrent Resolution to guide its decisions on individual spending and taxing items.

During the summer months, Congress works to pass authorizing legislation and bills providing budget authority. The budget control act stipulates that the Appropriations Committees should have completed work on *all* the appropriations bills before reporting out any of them and should submit a summary report to accompany the bills. This enables Congress to see at one time how the appropriations bills fit together and how they relate to the First Concurrent Resolution.

One complication in the new budget process is that while targets are set for spending in the 17 functional categories, the same categories OMB has been using for a number of years, these functional divisions do not correspond to the traditional standing committee and subcommittee structure and the bills they handle. One bill might contain budget authority under several different functional categories; conversely, each category includes spending that will be authorized by numerous bills through several committees and subcommittees. The Budget Committees have, however, provided to the other committees backup materials showing each committee's share of the budget for each budget function.

When the First Concurrent Resolution is passed, it is accompanied by a conference report allocating budget authority and outlays among the various committees of the House and the Senate. Each committee then subdivides its allocation among its subcommittees or major programs and reports this division to its house, along with an indication of the amount of each allocation that is controllable and uncontrollable. Making these allocations to committees is called "cross-walking."

After passage of the First Concurrent Resolution, the CBO issues scorekeeping reports, periodically comparing the targeted amounts and the effect of committee action to date, so Congress can know continuously what is happening to the levels of budget authority, revenue and debt. CBO also prepares five-year projections of costs for all bills except appropriation bills.

Back-door spending authority is restrained by several controls in the new budget act. With certain exceptions, principally trust funds and general revenue sharing, bills may not provide new contract authority or borrowing authority except to the extent provided for in the normal appropriations process. Spending bills that authorize payments under mandatory entitlement formulas that do not exceed the levels set out for them in the committee's subdivision report under the Concurrent Resolution may go right to the floor, without Appropriations Committee action. However, entitlement legislation that *does* exceed the targets must be referred to the Appropriations Committee for not more than 15 days before being considered by the whole House or Senate.

To have time to pass a second concurrent resolution before the start of the new fiscal year, Congress is required to complete action on all regular budget authority and entitlement bills by the seventh day after Labor Day. That leaves only about three weeks to complete the fourth, and final, stage of the process before the new fiscal year begins.

Step four: the Second Concurrent Resolution and reconciliation

By September 15 Congress must complete passage of a Second Concurrent Resolution. It covers the same ground as the first resolution, but this time the dollars will not be target figures but firm data—a revenue floor (below which legislation may not reduce revenue) and ceilings on budget authority, outlays, the deficit and the level of debt. These September 15 figures may be the same as those in the First Concurrent Resolution, or they may be different—revised in light of new information on the economy and actions Congress took over the summer. If the amounts adopted in the second resolution's figures require any changes in legislation already acted on, the act provides for a "reconciliation process," in which the relevant committees are directed to recommend changes, which could include amending appropriations, raising or lowering taxes, or changing the debt ceiling. Reconciliation bills or resolutions incorporating these changes are supposed to be acted on by September 25, just five days before the start of the fiscal year. Congress has a strong incentive to meet the deadline: it may not adjourn before it passes the Second Concurrent Resolution and completes the reconciliation process.

Once the Second Concurrent Resolution is passed it is not in order for Congress to consider any legislation that would "bust the budget"—break through the spending ceilings or the revenue floor, unless the second resolution is revised. If a sudden need for a supplemental appropriation arises or changing economic conditions warrant, Congress may pass a later concurrent resolution changing any or all of the required ceilings and floors.

Problems and prospects

Despite general support for the goals of budget reform, the new process has not been without its problems and critics. Though the

provisions of the law did not go into full effect until 1976 (for fiscal 1977), Congress decided to give at least part of the process a trial run in 1975 (for fiscal 1976). They picked a tough year, with little time to get organized and explain the process. In the midst of a recession, most economists were calling for a large federal deficit. And in fact, the fiscal 1977 deficit was a whopping $74.1 billion, compared, for example, to $23 billion just five years earlier for fiscal 1971 or to $43.6 billion in fiscal 1975.

In the Senate, Budget Committee Chairman Edmund Muskie (D-ME) managed fairly early to establish a good working relationship with the ranking minority member, Senator Henry Bellmon (R-OK). With bipartisan support, the Senate passed the fiscal 1976 Second Concurrent Resolution, 74-19. In the House, however, Budget Committee Chairman Brock Adams (D-WA) never got the support of Republican committee members. A coalition made up of conservative representatives appalled at the record deficit and of liberals wanting higher spending levels nearly defeated the Second Concurrent Resolution in the House, where it squeaked by with a margin of only two votes (189-187).

When fiscal 1976 ended on June 30, 1976, however, the process was still intact, the CBO estimates had proven fairly accurate, and it looked as if outlays would come in at well below the projected deficit level.

Budget making for fiscal 1977 proceeded more smoothly. The First Concurrent Resolution, embodying different taxing and spending goals than the President's proposed budget, passed both houses easily in May 1976. The Senate vote was 65-29; approval in the House was by vote of 224-170, a far cry from the narrow margin of the previous year. The targets set in the First Concurrent Resolution were generally met in House and Senate versions of the Second Concurrent Resolution on September 9, 1976 (see table). A conference committee settled differences, and the conference version of the Second Concurrent Resolution was adopted in a timely manner by the Senate on September 15 by a vote of 66-20, and by the House on September 16 by a vote of 234-143. Significantly, Congress had developed its own version of the budget and its own economic priorities, rather than reacting piecemeal to budget recommendations from the White House.

In presenting the September 1976 conference report to the Senate, Senator Muskie stated his view of the importance of the budget reform: "Let there be no question about it. Had it not been for the congressional budget process, Federal spending and the Federal deficit for the two years during which we have been operating under the congressional budget would have been higher by a range of at least $15 to $30 billion."

Fiscal year 1977

(figures in billions of dollars)

	Pres. Budget OMB Revision July 1976	1st Concurrent Res.—Targets	2nd Concurrent Res.—Binding
Revenues	352.5	362.5	362.5
Outlays	400.0	413.3	413.1
Budget authority	431.4	454.2	451.5
Deficit or surplus	-47.5	-50.8	-50.6
Level of public debt	712.7	713.1	700.0

A rigorous timetable

Congress had trouble keeping up with partial implementation of the new timetable in 1975—partly because the July 1 date for the start of the federal fiscal year was still in force. Yet following the timetable is crucial to the overall system, since so many steps of the process are dependent on completion of the preceding ones. In 1976 the process, used in its entirety for the first time, went well, aided by the more realistic October 1 date for the start of fiscal year 1977.

As fiscal 1977 began, Congress had completed on time its first full implementation of the budget provisions in the 1974 reform act. Its remarkable adherence to the timetable surprised many critics of Congress and perhaps even some members. It proved that it is possible within a very tight time frame to make the complex decisions necessary to develop a national budget.

Nevertheless, a basic complaint is that Congress has too little time to consider spending decisions. Recesses and the chronic scheduling problems of legislators serving on numerous committees make the time period even shorter than it looks. In the past, Congress had a history of a leisurely start each year, with members often planning to be in Washington only two to three days a week in January and February. But with committee reports due in to the Budget Committees by March 15, committee spending and taxing plans have to be fairly firm by that date. Once the Budget Committees begin considering the first resolution on the basis of the recommendations they receive, the process is in motion and numbers begin to firm up.

Even though the figures of the First Concurrent Resolution are just targets, they may be difficult to revise. As a consequence, interest groups desiring to influence spending decisions have had to change their ways, too. Before, they could be active at any of several stages, even pushing quietly for supplemental appropriations after regular appropriations had passed. Now, they must enter the process much earlier—while the standing committees formulate their recommendations or, at the very latest, before the Budget Committees mark up the First Concurrent Resolution.

Although the resolution figures are supposed to be general aggregates and not deal with line item decisions, it is difficult to arrive at overall amounts without getting into at least some major line items. If the aggregate figure is too low to cover a particular item, that item will get short-changed later.

The summer schedule, which requires completing all authorizations and appropriations committee work before September 15, places a great burden on busy legislators. But the goal of passing the Second Concurrent Resolution by mid-September emphasizes the need to act expeditiously. But even if Congress meets all its deadlines, the process can still be thrown off if many of its spending bills are vetoed by the President and require reconsideration.

Juggling jurisdiction

From the beginning, it has been recognized that the creation of two new potentially powerful Budget Committees could infringe on the prerogatives and power of other committees, with resulting conflicts of jurisdiction and personality. For example, although the Appropriations Committees were actively involved in the original development of the new process, they both had something to lose in allowing a new committee to come in and specify the figures into which they must fit their appropriations. The House Appropriations Committee in its March 15, 1976 report to the Budget Committee warned that: *the Committee notes with concern the tendency (of the Budget Committee) to identify and make recommendations for specific line items. . . . The Committee considers decisionmaking concerning specific line items and programs to be a responsibility of the Congress to be achieved through the regular authorization and appropriations process.*

Other committees, particularly the House Ways and Means Committee and the Senate Finance Committee, which handle revenue legislation along with a number of measures that create budget authority, also have had their power affected by the new process. The Senate Finance Committee came into direct conflict with the Budget Committee over the 1976 tax reform bill, when it reported out a bill with $1 billion less revenue through tax reform than had been anticipated by the First Concurrent Resolution. On paper it made up for this lost source of revenue by shortening the tax cut extension by three months.

When the tax reform bill was passed in differing versions by each house, this discrepancy remained in the Senate version. However, the final bill that was passed in September 1976, the product of a House-Senate conference committee, contained the House version, which raised $1.6 billion in new revenues for fiscal year 1977 by closing some tax loopholes. The tax law finally corresponded to the revenue floor that was approved in the Second Concurrent Resolution, a floor very close to that proposed in the first resolution.

The Budget Committees have tried during this time of testing to minimize conflicts by making certain that other committees understood the process and the deadlines that would have to be met. A House Budget Committee staff member explained that potential floor fights have been avoided there by quietly pointing out problems with proposed legislation to committees beforehand. Despite relative calm at the start, however, jurisdictional problems could become more difficult in the future if the Budget Committees consolidate their power and begin to assert themselves more.

A burgeoning budget bureaucracy

The new process has meant more work for existing congressional staff. It has also required the hiring of new staff for the Appropriations Committees, as well as for the General Accounting Office and the Congressional Research Service (two agencies that service Congress), in addition to hundreds of new people for the new budget institutions themselves. Not only must the committees work faster, but there is also more to do—March 15 estimates, cross-walking, markup and passage of the parts of the budget resolutions that affect each of them, and so forth. A staff member of the Senate Foreign Relations Committee, which deals with foreign aid, estimates that his work has increased by one-third.

The Appropriations Committees coped with the new demands by using a computer for the first time. While there was initial skepticism about computerization, one staff member now claims it has "proved to be a tremendous boon. . . . Now we wonder what we did without it." He also expresses concern, however, about the growth in personnel. "One of the fallouts is that a terrible bureaucracy has developed. . . . We wonder what all those people are doing that we're not doing. There's duplication."

The battle over priorities

Behind the neat timetables and carefully constructed sequences is the real battle—the issue of who gets how much money. The process has come under attack from two sides—those who think the resolutions have sanctioned too much government spending and those who complain they don't provide enough funds for particular priorities. Those in the latter group assert that the system focuses too much attention on the deficit and emphasizes process over substance—that there is more concern with compromising for the sake of a congressionally controlled budget than there is with what that budget contains.

Certainly, the process has resulted in some seemingly strange votes. Senator Muskie, a strong supporter of the new budget process, dramatically argued for Congress to reject efforts to spend more, not only for defense but also for a school lunch program, which he normally would have supported, in order to stick with its figures in the 1976 First Concurrent Resolution.

Some people express concern that it is the human welfare items—already low on the priority totem pole—such as food stamps, school lunch or international development aid, that get cut to fit into ceilings, while items such as weapons programs are fully funded. One staff member who deals with development aid commented: "The trick for us is not to be last in under the wire and be the one to bust the budget. Other areas can get a change in budget targets. Low priority items will get even lower under this system."

Americans for Democratic Action has argued that ". . . it appears that the old piecemeal approach may have been more conducive to the passage of social programs." But they go on to admit that it is not necessarily the process itself but rather the priorities of members of Congress implementing the process that cause this result. House Budget Committee General Counsel Linda Kamm comments that "it's taken awhile for people to understand that's the way it works and that it's not a politically liberal or conservative process. But it does give Congress the opportunity to consider policy."

Leadership

Another question mark in the long-range prospects for the budget process comes from the fact that the House Budget Committee chairmanship is due for a change at the beginning of the 95th Congress in 1977. Some fear the loss of continuity and expertise as Chairman Brock Adams steps down. Differing leadership techniques and views of the budget process can certainly affect the outcome of the reform. Bipartisan relations in the House Committee as well as House-Senate cooperation may be affected for good or ill.

"Sunset" legislation

The emergence on the political horizon of "sunset" legislation, which was proposed in the 94th Congress, could be a critical issue affecting the future budget process. While budgets are generally made now by both Congress and the Executive within the broad outlines of recent national budget levels, sunset legislation would change the basic assumptions under which most ongoing governmental programs operate. Sunset bills would end nearly all existing governmental programs at the end of a period of time, usually five years, unless Congress expressly reviewed and reauthorized them. This concept is a move in the direction of zero-base budgeting, advocated by some as a way to force total review of the merits of every program periodically.

Advocates of the sunset approach claim that this is one means of affording new programs without greatly changing present levels of taxing and spending. Doing away with obsolete programs would free money to fund new programs. Critics of sunset legislation claim that it may have far-reaching and unforeseen effects, and fear that programs not so much obsolete as unpopular will be abolished. Some say that sunset bills are unnecessary because Congress has always had the power to abolish obsolete programs.

What's ahead?

Certainly there are still many unanswered questions about the workability of the new congressional budget process, but the prospects look bright, based on the fiscal 1977 experience. The ability to consider priorities rationally and to establish fiscal policy is what was missing under the old system, both for lack of information and for lack of adequate procedures. Now Congress, in adopting a federal budget, can state its view of the economic situation by choosing a particular fiscal policy, using the budget as a way to set particular revenue and spending levels.

While having the same overall goal—a healthy economy—Congress and the President may sincerely differ over the relative merits of the means to achieve that goal. For example, the two branches had differing assessments of the economy for fiscal year 1977—differences over the seriousness of unemployment, the rate of economic recovery and the possibility of renewed inflation. For fiscal 1977, Congress declined to cut revenues to the extent the administration proposed. Congress also expressed its view on spending by setting budget authority and outlays at levels somewhat higher than the President recommended in his proposed spending cuts (the two branches agreed substantially, however, on the level of defense spending). Further, the congressionally developed budget had a greater emphasis on jobs and job training to combat unemployment than the President proposed. The executive view was that growth in the private sector would provide jobs for the unemployed.

Future Congresses and Executives may differ, even radically, about how much to spend, and for what. The changes go beyond such questions. Congress now has a fiscal policy-making tool that can pit the congressional view of the economy against that of the President. Use of this tool is most likely to be put into play when the branches are controlled by different political parties or when an especially strong president occupies the White House. On the other hand, budgetary cooperation between the two branches is possible, particularly if election results stamp both White House and Capitol Hill with the same party label and a unified view of economic needs.

The reforms in process may have yet another effect, in addition to those already noted. The pressures created by the budget timetable may lead Congress to adopt long-range planning on policy issues so as to be able to work expeditiously within the yearly schedule.

The tools for change are in hand. They have been "roadtested." They have been shown to be effective in enabling Congress to impose some order on its approach to money matters. Only time will tell whether Congress will regain its "power of the purse" by continuing to accept the self-discipline of the new congressional budget process.

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majority to support challenges to senior members usually fail. At the beginning of the 92nd Congress, both the Democratic and Republican caucuses in the House revised their procedures to make it easier to dislodge committee chairmen, but an attempt to oust John McMillan from his chairmanship of the District of Columbia Committee fell 30 votes short of caucus approval.

The effects of the system should be considered in conjunction with the decentralization imposed by the congressional committee structure. Together, seniority and the committee structure magnify each other and can have the effect of placing representatives with minority views in powerful positions on committees already weighted in favor of minority influence (the committee chairman can set the agenda for meetings, schedule hearings and appoint staff and subcommittee). On the other hand, the very arbitrariness of the system may safeguard the committee from excessive dependence on lobbies and interest groups. The committee chairman does not have to seek support from lobbies and interest groups—he owes his position directly to his constituents and indirectly to his party and the full House.

Unlimited Debate in the Senate

The Senate prides itself on being a bastion for defense of minority rights, a body whose tradition of unlimited debate can guard minorities from, in one Senator's words, the "precipitous and emotional tyranny of the majority." Senators may speak as long and as often as they are physically able, and debate may be closed only by unanimous consent or by cloture motion supported by a two-thirds vote. Under normal circumstances, debate is limited by unanimous consent, but only when all members feel they are ready to come to a vote. Theoretically, any one senator could bring business to a standstill by refusing to agree to the unanimous-consent request. But in practice, the party leaders work to ensure that every member's rights and opportunities are respected. Since requests for unanimous consent are usually cleared beforehand, there is rarely objection from the floor.

On occasion, a group of senators may choose to extend debate for the purpose of delaying or avoiding a vote, that is, they can *filibuster*. A filibuster can be successfully used only when supported at least tacitly by a sizable minority of the Senate. Five or ten senators cannot carry the burden—they need the voting, if not physical, support of at least a third of the Senate present and voting.

To cut off a filibuster, 16 senators must sign a petition asking cloture, and two-thirds of those present and voting must vote to support it. The two-thirds majority is difficult to obtain. A filibuster is a strategy to defeat a bill. A vote for cloture is interpreted by many as a vote on the merits of the legislation, so the bill's opponents will rarely vote for cloture. Other senators, regardless of their feelings on the legislation in question, refuse to support cloture as a matter of principle, believing in the absolute sanctity of the tradition of unlimited debate. Usually, the difficulties in invoking cloture are so great that a cloture motion is successful only when the majority is as intense in its support of the cloture effort as the minority is in opposition. An apathetic majority cannot win a cloture fight when faced by the opposition of a determined and united minority.

A filibuster is an enormously taxing and exhausting endeavor which is used only as a last resort, when the normal Senate bargaining process breaks down. It is, in fact, such an unpleasant prospect that the threat of its possible use may facilitate bargaining: it gives the proponents of a bill an incentive to compromise and produce legislation that is not so objectionable to the opposition that they resort to filibuster.

The Political Intangibles

Politics is people—people make the procedures work. Whatever the structures and whatever the rules, their effects ultimately depend on how people want to use them, and how skillful they are in manipulating them. The purpose to which rules are put is not always self-evident, partly because working political majorities are not always what they seem. The "powerful handful" who are charged with using parliamentary tactics to "block" a bill may not be a handful at all; it may be that a sizable number of congressmen do not feel ready to vote on the legislation and give silent support to the minority which publicly and decisively acts to stop it. Strategically placed minorities can block, delay or defeat legislation in Congress. But in most cases a majority can override the minority's action (the Senate cloture rule is a notable exception). When they don't, it may be not only because the procedures are so difficult and complicated, but also because they don't feel strongly enough to want to rouse the opposition of the minority. Whether or not a majority will be able to prevail over minority opposition is very much a matter of *intensity*: Are they willing to pay the costs involved? How much do they want the legislation? How much time will they invest? Are they willing to cause conflict, or would they rather "go along to get along"? The same factors, of course, apply also to a minority wishing to block legislation. They, too, must be committed enough to take the risks and pay the costs in time, effort and conflict.

But should intensity matter so much? Should there be mechanisms for coordinating and calculating interests, balancing them, and determining priorities, in order to make the legislative process more responsive to national needs?

WHO SHOULD SOLVE THE PROBLEM?

Congress is elected to represent and govern a complex nation. The problem of balancing majority rule with minority rights is much more than an internal congressional problem. At the core, it's a problem of national leadership. If Congress is to govern effectively, it must take the lead in building and reinforcing an ongoing consensus in the minds of the people—a consensus that a majority should have the ability to act, but that it is morally and practically obligated to respect the minority points of view.

Citizens as well as congressmen need to determine whether present congressional structures, procedures and practices help Congress to strike a balance and lead in building consensus. □

League of Women Voters of the United States

facts & issues

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July 1971

U.S. CONGRESS

MINORITY RIGHTS AND MAJORITY RULE

"Give all power to the many, they will oppress the few. Give all power to the few, they will oppress the many. Both, therefore, ought to have power, that they may defend itself against the other."
Alexander Hamilton

Democracy can succeed only if a majority is able to govern. But how can a majority rule and yet the rights of minorities be safeguarded? Seeking to balance these two principles may well be the classic and most important dilemma of democracy. Like most political questions, the problem has both moral and practical aspects. When is it *right* for a majority to act over the objections of a minority, and when is it *necessary* for it to do so? If a democratic government is to survive, its decisions and processes must have at least the tacit "consent of the governed." If a majority were consistently able to make decisions which were intensely opposed by a large minority, the government might easily be torn apart. But if a minority has too much power in the decision-making process, the majority would be deprived of its responsibility to govern.

How well does the congressional decision-making process balance majority rule with minority rights? Both houses of Congress are in theory organized on the principle of "majority rule," but power and responsibility are fragmented and decentralized. There are many institutional and informal arrangements for protecting minorities and allowing them to influence the process. Some critics have charged that Congress has not struck a balance—that it overemphasizes its function as a guardian of minorities and enables them to prevent a majority from governing effectively. How accurate are these criticisms? How should minorities influence the congressional process, and how far is the majority obligated to let them influence it? Can Congress respond to its own majorities?

HOW MINORITIES ARE REPRESENTED IN CONGRESS

There are many kinds of minorities in America—ethnic, economic, occupational, geographic, religious, partisan and ideological—but in political terms, minorities are defined by issues. At one time or another, all Americans have probably been part of a political minority, because a political minority is *any group* which on *any given issue* disagrees with majority opinion. Congressional majorities and minorities do not necessarily reflect these real but often transitory political divisions accurately in American society, and there is probably no practical way to ensure that they do so.

There are no legal guarantees that nationwide minority groups will be represented in Congress. The electoral process directly provides representation only to those minorities which are geographically based. While it is true that geographical distribution may frequently coincide with interest representation—for instance, some districts are almost entirely rural or entirely black—other districts are heterogeneous mixtures in which no one group can claim a majority. The electoral process extends no specific protection to minority interests within a district or state, or to groups whose geographical distribution may make them minorities in several regions but majorities in none. Within the districts or states, elections are decided strictly by majority rule: the winner takes all. While most major interest groups probably have some representation in Congress (though by no means proportional to their numerical percentage of the national population), interest representation via the electoral process is often very much a factor of geographical accident.

Interest groups—One of the best ways for minority viewpoints to be heard in Congress is through organizing into interest groups or lobbies. Organized interest groups cut across geographic lines and can provide structured and continuing representation to nongeographic population groups—ethnic, occupational, and issue-oriented minorities. But effective representation is not guaranteed. It depends on a combination of political skill, money and organizational resources. Some of the most effective lobbies are small but well-organized and well-financed single-issue groups; some of the least influential are large, multipurpose organizations lacking money or know-how.

Political parties—The political parties which elect and organize Congress also cut across geographic boundaries, but instead of articulating specific minority interests, the parties represent interest and minority groups by coordinating and combining them. Because they are organized primarily to win presidential elections, parties must build wide bases of support by incorporat-

ing the interests of minorities in their national programs and attempting to reach the broadest common denominator for uniting them in a coalition. By the same token, they must shun identification as spokesmen for "special interests."

Consensus-building—In the end, the most basic guarantee for the representation of minority interests is a traditional and unwritten one, but fundamental to our political system: American politics is consensus politics, pluralistic politics, and coalition politics. Minorities can gain influence through the consensus-building process: their best weapon is to unite with other groups in an effort to form a majority. Usually, this process involves some degree of compromise and a willingness to settle for less than a "whole loaf."

But compromise and consensus cannot always be reached. On some issues, a minority may feel so strongly that it is unwilling to give in. When consensus-building is not possible, what recourses are available to an intense and committed minority?

MINORITIES AND THE CONGRESSIONAL PROCESS

Working minorities and majorities in Congress do not always—or even usually—correspond to the division between majority and minority parties. While in each house the majority party takes the responsibility for formal organization and selection of leaders, it does not hold its members directly accountable for their votes or policy positions. Ideological and policy majorities and minorities are often coalitions cutting across party lines. They are not static. They change from issue to issue. For many years, an interparty coalition of Southern Democrats and conservative Republicans on one side has frequently lined up against a coalition of Northern Democrats and liberal Republicans on the other. The coalitions tend toward a state of constant flux, but on many issues, power in Congress is less likely to be exercised by the majority party than by a majority made up of segments from both parties. Since the political parties are not highly disciplined, issue-oriented organizations, but "umbrellas" encompassing many diverse and locally-based interests, it is not surprising that members can easily find ideological kinfolk across the aisle.

The tendency to form interest-sharing, interparty coalitions is reinforced by two complementary factors: a "gentleman's agreement" on the rules of the game and the decentralized congressional decision-making structure. Perhaps because the vicissitudes of politics might easily make today's majority tomorrow's minority, the congressional process has consistently placed high value on the traditions of exchanging favors, logrolling, courtesy, compromise and full debate, all of which function as insurance that every interest can be taken into account. Opportunities for minority influence have been further institutionalized in the decentralized decision-making structure. The dispersion of power and responsibility among the party leaders and committee chairmen and the high degree of consensus behind it make it close to impossible for the majority party to control congressional decision-making. Some of these institutionalized structures, procedures and practices are examined below.

The Committees

The standing committees are organized on subject matter lines to deal with *specific areas of federal legislation.* They do not normally weigh national priorities or consider the proposals before them in the context of a coherent national legislative program.

The committee structure allows Congress to divide its labor and develop the specialization and expertise necessary for dealing with complex and voluminous legislation. It also makes it possible for a relatively small number of congressmen or senators to delay or on occasion even prevent floor consideration of a bill.

Often, a committee does not represent a cross section of Congress or the public, but overrepresents the constituencies directly interested in its policy area. It attracts members who are already interested or knowledgeable in the area of committee jurisdiction or whose constituencies are directly affected by the legislation it handles. Members of the Senate Interior Committee, for example, almost always represent states west of the Mississippi. The House Education and Labor Committee has long been known as a home for "northern liberals" concerned with urban problems; it has only one member from the South, a Republican. Agriculture committees in both houses are made up primarily of senators and representatives from predominantly rural constituencies (representatives from urban areas offered appointment to the agriculture committees have on occasion refused to serve), and their "commodity" subcommittees draw their members in the main from districts affected by the subcommittee's work—legislators from wheat-farming areas serve on the subcommittee on wheat, those from tobacco areas on tobacco, etc. Urban consumers are virtually unrepresented.

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Minority influence through committees is further intensified by the pattern of close cooperation between the committees and organized interest groups. Because of their very specialized nature, committees deal primarily with minorities: they work closely with groups intensely and specifically concerned with the problems under consideration. In their hearings and deliberations, their task is to represent and reconcile the views of the directly affected interests. "Unaffected" or marginally affected groups rarely make their views known.

What if the committee recommends legislation which a majority of congressmen or senators oppose? The full house can always reject it. But committees are held in high esteem; their recommendations are expected to be—and often believed to be—reasonable and well-scrutinized compromises. The tradition of safeguarding committee powers and respect for committee expertise makes it difficult to overturn their recommendations. Since individual members are not able to develop expertise on all the issues before Congress, they often rely on the advice of committee members in deciding how to cast their votes. The full chamber simply does not have the time, the will or the ability to check the committee work closely.

On the other hand, what if a committee refuses to recommend legislation that a majority of the chamber believes is necessary? What recourses are available to the majority? In the Senate, any member may introduce a motion to discharge a committee of legislation and upon majority vote of the chamber the bill can be placed on the Senate calendar. The motion, however, is subject to filibuster and is not widely used.

The legislative rider is another device for "discharging" Senate committees. The Senate has a rule against nongermane amendments to general appropriations bills, but with this one exception, any measure, even if it is being considered by a committee, can be added by majority vote as an amendment to pending legislation, whether or not it is germane to the substance of that legislation. The 1960 Civil Rights Bill came to the Senate floor as an amendment to a bill to aid a federally impacted Missouri school district.

In the House a measure may be brought to the floor by the *"discharge petition."* If a bill has been in committee for 30 days, a petition signed by 218 members (a House majority) will bring the question of considering the bill to the floor. This method was used successfully in the 91st Congress to discharge the Judiciary Committee of the Equal Rights Amendment.

Theoretically, other methods are also available to the House. A committee might be discharged by suspension of the rules, but this requires a two-thirds vote. The House Rules Committee is empowered to report any legislation to the floor, whether or not it has been reported by a committee. In 1964, the conservative-backed Tuck Bill, to divest federal courts of the power to hear cases on the apportionment of state legislatures, was reported by the Rules Committee after being bottled up by the Judiciary Committee. It later passed the House, 218-175, but died in the Senate.

However cumbersome these mechanisms may be, they are available and they can be used to permit a majority to prevail. But they are rarely used successfully, party because it is difficult to overcome the congressional norm of reciprocity and the almost jealous guardianship of committee power and prerogatives. In the end, the power of the committees depends on the tacit consent of the majority.

House Rules Committee

The committee which is most often criticized for allowing minorities to thwart the will of the majority is the House Rules Committee, which can use its power to recommend rules for debate either to alter the content of legislation or to prevent it from reaching the floor.

The committee developed as an independent source of power after the 1910 "revolt" against the powers of Speaker Cannon. The intent of the reform was to make the Rules Committee independent of the Speaker and responsive to House majorities. Over the years, it may have grown more independent than the reformers intended. From 1940 to 1960, the committee was dominated by a coalition of Southern Democrats and conservative Republicans who often blocked "liberal" legislation from consideration by the House by refusing to hold hearings or grant rules. In 1961, the committee was enlarged from 12 to 15 members to permit the addition of more "liberal" members.

According to one study, the Rules Committee denies hearings to about 20 of the 150 or so bills it considers each Congress and refuses clearance to another 12. Veterans' appropriations, public power, and reclamation measures are frequent casualties. On occasion, the committee will block a bill with the advice and consent of the House leadership.

The committee's power to delay hearings or deny rules enables it to demand alterations in popular legislation, or even defeat it, especially late in the session. Consumer Protection Agency bills introduced in the 91st Congress never reached the House floor despite overwhelming Senate approval of similar legislation: House floor consideration was prevented when, late in the session, the Rules Committee vote on granting floor clearance ended in a 7-7 tie.

What options are available if the Rules Committee refuses to act? The most important way of getting the committee to release bills is through pressure of the majority party leadership. The committee generally cooperates closely with other committee and floor leaders and at times will grant or withhold clearance as the leadership wishes. If informal political pressures fail, procedural devices are available, but again, the congressional norms of reciprocity and respect for committees make their successful use difficult.

A bill blocked in Rules can get floor clearance by use of a *discharge petition.* The procedure is identical to that for discharging legislative committees, except that a petition to release may be filed 7 days after a bill has been sent to the Rules Committee, instead of 30 days. *Calendar Wednesday* is another method of releasing bills for floor action, but the process is tedious and complex. Each Wednesday, committees are called in alphabetical order and the committee chairman may call up bills which are not otherwise privileged. However, a committee may have to wait weeks or months for its turn and many delaying tactics are available to the opposition. Calendar Wednesday is usually dispensed with by unanimous consent.

The *21-day rule,* a mechanism for releasing a bill from the committee after 21 days, was used in the 81st and 89th Congresses. It was repealed in 1967 and attempts to reinstate it have failed.

The Seniority System

The seniority system is a party tradition which determines committee chairmanships on the basis of consecutive years of service on a committee. Because it rewards men from "safe" one-party districts and states, who have their own independent sources of power, the system unquestionably can and does promote members who are representative of neither the party nor the chamber majority. While it is possible to pass over the men at the top of the seniority ladder, Congress has been fearful of creating precedents which might endanger the viability of the tradition.

Seniority is not mentioned in the rules of either house. Both houses theoretically "elect" their committee chairmen, and it would be technically possible for a majority of members to refuse to abide by the seniority principle. A majority of party members can choose to override it at any time, but attempts to get a party

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REFORM: DOES CONGRESS NEED IT?

Congressional reform is no longer "an issue without a constituency." Perhaps because of the political tensions and turmoil which have characterized the past decade, more and more citizens are focusing on Congress with freshly critical eyes. Groups like Common Cause, the AFL-CIO and the Committee for Economic Development have joined congressmen and senators of both political parties in calling for reform of Congress. Few would quarrel with their stated goals: to make Congress more *representative, accountable* and *effective* and to improve its *decision-making capability*. But however worthy the objectives, the step from theory to practice inevitably makes congressional reform an issue of political power. The problem has been described by a political scientist:

Politics is the art of who gets the cookies, and when you tinker with rules and procedures, you're not just going for good government—you're altering who gets the cookies.

Three times in the twentieth century Congress took action to reform itself. The first, in 1910, was a "revolution" in the House of Representatives. Its purpose was to democratize power. A bipartisan group of congressmen, led by George Norris of Nebraska, steered through a resolution which stripped autocratic House Speaker Joe Cannon—and his successors—of the power which had made the Speaker dominant in the legislative process. The reformers removed the Speaker from membership on the Rules Committee, denied him the power to appoint members and chairmen of standing committees and restricted his powers of floor recognition.

Twice since 1910 Congress has passed legislation to modernize its structure. The *Legislative Reorganization Act of 1946* reduced the number of standing committees from 48 to 19 in the House and from 33 to 15 in the Senate; defined committee jurisdictions; and made Congress legally responsible for the continuous oversight of executive agencies. The main thrust of the *Legislative Reorganization Act of 1970* was to make congressional procedures more open and efficient; for the first time it provides for recorded teller votes in the House Committee of the Whole, encourages open committee meetings, requires that committee votes be made public, and opens the way for installation of electronic voting.

But reform is not always what it seems. Sometimes, there are unexpected effects. The reforms of 1946 nationalized the committee structure and reduced the number of standing committees, but joint committees and subcommittees multiplied. The "revolution of 1910" did to some extent democratize and disperse power, but the new distribution of power caused other problems. As the Speaker lost his almost total control of policy-making, committees and their independent chairmen gained it. Power was fragmented, decision-making decentralized, and lines of accountability blurred. The results of the "revolution of 1910" may be the causes of the 1970s reform movement.

ACCOUNTABLE? REPRESENTATIVE?

The fate of many bills is settled by House and Senate committees; the composition and leadership of the committees can obviously make a big difference in their final decisions. Some reformers feel that current congressional practices for selecting committee members and leaders do not guarantee committees which are either accountable to the body or representative of it. They have put forth alternative proposals for determining the makeup and leadership of committees.

Seniority

Representative Emanuel Celler (D-NY) has said that the congressional seniority system is "as popular a target as sin itself." The system whereby the majority party selects a committee chairman according to years of consecutive service on a committee is a custom unique to the United States Congress. It is not recognized in the rules of the House or Senate and, contrary to what is often assumed, it is primarily a product of the twentieth century. Although the seniority rule had a firm foothold in the Senate by the late 19th century, it became fully developed in the House only after the 1910 "revolution".

Because the seniority system is an automatic way of selecting committee leaders, it helps keep political leadership fights at a minimum. Its supporters say it ensures that committee chairmen will be experts in their fields: by keeping committee turnover low, it encourages the specialization needed to deal with extremely complex legislation, and its automatic character gives chairmen a chance to be free of political pressures. Additionally, they point out that since it's a tradition, not a rule, a majority of congressmen or senators do have the option of rejecting the most senior men.

But many are not convinced that the system's benefits outweigh its cost. Critics point out that because continuity in office is the sole criterion for advancement, the system favors representatives from "safe" one-party districts and states, men who may never have to face a serious political challenge. They say that promotion by seniority may reward men whose only qualification is longevity in office,

men who are directly accountable only to the narrow segment of the American public that elects them and who may not represent a majority of the nation, the Congress, or even their own parties.

The critics find seniority vulnerable on other grounds as well—they see it as detrimental to the quality of legislative work. Young congressmen and senators know that hard work and legislative skills may not win them promotions. Instead of providing them with an incentive to concentrate on committee work, the seniority system, critics argue, encourages them to keep their sights on the next election. Since longevity in office is the prerequisite for promotion, public image may become more important than congressional performance.

One of the most frequent objections to the seniority system is that it permits a committee chairman to exercise his powers virtually unchecked. Because the chairman is secure in his position and not beholden to a constituency within Congress, it becomes relatively easy for him to accumulate power and a personal and sometimes unchallenged sphere of influence. Critics point to the days when Judge Howard Smith kept civil rights legislation in the Rules Committee and off the House floor, and even to the seeming ability of Wilbur Mills (D-Ark.) and Russell Long (D-La.), chairmen of the House Ways and Means Committee and the Senate Finance Committee, respectively, to control legislation in such far-reaching areas as trade, health, welfare, social security, and taxing policy.

In a representative legislature, the critics say, even the best should be called to account. In their judgment, not only does the seniority system fail to provide a satisfactory mechanism for holding chairmen accountable to any constituency but their local districts, but, equally serious, it does little or nothing to assure that the chairmen are men who represent majority opinion in Congress or in the nation.

Although the "iron rule" of seniority was made more malleable by modifications adopted by the House party caucuses in the 92nd Congress (both parties now have strengthened mechanisms for challenging the men at the top of the seniority ladder), some critics feel there's still a long way to go. There continue to be proposals for further modification of seniority.

Age and Term Limits

Among the devices frequently mentioned to soften the effects of the seniority system are age and term limits for committee chairmen. A mandatory retirement age (70 is often mentioned) beyond which a committee chairman may not serve has been suggested. But even the strongest advocates of these proposals admit that age may have little to do with quality—"Some of the oldest are some of the best; some of the youngest are some of the worst."

Another way to limit a chairman's term of office is to set a maximum number of years' tenure, beyond which he could not serve, regardless of age. A similar proposal is to rotate the chairmanship among the senior majority members of the committee, having each serve as chairman for a specified number of years.

Taken alone, these proposals would do little to make committee chairmen more representative or accountable. Promotions would still be automatic and depend on length of service. But they would tend to increase the rate of turnover in the powerful jobs, hopefully preventing stagnation in office and making it more difficult for one man to accumulate what amounts to almost total power over a field of legislation.

Alternative Methods For Selection

The most controversial proposals for reform of the seniority system are those which would strike at its heart by replacing or modifying the seniority principle of promotion with strong mechanisms for direct elections. While both houses now theoretically elect the committee chairmen, in actual fact, the decisions are made when the majority party caucus ratifies (or in rare cases refuses to ratify) the nominees whose names come before it because of seniority. Voting by the full House and Senate is *pro forma*.

All suggested methods for electing committee chairmen share one common factor: they would make the chairman accountable and responsible to a constituency within Congress. If, for example, the chairman were elected by the majority party members of his committee, he would have to perform to their satisfaction or run the risk of being turned out by them. The same would be true if caucus electoral mechanisms were strengthened and intraparty contests for chairmanships were encouraged: unless he wanted to lose his job, the chairman would have to pay heed to the caucus. Senators Fred Harris (D-Okla.) and Charles Mathias (R-Md.) have suggested an even broader constituency. They would require that the full Senate vote separately on each nominee.

All of these proposals attempt to sharpen and clarify lines of responsibility; they differ in where they place ultimate responsibility. But because all depend on elections and on the conflict and competition which go along, they've been roundly criticized for their potential for causing serious political division and exacerbating otherwise repressed disagreements. It's also said that the proposals are unnecessary and would succeed mainly in wasting time, because both the House and the Senate can now reject any nominee placed before them. Another argument is that replacing seniority with competitive elections could serve to undermine the independence of the committees and their chairmen by making them *too* responsive to political pressures—and political power brokers.

The Powers of the Chairmen

Not everyone agrees that the seniority system is at the root of Congress' problems. Even some of the most dedicated opponents of seniority maintain that changing the seniority system may not make much difference unless the powers of committee chairmen can be effectively restrained.

Despite the fact that steps have been taken to make committee procedures more uniform (the *Legislation Reorganization Act of 1970* requires that committees have written rules, fix regular meeting dates, and it limits proxy voting in committees), some chairmen still have almost total control of their committees. They can schedule hearings, hire staff and refer bills to subcommittees. Most chairmen appoint subcommittees and their chairmen; chairmen may even abolish a working subcommittee.

Most committees have written rules which allow a majority of the committee members to override arbitrary actions by the chairman. But it's often wiser for junior members to "go along to get along" than to run the risk of challenging a powerful chairman. The chairman has an assured and powerful position in the congressional hierarchy. He has a wealth of political carrots and sticks in his briefcase. He can make life very difficult for committee members who go against him and very pleasant for those who go along.

Committee Appointments

The party caucuses in the two houses all have slightly different procedures for appointing committee members, but in all cases, initial assignment is made by nomination of a party committee-on-committees with the approval of the party caucus. In the Senate, the Democratic floor leader and the chairman of the Republican caucus appoint their party committee-on-committees. In the House, Democratic members of the Ways and Means Committee automatically act as their party's committee-on-committees. Only the House Republicans elect their committee; it has one member from each state with Republican representation in the House; he is elected by a caucus of his state's Republican delegation. In making their nominations, these committees-on-committees are guided by an uncertain combination of changing factors. There are no hard and fast rules to bind them.

Generally, legislators are given initial assignments which will help them serve their constituencies. A congressman from a farming region, for example, might well expect appointment to the Agriculture Committee. Member interest is an important factor, and often a member's wishes closely parallel the interests of his districts. His political ends are not served by being placed on a committee of only indirect interest to his district. The committees-on-committees also take into account the personality of the candidates, the wishes of the committee chairman, geographical balance, and, in the case of the most prestigious committees, the likelihood of a candidate's continuity of service in Congress. Preference for seniority applies in the assignment process, but its rule is not rigid. Senior men are not infrequently passed over for choice spots. And from time to time, the committees-on-committees may refuse desired committee appointments as punishment to members out of favor with party leaders.

Because politics, personality, and member interests have such great weight in the appointment process, the committees inevitably are not representative cross sections of Congress or the American public. There is an effort to secure some degree of geographical balance, especially on the important general-purpose committees like Appropriations, but there remains a natural tendency for "like to attract like." As a result, many of the committees vastly overrepresent the special interests most directly concerned with the legislation they handle.

The assignment process is highly political. Its object is to decide "who gets the cookies" and it's hard to foresee any reform which could make it otherwise. Committee assignments are political rewards or penalties. The procedures can probably not be rationalized, and despite their expressed concern about unbalanced committees reformers have not seriously tackled the problem.

Conference Committees

To become a law, a bill must pass the House and Senate in identical form. When there are differences and one house does not accept the changes made by the other, the bills "go to conference." Reports by conference committee cannot be amended but must be voted up or down by both houses.

Conference committees are, of course, made up of members from both houses. Theoretically, the Speaker of the House and the President of the Senate name the conferees, but in practice, the chairmen and ranking minority members of each standing committee that handled the bill make the assignments. Usually, they appoint themselves and other senior committee members. The process has many of the same strengths and weaknesses as the seniority system. While the conferees should represent the position of their houses, they sometimes don't.

The battle over the supersonic transport plane (SST) offers a telling illustration. In the 91st Congress, the House voted to spend $290 million for development of the plane. The Senate didn't appropriate a penny. But of the seven Senate conferees, four had voted to continue funding of the plane and one, Senator Warren Magnuson (D-Wash.) had been floor leader for continuing the appropriations. The conference committee "compromise" approved a $210 million appropriation for continued development. Although conference committee reports are rarely rejected, the Senate turned down this SST "compromise."

The power of the conference committees has not gone unquestioned. Former Senator Albert Gore has proposed a series of reforms to make conference committees more accountable to the House and Senate. His suggestions include having the slate of conferees voted on by the full membership of each house, having a report of conference actions published in the *Congressional Record*, and making the report available to members at least 48 hours before a vote is taken.

Are changes necessary? And would they really help? Gore himself acknowledges that the existing rules are not *obstacles* to holding the conferees accountable:

After all is said, written and done, the attitude of individual members toward their work will determine how good the final version of any legislation is. If sufficient numbers of Senators were really interested in looking into the work of their conferees, they could under existing rules refuse to approve any given conference report until proper explanations for all actions were forthcoming. I am sorry to say that few Senators are willing to go to this much trouble.

The Senate Cloture Rule

Senate rules provide for unlimited debate unless terminated under the provisions of Senate Rule 22. As Rule 22 now stands, a "filibuster" in the Senate can be ended only when 16 senators file a motion requesting that debate be closed and 2/3 of the senators present and voting support the motion. The effect of the rule is that less than 1/3 of the Senate can not only prevent a majority from enacting legislation, but it can tie up other Senate business indefinitely.

Two changes in Rule 22 have been proposed to make it easier for a majority of the Senate to work its will: one would change the 2/3 requirement to 3/5 of the Senators present and voting, and the other would make it possible for a majority (51 out of 100) to close debate. The first is a change in degree, the second a change so great as to constitute a change in kind, as well. Reducing the number of votes required for cloture would mean that if all senators were present and voting, 60 instead of the present 67 senators could end debate. Or, looking at it another way, the number of senators needed to sustain a successful filibuster would rise from 34 to 41.

Altering Rule 22 to allow a majority to close debate is a significantly more radical approach. Instead of readjusting numbers, this proposal suggests simply that a majority should *always* be able to rule, and that no minority, however large or however intense, should be able to tie up Senate business.

It further suggests that if citizens elect their representatives to make laws, a minority should not be able to obstruct them. Reform proponents argue that if a minority can block majority action, the very concept of a representative legislature is undermined.

It seems unlikely that the Senate will adopt majority cloture in the near future. The "filibuster" has advocates on both sides of the aisle; it's used by liberals and conservatives alike. Unlimited debate is a cherished Senate tradition, and its virtues are appealing. It gives all sides time to consider and explore issues. It guards against hasty and emotional decisions in the heat of the moment, and protects the interests of minorities.

The Public's Right To Know

One of the most consistent themes of the reformers has been to encourage open decision-making. Their point is that unless the public knows what actually happens, legislators cannot be held accountable for their actions. The Legislative Reorganization Act of 1970 took several steps in this direction, but there are still many other proposals in the air.

One recommendation is that caucus votes on party leaders and committee chairmen be recorded, with each member's votes available to the public. Open caucus voting on the leadership positions would enable citizens to hold their representatives accountable for their votes, and it could well have marked influence on the outcome of the elections. A candidate's personality and political skills might count less and his policy record considerably more. Party leaders and committee chairmen are among the most powerful men in Congress; they can have a tremendous impact on what Congress does and does not do. The reformers believe the public should have a part to play in their selection.

But there are arguments against the recommendation. Most Americans are understandably jealous of their right to select their leaders by secret ballot, and in this respect congressmen are no different from the rest of us. Nor are the reasons for the secret ballot any less compelling in the congressional setting than in the national political arena. It is argued that public voting would open the door wide to lobbying and influence peddling, to say nothing of the internal political conflict it could cause. Perhaps the most candid but difficult-to-swallow objection is that voting on congressional leaders should not be a matter of public record because the public is not qualified to judge the candidates. Party leaders are selected as much for their personal qualities as for their policy positions, and the public is not privy to the same first-hand knowledge as men and women who deal with the candidates daily.

Open committee meetings are another objective for some reformers. The Legislative Reorganization Act of 1970 broke ground here, but it requires only that standing committee meetings be open unless a majority of the committee vote otherwise, and it exempts mark-up sessions (when committees hammer out the precise legislative language of a bill) and meetings involving national security from this provision. Major committees like House Ways and Means and Appropriations continue to do much of their work in executive sessions. The reasons given for closing committee meetings are that the hard technical bargaining that is so much a part of committee deliberation is best done in private, partly to make it easier for committee members to exercise independent judgment without fear of political reprisal and excessive lobbying, and partly to discourage the inevitable political "showman" whose only interest in committee work is grabbing a spot on the front page.

The 1970 Legislative Reorganization Act contained other provisions to make House and Senate proceedings more accessible to the public. It required that all roll-call votes taken in committee be made public, allowed broadcasting and television coverage of House committee hearings, and required that Senate committees establish and publish rules of procedure.

A proposed amendment to the 1970 Act which was not adopted would have required the *Congressional Record* to be a *verbatim account of floor proceedings*. Changes would have been allowed to correct grammatical errors but not to affect content or meaning. Remarks not actually delivered could still have been inserted but printed in a distinct type face to make clear what was actually said on the floor and what was not.

Presently, a congressman or senator can, by unanimous consent, make insertions or revisions in the *Record*, and there is no way for the reader to tell if the remarks were actually delivered. On March 24, 1971, the day the Senate voted against further finding of the SST, Birch Bayh of Indiana was held up by weather in Colorado and never made the crucial vote, but a reading of the *Record* gives the impression that he was very busy on the Senate floor, introducing a bill on consumer class actions and delivering remarks on the SST, hospital communications systems, medical and health care facilities, Whitney Young's death, Indiana farmers, the strategic arms limitations talks.

The proposed reform of the *Congressional Record* was defeated in part because present rules clearly require that insertions he made *only* with unanimous consent. The amendment's opponents felt it was unnecessary and might diminish members' control over the *Record*.

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EFFECTIVE? CAPABLE OF MAKING DECISIONS?

The workload of Congress has grown enormously in the twentieth century, and the legislation it handles has become increasingly complicated, technical, and far-reaching. Congress can cope with its job only if its time and resources are well organized. Many proposals have been made to increase congressional efficiency, some of which are simply aimed at speeding up or rationalizing the flow of business, and others which would considerably alter the congressional process.

A popular suggestion designed to help Congress manage its time is to improve scheduling by mandating *periodic recesses*. The Legislative Reorganization Act provides for a 30-day recess in August of nonelection years. It's been suggested that Congress might also regularly schedule "free time"—perhaps a week off every other month—to give legislators a chance to better plan their own time and to encourage their presence on the floor. Presently, congressmen and senators must make speaking engagements and plans for visiting their districts in the hope that there will be no pressing congressional business. Another proposal for saving time is to install electronic voting machines to cut down the tedious process of repeated quorum calls and rollcall voting. The Legislative Reorganization Act opened the way for electronic voting, and possibilities for its installation are now being investigated.

Streamlining the Work Load

One way Congress can cut down its work is to drop some of its responsibilities. Any proposals along this line are destined to meet determined opposition from congressmen and senators interested in the areas which might be dropped. It has been proposed that Congress drop its control of Indian Affairs and hand over its responsibilities in District of Columbia affairs to the District government, thus saving the House the two days every month it now spends on District business.

Equally controversial—but apparently not taken seriously by many members of Congress—is the suggestion that an *ombudsman* relieve congressmen and senators of their constituency service or "errand boy" activities. Some congressman say that they now spend as much as a third of their time handling constituent requests, but they do not seem eager to relinquish the job, even though doing so would free their time to handle legislative business. Why? Because constituency service activities provide a direct link between elected officials and their constituents, a link which is politically valuable to the congressmen and provides direct assistance to constituents in their dealings with the often impersonal and puzzling federal agencies.

Sources of Information

Congress has been called "technologically illiterate." Congressmen are required to make sophisticated decisions on the national budget, our weapons and defense systems, the space program and many other highly technical problems, but they have no access to *modern information retrieval systems*. The Legislative Reorganization Act of 1970 originally contained a provision to establish a Joint Committee on Data Processing, but it was eliminated by the House, partly because of fear that the Senate would inevitably monopolize the computers and partly because of the difficulty of programming computers to meet the needs and values of individual congressmen. However, the feasibility of acquiring data processing equipment is still being investigated.

To make effective decisions, congressmen and senators not only need access to relevant and current information; they also need help in digesting and analyzing the information they receive. The Congressional Reference Service and the General Accounting Office can assist congressmen in basic background and research. Many congressmen also rely heavily on analyses from organized interest groups, the executive branch, and their own professional staffs.

How adequate are these sources? Information from lobbies and executive agencies is ample but not unbiased. Lobbies and executive agencies are in the business of selling programs and viewpoints. Although they provide essential information and arguments, no one would seriously suggest that either provide all or most of a congressman's information.

Office and committee staffs vary in quality, but they are small and quite naturally tend to duplicate the interests of the members. Committee staffs are "nonpartisan" but the minority party members have expressed a need for professional committee staffs of their own. A provision for minority staffing was included in the Legislative Reorganization Act but deleted by the 92nd Congress. Opponents of minority staffing simply see no need for it; they fear it would undermine the bipartisan approach so helpful to effective committee work.

The Federal Dollar

When Congress decides how to raise and spend the federal dollar, it places monetary values on national programs and determines which ones should be given highest priority. The budgetary process determines the "agenda of the nation." Many observers of Congress believe that its present procedures are inadequate for the task.

Congressional decisions on how federal money is to be raised and spent are diffused. Congress does not adopt a national budget. It adopts appropriations and revenue acts, all of which are considered separately. Spending bills are dealt with by appropriations committees and subcommittees. Revenue bills are handled by the House Ways and Means and the Senate Finance committees, and the Joint Committee on Internal Revenue Taxation.

One of the most far-reaching but on the surface least exciting of the proposals for congressional reform is to **consolidate control of fiscal affairs**. Spending and taxing controls are localized in the multiple appropriations and legislative committees. The Committee for Economic Development has proposed "consolidation of legislative jurisdiction over all revenue, expenditures, and related fiscal issues under a single Finance Committee of the House," with the Senate committee structure following suit. Congressmen fear that such committees would be too powerful and override the wishes of other legitimately concerned and highly specialized committees. In any case, the proposal would seriously alter the congressional power structure and has not been given much attention by Congress.

More serious consideration has been given a proposal to **change the fiscal year**. For two decades Congress has consistently fallen behind its appropriations calendar. To remedy this situation, Senator Warren Magnuson has suggested that congressional sessions be divided into separate legislative and fiscal periods and that the fiscal year (presently July 1 to June 30) be changed to coincide with the calendar year. Under the Magnuson plan, the legislative period would open on January 3 or a previously determined date and would adjourn by August 15.

During this time, only legislative matters would be debated on the floor—appropriations would be considered only in case of emergency. The normal period for considering appropriations would begin on a date jointly determined at the adjournment of the legislative session and would continue no later than December 1.

The plan's supporters emphasize that this substantively divided session, operating within the framework of a fiscal year running from January 1 to December 31, would give Congress time to evaluate and authorize programs adequately, before considering appropriations. They argue that the separate fiscal period would give Congress a chance to look at appropriations and revenue measures as interrelated parts, a possible result being more coordinated and cohesive fiscal legislation.

Its supporters also argue that such a system could eliminate present delays which result in appropriations decisions being reached as late as six months into the current fiscal year. Under the Magnuson proposal, the budgetary decisions of the Congress would have almost immediate impact when the new fiscal year began on January 1. This would be of crucial importance to local and state officials in setting up effective and adequately funded programs.

The bill has considerable opposition. One objection to it is that it would place a great burden on the executive branch by forcing budget forecasting even further into the future and increasing chances of miscalculation and imbalance. Another argument is that it doesn't attack the problem of "appropriations lag" at its roots; it could not guarantee that Congress would meet new deadlines any better than it meets the old ones.

CONGRESS AS LEADER

What do we expect of Congress? Do we want it to take the lead in developing an effective and coordinated national program? To lead in assessing national priorities? If we do, we cannot fail to be troubled by implications underlying so many of the suggestions for reform.

Implicit in most reform proposals is an assumption that Congress is not able to take the lead in assessing national priorities. Why? Basically, because decision-making responsibility in Congress is excessively fragmented. Those who accept this analysis fear that unless changes are made to **reorder power and define lines of responsibility**, the executive branch will continue to dominate the national policy-making process while Congress will be unable to develop a coordinated legislative program.

Many of the reform proposals clearly attempt to *centralize legislative responsibility* by curtailing the power of committees and their chairmen. The thorny problem is to decide where the ultimate responsibility—and power—in Congress should lie. If power is taken from committees, where should it go? To the majority party caucus? to the elected leaders? or to the informal coalitions which so often form the real House and Senate majorities?

In the 89th Congress, the House adopted the 21-Day Rule to check the power of the Rules Committee. (The Speaker could recognize a member of a legislative committee which had referred a bill to the Rules Committee to call the bill up if it had been pending before the Rules Committee for 21 days.) Five of the six bills which came to the House floor via this route in the first session of the 89th Congress passed the House.

Despite this seemingly successful experiment, the 90th Congress repealed the Rule and it has not been reinstated. Why? One reason is that it redistributed power. If lines of political responsibility are changed, political power is likewise altered. Any step to centralize power and responsibility means that someone will lose out. Congressmen seem fearful not only that they could be next, but that even small steps toward centralization might eventually lead back to the days when Congress was tightly controlled by its leaders.

Congress is likewise wary of proposals to *realign the committee structure* and change committee jurisdictions. Any realignment of committees would change the distribution of power in Congress—"who gets the cookies."

There has not been a major revision of committee jurisdictions since the Legislative Reorganization Act of 1946. Congress has no legislative committee whose purpose is to address itself to national planning and assessing national priorities. Some committees, such as House Ways and Means and Senate Finance, have jurisdiction over programs ranging from social security to foreign trade. Environmental and urban affairs legislation are handled by committees originally set up to deal with other problems. Jurisdiction over water resource programs is divided between the Interior and Public Works committees. Jurisdiction over urban affairs closely parallels the division of responsibility in the executive branch.

The Legislative Reorganization Act of 1970 redesignated the Senate Banking and Currency Committee as the Committee on Banking, Housing, and Urban Affairs and expanded its jurisdiction to include "urban affairs generally." But this does not give the committee jurisdiction over all programs with urban impact. Programs administered by the Department of Labor, for example, are still in the province of the Labor and Public Welfare Committee.

PROSPECTS FOR CHANGE

What are the chances for congressional reform? Technical and procedural changes which do not affect the distribution of power in Congress have a good chance of being passed by Congress itself. But changes which alter the locus of power in the two houses of Congress are not apt to be made by Congress alone. Such changes are likely to be made only when the American people demand them.

We cannot take the issue lightly. Citizens need to be both shrewd and farsighted in judging whether or not to espouse a particular reform: today's solution could well be tomorrow's dilemma. Perhaps the single best guideline in considering all such proposals is this: Does a change bear within it not only the possibilities for correcting today's problem, but also the possibilities for readaptation to tomorrow's needs? □

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facts & issues

League of Women Voters of the United States

March 1971

U.S. CONGRESS

Criticism is one thing in the United States Congress has never lacked. Over the years the legislative branch has often been castigated for not responding to the "will of the people" and at the same time for "not exercising its leadership potential." Today, with the nation in a period of rapid social and political change, critics are more vocal than ever. As our pluralistic society has become increasingly complex and fragmented in its demands on government, Congress seems to reflect and perhaps even exaggerate this fragmentation. Serious questions have been raised as to whether present congressional structures, procedures and practices are responsive to the needs of the 70s.

HOW ARE WE REPRESENTED?

Representing the people is the most widely recognized function of an elected legislature. But what do the voters want Congress — and their congressmen — to do? Some think congressmen should follow the wishes of their districts. Others expect congressmen to lead, recognizing vital needs and working to place national interests above local. Although ideally the two mandates should complement each other, in reality they often conflict.

Congress derives its representative authority from the Constitution. The framers of the Constitution wanted an elected legislature which would "check and balance" the executive and judicial branches. The design they drew up provides for a government of shared and separate powers in which the role of Congress is to translate public opinion and local needs into the national decision-making process.

The two houses of Congress have different roles, different powers and different constituencies. The House of Representatives was to be a popularly elected body, designed to reflect the "popular will." To balance the House, (which some of the framers of the Constitution feared would be unstable, unruly and dangerously susceptible to the whims of majority opinion) the Senate was to play a more deliberative and conservative role. In addition, each house was given certain special powers. The chart on page 4 presents the distinction in simplified form.

Article I, Section 8 of the U.S. Constitution enumerates the responsibilities common to both chambers and gives Congress the power to make all laws "necessary and proper" to carry out its duties.

But ours is a "living Constitution" and depends on a continuing and active consensus. So the written words and our understanding of their intent have expanded and changed with time. The smaller, more informal Senate has been the more unpredictable body; the House, which because of its size has strictly regulated debate, has been more formal and controlled.

ARCHITECTS OF COMPROMISE . . . AGENTS OF CHANGE?

Members of the House represent relatively small homogeneous districts; each member is accountable to a narrow segment of American society. Representation of local and particular interests in the House is reinforced by the constitutional stipulation that its members be elected every two years. Whatever his other responsibilities, the next election is never far from a representative's mind. To be reelected, the congressman must heed the needs and political peculiarities of his district, sometimes at the expense of broader issues. He may find it hard to evolve a national viewpoint.

Senators, who stand for reelection every six years and represent broader and more diverse constituencies, may seem to have more freedom to take positions on controversial national issues. But they too must give close attention to the particular needs of their own states.

Is Congress a "mirror of the nation"? To the extent that it reflects the diverse and competing interests of American political life, yes. But Congress has a life of its own. Its internal organization and power structure place additional demands on the congressman. On issues of immediate local impact, the congressman is under strong pressure to act as the voice of his constituency and follow the wishes of his district. On issues which do not directly affect his constituents, he has more freedom to exercise his "national" judgment. But this freedom again is severely constrained by the requirements of the internal congressional power structure. Without an explicit mandate, the congressman must choose his own course among competing pressures, not the least of which are the demands of building and maintaining his own political influence.

WHAT DOES CONGRESS DO?

The President Proposes The role Congress plays in national decision-making has been strongly shaped by the growth in the powers of the President and the executive branch. The framers of the Constitution undoubtedly expected that Congress would initiate legislation and the President enforce it. But as government and its agencies have multiplied in the twentieth century, Presidents have increasingly taken the initiative by submitting major legislative proposals to Congress.

If the President is a major initiator, Congress still must examine his proposals and determine if they are acceptable to the public and in line with local needs. Its job has increasingly become one of scrutinizing, criticizing, amending, and accepting or rejecting rather than proposing.

Because Congress reflects and responds to the differentiation and fragmentation of our society, it now lacks (if it ever really had) the ability to present a coordinated legislative program. Congress represents too many different

points of view to be able to evolve firm national priorities. Unlike the President, it does not have a "national" constituency, and it has no reliable mechanism for drawing together the interests of local districts into a coherent national program.

However, when a President is lax in requesting legislation, Congress can and does take the initiative. Often, it generates ideas on major national issues and may introduce them as legislation before they are proposed by the President. National health insurance proposals, for example, had their origins in Congress.

Not infrequently, major proposals originating in Congress are meant to arouse public opinion and pressure the executive branch. Frequently, such a move has the intended effect of stimulating executive action.

The Congress Disposes Ultimately, the prime responsibility for enacting laws rests with Congress. If the President's program is not in line with the wishes of a congressional majority and the congressional leadership, there is no guarantee that Congress will act favorably or even act at all on his proposals. The President cannot force the Congress to act as he wants it to. Even if the President vetoes legislation Congress has passed, the legislative body can still override his veto by a two-thirds vote.

Congress Authorizes

Although the President usually takes the lead in initiating legislative proposals, Congress must *authorize* all new federal projects by specifying the purposes and programs for which appropriations may later be made. Each house scrutinizes legislation as reported from committee and may accept it basically as is, alter it to the point of changing it completely, or kill it. Once legislation has been requested by the executive branch, the President and the executive agencies are not unlike other "interest groups" seeking access to the legislative process.

Congress Appropriates

The "power of the purse" gives Congress perhaps its most powerful lever for controlling the direction of national policy and checking the executive branch. The federal budget is prepared and submitted annually by the President, but Congress has no mechanism for acting on the budget as a whole. However, program projections cannot be implemented unless Congress *appropriates* the monies. Congressional consideration of requests for appropriations follows an established and intricate pattern for examining in detail the appropriations requests and each agency's performance. Thirteen separate appropriations bills are first given critical scrutiny by specialized subcommittees of the House Appropriations Committee. They are then acted on by the full committee and the full House. A similar procedure is followed in the Senate.

Congress "Watchdogs"

Legislative oversight of the actual performance of executive agencies is probably the best known "check and balance" function of Congress. In fact, the very diversity and differentiation of interests which make it difficult for Congress to formulate a coherent national legislative program accentuates the "watchdog" role. From its many local and particular vantage points, Congress can review program execution and agency performance in order to check tendencies toward the improper or inefficient exercise of executive authority and the perpetuation of obsolete programs.

Congress sometimes also acts as a policy watchdog by suggesting that the President reconsider or change national policies. The role the Senate Foreign Relations Committee has been playing in evaluating U.S. policy in Southeast Asia is an apt illustration.

HOW DOES CONGRESS WORK?

Hundreds of relatively non-controversial bills become law each session. Congressmen develop considerable expertise in their specialized fields. Their judgment is respected and their recommendations are often accepted with little question by their colleagues.

On complex and controversial issues, however, it is hard to get a law passed in Congress. The legislative process is complicated and majorities must be built every step of the way. Opponents of a bill have many chances to defeat or delay it. Inaction or negative action in a committee or subcommittee can keep a bill from ever reaching the floor. Slowness in scheduling a bill for floor action might prevent a vote. Once a bill reaches the floor, numerous parliamentary devices are available to the opposition (repeated quorum calls, points of order, motion to strike enacting clause, motion to recommit, etc.).

When ground is being broken in new fields, an active consensus must be built. Where no firm agreement exists and where interests conflict, congressional politics becomes the art of compromise and coalition-building. In such a case, rarely will a majority of congressmen want exactly the same thing. At every stage in the process, changes in a bill may have to be made to win new supporters. Laws are not so much "made" by a majority as they are built by combining the wants and needs of minorities. The final products are the results of hard bargaining, "log-rolling," exchanging favors and paying political debts.

A congressman may vote for a bill about which he has private reservations because the realities of political life demand that he do so. If a bill is not of immediate concern to his district, he may give it his vote in exchange for support on another bill he strongly favors. The political pressures on a congressman come from many directions — the President, his political party, the leadership, his colleagues, his constituents, and organized interest groups. All can reward or sanction the congressman in some way. Each of them can play an important role in building support or opposition to a bill.

By and large, power in Congress is fragmented; it is informal; and it shifts from issue to issue. Formal leadership is divided and subdivided among the party leaders, chamber officers, and the committee and subcommittee chairmen. Real influence is built largely by skill in personal dealings and adhering to the "rules of the game." Like most organizations, Congress has developed informal working rules which set its style and influence the outcome of its daily business. Willingness to comply with the "folkways" of courtesy, reciprocity, apprenticeship, seniority and institutional pride can go a long way in building power in Congress. The congressman is under great pressure to conform.

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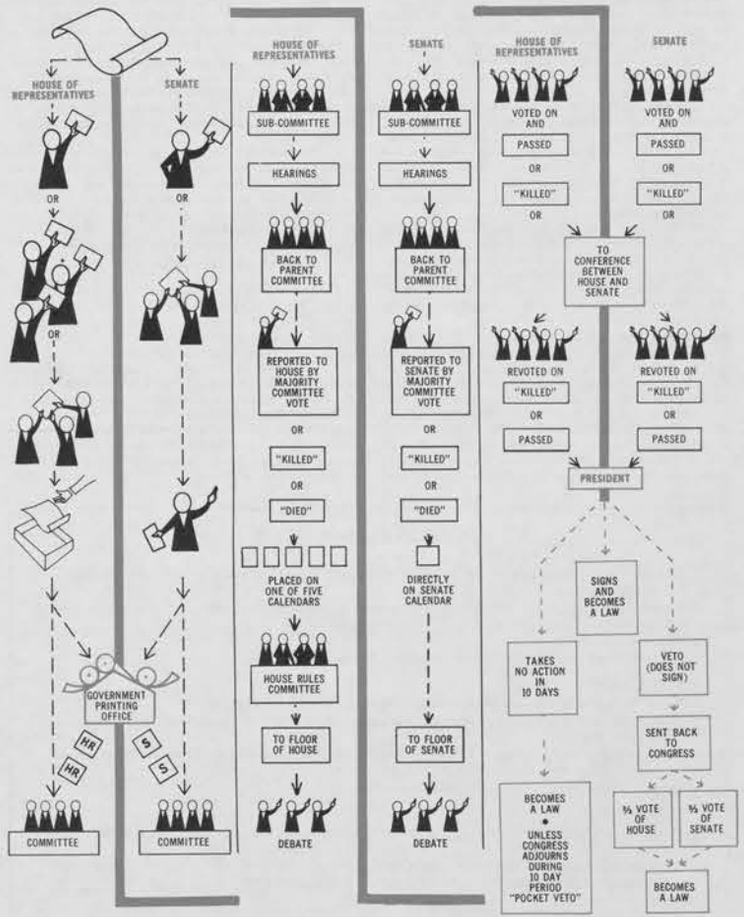
HOW A BILL BECOMES LAW



PARTIES AND THEIR LEADERS

Congress is organized by party but often votes by coalition. Each house of Congress is formally controlled by the majority party in that house. In fact, however, majority party control does not extend to control of policy. American political parties are organized to elect candidates, not to enact programs. Lacking a coherent program and a national mandate, the congressional party organizations have little power to discipline their members. There is little sense of "party responsibility" for a legislative program except when there is strong leadership from the White House. For voting purposes Congressmen frequently divide on liberal-conservative rather than party lines, with liberals of both parties aligning on one side of an issue, the conservatives of both on the other.

By giving them the power to reward or sanction members, the parties' control of committee assignments does give them some leverage for affecting Congressional voting patterns. But members are rarely disciplined for deviation from the party. (John Bell Williams is a notable exception. The Democratic party stripped him of his seniority after he supported Barry Goldwater's Presidential bid.) Perhaps the most important power of the party organization is an informal and definitional one: the very fact that the national parties are primarily electoral organizations designed to win elections makes a congressman with political ambitions think before straying far from dominant party thinking.

HOUSE	SENATE
Term: Two years	**Term:** Six years (one third elected every two years)
Constituency: Districts apportioned according to population in each state	**Constituency:** States (Two senators from each state)
Method of Election: Directly by voters in district	**Method of Election:** Originally by state legislatures; changed by 17th Amendment (1913) to direct election by voters in state
Size: Set by law at 435	**Size:** 100 at present
Special Powers: Originate all bills providing for raising of money. Bring impeachment charges against federal officers. Choose President if Electoral College is unable to decide	**Special Powers:** Confirm Presidential treaties and nominations. Act as jury in impeachment proceedings

The single most powerful office in Congress is that of **Speaker of the House.** The Speaker presides over the House and is leader of the majority party. His powers to interpret the rules and recognize members wishing to speak enable him to influence the course of debate. His powers to refer bills to committees and to appoint select and conference committees gives him a chance to affect directly a bill's legislative fate. But even with this impressive list of powers, his real political impact depends on his leadership skills. Sam Rayburn's powerful personality and political know-how made him the real and undisputed leader of the House. John McCormack, on the other hand, lacked Rayburn's political magnetism and was never able to equal his control over the course of legislation.

The Senate has no office equivalent to the Speaker in formal powers. By virtue of his position as chief party spokesman, the majority party leader is potentially the most powerful figure in the Senate, but his success in achieving real leadership again depends on his personal qualities. One of the most effective Senate majority leaders, Lyndon Johnson, has observed that "the only real power available to the leader is the power of persuasion. There is no patronage; no power to discipline; no authority to fire senators like a President can fire members of his cabinet."

The parties and their leaders do serve a centralizing and unifying function in Congress. But their lack of institutional discipline and a strong policy program has made it difficult for them to overcome the natural tendencies to fragmentation which are reinforced by the committee structure.

THE STANDING COMMITTEES

There is no constitutional mandate for Congressional committees, but since the 18th century, Congress has found it necessary to divide its labor so that it could develop expertise in policy formation and review. In theory, the committees are the creatures of Congress and responsible to the parent chamber. But as early as 1885, Woodrow Wilson charged that Congress was the creature of its committees. He wrote: "The House sits, not for serious discussion, but to sanction the conclusions of its committees as rapidly as possible. 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." Wilson's comments are relevant today. Recommendations of the standing committees are usually considered favorably by the full chamber, and their decisions tend to be the eventual decisions of the whole body.

There are twenty-one standing committees in the House and seventeen in the Senate. Because the complexity and sheer number of bills introduced makes specialization necessary, the standing committees and their subcommittees carry the major burden of drafting legislation and the major responsibility for its exact content. Labor and responsibility are thus divided among the committees; power and decision-making are likewise decentralized and dispersed. The tasks and functions of the committees have made them independent sources of power within the Congress.

Committees Provide Expertise

As the acknowledged subject-matter experts of Congress, committees bring specialization and expertise to the legislative process. They have professional staffs made up of highly skilled, well-trained experts, and committee members themselves rapidly become experts in the subjects of committee concern. The committees can facilitate the compromise and coalition-building necessary for developing legislation. By holding hearings where diverse viewpoints are aired and considered, they give special interest groups and citizen organizations direct access to the legislative process. Indeed, committees and their subcommittees often work closely with organized interest groups and government agencies in framing legislation, thus in a sense developing

their own constituencies and clientele. Some committees have been criticized for acting as advocates of the agencies and interest groups they are designed to "watchdog."

The powers of the committees are buttressed by the lack of institutional arrangements defining them. While the committees are theoretically accountable to the full house, the parent chambers have very little formal control over their actions. The role of committees, their rules and procedures, the selection of their members, and the powers of the committee chairmen are largely built on custom and rarely questioned by the full house.

Parties Control Assignments

Assignments to committees are made by the political parties. There are no formal rules or guidelines outlined for making the assignments. Seniority, geographical distribution, type of district, whether or not the district is a "safe" one, and the experience, competence and political philosophy of the member are all considerations.

Committee chairmen have long been automatically determined by the seniority system. The member of the majority party with the longest service on the committee is offered the chairmanship. This seniority system is a tradition of the parties and is not mentioned in the rules of either house; its purposes are to provide continuity and expertise and to minimize political conflicts. Promotion by seniority quite obviously rewards members from "safe," non-competitive districts with committee chairmanships. The system has been modified in the House by decisions of both parties to provide procedures whereby the promotion of the most senior man can be challenged. Despite this modification, however, seniority remains the single most important factor in the selection of chairmen.

Chairmen Are Powerful

Committee chairmen are among the most powerful men in Congress. The chairman appoints the subcommittees, decides if and when to hold hearings, sets the agenda for meetings, and appoints staff members. He handles committee bills on the floor and often sits on conference committees when legislation within his committee's jurisdiction is being considered.

Since the chairmen owe their jobs to longevity in office and are not directly accountable to their parties or to the full chamber, on some committees these powers are exercised with few practical restraints. The chairman may block legislation he doesn't like simply by referring it to a hostile subcommittee or by neglecting to call a full committee meeting. However, at least a third of the committees have enacted rules that limit a chairman's power and require that he follow certain procedures. The Legislative Reorganization Act of 1970 contains a provision allowing a majority of a committee to call a meeting if the chairman refuses to do so.

Taken together, the powers of the committees and their chairmen and the iron law of seniority operate as "centrifugal" forces in the Congressional arena. They combine to decentralize the decision-making process while simultaneously concentrating power in the hands of a few men. When not controlled, the committees and their clientele (government agencies and pressure groups) may become "subgovernments" or "fiefdoms" which on occasion can determine national policy in their area of specialization.

ORGANIZED INTEREST GROUPS

Probably no political institution has a more sinister image in the public mind than lobbies, but lobbyists can play a crucial and frequently constructive role in the legislative process. Because they are organized for specific reasons, lobbyists can provide detailed data and information to the congressman which he might not find elsewhere.

From 300 to 400 groups register each year as lobbies; they spend over $4 million a year in their attempts to influence legislation. Lobbies concentrate most of their efforts at the committee stage of the legislative process where they can best affect specific provisions of a bill. Over a period of time they often develop close working relationships with "their" committees. On occasion, lobbyists may provide ideas for new laws, help in drafting legislation and muster support or opposition when bills are considered on the floor. The techniques they use to affect legislation are many — communications from their members, molding public opinion, entertaining congressmen, offering campaign contributions and/or campaign work.

Since congressional representation is based solely on geography it does not specifically provide for "interest" representation. Lobbies can help a congressman understand the needs of groups of people, many of whom live outside his own district. By giving groups of like-minded citizens this access to the legislative process, lobbies add a valuable dimension to our representative system.

RULES AND PROCEDURES

Congress has established elaborate rules and procedures to make coalition-building possible and at the same time to protect itself from passing legislation which has been hastily considered or is intensely opposed by a concerned minority. In the congressional bargaining process, the rules and procedures are used as strategies to pass, defeat, or delay a bill.

The rules and procedures themselves are by and large politically neutral, but in a decentralized decision-making structure they make it relatively easy for determined minorities to block controversial legislation. Congressional decision-making is based on a spirit of compromise; but when the spirit is absent, the mechanisms for defeat and delay are easily found and readily accessible.

Riders A popular strategy for passage or defeat of controversial legislation is to attach a "legislative rider" or unrelated amendment. The House has a rule against adding these, but the Senate (which has a rule against riders to appropriations bills only) quite often attaches them to other House-passed bills. Since the President lacks the "item veto" (he must accept or reject an entire bill and cannot veto parts of it) the pressures on him to accept riders attached to popular bills are great.

A rider is usually added to a "safe" piece of legislation to secure the passage of a more controversial one, but they may also be used to diffuse the support behind the controversial proposals. In the 91st Congress, the Senate Finance Committee added two House-passed bills — Welfare Reform and Trade Legislation — as amendments to the popular House-passed Social Security Bill. In the end, none of the proposals was enacted.

Filibuster and Cloture In the Senate, minorities can use the filibuster to delay or stop a vote on measures which seem certain to pass. The Senate prides itself on its tradition of unlimited debate; Senate Rule 22 (the cloture rule) allows debate to be stopped only when two-thirds of the senators present and voting so order. Because cloture votes are seen as votes both on the continuance of debate and on the substance of the legislation in question, the two-thirds majority is rarely obtained. Since the cloture rule was first adopted in 1917, there have been 49 cloture votes; eight have passed. But 34 had the support of at least half of those present and voting.

The cloture rule is one of the most widely criticized congressional procedures. Its use can make a majority helpless to act and can stalemate the Senate. To counter the argument that the right to filibuster gives invaluable protection to minority rights one political scientist notes ". . . fears of a ruthless temporary majority are wholly unfounded. The real problem is the opposite — the power of permanent, regional minorities."

Over the years, proposals for liberalizing the cloture rule have consistently lost. Contrary to popular opinion, the filibuster is used by liberals and conservatives alike. Senators seem hesitant to abandon the rule which allows them a last-ditch strategy to stop measures they intensely oppose and a chance to avoid commitment on highly controversial legislation on which they may not wish to act.

Rules Committee One of the most powerful of the House committees, the Rules Committee has the authority to serve as a "traffic cop" for controversial legislation going to the floor. By recommending "rules" which prescribe the conditions under which bills are considered, it can set the style and substance of debate. If a bill is reported with an "open rule," amendments are permitted and the House can significantly change the original bill. But if a bill is reported with a "closed rule," the full House cannot amend it. Rules may also limit points of order and specify how much time is allotted for debate. The full House can accept or reject all recommended rules.

Because of its powers to control consideration of bills, the Rules Committee has developed influence over the content of legislation. The committee may demand that a bill be altered substantially before a rule is granted, or it can simply refuse to give a rule. Its tremendous power is usually challenged only when major legislation is blocked by the committee. Sometimes the vocal opposition to the committee is more for public than for House consumption: it can serve as a convenient "whipping boy" for congressmen who feel committed publicly to support measures they privately oppose.

The 21-day rule, whereby the chairman of the subject-matter committee which reported a bill could bring it before the House if the Rules Committee had not acted after twenty-one days, has been voted in and out of the House rules since 1949. An attempt to institute a 31-day rule under which the Speaker could force the committee to release legislation was defeated in the 92nd Congress.

WHAT SHOULD CONGRESS DO?

Congress has no clear mandate to guide it in making decisions. The "will of the people" is elusive, especially so when there is little agreement on national priorities. At best, it can be only approximately defined by conciliation and compromise among all the affected interests.

To be effective, Congress must enact legislation which responds to changes in society while simultaneously building national support and consensus for its actions. Can the congressional process of accommodating interests, by nature slow and cumbersome, respond fairly and quickly to the urgent problems of our complex society? What reforms, if any, are needed to enable Congress to lead the nation in a time of change? □

ADDITIONAL SOURCES

GOVERNMENT PUBLICATIONS: Available from United States Government Printing Office, Washington, D.C. 20402.

Congressional Record, published daily when Congress is in session. $3.75 a month, or free from your congressman.

How Our Laws Are Made, 35¢.

Our American Government, What Is It? How Does It Function?, 35¢.

PAPERBACKS

Bailey, Stephen K., *Congress in the Seventies*, St. Martin's Press, New York, 1970.

Froman, Lewis A. *The Congressional Process: Strategies, Rules and Procedures*, Little, Brown and Co. Boston, 1967.

Making Congress More Effective, CED, 1970. Available from the Committee for Economic Development, 477 Madison Avenue, New York, N.Y., 10022, $1.00.

Vinyard, Dale, *Congress*, Charles Scribner's Sons, 1968.

PERIODICALS

Congressional Quarterly Weekly Report, published by Congressional Quarterly, Inc., 1735 K Street, N.W., Washington, D.C. 20006.

Congressional Quarterly Guide: Current American Government, published twice a year by Congressional Quarterly, 1735 K Street, N.W., Washington, D.C. 20006, $3.00 each.

radio and television. Networks must sell broadcast time at a uniform rate for the specific time period. Records of broadcast time are public information and must be available for inspection. Each broadcast must be approved by the candidate or someone designated by him. KEEP A SCORECARD ON CAMPAIGN BROADCASTS: JOT DOWN THE DATE, CANDIDATE, STATION, AND TIME AND LENGTH OF BROADCAST. COMPARE NOTES WITH OTHER LEAGUES MEMBERS. DRAW A MASTER CHART AND ESTIMATE TOTAL COST OF RADIO/TV EXPENSES.

HOW ARE CAMPAIGN FUNDS BEING ALLOCATED? PREPARE A GRAPH INDICATING THE ALLOCATION OF RESOURCES AMONG THE DIFFERENT COMMUNICATIONS MEDIA. Remember that campaign communications take many forms beyond that spoken of in the law --- bumper stickers, buttons, etc.

Telephone banks are considered a campaign expenditure only if a candidate or political committee pays for the phones or solicitors. WHEN YOU RECEIVE PHONE CALLS ON BEHALF OF A CANDIDATE, TRY TO FIND OUT WHO UNDERWROTE THE PROJECT.

As for campaign printing costs, COLLECT AS MANY DIFFERENT PIECES OF CAMPAIGN LITERATURE AS POSSIBLE AND TRY TO ESTIMATE THE QUANITY PRODUCED OF EACH TYPE. THEN CALL (OR VISIT) A LOCAL PRINTER TO TRY TO ESTABLISH THE TYPICAL COSTS OF COMPARABLE MATERIALS. FOR AN ESTIMATE OF OVERALL PRINTING COSTS, TOTAL THE QUANTITY AND PRICE FOR EACH TYPE OF MATERIAL. Note: Unlike the media, printed material is not directly referred to in the law. However, if a printer gives substantial discounts, he must (if its over $100) report the difference in charges as a contribution.

Material printed or distributed by a political committee (as defined by law) without authorization by a candidate must state this fact on the face of such material. TRY TO DETERMINE THE SOURCE OF ALL PRINTED MATERIAL. While federal law does not specify that all material must state the source, your state may require mailed campaign literature to indicate the source.

Putting It All Together

The 1971 Campaign Act is designed to curtail expenditures of vast personal and family wealth and rampant spending on broadcast time, and to provide for disclosure of financial resources. Many of these resources are neither visible nor easily detectable (e.g., incumbents have the advantage of paid staffs, offices, free use of the mail, etc.). However, it should be possible to monitor the larger unit expenditures. You now have some data to estimate various expenditures and identify sources of income.

SUB-TOTAL DIFFERENT TYPES OF EXPENDITURES...TRY TO ESTIMATE THE TOTAL COST OF THE CAMPAIGN EFFORT... AVERAGE THIS AGAINST THE NUMBER OF ELIGIBLE VOTERS IN THE DISTRICT: WHAT WAS THE DOLLAR EXPENDITURE PER VOTER?...COMPARE YOUR ESTIMATES WITH THE REPORTED FIGURES. Have you found a large disparity? Where? Have incumbents been far outspent by challengers?

Monitoring may lead you to greater understanding of the financial ins and outs of an election campaign. If you undertake this effort, we hope you will share your experiences with us.

Suggested Bibliography (In addition to the Education Fund's F&I)

David W. Adamany, Campaign Finance in America, $2.50. (North Scituate, Mass.: Duxbury Press, 1972). A detailed, scholarly work in the field of political finance and campaign spending (paperback).

Herbert E. Alexander, Financing the 1968 Election, (Lexington, Mass.: D.C. Heath & Co., 1971) and Money in Politics, (Washington, D.C.: Public Affairs Press). Mr. Alexander is widely respected as an authority in the field of political finance.

Max McCarthy, Elections For Sale, (Boston: Houghton Mifflin Co ., 1972). Written from the perspective of a former Democratic Congressman. Describes how and why campaign costs have spiraled.

Twentieth Century Fund, Electing Congress: The Financial Dilemma, $2.50. Background paper by David L. Rosenbloom (New York, 1970). Prepared prior to the recent law, but provides useful review on the evolution of current campaign practices (paperback).

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1730 M STREET, N.W., WASHINGTON, D.C. TEL. (202) 296-1770

committee guide

The League of Women Voters of the United States

September 1972

Publication No. 149, 25¢ Representative Government No. 1

A FIVE FINGER EXERCISE IN REPRESENTATIVE GOVERNMENT

Support of an open governmental system that is representative and responsive:

U.S. Congress - study of and action for responsive legislative processes.

Election of the President - action for election of the president and vice-president of the U.S. by direct national popular vote.

District of Columbia - action for self-government and representation in Congress for citizens of the District of Columbia.

Apportionment - action for apportionment substantially on population of congressional districts and of all elected and state bodies.

Voting Rights - (Bylaws, Article XIII, Section 1, a) Action to protect the right to vote of every citizen.

This COMMITTEE GUIDE is designed as a basic tool for directing League energy in making the five components of Representative Government --- each with differing strategies and techniques --- into a total working program area. The guide is divided into three sections: Overview, Voting Rights Bylaw, and (for Leagues interested in a "do-it-yourself" approach) Tips on Monitoring Campaign Financing.

OVERVIEW

"Action" - A Key Word for the Coming Year

With the impetus of a presidential election, Representative Government committees (especially those dealing with all the components) have an exciting and challenging task working with a program area that enters into many aspects of the governmental process. Like the five fingers on a hand, each of which can move independently, all are joined together. Each component is interrelated and works in concert to form the whole program area.

The Voting Rights Bylaw is a primary vehicle for action to extend the franchise to every citizen. Once a citizen has the vote, apportionment should guarantee that no voter has more, or less, influence than another. Each equal vote can be meaningful only if elected officials serve in governmental bodies that are responsive and responsible to all citizens.

We devoted the past two years to a continuing study of Congress and now will try to reach out and share with both congressmen and the community what we've learned and will continue to learn. In those areas where consensus was reached, the League will try to turn ideas for reform into reality.

After careful study of the manner of selecting the president, a League position for reform of the electoral college system was arrived at in January, 1970. Although opportunities for effective League action have been limited so far, a close election in November could focus attention on the need for electoral college reform.

In working for the protection of the right to vote and for government responsible to the people, the inequality of citizenship of the residents of the District of Columbia should be a primary focus. The D.C. grassroots campaign for home rule and voting representation in Congress is described in a national memo sent to all Leagues on June 23, 1972. Let your congressional candidates know that people outside Washington feel strongly about the rights of D.C. residents; question them on their positions.

Spotlight on Congress

During 1970-72, we started a study of U.S. Congress, reaching consensus on some aspects of the legislative process. But the job's not done! CONVENTION 72 delegates decided to take action where there is consensus and simultaneously to continue the study. Local and state Leagues will play a major role in the campaign for procedural, rule and structural changes in the next Congress. Pivotal to this campaign will be the need for massive citizen education on how Congress works. League members, using the expertise gathered during the Congress study, can have a decisive effect on this effort. To help, we are preparing a COMMUNITY GUIDE on Congress.

The national board, at its September meeting, will discuss the continuing study of Congress. After the excitement of the election and the organization of the new Congress, we could turn our attention to how Congress and the President work together: who does what and what the roles are of each in policy-making. We anticipate preparing (in 1973) material on executive/legislative relations. Campaign spending is the other major area suggested by convention delegates for study under the U.S. Congress component. We do not foresee a full study, and anticipate selective rather than concerted League attention to this issue. For further direction, watch for the September Board Report.

VOTING RIGHTS BYLAW

Recurring questions arise about the Voting Rights Bylaw: What does it mean? How does it relate to and differ from Voters Service? What kinds of action are authorized under the bylaw?

In 1970, members proposed that convention adopt a bylaw under the program article as authority for action in the area of voting rights. Since support and protection of voting rights is basic to the purpose of the League, a vehicle was sought which would be a definite working base for League action. The resulting provision in the bylaws was adopted by the 1970 convention.

Although the League has a long history (through Voters Service) of protecting the franchise, legislative action on behalf of voters' rights had not been possible before, except by Leagues which had developed specific local and state positions. Almost immediately after this bylaw position was adopted, the LWVUS actively supported the 1970 Amendments to the Voting Rights Act of 1965, and local and state Leagues began using the bylaw as a launch pad for action on voting rights in their own bailiwicks. The LWV of Washington was one of the first state Leagues to jump into the fray. It filed an amicus curiae brief, co-signed by the LWVUS, in a case reviewed by the U.S. Supreme Court which involved alleged discrimination against Spanish-speaking citizens through use of literacy tests. In another type of action, the LWV of Connecticut succeeded in simplifying the wording of state ballot issues.

Voting Rights is a permanent responsibility and Leagues are authorized to work in support of action which protects the right of every citizen to vote. The person designated for Voting Rights should, of course, be familiar with current laws, recent court decisions, and registration procedures (e.g., 40 states, either through litigation or attorney generals' opinions, now provide for registration of students in towns where they attend school).

Decisions to take action on election laws or procedures affecting the entire state are made by state boards while local Leagues may make this determination on matters covered by local jurisdiction. However, no decision for action should be undertaken which conflicts with the program bylaw of the right to vote of every citizen.

There may be instances when the local or state board is not in agreement about taking local or state action under the national bylaw on a specific issue. If you believe there is uncertainty about member agreement or if there is reasonable doubt that a proposed change will actually protect the citizen in his right to vote, the board may wish to consider taking no action. Should you find widespread member interest in the issue, you might consider suggesting it for future League program.

On frequent occasions Voters Service and Voting Rights will work together, their functions overlapping. At other times you may need to designate which portfolio covers a specific issue. For example, if your League plans to implement the Election Systems Project by working intensively to remove administrative obstacles to voting before the election, you might find it useful to ask: Do you see your long-range goal as entailing changes of existing laws? Would a campaign involving the League and the community be so widespread or controversial as to be beyond the scope of Voters Service? If the answer in NO, it is obvious that Voters Service can be involved in this undertaking. YES answers would indicate a need for the board to consider activating a Voting Rights committee (or using the Representative Government committee) to do the job. Perhaps the most striking example of the need to separate these two functions is when some local League members are serving as deputy registrars executing current laws while other League members are working to change these laws.

In the course of its usual work, Voters Service can help identify discriminatory laws, procedures and practices. They may request changes in such matters as registration locations, number of registrars, and hours and dates of registration, to name a few. In any instance calling for legislative action or a campaign for change, as opposed to citizen education, the person designated for Voting Rights, rather than the Voters Service chairman, is identified with this activity. In short, Voters Service, per se, should not be engaged in changing laws governing the election system. If laws or procedures are changed, Voters Service can publicize the changes through informational techniques. This distinction may be thought of in terms of citizen education versus action.

CAMPAIGN FINANCING

For Leagues with the woman power and member interest to pursue the subject, here is a "do-it-yourself" monitoring approach to campaign spending. Although our tips relate to the new federal campaign law, you will find clues for action which can be adapted to local or state campaign regulations. Leagues keenly interested in campaign financing can work under their local or state programs. An exciting example is the success of the LWV of Washington in placing Initiative #274 (a state campaign finance act) on their state ballot in November.

To undertake this kind of monitoring, it is vital to understand the provisions of the Federal Election Campaign Act of 1971 and what it is designed to do. For a copy, write either to your congressman or senator, or to the Government Printing Office, Washington, D.C. 20401 (ask for Public Law #92-225). Remember that, in addition to the specific limitation in this law, other statutes prohibit direct contributions from labor unions and corporations.

The LWV Education Fund's F & I, Campaign Spending: The Great American Treasure Hunt, (Pub. # 105, 25¢) provides valuable background information and highlights major provisions of the new federal law. This fall election period is also an ideal time to promote this publication as a community education tool.

In this first round of elections under the new law there has been some confusion about its interpretation. YOU MIGHT WANT TO ARRANGE A MEETING WITH EACH CAMPAIGN MANAGER TO DISCUSS HIS UNDERSTANDING OF THE LAW AND THE PROBLEMS HE SEES ABOUT INCOME AND SPENDING LIMITS OR REPORTING PROCEDURES.

Reporting and Disclosure

Under the new law candidates for federal elective offices and the political committees working on their behalf* must file reports on campaign contributions and spending not only with the Clerk of the House or Secretary of the Senate but also with the secretary of state for each state in which they are active. These reports are public record and must be available for public scrutiny, at minimal cost, on demand. Reports must be filed on the 10th of March, June, September, December; the 31st of January; and on the 15th and 5th day preceding an election. The political committees must also file the name of the chairman and treasurer, who is required to keep records of the full name, address, occupation and place of business, if any, of each person contributing over $10 as well as to report every contribution and expenditure over $100. (Note that reported contributions do not include volunteered time)

WHERE ARE THE PRIMARY SOURCES OF MONEY: i.e.: small or large donors, or a combination. ARE SPECIFIED LIMITATIONS ON CONTRIBUTIONS BEING ADHERED TO? CAN YOU IDENTIFY THE SOURCES OF LARGE SUMS OF MONEY BEING SPENT IN DISTRICTS WITH MINIMAL OR NO CHALLENGE TO A CANDIDATE? ARE CAMPAIGN REPORTS BEING FILED ON TIME? ARE CAMPAIGN REPORTS COMPLETE? HOW MANY DIFFERENT ORGANIZATIONS ARE WORKING ON BEHALF OF A SINGLE CANDIDATE? A proliferation of groups spending under the $1,000 limit would indicate a violation of the spirit of the law.

Income and Expenditure

There is no overall spending limit, but there are restrictions on some types of campaigns. Candidates are limited by ceilings on the amount of personal and family money which can be spent in a campaign: Senate - $35,000; House - $25,000. ARE LIMITATIONS ON FAMILY CONTRIBUTIONS BEING HONORED?

Communications media (radio, TV, magazines and billboards) are limited to 10¢ per voting-age person in the district (or nation or state). No more than 60% of the total media budget can be spent on

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*any individual or group which spends or accepts money during a calendar year in an aggregate exceeding $1,000.

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committee guide

The League of Women Voters of the United States

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Representative Government
April 1973

CONGRESSIONAL REFORM: WHERE THE ACTION IS

"'Action' - A Key Word for the Coming Year." These were the words we used in the September 1972 COMMITTEE GUIDE: A Five Finger Exercise in Representative Government to describe what Representative Government committees could anticipate as the major focus for the five components. Now we are well into 1973 and the first component, US Congress, has indeed become one of our major action priorities.

Leagues have already received detailed guidance on legislative strategy in the December 1972 NATIONAL BOARD REPORT; in both the February 9 and March 9, REPORT FROM THE HILL, as well as in the February 23 TIME FOR ACTION, "A Fight on All Fronts for Adequate Funding for League Program Priorities."

For a parallel effort in community education, the LWVEF has just produced a COMMUNITY GUIDE, Congress: A Time of Renewal. The COMMUNITY GUIDE contains a wealth of information on what Congress has been doing to reform itself during the first 60 days of the 93rd Congress, plus an analysis of current executive/legislative relations. There are also numerous tips on how to expand the circles of concern--an outline for a speech, a sample workshop, a public opinion poll, etc.

This COMMITTEE GUIDE on congressional reform is designed to pull it all together for Leagues by identifying:

- What has already been accomplished
- What to watch for: studies underway and bills already introduced or in draft stages
- What still needs to be done
- What resources (e.g. background information and how-to techniques) are available from the League for use by other groups.

WHAT HAS BEEN ACCOMPLISHED

In its first ten weeks, the 93rd Congress approved a remarkable series of reforms in its rules and procedures and initiated a number of others. There was a break with the tradition of seniority, secret meetings were opened to the public, the committee assignment system was liberalized, and the "closed rule" was modified. While these reforms are being hailed as "historic" and "revolutionary," the truth is that the task of making Congress a more responsive and effective body, a co-equal branch of the government, is just beginning.

The League of Women Voters has worked in a Congressional Reform coalition with over 40 citizen groups including the United Methodist Church, Committee for an Effective Congress, Americans for Democratic Action, United Auto Workers and Common Cause. The coalition has played an important dual role in educating the public and in lobbying the Congress on the issues of congressional reform. There is no doubt that citizen interest and action encouraged reform leaders in Congress and influenced other senators and congressmen to support the reform movement.

League members can feel a real sense of accomplishment and participation in the recent successes. More than three years ago, when the League adopted US Congress as a major area of study, League members anticipated the importance and urgency of congressional reform. The two year study and consensus process not only provided members valuable insights but also helped to focus public attention on the major factors responsible for Congress being a less responsive, accountable, decisive and effective body than it should or could be.

When the 93rd Congress convened in January 1973, Leagues had been hard at work stimulating interest in their communities in this rather technical and, until recently, unglamorous subject. During and after the election campaign, League members raised the question of congressional reform with their congressmen and indicated their continuing interest in it. The League's President, Lucy Wilson Benson, testified in December 1972 at the hearings of the ad hoc Committee on Congressional Reform. (See National Voter, February 1973 for story.) She also discussed the subject on Barbara Walters' national TV show, Not for Women Only.

In the critical months of January and February 1973, when Congress was organizing, League members lobbied key senators and congressmen as specific measures needed support. While Leagues worked from the grass-roots level, the national Board and the voluntary lobbying corps, made up of League members in the D.C. area, lobbied on the Hill.

Here is a run-down on major reforms already achieved in the 93rd Congress (For more back-

ground on reforms see the COMMUNITY GUIDE, Congress: A Time of Renewal). They bring Congress much closer to meeting the League's criteria for responsive legislative processes: "accountability, representativeness, decision-making capability and effective performance."

Committee Selection Liberalized House and Senate Democrats enlarged their assignment committees. They added four new members, two of them freshmen, to the Senate Democratic Steering Committee which passes out Senate Democratic assignments; they added the House leadership -- Speaker, majority leader and caucus chairman -- to the Democratic Committee on Committees which makes committee assignments in the House. This Committee had previously consisted only of Democratic members of the Ways and Means Committee.

The House Democratic caucus approved the following new rules which should insure better treatment for junior members:

1) all members are entitled to serve on one major committee;

2) no member may serve on more than one major committee;

3) members of the three most powerful committees -- Rules, Appropriations, and Ways and Means -- may serve on no other committees; and

4) junior members of committees are to be assigned to at least one subcommittee of their choice before senior members can get more than two subcommittee assignments.

Seniority Tradition Toppled The House Democratic caucus passed a new rule requiring an automatic vote on each committee chairman at start of each Congress. Although, in a secret yes-or-no ballot taken by the caucus, every committee chairman either retained his post or advanced through seniority, the principle was established that a chairman could be rejected, and the voting showed considerable opposition to some chairmen.

Senate Republicans voted to allow Republican members of each committee to elect their top-ranking Republican without using seniority as the exclusive criterion, the vote to be approved by the entire Republican caucus.

One Secrecy Fight Won The House, by a vote of 370-27, adopted a rule that all committee and subcommittee hearings must be open to the public unless they constitute a danger to national security or to personal privacy and that all mark-up sessions at which bills are voted on must be open to the public unless a majority of the members vote to close a particular session.

The Senate Interior and Banking Committees voted to open the traditionally closed mark-up and executive sessions.

"Closed Rule" Modified House Democratic caucus adopted new procedure under which 50 or more Democrats may propose an amendment to a bill. If endorsed by a majority of the caucus, the bill is sent to the floor under a rule allowing that amendment to be considered. Thus, legislation dealing with issues such as taxes, trade, social security and health, usually reported from the Ways and Means Committee under the "closed rule," is now subject to limited amendment by the full House.

Party Leadership Strengthened A Democratic Steering and Policy Committee was created. It will be chaired by the Speaker and will include party leadership, 12 members to be elected by caucus on regional basis, and three others appointed by the Speaker to assure representation of minorities. The new committee with its built in safeguard for representativeness, is expected to: give the party direction and unity, to recommend legislative priorities; and shape party policies.

Legislative Machinery Modernized A million-dollar electronic voting system installed in the House flashes a running tally on overhead scoreboards and records each member's vote on a computer printout. It cuts in half the 30 minutes it used to take for each recorded vote.

Most, but not all, of the reform attempts were successful. Some proposals that failed: that votes in the House Democratic caucus be made available to the press and public, that all Senate committee and subcommittee hearings and mark-up sessions be open to the public unless a committee votes to close a particular session; that the House whip be elected rather than appointed by the Speaker.

WHAT TO WATCH FOR

Studies Underway

Two special committees--one on House committees and the other on the budget process--are conducting studies on reform issues. Their reports and recommendations are expected to be important to the future course of the reform movement.

Study of House Committees
A 1-1/2 year, $1.5 million in-depth review of the House committee structure is now underway by a special "Select Committee on Committees" appointed by the Speaker of the House. Chaired by Rep. Bolling (D.Mo.), author of two books on reforming the House, the group is studying the powers and duties of all House standing committees with a view to updating them. The committee is authorized to propose legislation dealing with the number, size, jurisdiction and staffs of committees and subcommittees. It is also expected to look into the problems of budget and appropriations systems.

Vice-Chairman is Rep. Martin (R.Neb.). Democratic members are: Reps. Culver (Iowa), Meeds (Wash.), Stephens (Ga.), and Sarbanes (Md.). Republican members: Wiggins (Cal.), Young (Fla.), Frelinghuysen (N.J.) and Steiger (Wis.). The committee is holding hearings in May and June 1973 and will then issue a report which should be the definitive latest word on what is wrong with the House committee structure and how to change it.

Though a counterpart study of Senate committees

has also been proposed, it is not expected to get anywhere in this session.

Joint Study Committee on Budget Control
This bipartisan 32-member committee, established in the 92nd Congress, is making fundamental and far reaching recommendations designed to give Congress "an opportunity to examine the budget from an over-all point of view, together with a congressional system of deciding priorities." It issued an interim report in February 1973 and held hearings the following month. (For details, see CyG on congressional reform and REPORTS FROM THE HILL.) The committee will make specific recommendations to implement the principles it has already set forth.

The committee is run by a steering group composed of cochairmen Rep. Ullman (D.Ore.) and Rep. Whitten (D.Miss.) and vice-chairmen Sens. McClellan (D.Ark.), Long (D.La.), Hruska (R.Nev.) and Rep. Schneebeli (R.Pa.).

Reform Bills Proposed in the 93rd

Hundreds of bills have been introduced in this session seeking to change the way Congress works. Only a few will get some action; most will die in committee. Many congressmen and senators, simply by introducing these bills, have expressed their interest in reform.

Below are the bills to watch, both because they are of particular interest to League members and because they have a chance of getting somewhere in the 93rd Congress. Although they may not win passage, we think they will be the subject of hearings, reports and debate.

Budget Reform A new Subcommittee on Budgeting, Management and Expenditures, chaired by Sen. Metcalf (D.Mont.), will consider the many bills seeking to improve congressional control over the budget. At April hearings the committee is considering testimony of members of Congress and academic experts.

Under consideration are bills introduced by Senators Beall (R.Md.), Bellmon (R.Okla.), Brock (R.Tenn.), Byrd (Va.), Cranston (D.Cal.), Ervin (D.N.C.), Humphrey (D.Minn.), Mathias (R.Md.), McGovern (D.S.D.), Metcalf (D.Mont.), Muskie (D.Me.), Nunn (D.Ga.), Percy (R.Ill.), Stevenson (D.Ill.), and Talmadge (D.Ga.). The Subcommittee hearings will also consider the Interim Report of the Joint Study Committee on Budget Control. The subcommittee is expected to come up with a bill which stands a good chance of floor action this session.

Impoundment Control An Impoundment Control Bill (S.373), introduced by Sen. Ervin (D.N.C.) and cosponsored by 51 senators, requires the President to notify Congress within 10 days of any executive impoundment action (i.e. withholding of funds already appropriated by Congress) and permits the funds to be impounded only if Congress specifically approves the action within 60 days. The Subcommittee on Separation of Powers, which Sen. Ervin chairs, held hearings on S.373 in February 1973.

A House bill, H.R.5193, introduced by Rep. Mahon (D.Tex.), Appropriations Committee chairman, with the support of the leadership, has been referred to the House Rules Committee. It differs significantly from the Senate bill in that it would allow impoundments to go into effect unless they were disapproved by both houses within 60 days. Speaker Albert has indicated that he hopes for action by the April recess.

"Government in the Sunshine" Sen. Chiles (D.Fla.) and 25 cosponsors have introduced S.260, patterned after Florida's Sunshine Law. Certain features of S.260 are still needed even though new ground rules exist about opening up committee meetings. It would open to the public meetings of government agencies and of congressional committees, including conference committees. The bill has been referred to the Reorganization Subcommittee of the Government Operations Committee, which is planning to hold hearings in the spring of 1973.

Rep. Fascell (D.Fla.) and a number of cosponsors have a similar bill in the House, but it is the Senate bill which is likely to see action. Watch for the hearings!

Financial Disclosure Sen. Mathias (R.Md.) and Sen. Stevenson (D.Ill.) have introduced S.397 which provides that members of Congress and their top aides report annually on the amount and source of their incomes, assets and debts, their major financial transactions, and gifts of over $100.00. The bill, which is in the Government Operations Committee, is similar to ones introduced since 1957. Though conflict of interest is often cited as a cause of eroding public confidence in government, it is very doubtful that this bill or a similar one introduced in the House by Reps. Udall (D.Ariz.) and Frey, Jr. (R.Fla.) will be passed in this session.

Campaign Financing Senate Minority Leader Scott (R.Pa.), introducing a series of new bills dealing with Federal Election campaign activities, commented that "...the Federal Elections Campaign Act of 1971 was supposed to tell us who gave how much to whom and when. If I were a professional critic, I would have to give the new law mixed reviews, citing its bold structure but spotty performance."

Together with Sen. Mathias and Sen. Stevenson, Sen. Scott reintroduced a proposal which two years ago passed the Senate by a vote of 89-2 but was turned down by the House in conference. The bill (S.1094), which provides for an independent Federal Elections Commission to regulate campaign spending, deals principally with reporting and disclosure and attempts to solve some of the problems encountered in the 1972 campaign. The Rules Committee is holding April hearings on this and related bills including S.1189 introduced by Sen. Weicker (R.Conn.).

Senators Scott and Mathias have introduced three other bills in this field: S.1096 gives federal candidates campaign mail privileges at rates paid by nonprofit organizations. S.1097 exempts all cash contributions from the gift tax; currently

only those in excess of $3,000 are exempted with the result that many contributions are routed through "committees of evasion."

S.1095 exempts equal time requirements for all federal offices so that free broadcasting time can be made available to major candidates without giving time to marginal candidates. A similar bill, S.372, relating to presidential candidates only, was introduced by Senator Pastore (D.R.I.) and hearings were held in March. Sen. Pastore's bill would also impose an overall expenditure limit of 25¢ per voter.

Legislation to provide public financing of campaigns--an idea which received major attention at December 1972 hearings of the Mathias-Stevenson Reform Committee--may be introduced later in the session.

Reps. Udall (D.Ariz.) and Anderson (R.Ill.), who led the House fight two years ago, are preparing a bill to clear up problems in the present Act and to incorporate some of the proposals turned down in 1971. Reps. Bennett (D.Fla.) and Conable (R.N.Y.) have already introduced legislation aimed in these directions.

WHAT STILL NEEDS TO BE DONE

League members, using the expertise gathered during the Congress study, can continue to play a major role in bringing about congressional reform. Leagues can capitalize on the great amount of public interest generated by reforms to date. But this interest is likely to die down unless organizations like the League make a concerted effort to sustain it and at the same time to improve and intensify citizen monitoring and lobbying efforts.

Without this effort, the reforms already on the books could not have been won, and future reforms would have little chance of passage. Much remains to be done, especially in reforming budget and appropriations systems and in streamlining committees, if Congress is to play a substantive role in setting national priorities. Resource committees will want to apply their expertise to both prongs of this effort--community education and action.

THE LWVEF COMMUNITY GUIDE Congress: A Time of Renewal is designed for wide and varied use by other organizations as well as the League.

The December 1972 NATIONAL BOARD REPORT proposed that "issues underlying U.S. Congress reform be used to provide an overall context for as many League action undertakings as possible. The League will thus 'hitch a ride' on the current high pitch of interest the major press and news sources have in the Executive branch/Congress relationship."

REPORT FROM THE HILL will continue to provide up-to-date information on congressional reforms as well as on "the points at which League program is involved in the legislative-executive struggle to achieve a balance of power." To emphasize that congressional reform is a kind of umbrella for League action, an umbrella symbol appears each time legislative-executive relations is mentioned.

In this same vein, the February 23 Continuing TIME FOR ACTION urged (page 3)that League letters calling for adequate funding for League program priorities "also demonstrate the League's interest in strengthening Congress' role in determining national priorities." This same TIME FOR ACTION stresses that Leagues should emphasize the "need for Congress to coordinate its consideration of total appropriations and revenue raising."

R/Hs and T/As will keep you apprised of any further developments in congressional reform.

RESOURCES AVAILABLE FROM THE LEAGUE

AIDS FOR ACTION

League Action Service--includes Time for Action and Report from the Hill. $7.50 for the Congressional year.

When You Write to Washington, A Guide for Citizen Action including Congressional Directory 1973-74. 35¢ per copy.

Study and Action: 1972-74 Program. 75¢ per copy.

Action, A handbook for leaders. 1972. 50¢

AIDS FOR COMMUNITY EDUCATION

Community Guide to Congressional Reform, LWVEF, 1973.

The National Voter, "Comeback for Congress?" February 1973.

Facts & Issues

Reform: Does Congress Need It?
September 1971, 6 pp. #693, 35¢

Architects of Compromise...Agents of Change?
March 1971, 6 pp. #418, 35¢

Minority Rights and Majority Rule
July 1971, 4 pp. #684, 25¢

Campaign Spending, the Great American Treasure Hunt, April 1972

Committee Guides

A Five Finger Exercise in Representative Government, 1972

The Appropriations Process. October 1971, 4 pp. #696, 15¢ (available in limited quantities)

The Condition of Congress, David B. Walker, May 1971, 4 pp. #430, 20¢

Case Studies of Bills in Congress
April 1971, 13 pp. #428, 30¢

radio and television. Networks must sell broadcast time at a uniform rate for the specific time period. Records of broadcast time are public information and must be available for inspection. Each broadcast must be approved by the candidate or someone designated by him. KEEP A SCORECARD ON CAMPAIGN BROADCASTS: JOT DOWN THE DATE, CANDIDATE, STATION, AND TIME AND LENGTH OF BROADCAST. COMPARE NOTES WITH OTHER LEAGUES MEMBERS. DRAW A MASTER CHART AND ESTIMATE TOTAL COST OF RADIO/TV EXPENSES.

HOW ARE CAMPAIGN FUNDS BEING ALLOCATED? PREPARE A GRAPH INDICATING THE ALLOCATION OF RESOURCES AMONG THE DIFFERENT COMMUNICATIONS MEDIA. Remember that campaign communications take many forms beyond that spoken of in the law --- bumper stickers, buttons, etc.

Telephone banks are considered a campaign expenditure only if a candidate or political committee pays for the phones or solicitors. WHEN YOU RECEIVE PHONE CALLS ON BEHALF OF A CANDIDATE, TRY TO FIND OUT WHO UNDERWROTE THE PROJECT.

As for campaign printing costs, COLLECT AS MANY DIFFERENT PIECES OF CAMPAIGN LITERATURE AS POSSIBLE AND TRY TO ESTIMATE THE QUANITY PRODUCED OF EACH TYPE. THEN CALL (OR VISIT) A LOCAL PRINTER TO TRY TO ESTABLISH THE TYPICAL COSTS OF COMPARABLE MATERIALS. FOR AN ESTIMATE OF OVERALL PRINTING COSTS, TOTAL THE QUANTITY AND PRICE FOR EACH TYPE OF MATERIAL. Note: Unlike the media, printed material is not directly referred to in the law. However, if a printer gives substantial discounts, he must (if its over $100) report the difference in charges as a contribution.

Material printed or distributed by a political committee (as defined by law) without authorization by a candidate must state this fact on the face of such material. TRY TO DETERMINE THE SOURCE OF ALL PRINTED MATERIAL. While federal law does not specify that all material must state the source, your state may require mailed campaign literature to indicate the source.

Putting It All Together

The 1971 Campaign Act is designed to curtail expenditures of vast personal and family wealth and rampant spending on broadcast time, and to provide for disclosure of financial resources. Many of these resources are neither visible nor easily detectable (e.g., incumbents have the advantage of paid staffs, offices, free use of the mail, etc.). However, it should be possible to monitor the larger unit expenditures. You now have some data to estimate various expenditures and identify sources of income.

SUB-TOTAL DIFFERENT TYPES OF EXPENDITURES...TRY TO ESTIMATE THE TOTAL COST OF THE CAMPAIGN EFFORT... AVERAGE THIS AGAINST THE NUMBER OF ELIGIBLE VOTERS IN THE DISTRICT: WHAT WAS THE DOLLAR EXPENDITURE PER VOTER?...COMPARE YOUR ESTIMATES WITH THE REPORTED FIGURES. Have you found a large disparity? Where? Have incumbents been far outspent by challengers?

Monitoring may lead you to greater understanding of the financial ins and outs of an election campaign. If you undertake this effort, we hope you will share your experiences with us.

Suggested Bibliography (In addition to the Education Fund's F&I)

David W. Adamany, Campaign Finance in America, $2.50. (North Scituate, Mass.: Duxbury Press, 1972). A detailed, scholarly work in the field of political finance and campaign spending (paperback).

Herbert E. Alexander, Financing the 1968 Election, (Lexington, Mass.: D.C. Heath & Co., 1971) and Money in Politics, (Washington, D.C.: Public Affairs Press). Mr. Alexander is widely respected as an authority in the field of political finance.

Max McCarthy, Elections For Sale, (Boston: Houghton Mifflin Co ., 1972). Written from the perspective of a former Democratic Congressman. Describes how and why campaign costs have spiraled.

Twentieth Century Fund, Electing Congress: The Financial Dilemma, $2.50. Background paper by David L. Rosenbloom (New York, 1970). Prepared prior to the recent law, but provides useful review on the evolution of current campaign practices (paperback).

1730 M STREET, N.W., WASHINGTON, D.C. TEL. (202) 296-1770

committee guide

The League of Women Voters of the United States

September 1972

Publication No. 149, 25¢ Representative Government No. 1

A FIVE FINGER EXERCISE IN REPRESENTATIVE GOVERNMENT

Support of an open governmental system that is representative and responsive:

U.S. Congress - study of and action for responsive legislative processes.

Election of the President - action for election of the president and vice-president of the U.S. by direct national popular vote.

District of Columbia - action for self-government and representation in Congress for citizens of the District of Columbia.

Apportionment - action for apportionment substantially on population of congressional districts and of all elected and state bodies.

Voting Rights - (Bylaws, Article XIII, Section 1, a) Action to protect the right to vote of every citizen.

This COMMITTEE GUIDE is designed as a basic tool for directing League energy in making the five components of Representative Government --- each with differing strategies and techniques --- into a total working program area. The guide is divided into three sections: Overview, Voting Rights Bylaw, and (for Leagues interested in a "do-it-yourself" approach) Tips on Monitoring Campaign Financing.

OVERVIEW

"Action" - A Key Word for the Coming Year

With the impetus of a presidential election, Representative Government committees (especially those dealing with all the components) have an exciting and challenging task working with a program area that enters into many aspects of the governmental process. Like the five fingers on a hand, each of which can move independently, all are joined together. Each component is interrelated and works in concert to form the whole program area.

The Voting Rights Bylaw is a primary vehicle for action to extend the franchise to every citizen. Once a citizen has the vote, apportionment should guarantee that no voter has more, or less, influence than another. Each equal vote can be meaningful only if elected officials serve in governmental bodies that are responsive and responsible to all citizens.

We devoted the past two years to a continuing study of Congress and now will try to reach out and share with both congressmen and the community what we've learned and will continue to learn. In those areas where consensus was reached, the League will try to turn ideas for reform into reality.

After careful study of the manner of selecting the president, a League position for reform of the electoral college system was arrived at in January, 1970. Although opportunities for effective League action have been limited so far, a close election in November could focus attention on the need for electoral college reform.

In working for the protection of the right to vote and for government responsible to the people, the inequality of citizenship of the residents of the District of Columbia should be a primary focus. The D.C. grassroots campaign for home rule and voting representation in Congress is described in a national memo sent to all Leagues on June 23, 1972. Let your congressional candidates know that people outside Washington feel strongly about the rights of D.C. residents; question them on their positions.

Spotlight on Congress

During 1970-72, we started a study of U.S. Congress, reaching consensus on some aspects of the legislative process. But the job's not done! CONVENTION 72 delegates decided to take action where there is consensus and simultaneously to continue the study. Local and state Leagues will play a major role in the campaign for procedural, rule and structural changes in the next Congress. Pivotal to this campaign will be the need for massive citizen education on how Congress works. League members, using the expertise gathered during the Congress study, can have a decisive effect on this effort. To help, we are preparing a COMMUNITY GUIDE on Congress.

The national board, at its September meeting, will discuss the continuing study of Congress. After the excitement of the election and the organization of the new Congress, we could turn our attention to how Congress and the President work together: who does what and what the roles are of each in policy-making. We anticipate preparing (in 1973) material on executive/legislative relations. Campaign spending is the other major area suggested by convention delegates for study under the U.S. Congress component. We do not foresee a full study, and anticipate selective rather than concerted League attention to this issue. For further direction, watch for the September Board Report.

VOTING RIGHTS BYLAW

Recurring questions arise about the Voting Rights Bylaw: What does it mean? How does it relate to and differ from Voters Service? What kinds of action are authorized under the bylaw?

In 1970, members proposed that convention adopt a bylaw under the program article as authority for action in the area of voting rights. Since support and protection of voting rights is basic to the purpose of the League, a vehicle was sought which would be a definite working base for League action. The resulting provision in the bylaws was adopted by the 1970 convention.

Although the League has a long history (through Voters Service) of protecting the franchise, legislative action on behalf of voters' rights had not been possible before, except by Leagues which had developed specific local and state positions. Almost immediately after this bylaw position was adopted, the LWVUS actively supported the 1970 Amendments to the Voting Rights Act of 1965, and local and state Leagues began using the bylaw as a launch pad for action on voting rights in their own bailiwicks. The LWV of Washington was one of the first state Leagues to jump into the fray. It filed an amicus curiae brief, co-signed by the LWVUS, in a case reviewed by the U.S. Supreme Court which involved alleged discrimination against Spanish-speaking citizens through use of literacy tests. In another type of action, the LWV of Connecticut succeeded in simplifying the wording of state ballot issues.

Voting Rights is a permanent responsibility and Leagues are authorized to work in support of action which protects the right of every citizen to vote. The person designated for Voting Rights should, of course, be familiar with current laws, recent court decisions, and registration procedures (e.g., 40 states, either through litigation or attorney generals' opinions, now provide for registration of students in towns where they attend school).

Decisions to take action on election laws or procedures affecting the entire state are made by state boards while local Leagues may make this determination on matters covered by local jurisdiction. However, no decision for action should be undertaken which conflicts with the program bylaw of the right to vote of every citizen.

There may be instances when the local or state board is not in agreement about taking local or state action under the national bylaw on a specific issue. If you believe there is uncertainty about member agreement or if there is reasonable doubt that a proposed change will actually protect the citizen in his right to vote, the board may wish to consider taking no action. Should you find widespread member interest in the issue, you might consider suggesting it for future League program.

On frequent occasions Voters Service and Voting Rights will work together, their functions overlapping. At other times you may need to designate which portfolio covers a specific issue. For example, if your League plans to implement the Election Systems Project by working intensively to remove administrative obstacles to voting before the election, you might find it useful to ask: Do you see your long-range goal as entailing changes of existing laws? Would a campaign involving the League and the community be so widespread or controversial as to be beyond the scope of Voters Service? If the answer in NO, it is obvious that Voters Service can be involved in this undertaking. YES answers would indicate a need for the board to consider activating a Voting Rights committee (or using the Representative Government committee) to do the job. Perhaps the most striking example of the need to separate these two functions is when some local League members are serving as deputy registrars executing current laws while other League members are working to change these laws.

In the course of its usual work, Voters Service can help identify discriminatory laws, procedures and practices. They may request changes in such matters as registration locations, number of registrars, and hours and dates of registration, to name a few. In any instance calling for legislative action or a campaign for change, as opposed to citizen education, the person designated for Voting Rights, rather than the Voters Service chairman, is identified with this activity. In short, Voters Service, per se, should not be engaged in changing laws governing the election system. If laws or procedures are changed, Voters Service can publicize the changes through informational techniques. This distinction may be thought of in terms of citizen education versus action.

CAMPAIGN FINANCING

For Leagues with the woman power and member interest to pursue the subject, here is a "do-it-yourself" monitoring approach to campaign spending. Although our tips relate to the new federal campaign law, you will find clues for action which can be adapted to local or state campaign regulations. Leagues keenly interested in campaign financing can work under their local or state programs. An exciting example is the success of the LWV of Washington in placing Initiative #274 (a state campaign finance act) on their state ballot in November.

To undertake this kind of monitoring, it is vital to understand the provisions of the Federal Election Campaign Act of 1971 and what it is designed to do. For a copy, write either to your congressman or senator, or to the Government Printing Office, Washington, D.C. 20401 (ask for Public Law #92-225). Remember that, in addition to the specific limitation in this law, other statutes prohibit direct contributions from labor unions and corporations.

The LWV Education Fund's F & I, Campaign Spending: The Great American Treasure Hunt, (Pub. # 105, 25¢) provides valuable background information and highlights major provisions of the new federal law. This fall election period is also an ideal time to promote this publication as a community education tool.

In this first round of elections under the new law there has been some confusion about its interpretation. YOU MIGHT WANT TO ARRANGE A MEETING WITH EACH CAMPAIGN MANAGER TO DISCUSS HIS UNDERSTANDING OF THE LAW AND THE PROBLEMS HE SEES ABOUT INCOME AND SPENDING LIMITS OR REPORTING PROCEDURES.

Reporting and Disclosure

Under the new law candidates for federal elective offices and the political committees working on their behalf* must file reports on campaign contributions and spending not only with the Clerk of the House or Secretary of the Senate but also with the secretary of state for each state in which they are active. These reports are public record and must be available for public scrutiny, at minimal cost, on demand. Reports must be filed on the 10th of March, June, September, December; the 31st of January; and on the 15th and 5th day preceding an election. The political committees must also file the name of the chairman and treasurer, who is required to keep records of the full name, address, occupation and place of business, if any, of each person contributing over $10 as well as to report every contribution and expenditure over $100. (Note that reported contributions do not include volunteered time)

WHERE ARE THE PRIMARY SOURCES OF MONEY: i.e.: small or large donors, or a combination. ARE SPECIFIED LIMITATIONS ON CONTRIBUTIONS BEING ADHERED TO? CAN YOU IDENTIFY THE SOURCES OF LARGE SUMS OF MONEY BEING SPENT IN DISTRICTS WITH MINIMAL OR NO CHALLENGE TO A CANDIDATE? ARE CAMPAIGN REPORTS BEING FILED ON TIME? ARE CAMPAIGN REPORTS COMPLETE? HOW MANY DIFFERENT ORGANIZATIONS ARE WORKING ON BEHALF OF A SINGLE CANDIDATE? A proliferation of groups spending under the $1,000 limit would indicate a violation of the spirit of the law.

Income and Expenditure

There is no overall spending limit, but there are restrictions on some types of campaigns. Candidates are limited by ceilings on the amount of personal and family money which can be spent in a campaign: Senate - $35,000; House - $25,000. ARE LIMITATIONS ON FAMILY CONTRIBUTIONS BEING HONORED?

Communications media (radio, TV, magazines and billboards) are limited to 10¢ per voting-age person in the district (or nation or state). No more than 60% of the total media budget can be spent on

*any individual or group which spends or accepts money during a calendar year in an aggregate exceeding $1,000.

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committee guide

1730 M STREET, N.W., WASHINGTON, D.C. TEL. (202) 296-1770

The League of Women Voters of the United States

U.S. CONGRESS No. 8

U.S. CONGRESS: AN EVALUATION OF CONGRESSIONAL STRUCTURES, PROCEDURES, AND PRACTICES, AND THEIR EFFECT ON RESPONSIVE LEGISLATIVE PROCESSES

Pub. No. 696- 15¢ October, 1971

The appropriations process is one of the most intricate and complex subjects in the Congress study. This guide attempts to make the process a little more clear.

Much of the material in this guide is drawn from an outline prepared by the Montgomery County, Maryland League. Our thanks to them!

THE APPROPRIATIONS PROCESS

Executive Initiation

The president has the legal responsibility to prepare and present a federal budget to Congress. Every January, after close consultation with the Office of Management and Budgeting and the executive agencies, the president proposes to Congress a budget for the coming fiscal year (beginning the following July). The President's budget represents much more than a compilation of statistics: it projects tax and expenditure estimates into a comprehensive blueprint for public policy.

Congressional Responsibility

Article I Section 8 of the Constitution gives Congress the power to "lay and collect Taxes, Duties, Impost and Excises, to pay Debts...[and] borrow money on the Credit of the United States." The president can propose taxing and spending measures, but the final responsibility for enacting them into law rests with Congress.

The Budget in Congress

The full Congress does not review the executive budget as a whole. The Joint Economic Committee, which is made up of members from both houses, holds hearings on the budget and the President's Economic Report at the beginning of the session, but the committee's role is mainly to study and advise the full Congress. It cannot take legislative action.

Once the Joint Economic Committee has issued an analysis, the budget is never again considered as a unit. Tax (revenue) measures are handled by the House Ways and Means Committee and the Senate Finance Committees

and Appropriations (spending) measures by the House and Senate Appropriations Committees. The revenue and appropriations committees do not meet together to compare income and expenditure estimates. In committee and on the floor, revenue and appropriations are handled separately.

Authorization

The "Expenditure" side of Congress' budgetary review involves two distinctly separate steps. First, Congress must authorize a program for which money is to be spent. After authorizing legislation has been passed, Congress can then appropriate monies to carry out the program. Authorization bills identify the programs, purposes and projects for which appropriations may be made. They are referred to standing subject matter committees (Interior, Education and Labor) for hearings and examination. The authorization committees can review agency programs and set dollar ceilings on the amount of money which can be spent.

Some programs are authorized on a permanent basis, others annually or every two or three years. Short term authorizations give Congress more opportunities to review programs, they can make long-range planning difficult, especially if authorizations are delayed. Since appropriations cannot be made until authorizations are approved, delays in authorization can postpone appropriations well into the fiscal year.

Appropriations

IN THE HOUSE: The Constitution specifies that revenue measures must originate in the House; tradition has long dictated that appropriation bills also originate there. The first legislative body to act on appropriations measures is invariably the House Appropriations Committee, popularly known as the "watchdog" of the Treasury.

The committee's 55 members are chosen by their party committees-on-committees. Although supposedly chosen to represent a cross section of the country, congressmen who favor reducing federal expenditures seem particularly likely to win committee places. Most of the work of the committee is done by its 13 subject-matter subcommittees. (Most members have two subcommittee assignments.) Each subcommittee is given jurisdiction over a group of budget estimates, with the estimates forming the basis for appropriation bills. The subcommittee structure closely parallels the structure of executive agencies, although there are significant deviations. The subcommittees work in almost total isolation from each other, each being responsible for only a particular area of what will become the federal budget. A subcommittee's bill is rarely challenged by members of other subcommittees. The role subcommittees play in the appropriations process is described below by Richard Fenno:

"If there is any generalization about Appropriations Committee activity that is fully supported by past research, it is the proposition that the tasks of the Appropriations Committee are accomplished by its subcommittees. The full committee does not transact much of its business as a unit. Normally, it meets only to organize itself at the beginning of each Congress and to give a majority vote of approval to the recommendations of its subcommittees.

...The day-to-day appropriations tasks...are performed in subcommittees. And, so long as the subcommittees can command support in the full Committee and in the House, their decisions are the most important ones in the entire appropriations process." (Fenno, The Power of The Purse)

Each subcommittee receives from the agencies under its jurisdiction explanations of the agencies' appropriations estimates. These explanations, called "budget justifications", go only to the subcommittee which will hold hearings on the requests. The subcommittee hearings are closed. Other members of the full committee or Congress appear only if they wish to testify.

After the hearings, the subcommittee members meet, again in executive session, and "mark up" the appropriations bill. They translate their recommendations into dollars and cents, and prepare a report for the full Appropriations Committee.

Appropriations bills are privileged and do not have to be cleared by the Rules Committee. When the full committee has reported a bill, it can be scheduled for floor action as soon as three calendar days later (excluding Saturdays, Sundays and holidays). During this short waiting period, the printed committee hearings and committee report must be available to the members of the House. Debate on the House floor is usually organized and lead by members of the subcommittee which reported the bill.

IN THE SENATE: The Senate is generally considered to be more fiscally "liberal" than the House. It often increases the appropriations approved by the House. The Senate is something of an appeals board for agencies which feel that budget requests have been unreasonably slashed by the House.

The Senate Appropriations Committee has 24 members. Members sit on a number of subcommittees, and there is more interaction among the subcommittees and the legislative committees than in the House. Also, for most appropriations bills chairmen and representatives of the legislative committees sit with the Senate Appropriations Committee as voting members.

Senate subcommittees may hold hearings concurrent with those in the House, but they await final House action before presenting their results.

CONFERENCE COMMITTEE: A conference committee is almost always needed to iron out the differences between the House and Senate passed versions of an appropriations bill. The appointed conferees meet in executive session to draw up a compromise. They then write a conference report which cannot be amended but must be voted up or down by each body.

PROBLEMS AND PROPOSALS

TIME: Presently, Congress begins its appropriations deliberations after the president presents the budget in January. The federal fiscal year begins July 1, so Congress has less than six months to complete action on the budget. It rarely meets the deadline. Only two of the last twenty fiscal years have begun with as many as half the major appropriations measures enacted. When appropriations are not enacted in time, departmental activities are funded month-to-month by continuing resolution.

FACTS AND ISSUES #3, Reform: Does Congress Need It? discusses Senator Warren Magnuson's proposal to solve the time lag problem; basically, Magnuson would change the fiscal year to coincide with the calendar year

and divide the congressional session into separate legislative and fiscal periods. The American Enterprise Institute has published a legislative analysis, "Bills To Reform the Appropriation Process," which explains the legislation and gives arguments for and against it. Copies can be obtained for $2.00 each from the American Enterprise Institute, 1200 17th Street, N.W., Washington, D.C. 20036.

INFORMATION: The budget is extraordinarily complex. To make judgements on it, congressmen need access to a wide range of technical and sophisticated information. Proposals for change include:

1. Congress should contract for modern data processing equipment.

2. Subcommittee hearings and markup sessions should be open so all congressmen have access to the same information as the subcommittees.

3. Enlarge office staffs.

4. Create an independent congressional research organization -- a domestic RAND corporation - to prepare analyses on budgetary and legislative problems.

COORDINATION AND NATIONAL PRIORITIES: Congress' review of the budget is a many-splintered thing. For one thing, at least a dozen appropriations bills are passed each year. For another, since revenues and appropriations are considered separately, Congress does not have to balance one spending measure against another or consider projected expenditures in light of income. Many students of Congress believe that if Congress is to play a role in shaping national priorities, fiscal responsibilities should be coordinated so that Congress can weigh specific proposals against general fiscal needs. Some suggestions for coordination:

1. A joint committee empowered to recommend a firm limit on total expenditures after consideration of revenues and the economic outlook, and before appropriations subcommittees begin work.

2. A budget policy conference including members of the majority and minority leadership and revenue (Ways and Means and Finance) and appropriations committees of both houses to study the budget as a whole and increase communication among the committees and between the two houses.

3. Consolidation of control of revenues and expenditures in a single standing committee in each body.

Benefits	Costs
Expertise, experience, continuity of committee chairmen	Mechanisms for holding chairmen accountable to majorities are too weak
Minimizes political conflicts	Favors men from one-party, "safe" districts and states
Gives chairmen independence and power to be free of excess political pressures	Contributes to excessive powers of chairmen
A party majority can reject the most senior men	Discourages younger members

Then, ask your members how they balance these factors and weigh the costs and benefits. You might find that the benefits clearly outweigh the costs and that no change should be recommended. Or, the costs may obviously override the benefits and you'll want to suggest changes. But it's just as likely that your balance sheet will not be clear cut. Almost everything has some costs and some benefits. Usually, you have to give up something you like to get something else. Try to weigh the real impact and importance of the costs and benefits in terms of our goal of a "responsive" Congress. If you decide that the costs outweigh the benefits, what changes would you suggest? How could the present system be improved? Don't forget that change will have costs and benefits, too.

If your League sees change as necessary, they will do so because they feel the seniority system fails to meet one or all of the criteria. It might be, for example, that they feel seniority falls short in defining lines of accountability. They may be willing to sacrifice some independence and experience so that committee chairmen can be held more directly accountable for their actions. If so, *where should the ultimate responsibility lie? To whom should the committee chairmen be accountable?*

The other parts of Question #2 could be handled in similar fashion. Instead of directly applying the criteria to each category and example, first discuss the main arguments for and against present arrangements. Then, keeping the criteria in mind, decide if and why change is necessary. Finally, *what changes do you recommend?* The questions and arguments below might help you structure your discussion.

Leadership powers The basic point for discussion here is the use and distribution of power. Are committees and their chairmen too powerful? Should power be redistributed? Consider the 21-Day Rule (or variations) and methods for holding committee chairmen accountable to the party caucuses.

Committee organization Are committees organized so Congress can deal with current problems and provide reasonable representation to all segments of the American public? Consider the committee assignment process, the makeup of committees, and committee jurisdictions.

Decision-making procedures Are sources of information adequate for intelligent decisions? Is decision-making responsibility equitably and efficiently distributed? (The authorizations/appropriations process would be an excellent example to use here. Consider the complexity and sophistication of knowledge required to make budgetary decisions, committee and full chamber responsibility, treatment of the "budget" in separate parts.)

Majority rule and minority rights Do House and Senate procedures strike a reasonable balance between these principles? Consider the cloture rule and discharge procedures in your reply. (refer to F&I #2, *Minority Rights and Majority Rule* for background)

Use of congressional time What, if any, improvements are necessary for Congress to make the most effective use of its time? Consider electronic voting, "ombudsman" proposals, periodic recesses, and the possibilities of dropping some congressional responsibilities. (F&I #3, *Reform: Does Congress Need It?*)

Access of public to congressional actions and decisions Is the public able to find out what actually happens in Congress? Consider use of the *Congressional Record*, suggestions for open voting on leadership, and executive and open committee sessions.

QUESTION 3 *Do you think Congress needs new or improved mechanisms for determining priorities to make the legislative process more responsive to national needs? If so, what mechanisms might be developed?*

Congress' ability to evaluate national priorities was one of the biggest concerns of many members who voted to study the Congress. It presents perhaps the most difficult part of our study. This question cannot be neatly outlined. There's no way to make it easy. Meet the question head on. Maybe League members can come up with suggestions that no one else has thought of.

The job of developing and implementing national priorities is a job of resolving societal conflicts. Does Congress have the mechanisms to cope with competing interests and demands? How does it balance, for example, the need to control pollution against the very livelihood of laborers in a small, single-industry town? Against the need to develop our natural resources?

Some have suggested that Congress revamp its committee structure and create a Committee on National Planning and Priorities. Others have proposed centralizing decision-making procedures (most particularly the appropriations process) so that Congress is compelled to look at the relationship between programs, rather than considering them separately. What does your League think? Would mechanisms solve the problem? □

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committee guide

The League of Women Voters of the United States

September 1971

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U.S. CONGRESS NO. 7

A GUIDE FOR CONSENSUS ON CONGRESS

This is a guide for the U.S. Congress consensus. It's intended to help you and your committee come to grips with the consensus questions. The subject—and the questions—are complex. The problems you'll be discussing are hard, but that shouldn't discourage you. This is not the first time the League has tackled difficult issues—we do it because they are important.

One caveat—don't feel bound by this guide. You know your own League much better than we do. Each League committee may want to handle the consensus differently, and that's as it should be.

PREPARING FOR CONSENSUS

As the basis for consensus, you should have a complete file of all League-produced publications on the Congress. We are not repeating the substance of these publications in this guide. The most essential materials are:

FACTS AND ISSUES:

1 Architects of Compromise...Agents of Change?
2 Minority Rights and Majority Rule
3 Reform: Does Congress Need It?

COMMITTEE GUIDES:

1 October 1970 - Discussion questions and program hints, with extensive bibliography and "Fact Sheet."
2 November 1970 - Expansion of Committee Guide #1 with news item on seniority system.
3 December 1970 - *Congress and the Public in the 1970's*, an essay by Roger Davidson.
4 March 1971 - Discusses organization of 92nd Congress; glossary of congressional terms.
5 April 1971 - Case studies of four bills in the 91st Congress.
6 May 1971 - *The Condition of Congress* by David B. Walker.

NATIONAL VOTER: "Four Views on Congress," July 1971.

The national consensus deadline is March 1, 1972. Plan your schedule for unit meetings and general meetings so that your local board has enough time to consider the consensus and the results can reach the national office by the deadline date.

Before beginning your planning, review Chapter X of the Local League Handbook. It discusses the League consensus process. And if you're worried about leading the meeting, you might want to look at *Meaningful Meetings* (LWV publication #319, 40¢) for ideas on how to conduct an effective session.

THE CONSENSUS MEETINGS

The consensus-reaching meeting is a time for discussion and decision. It's a time to draw out member thinking, not to lecture. The resource person should be ready with the facts when she's needed. She can clarify and improve the level of discussion and give information when necessary. But members should all be well prepared. FACTS AND ISSUES #3, *Reform: Does Congress Need It?* is essential before-the-meeting reading.

The discussion leader's job is to encourage spontaneous member participation. She is a catalyst for consensus, not a director. She should guide the discussion and encourage a free exchange of ideas. She can clarify, emphasize, bring the discussion back to the point if it has strayed, or advance it on to the next subject.

Avoid spending too much time on any subject on which the group seems divided. Later discussion may illuminate the issue and agreement, or lack of it, may become clearer during recapitulation.

A good recorder is essential. Her role is to help the discussion leader remember and recapitulate what

the members seem to be saying. The recorder should be familiar with the official consensus questions and with the discussion leader's plan for the meeting.

You may choose not to use the official consensus questions for discussion. You might instead want to use questions like those in "Explaining the Consensus Questions" (below) to stimulate discussion and find the "sense of the meeting."

It's possible that you may not reach consensus. That's perfectly all right. We're looking for free and open discussion on extremely complicated and controversial problems. Don't look for agreement where there is none. If you can't reach consensus, we'd like to know why. Was opinion divided? Were you short on time or information?

EXPLAINING THE CONSENSUS QUESTIONS

Before tackling the questions, note the convention's careful wording of the item: "U.S. Congress: An evaluation of congressional structures, procedures, and practices and their effect on responsive legislative processes." The wording is our guide in determining the scope to be covered.

QUESTION 1 *Students of government have developed criteria to evaluate the degree of responsiveness of legislative processes. Check (with comment if you wish) those criteria listed below which your League accepts. Add any other criteria which you consider important.*

Accountability
Representativeness
Decision-Making Capability
Effective Performance
Others

Do you think Congress meets your criteria (taken together) very well, fairly well, or poorly?

The purpose of this question is to develop criteria to evaluate congressional structures, procedures and practices so that we can decide how they do—or do not—contribute to "responsive legislative processes."

Can we agree on what we're looking for? Can we agree on what "responsive" means? You might begin the discussion by rephrasing the question and ask "What makes legislative processes responsive?" or "What are the essential characteristics of responsive legislative processes?"

You could then go on to present the criteria suggested in the consensus questions and ask members to approve, reject, modify or add them. This should be done fairly quickly. The criteria are meant as tools for judging Congress. Try to avoid long and involved discussion on definitions of the terms. Explain that the criteria can be checked and reappraised after some presentation and discussion have made them come alive. In your recapitulation at the end of the meeting, give members the opportunity to revise or expand the criteria.

All the criteria are *subjective* in nature. They will mean different things to different people. They're hard to define strictly. We've transposed them into questions to help you reach usable criteria for judgment of congressional structures, procedures and practices.

ACCOUNTABILITY: When we speak of an "accountable" Congress, we mean a Congress which is responsible to the citizens. We also mean that Congress should be able to hold its own leaders and committees responsible for their actions and decisions. Are congressional structures, procedures and practices such that citizens can hold Congress—and individual congressmen—responsible for their actions? Can and does Congress hold its leaders and committees accountable for their decisions?

REPRESENTATIVENESS: Congressmen and senators are elected to represent districts and states, but Congress as a whole has the responsibility to represent the nation. Do present congressional structures, procedures and practices facilitate the carrying out of both of these responsibilities?

DECISION-MAKING CAPABILITY: Congress should be able to make decisions which anticipate and respond to national needs, and reconcile conflicting interests and priorities. The ability of Congress to act decisively is determined partly by its internal power arrangements, its power vis-a-vis the other branches of government, and the information available to it. Does Congress have the knowledge, resources and power necessary to make decisions which meet national needs and reconcile conflicting interests and priorities?

EFFECTIVE PERFORMANCE: To act effectively, Congress must be able to carry out its many functions in an efficient manner with a minimum of conflict, wasted time and duplication of effort. Are congressional time and resources efficiently organized?

Your Leagues should be encouraged to add any other criteria they feel are relevant.

The last part of Question #1 asks your League how Congress "measures up." How does Congress as a whole meet your criteria? If you think it meets them very well, you probably won't need to spend much time on Question #2 which asks for specific suggestions for reform. But if you find it meets them only fairly well or poorly, you'll want to find out what improvements your League thinks are needed.

QUESTION 2 *If you see need for improvement in House and Senate structures, procedures and practices what specific changes would you recommend?*

Relating the criteria chosen above, consider:
Selection of leadership (e.g., seniority; election of party leaders)
Leadership powers (e.g., rules of operation for committee chairmen; party and caucus responsibilities; Speaker's authority)
Committee organization (e.g., assignment to committees; committee jurisdictions)
Decision-making procedures (e.g., availability of information; staffing; decentralization vs. centralization)
Majority rule and minority rights (e.g., Senate cloture rule; discharge procedures; powers of committees)
Use of congressional time (e.g., congressional workload; electronic voting; scheduling)
Access of public to congressional actions and decisions (e.g., *Congressional Record;* executive sessions and open meetings; open voting on leaders)

This question asks you to use the criteria developed in Question #1 to evaluate specific structures, procedures and practices. Keeping your criteria constantly in mind, you will be evaluating how well present procedures are working. If you see need for improvement, why? Which of the criteria are not met? And most important, *how would you change present procedures*? We're not looking for detailed answers. The important thing is to find out what kind of change your League feels is needed. What do you want to achieve? What *direction* should change take? Give guidance to the national board. If consensus is reached, your answers will provide the basis for the board's assessment of specific proposals which may be made in the future.

All of the criteria of Question #1 will not necessarily apply to each of the categories and examples. In some cases, you may find only one criterion relevant—in others, they may all apply. You may find that the item under discussion satisfies some of the criteria but falls short on others. The economic concept of "cost and benefits" might be useful to you. All of the procedures probably have some "benefits" and some "costs." Do the benefits outweigh the costs, or vice versa?

The parenthetical "e.g.'s" are examples and should be treated as such. You do not have to consider all of them. They are guides for leading the discussion. You'll notice that they're not always consistent (some refer to ongoing practices, others to suggested reforms) and in some cases they overlap and are in more than one category. Use your own judgment in discussing them.

The question demands a working knowledge of congressional procedures. The resource committee should have this information at their fingertips. Be sure your members have read the FACTS AND ISSUES before the meeting. *Reform: Does Congress Need It?* is essential.

Suggested Discussion Plan To set the question in perspective, the discussion leader might present the scope of the question by saying something like this: "In Question #1, we developed criteria which we believe are essential to responsive legislative processes. To be useful the criteria must be related to specific problems. Now that we have the criteria, we need to decide how present congressional procedures need to be improved. How? What changes would make Congress more accountable, more representative, more capable of making decisions and performing effectively, etc. (list your criteria)? As we consider the specific categories the national board has asked us to discuss, we will really be trying to decide *how well present procedures are working, what the major problems are and what improvements might be made.* Basically, we have to try to decide how to change present procedures. If we want to be part of the solution—instead of just onlookers—we can't just say that the system isn't working well. We need to suggest methods for improving it."

After an explanation of this kind, you can move directly into consideration of the specific categories.

Selection of leadership The main point of discussion here will probably be the seniority system. Does it adequately meet your criteria? Does it help make Congress finally *accountable* to the citizens? Does it provide *representation* for different interests and the nation as a whole? Does it help give Congress the knowledge, power and resources necessary to make decisions which reconcile conflicting priorities? Does it contribute to the orderly and efficient distribution of time and resources necessary for *effective performance?*

Instead of posing these questions, you might find it easier to approach the discussion through the sometimes more direct "back door." Essentially, you want to find out where the members think the problems lie and *what improvements might be made.* You want to get at the most basic problems and see if you can suggest solutions. Don't get hamstrung or frustrated by trying to consistently apply each of the criteria all of the time. You may find you'll get freer and more spontaneous discussion if you discuss seniority (and the other examples) in more familiar terms. For example:
"What can be said in favor of seniority? What can be said against it ? What are its costs and what are its benefits?" Some possible answers:

Club, then, should be directed at its present failure to adhere consistently to this code, both in its admissions policy and in its failure to oust key members who fail to live up to these conservative institutional ideals.

The Parties: Seventh, it is not so much the absence of one hundred percent party discipline within the congressional parties that merits criticism (this type of anglophilic attack reveals no understanding of the nature and composition of congressional parties). Instead, it is the absence of better communication between party leaders and followers and between floor leaders and committee chairmen that deserves scrutiny. The caucus (or conference) began to reassert itself during the past Congress, but it still cannot be described as a continuing forum for party deliberation, communication, and consensus-building. It is this problem, not the failure to produce the discipline that exists at Westminster, that is the real defect of the congressional parties.

Independence and Initiative: Eighth and last in these illustrative case studies, the perennial charge that Congress has lost the ability to take the initiative in national policy determination needs reassessment in light of recent developments. Now, admittedly, the executive branch has great influence in these matters and has had it off and on for most of this century. But I suspect we must revise the formula used to describe this relationship—a paraphrase of an old English constitutional dictum—"The executive proposes, the legislature disposes."

Contemplate the congressional leadership in the pollution field since 1963, where the administration, the states, the localities, and private sector were largely reacting to congressional, chiefly Senate, initiatives. Ponder the recent moves in the foreign policy area, whether or not we agree with the wisdom of the Cooper-Church amendment or with the merits of last year's trade bill which nearly became law. Analyze the genesis of the vetoed manpower bill of last year, the Housing and Urban Redevelopment Act of 1970, and the Uniform Relocation Act. Focus on the prospective activities of the Ways and Means Committee in the welfare field this year and the continuing probes of the Joint Economic Committee into defense spending and intergovernmental fiscal relations. It would appear that Congress at least in some areas and especially under existing political pressures is capable of developing independent positions, drafting and even enacting its own legislation and acquiring its own corps of experts. The president's monopoly of "authoritative answers" as one expert put it, is being brought into question. Whether Congress prevails in its joustings with the president over the next two years, whether it actually can lead itself and chart new policies for the nation, is anyone's guess at this time. But the mere fact that these conjectures seriously can be raised at this point in time suggests the error of the critical judgment that Congress only looks good when it is led by a strong president.

In looking at these case studies, it becomes clear that the crisis in Congress is not rooted in its representativeness. It does not really stem from the seniority system, the filibuster or the rules in general. It is not a product of Congress' failure to balance qualitative democracy with quantitative democracy. It is not rooted in the reluctance to convert the congressional parties into adjuncts of the presidential parties.

What then are the roots of Congress' difficulties (crisis is much too strong a word)? As I see it, they are two-fold. The first relates to Congress' and the nation's continuing desire to preserve minority rights while recognizing the legitimacy of the doctrine of majority rule, in short, to adhere to a limited majoritarian principle. In a small, compact, fairly heterogeneous society, straight majority rule is feasible, even preferable. But nationally, ours is a society that is extraordinarily heterogeneous, with serious racial, economic, class, regional, religious and value-system differences. At best, they have been reflected in the factions operating within our two-party system. At worst, they produced the doctrinaire politics of a multiparty system.

In the fifties, a galaxy of historians and social commentators made much of the homogeneity of America's political tradition, of the unifying effect of our unending quest for middle-class social goals and of the fortuitous, moderating nature of the country's historical evolution—our geographic isolation, the safety-valve frontier, the absence of rigid class lines, the tendency to debate means not ends, thanks to the sacrosanct position of the U.S. Constitution.

But now we better appreciate the role of cleavage, class, color and conflict in our history. The southerner, the Negro, the Indian, the immigrant, and the poor all have had a history that suggests some flaws in the optimistic, middle-class, fortuitous interpretation of the American past. And now, many of the young join in rejecting this view. Thus, we now gain a clearer understanding of our social divisions; of the ameliorating function of a two-party system, especially as it operates in Congress; of the practical and principled purpose of that paramount tenet of the Founding Fathers: limited majoritarianism.

The electorate in its political behavior seems to understand this intuitively and Congress clearly and consciously understands this. Many of the critics do not. If and when the diverse nationalizing forces in our society and economy succeed in developing widely shared social and political values, then our political and federal system will have undergone a transformation. Rather than a federal system with multiple access and power, a more centralized system will have emerged. Rather than loose coalitions of divergent factions, more structured, disciplined, cohesive parties will have developed. And the first signs of such a change would be strengthened caucuses with frequent binding votes and strengthened Speakers and floor leaders acting as instruments of the majority faction of their respective parties and as regulators of the standing committees. None of these developments are on the horizon—wishful thinking reformers and political scientists notwithstanding. Meanwhile, Congress' structure, procedures, and informal code and club serve one way or another to curb majoritarianism and to check incipient multipartyism, but not to the point of preventing a determined continuing majority from acting.

The second basic cause of Congress' difficulties is a breakdown in those behavioral norms which in the past have permitted Congress to serve as a forum for consensus building. And this too is as characteristic of the nation as it is of Congress. Forbearance, accommodation, pragmatism and a special kind of patriotism have been hallmarks of Congress' traditional code. Yet there has been a rise in the number of ideologists and moralists in Congress and the country and a decline in the spirit of accommodation and toleration. Personal interest and, in some cases, what would appear to be personal religious revelation all too often have taken precedence over group concerns, not to mention the national interest. And Congress' capacity to serve as a unifying force has suffered as a consequence. Its customary skill in blurring class, ethnic, social, regional and age-group divisions has diminished. This behavioral crisis, in truth, is a crisis of the moderates, on and off Capitol Hill. But at least those forms, those procedures, those practical necessities that are geared to sustaining moderation are pretty much intact.

It has been said that institutions are the prime product of civilization and that adapting institutions are the salvation of a civilization. Hopefully, Congress is such an institution, although further adaptations are needed, especially in the administrative oversight and fiscal management areas.

In the final analysis, however, it is our responsibility, as citizens, to adapt also. As this relates to Congress, it involves comprehending fully the long-run implications of proposals advanced by the critics and above all recognizing that Congress, as a representative body, cannot achieve changes that go far beyond the bounds set by our social system and by public opinion. The challenge to Congress, then, is as much ours as theirs. And this is as it should be in a free system.

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committee guide

The League of Women Voters of the United States

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U.S. CONGRESS
Number 6

THE CONDITION OF CONGRESS

by David B. Walker

U.S. CONGRESS: An evaluation of congressional structures, procedures, and practices, and their effect on responsive legislative processes --LWV study adopted May, 1970

We are pleased to distribute a speech presented to the Fairfax, Virginia League March 27, 1971 by David B. Walker, assistant director of the Advisory Commission on Intergovernmental Relations. We have no position on the judgments and analysis in the speech, but we feel it adds a valuable dimension to our study.

Aside from our national party system, Congress is the most difficult of all American political institutions with which to come to grips. As an instrument of government, it is more human than organizational, and more complex than simple—despite the simplicities of some of its members. And as the most human and complex of the three branches of our national government, paradox is one of its basic characteristics.

Functionally, it represents, yet governs. Constitutionally, it is a national institution that honors federalism. Philosophically, it is democratic in its own qualified sense of the word, yet basically aristocratic in its value system. Procedurally, it can be fast and efficient when confronted with a railway strike, yet slow and dawdling with civil rights. In terms of leadership it is patriarchal, yet at times, youthful. In matters of influence, it is still powerful, yet frequently powerless to act. In its deportment, it sometimes is dignified and other times, supremely disorderly. In its collective and individual interest, it is petty and parochial in some matters, yet Olympian in others. And finally, in terms of history, it is a timeless institution not wholly oblivious to timely action.

In short, as a paradoxical, complex and very human institution—constituting one-third of the federal government and possessing a broad mandate over the affairs of the republic—Congress must be approached and analyzed with the greatest of respect, caution and affection.

What are the challenges to Congress? As I see it, they are basically twofold: There are the immediate pressures that emerged during the sixties, and there are the long-range challenges that have evolved since 1900. Five historic developments are responsible for the latter.

First, the rise of the United States as a world power at the outset of this century and, during the past 30 years, the assumption of the rigorous role of "Defender of the West" constitute a major twentieth-century challenge to Congress and the nation.

Second, the emergence of a national government which regulates, reforms and stimulates our domestic economy and society provides another challenge that Congress did not have to cope with in the nineteenth century. This development, which began in the Progressive Era of Theodore Roosevelt and Woodrow Wilson, has transformed Congress' traditional functions of lawmaking, budgeting and administrative oversight.

Third, the steady growth of the national government's position in the federal-state-local partnership—aiding, stimulating, encouraging, and influencing state and local governments largely through categorical grants-in-aids—has added complex and frustrating dimensions to Congress' nineteenth-century role as "Umpire of the Federal System."

Fourth, our activist role in foreign policy and Washington's role in domestic affairs has resulted in the rise of a powerful and popular presidency (but not as powerful or popular as some would have it) and a sizable, specialized and politically skillful civilian and military bureaucracy. These new centers of power and authority within our federal government create still another threat to the institution that was paramount during most of the last century.

Fifth, parallel emergence of a plethora of public and private pressure groups operating at the national level has severely tested the ability of Congress to reflect and resolve the narrow demands of special interests that would, if not checked or compromised, snap the fragile bonds of social cohesion and give the nation the fanaticism and fratricidal tendencies of a multiparty system.

These five major developments in this country have challenged Congress' traditional power position and functions. They threaten its title of "the world's best hope of representative government." And they compel a congressional response.

All of these long-range pressures are reflected in the more immediate questions that have faced Congress during the past ten years. Both qualitatively and quantitatively, America has never had to cope with the kinds of questions that

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now face us. The pressures of 24 "cold war" and seven "hot" years, the perilous politics of race and law and order; the unevenness of our economic development and our environmental concern; the special social problems of the aged, the poor, and the young, of educational and housing opportunities and health care; the manifold difficulties created by mushrooming metropolitanization and by eroding rural areas; the jurisdictional, fiscal, and servicing burden facing many local governments; the gap between state responsibilities and the performance of some states; and the fiscal and managerial headaches in administering over 430 federal grants-in-aid—these have created a new and lengthy agenda of the nation's unfinished business. New goals, new attitudes and new understanding are required if we are to surmount these international and national hurdles; yet the nation and both of our major parties are divided in their response to practically all of these critical issues. Congress obviously reflects this condition. But it cannot escape its responsibility of a response. And this in the final analysis is the supreme challenge to Congress today.

What has been the congressional response? Scholars, journalists and even members of Congress have written extensively concerning this crisis in Congress. The central issue that dominates these works is how well Congress has adjusted to these long- and short-range challenges. On this question, four schools of thought emerge.

Archconservatives, like Professors James Burnham and Alfred DeGrazia claim that Congress has overresponded to these 20th-century developments and, in effect, has sold out to the presidency, the bureaucracy and interest groups.

Moderate conservatives, like William S. White, Neil MacNeil and Professor Ernest Griffith, defend the congressional status quo and assert that our national legislature has developed adequate mechanisms for coping with its increasing responsibilities while maintaining its independence and authority.

Hostile liberal critics, like Professor James MacGregor Burns and former Senator Joseph Clark, and the Committee for Economic Development, among others, find the response of Congress completely inadequate and consider it a major factor in the "Deadlock of Democracy."

Friendly liberal critics, like Stephen K. Bailey, find that a quiet and salutary revolution has taken place in Congress, reflective of fundamental changes in American society during the past decade. A "benign" coalition has emerged which has produced a cosmopolitan "New Congress."

In my opinion, the truth lies somewhere between Griffith's and Bailey's defense and Burns' criticism. Congress has, in fact, responded to the five challenges confronting it in this century and is not ignoring the pressing problems of the 1970s. Moreover, it has responded in a far more dedicated, democratic and deliberative fashion than the hostile liberal critics are willing to concede. Yet its response has been far less effective, expert and efficient than the moderate conservatives allege, and the strength of the "benign" coalition is far less certain than Professor Bailey would have us believe. And herein lies the crisis of Congress as I see it.

Most of the critics, it would seem, err in their diagnosis of Congress' ills and the prognosis of the cure. Some even confuse signs of good health with symptoms of some major malady. All too frequently, this confusion in the minds of the critics stems from a failure of Congress to act in accordance with their personal predilections, from a failure on their part to note or appreciate certain recent changes in Congress and the country, or from a basic intellectual failure on their part to understand or at least a profound reluctance to accept the nature and purpose of the American and political system. Let me explain with some case studies.

Representativeness: First, it no longer is a matter of Congress not faithfully representing and reflecting the opinions of the electorate, as some critics contend. On the contrary, Congress represents rather ingeniously the divergent streams of opinion found in the body politic. What is more, many members are in a better position now not only to reflect but to transcend opinions. And this latter, essentially Burkeian, approach to representation is also a vital necessity in a free system where the public is enthroned.

Despite its magnificent malapportionment—thanks to the Connecticut Compromise—and despite its concomitant love of smallness, the Senate for a dozen years has been the more liberal of the two bodies, due to the 1958 elections, the increasing urbanization in all but a handful of states and the resulting greater heterogeneity of most senators' constituencies. Not to be overlooked here is the fact that the multiplicity of pressures now milling around most senators gives them, in effect, greater not lesser, discretion on a host of policy matters. It gives them the chance to become a profile in courage, if you will, to adhere to Edmund Burke's precept that a legislator should not be a slave to constituency opinion, but represent the nation as well by speaking and voting his convictions and conscience.

In the House, largeness not smallness has always counted. Population as the basis of representation was to make it the "People's House," as Madison put it, and thus it has been since the First Congress assembled. Yet numbers today mean more than ever before, due to the reapportionment cases, the 1965 Voting Rights Act, and *Oregon* v. *Mitchell* (1970) which upheld the congressional extension of the 1965 Act to give 18-year-olders the vote, but only in federal elections. Reapportionment has not worked miracles, but it has produced more black members (12), more urban members and many more from the suburbs, which is after all where the votes now are. The 1965 Act has swelled the ranks of southern Negro votes to the 3.3 million level and this has had a significant effect on state and local elections, but thus far a less perceptible impact on House contests. The vote for 18-year-olders can not yet be gauged, but if the voting behavior of the 21-to-29 age group is a guide, the impact will be slight since their turnout will be light.

Very few formal barriers then exist regarding voter participation in House elections. Gerrymandering, or the science of electoral geometry, is still a problem; though increasing two-partyism and possible court challenges serve as a check on this ancient partisan stratagem. And apathy, alienation and sometimes fear produce low turnouts and some underrepresentation for the young, the poor, and racial minorities; but these are psychic hurdles to overcome and constitute practical political problems that reform critics might well focus their attention on.

To sum up, representativeness is not a basic problem in Congress. Quite the reverse, in terms of basic attitudinal positions, Congress contains within its two chambers a wide range of opinion. What is more, given their basic differences in tenure and constituency, the House tends to reflect more of a "Middle America" outlook and the Senate, more of a concern for "Other America." In short, Congress reflects and represents most of the nation and the critics have trouble with this fact.

Errandboyism: Second, the tendency of many congressmen to spend upwards of half their time on constituent matters—errandboy activities, if you will—has been condemned by those critics who think a legislator should merely legislate. Bills, amendments, committee work and specialization in a particular legislative field, of course, are critically important. No member earns the respect of his peers if he ignores these matters. But Congress also has the task of humanizing government, of serving as a link between the electorate and the national government Moreover, this function is more significant now than ever before, given the increasing tendency of government—all governments—to appear as a faceless bureaucracy to the citizenry. Not to be overlooked here are the subtle factors at work that keep this function from getting out of hand: most of it is done by staff, not by members; House members with their two-year terms spend more time on it than senators; and senior members of both houses, especially those with less competitive constituencies, are least bothered by this role (sometimes to their regret).

Seniority: Third, for at least two generations, the seniority system and its tendency to reward the aged has been a perennial point of hostile, usually liberal, attack. Seniority, senility and standpattism usually constitute the three prongs of the critics' attack. Yet, of the 17 chairmen of the Senate's standing committees, nine would be classed as liberal or moderate in outlook and eight as basically conservative. Of the 20 such chairmen in the House, 13 fall in the liberal-moderate bracket. To put it more dramatically, who in the House initiated the ultraliberal proposal for direct election of the President (a proposal by the way, with which I strongly disagree)? The oldest representative of all, Mr. Celler of New York, 82, and chairman of the Judiciary Committee, ably supported by Mr. McCulloch of Ohio, the ranking minority member of the committee and 70 years of age.

But what of seniority as a device for determining congressional committee leadership? It may not be perfect, but it is as good as any of the alternatives proposed. But why? It applies only to committees, not to floor leadership positions and not always to subcommittee chairmen. It involves the years spent on an individual committee, not overall tenure in the House or Senate.

It now is subject to possible modification by a vote of the caucus or conference, thanks to the party reforms instituted this January. Yet, no committee chairman designated on the basis of seniority was rejected by Senate Democratic conference or House Democratic caucus. And no ranking Republican was dislodged by votes in the House Republican Conference. This reform and these results tell us much about seniority, the system and congressional attitudes.

What checks are there on seniority and the potentially arbitrary behavior of chairmen that goes with it? The ratifying vote of caucus, despite its modest beginnings, does constitute a "gun-behind-the-door" emergency kind of check. The legislative reorganization of 1946 and that of last year have sought to democratize committee procedures but with varying results. More significantly, a majority on a committee, if it is a determined majority, can always curb the worst behavior of an autocratic chairman, and this has happened on occasion. In addition, a chairman totally out of step with his committee and the leadership usually has a difficult time of it. Of far greater significance than most of these limits, however, is the impact of spreading two-partyism. Few states today are one party in character and this fairly recent development has begun to have an effect on the operations of the seniority system. Fewer southerners now hold chairmanships than in generations past. In the Senate, eight of the 17 posts are held by nonsoutherners and in the House, 13 of the 20.

When we hear the charges against the seniority system, it behooves us to remember these recent developments. When we hear of the alternatives, it behooves us to ponder their implications, since most of them ignore the fact that seniority tends to strengthen Congress' independence, but at this point in time not to the extent of insulating it from pressing national policy concerns. It helps keep interest groups and the executive branch in check; both would be in the middle of things, were chairmanships up for grabs every two years. It also has a way of protecting minority rights. At times, seniority admittedly appeared to be the South's continuing revenge for Appomattox but in future other groups, especially outside the swelling and well-represented suburbs may come to appreciate its minoritarian implications.

The Filibuster: Fourth, critics have focused as much attention on the alleged evils of the filibuster as on seniority and with nearly as many misguided arguments. The Senate is the most powerful and freest second chamber of any democratically elected representative body in the world. Ironically, the filibuster has a lot to do with this happy condition. House members may introduce constitutional amendments to convert it into an American House of Lords, with as little power. Presidents may fume about Senate obstructionism, and cartoonists may have a delightful time depicting a paunchy, puffy-cheeked, gaping-mouthed senator labeled filibuster. But some of us know better.

A prolonged debate in the Senate only occurs when the vital interests of significant groups are being threatened. It is a protection then for minority rights and over the long vista of Senate history, it has been used by progressives and liberals far more than by conservatives. What is more, with Rule XXII, the Senate's difficult-to-apply cloture rule, a filibuster can be ended if national sentiment opposes the talkers. And this happened with the three historic civil rights acts enacted in the last decade.

In philosophic terms, the filibuster is a device to curb rampant, arbitrary action by the temporary majority of the day. In the context of history, it has been used for purposes linked to the dead hand of the past, as well as those involving a long look at the future—as in the case of T.V.A. In practical legislative terms, it means that a bitterly resented, highly controversial measure will have to get more than the usual simple majority and this means that once it becomes the law of the land, it will have a greater chance of being implemented, not ignored.

The filibuster, then, involves far more than mere Senate procedures. It relates to a cluster of core principles that would be directly affected were it scrapped.

The Rules, Generally: Fifth, critics generally go beyond the filibuster and castigate the bulk of the rules of Congress as archaic, arbitrary and undemocratic. Yet how much insight is there in this kind of charge? The rules of the House are essentially majoritarian, but less than they were three-score years ago and the Senate rules are about as limited majoritarian as they have ever been. In light of some proposed reforms, however, one could argue that we need more archaic rules rather than new ones, since most of the defective rules are comparatively recent in origin. The Senate, after all, had a rule of relevancy until 1872. The House Rules Committee has been an independent source of sometimes arbitrary authority only since 1911. And the Speaker's reduced power position also dates from that 'Progressive Revolt in 1910-1911. In this connection, the failure of a majority of the House members to enact the "21-day rule" in January merits the attention of those who can not understand why a majority would opt for a procedure that is antimajoritarian. To be somewhat facetious, reform in the House might well assume the guise of a restoration of the procedures that prevailed under Uncle Joe Cannon; and in the Senate, those that applied during the administration of Ulysses S. Grant—with Rule XXII added. Neither is likely to occur (or at least soon): the rules of both chambers are linked inextricably to the purposes and value system of a majority of the men as well as the party mechanisms of Congress today.

Minor reforms, of course were achieved last year with the Legislative Reorganization Act of 1970. But does eliminating a House member's right to require the reading of the previous day's journal constitute drastic change? Does allowing committees to sit when the House is in session amount to an overturning of the traditional system? Does making committee roll-call votes public and permitting House teller votes to be recorded add up to major innovations?

These and other changes under the act do constitute expediting and antisecrecy improvements, but none are drastic and all are in harmony with preserving the committee system and with balancing minority rights with majority rule.

The Club: Sixth, the role of the Club, as William S. White terms it, or of the Establishment, as former Senator Clark designates it—in short, of the congressional hierarchs—has also been subject to liberal attacks. Yet, most legislative bodies possess informal groups of this type, and the traditional code governing its admission policies is a commendable one. Experience, hard work, a respect for tradition, toleration, and the capacity to accommodate are certainly praiseworthy norms. The real criticism of the

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committee guide

1730 M STREET, N.W., WASHINGTON, D.C. TEL. (202) 296-1770

The League of Women Voters of the United States

U.S. CONGRESS--No. 5

U.S. CONGRESS: AN EVALUATION OF CONGRESSIONAL STRUCTURES, PROCEDURES, AND PRACTICES, AND THEIR EFFECT ON RESPONSIVE LEGISLATIVE PROCESSES

Pub. No. 428-30¢ April, 1971

To assist resource committees who wish to use the "case study" approach in general membership discussions, this committee guide outlines the path of four bills in Congress. The first, HR 17654, The Legislative Reorganization Act of 1970, had a surprisingly easy time winning Congressional approval. The other three--HR 18214 (to establish a Consumer Protection Agency), HR 18970 (the Trade Bill), and SJRes 1 (for direct election of the President) were ultimately "killed" by the 91st Congress.

None of the bills which were "killed" was defeated by a vote on its merits. The bill to establish a Consumer Protection Agency was not given floor clearance by the House Rules Committee. The amendment for the direct election of the President was successfully filibustered in the Senate. The Senate Finance Committee attached the trade and welfare reform legislation as riders to the Social Security Act, thus further complicating already complex and controversial issues. With the session drawing to a close, the Senate simply did not have the time or the will to fully consider each of the issues separately, and the trade bill fell by the wayside.

Rules and procedures are strategies used in advancing or defeating legislation. If a majority is solidly and enthusiastically behind a bill, it is difficult to block its passage. But if an intense and determined minority seeks to do so, the very complexity of the congressional system

Our apologies for a typographical error in Committee Guide #4: on page 6, under "Calendars", the definition for Consent Calendar should read non-controversial bills.

Senate floor debate on the Harris-Mathias resolution to require the full Senate to vote separately on every committee chairman and ranking member is contained in the March 16, 1971 Congressional Record, pp. S3327-3350. Copies may be ordered for 25¢@ from the Government Printing Office, Washington, D.C. 20402. Make check or money order payable to the Superintendent of Documents.

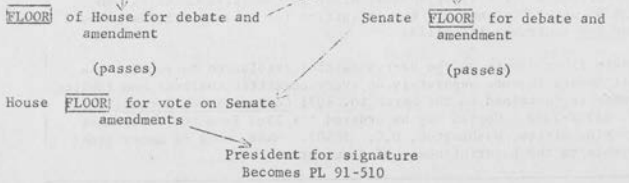
works in its favor. "The burden of legislative proof" lies with the proponents of change and controversial legislation. In his book, The Congressional Process, Lewis A Froman concluded that:

> "The entire congressional system is so complicated and involves so many steps that status quo proponents will always be favorably situated in at least one of its many steps...In Congress, the bargaining process probably favors intense minorities rather than apathetic majorities. It is only when the majority is intense that it might prevail over an intense minority." p. 190

Legislation is often "defeated by the rules" because it lacks solid and committed support. On issues with strong emotional and popular appeal, the complexities of the legislation are not always readily apparent to the observer. Thus, congressmen who have reservations about particular provisions of the legislation may not want to be recorded as voting against it. In this situation, it becomes relatively easy for its opponents to prevent a vote; their strategies may have the tacit approval of congressmen and senators who have felt obliged to publicly support the bill. The amendment for the direct election of the President is a good case in point. A constitutional amendment requires a 2/3 majority in both houses of Congress before it can be referred to the states. The proposed amendment was filibustered in the Senate, where a motion to invoke cloture on debate and stop a filibuster requires an identical 2/3 vote. Since it was impossible to obtain the needed 2/3 to stop the filibuster, is it fair or accurate to say that the filibuster defeated the proposal?

The legislative stories behind the fate of these bills do not fully explain why one passed and three failed, but they do show quite clearly how procedures are used in determining the outcome. When, as in the case of the Legislative Reorganization Act, there is general agreement on the content and purposes of the legislation, the procedural path is relatively straight-forward and smooth, but when agreement is lacking, the course becomes increasingly complex.

HR 17654: The Legislative Reorganization Act of 1970



radio and television. Networks must sell broadcast time at a uniform rate for the specific time period. Records of broadcast time are public information and must be available for inspection. Each broadcast must be approved by the candidate or someone designated by him. KEEP A SCORECARD ON CAMPAIGN BROADCASTS: JOT DOWN THE DATE, CANDIDATE, STATION, AND TIME AND LENGTH OF BROADCAST. COMPARE NOTES WITH OTHER LEAGUES MEMBERS. DRAW A MASTER CHART AND ESTIMATE TOTAL COST OF RADIO/TV EXPENSES.

HOW ARE CAMPAIGN FUNDS BEING ALLOCATED? PREPARE A GRAPH INDICATING THE ALLOCATION OF RESOURCES AMONG THE DIFFERENT COMMUNICATIONS MEDIA. Remember that campaign communications take many forms beyond that spoken of in the law --- bumper stickers, buttons, etc.

Telephone banks are considered a campaign expenditure only if a candidate or political committee pays for the phones or solicitors. WHEN YOU RECEIVE PHONE CALLS ON BEHALF OF A CANDIDATE, TRY TO FIND OUT WHO UNDERWROTE THE PROJECT.

As for campaign printing costs, COLLECT AS MANY DIFFERENT PIECES OF CAMPAIGN LITERATURE AS POSSIBLE AND TRY TO ESTIMATE THE QUANITY PRODUCED OF EACH TYPE. THEN CALL (OR VISIT) A LOCAL PRINTER TO TRY TO ESTABLISH THE TYPICAL COSTS OF COMPARABLE MATERIALS. FOR AN ESTIMATE OF OVERALL PRINTING COSTS, TOTAL THE QUANTITY AND PRICE FOR EACH TYPE OF MATERIAL. Note: Unlike the media, printed material is not directly referred to in the law. However, if a printer gives substantial discounts, he must (if its over $100) report the difference in charges as a contribution.

Material printed or distributed by a political committee (as defined by law) without authorization by a candidate must state this fact on the face of such material. TRY TO DETERMINE THE SOURCE OF ALL PRINTED MATERIAL. While federal law does not specify that all material must state the source, your state may require mailed campaign literature to indicate the source.

Putting It All Together

The 1971 Campaign Act is designed to curtail expenditures of vast personal and family wealth and rampant spending on broadcast time, and to provide for disclosure of financial resources. Many of these resources are neither visible nor easily detectable (e.g., incumbents have the advantage of paid staffs, offices, free use of the mail, etc.). However, it should be possible to monitor the larger unit expenditures. You now have some data to estimate various expenditures and identify sources of income.

SUB-TOTAL DIFFERENT TYPES OF EXPENDITURES...TRY TO ESTIMATE THE TOTAL COST OF THE CAMPAIGN EFFORT... AVERAGE THIS AGAINST THE NUMBER OF ELIGIBLE VOTERS IN THE DISTRICT: WHAT WAS THE DOLLAR EXPENDITURE PER VOTER?...COMPARE YOUR ESTIMATES WITH THE REPORTED FIGURES. Have you found a large disparity? Where? Have incumbents been far outspent by challengers?

Monitoring may lead you to greater understanding of the financial ins and outs of an election campaign. If you undertake this effort, we hope you will share your experiences with us.

Suggested Bibliography (In addition to the Education Fund's F&I)

David W. Adamany, Campaign Finance in America, $2.50. (North Scituate, Mass.: Duxbury Press, 1972). A detailed, scholarly work in the field of political finance and campaign spending (paperback).

Herbert E. Alexander, Financing the 1968 Election, (Lexington, Mass.: D.C. Heath & Co., 1971) and Money in Politics, (Washington, D.C.: Public Affairs Press). Mr. Alexander is widely respected as an authority in the field of political finance.

Max McCarthy, Elections For Sale, (Boston: Houghton Mifflin Co ., 1972). Written from the perspective of a former Democratic Congressman. Describes how and why campaign costs have spiraled.

Twentieth Century Fund, Electing Congress: The Financial Dilemma, $2.50. Background paper by David L. Rosenbloom (New York, 1970). Prepared prior to the recent law, but provides useful review on the evolution of current campaign practices (paperback).

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1730 M STREET, N.W., WASHINGTON, D.C. TEL. (202) 296-1770

committee guide

The League of Women Voters of the United States

September 1972

Publication No. 149, 25¢

Representative Government No. 1

A FIVE FINGER EXERCISE IN REPRESENTATIVE GOVERNMENT

Support of an open governmental system that is representative and responsive:

U.S. Congress - study of and action for responsive legislative processes.

Election of the President - action for election of the president and vice-president of the U.S. by direct national popular vote.

District of Columbia - action for self-government and representation in Congress for citizens of the District of Columbia.

Apportionment - action for apportionment substantially on population of congressional districts and of all elected and state bodies.

Voting Rights - (Bylaws, Article XIII, Section 1, a) Action to protect the right to vote of every citizen.

This COMMITTEE GUIDE is designed as a basic tool for directing League energy in making the five components of Representative Government --- each with differing strategies and techniques --- into a total working program area. The guide is divided into three sections: Overview, Voting Rights Bylaw, and (for Leagues interested in a "do-it-yourself" approach) Tips on Monitoring Campaign Financing.

OVERVIEW

"Action" - A Key Word for the Coming Year

With the impetus of a presidential election, Representative Government committees (especially those dealing with all the components) have an exciting and challenging task working with a program area that enters into many aspects of the governmental process. Like the five fingers on a hand, each of which can move independently, all are joined together. Each component is interrelated and works in concert to form the whole program area.

The Voting Rights Bylaw is a primary vehicle for action to extend the franchise to every citizen. Once a citizen has the vote, apportionment should guarantee that no voter has more, or less, influence than another. Each equal vote can be meaningful only if elected officials serve in governmental bodies that are responsive and responsible to all citizens.

We devoted the past two years to a continuing study of Congress and now will try to reach out and share with both congressmen and the community what we've learned and will continue to learn. In those areas where consensus was reached, the League will try to turn ideas for reform into reality.

After careful study of the manner of selecting the president, a League position for reform of the electoral college system was arrived at in January, 1970. Although opportunities for effective League action have been limited so far, a close election in November could focus attention on the need for electoral college reform.

In working for the protection of the right to vote and for government responsible to the people, the inequality of citizenship of the residents of the District of Columbia should be a primary focus. The D.C. grassroots campaign for home rule and voting representation in Congress is described in a national memo sent to all Leagues on June 23, 1972. Let your congressional candidates know that people outside Washington feel strongly about the rights of D.C. residents; question them on their positions.

Spotlight on Congress

During 1970-72, we started a study of U.S. Congress, reaching consensus on some aspects of the legislative process. But the job's not done! CONVENTION 72 delegates decided to take action where there is consensus and simultaneously to continue the study. Local and state Leagues will play a major role in the campaign for procedural, rule and structural changes in the next Congress. Pivotal to this campaign will be the need for massive citizen education on how Congress works. League members, using the expertise gathered during the Congress study, can have a decisive effect on this effort. To help, we are preparing a COMMUNITY GUIDE on Congress.

The national board, at its September meeting, will discuss the continuing study of Congress. After the excitement of the election and the organization of the new Congress, we could turn our attention to how Congress and the President work together: who does what and what the roles are of each in policy-making. We anticipate preparing (in 1973) material on executive/legislative relations. Campaign spending is the other major area suggested by convention delegates for study under the U.S. Congress component. We do not foresee a full study, and anticipate selective rather than concerted League attention to this issue. For further direction, watch for the September Board Report.

VOTING RIGHTS BYLAW

Recurring questions arise about the Voting Rights Bylaw: What does it mean? How does it relate to and differ from Voters Service? What kinds of action are authorized under the bylaw?

In 1970, members proposed that convention adopt a bylaw under the program article as authority for action in the area of voting rights. Since support and protection of voting rights is basic to the purpose of the League, a vehicle was sought which would be a definite working base for League action. The resulting provision in the bylaws was adopted by the 1970 convention.

Although the League has a long history (through Voters Service) of protecting the franchise, legislative action on behalf of voters' rights had not been possible before, except by Leagues which had developed specific local and state positions. Almost immediately after this bylaw position was adopted, the LWVUS actively supported the 1970 Amendments to the Voting Rights Act of 1965, and local and state Leagues began using the bylaw as a launch pad for action on voting rights in their own bailiwicks. The LWV of Washington was one of the first state Leagues to jump into the fray. It filed an amicus curiae brief, co-signed by the LWVUS, in a case reviewed by the U.S. Supreme Court which involved alleged discrimination against Spanish-speaking citizens through use of literacy tests. In another type of action, the LWV of Connecticut succeeded in simplifying the wording of state ballot issues.

Voting Rights is a permanent responsibility and Leagues are authorized to work in support of action which protects the right of every citizen to vote. The person designated for Voting Rights should, of course, be familiar with current laws, recent court decisions, and registration procedures (e.g., 40 states, either through litigation or attorney generals' opinions, now provide for registration of students in towns where they attend school).

Decisions to take action on election laws or procedures affecting the entire state are made by state boards while local Leagues may make this determination on matters covered by local jurisdiction. However, no decision for action should be undertaken which conflicts with the program bylaw of the right to vote of every citizen.

There may be instances when the local or state board is not in agreement about taking local or state action under the national bylaw on a specific issue. If you believe there is uncertainty about member agreement or if there is reasonable doubt that a proposed change will actually protect the citizen in his right to vote, the board may wish to consider taking no action. Should you find widespread member interest in the issue, you might consider suggesting it for future League program.

On frequent occasions Voters Service and Voting Rights will work together, their functions overlapping. At other times you may need to designate which portfolio covers a specific issue. For example, if your League plans to implement the Election Systems Project by working intensively to remove administrative obstacles to voting before the election, you might find it useful to ask: Do you see your long-range goal as entailing changes of existing laws? Would a campaign involving the League and the community be so widespread or controversial as to be beyond the scope of Voters Service? If the answer in NO, it is obvious that Voters Service can be involved in this undertaking. YES answers would indicate a need for the board to consider activating a Voting Rights committee (or using the Representative Government committee) to do the job. Perhaps the most striking example of the need to separate these two functions is when some local League members are serving as deputy registrars executing current laws while other League members are working to change these laws.

In the course of its usual work, Voters Service can help identify discriminatory laws, procedures and practices. They may request changes in such matters as registration locations, number of registrars, and hours and dates of registration, to name a few. In any instance calling for legislative action or a campaign for change, as opposed to citizen education, the person designated for Voting Rights, rather than the Voters Service chairman, is identified with this activity. In short, Voters Service, per se, should not be engaged in changing laws governing the election system. If laws or procedures are changed, Voters Service can publicize the changes through informational techniques. This distinction may be thought of in terms of citizen education versus action.

CAMPAIGN FINANCING

For Leagues with the woman power and member interest to pursue the subject, here is a "do-it-yourself" monitoring approach to campaign spending. Although our tips relate to the new federal campaign law, you will find clues for action which can be adapted to local or state campaign regulations. Leagues keenly interested in campaign financing can work under their local or state programs. An exciting example is the success of the LWV of Washington in placing Initiative #274 (a state campaign finance act) on their state ballot in November.

To undertake this kind of monitoring, it is vital to understand the provisions of the Federal Election Campaign Act of 1971 and what it is designed to do. For a copy, write either to your congressman or senator, or to the Government Printing Office, Washington, D.C. 20401 (ask for Public Law #92-225). Remember that, in addition to the specific limitation in this law, other statutes prohibit direct contributions from labor unions and corporations.

The LWV Education Fund's F & I, Campaign Spending: The Great American Treasure Hunt, (Pub. # 105, 25¢) provides valuable background information and highlights major provisions of the new federal law. This fall election period is also an ideal time to promote this publication as a community education tool.

In this first round of elections under the new law there has been some confusion about its interpretation. YOU MIGHT WANT TO ARRANGE A MEETING WITH EACH CAMPAIGN MANAGER TO DISCUSS HIS UNDERSTANDING OF THE LAW AND THE PROBLEMS HE SEES ABOUT INCOME AND SPENDING LIMITS OR REPORTING PROCEDURES.

Reporting and Disclosure

Under the new law candidates for federal elective offices and the political committees working on their behalf* must file reports on campaign contributions and spending not only with the Clerk of the House or Secretary of the Senate but also with the secretary of state for each state in which they are active. These reports are public record and must be available for public scrutiny, at minimal cost, on demand. Reports must be filed on the 10th of March, June, September, December; the 31st of January; and on the 15th and 5th day preceding an election. The political committees must also file the name of the chairman and treasurer, who is required to keep records of the full name, address, occupation and place of business, if any, of each person contributing over $10 as well as to report every contribution and expenditure over $100. (Note that reported contributions do not include volunteered time)

WHERE ARE THE PRIMARY SOURCES OF MONEY: i.e.: small or large donors, or a combination. ARE SPECIFIED LIMITATIONS ON CONTRIBUTIONS BEING ADHERED TO? CAN YOU IDENTIFY THE SOURCES OF LARGE SUMS OF MONEY BEING SPENT IN DISTRICTS WITH MINIMAL OR NO CHALLENGE TO A CANDIDATE? ARE CAMPAIGN REPORTS BEING FILED ON TIME? ARE CAMPAIGN REPORTS COMPLETE? HOW MANY DIFFERENT ORGANIZATIONS ARE WORKING ON BEHALF OF A SINGLE CANDIDATE? A proliferation of groups spending under the $1,000 limit would indicate a violation of the spirit of the law.

Income and Expenditure

There is no overall spending limit, but there are restrictions on some types of campaigns. Candidates are limited by ceilings on the amount of personal and family money which can be spent in a campaign: Senate - $35,000; House - $25,000. ARE LIMITATIONS ON FAMILY CONTRIBUTIONS BEING HONORED?

Communications media (radio, TV, magazines and billboards) are limited to 10¢ per voting-age person in the district (or nation or state). No more than 60% of the total media budget can be spent on

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*any individual or group which spends or accepts money during a calendar year in an aggregate exceeding $1,000.

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committee guide

The League of Women Voters of the United States

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Representative Government
April 1973

CONGRESSIONAL REFORM: WHERE THE ACTION IS

"'Action' - A Key Word for the Coming Year." These were the words we used in the September 1972 COMMITTEE GUIDE: A Five Finger Exercise in Representative Government to describe what Representative Government committees could anticipate as the major focus for the five components. Now we are well into 1973 and the first component, US Congress, has indeed become one of our major action priorities.

Leagues have already received detailed guidance on legislative strategy in the December 1972 NATIONAL BOARD REPORT; in both the February 9 and March 9, REPORT FROM THE HILL, as well as in the February 23 TIME FOR ACTION, "A Fight on All Fronts for Adequate Funding for League Program Priorities."

For a parallel effort in community education, the LWVEF has just produced a COMMUNITY GUIDE, Congress: A Time of Renewal. The COMMUNITY GUIDE contains a wealth of information on what Congress has been doing to reform itself during the first 60 days of the 93rd Congress, plus an analysis of current executive/legislative relations. There are also numerous tips on how to expand the circles of concern--an outline for a speech, a sample workshop, a public opinion poll, etc.

This COMMITTEE GUIDE on congressional reform is designed to pull it all together for Leagues by identifying:

- What has already been accomplished
- What to watch for: studies underway and bills already introduced or in draft stages
- What still needs to be done
- What resources (e.g. background information and how-to techniques) are available from the League for use by other groups.

WHAT HAS BEEN ACCOMPLISHED

In its first ten weeks, the 93rd Congress approved a remarkable series of reforms in its rules and procedures and initiated a number of others. There was a break with the tradition of seniority, secret meetings were opened to the public, the committee assignment system was liberalized, and the "closed rule" was modified. While these reforms are being hailed as "historic" and "revolutionary," the truth is that the task of making Congress a more responsive and effective body, a co-equal branch of the government, is just beginning.

The League of Women Voters has worked in a Congressional Reform coalition with over 40 citizen groups including the United Methodist Church, Committee for an Effective Congress, Americans for Democratic Action, United Auto Workers and Common Cause. The coalition has played an important dual role in educating the public and in lobbying the Congress on the issues of congressional reform. There is no doubt that citizen interest and action encouraged reform leaders in Congress and influenced other senators and congressmen to support the reform movement.

League members can feel a real sense of accomplishment and participation in the recent successes. More than three years ago, when the League adopted US Congress as a major area of study, League members anticipated the importance and urgency of congressional reform. The two year study and consensus process not only provided members valuable insights but also helped to focus public attention on the major factors responsible for Congress being a less responsive, accountable, decisive and effective body than it should or could be.

When the 93rd Congress convened in January 1973, Leagues had been hard at work stimulating interest in their communities in this rather technical and, until recently, unglamorous subject. During and after the election campaign, League members raised the question of congressional reform with their congressmen and indicated their continuing interest in it. The League's President, Lucy Wilson Benson, testified in December 1972 at the hearings of the ad hoc Committee on Congressional Reform. (See National Voter, February 1973 for story.) She also discussed the subject on Barbara Walters' national TV show, Not for Women Only.

In the critical months of January and February 1973, when Congress was organizing, League members lobbied key senators and congressmen as specific measures needed support. While Leagues worked from the grass-roots level, the national Board and the voluntary lobbying corps, made up of League members in the D.C. area, lobbied on the Hill.

Here is a run-down on major reforms already achieved in the 93rd Congress (For more back-

ground on reforms see the COMMUNITY GUIDE, Congress: A Time of Renewal). They bring Congress much closer to meeting the League's criteria for responsive legislative processes: "accountability, representativeness, decision-making capability and effective performance."

Committee Selection Liberalized House and Senate Democrats enlarged their assignment committees. They added four new members, two of them freshmen, to the Senate Democratic Steering Committee which passes out Senate Democratic assignments; they added the House leadership -- Speaker, majority leader and caucus chairman -- to the Democratic Committee on Committees which makes committee assignments in the House. This Committee had previously consisted only of Democratic members of the Ways and Means Committee.

The House Democratic caucus approved the following new rules which should insure better treatment for junior members:

1) all members are entitled to serve on one major committee;
2) no member may serve on more than one major committee;
3) members of the three most powerful committees -- Rules, Appropriations, and Ways and Means -- may serve on no other committees; and
4) junior members of committees are to be assigned to at least one subcommittee of their choice before senior members can get more than two subcommittee assignments.

Seniority Tradition Toppled The House Democratic caucus passed a new rule requiring an automatic vote on each committee chairman at start of each Congress. Although, in a secret yes-or-no ballot taken by the caucus, every committee chairman either retained his post or advanced through seniority, the principle was established that a chairman could be rejected, and the voting showed considerable opposition to some chairmen.

Senate Republicans voted to allow Republican members of each committee to elect their top-ranking Republican without using seniority as the exclusive criterion, the vote to be approved by the entire Republican caucus.

One Secrecy Fight Won The House, by a vote of 370-27, adopted a rule that all committee and subcommittee hearings must be open to the public unless they constitute a danger to national security or to personal privacy and that all mark-up sessions at which bills are voted on must be open to the public unless a majority of the members vote to close a particular session.

The Senate Interior and Banking Committees voted to open the traditionally closed mark-up and executive sessions.

"Closed Rule" Modified House Democratic caucus adopted new procedure under which 50 or more Democrats may propose an amendment to a bill. If endorsed by a majority of the caucus, the bill is sent to the floor under a rule allowing that amendment to be considered. Thus, legislation dealing with issues such as taxes, trade, social security and health, usually reported from the Ways and Means Committee under the "closed rule," is now subject to limited amendment by the full House.

Party Leadership Strengthened A Democratic Steering and Policy Committee was created. It will be chaired by the Speaker and will include party leadership, 12 members to be elected by caucus on regional basis, and three others appointed by the Speaker to assure representation of minorities. The new committee with its built in safeguard for representativeness, is expected to: give the party direction and unity, to recommend legislative priorities; and shape party policies.

Legislative Machinery Modernized A million-dollar electronic voting system installed in the House flashes a running tally on overhead scoreboards and records each member's vote on a computer printout. It cuts in half the 30 minutes it used to take for each recorded vote.

Most, but not all, of the reform attempts were successful. Some proposals that failed: that votes in the House Democratic caucus be made available to the press and public, that all Senate committee and subcommittee hearings and mark-up sessions be open to the public unless a committee votes to close a particular session; that the House whip be elected rather than appointed by the Speaker.

WHAT TO WATCH FOR

Studies Underway

Two special committees--one on House committees and the other on the budget process--are conducting studies on reform issues. Their reports and recommendations are expected to be important to the future course of the reform movement.

Study of House Committees
A 1-1/2 year, $1.5 million in-depth review of the House committee structure is now underway by a special "Select Committee on Committees" appointed by the Speaker of the House. Chaired by Rep. Bolling (D.Mo.), author of two books on reforming the House, the group is studying the powers and duties of all House standing committees with a view to updating them. The committee is authorized to propose legislation dealing with the number, size, jurisdiction and staffs of committees and subcommittees. It is also expected to look into the problems of budget and appropriations systems.

Vice-Chairman is Rep. Martin (R.Neb.). Democratic members are: Reps. Culver (Iowa), Meeds (Wash.), Stephens (Ga.), and Sarbanes (Md.). Republican members: Wiggins (Cal.), Young (Fla.), Frelinghuysen (N.J.) and Steiger (Wis.). The committee is holding hearings in May and June 1973 and will then issue a report which should be the definitive latest word on what is wrong with the House committee structure and how to change it.

Though a counterpart study of Senate committees

has also been proposed, it is not expected to get anywhere in this session.

Joint Study Committee on Budget Control
This bipartisan 32-member committee, established in the 92nd Congress, is making fundamental and far reaching recommendations designed to give Congress "an opportunity to examine the budget from an over-all point of view, together with a congressional system of deciding priorities." It issued an interim report in February 1973 and held hearings the following month. (For details, see CyG on congressional reform and REPORTS FROM THE HILL.) The committee will make specific recommendations to implement the principles it has already set forth.

The committee is run by a steering group composed of cochairmen Rep. Ullman (D.Ore.) and Rep. Whitten (D.Miss.) and vice-chairmen Sens. McClellan (D.Ark.), Long (D.La.), Hruska (R.Nev.) and Rep. Schneebeli (R.Pa.).

Reform Bills Proposed in the 93rd

Hundreds of bills have been introduced in this session seeking to change the way Congress works. Only a few will get some action; most will die in committee. Many congressmen and senators, simply by introducing these bills, have expressed their interest in reform.

Below are the bills to watch, both because they are of particular interest to League members and because they have a chance of getting somewhere in the 93rd Congress. Although they may not win passage, we think they will be the subject of hearings, reports and debate.

Budget Reform A new Subcommittee on Budgeting, Management and Expenditures, chaired by Sen. Metcalf (D.Mont.), will consider the many bills seeking to improve congressional control over the budget. At April hearings the committee is considering testimony of members of Congress and academic experts.

Under consideration are bills introduced by Senators Beall (R.Md.), Bellmon (R.Okla.), Brock (R.Tenn.), Byrd (Va.), Cranston (D.Cal.), Ervin (D.N.C.), Humphrey (D.Minn.), Mathias (R.Md.), McGovern (D.S.D.), Metcalf (D.Mont.), Muskie (D.Me.), Nunn (D.Ga.), Percy (R.Ill.), Stevenson (D.Ill.), and Talmadge (D.Ga.). The Subcommittee hearings will also consider the Interim Report of the Joint Study Committee on Budget Control. The subcommittee is expected to come up with a bill which stands a good chance of floor action this session.

Impoundment Control An Impoundment Control Bill (S.373), introduced by Sen. Ervin (D.N.C.) and cosponsored by 51 senators, requires the President to notify Congress within 10 days of any executive impoundment action (i.e. withholding of funds already appropriated by Congress) and permits the funds to be impounded only if Congress specifically approves the action within 60 days. The Subcommittee on Separation of Powers, which Sen. Ervin chairs, held hearings on S.373 in February 1973.

A House bill, H.R.5193, introduced by Rep. Mahon (D.Tex.), Appropriations Committee chairman, with the support of the leadership, has been referred to the House Rules Committee. It differs significantly from the Senate bill in that it would allow impoundments to go into effect unless they were disapproved by both houses within 60 days. Speaker Albert has indicated that he hopes for action by the April recess.

"Government in the Sunshine" Sen. Chiles (D.Fla.) and 25 cosponsors have introduced S.260, patterned after Florida's Sunshine Law. Certain features of S.260 are still needed even though new ground rules exist about opening up committee meetings. It would open to the public meetings of government agencies and of congressional committees, including conference committees. The bill has been referred to the Reorganization Subcommittee of the Government Operations Committee, which is planning to hold hearings in the spring of 1973.

Rep. Fascell (D.Fla.) and a number of cosponsors have a similar bill in the House, but it is the Senate bill which is likely to see action. Watch for the hearings!

Financial Disclosure Sen. Mathias (R.Md.) and Sen. Stevenson (D.Ill.) have introduced S.397 which provides that members of Congress and their top aides report annually on the amount and source of their incomes, assets and debts, their major financial transactions, and gifts of over $100.00. The bill, which is in the Government Operations Committee, is similar to ones introduced since 1957. Though conflict of interest is often cited as a cause of eroding public confidence in government, it is very doubtful that this bill or a similar one introduced in the House by Reps. Udall (D.Ariz.) and Frey, Jr. (R.Fla.) will be passed in this session.

Campaign Financing Senate Minority Leader Scott (R.Pa.), introducing a series of new bills dealing with Federal Election campaign activities, commented that "...the Federal Elections Campaign Act of 1971 was supposed to tell us who gave how much to whom and when. If I were a professional critic, I would have to give the new law mixed reviews, citing its bold structure but spotty performance."

Together with Sen. Mathias and Sen. Stevenson, Sen. Scott reintroduced a proposal which two years ago passed the Senate by a vote of 89-2 but was turned down by the House in conference. The bill (S.1094), which provides for an independent Federal Elections Commission to regulate campaign spending, deals principally with reporting and disclosure and attempts to solve some of the problems encountered in the 1972 campaign. The Rules Committee is holding April hearings on this and related bills including S.1189 introduced by Sen. Weicker (R.Conn.).

Senators Scott and Mathias have introduced three other bills in this field: S.1096 gives federal candidates campaign mail privileges at rates paid by nonprofit organizations. S.1097 exempts all cash contributions from the gift tax; currently

only those in excess of $3,000 are exempted with the result that many contributions are routed through "committees of evasion."

S.1095 exempts equal time requirements for all federal offices so that free broadcasting time can be made available to major candidates without giving time to marginal candidates. A similar bill, S.372, relating to presidential candidates only, was introduced by Senator Pastore (D.R.I.) and hearings were held in March. Sen. Pastore's bill would also impose an overall expenditure limit of 25¢ per voter.

Legislation to provide public financing of campaigns--an idea which received major attention at December 1972 hearings of the Mathias-Stevenson Reform Committee--may be introduced later in the session.

Reps. Udall (D.Ariz.) and Anderson (R.Ill.), who led the House fight two years ago, are preparing a bill to clear up problems in the present Act and to incorporate some of the proposals turned down in 1971. Reps. Bennett (D.Fla.) and Conable (R.N.Y.) have already introduced legislation aimed in these directions.

WHAT STILL NEEDS TO BE DONE

League members, using the expertise gathered during the Congress study, can continue to play a major role in bringing about congressional reform. Leagues can capitalize on the great amount of public interest generated by reforms to date. But this interest is likely to die down unless organizations like the League make a concerted effort to sustain it and at the same time to improve and intensify citizen monitoring and lobbying efforts.

Without this effort, the reforms already on the books could not have been won, and future reforms would have little chance of passage. Much remains to be done, especially in reforming budget and appropriations systems and in streamlining committees, if Congress is to play a substantive role in setting national priorities. Resource committees will want to apply their expertise to both prongs of this effort--community education and action.

THE LWVEF COMMUNITY GUIDE Congress: A Time of Renewal is designed for wide and varied use by other organizations as well as the League.

The December 1972 NATIONAL BOARD REPORT proposed that "issues underlying U.S. Congress reform be used to provide an overall context for as many League action undertakings as possible. The League will thus 'hitch a ride' on the current high pitch of interest the major press and news sources have in the Executive branch/Congress relationship."

REPORT FROM THE HILL will continue to provide up-to-date information on congressional reforms as well as on "the points at which League program is involved in the legislative-executive struggle to achieve a balance of power." To emphasize that congressional reform is a kind of umbrella for League action, an umbrella symbol appears each time legislative-executive relations is mentioned.

In this same vein, the February 23 Continuing TIME FOR ACTION urged (page 3) that League letters calling for adequate funding for League program priorities "also demonstrate the League's interest in strengthening Congress' role in determining national priorities." This same TIME FOR ACTION stresses that Leagues should emphasize the "need for Congress to coordinate its consideration of total appropriations and revenue raising."

R/Hs and T/As will keep you apprised of any further developments in congressional reform.

RESOURCES AVAILABLE FROM THE LEAGUE

AIDS FOR ACTION

League Action Service--includes Time for Action and Report from the Hill. $7.50 for the Congressional year.

When You Write to Washington, A Guide for Citizen Action including Congressional Directory 1973-74. 35¢ per copy.

Study and Action: 1972-74 Program. 75¢ per copy.

Action, A handbook for leaders. 1972. 50¢

AIDS FOR COMMUNITY EDUCATION

Community Guide to Congressional Reform, LWVEF, 1973.

The National Voter, "Comeback for Congress?" February 1973.

Facts & Issues

Reform: Does Congress Need It?
September 1971, 6 pp. #693, 35¢

Architects of Compromise...Agents of Change?
March 1971, 6 pp. #418, 35¢

Minority Rights and Majority Rule
July 1971, 4 pp. #684, 25¢

Campaign Spending, the Great American Treasure Hunt, April 1972

Committee Guides

A Five Finger Exercise in Representative Government, 1972

The Appropriations Process. October 1971, 4 pp. #696, 15¢ (available in limited quantities)

The Condition of Congress, David B. Walker, May 1971, 4 pp. #430, 20¢

Case Studies of Bills in Congress
April 1971, 13 pp. #428, 30¢

radio and television. Networks must sell broadcast time at a uniform rate for the specific time period. Records of broadcast time are public information and must be available for inspection. Each broadcast must be approved by the candidate or someone designated by him. KEEP A SCORECARD ON CAMPAIGN BROADCASTS: JOT DOWN THE DATE, CANDIDATE, STATION, AND TIME AND LENGTH OF BROADCAST. COMPARE NOTES WITH OTHER LEAGUES MEMBERS. DRAW A MASTER CHART AND ESTIMATE TOTAL COST OF RADIO/TV EXPENSES.

HOW ARE CAMPAIGN FUNDS BEING ALLOCATED? PREPARE A GRAPH INDICATING THE ALLOCATION OF RESOURCES AMONG THE DIFFERENT COMMUNICATIONS MEDIA. Remember that campaign communications take many forms beyond that spoken of in the law --- bumper stickers, buttons, etc.

Telephone banks are considered a campaign expenditure only if a candidate or political committee pays for the phones or solicitors. WHEN YOU RECEIVE PHONE CALLS ON BEHALF OF A CANDIDATE, TRY TO FIND OUT WHO UNDERWROTE THE PROJECT.

As for campaign printing costs, COLLECT AS MANY DIFFERENT PIECES OF CAMPAIGN LITERATURE AS POSSIBLE AND TRY TO ESTIMATE THE QUANITY PRODUCED OF EACH TYPE. THEN CALL (OR VISIT) A LOCAL PRINTER TO TRY TO ESTABLISH THE TYPICAL COSTS OF COMPARABLE MATERIALS. FOR AN ESTIMATE OF OVERALL PRINTING COSTS, TOTAL THE QUANTITY AND PRICE FOR EACH TYPE OF MATERIAL. Note: Unlike the media, printed material is not directly referred to in the law. However, if a printer gives substantial discounts, he must (if its over $100) report the difference in charges as a contribution.

Material printed or distributed by a political committee (as defined by law) without authorization by a candidate must state this fact on the face of such material. TRY TO DETERMINE THE SOURCE OF ALL PRINTED MATERIAL. While federal law does not specify that all material must state the source, your state may require mailed campaign literature to indicate the source.

Putting It All Together

The 1971 Campaign Act is designed to curtail expenditures of vast personal and family wealth and rampant spending on broadcast time, and to provide for disclosure of financial resources. Many of these resources are neither visible nor easily detectable (e.g., incumbents have the advantage of paid staffs, offices, free use of the mail, etc.). However, it should be possible to monitor the larger unit expenditures. You now have some data to estimate various expenditures and identify sources of income.

SUB-TOTAL DIFFERENT TYPES OF EXPENDITURES...TRY TO ESTIMATE THE TOTAL COST OF THE CAMPAIGN EFFORT... AVERAGE THIS AGAINST THE NUMBER OF ELIGIBLE VOTERS IN THE DISTRICT: WHAT WAS THE DOLLAR EXPENDITURE PER VOTER?...COMPARE YOUR ESTIMATES WITH THE REPORTED FIGURES. Have you found a large disparity? Where? Have incumbents been far outspent by challengers?

Monitoring may lead you to greater understanding of the financial ins and outs of an election campaign. If you undertake this effort, we hope you will share your experiences with us.

Suggested Bibliography (In addition to the Education Fund's F&I)

David W. Adamany, Campaign Finance in America, $2.50. (North Scituate, Mass.: Duxbury Press, 1972). A detailed, scholarly work in the field of political finance and campaign spending (paperback).

Herbert E. Alexander, Financing the 1968 Election, (Lexington, Mass.: D.C. Heath & Co., 1971) and Money in Politics, (Washington, D.C.: Public Affairs Press). Mr. Alexander is widely respected as an authority in the field of political finance.

Max McCarthy, Elections For Sale, (Boston: Houghton Mifflin Co ., 1972). Written from the perspective of a former Democratic Congressman. Describes how and why campaign costs have spiraled.

Twentieth Century Fund, Electing Congress: The Financial Dilemma, $2.50. Background paper by David L. Rosenbloom (New York, 1970). Prepared prior to the recent law, but provides useful review on the evolution of current campaign practices (paperback).

1730 M STREET, N.W., WASHINGTON, D.C. TEL. (202) 296-1770

committee guide

The League of Women Voters of the United States

September 1972

Publication No. 149, 25¢ Representative Government No. 1

A FIVE FINGER EXERCISE IN REPRESENTATIVE GOVERNMENT

Support of an open governmental system that is representative and responsive:

U.S. Congress - study of and action for responsive legislative processes.

Election of the President - action for election of the president and vice-president of the U.S. by direct national popular vote.

District of Columbia - action for self-government and representation in Congress for citizens of the District of Columbia.

Apportionment - action for apportionment substantially on population of congressional districts and of all elected and state bodies.

Voting Rights - (Bylaws, Article XIII, Section 1, a) Action to protect the right to vote of every citizen.

This COMMITTEE GUIDE is designed as a basic tool for directing League energy in making the five components of Representative Government --- each with differing strategies and techniques --- into a total working program area. The guide is divided into three sections: Overview, Voting Rights Bylaw, and (for Leagues interested in a "do-it-yourself" approach) Tips on Monitoring Campaign Financing.

OVERVIEW

"Action" - A Key Word for the Coming Year

With the impetus of a presidential election, Representative Government committees (especially those dealing with all the components) have an exciting and challenging task working with a program area that enters into many aspects of the governmental process. Like the five fingers on a hand, each of which can move independently, all are joined together. Each component is interrelated and works in concert to form the whole program area.

The Voting Rights Bylaw is a primary vehicle for action to extend the franchise to every citizen. Once a citizen has the vote, apportionment should guarantee that no voter has more, or less, influence than another. Each equal vote can be meaningful only if elected officials serve in governmental bodies that are responsive and responsible to all citizens.

We devoted the past two years to a continuing study of Congress and now will try to reach out and share with both congressmen and the community what we've learned and will continue to learn. In those areas where consensus was reached, the League will try to turn ideas for reform into reality.

After careful study of the manner of selecting the president, a League position for reform of the electoral college system was arrived at in January, 1970. Although opportunities for effective League action have been limited so far, a close election in November could focus attention on the need for electoral college reform.

In working for the protection of the right to vote and for government responsible to the people, the inequality of citizenship of the residents of the District of Columbia should be a primary focus. The D.C. grassroots campaign for home rule and voting representation in Congress is described in a national memo sent to all Leagues on June 23, 1972. Let your congressional candidates know that people outside Washington feel strongly about the rights of D.C. residents; question them on their positions.

Spotlight on Congress

During 1970-72, we started a study of U.S. Congress, reaching consensus on some aspects of the legislative process. But the job's not done! CONVENTION 72 delegates decided to take action where there is consensus and simultaneously to continue the study. Local and state Leagues will play a major role in the campaign for procedural, rule and structural changes in the next Congress. Pivotal to this campaign will be the need for massive citizen education on how Congress works. League members, using the expertise gathered during the Congress study, can have a decisive effect on this effort. To help, we are preparing a COMMUNITY GUIDE on Congress.

The national board, at its September meeting, will discuss the continuing study of Congress. After the excitement of the election and the organization of the new Congress, we could turn our attention to how Congress and the President work together: who does what and what the roles are of each in policy-making. We anticipate preparing (in 1973) material on executive/legislative relations. Campaign spending is the other major area suggested by convention delegates for study under the U.S. Congress component. We do not foresee a full study, and anticipate selective rather than concerted League attention to this issue. For further direction, watch for the September Board Report.

VOTING RIGHTS BYLAW

Recurring questions arise about the Voting Rights Bylaw: What does it mean? How does it relate to and differ from Voters Service? What kinds of action are authorized under the bylaw?

In 1970, members proposed that convention adopt a bylaw under the program article as authority for action in the area of voting rights. Since support and protection of voting rights is basic to the purpose of the League, a vehicle was sought which would be a definite working base for League action. The resulting provision in the bylaws was adopted by the 1970 convention.

Although the League has a long history (through Voters Service) of protecting the franchise, legislative action on behalf of voters' rights had not been possible before, except by Leagues which had developed specific local and state positions. Almost immediately after this bylaw position was adopted, the LWVUS actively supported the 1970 Amendments to the Voting Rights Act of 1965, and local and state Leagues began using the bylaw as a launch pad for action on voting rights in their own bailiwicks. The LWV of Washington was one of the first state Leagues to jump into the fray. It filed an amicus curiae brief, co-signed by the LWVUS, in a case reviewed by the U.S. Supreme Court which involved alleged discrimination against Spanish-speaking citizens through use of literacy tests. In another type of action, the LWV of Connecticut succeeded in simplifying the wording of state ballot issues.

Voting Rights is a permanent responsibility and Leagues are authorized to work in support of action which protects the right of every citizen to vote. The person designated for Voting Rights should, of course, be familiar with current laws, recent court decisions, and registration procedures (e.g., 40 states, either through litigation or attorney generals' opinions, now provide for registration of students in towns where they attend school).

Decisions to take action on election laws or procedures affecting the entire state are made by state boards while local Leagues may make this determination on matters covered by local jurisdiction. However, no decision for action should be undertaken which conflicts with the program bylaw of the right to vote of every citizen.

There may be instances when the local or state board is not in agreement about taking local or state action under the national bylaw on a specific issue. If you believe there is uncertainty about member agreement or if there is reasonable doubt that a proposed change will actually protect the citizen in his right to vote, the board may wish to consider taking no action. Should you find widespread member interest in the issue, you might consider suggesting it for future League program.

On frequent occasions Voters Service and Voting Rights will work together, their functions overlapping. At other times you may need to designate which portfolio covers a specific issue. For example, if your League plans to implement the Election Systems Project by working intensively to remove administrative obstacles to voting before the election, you might find it useful to ask: Do you see your long-range goal as entailing changes of existing laws? Would a campaign involving the League and the community be so widespread or controversial as to be beyond the scope of Voters Service? If the answer in NO, it is obvious that Voters Service can be involved in this undertaking. YES answers would indicate a need for the board to consider activating a Voting Rights committee (or using the Representative Government committee) to do the job. Perhaps the most striking example of the need to separate these two functions is when some local League members are serving as deputy registrars executing current laws while other League members are working to change these laws.

In the course of its usual work, Voters Service can help identify discriminatory laws, procedures and practices. They may request changes in such matters as registration locations, number of registrars, and hours and dates of registration, to name a few. In any instance calling for legislative action or a campaign for change, as opposed to citizen education, the person designated for Voting Rights, rather than the Voters Service chairman, is identified with this activity. In short, Voters Service, per se, should not be engaged in changing laws governing the election system. If laws or procedures are changed, Voters Service can publicize the changes through informational techniques. This distinction may be thought of in terms of citizen education versus action.

CAMPAIGN FINANCING

For Leagues with the woman power and member interest to pursue the subject, here is a "do-it-yourself" monitoring approach to campaign spending. Although our tips relate to the new federal campaign law, you will find clues for action which can be adapted to local or state campaign regulations. Leagues keenly interested in campaign financing can work under their local or state programs. An exciting example is the success of the LWV of Washington in placing Initiative #274 (a state campaign finance act) on their state ballot in November.

To undertake this kind of monitoring, it is vital to understand the provisions of the Federal Election Campaign Act of 1971 and what it is designed to do. For a copy, write either to your congressman or senator, or to the Government Printing Office, Washington, D.C. 20401 (ask for Public Law #92-225). Remember that, in addition to the specific limitation in this law, other statutes prohibit direct contributions from labor unions and corporations.

The LWV Education Fund's F & I, Campaign Spending: The Great American Treasure Hunt, (Pub. # 105, 25¢) provides valuable background information and highlights major provisions of the new federal law. This fall election period is also an ideal time to promote this publication as a community education tool.

In this first round of elections under the new law there has been some confusion about its interpretation. YOU MIGHT WANT TO ARRANGE A MEETING WITH EACH CAMPAIGN MANAGER TO DISCUSS HIS UNDERSTANDING OF THE LAW AND THE PROBLEMS HE SEES ABOUT INCOME AND SPENDING LIMITS OR REPORTING PROCEDURES.

Reporting and Disclosure

Under the new law candidates for federal elective offices and the political committees working on their behalf* must file reports on campaign contributions and spending not only with the Clerk of the House or Secretary of the Senate but also with the secretary of state for each state in which they are active. These reports are public record and must be available for public scrutiny, at minimal cost, on demand. Reports must be filed on the 10th of March, June, September, December; the 31st of January; and on the 15th and 5th day preceding an election. The political committees must also file the name of the chairman and treasurer, who is required to keep records of the full name, address, occupation and place of business, if any, of each person contributing over $10 as well as to report every contribution and expenditure over $100. (Note that reported contributions do not include volunteered time)

WHERE ARE THE PRIMARY SOURCES OF MONEY: i.e.: small or large donors, or a combination. ARE SPECIFIED LIMITATIONS ON CONTRIBUTIONS BEING ADHERED TO? CAN YOU IDENTIFY THE SOURCES OF LARGE SUMS OF MONEY BEING SPENT IN DISTRICTS WITH MINIMAL OR NO CHALLENGE TO A CANDIDATE? ARE CAMPAIGN REPORTS BEING FILED ON TIME? ARE CAMPAIGN REPORTS COMPLETE? HOW MANY DIFFERENT ORGANIZATIONS ARE WORKING ON BEHALF OF A SINGLE CANDIDATE? A proliferation of groups spending under the $1,000 limit would indicate a violation of the spirit of the law.

Income and Expenditure

There is no overall spending limit, but there are restrictions on some types of campaigns. Candidates are limited by ceilings on the amount of personal and family money which can be spent in a campaign: Senate - $35,000; House - $25,000. ARE LIMITATIONS ON FAMILY CONTRIBUTIONS BEING HONORED?

Communications media (radio, TV, magazines and billboards) are limited to 10¢ per voting-age person in the district (or nation or state). No more than 60% of the total media budget can be spent on

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*any individual or group which spends or accepts money during a calendar year in an aggregate exceeding $1,000.

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committee guide

1730 M STREET, N.W., WASHINGTON, D.C. TEL. (202) 296-1770

The League of Women Voters of the United States

U.S. CONGRESS No. 8

U.S. CONGRESS: AN EVALUATION OF CONGRESSIONAL STRUCTURES, PROCEDURES, AND PRACTICES, AND THEIR EFFECT ON RESPONSIVE LEGISLATIVE PROCESSES

Pub. No. 696- 15¢

October, 1971

The appropriations process is one of the most intricate and complex subjects in the Congress study. This guide attempts to make the process a little more clear.

Much of the material in this guide is drawn from an outline prepared by the Montgomery County, Maryland League. Our thanks to them!

THE APPROPRIATIONS PROCESS

Executive Initiation

The president has the legal responsibility to prepare and present a federal budget to Congress. Every January, after close consultation with the Office of Management and Budgeting and the executive agencies, the president proposes to Congress a budget for the coming fiscal year (beginning the following July). The President's budget represents much more than a compilation of statistics: it projects tax and expenditure estimates into a comprehensive blueprint for public policy.

Congressional Responsibility

Article I Section 8 of the Constitution gives Congress the power to "lay and collect Taxes, Duties, Impost and Excises, to pay Debts...[and] borrow money on the Credit of the United States." The president can propose taxing and spending measures, but the final responsibility for enacting them into law rests with Congress.

The Budget in Congress

The full Congress does not review the executive budget as a whole. The Joint Economic Committee, which is made up of members from both houses, holds hearings on the budget and the President's Economic Report at the beginning of the session, but the committee's role is mainly to study and advise the full Congress. It cannot take legislative action.

Once the Joint Economic Committee has issued an analysis, the budget is never again considered as a unit. Tax (revenue) measures are handled by the House Ways and Means Committee and the Senate Finance Committees

and Appropriations (spending) measures by the House and Senate Appropriations Committees. The revenue and appropriations committees do not meet together to compare income and expenditure estimates. In committee and on the floor, revenue and appropriations are handled separately.

Authorization

The "Expenditure" side of Congress' budgetary review involves two distinctly separate steps. First, Congress must authorize a program for which money is to be spent. After authorizing legislation has been passed, Congress can then appropriate monies to carry out the program. Authorization bills identify the programs, purposes and projects for which appropriations may be made. They are referred to standing subject matter committees (Interior, Education and Labor) for hearings and examination. The authorization committees can review agency programs and set dollar ceilings on the amount of money which can be spent.

Some programs are authorized on a permanent basis, others annually or every two or three years. Short term authorizations give Congress more opportunities to review programs, they can make long-range planning difficult, especially if authorizations are delayed. Since appropriations cannot be made until authorizations are approved, delays in authorization can postpone appropriations well into the fiscal year.

Appropriations

IN THE HOUSE: The Constitution specifies that revenue measures must originate in the House; tradition has long dictated that appropriation bills also originate there. The first legislative body to act on appropriations measures is invariably the House Appropriations Committee, popularly known as the "watchdog" of the Treasury.

The committee's 55 members are chosen by their party committees-on-committees. Although supposedly chosen to represent a cross section of the country, congressmen who favor reducing federal expenditures seem particularly likely to win committee places. Most of the work of the committee is done by its 13 subject-matter subcommittees. (Most members have two subcommittee assignments.) Each subcommittee is given jurisdiction over a group of budget estimates, with the estimates forming the basis for appropriation bills. The subcommittee structure closely parallels the structure of executive agencies, although there are significant deviations. The subcommittees work in almost total isolation from each other, each being responsible for only a particular area of what will become the federal budget. A subcommittee's bill is rarely challenged by members of other subcommittees. The role subcommittees play in the appropriations process is described below by Richard Fenno:

"If there is any generalization about Appropriations Committee activity that is fully supported by past research, it is the proposition that the tasks of the Appropriations Committee are accomplished by its subcommittees. The full committee does not transact much of its business as a unit. Normally, it meets only to organize itself at the beginning of each Congress and to give a majority vote of approval to the recommendations of its subcommittees.

...The day-to-day appropriations tasks...are performed in subcommittees. And, so long as the subcommittees can command support in the full Committee and in the House, their decisions are the most important ones in the entire appropriations process." (Fenno, The Power of The Purse)

Each subcommittee receives from the agencies under its jurisdiction explanations of the agencies' appropriations estimates. These explanations, called "budget justifications", go only to the subcommittee which will hold hearings on the requests. The subcommittee hearings are closed. Other members of the full committee or Congress appear only if they wish to testify.

After the hearings, the subcommittee members meet, again in executive session, and "mark up" the appropriations bill. They translate their recommendations into dollars and cents, and prepare a report for the full Appropriations Committee.

Appropriations bills are privileged and do not have to be cleared by the Rules Committee. When the full committee has reported a bill, it can be scheduled for floor action as soon as three calendar days later (excluding Saturdays, Sundays and holidays). During this short waiting period, the printed committee hearings and committee report must be available to the members of the House. Debate on the House floor is usually organized and lead by members of the subcommittee which reported the bill.

IN THE SENATE: The Senate is generally considered to be more fiscally "liberal" than the House. It often increases the appropriations approved by the House. The Senate is something of an appeals board for agencies which feel that budget requests have been unreasonably slashed by the House.

The Senate Appropriations Committee has 24 members. Members sit on a number of subcommittees, and there is more interaction among the subcommittees and the legislative committees than in the House. Also, for most appropriations bills chairmen and representatives of the legislative committees sit with the Senate Appropriations Committee as voting members.

Senate subcommittees may hold hearings concurrent with those in the House, but they await final House action before presenting their results.

CONFERENCE COMMITTEE: A conference committee is almost always needed to iron out the differences between the House and Senate passed versions of an appropriations bill. The appointed conferees meet in executive session to draw up a compromise. They then write a conference report which cannot be amended but must be voted up or down by each body.

PROBLEMS AND PROPOSALS

TIME: Presently, Congress begins its appropriations deliberations after the president presents the budget in January. The federal fiscal year begins July 1, so Congress has less than six months to complete action on the budget. It rarely meets the deadline. Only two of the last twenty fiscal years have begun with as many as half the major appropriations measures enacted. When appropriations are not enacted in time, departmental activities are funded month-to-month by continuing resolution.

FACTS AND ISSUES #3, Reform: Does Congress Need It? discusses Senator Warren Magnuson's proposal to solve the time lag problem; basically, Magnuson would change the fiscal year to coincide with the calendar year

and divide the congressional session into separate legislative and fiscal periods. The American Enterprise Institute has published a legislative analysis, "Bills To Reform the Appropriation Process," which explains the legislation and gives arguments for and against it. Copies can be obtained for $2.00 each from the American Enterprise Institute, 1200 17th Street, N.W., Washington, D.C. 20036.

INFORMATION: The budget is extraordinarily complex. To make judgements on it, congressmen need access to a wide range of technical and sophisticated information. Proposals for change include:

1. Congress should contract for modern data processing equipment.

2. Subcommittee hearings and markup sessions should be open so all congressmen have access to the same information as the subcommittees.

3. Enlarge office staffs.

4. Create an independent congressional research organization -- a domestic RAND corporation - to prepare analyses on budgetary and legislative problems.

COORDINATION AND NATIONAL PRIORITIES: Congress' review of the budget is a many-splintered thing. For one thing, at least a dozen appropriations bills are passed each year. For another, since revenues and appropriations are considered separately, Congress does not have to balance one spending measure against another or consider projected expenditures in light of income. Many students of Congress believe that if Congress is to play a role in shaping national priorities, fiscal responsibilities should be coordinated so that Congress can weigh specific proposals against general fiscal needs. Some suggestions for coordination:

1. A joint committee empowered to recommend a firm limit on total expenditures after consideration of revenues and the economic outlook, and before appropriations subcommittees begin work.

2. A budget policy conference including members of the majority and minority leadership and revenue (Ways and Means and Finance) and appropriations committees of both houses to study the budget as a whole and increase communication among the committees and between the two houses.

3. Consolidation of control of revenues and expenditures in a single standing committee in each body.

Benefits	Costs
Expertise, experience, continuity of committee chairmen	Mechanisms for holding chairmen accountable to majorities are too weak
Minimizes political conflicts	Favors men from one-party, "safe" districts and states
Gives chairmen independence and power to be free of excess political pressures	Contributes to excessive powers of chairmen
A party majority can reject the most senior men	Discourages younger members

Then, ask your members how they balance these factors and weigh the costs and benefits. You might find that the benefits clearly outweigh the costs and that no change should be recommended. Or, the costs may obviously override the benefits and you'll want to suggest changes. But it's just as likely that your balance sheet will not be clear cut. Almost everything has some costs and some benefits. Usually, you have to give up something you like to get something else. Try to weigh the real impact and importance of the costs and benefits in terms of our goal of a "responsive" Congress. If you decide that the costs outweigh the benefits, what changes would you suggest? How could the present system be improved? Don't forget that change will have costs and benefits, too.

If your League sees change as necessary, they will do so because they feel the seniority system fails to meet one or all of the criteria. It might be, for example, that they feel seniority falls short in defining lines of accountability. They may be willing to sacrifice some independence and experience so that committee chairmen can be held more directly accountable for their actions. If so, *where should the ultimate responsibility lie? To whom should the committee chairmen be accountable?*

The other parts of Question #2 could be handled in similar fashion. Instead of directly applying the criteria to each category and example, first discuss the main arguments for and against present arrangements. Then, keeping the criteria in mind, decide if and why change is necessary. Finally, *what changes do you recommend?* The questions and arguments below might help you structure your discussion.

Leadership powers The basic point for discussion here is the use and distribution of power. Are committees and their chairmen too powerful? Should power be redistributed? Consider the 21-Day Rule (or variations) and methods for holding committee chairmen accountable to the party caucuses.

Committee organization Are committees organized so Congress can deal with current problems and provide reasonable representation to all segments of the American public? Consider the committee assignment process, the makeup of committees, and committee jurisdictions.

Decision-making procedures Are sources of information adequate for intelligent decisions? Is decision-making responsibility equitably and efficiently distributed? (The authorizations/appropriations process would be an excellent example to use here. Consider the complexity and sophistication of knowledge required to make budgetary decisions, committee and full chamber responsibility, treatment of the "budget" in separate parts.)

Majority rule and minority rights Do House and Senate procedures strike a reasonable balance between these principles? Consider the cloture rule and discharge procedures in your reply. (refer to F&I #2, *Minority Rights and Majority Rule* for background)

Use of congressional time What, if any, improvements are necessary for Congress to make the most effective use of its time? Consider electronic voting, "ombudsman" proposals, periodic recesses, and the possibilities of dropping some congressional responsibilities. (F&I #3, *Reform: Does Congress Need It?*)

Access of public to congressional actions and decisions Is the public able to find out what actually happens in Congress? Consider use of the *Congressional Record*, suggestions for open voting on leadership, and executive and open committee sessions.

QUESTION 3 *Do you think Congress needs new or improved mechanisms for determining priorities to make the legislative process more responsive to national needs? If so, what mechanisms might be developed?*

Congress' ability to evaluate national priorities was one of the biggest concerns of many members who voted to study the Congress. It presents perhaps the most difficult part of our study. This question cannot be neatly outlined. There's no way to make it easy. Meet the question head on. Maybe League members can come up with suggestions that no one else has thought of.

The job of developing and implementing national priorities is a job of resolving societal conflicts. Does Congress have the mechanisms to cope with competing interests and demands? How does it balance, for example, the need to control pollution against the very livelihood of laborers in a small, single-industry town? Against the need to develop our natural resources?

Some have suggested that Congress revamp its committee structure and create a Committee on National Planning and Priorities. Others have proposed centralizing decision-making procedures (most particularly the appropriations process) so that Congress is compelled to look at the relationship between programs, rather than considering them separately. What does your League think? Would mechanisms solve the problem? □

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committee guide

The League of Women Voters of the United States

September 1971

PUB. NO. 691, 15¢

U.S. CONGRESS NO. 7

A GUIDE FOR CONSENSUS ON CONGRESS

This is a guide for the U.S. Congress consensus. It's intended to help you and your committee come to grips with the consensus questions. The subject—and the questions—are complex. The problems you'll be discussing are hard, but that shouldn't discourage you. This is not the first time the League has tackled difficult issues—we do it because they are important.

One caveat—don't feel bound by this guide. You know your own League much better than we do. Each League committee may want to handle the consensus differently, and that's as it should be.

PREPARING FOR CONSENSUS

As the basis for consensus, you should have a complete file of all League-produced publications on the Congress. We are not repeating the substance of these publications in this guide. The most essential materials are:

FACTS AND ISSUES:

1 Architects of Compromise...Agents of Change?
2 Minority Rights and Majority Rule
3 Reform: Does Congress Need It?

COMMITTEE GUIDES:

1 October 1970 - Discussion questions and program hints, with extensive bibliography and "Fact Sheet."
2 November 1970 - Expansion of Committee Guide #1 with news item on seniority system.
3 December 1970 - *Congress and the Public in the 1970's*, an essay by Roger Davidson.
4 March 1971 - Discusses organization of 92nd Congress; glossary of congressional terms.
5 April 1971 - Case studies of four bills in the 91st Congress.
6 May 1971 - *The Condition of Congress* by David B. Walker.

NATIONAL VOTER: "Four Views on Congress," July 1971.

The national consensus deadline is March 1, 1972. Plan your schedule for unit meetings and general meetings so that your local board has enough time to consider the consensus and the results can reach the national office by the deadline date.

Before beginning your planning, review Chapter X of the Local League Handbook. It discusses the League consensus process. And if you're worried about leading the meeting, you might want to look at *Meaningful Meetings* (LWV publication #319, 40¢) for ideas on how to conduct an effective session.

THE CONSENSUS MEETINGS

The consensus-reaching meeting is a time for discussion and decision. It's a time to draw out member thinking, not to lecture. The resource person should be ready with the facts when she's needed. She can clarify and improve the level of discussion and give information when necessary. But members should all be well prepared. FACTS AND ISSUES #3, *Reform: Does Congress Need It?* is essential before-the-meeting reading.

The discussion leader's job is to encourage spontaneous member participation. She is a catalyst for consensus, not a director. She should guide the discussion and encourage a free exchange of ideas. She can clarify, emphasize, bring the discussion back to the point if it has strayed, or advance it on to the next subject.

Avoid spending too much time on any subject on which the group seems divided. Later discussion may illuminate the issue and agreement, or lack of it, may become clearer during recapitulation.

A good recorder is essential. Her role is to help the discussion leader remember and recapitulate what

the members seem to be saying. The recorder should be familiar with the official consensus questions and with the discussion leader's plan for the meeting.

You may choose not to use the official consensus questions for discussion. You might instead want to use questions like those in "Explaining the Consensus Questions" (below) to stimulate discussion and find the "sense of the meeting."

It's possible that you may not reach consensus. That's perfectly all right. We're looking for free and open discussion on extremely complicated and controversial problems. Don't look for agreement where there is none. If you can't reach consensus, we'd like to know why. Was opinion divided? Were you short on time or information?

EXPLAINING THE CONSENSUS QUESTIONS

Before tackling the questions, note the convention's careful wording of the item: "U.S. Congress: An evaluation of congressional structures, procedures, and practices and their effect on responsive legislative processes." The wording is our guide in determining the scope to be covered.

QUESTION 1 *Students of government have developed criteria to evaluate the degree of responsiveness of legislative processes. Check (with comment if you wish) those criteria listed below which your League accepts. Add any other criteria which you consider important.*

Accountability
Representativeness
Decision-Making Capability
Effective Performance
Others

Do you think Congress meets your criteria (taken together) very well, fairly well, or poorly?

The purpose of this question is to develop criteria to evaluate congressional structures, procedures and practices so that we can decide how they do—or do not—contribute to "responsive legislative processes."

Can we agree on what we're looking for? Can we agree on what "responsive" means? You might begin the discussion by rephrasing the question and ask "What makes legislative processes responsive?" or "What are the essential characteristics of responsive legislative processes?"

You could then go on to present the criteria suggested in the consensus questions and ask members to approve, reject, modify or add them. This should be done fairly quickly. The criteria are meant as tools for judging Congress. Try to avoid long and involved discussion on definitions of the terms. Explain that the criteria can be checked and reappraised after some presentation and discussion have made them come alive. In your recapitulation at the end of the meeting, give members the opportunity to revise or expand the criteria.

All the criteria are *subjective* in nature. They will mean different things to different people. They're hard to define strictly. We've transposed them into questions to help you reach usable criteria for judgment of congressional structures, procedures and practices.

ACCOUNTABILITY: When we speak of an "accountable" Congress, we mean a Congress which is responsible to the citizens. We also mean that Congress should be able to hold its own leaders and committees responsible for their actions and decisions. Are congressional structures, procedures and practices such that citizens can hold Congress—and individual congressmen—responsible for their actions? Can and does Congress hold its leaders and committees accountable for their decisions?

REPRESENTATIVENESS: Congressmen and senators are elected to represent districts and states, but Congress as a whole has the responsibility to represent the nation. Do present congressional structures, procedures and practices facilitate the carrying out of both of these responsibilities?

DECISION-MAKING CAPABILITY: Congress should be able to make decisions which anticipate and respond to national needs, and reconcile conflicting interests and priorities. The ability of Congress to act decisively is determined partly by its internal power arrangements, its power vis-a-vis the other branches of government, and the information available to it. Does Congress have the knowledge, resources and power necessary to make decisions which meet national needs and reconcile conflicting interests and priorities?

EFFECTIVE PERFORMANCE: To act effectively, Congress must be able to carry out its many functions in an efficient manner with a minimum of conflict, wasted time and duplication of effort. Are congressional time and resources efficiently organized?

Your Leagues should be encouraged to add any other criteria they feel are relevant.

The last part of Question #1 asks your League how Congress "measures up." How does Congress as a whole meet your criteria? If you think it meets them very well, you probably won't need to spend much time on Question #2 which asks for specific suggestions for reform. But if you find it meets them only fairly well or poorly, you'll want to find out what improvements your League thinks are needed.

QUESTION 2 *If you see need for improvement in House and Senate structures, procedures and practices what specific changes would you recommend?*

Relating the criteria chosen above, consider:
Selection of leadership (e.g., seniority; election of party leaders)
Leadership powers (e.g., rules of operation for committee chairmen; party and caucus responsibilities; Speaker's authority)
Committee organization (e.g., assignment to committees; committee jurisdictions)
Decision-making procedures (e.g., availability of information; staffing; decentralization vs. centralization)
Majority rule and minority rights (e.g., Senate cloture rule; discharge procedures; powers of committees)
Use of congressional time (e.g., congressional workload; electronic voting; scheduling)
Access of public to congressional actions and decisions (e.g., *Congressional Record;* executive sessions and open meetings; open voting on leaders)

This question asks you to use the criteria developed in Question #1 to evaluate specific structures, procedures and practices. Keeping your criteria constantly in mind, you will be evaluating how well present procedures are working. If you see need for improvement, why? Which of the criteria are not met? And most important, *how would you change present procedures*? We're not looking for detailed answers. The important thing is to find out what kind of change your League feels is needed. What do you want to achieve? What *direction* should change take? Give guidance to the national board. If consensus is reached, your answers will provide the basis for the board's assessment of specific proposals which may be made in the future.

All of the criteria of Question #1 will not necessarily apply to each of the categories and examples. In some cases, you may find only one criterion relevant—in others, they may all apply. You may find that the item under discussion satisfies some of the criteria but falls short on others. The economic concept of "cost and benefits" might be useful to you. All of the procedures probably have some "benefits" and some "costs." Do the benefits outweigh the costs, or vice versa?

The parenthetical "e.g.'s" are examples and should be treated as such. You do not have to consider all of them. They are guides for leading the discussion. You'll notice that they're not always consistent (some refer to ongoing practices, others to suggested reforms) and in some cases they overlap and are in more than one category. Use your own judgment in discussing them.

The question demands a working knowledge of congressional procedures. The resource committee should have this information at their fingertips. Be sure your members have read the FACTS AND ISSUES before the meeting. *Reform: Does Congress Need It?* is essential.

Suggested Discussion Plan To set the question in perspective, the discussion leader might present the scope of the question by saying something like this: "In Question #1, we developed criteria which we believe are essential to responsive legislative processes. To be useful the criteria must be related to specific problems. Now that we have the criteria, we need to decide how present congressional procedures need to be improved. How? What changes would make Congress more accountable, more representative, more capable of making decisions and performing effectively, etc. (list your criteria)? As we consider the specific categories the national board has asked us to discuss, we will really be trying to decide *how well present procedures are working, what the major problems are and what improvements might be made.* Basically, we have to try to decide how to change present procedures. If we want to be part of the solution—instead of just onlookers—we can't just say that the system isn't working well. We need to suggest methods for improving it."

After an explanation of this kind, you can move directly into consideration of the specific categories.

Selection of leadership The main point of discussion here will probably be the seniority system. Does it adequately meet your criteria? Does it help make Congress finally *accountable* to the citizens? Does it provide *representation* for different interests and the nation as a whole? Does it help give Congress the knowledge, power and resources necessary to make decisions which reconcile conflicting priorities? Does it contribute to the orderly and efficient distribution of time and resources necessary for *effective performance*?

Instead of posing these questions, you might find it easier to approach the discussion through the sometimes more direct "back door." Essentially, you want to find out where the members think the problems lie and *what improvements might be made.* You want to get at the most basic problems and see if you can suggest solutions. Don't get hamstrung or frustrated by trying to consistently apply each of the criteria all of the time. You may find you'll get freer and more spontaneous discussion if you discuss seniority (and the other examples) in more familiar terms. For example:
"What can be said in favor of seniority? What can be said against it ? What are its costs and what are its benefits?" Some possible answers:

Club, then, should be directed at its present failure to adhere consistently to this code, both in its admissions policy and in its failure to oust key members who fail to live up to these conservative institutional ideals.

The Parties: Seventh, it is not so much the absence of one hundred percent party discipline within the congressional parties that merits criticism (this type of anglophilic attack reveals no understanding of the nature and composition of congressional parties). Instead, it is the absence of better communication between party leaders and followers and between floor leaders and committee chairmen that deserves scrutiny. The caucus (or conference) began to reassert itself during the past Congress, but it still cannot be described as a continuing forum for party deliberation, communication, and consensus-building. It is this problem, not the failure to produce the discipline that exists at Westminster, that is the real defect of the congressional parties.

Independence and Initiative: Eighth and last in these illustrative case studies, the perennial charge that Congress has lost the ability to take the initiative in national policy determination needs reassessment in light of recent developments. Now, admittedly, the executive branch has great influence in these matters and has had it off and on for most of this century. But I suspect we must revise the formula used to describe this relationship—a paraphrase of an old English constitutional dictum—"The executive proposes, the legislature disposes."

Contemplate the congressional leadership in the pollution field since 1963, where the administration, the states, the localities, and private sector were largely reacting to congressional, chiefly Senate, initiatives. Ponder the recent moves in the foreign policy area, whether or not we agree with the wisdom of the Cooper-Church amendment or with the merits of last year's trade bill which nearly became law. Analyze the genesis of the vetoed manpower bill of last year, the Housing and Urban Redevelopment Act of 1970, and the Uniform Relocation Act. Focus on the prospective activities of the Ways and Means Committee in the welfare field this year and the continuing probes of the Joint Economic Committee into defense spending and intergovernmental fiscal relations. It would appear that Congress at least in some areas and especially under existing political pressures is capable of developing independent positions, drafting and even enacting its own legislation and acquiring its own corps of experts. The president's monopoly of "authoritative answers" as one expert put it, is being brought into question. Whether Congress prevails in its joustings with the president over the next two years, whether it actually can lead itself and chart new policies for the nation, is anyone's guess at this time. But the mere fact that these conjectures seriously can be raised at this point in time suggests the error of the critical judgment that Congress only looks good when it is led by a strong president.

In looking at these case studies, it becomes clear that the crisis in Congress is not rooted in its representativeness. It does not really stem from the seniority system, the filibuster or the rules in general. It is not a product of Congress' failure to balance qualitative democracy with quantitative democracy. It is not rooted in the reluctance to convert the congressional parties into adjuncts of the presidential parties.

What then are the roots of Congress' difficulties (crisis is much too strong a word)? As I see it, they are two-fold. The first relates to Congress' and the nation's continuing desire to preserve minority rights while recognizing the legitimacy of the doctrine of majority rule, in short, to adhere to a limited majoritarian principle. In a small, compact, fairly heterogeneous society, straight majority rule is feasible, even preferable. But nationally, ours is a society that is extraordinarily heterogeneous, with serious racial, economic, class, regional, religious and value-system differences. At best, they have been reflected in the factions operating within our two-party system. At worst, they produced the doctrinaire politics of a multiparty system.

In the fifties, a galaxy of historians and social commentators made much of the homogeneity of America's political tradition, of the unifying effect of our unending quest for middle-class social goals and of the fortuitous, moderating nature of the country's historical evolution—our geographic isolation, the safety-valve frontier, the absence of rigid class lines, the tendency to debate means not ends, thanks to the sacrosanct position of the U.S. Constitution.

But now we better appreciate the role of cleavage, class, color and conflict in our history. The southerner, the Negro, the Indian, the immigrant, and the poor all have had a history that suggests some flaws in the optimistic, middle-class, fortuitous interpretation of the American past. And now, many of the young join in rejecting this view. Thus, we now gain a clearer understanding of our social divisions; of the ameliorating function of a two-party system, especially as it operates in Congress; of the practical and principled purpose of that paramount tenet of the Founding Fathers: limited majoritarianism.

The electorate in its political behavior seems to understand this intuitively and Congress clearly and consciously understands this. Many of the critics do not. If and when the diverse nationalizing forces in our society and economy succeed in developing widely shared social and political values, then our political and federal system will have undergone a transformation. Rather than a federal system with multiple access and power, a more centralized system will have emerged. Rather than loose coalitions of divergent factions, more structured, disciplined, cohesive parties will have developed. And the first signs of such a change would be strengthened caucuses with frequent binding votes and strengthened Speakers and floor leaders acting as instruments of the majority faction of their respective parties and as regulators of the standing committees. None of these developments are on the horizon—wishful thinking reformers and political scientists notwithstanding. Meanwhile, Congress' structure, procedures, and informal code and club serve one way or another to curb majoritarianism and to check incipient multipartyism, but not to the point of preventing a determined continuing majority from acting.

The second basic cause of Congress' difficulties is a breakdown in those behavioral norms which in the past have permitted Congress to serve as a forum for consensus building. And this too is as characteristic of the nation as it is of Congress. Forbearance, accommodation, pragmatism and a special kind of patriotism have been hallmarks of Congress' traditional code. Yet there has been a rise in the number of ideologists and moralists in Congress and the country and a decline in the spirit of accommodation and toleration. Personal interest and, in some cases, what would appear to be personal religious revelation all too often have taken precedence over group concerns, not to mention the national interest. And Congress' capacity to serve as a unifying force has suffered as a consequence. Its customary skill in blurring class, ethnic, social, regional and age-group divisions has diminished. This behavioral crisis, in truth, is a crisis of the moderates, on and off Capitol Hill. But at least those forms, those procedures, those practical necessities that are geared to sustaining moderation are pretty much intact.

It has been said that institutions are the prime product of civilization and that adapting institutions are the salvation of a civilization. Hopefully, Congress is such an institution, although further adaptations are needed, especially in the administrative oversight and fiscal management areas.

In the final analysis, however, it is our responsibility, as citizens, to adapt also. As this relates to Congress, it involves comprehending fully the long-run implications of proposals advanced by the critics and above all recognizing that Congress, as a representative body, cannot achieve changes that go far beyond the bounds set by our social system and by public opinion. The challenge to Congress, then, is as much ours as theirs. And this is as it should be in a free system.

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committee guide

The League of Women Voters of the United States

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U.S. CONGRESS
Number 6

THE CONDITION OF CONGRESS

by David B. Walker

U.S. CONGRESS: An evaluation of congressional structures, procedures, and practices, and their effect on responsive legislative processes --LWV study adopted May, 1970

We are pleased to distribute a speech presented to the Fairfax, Virginia League March 27, 1971 by David B. Walker, assistant director of the Advisory Commission on Intergovernmental Relations. We have no position on the judgments and analysis in the speech, but we feel it adds a valuable dimension to our study.

Aside from our national party system, Congress is the most difficult of all American political institutions with which to come to grips. As an instrument of government, it is more human than organizational, and more complex than simple—despite the simplicities of some of its members. And as the most human and complex of the three branches of our national government, paradox is one of its basic characteristics.

Functionally, it represents, yet governs. Constitutionally, it is a national institution that honors federalism. Philosophically, it is democratic in its own qualified sense of the word, yet basically aristocratic in its value system. Procedurally, it can be fast and efficient when confronted with a railway strike, yet slow and dawdling with civil rights. In terms of leadership it is patriarchal, yet at times, youthful. In matters of influence, it is still powerful, yet frequently powerless to act. In its deportment, it sometimes is dignified and other times, supremely disorderly. In its collective and individual interest, it is petty and parochial in some matters, yet Olympian in others. And finally, in terms of history, it is a timeless institution not wholly oblivious to timely action.

In short, as a paradoxical, complex and very human institution—constituting one-third of the federal government and possessing a broad mandate over the affairs of the republic—Congress must be approached and analyzed with the greatest of respect, caution and affection.

What are the challenges to Congress? As I see it, they are basically twofold: There are the immediate pressures that emerged during the sixties, and there are the long-range challenges that have evolved since 1900. Five historic developments are responsible for the latter.

First, the rise of the United States as a world power at the outset of this century and, during the past 30 years, the assumption of the rigorous role of "Defender of the West" constitute a major twentieth-century challenge to Congress and the nation.

Second, the emergence of a national government which regulates, reforms and stimulates our domestic economy and society provides another challenge that Congress did not have to cope with in the nineteenth century. This development, which began in the Progressive Era of Theodore Roosevelt and Woodrow Wilson, has transformed Congress' traditional functions of lawmaking, budgeting and administrative oversight.

Third, the steady growth of the national government's position in the federal-state-local partnership—aiding, stimulating, encouraging, and influencing state and local governments largely through categorical grants-in-aids—has added complex and frustrating dimensions to Congress' nineteenth-century role as "Umpire of the Federal System."

Fourth, our activist role in foreign policy and Washington's role in domestic affairs has resulted in the rise of a powerful and popular presidency (but not as powerful or popular as some would have it) and a sizable, specialized and politically skillful civilian and military bureaucracy. These new centers of power and authority within our federal government create still another threat to the institution that was paramount during most of the last century.

Fifth, parallel emergence of a plethora of public and private pressure groups operating at the national level has severely tested the ability of Congress to reflect and resolve the narrow demands of special interests that would, if not checked or compromised, snap the fragile bonds of social cohesion and give the nation the fanaticism and fratricidal tendencies of a multiparty system.

These five major developments in this country have challenged Congress' traditional power position and functions. They threaten its title of "the world's best hope of representative government." And they compel a congressional response.

All of these long-range pressures are reflected in the more immediate questions that have faced Congress during the past ten years. Both qualitatively and quantitatively, America has never had to cope with the kinds of questions that

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now face us. The pressures of 24 "cold war" and seven "hot" years, the perilous politics of race and law and order; the unevenness of our economic development and our environmental concern; the special social problems of the aged, the poor, and the young, of educational and housing opportunities and health care; the manifold difficulties created by mushrooming metropolitanization and by eroding rural areas; the jurisdictional, fiscal, and servicing burden facing many local governments; the gap between state responsibilities and the performance of some states; and the fiscal and managerial headaches in administering over 430 federal grants-in-aid—these have created a new and lengthy agenda of the nation's unfinished business. New goals, new attitudes and new understanding are required if we are to surmount these international and national hurdles; yet the nation and both of our major parties are divided in their response to practically all of these critical issues. Congress obviously reflects this condition. But it cannot escape its responsibility of a response. And this in the final analysis is the supreme challenge to Congress today.

What has been the congressional response? Scholars, journalists and even members of Congress have written extensively concerning this crisis in Congress. The central issue that dominates these works is how well Congress has adjusted to these long- and short-range challenges. On this question, four schools of thought emerge.

Archconservatives, like Professors James Burnham and Alfred DeGrazia claim that Congress has overresponded to these 20th-century developments and, in effect, has sold out to the presidency, the bureaucracy and interest groups.

Moderate conservatives, like William S. White, Neil MacNeil and Professor Ernest Griffith, defend the congressional status quo and assert that our national legislature has developed adequate mechanisms for coping with its increasing responsibilities while maintaining its independence and authority.

Hostile liberal critics, like Professor James MacGregor Burns and former Senator Joseph Clark, and the Committee for Economic Development, among others, find the response of Congress completely inadequate and consider it a major factor in the "Deadlock of Democracy."

Friendly liberal critics, like Stephen K. Bailey, find that a quiet and salutary revolution has taken place in Congress, reflective of fundamental changes in American society during the past decade. A "benign" coalition has emerged which has produced a cosmopolitan "New Congress."

In my opinion, the truth lies somewhere between Griffith's and Bailey's defense and Burns' criticism. Congress has, in fact, responded to the five challenges confronting it in this century and is not ignoring the pressing problems of the 1970s. Moreover, it has responded in a far more dedicated, democratic and deliberative fashion than the hostile liberal critics are willing to concede. Yet its response has been far less effective, expert and efficient than the moderate conservatives allege, and the strength of the "benign" coalition is far less certain than Professor Bailey would have us believe. And herein lies the crisis of Congress as I see it.

Most of the critics, it would seem, err in their diagnosis of Congress' ills and the prognosis of the cure. Some even confuse signs of good health with symptoms of some major malady. All too frequently, this confusion in the minds of the critics stems from a failure of Congress to act in accordance with their personal predilections, from a failure on their part to note or appreciate certain recent changes in Congress and the country, or from a basic intellectual failure on their part to understand or at least a profound reluctance to accept the nature and purpose of the American and political system. Let me explain with some case studies.

Representativeness: First, it no longer is a matter of Congress not faithfully representing and reflecting the opinions of the electorate, as some critics contend. On the contrary, Congress represents rather ingeniously the divergent streams of opinion found in the body politic. What is more, many members are in a better position now not only to reflect but to transcend opinions. And this latter, essentially Burkeian, approach to representation is also a vital necessity in a free system where the public is enthroned.

Despite its magnificent malapportionment—thanks to the Connecticut Compromise—and despite its concomitant love of smallness, the Senate for a dozen years has been the more liberal of the two bodies, due to the 1958 elections, the increasing urbanization in all but a handful of states and the resulting greater heterogeneity of most senators' constituencies. Not to be overlooked here is the fact that the multiplicity of pressures now milling around most senators gives them, in effect, greater not lesser, discretion on a host of policy matters. It gives them the chance to become a profile in courage, if you will, to adhere to Edmund Burke's precept that a legislator should not be a slave to constituency opinion, but represent the nation as well by speaking and voting his convictions and conscience.

In the House, largeness not smallness has always counted. Population as the basis of representation was to make it the "People's House," as Madison put it, and thus it has been since the First Congress assembled. Yet numbers today mean more than ever before, due to the reapportionment cases, the 1965 Voting Rights Act, and *Oregon* v. *Mitchell* (1970) which upheld the congressional extension of the 1965 Act to give 18-year-olders the vote, but only in federal elections. Reapportionment has not worked miracles, but it has produced more black members (12), more urban members and many more from the suburbs, which is after all where the votes now are. The 1965 Act has swelled the ranks of southern Negro votes to the 3.3 million level and this has had a significant effect on state and local elections, but thus far a less perceptible impact on House contests. The vote for 18-year-olders can not yet be gauged, but if the voting behavior of the 21-to-29 age group is a guide, the impact will be slight since their turnout will be light.

Very few formal barriers then exist regarding voter participation in House elections. Gerrymandering, or the science of electoral geometry, is still a problem; though increasing two-partyism and possible court challenges serve as a check on this ancient partisan stratagem. And apathy, alienation and sometimes fear produce low turnouts and some underrepresentation for the young, the poor, and racial minorities; but these are psychic hurdles to overcome and constitute practical political problems that reform critics might well focus their attention on.

To sum up, representativeness is not a basic problem in Congress. Quite the reverse, in terms of basic attitudinal positions, Congress contains within its two chambers a wide range of opinion. What is more, given their basic differences in tenure and constituency, the House tends to reflect more of a "Middle America" outlook and the Senate, more of a concern for "Other America." In short, Congress reflects and represents most of the nation and the critics have trouble with this fact.

Errandboyism: Second, the tendency of many congressmen to spend upwards of half their time on constituent matters—errandboy activities, if you will—has been condemned by those critics who think a legislator should merely legislate. Bills, amendments, committee work and specialization in a particular legislative field, of course, are critically important. No member earns the respect of his peers if he ignores these matters. But Congress also has the task of humanizing government, of serving as a link between the electorate and the national government Moreover, this function is more significant now than ever before, given the increasing tendency of government—all governments—to appear as a faceless bureaucracy to the citizenry. Not to be overlooked here are the subtle factors at work that keep this function from getting out of hand: most of it is done by staff, not by members; House members with their two-year terms spend more time on it than senators; and senior members of both houses, especially those with less competitive constituencies, are least bothered by this role (sometimes to their regret).

Seniority: Third, for at least two generations, the seniority system and its tendency to reward the aged has been a perennial point of hostile, usually liberal, attack. Seniority, senility and standpattism usually constitute the three prongs of the critics' attack. Yet, of the 17 chairmen of the Senate's standing committees, nine would be classed as liberal or moderate in outlook and eight as basically conservative. Of the 20 such chairmen in the House, 13 fall in the liberal-moderate bracket. To put it more dramatically, who in the House initiated the ultraliberal proposal for direct election of the President (a proposal by the way, with which I strongly disagree)? The oldest representative of all, Mr. Celler of New York, 82, and chairman of the Judiciary Committee, ably supported by Mr. McCulloch of Ohio, the ranking minority member of the committee and 70 years of age.

But what of seniority as a device for determining congressional committee leadership? It may not be perfect, but it is as good as any of the alternatives proposed. But why? It applies only to committees, not to floor leadership positions and not always to subcommittee chairmen. It involves the years spent on an individual committee, not overall tenure in the House or Senate.

It now is subject to possible modification by a vote of the caucus or conference, thanks to the party reforms instituted this January. Yet, no committee chairman designated on the basis of seniority was rejected by Senate Democratic conference or House Democratic caucus. And no ranking Republican was dislodged by votes in the House Republican Conference. This reform and these results tell us much about seniority, the system and congressional attitudes.

What checks are there on seniority and the potentially arbitrary behavior of chairmen that goes with it? The ratifying vote of caucus, despite its modest beginnings, does constitute a "gun-behind-the-door" emergency kind of check. The legislative reorganization of 1946 and that of last year have sought to democratize committee procedures but with varying results. More significantly, a majority on a committee, if it is a determined majority, can always curb the worst behavior of an autocratic chairman, and this has happened on occasion. In addition, a chairman totally out of step with his committee and the leadership usually has a difficult time of it. Of far greater significance than most of these limits, however, is the impact of spreading two-partyism. Few states today are one party in character and this fairly recent development has begun to have an effect on the operations of the seniority system. Fewer southerners now hold chairmanships than in generations past. In the Senate, eight of the 17 posts are held by nonsoutherners and in the House, 13 of the 20.

When we hear the charges against the seniority system, it behooves us to remember these recent developments. When we hear of the alternatives, it behooves us to ponder their implications, since most of them ignore the fact that seniority tends to strengthen Congress' independence, but at this point in time not to the extent of insulating it from pressing national policy concerns. It helps keep interest groups and the executive branch in check; both would be in the middle of things, were chairmanships up for grabs every two years. It also has a way of protecting minority rights. At times, seniority admittedly appeared to be the South's continuing revenge for Appomattox but in future other groups, especially outside the swelling and well-represented suburbs may come to appreciate its minoritarian implications.

The Filibuster: Fourth, critics have focused as much attention on the alleged evils of the filibuster as on seniority and with nearly as many misguided arguments. The Senate is the most powerful and freest second chamber of any democratically elected representative body in the world. Ironically, the filibuster has a lot to do with this happy condition. House members may introduce constitutional amendments to convert it into an American House of Lords, with as little power. Presidents may fume about Senate obstructionism, and cartoonists may have a delightful time depicting a paunchy, puffy-cheeked, gaping-mouthed senator labeled filibuster. But some of us know better.

A prolonged debate in the Senate only occurs when the vital interests of significant groups are being threatened. It is a protection then for minority rights and over the long vista of Senate history, it has been used by progressives and liberals far more than by conservatives. What is more, with Rule XXII, the Senate's difficult-to-apply cloture rule, a filibuster can be ended if national sentiment opposes the talkers. And this happened with the three historic civil rights acts enacted in the last decade.

In philosophic terms, the filibuster is a device to curb rampant, arbitrary action by the temporary majority of the day. In the context of history, it has been used for purposes linked to the dead hand of the past, as well as those involving a long look at the future—as in the case of T.V.A. In practical legislative terms, it means that a bitterly resented, highly controversial measure will have to get more than the usual simple majority and this means that once it becomes the law of the land, it will have a greater chance of being implemented, not ignored.

The filibuster, then, involves far more than mere Senate procedures. It relates to a cluster of core principles that would be directly affected were it scrapped.

The Rules, Generally: Fifth, critics generally go beyond the filibuster and castigate the bulk of the rules of Congress as archaic, arbitrary and undemocratic. Yet how much insight is there in this kind of charge? The rules of the House are essentially majoritarian, but less than they were threescore years ago and the Senate rules are about as limited majoritarian as they have ever been. In light of some proposed reforms, however, one could argue that we need more archaic rules rather than new ones, since most of the defective rules are comparatively recent in origin. The Senate, after all, had a rule of relevancy until 1872. The House Rules Committee has been an independent source of sometimes arbitrary authority only since 1911. And the Speaker's reduced power position also dates from that Progressive Revolt in 1910-1911. In this connection, the failure of a majority of the House members to enact the "21-day rule" in January merits the attention of those who can not understand why a majority would opt for a procedure that is antimajoritarian. To be somewhat facetious, reform in the House might well assume the guise of a restoration of the procedures that prevailed under Uncle Joe Cannon; and in the Senate, those that applied during the administration of Ulysses S. Grant—with Rule XXII added. Neither is likely to occur (or at least soon): the rules of both chambers are linked inextricably to the purposes and value system of a majority of the men as well as the party mechanisms of Congress today.

Minor reforms, of course were achieved last year with the Legislative Reorganization Act of 1970. But does eliminating a House member's right to require the reading of the previous day's journal constitute drastic change? Does allowing committees to sit when the House is in session amount to an overturning of the traditional system? Does making committee roll-call votes public and permitting House teller votes to be recorded add up to major innovations?

These and other changes under the act do constitute expediting and antisecrecy improvements, but none are drastic and all are in harmony with preserving the committee system and with balancing minority rights with majority rule.

The Club: Sixth, the role of the Club, as William S. White terms it, or of the Establishment, as former Senator Clark designates it—in short, of the congressional hierarchs—has also been subject to liberal attacks. Yet, most legislative bodies possess informal groups of this type, and the traditional code governing its admission policies is a commendable one. Experience, hard work, a respect for tradition, toleration, and the capacity to accommodate are certainly praiseworthy norms. The real criticism of the

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committee guide

The League of Women Voters of the United States

U.S. CONGRESS--No. 5

U.S. CONGRESS: AN EVALUATION OF CONGRESSIONAL STRUCTURES, PROCEDURES, AND PRACTICES, AND THEIR EFFECT ON RESPONSIVE LEGISLATIVE PROCESSES

Pub. No. 428-30¢ April, 1971

To assist resource committees who wish to use the "case study" approach in general membership discussions, this committee guide outlines the path of four bills in Congress. The first, HR 17654, The Legislative Reorganization Act of 1970, had a surprisingly easy time winning Congressional approval. The other three--HR 18214 (to establish a Consumer Protection Agency), HR 18970 (the Trade Bill), and SJRes 1 (for direct election of the President) were ultimately "killed" by the 91st Congress.

None of the bills which were "killed" was defeated by a vote on its merits. The bill to establish a Consumer Protection Agency was not given floor clearance by the House Rules Committee. The amendment for the direct election of the President was successfully filibustered in the Senate. The Senate Finance Committee attached the trade and welfare reform legislation as riders to the Social Security Act, thus further complicating already complex and controversial issues. With the session drawing to a close, the Senate simply did not have the time or the will to fully consider each of the issues separately, and the trade bill fell by the wayside.

Rules and procedures are strategies used in advancing or defeating legislation. If a majority is solidly and enthusiastically behind a bill, it is difficult to block its passage. But if an intense and determined minority seeks to do so, the very complexity of the congressional system

Our apologies for a typographical error in Committee Guide #4: on page 6, under "Calendars", the definition for Consent Calendar should read non-controversial bills.

Senate floor debate on the Harris-Mathias resolution to require the full Senate to vote separately on every committee chairman and ranking member is contained in the March 16, 1971 Congressional Record, pp. S3327-3350. Copies may be ordered for 25¢@ from the Government Printing Office, Washington, D.C. 20402. Make check or money order payable to the Superintendent of Documents.

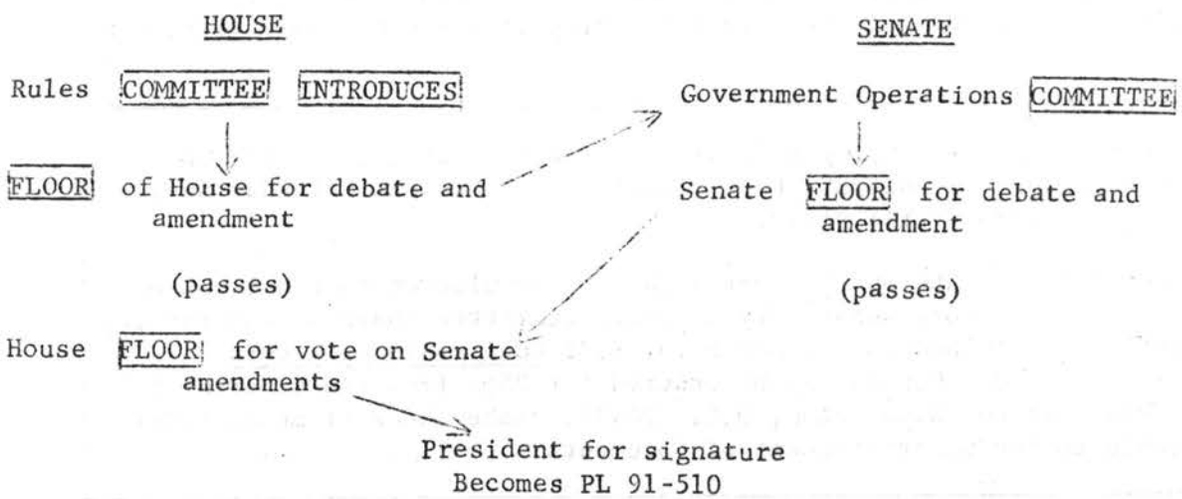
works in its favor. "The burden of legislative proof" lies with the proponents of change and controversial legislation. In his book, The Congressional Process, Lewis A Froman concluded that:

> "The entire congressional system is so complicated and involves so many steps that status quo proponents will always be favorably situated in at least one of its many steps...In Congress, the bargaining process probably favors intense minorities rather than apathetic majorities. It is only when the majority is intense that it might prevail over an intense minority." p. 190

Legislation is often "defeated by the rules" because it lacks solid and committed support. On issues with strong emotional and popular appeal, the complexities of the legislation are not always readily apparent to the observer. Thus, congressmen who have reservations about particular provisions of the legislation may not want to be recorded as voting against it. In this situation, it becomes relatively easy for its opponents to prevent a vote; their strategies may have the tacit approval of congressmen and senators who have felt obliged to publicly support the bill. The amendment for the direct election of the President is a good case in point. A constitutional amendment requires a 2/3 majority in both houses of Congress before it can be referred to the states. The proposed amendment was filibustered in the Senate, where a motion to invoke cloture on debate and stop a filibuster requires an identical 2/3 vote. Since it was impossible to obtain the needed 2/3 to stop the filibuster, is it fair or accurate to say that the filibuster defeated the proposal?

The legislative stories behind the fate of these bills do not fully explain why one passed and three failed, but they do show quite clearly how procedures are used in determining the outcome. When, as in the case of the Legislative Reorganization Act, there is general agreement on the content and purposes of the legislation, the procedural path is relatively straight-forward and smooth, but when agreement is lacking, the course becomes increasingly complex.

HR 17654: The Legislative Reorganization Act of 1970



BACKGROUND

The movement for legislative reorganization had begun well before the second session of the 91st Congress formally considered the Legislative Reorganization Act of 1970. A Joint Committee on the Organization of Congress was created in 1965. On March 7, 1967, the Senate, by a 75-9 vote adopted S 355, a bill incorporating many of the Joint Committee's recommendations for reform. The bill was then sent to the House, where the Speaker referred it to the House Rules Committee. The Rules Committee never recommended the release of the bill and it died in the committee. Because pressure from young reformers of both parties was building steadily, Rules Committee Chairman William Colmer (who was thought to be opposed to Congressional reorganization) in April, 1969, appointed a special subcommittee to consider legislative reform. The committee was chaired by B.F. Sisk of California, a "moderate" who had the respect of liberals and conservatives alike.

COMMITTEE WORK AND INTRODUCTION

The Sisk subcommittee held hearings on legislative reorganization and drafted a new bill which they reported to the full Rules Committee. After more than a year's work, the full Rules Committee unanimously reported HR 17654 on June 17, 1970. Unlike S 355, it proposed no changes in committee jurisdiction. The bill was reported with a modified "open rule": i.e. the bill would be open for any amendments from the floor except those affecting committee jurisdictions.

PROVISIONS

HR 17654 contained provisions for regularizing committee procedures, increasing sources of information available to congressmen (a Joint Committee on Data Processing* was proposed), opening committee proceedings to the public, and permitting the broadcasting of committee hearings. It did not touch the seniority system or propose any changes in committee jurisdictions.

FLOOR DEBATE

On July 13th, the bill came to the House floor for debate. It was considered with the House sitting as the Committee of the Whole under a rule allowing four hours of general debate followed by amendments under the five-minute rule. (No member may speak more than once or for no longer than five minutes on any proposed amendment). The open rule gave House reformers a chance to broaden the bill. It also held some danger. If too many and too controversial amendments were added, the bill might collapse of its own weight. To avert this possibility, a bipartisan coalition of reformers decided on an amendment strategy: they drew up a list of 10 proposed amendments which would have top priority. The most important of these was the Gubser-O'Neill amendment to permit the recording of "teller" votes to end the practice whereby votes on amendments in the Committee of the Whole were taken by an anonymous "headcount" of members as they filed down the aisle. In all, 65 amendments were presented on the floor: 36 were accepted and 29 rejected.

* Not in final version of the bill as it passed the House.

July 14: House adopted amendment to require that all roll-call votes in committee be available to the public (voice vote).

July 27: Amendment for recorded teller vote adopted (voice vote).

July 28: Amendment proposing modification of seniority system rejected (73-160 teller vote).

The House debate took 11 full days scattered over almost 10 weeks. Two long recesses and other legislative business prevented speedier consideration. On Sept. 17, HR 17654 passed the House on a 326-17 roll-call vote and was sent to the Senate.

SENATE COMMITTEE CONSIDERATION

Referred to Government Operations committee. Prompt consideration and report to floor.

FLOOR DEBATE

Oct. 5 & 6, 1970: Senator Lee Metcalf, the floor manager, proposed 13 amendments; all were accepted by voice vote. As in the House, amendments to modify the seniority system were rejected.

Oct. 6: HR 17654 was passed by a vote of 59-5.

FINAL CONGRESSIONAL ACTION

Oct. 8: The House votes to accept the Senate amendments. Thus no conference committee was necessary.

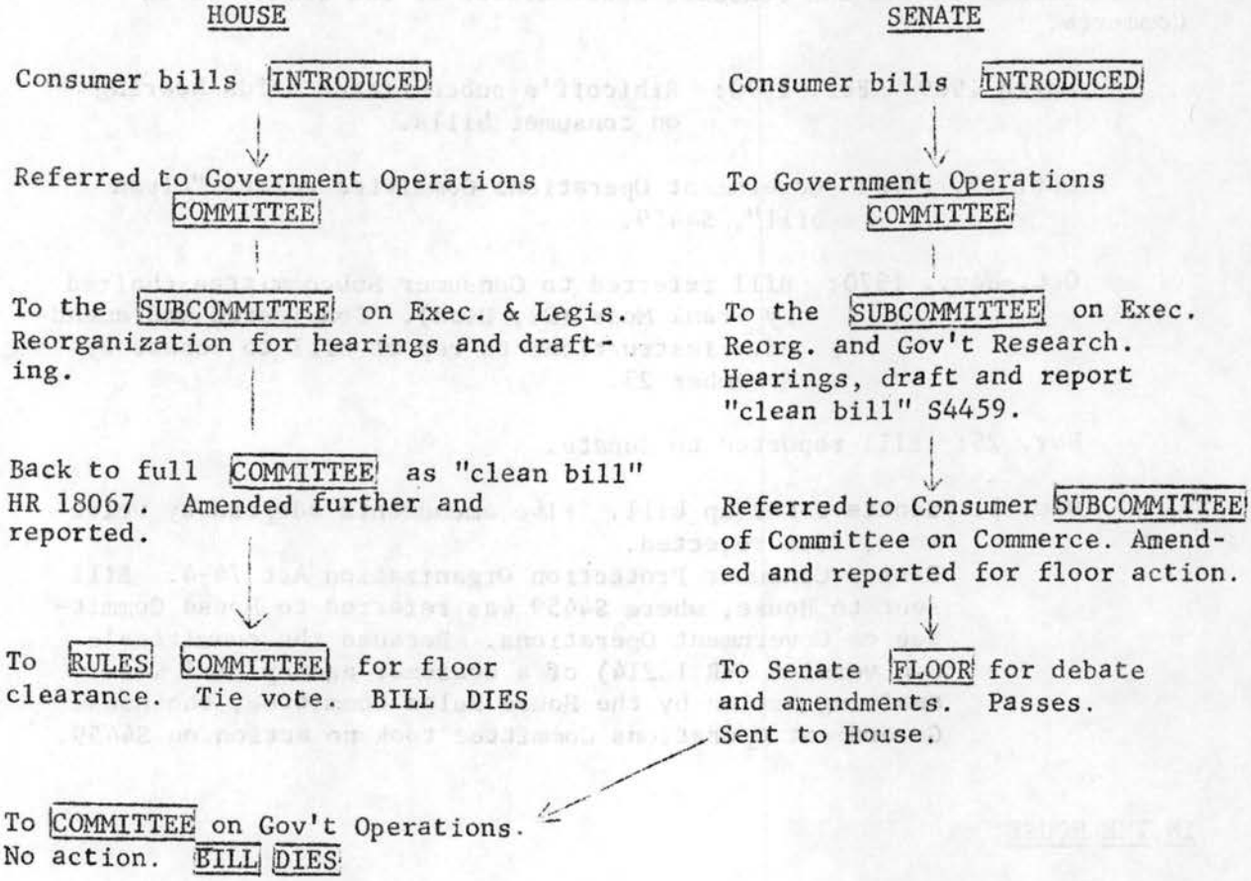
THE PRESIDENT SIGNS IT INTO LAW

Oct. 26: President Nixon signs the bill. It becomes Public Law 91-510 to take effect January 3, 1971

SUMMARY

Despite the long delay in getting a legislative reorganization bill to the floor of the House, once HR 17654 was brought to the floor for debate, its path was relatively smooth. The bill had the unanimous backing of one of the most powerful of the House committees. Its supporters had generated press publicity favorable to its passage, and with an election coming up in November, few members wished to vote against "reform". While the party leadership organizations were not in the forefront of the legislative maneuvers, the bill appeared to have their tacit consent. Additionally, the strategy of avoiding controversial amendments prevented strong opposition from coalescing.

CONSUMER PROTECTION AGENCY



HR 18214 and S 4459 - Consumer Protection Agency

Companion bills to establish an independent consumer protection agency were considered by both houses of the 91st Congress. The Senate passed S4459, but HR 18214 died in the House Rules Committee.

The House bill would have established by law the position of consumer adviser in the White House. The Senate bill called for a three-man Council of Consumer Advisers in the President's Executive Office. Most of the controversy over the bills centered on what kind of a governmental organization to create, and what powers and responsibilities to assign it.

In his October 30, 1969 message to the Congress, President Nixon proposed establishing a Consumer Protection Division in the Department of Justice, and a White House office of Consumer Affairs. He did not propose or endorse creating a new independent agency.

IN THE SENATE

Abraham Ribicoff of Connecticut, chairman of the Executive Reorganization and Government Research subcommittee of the Government Operations Commit-

tee, was the chief Senate sponsor of the consumer agency legislation. The bill which finally passed the Senate was the product of the work of his subcommittee and the Consumer Subcommittee of the Committee on Commerce.

March 1969 - Feb. 1970: Ribicoff's subcommittee holds hearings on consumer bills.

Oct. 12, 1970: Government Operations Committee refers "clean bill", S4459.

Oct.-Nov., 1970: Bill referred to Consumer Subcommittee chaired by Frank Moss (D., Utah). Considered and amended. Instructions to report bill to Senate by November 23.

Nov. 25: Bill reported to Senate.

Dec. 1: Senate takes up bill. Five amendments adopted by voice vote, five rejected.
Passes Consumer Protection Organization Act 74-4. Bill sent to House, where S4459 was referred to House Committee on Government Operations. Because the committee's own version (HR 18214) of a consumer agency bill was awaiting action by the House Rules Committee, the House Government Operations Committee took no action on S4459.

IN THE HOUSE

Leading advocates and sponsors for the consumer agency legislation in the House were Rep. Benjamin Rosenthal (D., N.Y.) and Florence Dwyer (R., N.J.).

Feb. 4, 1969: Rep. Rosenthal introduced HR 6037 and companion bills. The bill had almost 100 co-sponsors.

Sept. 15, 1969: Rep. Dwyer introduced HR 13793, later seen as more similar to the administration proposals.

Sept. -Nov. 1969 & April 1970: Subcommittee on Executive and Legislative Reorganization of the Committee on Government Operations holds hearings on HR 6037 and related bills. After the hearings, Dwyer and Rosenthal compromise their versions, with Rosenthal substituting an independent agency for the cabinet level department he had initially proposed. Subcommittee reports to full committee a consumer organization bill which included provisions from several bills: HR 18067.

July 30: After consideration and amending, Government Operations Committee reports bill as HR 18214. Bill referred to House Rules Committee for clearance. No action was taken for several months.

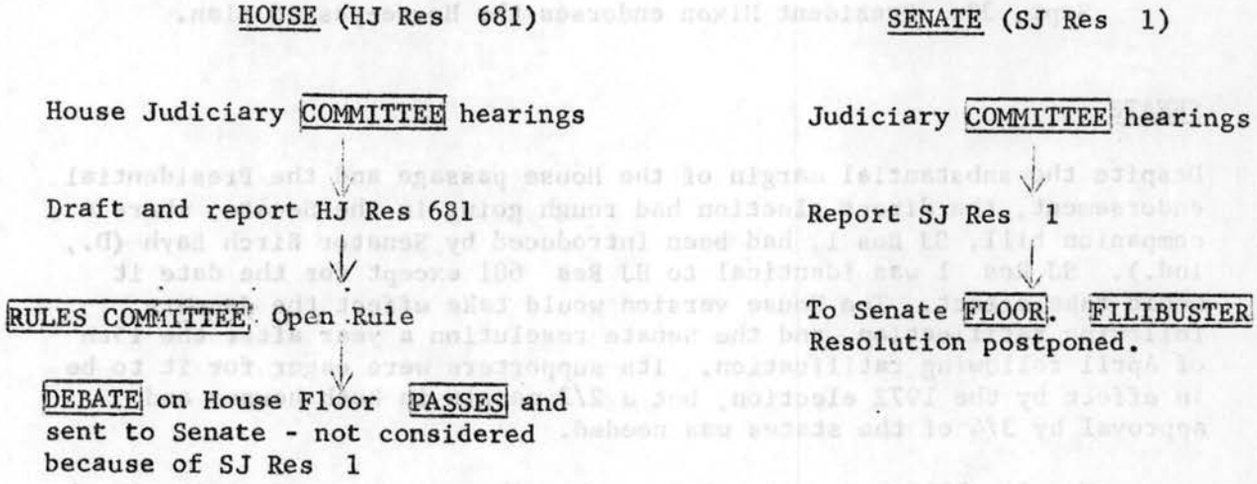
Dec. 7: A motion to clear HR 18214 for floor consideration was lost when a Rules Committee vote ended in a 7-7 tie. Representative Richard Bolling, who reportedly favored the legislation, was out of town on vacation when the vote was taken.

SUMMARY

The defeat of HR 18214 by Rules Committee action was not an unusual occurrence. The Rules Committee has often been a "graveyard" for controversial legislation at the end of a session. At times, it reflects the indecision of members and/or the leadership by postponing action on major bills. While the bill theoretically might have been brought to the floor through suspension of the rules, the procedure would have been cumbersome. On the first and third Mondays of every month, a motion to suspend the rules is in order, but the Speaker has absolute discretion in recognizing members who wish to make such a motion. Additionally, suspension of the rules requires a 2/3 majority vote, and it is doubtful that many votes could have been obtained so late in the session.

Prospects for consumer agency legislation appear brighter in the 92nd Congress. Speaker Carl Albert has pledged an "all-out" drive on its behalf. Government Operations Committee chairman Chet Holifield of California has predicted that the Rules Committee will clear the bill for House consideration.

AMENDMENT FOR DIRECT ELECTION OF THE PRESIDENT



The proposal to amend the Constitution of the United States to abolish the electoral college system and provide for direct election of the President was in large part a direct result of President Nixon's narrow popular vote margin in key states in the 1968 election. Electoral reform, in one form or another, apparently had the support of an overwhelming majority

of the American people. According to a public opinion poll, 80% of the American people favored a method of direct election of the President. But the proposal died in the Senate.

HOUSE

The first formal consideration of the electoral reform proposals was in the House Judiciary Committee. In its hearings, the committee discussed three alternative plans for electoral reform: district, proportional, and direct.

April 29, 1969: HJ Res 681 reported from the committee. It was a "clean bill" authorized by a 29-6 vote of the committee and drawn up by committee chairman Emanuel Celler. Its provisions:

--abolish the electoral college
--direct election of the President
--40% minimum to elect President and Vice-President, with a run-off if no candidate get 40% of the vote.

Sept. 10-18: House debate, much of it centering on the 40% provision. Amendment by Congressman Dowdy to substitute a district plan for the direct election lost 159-192 on a teller vote. A last minute attempt to recommit the resolution to committee lost, 245-162.

Sept. 18: It passes, 339-70.

Sept. 30: President Nixon endorses the House-passed plan.

SENATE

Despite the substantial margin of the House passage and the Presidential endorsement, the direct election had rough going in the Senate, where a companion bill, SJ Res 1, had been introduced by Senator Birch Bayh (D., Ind.). SJ Res 1 was identical to HJ Res 681 except for the date it would take effect. The House version would take effect the January following ratification, and the Senate resolution a year after the 15th of April following ratification. Its supporters were eager for it to be in effect by the 1972 election, but a 2/3 margin in both houses and approval by 3/4 of the states was needed.

May 26, 1969: Hearings before the subcommittee on Constitutional amendments of the Judiciary Committee.

Aug. 14, 1970: The full Judiciary Committee reports SJ Res. 1. (The action reversed a 1969 action of the Constitutional Amendments Subcommittee approving a "district" plan for electoral reform).

Sept. 8: Senate debate begins. The floor manager for SJ Res 1 was Sen. Birch Bayh. At the start of debate, he claimed to have 58 votes supporting SJ Res 1 (the 2/3 vote required, with all senators voting is 67). As in the House, much of the debate centered on the run-off provision. The opposition decided on a strategy of "undeclared" filibuster.

Sept. 17: Attempt to end debate failed, 54-36 (again a 2/3 majority of those present and voting is needed. The vote fell 6 short).

Sept. 24: Bayh stops Senate from considering other business by objecting to unanimous consent request to put debate aside and to allow committees to meet while Senate was in session. Senate had been operating on "2 shift" schedule by debating SJ Res 1 and other business.

Sept. 29: Again cloture fails, 5 votes short, 53-34. This vote is seen as killing the amendment. Bayh agrees to unanimous consent request to put debate aside.

SUMMARY

In the Senate as in the House, support and opposition to the resolution were bipartisan. The proposal had been endorsed by the President and had the active lobbying support of the American Bar Association, the AFL-CIO, the Chamber of Commerce, and the League of Women Voters. A clear majority of the senators favored the resolution, but it was doubtful if a 2/3 vote could have been obtained. Given this uncertainty, it is interesting to speculate on why the opposition decided on a filibuster instead of having the matter brought to a vote. Senator Sam Ervin, who lead the opposition, stated that the issue was too important to be settled without extended debate, and he cautioned the Senate against making a hasty decision. As a matter of principle, some senators will not vote for cloture, but it may be that the filibuster had the tacit support of senators who had private reservations about the resolution, but felt they could not vote against direct election.

Expressed opposition to the resolution came mainly from a coalition of southern and small state senators who feared losing the advantages their states gain from the electoral college system, and from some liberals who feared that the direct election method would diminish the effectiveness of large minority groups in urban areas.

TRADE BILL

HOUSE

HR 14870 (administration's request) & HR 16920 (quota bill) INTRODUCED

↓

Referred to Ways & Means COMMITTEE

↓

Hearings, executive sessions, Drafting

↓

Report HR 18970, a combination of the two--strict orders for closed rule.

↓

RULES COMMITTEE grants closed rule

↓

Debate on House FLOOR Opponents try for open rule. Fail. Bill passes.

SENATE

Referred to FINANCE COMMITTEE It attaches provisions of HR 18970 and HR 16311 to HR 17550 - Social Security Amendments of 1970. Reports HR 17550.

↓

FLOOR debate. FILIBUSTER Trade provisions separated from Social Security.

↓

Referred back to Finance COMMITTEE DIES

BACKGROUND

The Trade bill was one of the most controversial and complex pieces of legislation to be considered in the 91st Congress. Foreign trade policy had not been reviewed for eight years. Domestic inflation, continuous deficits in U.S. balance of payments, the growth of multi-national corporations, the difficulties experienced by some American industries in competing with foreign imports and the rising unemployment rate all contributed to the movement for revision of U.S. trade policy.

ADMINISTRATION REQUEST

The Administration's draft trade legislation was sent to Congress November 18, 1969. It was introduced as HR 14870 by Rep. Wilbur Mills, House Ways and Means Committee Chairman, and Rep. John Byrnes, ranking Ways and Means minority member. Its provisions included:

--reestablishing President's authority to reduce tariffs and grant authority to eliminate American Selling Price
--liberalizing provisions for giving adjustment assistance relief to industries, business and workers adversely affected by imports
--strengthening Presidential authority to retaliate against unfair trade practices by other nations.

Congressmen and senators from areas where industries (especially shoe and textile manufacturers) were facing serious economic difficulties were under strong constituent pressure to vote for protectionist legislation. Because of these local pressures, even some committed "free traders" felt obliged to vote for quotas. Had the bill come to a vote, it might well have passed the Senate.

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The Congress Committee has sent complimentary copies of the U.S. Congress Facts and Issues, "Architects of Compromise... Agents of Change?" to all members of the House and Senate.

Have you ordered copies for your League? They can be obtained from the National Office for 35¢ @ or 10 for $2.80. (Pub. No. 418)

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committee guide

The League of Women Voters of the United States

U.S. CONGRESS --No.4

U.S. CONGRESS: AN EVALUATION OF CONGRESSIONAL STRUCTURES, PROCEDURES, AND PRACTICES, AND THEIR EFFECT ON RESPONSIVE LEGISLATIVE PROCESSES

Pub. No. 423-25¢ March, 1971

PUBLICATIONS:

Watch for the March Voter! The issue will feature a "Check Your Congress I.Q." quiz and an article on the organization of the 92nd Congress.

Enclosed you'll find a copy of the first U.S. Congress Facts and Issues, "Architects of Compromise...Agents of Change?" (Pub. #418, 35¢). Order extra copies now! Discounts for members start at 10 copies (10 for $2.80). Before your membership discussions, you'll want as many members as possible to read them. This F & I gives a general overview of how Congress works and discusses some of the pressures and forces affecting its performance. It's designed as an aid for the general membership as Leagues move from the resource committee stage to member discussion and evaluation. As you read and discuss it, consider:

What is the role of Congress in our political system? What are its responsibilities?

How is power distributed in Congress? What effects does this have on the outcomes of the legislative process?

How are Congressional rules and procedures used? What effects do they have on the outcomes of the legislative process?

At its meeting in December, the U.S. Congress committee tentatively planned a series of four Facts and Issues to serve as a basis for local League member discussions during spring, fall and winter, 1971.

#1 - a general introduction to the workings of Congress: "Architects of Compromise...Agents of Change?"

#2 - a discussion of minority rights and majority rule and responsibility

#3 - focus on proposed changes and possible effects of reform

#4 - analysis of related issues: campaign financing, ethics, etc.

The committee is also planning short case studies for distribution to resource committees later this spring.

CONSENSUS:

Our target date for consensus is Winter, 1971. The Congress committee will meet in May after Council to determine the areas for focus in consensus meetings. To make the study manageable, the committee suggests Leagues concentrate on the internal rules and procedures of Congress: consensus questions will therefore probably not pertain to ethics, campaign financing, etc. In making its final decision, however, the committee will be guided by discussions at Council and input from local and state Leagues. If you have any suggestions, let us know!

RESOURCE COMMITTEE AIDS:

How We Get Our Laws
Chart (32"x44") - an excellent visual aid for group meetings. Diagrams the route of a bill through Congress. Available from the U.S. Chamber of Commerce, 1615 H St., N.W., Washington, D.C., 20006 at 50¢@.

The Congressional Process: Strategies, Rules and Procedures, by Lewis A. Froman, Jr., Little, Brown & Co., Boston, 1967, paperback, $4.75.
A thorough and intricate discussion of Congressional "rules of the game" and their implications. Highly recommended for resource committee use.

When You Write to Washington, LWVUS Pub. #349, 1971, 35¢.
Lists committees and their members.

THE 92nd CONGRESS ORGANIZES

Following is a list of the chairmen of the House and Senate standing committees and the elected and party leaders in both houses:

Senate Committees and Chairmen

Aeronautical and Space Sciences - Clinton P. Anderson, New Mexico
Agriculture and Forestry - Herman E. Talmadge, Georgia
Appropriations - Allen J. Ellender, Louisiana
Armed Services - John C. Stennis, Mississippi
Banking and Currency - John Sparkman, Alabama
Commerce - Warren G. Magnuson, Washington
The District of Columbia - Thomas B. Eagleton, Missouri
Finance - Russell B. Long, Louisiana
Foreign Relations - J.W. Fulbright, Arkansas
Government Operations - John L. McClellan, Arkansas
Interior and Insular Affairs - Henry M. Jackson, Washington
The Judiciary - James O. Eastland, Mississippi
Labor and Public Welfare - Harrison A. Williams, New Jersey
Post Office and Civil Service - Gale W. McGee, Wyoming
Public Works - Jennings Randolph, West Virginia
Rules and Administration - B. Everett Jordan, North Carolina
Veterans' Affairs - Vance Hartke, Indiana

House Committees and Chairmen

Agriculture - W.R. Poage, Texas
Appropriations - George H. Mahon, Texas
Armed Services - F. Edward Hebert, Louisiana
Banking and Currency - Wright Patman, Texas
District of Columbia - John L. McMillan, South Carolina
Education and Labor - Carl D. Perkins, Kentucky
Foreign Affairs - Thomas E. Morgan, Pennsylvania
Government Operations - Chet Holifield, California
House Administration- Wayne L. Hays, Ohio
Interior and Insular Affairs - Wayne N. Aspinall, Colorado
Internal Security - Richard H. Ichord, Missouri
Interstate and Foreign Commerce - Harley O. Staggers, West Virginia
Judiciary - Emanuel Celler, New York
Merchant Marine and Fisheries - Edward A. Garmatz, Maryland
Post Office and Civil Service - Thaddeus J. Dulski, New York
Public Works - John A. Blatnik, Minnesota
Rules - William M. Colmer, Mississippi
Science and Astronautics - George P. Miller, California
Standards of Official Conduct- Melvin Price, Illinois
Veterans' Affairs - Olin E. Teague, Texas
Ways and Means - Wilbur D. Mills, Arkansas

Elected and Party Leaders of the House

Carl Albert - Speaker of the House
Hale Boggs - Majority Leader
Gerald R. Ford - Minority Leader
Thomas P. O'Neill, Jr. - Majority Whip
Leslie C. Arends - Minority Whip

Elected and Party Leaders of the Senate

Spiro T. Agnew - President of the Senate
Allen J. Ellender - President Pro Tempore
Mike Mansfield - Majority Leader
Hugh Scott - Minority Leader
Robert C. Byrd - Majority Whip
Robert P. Griffin - Minority Whip

THE HOUSE

SENIORITY REFORM: At the beginning of the 92nd Congress both parties adopted changes in the seniority system which provide members with mechanisms to challenge the previously automatic committee promotions by seniority. The changes do not immediately change the distribution of power and committee chairmanships. The changes adopted by the parties are:

Republicans: The Republican Committee on Committees will recommend to the Republican caucus the Republican nominees for chairmen or ranking members of the standing committees. The conference then will vote separately by secret ballot on each recommendation.

While the recommended member need not be the member with the longest consecutive service on that committee, seniority will continue to be a "major consideration".

Democrats: The Committee on Committees will recommend nominees for committee chairmen and membership to the party caucus. Such recommendations "need not necessarily follow seniority". Upon request of 10 or more members, a separate vote may be taken on the nomination of any member or chairman.

REPUBLICANS DENIED COMMITTEE STAFFS: In adopting its rules, the House repealed a provision of the Legislative Reorganization Act of 1970 which would have guaranteed the minority party one-third of each committee's budget for staff. In an unusual step, the Democratic caucus bound its members to vote for repeal. Any Democratic congressman voting against the decision (except those who had specifically campaigned on the issue) would have been excluded from the caucus and stripped of committee seniority. Some supporters of the change pointed out that the Democrats would either have to give up 1/3 of their own staffs or that the House would have to increase staffing allowances by 50%. Others argued that committee staffs should be non-partisan and that additional staffing was unnecessary and wasteful. Republican leaders called the action a "setback for Congressional reform" and a "shocking breach of faith".

MISSISSIPPI CHALLENGE REJECTED: The Democratic caucus January 21st turned down a motion challenging the right of five Mississippi congressmen to hold seniority privileges as Democrats. The challenge rested on the refusal of the five to recognize, participate in, or affiliate with the Mississippi Democratic Party which had been officially recognized by the 1968 Democratic National Convention and the National Democratic Committee. Instead, they chose to run as candidates of the Democratic Party which had been denied credentials at the 1968 Convention because of discriminatory practices.

The Democratic caucus action was not unexpected. Party caucuses rarely discipline their members, and they do not consider convention decisions binding on them

THE SENATE

HEARINGS ON REFORM OF SENIORITY: Although the Senate made no changes in the seniority system, Senators Fred Harris (D., Okla.) and Charles Mathias (R., Md.) held special hearings on January 18 and 19 to build public support for its reform. John Gardner of Common Cause, Senator Barry Goldwater of Arizona, Whitney Young of the National Urban League and David Cohen of the Americans for Democratic Action were among the witnesses who favored changes in the system.

SENATOR GOLDWATER indicated that while there was "no need to perform major surgery on the Senate", he did find the seniority system "outmoded and improper" for a twentieth century Congress. He had no strong recommendations for a system to replace seniority, but suggested considering a method

whereby the committee chairman would be chosen by the vote of three or four ranking members of the committee.

JOHN GARDNER'S major concern is that the seniority system does not provide a means for holding committee chairmen responsible for their actions. "If some committee chairmen conduct themselves with unexampled arrogance, it is because there is no mechanism by which their fellow party members can call them to account. If they are utterly unresponsive to their peers it is because they do not owe their posts to the judgment of their peers". To correct the situation, Gardner proposed that the majority party committee on committees nominate one candidate for chairman of each legislative committee, and that the party then automatically vote on each nomination. He proposed that the votes be public so that congressmen could be held accountable for their votes.

WHITNEY YOUNG attacked the system for allowing committee chairmen to become "virtual dictators" who can frustrate the public will. Young felt that ideally, senators should actively seek committee chairmenships by setting out their qualifications and programs before a Senate vote on the candidates.

TONY DECHANT, President of the National Farmers Union, recommended that the chairman of each committee be nominated by members of the committee from their own party and elected by their party caucus. He also suggested relaxing the seniority rule as it applied to the selection of conference committees: "Because of the tendency to select as conferees the most senior members of Senate committees, the conferees often fail to reflect the majority view of the Senate on legislation. Indeed, Senate conferees named on the basis of seniority may be closer to House conferees than to the dominant position of the Senate--thus setting the stage for capitulation of the Senate conferees to their House counterparts".

SENATOR HARRISON WILLIAMS of New Jersey, Chairman of the Senate Labor and Public Welfare Committee, proposed that the seniority system be abandoned--that the chairman of all standing committees be elected at the convening of each new Congress by a secret vote of the majority members of the committee who had served at least 2 years on that committee.

LEE AUSPITZ, President of the Ripon Society, expressed doubts about radical overhaul of the seniority system. He pointed out that seniority allowed members representing a minority viewpoint within the party (e.g., liberal Republicans) to hold committee chairmanships, and feared that in the Republican party, a total caucus vote would elect to chairmanships only those reflecting prevailing conservative views.

Several witnesses pointed out that seniority is not the only factor affecting the responsiveness of committees; the enormous powers of the committee chairmen were seen as equally significant.

While the hearings were called to discuss the seniority system, witnesses did not limit themselves to that issue. The cloture rule came in for almost as much criticism as seniority. Whitney Young and David Cohen of the ADA both urged that the Senate liberalize the rule at the opening of the 92nd Congress, and suggested that the Vice President might declare a majority vote of the Senate sufficient for the adoption of its rules, hoping to overcome a filibuster over the filibuster.

Among other changes suggested were: development of more active party caucuses with regular meetings and more control over the actions of committee chairmen; rotation of committee chairmenships; a five day recess at the end of each month to encourage senators to visit their constituents without missing important Senate business; and writing a floor as well as a ceiling for funding into authorizing legislation.

GLOSSARY

ACT - technically, the designation of a bill after it has passed one house of Congress. Also used as a synonym for law.

ADMINISTRATIVE ASSISTANT (A.A.) - heads congressman's administrative staff. Duties vary from office to office.

ADVISE AND CONSENT - Article II, Section 2 of the Constitution gives the Senate the power to accept or reject by a 2/3rds vote treaties and nominations proposed by the President.

APPROPRIATIONS BILL - permits the expenditure of the monies approved by an authorization bill, but not necessarily to the total permissible under the authorizing legislation.

AUTHORIZATION BILL - legislation setting up or continuing programs; sets general aims and purposes and may set a ceiling for funding.

BILL - legislative proposal introduced in either house (until it has been passed by that house). Designated HR (House of Representatives) or S (Senate) according to the house in which they originate and by a number assigned in order which they were introduced.

BUDGET - document sent to Congress by the President in January of each year estimating revenues and expenditures for the ensuing fiscal year.

BY REQUEST - a phrase used when a congressman introduces a bill at the request of an executive agency or private organization. Does not necessarily imply endorsement.

CALENDARS - arrangements for scheduling legislative business.

House -

- Union - bills for revenue and appropriations
- House - other public bills
- Private - bills pertaining to individual or private interests
- Consent - controversial bills
- Discharge - motions to discharge from committee

Senate -

- Legislative - all bills
- Executive - items under advise and consent power

CALENDAR WEDNESDAY - (House) each Wednesday standing committees are called in alphabetical order and may call up for consideration any bill previously reported. Tactic to permit a committee that has approved a bill to get it debated in situations where action is being blocked.

CASEWORK - attention given to constituents' requests by congressional office; very time-consuming, but often receives high priority in congressional offices.

CAUCUS - in theory, conference of political party members in each House called to set party legislative strategies; in practice, role has been mainly confined to selecting leaders at beginning of Congressional session.

CLEAN BILL - after a committee has considered and revised a bill, they may rewrite it incorporating their amendments into a new or "clean bill".

CLOSED RULE - (House) prohibits the offering of amendments, thus requiring that the bill be accepted or rejected as reported by committee.

CLOTURE - a process by which debate can be ended in the Senate. A motion for cloture requires 16 senators' signatures for introduction and the support of 2/3rds of those present and voting.

COMMITTEE OF THE WHOLE - when the House sits as one committee to consider legislation reported by a standing committee before it goes to the floor; the committee debates and amends legislation. Requires only 100 members for a quorum.

COMMITTEE REPORT - written explanation and justification for recommendations submitted by committee to full chamber after the committee has scrutinized and decided to favorably report a bill. Used by courts, executive departments and the public as a source of information on the purpose and meaning of a law.

CONCURRENT RESOLUTION - used for matters affecting both houses; to take effect, must be passed by both houses--does not require the signature of the President; does not have the force of law.

CONFERENCE COMMITTEE - a committee made up of members from both houses; purpose is to iron out differences between House and Senate versions of a bill.

CONGRESSIONAL IMMUNITY - Article I, Section 6 of the Constitution makes congressmen immune from prosecution or arrest during their attendance in Congress and from prosecution for any speech made on the floor.

CONGRESSIONAL RECORD - daily record of the proceedings and debates of Senate and House; not always a verbatim account of floor debate.

CONGRESSIONAL RESEARCH SERVICE - research arm of Congress. Formerly called Legislative Reference Service, it is a part of the Library of Congress.

DEMOCRATIC STUDY GROUP - (House) organization of liberal Democrats; it prepares position papers, conducts briefing sessions in advance of action on major legislation, gives campaign advice, etc.

DISCHARGE PETITION - (House) device for preventing delay or the killing of a bill by committee; on the signature of 218 members, a bill may be discharged from committee and called to the floor for debate.

ENACTING CLAUSE - key phrase in bills saying "Be it enacted by the Senate and House of Representatives..." A successful motion to strike it from legislation kills the bill.

EXECUTIVE PRIVILEGE - administrative officials may withhold information from committees if they think disclosure of such would be detrimental to the "national interest".

EXECUTIVE SESSION - a closed committee session; proceedings are confidential, with only subject matter and final actions officially announced.

FILIBUSTER - lengthy speeches by senators to prevent or delay action on legislation they oppose.

JOINT COMMITTEE - conference or standing committees made up of members of both houses; formed through concurrent resolution or legislative act.

JOURNAL - the official record of the proceedings of the House and Senate.

LAME DUCK SESSION - held after an election to finish unfinished business; attended by all members including those who have been defeated or are retiring.

LEGISLATIVE AIDE (L.A.) - assistant to congressman whose job is to keep in touch with legislation. Assists in developing provisions of measures and amendments of interest to the congressman.

LEGISLATIVE DAY - the "day" extending from time either house meets after an adjournment until the time it next adjourns. Because the House normally adjourns from day to day, legislative days and calendar days usually coincide. But in the Senate, a legislative day may, and frequently does, extend over several calendar days.

LOBBY - interest groups who attempt to influence legislation.

LOGROLLING - a process involving mutual support; one member gives support to a bill, issue, etc., in exchange for support for legislation he favors.

MAJORITY - the party numerically in the majority in a house of Congress.

MARK-UP - hammering out legislative language of a bill in committee.

MINORITY - the party numerically in the minority in a house of Congress.

MORNING HOUR - time when congressmen may present petitions and memorials, report bills from committees and introduce bills and other resolutions; this period is also used to insert materials in the Record.

MOTION TO RECOMMIT - a motion to send a bill back to committee; used to "kill" or delay a bill.

OPEN RULE - (House) germane amendments are permitted to be adopted by majority vote of the House.

PAIRING - an agreement between members on opposite sides of an issue not to vote on a specific question.

PARTY LEADER - (majority and minority) chief strategist and floor spokesman for his party. Elected by party caucus.

PIGEONHOLE - shelving a bill without a final vote; usually refers to blockage by a committee; allows a bill to die by failure of a committee to act.

POINT-OF-ORDER - an objection that a certain proceeding is not in accordance with the rules.

PORK BARREL - a legislative act yielding financial benefit or patronage.

PRESIDENT PRO TEM - elected officer of Senate who presides when the Vice President is absent.

PRIVILEGED BILLS - (House) bills which have precedence over normal order of business and do not require Rules Committee action; reports from Committee on Appropriations on general appropriations bills, and reports from Committee on Ways and Means on bills raising revenue are privileged bills.

QUORUM - numer of members who must be present to conduct business; in the House it is 218 and in the Senate it is 51.

RANKING MEMBER - member of a committee who has more seniority on the committee than any other member of his party. Usually used in reference to the most senior minority party member.

RIDER - an amendment proposing substantive legislation attached to another bill.

SENIORITY - refers to length of uninterrupted service in Congress and specifically on a committee; criterion for determining committee chairmanships.

SENATORIAL COURTESY - custom dictating that prior to nominating a person for an appointed position the President will consult with senators from that state; if a name is submitted which home state senators find "personally obnoxious", the Senate ordinarily rejects the nomination.

SELECT COMMITTEE - established by House or Senate for a limited period and usually for a temporary purpose. Most are investigative in nature.

SESSION - normally, each Congress consists of two sessions, usually beginning in January and ending when Congress adjourns for the year.

SPEAKER OF THE HOUSE - elected presiding officer of the House.

STANDING COMMITTEE - committee whose existence is permanent and continuing from one Congress to the next; there are 21 in the House and 17 in the Senate.

SUBCOMMITTEE - smaller subject-matter divisions of a committee; facilitates specialization and division of labor.

SUSPENSION OF THE RULES - in the House a 2/3rds majority may suspend the rules and bring a bill directly to the floor; in the Senate, only a majority vote is needed.

TELLER VOTES - (House) taken in Committee of the Whole by counting congressmen for or against a measure as they walk down the aisle; (until the Legislative Reorganization Act of 1970, there was no provision for recording teller votes).

TWENTY-ONE DAY RULE - (House) permits the Speaker to recognize a committee chairman to call up for House consideration any bill reported by the committee that has been before the Rules Committee for 21 days without having received a rule for floor debate. Not now in effect.

UNANIMOUS CONSENT - usual way of conducting business in the Senate; after morning hour, majority leader asks unanimous consent to consider pending legislation; such requests are rarely objected to; also used in both houses in lieu of a vote on non-controversial measures.

VETO - action by the President if he doesn't approve of a bill; he returns it with his objections to the house of origin and the bill may be reconsidered; must receive approval of 2/3rds of both chambers to become law.

POCKET VETO - type of veto which results if a President doesn't sign a bill after Congress has adjourned. (When Congress is in session, a bill becomes a law without the President's signature if he does not act on it within 10 days. But if Congress adjourns within that 10 day period, the bill is killed by the President's failure to sign).

WHIP - chosen by party caucus as an assistant to the floor leader; job is to keep in touch with all members of his party, discover their voting intentions and get them to the floor for a vote.

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committee guide

The League of Women Voters of the United States

U.S. CONGRESS - No. 3

U.S. CONGRESS: AN EVALUATION OF CONGRESSIONAL STRUCTURES, PROCEDURES, AND PRACTICES, AND THEIR EFFECT ON RESPONSIVE LEGISLATIVE PROCESSES

Pub. No. 403-30¢ December, 1970

The League of Women Voters is privileged to distribute the following unpublished paper by Dr. Rpger Davidson. We have no position on the judgments and conclusions drawn by the author, but we feel that the essay sets out with perception and depth the basic considerations of our U.S. Congress study. We are most grateful to Mr. Davidson for making this paper available to us.

Roger H. Davidson is an Associate Professor of Political Science at the University of California, Santa Barbara. He is the author of The Role of the Congressman (1969) and co-author of Congress in Crisis (1966) and On Capitol Hill (1967). The present essay is based on a paper originally prepared for the National Commission on the Causes and Prevention of Violence, and has been revised especially for the League of Women Voters. Copyright reserved.

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CONGRESS AND THE PUBLIC IN THE 1970s

By ROGER H. DAVIDSON

The American Congress is politically implicated in the dissension and violence of our contemporary scene. Symbolically perhaps, Capitol Hill is only a few blocks from Washington's black ghettoes, one of which was torn by rioting in the spring of 1968. More fundamentally, democratic theory demands that the national legislature maintain a direct and intimate working relationship with the people. Executive agencies are cloaked in anonymity if not secrecy; the Supreme Court deliberates in magisterial isolation. But our theory of government requires that Congress remain open and accessible. "This body," said former Representative Dewey Short of Missouri, "is a mirror in which America can see herself."[1]

Nor should Congress be exempted from its measure of culpability for present disorder and disaffection. The very institutions and procedures of our political system are being called to account, and no searching self-examination can ignore this fact. Have our political arrangements been responsive to the diverse policy needs and demands of the people? Have they ameliorated or enlarged public divisions of opinion? Are decision-making procedures so out of phase with democratic theory that they foster public frustration and cynicism? In such an atmosphere of political questioning, Congress is inevitably a major focus, for it is an active partner in policy-making and a prime embodiment of the established "System." On these very questions, moreover, many observers have long since judged Congress and found it wanting.

There is no doubt that public confidence in political institutions, including Congress, has deteriorated in the past few years. In mid-1968, a national survey revealed that the public rated its political leaders far lower than leaders in other fields--including medicine, science, business, communications, and the arts. Fully 38 percent of those interviewed thought that political leadership had deteriorated from past standards.[2] The most recent survey of public assessments of Congressional performance, taken early in 1970, showed that 54 percent of the citizens had a negative judgment of Congress.[3]

In the present discussion, we shall attempt to assess Congress' contribution to the popular disaffection that fosters cynicism and disorder. Specifically, we shall ask two broad questions: First, is Congress unresponsive to public attitudes and demands? And if Congress is unresponsive, what can or should be done to remedy the situation? There is no shortage of proposals for reforming Congressional structure and procedure. Yet it is quite a different matter to determine whether the reforms would actually produce the desired changes, and whether such reforms have any reasonable chance for acceptance by Congress or the public.

Is Congress Unresponsive?

The question of Congressional responsiveness, as James L. Sundquist of the Brookings Institution has pointed out, is actually twofold: not merely whether Congress responds to external public demands, but whether it can respond to its own majorities.[4] While there are grounds for cautious optimism on the first issue, there remain serious doubts on the second.

The two houses of Congress are designed to embody the will of the majority of citizens, insofar as that will is known or expressed. This principle emerges from Constitutional theory as well as from citizen expectations. In providing that members of the House of Representatives should be chosen "by the people of the several states," the writers of the Constitution left no doubt that they considered that branch a popular body.[5] And while the Founding Fathers had other ideas concerning the Senate, careful examination of the history of the 17th Amendment (ratified in 1913) demonstrates that the Senate has also come to be viewed as a popular institution. Strong public pressure--expressed through the House of Representatives, state governments, pressure groups, petitions, and referenda--succeeded in amending the Constitution to provide for popular election of senators; only in a formal sense do members of that body represent political jurisdictions.[6]

Of course, Congress is not and never will be demographically representative of the population. Whatever criterion one chooses--occupation, education, age, sex, race or ethnicity, or class background--it is obvious that senators and representatives are a unique group of citizens. In part the unrepresentativeness of elected officials is avoidable: informal racial or ethnic discrimination has not been fully eradicated from the political scene, and structural barriers--nominating procedures and the costs of running for office, for example--discourage many potential contenders. Other barriers are inherent in any electoral system, no matter how open or democratic. Most citizens, for example, probably prefer to vote for men and women of higher status than themselves. Nor are legislators necessarily incapable of anticipating or voicing the needs of citizens who

possess radically different backgrounds. In any event, barriers to public office-holding are rooted in the electoral process and resultant patterns of citizen participation in politics--problems about which there is cause for optimism though certainly not complacency.

The same cannot be said of the internal workings of Congress, many of which are implicitly or explicitly designed to blunt the force of majority opinion. It is the first maxim of democratic parliamentary procedure that (in the words of the late Speaker of the House, Sam Rayburn) "a determined majority can always work its will," whether in committee or floor deliberation.[7] Even such an elitist as Alexander Hamilton referred to "the fundamental maxim of republican government, which requires that the sense of the majority should prevail."[8] Minorities must be accorded reasonable opportunities to present their case to colleagues and the general public; but to allow minority rights to become minority rule would be a gross injustice.

The basic issue of internal Congressional structure is whether Congress can respond to its own majorities--not whether it reflects the nation at large or the President's desires, but whether it can act effectively at all. The most commom observation about Congress is that neither house has a really coherent line of authority. Both in structure and procedure, Congress gives heavy weight, and even veto power, to individuals or small groups of members. In part this dispersion of authority merely duplicates the decentralization of American political life, for a central fact on Capitol Hill is that every member's ear is bent toward a different electorate "back home." Decentralization is also embodied in the committee system, which has made possible an efficient division of labor in both houses but at the cost of setting up semi-autonomous spheres of authority. Party leaders face the unenviable task of piecing together majorities to pass legislation. As centralizing forces, the parties in Congress are imperfect mechanisms: they must strive mightily to coordinate the constituency pressures and committee hierarchies, but they themselves are far from cohesive.

In many crucial respects, therefore, Congress reflects the principle of "minority rule"--in that individuals and groups of members possess considerable power to delay and even "veto" legislation. The most severely criticized instruments of minority rule (though by no means the only ones) in recent years have been: 1) the House Committee on Rules; 2) the effective vetoes wielded by the standing committees and their seniority leaders; and 3) the absence of an adequate cloture provision for Senate floor debate. Recent personnel and procedural changes have for the time being reduced the Rules Committee's impact as a roadblock to floor consideration of measures. The more general problem of committee responsibilities to Congressional majorities, however, remains serious in both houses. Guarantee of majority rule in floor deliberation is a problem primarily in the smaller Senate, which has been reluctant to adopt stringent rules.

Government by Standing Committees

Congressional government, Woodrow Wilson declared long ago, is committee government. "Congress in session is Congress on display, but Congress in

committee is Congress at work."[9] Standing committees enable Congress to divide labor on substantive issues and encourage individual legislators to develop expertise concerning matters handled by their committees as a method of attaining personal influence. Most committees are further divided into subcommittees to permit even more specialized consideration of problems.

If, as Woodrow Wilson wrote, Congressional government is government by standing committees, then the selection of chairmen and members, and the procedures followed by committees are matters of fundamental importance. And while committee defiance of majority will in the parent house is not an everyday occurrence (committees and their chairmen normally wish to heighten their influence by accommodating their colleagues), it nonetheless happens frequently enough to warrant purposeful changes on several fronts. The central issues of "committee government" are (1) the representativeness of committee membership; (2) the representativeness of the chairmen; and (3) the adequacy and fairness of committee procedures.

Committee assignments are made by the party organizations. The four parties on Capitol Hil--House and Senate Republicans and Democrats--employ slightly different procedures in making assignments. In the Senate, the Democratic Steering Committee and the Republican Committee on Committees handle assignments. (In the early 1960s, Senator Joseph S. Clark accused the Democratic Steering Committee of overrepresenting the party's conservative wing and giving preference in assignments to like-minded Senators.[10]) House Democrats rely on their members on the Ways and Means Committee, who are meticulously chosen to reflect balance among regions and factions. The House Republican Committee on Committees instead includes one member from every state having a Republican representation; but because each member casts votes equivalent to the number of Republican Representatives from his state, pivotal decisions are in the hands of members from states, such as New York, Ohio, Illinois, and California, that have large Republican delegations.

Initial committee assignments are made in accord with a variety of considerations--the wishes of the committee chairman, the need for political or geographic balance on a committee, the relevance of the assignment to the member's background or constituency, and so forth. Even more delicate is the task of apportioning vacant committee posts among incumbents who want to trade their initial assignments for more desirable ones.[11] Elected party leaders exercise considerable influence in drawing up the assignments, though in no sense is their role controlling. While every assignment must be ratified by the entire party caucus (or "conference," in the case of Republicans), the committee on committees' recommendations are seldom challenged.

Some committees deviate in significant respects from the membership of the parent bodies. Agriculture committees overrepresent rural areas and interior committees overrepresent the West because legislators from those constituencies tend to volunteer to serve on them. These committees are thus weighted in favor of producer interests and against those (like consumers or conservationists) whose interests are less direct or intense. The most prestigious committees (like House Rules, Senate Finance, House Ways and Means, and the two Appropriations committees) tend to overrepresent conservative viewpoints. Because seats on these committees are coveted, membership gravitates to legislators of some seniority whom the leadership

considers "safe" in their political views. More blatant is the predominance of southerners on the District of Columbia committees.

In many areas of public policy, Congressional committee specialization works to place disproportionate influence in the hands of those most closely affected by the policies. In league with interested lobbies and bureaucrats, committee members are the effective makers of public policy in their respective fields. Douglass Cater has called these groups "subgovernments."[12] Such arrangements sound innocent enough, but often the effect is to favor a relatively small group of directly-affected interests, at the expense of a much larger group whose interests may be subtle or indirect. Agriculture is a particularly blatant case in point. The House and Senate Agriculture committees are divided into commodity subcommittees--wheat, corn, dairy products, and the like--whose members are mainly legislators whose constituencts are, in turn, wheat farmers, corn growers, and dairy producers. The millions of consumers who are affected by agricultural policies are virtually unrepresented on these committees. And, it must be added,legislators from non-farm districts do not welcome appointment to the committee. The first black Congresswoman, Shirley Chisholm (D-N.Y.), refused a seat on the Agriculture Committee when she arrived in Washington in 1969. Other urban legislators who find themselves on the committee move on as soon as they can. Yet their constituents need a voice in agricultural policy to counteract the bias toward producer interests. A similar pattern is found in numerous other policy areas.

Once given an assignment, the individual legislator is considered to have a right to his assignment for the duration of his tenure in Congress. (Infrequently, a junior member may be "bumped" from a committee if his party loses enough seats in the House to justify changing the ratio of party members on the committee. Even rarer are the cases of members who change party affiliation and are then at the mercy of their new party for their assignment.) Equally by convention, committee members advance by seniority (defined by continuous terms of committee service), with the most senior majority-party member being named chairman. This is the substance of the much-debated "seniority system."

While the "rule" of seniority is almost never circumvented, it is important to stress that it is not a formal requirement and that the appointment of committee chairmen must be approved by the party's entire caucus.[13] Several recent precedents exist for caucus modification of seniority privileges. In 1965, House Democrats removed the seniority of two southerners who had supported the Republican presidential nominee, Barry Goldwater, in the 1964 election. The two men, John Bell Williams of Mississippi and Albert B. Watson of South Carolina, were placed at the bottom of their committees' seniority lists. (Liberals had threatened to deny seating to the defectors but decided not to press that course of action.) Williams was second-ranking Democrat on the Interstate and Foreign Commerce Committee, and the resignation of the Committee's chairman within the year meant that the caucus action had effectively denied him the chairmanship. (A relatively junior member, Watson later changed his party affiliation.) Two years later, House Democrats voted to rescind the seniority of Representative Adam Clayton Powell, chairman of the Education and Labor Committee. Powell had been investigated and found guilty of misusing House funds (among other things), and the move was designed to forestall a floor move (eventually successful) to refuse to seat him altogether. Early in 1969, House Democrats again succeeded in disciplining

an errant member, though not before two close caucus votes. This time the victim was John Rarick of Mississippi, who had supported George Wallace in the 1968 campaign.

However, tampering with seniority is hardly an everyday occurrence. In these four cases, action was taken against men who were personally unpopular in the House and who had engendered strong pressures for some form of disciplinary action.

No feature of Congressional practices has drawn as much criticism as seniority. Certainly seniority has contributed to the unrepresentativeness of legislative leadership, because longevity in office is associated with homogeneous one-party districts.[14] In the 91st Congress, for example, southerners comprised about a quarter of the membership of both houses yet controlled the chairmanships of 10 of the 16 Senate standing committees and 11 of the 21 House committees. Such men are frequently at loggerheads with the policies of the national party, a fact which exacerbates conflict between Congress and the Executive branch. (The Democrats, incidentally, have no monopoly on this problem: President Eisenhower had severe troubles in dealing with conservative chairmen in the Republican 83rd Congress.) In addition, advanced age impairs the ability of a few committee leaders to perform their tasks. One elderly House committee chairman was so ill that he remained in his home district for at least a year before his retirement in 1970.

Unquestionably, ranking committee members are unrepresentative of the houses as a whole, and middle-seniority legislators in particular are impatient at the system's inability to make adequate use of their talents and experience. Some reformers propose a frontal attack upon seniority. Former Representative Thomas B. Curtis (R-Mo.), for example, advocates rotation in office--a six-term limit in the tenure of all members. Representative Morris K. Udall (D-Ariz.) suggests that each committee select its chairman from among the three top-ranking majority members. Predictably, such proposals have no appreciable chance of adoption because the very seniority leaders who are most threatened by the proposals have the most power to prevent their passage.[15]

Other reformers, including Representative Richard Bolling (D-Mo.), therefore express hope that party caucuses can exercise their undoubted authority by refusing to appoint chairmen who repeatedly deviate from stated party policies. Bolling suggests that a Democratic Speaker (or Minority Leader) appoint the committee on committees and its chairman, all the party's members on the Rules Committee (including the chairman or ranking minority member), and the chairmen of all other standing committees. Such choices would be ratified by the party caucus. Though seniority would probably remain as the most important criterion, Bolling believes that "the implied threat of party discipline...would give pause to the member who would bolt his party's program."[16] The Williams, Watson, Powell and Rarick cases are precedents of sort for such activism on the part of caucuses.

A potentially significant step was taken toward alleviating the worst deficiencies of the seniority system when, in September 1970, a House Republican Task Force recommended a course of action similar to the Bolling proposal. The task force, headed by Representative Barber Conable (of New York), would have the Republican Committee on Committees nominate

one member for the top GOP position on each committee and for all House Republicans to vote on them by secret ballot. If a nomination were rejected, the Committee on Committees would submit another name until one was approved. On the other side of the aisle, a task force headed by Representative Julia Butler Hansen (of Washington) was slated to submit a seniority proposal to House Democrats sometime after the 1970 elections.

Yet inadequate as the convention of seniority is, no viable substitutes are at hand. At least, the use of seniority to appoint committee chairmen serves to isolate and reduce a potentially divisive set of decisions. Its very automaticity is no small virtue in a conflict-laden institution such as Congress.[17] Defenders of the practice also point to the advantage of ensuring that experienced members, and those who are relatively impervious to electoral pressure, are responsible for upholding Congressional prerogatives in dealing with the Executive branch. In this as in so many other things, one man's principle is another man's evil. What is needed, therefore, is not so much abolition of the convention of seniority, but recognition on the part of legislators that it is merely a convention. In addition, the party caucuses should adopt (in the words of the Conable Task Force) "a mechanism for avoiding the mistakes occasionally resulting from automatic operation of the seniority system."

As the Joint Committee on the Organization of the Congress noted, "the power of the chairman is a more fundamental issue in sound committee operations than is his method of selection."[18] Though chairmen range from the ineffectual to the dictatorial, they have impressive formal and informal powers. Most committee chairmen assume responsibility for assigning bills to subcommittees, selecting subcommittee chairmen, scheduling consideration of bills, supervising preparation of reports on bills, and finally transmitting reports to the Rules Committee. Most chairmen also assume full responsibility for setting subcommittee jurisdictions, distributing travel and other expense budgets, and hiring of committee staff members. "The committee member who has served twenty years is not just five percent more powerful than the member who has served 19 years," Representative Udall observes. "If he is chairman he is 1,000 percent more powerful."[19]

There are enough detours in the legislative process so that the chairman of a standing committee can tie up important items of legislation for extended periods of time. The chairman may, or may not, take junior committee members into his confidence as he proceeds; he may, or may not, consult minority members. Many important measures--in education, welfare, urban affairs, governmental reform, and civil rights--have been delayed or killed by unsympathetic committee chairmen. And while in theory majorities on the Senate or House floor may remove a measure from an intransigent chairman, the procedural devices for accomplishing this are clumsy and difficult. The sanctity of the committee system is a highly-cherished norm on Capitol Hill, and members are exceedingly reluctant to violate it.

In reacting to abuses of the chairman's powers, a number of committees have adopted rules of procedure which guarantee committee members a part in making decisions. In recommending that such safeguards extend to all committees, the Joint Committee on the Organization of the Congress proposed a "committee bill of rights" designed to insure that committee majorities have an opportunity to work their will. As the Joint Committee explained,

> The chairman is charged with a heavy responsibility and should have authority commensurate with that responsibility. It is unrealistic to suppose that a committee could operate efficiently without allowing the chairman to propose the committee's agenda, to participate in the selection of staff, to assign members to subcommittees, and, in general, to manage committee business. Neverthelesss, the chairman is the agent of the committee. The ultimate power does and should rest with a majority of the committee itself.[20]

As the Joint Committee concluded, the most feasible avenue of reform probably lies in controlling arbitrariness through procedures designed to strengthen majority rule in committees. At minimum, committee rules should guarantee majority participation in calling meetings, transacting business, hiring staff, and planning the agenda. Minority party members, by the same token, should be assured adequate staff assistance (now left to the whim of the chairman) and at least some meaningful role in framing the committee's agenda. The "committee bill of rights" included in the original legislative reorganization bill was a modest step in this direction. After it was first passed by the Senate in 1967, the bill met objections from seniority leaders in the House who kept the measure bottled up in the Rules Committee for more than two years. It reached the House floor only after the Rules Committee had softened its provisions relating to committee procedure.

The Senate Filibuster

Perhaps the most celebrated artifact of minority rule is the Senate's singular practice of tolerating "extended debate," or filibuster, to talk a measure to death. In contrast to the House, where debate is rigorously controlled, Senate Rule 22 makes it exceedingly difficult to close off debate if a few senators wish to forestall a vote. A petition must be signed by 16 members, and then the issue of cloture is brought up two days later. Two-thirds of the senators present and voting must agree to cloture, after which each senator still has up to one hour to speak on the issue at hand.

Every two years opponents of the filibuster seek to strengthen the cloture provision--usually proposing to reduce the required votes from two-thirds to a simple majority. Several times the Senate has come close to revising Rule 22, but the issue is procedurally clouded by the question over whether or not the Senate is a "continuing body" and thus has continuing rules. The notion of continuity attracts more support than the substance of Rule 22 itself and has thus far prevented change.[21]

In 1957, however, Vice President Richard Nixon suggested a rationale whereby a majority of senators could act upon rules changes without doing violence to the notion of the Senate as a "continuing body." In an informal advisory opinion rendered as President of the Senate, Nixon pointed out that, under the Constitution, each house has the right "to determine the rules of its own proceedings."[22] Because this right is derived from the Constitution itself, it should not be restricted or limited by rules adopted in a previous Congress. Thus he concluded that in each new Congress a current majority has the right to adopt its own rules[23]. Nixon's opinion

was only advisory, however, and was specifically rejected by the Senate during the 1969 debate over cloture.

One reason the Senate has not chosen to eliminate the filibuster is probably that it is rarely used. (Normally Senate debate is closed by unanimous-consent agreements.) Yet these few occasions have a direct bearing upon American political violence, for the major use of the filibuster in modern times has been to stall civil rights legislation. For decades a southern minority, standing behind Rule 22, prevented effective and moderate action on civil rights. Only mass freedom marches, police dogs and fire hoses, and the murder of civil rights workers made possible the invocation of cloture to pass the Civil Rights Act of 1964 and the Voting Rights Act of 1965. The Civil Rights Act of 1968, which contained prohibitions against discrimination in the sale or rental of housing, was enacted after three unsuccessful attempts at ending a southern-led filibuster, when the Senate voted cloture by exactly the two-thirds vote required. Irresistible public pressure had to build up to overcome the intransigence of the minority, and the Senate's earlier failure to allow compromise solutions to the civil rights problem is still exacting a heavy price upon society.

Defenders of the present cloture arrangement claim that it promotes freedom of debate, which is a cherished Senate principle. Allowing a majority of Senators to close off debate would, they maintain, impair the deliberative function and render the Senate a mere copy of the House of Representatives, where legislation can be gaveled through briskly with only limited debate. Free, unhurried deliberation also permits small numbers of senators who feel deeply on issues to make last-resort appeals to the court of public opinion. "It takes a good many weeks to inform the electorate in a country of 195 million," the late Senator Everett M. Dirksen observed in defending the filibuster in 1967.[24] If a few more votes are needed and there is a realistic chance of obtaining them--by persuasion, compromise, or public pressure--the filibuster can, it is argued, serve as a useful parliamentary tool.

It is hard to see how free debate can be equated with lengthy debate, even in the Senate. Within a group of as many as a hundred people, fairly strict rules of procedure must be enforced if anything approaching freedom for individual members is to be preserved. Thus, it is no surprise that the present provisions of Rule 22 are at odds with parliamentary law, early Senate procedures, and parliamentary practice in legislatures throughout the English-speaking world. Only in the Senate of the United States, observes Senator Clifford P. Case (R-N.J.), must an opposition be beaten down by "physical exhaustion" and "the medieval practice of trial by ordeal still survives."[25]

Even if the cloture rule were strengthened to allow a simple majority to end debate, the right of the minority--indeed, of all senators--to state their case would not be curtailed. Unquestionably, Senatorial courtesy would forbid invoking the rule until an ample period of debate had already elapsed. Moreover, the present cloture rule, once invoked, still permits each senator as much as one hour to speak on the substantive issue at hand. That is, as many as a hundred hours of debate remain, even after cloture has been invoked! A national legislative body could hardly be more generous with its (and the people's) time.

In actuality, proponents of the filibuster demand not freedom of debate, but

a great deal more than that. Quite simple, they seek to retain a procedural device by which minorities can prevail over majorities. In essence, the argument is that no majority should prevail over a minority that feels deeply enough about an issue to engage in "extended debate." However, in view of the "auxiliary precautions" against majority tyranny built into the Constitutional framework by the Founding Fathers--not to mention the safeguards implicit in political party structure and the dispersion of congressional committee power--the filibuster would certainly seem to be redundant for this purpose. The absence of effective cloture grants an unlimited power of obstruction, which reduces to absurdity the principle of minority rights and bears a small resemblance to the strong-arm tactics employed by militant minorities to break up meetings. "In the specific case of legislation for racial equality," Robert Bendiner has noted, "involving the most fundamental rights of a large minority of the nation's citizens, a plea for filibustering in the name of minority rights tumbles into absurdity altogether..."[26] Senator Henry Cabot Lodge, Sr., summed up the problem three-quarters of a century ago: "To vote without debating is perilous, but to debate and never vote is imbecile."[27]

Minority Rule and Public Cynicism

A serious credibility gap exists on Capitol Hill. As a popularly elected body, the national legislature is charged with translating public will into public policy. Its guiding principle must be that expressed by Alexander Hamilton in Federalist 22: "The public business must, in some way or other, go forward." Yet, as we have seen, congressional structure and procedures are infused with the practices of minority rule. Committee vetoes in both houses and unlimited debate in the Senate are by no means the only expressions of this rule by minorities, but in many ways they are the most symbolic. They bear an inordinate responsibility for congressional delay in responding to contemporary social problems; and their very visibility makes them targets of public dissatisfaction and cynicism about political processes.

In examining public assessments of congressional performance in the past half decade, the conclusion is inescapable that citizens expect their national legislature to respond with deliberate haste in dealing with public problems. Legislative activism has yielded public favor, while stalemate has inevitably produced dissatisfaction. In the past five years, public support of Congress has fluctuated widely. During the stalemate which preceded President Kennedy's assassination in 1963, only 35 percent of a national sample of adults gave Congress a favorable rating. For those expressing a negative judgment (51 percent of the sample), the chief irritant seemed to be the dilatory handling of lawmaking: "not done much," "avoided major bills," "too slow," and "everything stalled" were most frequently mentioned. Three major unpassed proposals--civil rights, medicare, and aid to education--were cited by some citizens. When asked to identify the causes of delay on Capitol Hill, 38 percent of those interviewed cited southern Democrats, 21 percent mentioned committee chairmen, and 21 percent mentioned Republican opposition.[28]

The aftermath of the assassination, with its long "honeymoon" between President Johnson and Congress, unblocked major legislation in many fields. Public support for Congress soared and late in 1965 was even higher than support for the President. Congressional action on legislation drew most of

the favorable judgments: "passed a lot of bills," "passed civil rights bill," "made progress," and "supported President" were comments volunteered by citizens.[29] As crisis again gripped the nation, public support fell. Late in 1967, 41 percent gave Congress a favorable rating and 59 percent a negative rating.[30] The close parallel between public ratings of the President and Congress indicates that current dissatisfaction with Congress, unlike the situation in 1963, is part of a generalized alienation produced by political dissatisfaction.

Periodic exposés of Congressional wrongdoing also produce public dissatisfaction and encourage general cynicism about political institutions. Reactions to the Dodd and Powell cases were extremely negative, many citizens professing at the time to believe that many senators and representatives were guilty of similar activities.[31] Cynicism is especially prevalent among better-educated citizens, a fact which poses an especially acute threat to the Congressional image.

For a great many citizens, therefore, the disparities between theory and practice on Capitol Hill produce measurable dissatisfaction and even frustration. Such attitudes are not confined to the intellectual community, where it has long been fashionable to view Congress' foibles with condescension. The findings of the opinion surveys represent the judgments of millions of citizens of all walks of life. While few of these citizens understand the intricacies of Congressional procedure, they do understand that they expect action rather than delay, majority rule rather than minority veto, and ethical conduct rather than scandal. The failure of Congressional leadership to end these disparities merely serves to perpetuate cynicism and underscore disrespect for the institution, not to mention the laws it enacts. If today's angry young men and women of politics are not often found criticizing Congress, it is probably because they have long since given it up as a lost cause.

Nor is the flawed image of Congress the only contributor to present discontent. The substance is, as always, far more crucial. The capacity to anticipate or even respond to critical social problems is far more important to Congress than the appearance of efficiency, representativeness, or rectitude. And here the record is far from satisfactory. Congressmen made bad jokes in voting down rat-control funds in 1967, but it turned out to be a cruel joke upon Congress itself. (After public outcries, the funds were restored.) While ghettoes burned, Congress reacted by cutting antipoverty, cities, and "safe-streets" bills. More legislators urged forcible eviction of the tenants of Resurrection City than found time to hear their complaints.[32] Largely because of committee intransigence, the citizens of the District of Columbia were treated like colonial wards until an Executive reorganization gave them some semblance of home rule. In 1970, hordes of legislators rushed to denounce thoughtful (albeit controversial) presidential commission reports on obscenity and campus violence without having the faintest notion what was in the reports. Meanwhile, committee members devote enormous amounts of time to devising new ways of demeaning welfare recipients and then wonder why these same recipients are not meekly grateful. Regrettably, such examples are indicative and by no means exhaustive. In short, Congress must bear its measure of responsibility for those gaps in public policy that produce frustration, aimlessness, and despair.

The Perils of Reform

Changes in the organization or procedures of Congress are difficult to enact because they must emanate from Congress itself. To be sure, citizens judge the performance of their national legislature and, as we have seen, their judgments are often harsh. For a variety of reasons, however, they cannot effectuate the changes themselves. They are more likely to turn their backs on the institution and search out other, more responsive instruments. Clearly the task of reform is in the hands of representatives and senators themselves, but the existing structure of Congress is not geared to make this task an easy one.

An Issue Without a Constituency

Even when he registers his dissatisfaction, the average citizen has only a vague notion of what is wrong with Congress and only marginal attachment to specific reform proposals. Opinion surveys show that the public is receptive to proposals for change;[33] but citizens are hampered by a lack of basic information about congressional personnel or procedures. Every opinion survey ever taken on the subject indicates that the internal workings of Congress are a mystery to most Americans.

Nor are issues of procedure likely to catch the public's imagination. Thus, there is no instance within memory of strong public demands for reform of Congress' structure or procedures. Legislators may receive mountains of mail asking for the censure of one congressman (Adam Clayton Powell or Thomas J. Dodd); they may perceive strong public demand for breaking a specific filibuster (as in 1964 and 1965). But they hear next to nothing from citizens concerning enactment of a congressional "code of ethics" or revision of the Senate cloture rule.

By the same token, opinion leaders have made little effort to create a public issue out of congressional reform. Mass media coverage of the problem is sketchy; and when newsmen deign to pay attention to the issue, their approach is often cynical or misdirected. Scholars, once vocal on the subject, have virtually ceased to give advice. Party platforms ritually pledge action to "modernize" Congress (although the Democrats neglected to mention the subject in 1968), but few politicians have found the issue fruitful enough to warrant such emphasis. Thus, there have been few efforts to raise public interest in reform.

This leaves reform--for the short run, at least--to the congressmen themselves. And so long as there is little public clamor for change in Congress, it is unlikely that senators and representatives will be interested in "preventive maintenance" of the institution. Hence the picture is not optimistic. As might be expected, the distribution of influence within the two houses is not conducive to change:

> [T]hose who are most likely to be dissatisfied are also those with the least influence, and...those with the most influence have nothing to gain by changing the status quo.[34]

This has constituted a special barrier to proposed changes in committee procedures or seniority rule. Many other changes are almost equally unlikely to be adopted--because they have political consequences that are thought to be undesirable, or because their consequences are unclear. And members of Congress who are interested in reform cannot help but remind themselves that their time and effort will yield little immediate political payoff.

Such pessimism over the prospects for change may seem excessive, but a glance at the tangled history of the Legislative Reorganization Act of 1970 will serve to illustrate the point.[35] The Joint Committee on the Organization of the Congress was created in 1965. Its membership and co-chairman--Senator A.S. Mike Monroney (D-Okla.) and Representative Ray Madden (D-Ind.)--were eminently "safe". The group was approved only after the enabling resolution specifically prohibited the Joint Committee from making recommendations concerning specific rules changes (meaning, in particular, that Senate Rule 22 was off limits). The Joint Committee devoted the better part of two years to hearing witnesses and drafting its report. In 1967, its omnibus reorganization bill passed the Senate after six weeks of debate and 39 amendments (114 were proposed). The Senate-passed bill (S. 355) offered useful if not revolutionary changes. It tightened regulations on lobbying, eliminated some patronage appointments, and improved Congress' hold on appropriations measures. But the heart of the bill was its "committee bill of rights."

Congressional reformers were heartened with the Senate vote but they had reckoned without the objections of House leaders. Rather than referring the bill (S. 355) directly to the Committee of the Whole House for deliberation, Speaker McCormack sent the bill to the Rules Committee, where it reposed for two years. Rather than bringing the bill to a committee vote, a process of private negotiation ensued in which the bill was stripped of key provisions in accordance with the wishes of McCormack and committee chairmen. A number of reform-minded members tried to rescue the measure; but the ultimate leadership-sponsored version was so emasculated that Representative Madden said it was "worse than nothing and would postpone the reform movement for the next 15 or 20 years." The leadership's version would have exempted House committees from major elements of the "committee bill of rights" and weakened the provision for minority staffing. It was partially this latter issue that prompted a group of younger, reform-minded Republicans--led by such men as Representatives Donald Rumsfeld of Illinois, James Cleveland of New Hampshire, and Thomas B. Curtis of Missouri--to charge publicly that the Democratic leadership was smothering the bill. Known as "Rumsfeld's Raiders," the group staged a semi-filibuster on the House floor in the closing days of the 90th Congress to protest the bill's fate. Meanwhile, the Rules Committee voted to defer action on the bill indefinitely.

In the 91st Congress, forces were at work to persuade the House Democratic leadership to give second thought to a reform bill. Over the years a severe generation gap had developed among House Democrats because of the political longevity of representatives first elected in the Roosevelt and Truman eras. As a result, vigorous younger men were frustrated in their attempts to exert leadership. (Thanks to electoral reverses--especially in 1958 and 1964--the House Republicans had no such problem. Fewer than half of the Republicans in the 91st Congress had served more than six terms.) The discontent surfaced when Representative Udall challenged John McCormack for the Speakership. Udall's bid was crushed, but it became

clear that frustration was more widespread than the vote indicated. The threat was real, and McCormack moved to meet it. He promised monthly meetings of the party caucus and saw to it that the Rules Committee began work on the reform bill. A subcommittee headed by B.F. Sisk (D-Calif.) was set up and hearings were held in the fall of 1969.

Reform-minded members decided to press for a meaningful bill. Spurred by an early draft of the Committee's bill which they considered weak, the liberal Democratic Study Group (DSG) decided to mobilize its members to testify and lobby for a stronger bill. In 1970 the effort became bipartisan, with the reform forces led by Representative Sam Gibbons (D-Fla.) and Barber Conable (R-N.Y.)

Once the Rules Committee produced its bill (H.R. 17654), the bipartisan group of reformers agreed on a package of 10 amendments to be presented on the floor. Rather than a direct assault on seniority or the committee system, the amendments were designed to fight "secrecy" in the House--which is a major weapon through which chairmen or small groups of legislators avoid scrutiny by the full House or by outside groups. Among other things, the amendments were designed to eliminate non-recorded "teller" votes and require publication of committee rules and votes. The emphasis on secrecy was designed to appeal to the communications media, which though delinquent in covering Congress are always ready to champion freedom of information. The press took the bait: articles and editorials poured in from all parts of the country. The essential parts of the anti-secrecy package survived the House floor debate. House consideration of H.R. 17654 was leisurely to say the least--sprinkled over 11 days between July 13 and September 17. The House Democratic leaders were never enthusiastic about the bill; and there was always the fear that too many floor amendments might turn the leadership against the bill for good. But the momentum was present, and the revised bill was finally accepted by a 326-19 vote. After brief debate, the Senate added its amendments and approved the bill on a 69-5 vote. Two days later, on October 8, the House accepted the Senate version on a voice vote and sent it to the President. A two-inch story appeared in the leading Washington paper to herald the event.

The Legislative Reorganization Act of 1970 was naturally the product of many hands--some of whom were hostile to the very idea of reform. The Act says nothing about seniority; it makes no changes in lobby legislation; it requires no change in the Congressional Record; it does not realign committee jurisdictions; it has little to say about the fiscal process; and its changes in committee operations are relatively mild. But the Act will open to the public eye more of the operations of Congress, changing procedures so that positions taken by legislators on bills and amendments are more likely to be revealed publicly. It allows broadcasting and television coverage of committee hearings, formerly permitted in the Senate but not in the House. H.R. 17654 also includes provisions which will expedite proceedings of the two chambers; safeguard rights of the minority party; provide more time for members to consider measures before voting on them; provide a modernized processing system for fiscal and budgetary data; increase the staff assistance for committees; give more opportunity for Congress to oversee the costs of various federal programs; and create a Joint Committee on Congressional Operations to continue to study the operations of Congress.

The Legislative Reorganization Act has proved at least that reform is possible, given the right combination of discontent, persistence, shrewd-

ness in mobilizing some outside support--and six years of tortuous negotiations. What direct impact the bill's provisions will have, only time can tell. Other changes being thrust upon Congress--including the advent of sophisticated data systems--may in the long run change the activities and power structure of Congress more fundamentally than the specific provisions of the Act. At the same time, however, the Act includes mechanisms--in particular, the anti-secrecy provisions and the permanent Congressional Operations Committee--which will thrust these structural issues more in the forefront than they have been in the past.

The Imperative of Change

Anti-reform legislators will no doubt use the new Act as an excuse for turning back further efforts to alter congressional operations. And to a point, they will be correct: there is wisdom in allowing the Act's provisions to take effect so that at least we can assess their impact. But change is a constant and continuing process; and continual vigilance is needed.

Even if the level of political tension were not as high as it is today, Congress would be seriously in need of further changes to make it more responsive to public will and more expeditious in implementing the will of its own members. The present crisis of confidence in our political institutions lends added urgency to these pre-existing needs. Yet reforms must be proposed with extreme care. They must hold promise of alleviating the problems they are designed to remedy without introducing new sets of problems. Furthermore, reforms must have some reasonable chance of being adopted--assuming some capacity of publicity to raise the likelihood of change.

Most of the agony of the legislative reorganization bill took place in private, with little public involvement. With the exception of the flurry of acclaim for the anti-secrecy amendments, press coverage was almost nonexistent. Nor has the public so far shown any intense or abiding interest in the topic. As former Representative Rumsfeld remarked, "Congressional reform is an issue without a constituency." The public will not and cannot reform Congress. But it can apply more exacting standards to its congressional candidates and office-holders: for example, by insisting on public accountability, high ethical standards, and retirement at a reasonable age. This kind of citizen watchfulness can produce senators and representatives who make it their business to be concerned with the structure and organization of public institutions.

However agonizing it may seem, in the final analysis it is the legislators themselves who must engage in self-evaluation and "preventive maintenance" if Congress is to survive the present crisis of confidence. Ultimately, "the future role of Congress rests upon the ability of that institution to stimulate continuous and critical thinking about change--before change is forced upon it."[36] Clearly Congress must act to realize the substance as well as the theory of majority rule, lest widespread public disaffection and cynicism produce irreversible attrition of the institution. As David S. Broder has feelingly observed, "Unless some men become angry enough to reform the system from within, the whole structure is going to be torn down by the mobs and demagogues who are howling their outrage today."[37]

FOOTNOTES

1. Cited in Neil MacNeil, Forge of Democracy (New York: David McKay, 1963), 451.

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3. Louis Harris and Associates, Study No. 3013.

4. James L.Sundquist, Politics and Policy: The Eisenhower, Kennedy, and Johnson Years (Washington: The Brookings Institution, 1968), 513.

5. Article I, Section 2. See also Black J., speaking for the majority in Wesberry v. Sanders, 376 U.S. 1 (1964).

6. The movement for direct election of senators is chronicled in detail in George H. Haynes, The Senate of the United States, Its History and Practice (Boston: Houghton Mifflin, 1938).

7. Quoted in Congressional Quarterly Weekly Report 21 (June 7, 1963), 878.

8. Federalist 22.

9. Woodrow Wilson, Congressional Government, Walter Lippman, ed. (New York: Meridian Books, 1956), 82-83.

10. Joseph S. Clark, The Senate Establishment (New York: Hill and Wang, 1963).

11. See Nicholas A. Masters, "Committee Assignments in the House of Representatives," American Political Science Review 55 (June 1961), 345-357.

12. Douglass Cater, Power in Washington (New York: Random House, 1964). The House Agriculture Committee is the subject of Charles O. Jones' article, "Representation in Congress: The Case of the House Agriculture Committee," in American Political Science Review 55 (June 1961), 358-367.

13. See, for example, John F. Bibby and Roger H. Davidson, On Capitol Hill: Studies in Legislative Politics (New York: Holt, Rinehart and Winston, 1967), 153-169.

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18. U.S. Congress, Joint Committee on the Organization of the Congress, Organization of the Congress, Final Report (89th Congress, 2nd Session, 1966), 9.

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20. Ibid.

21. As long as the Senate considers itself a "continuing body" (unlike the House, which must organize anew every two years), then rules which were previously in force govern consideration of new rules changes. Hence, the biennial proposals for weakening the filibuster are themselves subject to filibuster.

22. Article I, Section 5.

23. "Any provision of Senate rules adopted in a previous Congress which has the expressed or practical effect of denying a majority of the Senate in a new Congress the right to adopt the rules under which it desires to proceed is, in the opinion of the chair, unconstitutional." Cited in Joseph S. Clark (ed.), Congressional Reform: Problems and Prospects (New York: Thomas Y. Crowell, 1965). 173.

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25. Quoted in Lindsay Rogers, "Barrier Against Steamrollers," The Reporter (January 8, 1959), 21. Pros and cons of unlimited debate are discussed in George B. Galloway, The Legislative Process in Congress (New York: Thomas Y. Crowell, 1953), 564-569.

26. Robert Bendiner, Obstacle Course on Capitol Hill (New York: McGraw-Hill, 1964), 113-114.

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28. Louis Harris and Associates, in Washington Post (January 6, 1964), A1.

29. Louis Harris and Associates, in Washington Post (January 4, 1965), A1.

30. Louis Harris and Associates, in Washington Post (January 22, 1968), A2.

31. Louis Harris and Associates, in Washington Post (May 8, 1967), A2.

32. See Larry L. King, op. cit., 69.

33. American Institute of Public Opinion, surveys in 1964, 1966, and 1967.

34. Davidson, Kovenock, and O'Leary, op. cit., 100.

35. Progress of the legislative reorganization bill is summarized in Congressional Quarterly Weekly Report 25 (June 9, 1967), 975-978.

36. Davidson, Kovenock, and O'Leary, op. cit., 170.

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FILE COPY

committee guide

The League of Women Voters of the United States

U.S. CONGRESS: AN EVALUATION OF CONGRESSIONAL STRUCTURES, PROCEDURES, AND PRACTICES, AND THEIR EFFECT ON RESPONSIVE LEGISLATIVE PROCESSES

Pub. No. 402- 15¢ November, 1970

Don't let the bibliography in the first Committee Guide get you down! We are not suggesting that any League read all of the books listed. We prepared an extensive and varied list to give Leagues leeway in planning the study. Let the annotations be your guide in selecting readings suited to your League's special interests.

If you're just beginning your work, or if you have a small committee and limited time, you'll find that Dale Vinyard's Congress (Charles Scribner's Sons, 1968, $1.95-paperback) gives a good picture of how Congress works. The book is readable, to the point, and only 117 pages! If you have time to read only one book now, this would be a good choice. The Congressman: His Work as He Sees It by Charles Clapp (Anchor Doubleday, 1963, $1.95-paperback) is also highly recommended. It's longer than the Vinyard work, but interesting and not too academic. It's based on discussions with congressmen who were asked to give their impressions of their jobs. A third useful volume is Joseph Clark's Congressional Reform (Thomas Y. Crowell, $2.95-paperback). It contains a collection of articles on specific problems facing the Congress: filibuster, seniority system, committee system, campaign financing, etc. The book is somewhat harder going than the other two, but useful for the many viewpoints it represents.

By way of P.S. we'd like to clarify two sections of the Fact Sheet in the first committee guide.

Page 11, 2e: "House has sole responsibility for initiating all appropriation bills". The statement was keyed with a C for constitution; T for tradition might be more accurate. Article I, Section 7 of the Constitution reads: "All bills for raising Revenue shall originate in the House of Representatives". This has been interpreted to mean that all money bills should originate in the House, but, except for revenue bills, there is no explicit constitutional mandate to this effect. Thus, on page 3 under Authorization and Appropriations Procedure, change the first sentence to read "Appropriations bills usually originate in the House".

Page 9, Committee System, 1a--Under Standing Committees, we listed 20 in the House and 16 in the Senate. A Committee on Standards of Official Conduct was made the 21st standing committee of the House in 1967. In January, 1971 the Committee on Veterans' Affairs will become the 17th Senate Committee. For your information, the committees are:

House	Senate
Agriculture	Aeronautical and Space Sciences
Appropriations	Agriculture and Forestry
Armed Services	Appropriations
Banking and Currency	Armed Services
District of Columbia	*Banking and Currency
Education and Labor	Commerce
Foreign Affairs	District of Columbia
Government Operations	Finance
House Administration	Foreign Relations
Interior and Insular Affairs	Government Operations
Internal Security	Interior and Insular Affairs
Interstate and Foreign Commerce	Judiciary
Judiciary	Labor and Public Welfare
Merchant Marine and Fisheries	Post Office and Civil Service
Post Office and Civil Service	Public Works
Public Works	Rules and Administration
Rules	**Veterans' Affairs
Science and Astronautics	
Standards of Official Conduct	
Veterans' Affairs	
Ways and Means	

*Legislative Reorganization Act of 1970 changes name to Banking, Housing and Urban Affairs Committee. Effective in January, 1971.
**Just created by the Legislative Reorganization Act, it will be formed in January, 1971.

CONGRESSIONAL INTERVIEWS: As your League prepares to interview your congressman, refer to the October 27 Report from the Hill on the Legislative Reorganization Bill. Talking about the bill with your Representative or Senator would be a good way to bring our U.S. Congress Study to his attention. But please don't refer to the Congress item as a study of "Congressional Reform"! The phrase assumes a consensus we don't have, and it's very likely to antagonize the congressman, especially if he's a senior incumbent. Do ask for his thoughts on the study and report them to the national office.

CONGRESS NEWS NOTES: The League has chosen to study Congress at a time when Congress is changing and evaluating its own procedures. The Legislative Reorganization Act provides for significant but not sweep-

ing changes in congressional organization (see October 27 Report from the Hill for details) and at this writing, it appears that more changes may be in the offing. We plan to use Committee Guides to keep Leagues informed of happenings on the Hill.

A recent development of interest to Leagues is the recommendation by House Republicans that changes be made in the seniority system. A House Republican Task Force, headed by Representative Barber Conable (R-N.Y.), has recommended that the Republican Committee on Committees nominate one member for the top Republican position on each House Committee, with the final selection to be made by a secret ballot of all House Republicans.

The task force recommendation specifies that the nominee need not be the Republican Committee member with the most seniority. However, the report indicates it expects seniority to remain a "major consideration" in the selections. "Experience is of value", it says. "The task force felt, however, that the Republican Party could not afford to continue without a mechanism for avoiding the mistakes occasionally resulting from the automatic operation of the seniority system...The principle of election is important in a democratically elected body".

The report appears to have the support of House Minority Leader Gerald R. Ford and other Republican leaders. It will be presented to House Republicans in January. If adopted, it would affect only Republican committee members in the House. While it might place pressure on the Democrats to follow suit, it should be remembered that the senior members of the majority party who would assume committee chairmanships would have much to lose and the party might face great internal opposition to endorsement of such a plan.

CASE STUDIES: In Committee Guide #1 we mentioned that the National Board would prepare a case study of the legislative fate of the proposed amendment for direct election of the President. Since it now appears that the issue will not be settled for some time, we are postponing its preparation indefinitely. A case study on another issue will be prepared in time for use at unit meetings in the spring.

FILE COPY

committee guide

The League of Women Voters of the United States

1730 M STREET, N.W., WASHINGTON, D.C. TEL. (202) 296-1770

U.S. CONGRESS - No. 1

U.S. CONGRESS: AN EVALUATION OF CONGRESSIONAL STRUCTURES, PROCEDURES, AND PRACTICES, AND THEIR EFFECT ON RESPONSIVE LEGISLATIVE PROCESSES

Pub. No. 399- 30¢ October, 1970

How can we judge the responsiveness of Congress? The easy way to begin would be to assume that Congress has or hasn't been "responsive" because it has or hasn't enacted our preferences into law. However, the preferences of one group (even the League) or one person cannot be used as the yardstick for measuring the responsiveness of a legislative body to a complex, pluralistic society. Being responsive to a diverse public with diverse and even competing wants and needs means that Congress has to balance and compromise these wants and needs. We want to discover whether this process of accommodating interests, by nature slow and cumbersome, is responding as fairly and efficiently as it might to our increasingly complex and changing society. Do its present procedures allow it to meet new problems as the need is felt by significant numbers of people? Do they insure a fair hearing to all groups in our society? Do they finally permit Congress to act for the welfare of the whole community? To what extent can Congress follow public opinion, and to what extent can it lead it?

SCOPE OF STUDY

We want to look at Congress as it is now and decide how effective it is in responding to expressed public needs. To do this, we have singled out three interacting components of the legislative process: What Congress Does and How It Is Organized To Do It, The Responsibilities and Expectations of the Electorate, and The Congressman--How He Sees His Job.

What Congress Does and How It Is Organized To Do It

Congress has many functions. Perhaps the two most obvious and most important are law-making and oversight of the executive. Congress makes the laws by which the nation is governed, and it watches over the administrative branches to see how the laws are carried out. How does Congress

organize itself to carry out these functions? Does its organization help it do its job as the people want it to? Consider as you read:

The Committee System--We often hear that "the work of Congress is done in committees". Congressional committees are highly specialized units. They are set up either to handle a given category of legislation or to perform a specific function. They hold hearings on proposed legislation, and they recommend the final form to the whole body.

--What advantages and disadvantages do committees have in the law-making process? As watchdogs on the executive branch?
--Do they encourage thorough discussion of issues?
--Does the whole body receive the benefit of their deliberations?

The Committee chairman appoints subcommittees, decides if and when to hold hearings, sets the agenda for meetings, and appoints staff members. He handles the committee bills on the floor, and often sits on conference committees when legislation within his committee's concern is being considered.

--How do the committee chairmen use their powers?
--Whom do they represent?

The Seniority System--A congressman can become a committee chairman only when his party is in the majority in the chamber, and only if he has had more consecutive years of service on the committee than any other member of his party. This is the iron law of the seniority system. The system has long been defended as a device for providing continuity and expertise on committees and for preventing political in-fighting that might take place if chairmanships were determined by less automatic means. Its opponents say it concentrates too much power in the hands of congressmen from one-party, usually rural, districts.

--How does the seniority system affect the ability of Congress to respond to all segments of the American public?
--Does it give unfair advantage to certain groups in the law-making process?
--What alternatives are there to seniority? What are their advantages and disadvantages?

Rules for Proceedings and Debate--The two houses differ greatly in their rules of procedure. The Senate is fairly relaxed about its rules, and is concerned with preserving its tradition of unlimited debate. The House, on the other

hand, has a more rigid system of debate, particularly in time allowances and rules of relevance. In both houses, there are numerous parliamentary devices which can speed up or slow down the legislative process. For example: the cloture rule (Senate), unaminous consent provision (Senate), voting methods, amending procedures, calendar arrangements, discharge procedure.

--Why does Congress have these rules?
--How are they used? By whom?

Authorization and Appropriations Procedure--All appropriations bills must originate in the House. Most of the work on them is done in the House Appropriations Committee, which is itself divided into specialized subcommittees. Further, Congress cannot appropriate monies for any purpose without a separate authorization to do so.

--How does this separation of functions affect the final content of policy measures?
--Does the present procedure lead to oversight by the whole of Congress or by a part?

Role of Political Parties in Congress--The congressional parties are not highly disciplined organizations. Members are encouraged to vote the "party line", but on many issues most feel free to oppose it without fear of serious reprisal.

--Does this make Congress more or less independent of the executive branch?
--What functions do the party organizations serve?

The Responsibilities and Expectations of the Electorate

In the end, a congressman answers to the people of his district or state. His job is to represent them. How does he know what they want? What kinds of pressures do they place on him? How interested are they in issues? Are some issues more important to them than others? How much freedom does the congressman have? Should he always respond to his constituents, or sometimes lead?

Perhaps the best way to seek answers is to interview and understand your congressman. Meanwhile, you can watch the fall election campaigns for clues. Here are some specific facts to gather. You will surely develop more.

1. What kind of district do you live in? Consider socioeconomic and ethnic makeup, population density, party competitiveness.

2. What does the electorate expect of the candidate? How many vote?

3. What are the important issues in the campaign? What is the relative importance of local, national, and international issues?

4. How interested are the citizens in the issues? Do they vote on issues or are other factors (party, personality, use of media) more important?

5. What is the candidate's attitude toward his role as a representative--does he guide public opinion or reflect it?

The Congressman--How He Sees His Job

Pressures on a congressman come from many directions--his constituency, his party, his colleagues, and his conscience. How does he balance these pressures as he makes our laws? Where does he get his information? Does he have enough information on the issues to decide fairly and intelligently on the questions before Congress? What kinds of influence do lobbyists have? Is there need for a new "Code of Ethics"?

A member of the House must stand for election every two years and a senator every six. What kinds of added pressure does this put on a member of the House? Is he more likely to respond to public pressures than a senator? How do congressmen and senators finance their campaigns?

In short, we want to look at the three ingredients that make our Congress what it is--the structure, the voters, and the men. One or all of them should hold the key to a "responsive" Congress. Our job is to find it.

ORGANIZING THE PROGRAM

This program has dynamic beginnings in the League. We can capitalize on the enthusiasm which made this study a program item at Convention last spring. We have a clear, positive goal: to add to community understanding of how well Congress "works" right now and how it might work better.

Even as we study, we can contribute to the "responsiveness" of Congress by demonstrating our active concern. By talking this study over with our senators and representatives we will be opening the way to greater

rapport and mutual respect. From the beginning we should talk openly with our representatives in Washington and with people in our communities.

The League has a real opportunity for community and national leadership--let's take advantage of it. Why not sponsor an open forum or a TV show to get the ball rolling--and invite your congressman? Sell the program positively as a chance for us to help make our representative system work better. Whatever its organization, Congress can't be responsive unless the people want it to be. We've chosen to study Congress because we want to help.

The committee chairman's first job will be to recruit interested members to work with her. The project needs a variety of talents, interests, abilities, and energies. Here are some job descriptions to use in scouting talent.

Researchers:To research particular aspects of the operations of Congress.

Interviewers:To talk with congressmen, newsmen, professors, business people, etc., to find out their reactions to the problems of Congress.

Organizers for Public Forums:To organize public functions--radio, TV, etc.

Newspaper clippers:To watch the progress of legislation in Congress, the activities of the congressmen, and the efforts of congressmen and others to change Congress' operations.

Writers:To keep your members informed with articles on your research and activities in your bulletins - - and don't forget the local press.

Voters Service "experts"- to help in analyzing the congressional district, its characteristics, history and interests.

Keeping League members interested should be no problem; after all, it was members who made this a study item. One caution: be wary of turning the study into a political science course. (Refer to League Publication #317, Meaningful Meetings, for help in planning your programs) Use the best each person has to give, by letting her dig as deeply as she wishes into the aspect of the study which most interests her.

To keep enthusiasm going, vary your programs and source materials, making use of personal interviews, newspapers, magazines, and writings "on the light side". Always keep

our general objectives in mind. Try to relate even the most specific detail to our overall goals.

Why not try the case study approach? Choose a bill that your League really cares about and analyze it through your special lens: how are its form and fate tied to Congressional organization? This gives you a natural tie-in with other League committees and ready ears when you want to share ideas with the full League. It will also keep you on target--keep you from too much abstract theory, pointed toward specific problems of structure. The national item committees may be willing to analyze your congressman's stands on legislation in their areas. The National Board will prepare at least two case studies to help you. The first will examine the legislative fate of the proposed amendment for direct election of the president. You will receive it later in the fall.

SCHEDULE

As we begin, we can set our committee timetable to correspond to the Congressional schedule. There will be no consensus on the item this year, and many Leagues will not be able to hold more than one or two unit meetings on it before National Council. The schedule below is intended for the more ambitious--and as an incentive for the rest of us.

FALL, 1970: November elections

1. Analyze interplay of electoral and legislative processes. (see page 3 above. Also refer to September 1970 National Board Report)

2. Make a start toward "knowing the ropes"--rules and procedures of Congressional organization, party organization, seniority, committee structure, etc.

JANUARY, 1971: The 92nd Congress will be organized. Watch the news media for details. Note how committee appointments are handled, who committee chairmen and party leaders are, etc. See which committees your own congressmen and senators are on. Why were they assigned to them? How important are they?

FEBRUARY, 1971: Facts and Issues on "How Congress Works"

EARLY SPRING, 1971: Detailed examination of how the organization of Congress affects its responsiveness. Use of case studies.

LATE SPRING, 1971: Analysis of Reorganization Proposals

PROGRAM HELPS

- ✓ Keep the national office informed of any suggestions or questions you have. Write directly to Mrs. S. Peter (Libby) Karlow, U.S. Congress Chairman or Mrs. Solveig Spielmann, Staff Specialist.

- ✓ Ask your local library to set up a "U.S. Congress" shelf featuring books on Congress. Use League bibliography to suggest readings they might include.

- ✓ Use your nearest college library and bookstores as sources for recommended readings.

- ✓ See if your local library, high school or college subscribes to Congressional Quarterly and ask if you can use it.

With all the helps at hand, especially your own members' interest and knowledge, you should be able to plan a rewarding and exciting program year.

U.S. CONGRESS FACT SHEET

With thanks to Newark, Delaware Voter
(We made a few additions and changes, but most of the work was theirs.)

HOW A BILL BECOMES A LAW

1. Introduction: Bill introduced by member of either chamber. Usually, similar bills are introduced in the Senate and the House.

2. Committee Action: Once introduced, a bill is referred tc the appropriate committee. The committee can then place the bill on its calendar for hearings. (If the committee decides to hold hearings and report the bill to the chamber floor, the report is usually favorable. If a committee wishes to "kill" a bill, it can do so by not acting.) Most of the amending and structuring of the bill is done in the committee.

3. Floor Debate and Action: Bills are scheduled for debate in different ways in the two chambers. In both houses, routine bills are handled by a call of the calendar. In the House, controversial measures are scheduled by the Rules Committee which may give a bill an "open" or a "closed" rule. A bill considered under a "closed rule" may not be amended by the whole House. Under an "open rule", amendments may be offered from the floor. If the Rules Committee fails to grant a rule requested by a committee, the measure can be brought to debate by other methods--suspension of the rules, Calendar Wednesday, or a discharge motion. In the Senate, the Policy Committee of the majority party schedules the bills for debate. An urgent bill may be taken up by unanimous consent. After debate, the bill is voted on by the house in which it was introduced, and, if passed, sent to the other chamber where a similar procedure takes place.

4. Conference: If necessary, a conference committee composed of members of both houses works out any differences between the House and Senate versions of the bill and reports it back to both chambers for approval. The bill is then ready to be signed by the President and become law.

KEY

C - established by Constitution
T - established by Tradition
R - established by Rules

FUNCTIONS OF CONGRESS

C 1. Legislate: Lawmaking responsibility is the primary concern of Congress and its structure is based on this function.

C 2. Investigate: Congress has the right to investigate anything affecting legislation.

C 3. "Watchdog": Congress oversees activities of executive agencies.

C 4. Advise and Consent: Power of the Senate only to advise and consent to treaties and to certain presidential nominations.

C 5. Propose amendments to the U.S. Constitution.

C 6. Impeach civil officials: House brings charges and Senate tries the case.

T 7. Serve its constituents and educate the public.

MEMBERSHIP

C 1. Qualifications:
House: 25 years of age; citizen of the U.S. for 7 years; resident of state elected from.
Senate: 30 years of age; 9 years citizen of the U.S.; resident of state elected from.

C 2. How and when elected:
House: elected every 2 years from representative districts. Elections held in November of even numbered years.
Senate: elected for 6 years in statewide elections. Only 1/3 of Senate voted on every two years.

C 3. Replacement:
House: state governor must call special election or leave post vacant until next regular election.
Senate: state governor appoints someone to serve until special election or for rest of term.

4. Privileges:

R a. Salary: $42,500/year
R,T b. Staff: size based on size of home state. Office space assigned on basis of seniority. Allowance given for staff. Larger for senators than for representatives.
R,T c. Franking privilege for official mail.
C d. Except for treason, felony, or breach of peace, congressmen are free from arrest when in session or traveling to and from.

COMMITTEE SYSTEM

R & T
1. Types of Committees

a. Standing committees: permanent committees that remain from Congress to Congress. They frame legislation and supervise administrative agencies. There are 20 in House and 16 in Senate. Chairman of committee is the ranking committee member of the majority party and has power to appoint members of sub-committees.

b. Sub-Committee: small group from standing committee: purpose is to divide the labor.

c. Special or temporary: set up to deal with special problems as they arise.

d. Joint: made up of members from both houses on an equal membership basis. Called to hear special speakers or testimony.

e. Conference: ad-hoc joint committee established for a particular bill to iron out differences between House and Senate versions of bill. Usually its members are from standing committee which reported the bill.

2. Appointment of Members

a. Committee on Committees: party group which places new congressmen on standing committees. The more important committee posts are given on basis of seniority. Ratio of each party's membership on committee corresponds roughly to ratio in entire house.

3. Rules Committee

a. exists only in House

b. serves as legislative traffic cop determining which bills passed by committee may proceed to floor and when.

STRUCTURE OF CONGRESS

1. Senate

C a. 2 from each state, elected at large.
C b. 100 members
C c. Vice-President is presiding official; has vote only in case of tie.
C d. President pro-tem serves in absence of Vice-President. By tradition senior majority party member of Senate.
T e. agenda determined by conference between majority and minority leaders subject to member approval.

Current Senate Officers:

President of Senate: Spiro T. Agnew
Pres. Pro-Tempore: Richard B. Russell (D, Ga.)
T Majority Leader: Mike Mansfield (D, Mont.)
T Majority Whip: Edward M. Kennedy (D, Mass.)
T Minority Leader: Hugh Scott (R,Pa.)
T Minority Whip: Robert Griffin (R, Mich.)

2. House

R a. 435 members
R b. number from each state based on population, reapportioned after each census; each state has at least one.
C c. Speaker of the House elected by partisan vote at the start of each two-year session.
R d. House sets its rules at the beginning of each two-year session.
C e. House has sole responsibility for initiating all appropriation bills.

Current Officers of the House:

C Speaker of the House: John McCormack (D, Mass.)
T Majority Leader: Carl Albert (D, Okla.)
T Majority Whip: Hale Boggs (D, La.)
T Minority Leader: Gerald Ford (R, Mich.)
T Minority Whip: Leslie Arends (R, Ill.)

BILLS AND CALENDARS

1. Bills: are introduced in each chamber by member of that body.

2. Calendar: determines the date and order bills reach the floor.

a. House
i. Union: public bills concerned with revenue or appropriations.
ii. House calendar: all other public bills (relate to matters of public concern and have general impact on community)
iii. Private calendar: deals only with private bills (benefit particular individuals or situations)
iv. Consent calendar: used for minor, unopposed bills.
v. Discharge calendar: motions to "discharge" bills from committees.
vi. Calendar Wednesday: call of standing committees in alphabetical order, with each committee permitted to bring up any bill it's reported which lacks privileged status. Cumbersome and rarely used.

b. Senate
i. Legislative calendar: all bills come under this calendar
ii. Executive calendar: items under the advise and consent power are scheduled here.

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All the books listed below have been read by members of the national U.S. Congress Committee and are recommended for your use in the study. Starred books were listed in Mrs. Karlow's July 24 Memo to State and Local Leagues.

I. General: How Congress Works

* Bailey, Stephen K., Congress in the Seventies, 1970, St. Martin's Press, $1.75.

Bendiner, Robert, Obstacle Course on Capitol Hill, 1964, McGraw-Hill Book Co., N.Y., $4.95.
Interesting treatment of the course of legislation through Congress, using federal aid to schools as primary example. (Reader must keep in mind date of book and changes in the last six years.)

Berman, Daniel M., In Congress Assembled: The Legislative Process in the National Government, 1964, Macmillan Co., N.Y., $7.95.
A thorough look at the component parts of the national legislative process with particular emphasis on the make-up and inner-workings of Congress. Discusses alternatives to current procedures in addition to giving a pro and con background to specific current practices.

* Bolling, Richard, House Out of Order, 1965, Dutton, N.Y., paperback, $1.45.
Analyzes House through its members, leaders, lobbies and committees, with separate chapters on Landrum-Griffin Labor Bill and Civil Rights. Good discussion of Rules Committee. In popular style, with contemporary names.

Committee for Economic Development, Making Congress More Effective, 1970, N.Y.
A statement by the CED Research and Policy Committee recommending changes in the appropriations process, committee system, and the administrative responsibilities of Congress. (A copy of the report is being mailed to each Local and State League. Additional copies may be obtained for $1.00@ from the Committee for Economic Development, 477 Madison Avenue, New York, N.Y. 10022)

* Clark, Joseph S., Congress: The Sapless Branch, 1964, Harper & Row, N.Y., $1.95.
Congressional Reform: Problems and Prospects, 1965, Thomas Y. Crowell & Co., N.Y., paperback, $2.95.
Useful series of chapters by authors prominent in field on various aspects of proposed reforms of Congress with final comments and recommendations by Clark.
The Senate Establishment, 1963, Hill and Wang, N.Y., paperback, $1.50.
Collection of four speeches made by Senator Clark to the United States Senate dealing with the special influence of a particular group of men in the Senate.

* Congressional Quarterly, Congressional Reform, Special Issue of Congressional Quarterly, April, 1964, $2.00. Only a few copies available from Congressional Quarterly, 1735 K Street, N.W., Washington, D.C.

Davidson, Roger H., Kovenock, David, and O'Leary, Michael, Congress in Crisis: Politics and Congressional Reform, 1966, Wadsworth, N.Y., paperback, $2.95.
This should be one of the most helpful books you'll find. Focuses on reform in the framework of the differing interpretations of what we see as the role of Congress and the Congressman.

Donham, Philip and Fahey, Robert, Congress Needs Help, 1966, Random House, N.Y., $4.95.
Result of a "management study" by Arthur D. Little. Deals with Law-making, Executive oversight, Constituent Representation, Bigness, Standing Committees, Congressional Organization Today, Prospects for Reform.

* House Republican Task Force, We Propose: A Modern Congress, 1966, McGraw-Hill, paperback, $1.45.

* How Our Laws are Made, 35 cents. Available from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Huitt, Ralph, and Peabody, Robert, Congress: Two Decades of Analysis, 1969, Harper & Row, paperback, $3.95.
Good general overview of Congress by two leading specialists in the field.

Keating, Kenneth, Government of the People-The Challenge of Change, 1964, World Publishing Co.
Focus is on congressional operation and the electoral process and the need for reform. Based on 18 years of experience of Senator Keating in Congress (12 years in the House, 6 in the Senate). Discussion of problems in Congress and its responsiveness to the people. Includes comment about other national governmental institutions and their responsiveness.

McNeil, Neil, Forge of Democracy: The House of Representatives, 1963, David McKay, N.Y., $2.65.
Gives good historic background in the changes in the House-in the Office of Speaker, the relationship to the President, the committees and how they function. A good "overall" book.

Miller, Clem, Member of the House, 1962, Scribner's Sons, N.Y., $2.95.
Letters (and short essays) for his constituents on congressional procedures and practices--very readable. Miller was a Representative from California until his death in early 1963.

* Organization of Congress: Final Report of the Joint Committee on the Organization of Congress--Congress of the United States, 1966, (89th Congress, 2nd Session, Report No. 1414). Copies not available except through local libraries.

Saloma, John, Congress and the New Politics, 1969, Little-Brown, paperback, $3.95.
An evaluation of Congress in the context of societal and political change. Part II, "The Contemporary Congress" is particularly useful; it examines the representative, legislative, oversight, and constituency service functions of Congress.

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II. Congress and the Electorate

Froman, Lewis, Congressmen and Their Constituencies, 1963, Rand McNally, paperback, Chicago.
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Twentieth Century Fund: Electing Congress, The Financial Dilemma, 1970, N.Y., paperback, $1.00; five or more copies 40% discount.
Report of the Twentieth Century Fund Task Force on financing congressional campaigns (plus a background paper by David L. Rosenblum). Order from Twentieth Century Fund, 41 East 70th St., N.Y. 10021.
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III. The Congressman and His Job

* Clapp, Charles L., The Congressman: His Work as He Sees It, 1963, Anchor Doubleday, paperback, $1.95.
Based on personal impressions of Congressmen, the book treats the role of the Congressman vis-a-vis his constituents, his colleagues, pressure groups, etc.

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* Tacheron, Don and Udall, Morris, The Job of the Congress (Prepared for Orientation Seminars for new Congressmen), 1966, Bobbs Merrill, $2.75.

White, William S., Home Place: The Story of the House of Representatives, 1965, Houghton Mifflin, Boston, $4.00.
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Wright, Jim, You and Your Congressman, 1965, Coward-McCann Inc., N.Y., $4.95.
Readable account of Congressman and how he now operates in the system as it now exists.

* * * * * * * * * * * *

At this writing, the first major reform of Congressional procedures since 1946 seems certain. Both the House and the Senate have passed versions of The Legislative Reorganization Act of 1970 which is designed to make Congress a more open and efficient body. Among the major features of the bill are:

--provides for recorded teller votes in the House

--allows a majority of members of a committee to call a meeting if the committee chairman refuses to do so

--publication of committee votes taken in executive session

--limits use of proxy votes in committees

--expands Legislative Reference Service

--permits radio and television broadcasting of House committee meetings

Access of public to congressional actions and decisions (e.g., Congressional Record; executive sessions and open meetings; open voting on leaders)

III. Do you think Congress needs new or improved mechanisms for determining priorities to make the legislative process more responsive to national needs? If so what mechanisms might be developed?

No. members in local League _____

No. present at consensus reaching meeting _____

Signature _____

Position _____

Date _____

League of Women Voters of the U.S.
1730 M Street, N.W.
Washington, D.C. 20036
September, 1971

FILE COPY

LOCAL LEAGUE _____

STATE _____

CONSENSUS QUESTIONS

U.S.CONGRESS: An evaluation of congressional structures, procedures, and practices and their effect on responsive legislative processes

Be sure to refer to U.S.Congress Committee Guide #7 which suggests discussion questions for this consensus.

I. Students of government have developed criteria to evaluate the degree of responsiveness of legislative processes. Check (with comment if you wish) those criteria listed below which your League accepts. Add any other criteria which you consider important.

Accountability

Representativeness

Decision-making capability

Effective performance

Others

Do you think Congress meets your criteria (taken together) very well, fairly well or poorly?

Send one copy of your report to the national office (one copy to state and one for your local League file) as soon as possible after determining consensus but NO LATER THAN MARCH 1, 1972.

II. If you see need for improvement in House and Senate structures, procedures, and practices, what specific changes would you recommend? Relating the criteria chosen above, consider the following aspects of the legislative process in your replies:

Selection of leadership (e.g., seniority; election of party leaders)

Leadership powers (e.g., rules of operation for committee chairmen; party and caucus responsibilities; Speaker's authority)

Committee organization (e.g., assignment to committees; committee jurisdictions)

_____
(Name of local League) (State)

Decision-making procedures (e.g., availability of information; staffing; decentralization vs. centralization)

Majority rule and minority rights (e.g., Senate cloture rule; discharge procedures; power of committees)

Use of congressional time (e.g., congressional workload; electronic voting; scheduling)

FILE COPY

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102
October 1971

Speech by Liz Ebbott, U.S. Congress Chairman,
League of Women Voters of Minnesota
given October 11, 1971 at the conference on
U.S. Congress: Can It Be More Effective?

What is Congress' Role?

If pro is the opposite of con, what is the opposite of progress? (Congress)...or as Will Rogers put it, "Of course my little jokes don't hurt nobody, but when Congress makes a joke it's a law."

Many jokes have been made about Congress, but it isn't really that funny. The 1970 Harris poll asking how well Congress did its job found 63% of the people giving a negative reply and this % has been steadily increasing for the past 5 years. The titles of recent studies are also revealing, Congress Needs Help, House Out of Order, Congress, the Sapless Branch, Congress in Crisis, Obstacle Course on Capitol Hill.

Critics point to issues Congress isn't facing, needs and wishes that seem supported by the majority of the nation that are not receiving legislative attention. Looking at the whys, it becomes clear that Congress as an institution may be standing between the people and the laws they feel will serve the national good. It is the process of law making that we will be looking at.

The first article of the Constitution establishes Congress, and all "Legislative powers herein granted shall be vested in the Congress." It makes all laws "necessary and proper" for carrying into execution the powers vested by the Constitution in the government of the United States.

Other powers are designated - such as impeachment, ratifying treaties, declaring war, approving Presidential appointments - and Congress also devotes major attention to the oversight of the executive branch. However, the primary function of Congress is to legislate.

Laws are the institutionalization of conflict, resolving tensions and enabling all groups to more nearly have the life they wish. Effectiveness is measured by the ability to reconcile differing views. Congress must make hard decisions, not only on intellectual, fact basis, but also valuing social, political concerns. It has the option of evading conflict, postponing it, compromising, or making decisive decisions. Into the lawmaking process a Congressman may bring a strong advocacy, doing his best to get legislation in terms favorable to his constituents, region or philosophy. But at some point in the process, advocacy must end and consensus development begin. This is necessary between Congressmen and also between the Congressman and his constituents. The need to educate and persuade is very much a part of the consensus building process.

Congress brings together 535 Representatives and Senators. Under procedures established by the Constitution along with rules and customs of the two bodies, Congress legislates. Separate bills are introduced into each house, separate committees in each house hold separate hearings, write

separate proposals. Each body deals with its own version. Then, if needed, a conference committee, members from both houses, meets, tries to compromise and if it is successful, each house must again pass that version. The President has the option of signing or vetoing. If the bill is vetoed, Congress has the last chance. A 2/3rds vote by both bodies will make it law. For Congress to provide money for programs, it must go through this full process two times. First a law must be passed to authorize the expenditure, and then,before different committees, the whole law making process is repeated to appropriate the money.

It is said that Congress is a group of men brought together to slow down the government. Some of the obstacles to lawmaking are built in and very little will be done about them. The greatest single source of lack of efficiency in lawmaking is the Constitution. It provides for separate powers, checks and balances, both between the branches of Congress and between Congress and the executive. To try to run a business with a bicameral legislature would be disaster. The founding fathers knew the power of a single ruler, and they feared mob rule. They felt inefficiency was a small price to pay for insurance against tyranny. They intentionally pitted interest against interest, ambition against ambition.

In 1789 Jefferson, who objected to the idea of two houses, was asked by Washington, "Why do you pour that coffee into your saucer?" "To cool it," was Jefferson's reply. "Just so", said Washington, "we pour legislation brewed by the House into the Senatorial saucer to cool it before it is ready for passage."

The massive size of government itself greatly complicates the legislative process. The 1st Congress dealt with 144 bills, had a 2 year budget of $4.3 million. Each representative had 30,000 constituents. In contrast, the 91st Congress, 1969-70, had over 25,000 bills, a budget of some $220 billion and each House member represented 470,000 people. Can anyone actually comprehend this amount of money? Is it really possible to represent half a million people?

Lincoln was visiting Secretary of War Stanton and left his stove pipe hat on a chair in the outer office. When he returned to get it, a very fat woman rose to bow to the President. Lincoln bowed in return and then walking behind her picked up the remains of his hat saying, "Madame, I could have told you that my hat wouldn't fit before you tried it on."

Congress doesn't fit the complexities of today. It doesn't have the structures and tools to cope. It is trying to run a business ten times as large as AT&T and General Motors combined with machinery as obsolete as quill pens, slanting bookkeeper desks and spitoons. The first two are figures of speech, I think; the latter is still a reality.

Another important factor is that Congressional structures must accommodate 535 people. The House, with 435 representatives, must operate under very rigid rules that seem to limit severely the freedom to act, yet they are needed if it is to function at all.

And by the very nature of Congress' function, i.e. seeking agreement among so many, even with radically changed procedures, it is probable that lawmaking can never be really efficient nor tidy.

The nature of lawmaking, the Constitution, the complexities of today, and the size of Congress are all realities, barriers to efficiency. They

probably will not be changed. Other problems relate to structures and processes that have been evolved by Congress and in turn can be modified by it.

There must be leadership if anything is to be accomplished. The political parties have assumed the role of organizing and giving direction to Congress. The dominant party of each house selects the Speaker in the House, the Majority Leader in the Senate, and the other centralized leadership. The parties also approve the committee members. There is a continual power struggle between the centralized leadership and the fragmented leadership of powerful committee chairmen. There have been times in recent years when the Speaker and Majority Leader have exercised great power, but this was done primarily by personal skill. It is argued that the parties, representing national views, should have greater say over operations. This would require a willingness on the part of the members to submit to strong centralized leadership. This they have not been willing to do. Congress has been called a headless body, a drunken centipede with legs going in all directions. The major reforms in the past, 1910 when the Speaker's powers were limited and in 1946 when the committee numbers were drastically cut, have led to increasingly fragmented leadership. Committee chairmen achieve power by length of service rather than election. They are free to ignore party positions, platform and philosophy. There have only been rare instances where the party has denied seniority.

Seniority prevails and permeates all of Congress - from committee assignment, to power within committees, to location of office, even to location of parking space. Because of the certainties of the system, there is no reward for individual effort and bucking the system can mean being denied favors that those with seniority have available to bestow.

A new Congressman places his emphasis on coming back. As Representative Adam Clayton Powell has said, "The primary and overriding duty and responsibility of each member is to get re-elected." The Congressman sends out baby books and is not really involved in Congress. He looks forward to eventually being a sub-committee chairman. He is a man of widespread obscurity.

A Congressman is elected for local reasons. So he concentrates on getting things done for his constituents. This can be very demanding on his time. He may receive 500 letters a week. It may take as much as half of his time as well as a great deal of staff time assisting constituents - often in ombudsman fashion seeking satisfaction from administrative bureaucracy. This attention to home district pays off. In surveys, 2/3rds of the people identify their Congressman in terms of what he's done for his district. This means votes and re-election. Ninety-three percent were re-elected in 1970. In serving this errand boy function, there just isn't time to do justice to all his other jobs. He is expected to know about the general legislation he will be voting on. He is expected to become an expert in his committee's specialities. There is the oversight function, the role as educator, and the party role as local leader, national party representative, political careerist seeking higher office. He is also office manager.

As he can't do it all, he tends to deal with things as they come up, making decisions as he goes along, doing the easiest things first. In the process, he looses control of his time and his priorities. What is often ignored is facing the nation's future needs and preparing the country to face them.

The operational structure of Congress is the committee. Because it is the basic unit, the problems of Congress are largely those of committees. They are set up as the means of becoming thoroughly knowledgeable about a limited area of government. They receive bills, hold hearings, and formulate knowledgeable legislation. Upon the committee's recommendation, the legislation usually passes. Without its recommendation, proposals usually do not become law. Ninety-five percent of the bills approved by committees are passed by Congress; the committee version remains 95% unchanged.

Congress prides itself upon the expertise of committee members, knowledge built up through long years of tenure. An individual Congressman succeeds as he specializes. But there are drawbacks. The emphasis on specialization also leads to tunnel vision and loss of perspective. Congressmen become strong proponents of narrow programs and lost is the most difficult job of setting national priorities. There is also great identity of committees with departments, a club relationship, fostering of special interests while lobbyists attach themselves like barnacles.

Congress does not originate much legislation, rather it reacts to other's initiatives with 80% of the laws beginning outside of Congress. Committees then evaluate and shape the proposals. However their staffing is woefully inadequate in relation to the huge staffs of the administrative departments. So on one hand while there may be close relationships with departments, when it comes to getting independent information on which to base judgements, committees are at a great disadvantage. The departments have massive staffing with modern technology to provide them with information - 4,000 computers in the Defense Department alone. This is against the committee's minimal staff, non-experts, some inept patronage employees, no computers.

One legislative assistant has commented, "It's unusual for the staff to take a deep study of anything. Congress is quite an accidental institution. The bills are so complex we can't understand them without help from the bureaucrats."

There are 21 standing committees in the House, 17 in the Senate, and a few joint committees. There had been more that were drastically cut in 1946. But now there is a huge number of sub-committees - some 268. (The Senate has more sub-committees than Senators.) The committees vary in the way they operate. The chairman is the majority party Congressman with longest tenure on the committee. Some operate with tight, autocratic rule - epitomized by the remark of Representative Emanuel Cellar, Chairman of the House Judiciary Committee. He was asked how he stood on a bill, "I don't stand on it, I'm sitting on it. It rests four square under my fanny and will never see the light of day."

In some of these committees, the sub-committees are designated only by number not topic and bills are assigned at the whim of the chairman, giving him great power. (This is the way the DC Committee in the House operates.) In others, the sub-committee chairmen have a great deal of authority which means further fragmenting of centralized responsibility.

In 1970 the medium age of House chairmen was 66, the Senate 68 with some over 80 years. The average age in the United States is 28, people born at the end of WW II. The average Congressman was born at the end of WW I. The Congressional leadership was born around the turn of the century, in rural America. There can't help but be a representation lag. And we are a long way from having 51 % women in Congress.

The chairmanships, because of seniority, go to the men representing safe districts and are heavily weighted in favor of the South. The South may have lost the Civil War but it eventually won Congress. Half of the House chairmen are southerners, 2/3rds of the Senate leaders.

Committee subject matter jurisdiction has not been altered for almost 25 years. Here there is much overlapping of jurisdiction, jealously guarded, and yet often there is no one focal point of concern for crucial issues. At least 10 committees are involved with the environment and yet there is no structure to deal with overall environmental policy-priority issues. Over half of the 268 sub-committees claim urban policy issues, but no one is the focal point of urban problems.

Some committees are extra-ordinarily powerful. The Ways and Means Committee of the House is responsible for all taxes, social security, welfare, medicare, unemployment compensation, trade legislation and also acts as the Democratic Party's Committee on Committees which makes all committee assignments for that party. In terms of influence, it is of benefit to the whole state that Minnesota's Representative Karth, 4th District, has just been accepted on this committee.

Another very powerful committee is the Rules Committee. It serves as the House's traffic cop, scheduling when bills are to come to the floor and recommending how much time should be allowed for debate, how many and what kind of amendments can be offered. In addition to this obvious power, it also can fail to act and thus keep from floor action bills that have been approved by committees.

A procedure called the "21 day rule" was used in 1949-50 and again in 1965-6 to allow committee chairmen to reclaim their bills and bring them to the floor if, after 21 days, the Rules Committee hadn't acted. This approach did release a lot of important legislation. At the present time the rule is not in force. There is also a procedure called Calendar Wednesday where it is possible for committee chairmen to bring up bills passed by their committees, by-passing the Rules Committee. It is a cumbersome procedure and is very infrequently used.

Another mechanism for forcing action is the discharge petition, removing a bill from committee and bringing it to the floor. It requires 218 signatures, one-half of the House. It has had only limited usage. From 1909-1965 over 800 petitions had been filed, 22 got the needed signatures, 18 passed the House, only 2 became law. It has only been used once in the last 10-12 years - to get the Equal Rights for Women Amendment out of the Judiciary Committee.

We have talked about several problems where it is felt that change might improve the operation of Congress - reducing time demands on the Congressman, increasing access to information, improved staffing, better technological tools, leadership selection, and committee operations. And there are others. Briefly a few: One is cloture, that is, voting to limit debate; this is an issue in the Senate. Up until 1917 the Senate had no special provision for stopping discussion. At that time it passed the rule that if 2/3rds vote it, the Senate can limit the time a Senator may speak. Attempting cloture 49 times, it has been successful 8. For several years at the beginning of a new Congress there have been attempts to lower the percentage to 3/5ths. This year that proposal was filibustered and died.

There is the suggestion of saving time and increasing information by centralizing data about the progress of bills on the floor and in committee so that it is possible to tell what is in a bill, where it is, what has happened to it. At the present time this information is not compiled, is not available.

The procedures of funding federal programs have received strong criticism. Nobody examines the total federal budget, weighing priorities, relating expenditures to income. It is not possible to conduct a rational and predictable fiscal policy this way. There are 13 annual, regular appropriation bills. These have been increasingly delayed so that a department's year may be almost half gone before it knows the money it will have. This makes it very difficult to plan, start, change or drop programs. From 1964-1970 there were 86 appropriation bills, only six were passed before the fiscal year began, July 1. Last year, six hadn't been approved by December 1, five months into the new fiscal year. One proposed remedy is that the fiscal year be changed to the calendar year.

We have looked at the role of Congress to serve the nation, to resolve our conflicts, to solve our problems ... that is, to legislate, and to see that the federal government works to our benefit.

We looked at several facets of lawmaking, built in and complex problems, the leadership, the member, the committee, and procedural problems.

In many ways Congress is the American people, with our shortcomings, "warts and all". The Council of Economic Development points out that the defects of Congress are not congenital, its wounds are self-inflicted. And as Ralph Nadar comments, "it is the only Congress we have."

What kind of Congress we have is our responsibility. In the last analysis it is all up to us.

League of Women Voters of the U.S.
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TESTIMONY BEFORE THE HOUSE SELECT COMMITTEE ON COMMITTEES ON REFORM OF HOUSE COMMITTEES

by

LUCY WILSON BENSON
President, League of Women Voters of the United States

I am Lucy Wilson Benson, President of the League of Women Voters of the U.S., a political action and education organization whose purpose is to increase citizen participation in government. We have approximately 150,000 members in 1300 local Leagues in every state plus Puerto Rico, the Virgin Islands and the District of Columbia.

I am honored to have the opportunity to appear before this Select Committee on Committees chaired by you, Mr. Bolling. Through your books and thoughtful consideration of Congressional reform over the years, you have made a major contribution to understanding of the problems Congress faces and the opportunities for change. I commend you and your colleagues in the House for recognizing the urgent need for reform, and the members of this Committee for their dedication in dealing with the highly sensitive and difficult matter of change from within. I was pleased to note in the September 18th Washington POST that the Committee plans to have its recommendations ready to submit early next year. It will serve the best interests of the House and the general public if bold new proposals for strengthening the committee system of the House can be enacted prior to election of the 94th Congress.

The League celebrated its 50th anniversary in 1970. Our organization has a long history of concern about the way Congress works. For example, in 1944 League members adopted an action position in support of measures to improve the legislative process and the relationship between Congress and the executive. We worked actively on behalf of the Legislative Reorganization Act of 1946.

Our most recent activity began in 1970 when League members undertook a new study aimed at understanding how Congress works and at reaching consensus on action for congressional reform. We concluded that the structures, procedures, and practices of the U.S. Congress must be characterized by greater accountability, representativeness, decision-making capability and effective performance. That's a pretty large order, and comprises a set of goals to which almost everyone can subscribe in theory. The League, however, is not out simply to propound theories or ideals. Our aim is specific reforms to bring goals and practice into closer alignment.

In early 1973, the League published a Community Guide to congressional reform titled appropriately, we hope, "Congress: A Time of Renewal." In this, we set forth some of the problems of the committee system and noted with satisfaction the changes achieved in the first days of this session designed to liberalize the process of selecting committee members and chairmen, to open House committee hearings to the public, and to modify the closed rule procedure. A copy is attached for your information.

Before I discuss specific recommendations today, I would like to emphasize that League members approach this knotty problem with a mixture of humility and confidence. We do not profess the theoretical knowledge of your academic witnesses or the pragmatic expertise of the Members of Congress who have testified before you. Instead, we

bring to this hearing an independent viewpoint and insight based on our experience as an organization which lobbies actively. We bring, in addition, a conviction that the present procedures and committee structures of Congress frustrate not only the desire and ability of members to achieve what they believe to be in the best national interest, but make it almost impossible for citizens and public interest organizations to fulfill their responsibilities.

We do have the further advantage of representing views of concerned citizens whose primary focus is the public interest, and without whose understanding and support representative government cannot function democratically. Special interests are, of course, essential ingredients of our system of government, and we do not downgrade their importance. But the public interest, which is to say the general well-being of the nation and all of its people, cannot be served by a mere balancing of, and trading off between, special interests. The overall general national welfare is a special component which is slighted at grave risk to us all.

The need for congressional reform is not new to members of this Select Committee, but at least three recent developments have generated a new focus on the problems.

First came the Presidential reorganization and expansion of the White House and Executive Office staffing and functions which had the effect of bypassing established departments over which Congress had traditionally exercised oversight. Coincidental with that development were the executive branch's aloofness from Congress and the imperative to secrecy imposed on executive personnel.

Secondly, there was the executive branch's excessive impoundment of funds legally authorized and appropriated for such programs as water pollution control and educational impact aid, and unilateral executive actions to end such programs as rural housing, OEO community action agencies, and urban renewal.

Lastly, there came the revelations of Watergate which have provided a new and immediate focus on the problems of legislative-executive relations and power alignments.

The erosion of congressional power, however, cannot be attributed to events of the past few years or to the fact of a Republican Administration and a Democratic Congress. It is related to the constant pressures of hot and cold war crises prevailing since World War II, to an ever-present concern with national security (real and imaginary), and to the increasing aspirations and goals of our citizens and those of other countries.

These and other factors point up the seriousness and urgency of the job this Committee and the Congress face. The challenge is not simply a matter of re-aligning power between the legislative and executive branches in the United States. In addition, Congress is right up against the absolute necessity to equip itself to serve the public interest efficiently and insightfully and to do so with maximum awareness of national and international problems and opportunities. The Congress simply cannot afford to postpone action much longer.

All of those words are easy to say, but we recognize that nothing is more difficult than internal change undertaken by those who must do the changing and who will also be affected by it. Restructuring of the committee system is only one step. But it is an essential step toward enabling Congress to re-establish and reassert its authority as a co-equal branch of government. It is a <u>must</u> if the House is to carry its full legislative responsibility for determining national priorities and restoring confidence in the legislative branch. For our part, I can pledge to you a continuing support from the League for changes to enable Congress to be more effective.

Some specific areas the League is concerned about include: inefficient and overlapping committee jurisdictions, the need for new committees to deal with problems of the seventies and eighties, the necessity for more rational and expeditious management of the budget and appropriations, and the need for more adequate staff and information resources for House committees and members.

I. COMMITTEE JURISDICTION

League program action covers the gamut of domestic programs such as housing, adequate income and services to alleviate poverty, clean air, water pollution control, as well as foreign trade, and long range development programs for lesser developed countries. In lobbying and in stimulating citizens to take action, we run head-on into irrational complexities of the legislative system.

Take the matter of peripheral jurisdiction. Many committees have assumed, or had thrust upon them, legislative assignments which are actually peripheral to their major responsibilities, yet central to those of other committees. Examples with which the League has been directly involved include the Ways and Means jurisdiction over social services and day care for federal public assistance recipients, Agriculture Committee jurisdiction over food stamps and P.L. 480 programs, Banking and Currency Committee jurisdiction over international development institutions. These jurisdictional conflicts, however rational they may have seemed at one time, work against legislative efficiency and make constituent response difficult.

To illustrate my point, I will expand on the problems inherent in Ways and Means jurisdiction over day care for children of public assistance recipients. We understand how this situation came about and our objection to it in no way implies that Ways and Means Committee members are less sympathetic to the needs of children than are members of any other committee. The point is that the Ways and Means Committee's major assignment in the 92nd Congress was reform of the public assistance system. Another committee (Education and Labor) was working simultaneously on a new federal system for child care programs. To place jurisdiction over "welfare" children in Ways and Means and over other children in Education and Labor is not rational or necessary; it stands in the way of developing a cohesive federal policy for child care. The split jurisdiction itself served to deepen the separation between disadvantaged and more advantaged people. And, from a practical point of view, the day care provisions in HR 1 undermined support for the major welfare reform proposals developed by the committee. So neither program was served by the arrangement.

Now, to the example of Banking and Currency Committee jurisdiction over international development institutions. For many years, the League has worked for closer coordination of bilateral and multilateral assistance programs, and yet the first basic legislative step remains to be taken: unified committee jurisdiction. The present division of responsibility between the Foreign Affairs and Banking Committees makes it harder for committee members and the House as a whole to consider the full range of development aid problems coherently, and thereby weakens the capacity of the House to exert the leadership expected of it in this matter.

Take the matter of clearcut responsibilities. For example, some of the subcommittees, instead of having clearly defined areas of responsibilities, have very broad jurisdictions and are sometimes responsible for programs which have very little relation to each other. Two of the Appropriations subcommittees come to mind: the marriage of agriculture, environment and consumer protection in one subcommittee, and HUD, space, science, and veterans in another. The appropriations bill developed by the latter subcommittee boggles the mind of constituents interested in each separate field and defies sound budgeting practice. The result is that Congressmen have difficulties in dealing with each set of problems in a rational way, or in a way that truly reflects their opinions or positions. It is little wonder that most citizens feel terribly remote from and frustrated by the processes of Congress.

II. COMMITTEE ALIGNMENT TO DEAL WITH TODAY'S PROBLEMS

The present House committees were set up over 25 years ago. Are they flexible enough to handle the problems of the 70s and the 80s, or do we need to have new committees specifically mandated to deal with such problems as education, urban life, international development and energy?

On the other side of the coin, do we still need all the committees that were set up in 1946? Are some of them overworked and some not busy enough?

These are the kinds of questions League members raised as they reviewed the organization of Congress, and they are the kinds of questions with which this committee will have to come to grips. We join many Congressmen who have indicated to you their convictions that the present committee structure is not set up to cope with problems of the 70s: new areas of concern have developed and old ones have faded away.

As you know, the number of standing committees has remained pretty much the same since the passage of the Legislative Reorganization Act of 1946 -- only two new ones, Science and Astronautics and Standards of Official Conduct having been added. But subcommittees have multiplied rapidly. The House had 106 in 1945 and now has almost 150. New subcommittees are, of course, necessary for Congress to cope with new problems, but the proliferation itself reflects a need for change in the standing committee structure. A multiplicity of subcommittees perpetuates little fiefdoms which are highly vulnerable to special-interest pressures.

This committee knows very well the major new areas for which consolidated consideration may be required. The whole field of energy, about which we have been hearing so much recently, certainly comes to mind. The Committees on Science and Astronautics and Public Works have subcommittees on energy; the Interior Committee has a subcommittee on Water and Power Resources, and the Commerce Committee has one on Communications and Power. Are all of these separate subcommittees really necessary and productive?

Responsibility for national environmental and land use policies is fragmented among too many different committees. And it would seem to us that the problems of the cities and education require the concerted congressional attention that only exclusive committee jurisdiction can provide.

A growing number of persons inside and outside Congress are agreed that the Committee on Internal Security no longer serves a useful purpose. Questions have also been raised as to whether or not the Post Office and Civil Service Committee has sufficient work to warrant its continuation as a separate entity.

III. COMMITTEE RESPONSIBILITY FOR THE FEDERAL BUDGET AND SPENDING

The problems of executive-legislative relations, staffing, and information availability and priorities are all tied up in the congressional budgetary process. Special attention has been devoted to this issue during the 93rd Congress and the League agrees that changes must be made. House members themselves have been among the first to acknowledge that Congress lacks effective mechanisms and procedures for dealing with its fiscal responsibilities in a coordinated fashion. Congress must itself create the structure and find the resources needed to establish national priorities by dealing with total programs, with budget expenditures and revenue as a whole, rather than in bits and pieces. Conflicting interests must be weighed, one against the other, and reconciled for the good of all by a Congress with the knowledge, resources and determination to make the necessary hard choices.

Whether or not powerful new Budget Committees should be established before your Committee has evaluated the total structure is something you and your colleagues must work out in the months to come. The League supports coordination of the overall budgetary/appropriation process. We do have major reservations with respect to bills presently before the House. Our reservations are based on our members' concern that these decisions be made in a way that assures democratic and full participation by all Members of Congress and does not hamper expeditious action.

The League's prime concern is less with budget control as a method of containing federal expenditure, however, than with coordination of revenues and expenditures to make possible a rational and humane allocation of available resources.

Certainly, there will always be conflicts among needs and hard choices to be made. It is our belief, nonetheless, that given a rational committee structure along with technical and professional means for evaluating needs in relation to resources and revenues, the Congress can determine priorities and appropriate funds to meet the needs of people.

Until such a system is devised, however, the House and its appropriations committees must give high priority to passing appropriations bills on time. Otherwise, state and local governments cannot plan rationally for the administration of programs Congress has authorized. Last year, for example, Leagues which had acted as sponsors of the Emergency School Assistance (ESAP) agencies in their communities were caught without funds. This was due primarily to the hiatus between enactment of the new Title VII Emergency School Assistance Act (ESAA) and passage of appropriations for that program. During recent years, Leagues have worked hard to support Title I programs for disadvantaged children and then found educational agencies did not get funds in time to carry out carefully developed plans. We are well aware that this kind of frustration was exacerbated this year by Executive-branch fund impoundments or enforced reductions in spending; but the problem of late funding has been pretty routine, and has indeed been an important factor in undermining public confidence in the Congress.

To make the requisite budgetary/appropriations decisions intelligently and with due regard for a reasonable resolution of conflicting demands, Congress must find answers to a number of difficult problems:

1. Great power will rest in committees which propose total budget allocations in the light of revenue and the economic picture. For this reason, their membership should be representative of the Congress as a whole. It is desirable, of course, that the appropriations and taxing committees should be represented but not in the overwhelming numbers recommended in HR 7130, HR 8876, or other similar proposals;

2. Adequate facilities, resources, and professional staff must be provided to serve members as budget decisions are made. By adequate, we mean that there must be enough technical backup for a large and professionally trained staff to analyze administration proposals and national needs, and to present realistic alternatives for concurrent consideration;

3. The calendar under which budget committees and Congress are to operate and the rules and procedures for committee and floor action must be flexible enough to facilitate citizen response to proposals, as well as knowledgeable and effective floor debate by all Members of Congress. Indeed, we want to expand the opportunities for important participation in the priority setting process by Congress as a whole and by the public. At present, the irrationality of the overlapping budgetary/appropriations process makes it nearly impossible for the public to know what is going on or to have a voice in the decisions made.

4. The recent experience with the fiscal 1973 Labor/HEW Appropriations bill furnishes a dramatic example of the hazards inherent in funding major programs for a year under continuing resolutions. The President and the Office of Management and Budget used the lack of a regular appropriations bill to claim that the Administration's lower Budget Request for FY 73 in fact constituted the legitimate appropriation for health, education, manpower, etc. programs. The argument was specious, of course, but the executive branch used it to justify a $1.8 billion reduction in spending for those programs. The damage to programs serving human needs is obvious. But the Congress itself suffers too. It is difficult for Members of Congress to defend themselves or the Congress successfully against such highly technical claims and to make the legislative position clear to the public. Thus, confidence in the House and Congress as a whole is undermined.

IV. COMMITTEE NEEDS FOR SPECIAL RESOURCES

League members are convinced that special assistance must be provided to members of the House and its committees to enable them to cope more readily with the complexities of today's problems. A specific example of League experience leading us to that conclusion is the two-year struggle for welfare reform. As you are well aware, the Ways and Means Committee spent long months of hard and dedicated work in two sessions of Congress developing legislation.

The Committee faced a difficult job in resolving major philosophical disagreements on this highly controversial matter. In addition, it experienced difficulty in getting accurate and up to date information. Members needed to know, for example, how the public assistance system actually operated, the practical impact of cash assistance and in-kind services relative to the incomes of lower-income working people, and the realistic costs necessary to serve people in need and to meet desired goals.

The Ways and Means Committee is in the same boat with most other committees: it does not have the staff or funds to oversee programs of the magnitude of the federal/state welfare systems. For program evaluation and current data, therefore, this committee had to rely primarily on the Department of Health, Education and Welfare which had a point of view to promote and whose data was not as current as was needed. Witnesses, including state and county welfare administrators, of course, supplied information about their programs, and there were proposals and findings from independent organizations, such as the Brookings Institution. But findings and reports yielded conflicting information and did not seem to the League to provide an adequate or a standard base for making the refined judgments necessary to developing a complex new national alternative to the present welfare system.

It has been suggested to this Committee that one of the reasons the executive branch has more influence and power than the Congress is that the Presidency and administrative agencies have far better facilities for getting and using information about public problems than does Congress. There is no question that a better informed Congress would be in a stronger position to assert itself on a co-equal basis with the executive branch.

The 1970 Legislative Reorganization Act took several steps forward in that regard. It provided new opportunities for enlarging and training committee staffs, for strengthening the Congressional Research Service, the General Accounting Office and the House information systems. House committees have not taken maximum advantage of those advances, however, and that can be done without further legislation. Cannot the House insist also that the central data and information retrieval service available to the executive and legislative branches be operated under a mutually agreed upon and equally available system, and that a standard system for programming information be established?

V. MEMBERSHIP AND ORGANIZATION AND OPENNESS OF COMMITTEES

While League members recognize the importance of expertise in the subject matter of committee concern, we believe that safeguards must be provided against over-dependence on information supplied by special interests. One such safeguard is deliberate action to assure that members on each committee represent diverse attitudes, interests, experiences and constituencies. The present system tends to freeze members on committees and to prevent the infusion of new blood. Some of the 1970 Act reorganization requirements and new seniority rules adopted this year point the direction to be taken.

I am not in a position to propose new specific recommendations about how committee membership should be determined or committee work organized. I would, however, like to pose a few questions indicative of those League members ask:

- Why cannot substantive and appropriations committees hold joint hearings periodically, especially at the point of determining and assessing facts about national needs? Would this not save time and make it easier for the public to participate in the process?

- Is it possible for committees to organize themselves in pre-Congressional sessions, so that the work of each new Congress can be expedited?

- Cannot some system be devised for rotating committee membership and the chairmanship, to guard against entrenched and powerful special interest groups gaining an undesirable amount of influence, and to give new members greater opportunity?

- Cannot greater use be made of joint meetings by House committees that have similar and/or overlapping jurisdictions and between comparable House and Senate committees? [Sometimes, we wonder how federal administrators have the time to carry on their duties, in the face of all the duplicated appearances they must make before Congressional committees.]

- Why cannot appropriations committees be abolished or combined with legislative committees to eliminate one step in a highly duplicative and complex process?

A special point I would like to make is that Congressional decisions must be made in the most open and democratic way possible. As we all know, nothing undermines public confidence more than the appearance that deals are being made behind closed doors. People are frustrated if they don't know what decisions have been made or the impact of those decisions on their lives. And when they're frustrated they become angry and distrustful. Democracy is not very effective under these conditions. Progress has been made in opening up committee deliberations to the public. But further steps must also be taken to make full and timely information on committee proceedings available.

Finally, I would like to recommend that this committee set up procedures whereby an automatic and regular review of House committee structure will occur in the future. What worked in 1946 doesn't work in 1973. And what works today or next year certainly cannot be guaranteed to work even in 1980 much less 2000.

In summary, the League recommends for this committee's consideration:

1) consolidation of committees with overlapping jurisdiction; abolition of unnecessary committees; reduction of subcommittees;

2) establishment of committees in important new program areas;

3) representation of diverse interests and constituencies on committees;

4) coordination of the budget process permitting full participation by every Member and the public;

5) increased professional staffing and improved information systems;

6) as far as possible, open meetings and full, timely publication of proceedings;

7) automatic and regular review of committee structure and jurisdiction.

Again, I thank you for the opportunity of testifying before this Select Committee on Committees and reiterate the pledge of continuing League support for measures to strengthen the House committee system and House procedures.

# # #

Attachment: "Congress: A Time of Renewal" published by the League of Women Voters Education Fund.

Single space
Send to Yvonne

U.S. Congress: Action for Responsive Legislative Processes

The League of Women Voters of the United States believes that the structures, procedures and practices of the U.S. Congress must be characterized by accountability, representativeness, decisionmaking capability and effective performance. Responsive legislative processes must meet these criteria:

ACCOUNTABILITY: A Congress which is responsible to the citizens and which is able to hold its own leaders, committees and members responsible for their actions and decisions.

REPRESENTATIVENESS: A Congress whose leaders, committees and members represent the nation as a whole as well as their own districts and states.

DECISIONMAKING CAPABILITY: A Congress with the knowledge, resources and power to make decisions which meet national needs and reconcile conflicting interests and priorities.

EFFECTIVE PERFORMANCE: A Congress able to function in an efficient manner with a minimum of conflict, wasted time and duplication of effort.

Based on these criteria, the League supports the following changes in congressional structures, procedures and practices:

Leadership and Committees:

- Modify the seniority system, especially by limiting the number of years committee chairmen may serve.

- Implement a prescribed set of procedures to give the committee itself rather than the chairman alone control over committee operations.

- Make committee assignments in such a way as to achieve representation of diverse interests.

- Review and continually evaluate the committee system in light of contemporary needs and realities.

Decisionmaking:

- Develop mechanisms for determining national priorities.

- Coordinate fiscal processes in order to consider total programs, establish priorities and examine the expenditures and revenues of the budget as a whole.

- Eliminate unnecessary secrecy within the Congress and between Congress and the executive branch.

- Schedule congressional activities to make effective and responsible use of congressmen's time.

- Streamline congressional workload by transferring from Congress those duties which might more suitably be performed by other agencies.

OVER

- Provide adequate professional staff for congressmen and for committees to secure and make effective use of information.

- Improve the sources and the flow of information through computerization and other methods.

- Use electronic voting and other timesaving devices.

Majority Rule and Minority Rights:

- Modify cloture rule to 3/5 majority.

- Provide measures that would facilitate discharge of bills from committees.

The Right to Know:

- Make available full information on congressional proceedings in committees as well as on the floor.

- Require open meetings to fullest extent practicable.

- Publish the Congressional Record as a clear and accurate report of the day's proceedings.

# # #

April 1972

League of Women Voters of the U.S.
1730 M Street, N.W.
Washington, D.C. 20036

JAN 11 1973

December 4, 1972

STATEMENT TO THE SENATE AD HOC COMMITTEE ON POLITICAL REFORM

by

Lucy Wilson Benson, President
LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

on

CONGRESSIONAL REFORM

The League of Women Voters' position on congressional reform is based on a year-and-a-half study undertaken by its 160,000 members. The study was completed this year. In general, we concluded that: the structures, procedures and practices of the U.S. Congress must be characterized by greater accountability, representativeness, decision-making capability and effective performance.

However sound the diagnosis may be, we know that cures will be harder to come by.

Recent surveys have made much of the point that the American people have grown distrustful of their political leaders and institutions. However, this year's display of ticket splitting showed a willingness to think, compare and make choices for their elected representatives. While the electorate still may not trust them, it apparently still cares.

think it would be tragic if the 93rd Congress did not exhibit similar concern over its form and functions. Considerable attention is being paid to changing relationships among the executive, legislative and judicial branches of government. With few exceptions, Congress shows up with the short end of the stick, certainly in terms of getting itself together so it can be, as the Constitution intended, a co-equal parti-

cipant in responsible government.

Many of Congress' ills are self-induced. It has been weakened as an institution because both its members and leaders have been reluctant to exercise the same oversight responsibilities on themselves as they wield over executive agencies.

This was evident during October's brouhaha over the President's $250 billion ceiling on federal expenditures. Congress exhibited no mastery of where cuts could or might be made -- what programs were working or not working. Basically, the initiative has been passed to the President and the Office of Management and Budget.

The simple fact is that Congress lacks effective mechanisms and procedures which would allow it to deal with its fiscal responsibilities in a coordinated fashion. The League believes that Congress must create for itself the resources needed to deal with total programs, establish national priorities and deal with budget expenditures and revenue as a whole rather than in bits and pieces. Conflicting interests must be weighed, one against the other, and reconciled for the good of all by a Congress with the knowledge, resources and guts to make the necessary hard choices.

This means computers, adequate professional staff to secure and make effective use of information both for individual members and committees. Now, Congress relies too much on data supplied by /the executive branch both in its consideration of new legislation and its review of how authorized programs are being implemented. Obviously, Congress cannot have staff which would duplicate that of the administrative agencies. But you should have enough competent people to get a firm handle on how the Executive is interpreting your purposes.

These are steps which only Congress can decide to take -- just as next month it will be up to the parties to decide how best to organize.

League members feel quite strongly that the seniority system should be modified. They

object to procedures which make chairmanships automatic by virtue of only one criterion -- seniority. They believe that procedures can be found which limit the number of years a chairman may serve. On the other hand, they recognize that more is involved in the selection of a chairman than would be accomplished by an equally arbitrary rule requiring that the choice be made according to a publicly recorded caucus vote. The League also believes that committee members should play a more significant role in how their committee will operate.

A recent Congressional Quarterly survey of committee hearings in the 92nd Congress underscored the need to open hearing doors for public scrutiny. As citizens and voters, League members strenuously object to the unnecessary secrecy surrounding so many deliberations. We therefore support moves to require open meetings to the fullest extent possible and, also, to have recorded committee votes. A closed door hearing may make life easier for the committee and its witnesses, but it is a grave disservice to Congress' constituents -- the people.

The League position calls for other reforms and changes which are spelled out in the materials given to this committee. However, I'm sure that Congress has no need of a League of Women Voters or Ralph Nader study to realize that both its houses are not in order.

Cries for congressional reform are not new. Virtually since its inception, citizens have grumbled about poor legislative performance. Congress may never be perfect but it does have an obligation to conduct its business on as efficient and effective a level as possible.

It is up to Congress to decide how responsive it will be to its own needs and the needs of the country. Through hearings like today's, both returning and new members will be exposed to the options for change that exist. The League's hope is that these options will be carefully considered and that responsible actions will follow.

# # #

FILE COPY

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

October 1970

CONGRESSIONAL STUDY

I. Materials you have on hand:
"Memorandum", LWV of the U.S., July 24 - suggests how to approach this study and gives a bibliography.
"How Our Laws Are Made", Government Printing Office - tells how Congress now functions. Each League has been given a copy of this. If you can't locate it, ask your congressman for a copy.
"National VOTER", LWV of the U.S., September 1970.

II. Plan to do some homework; then come and bring your committee, your League, to the state conference on the Study of Congress, December 4, 1970, Prom Center, 1190 University Avenue, St. Paul. Ask questions; learn more.

III. Additional bibliography suggestions:
"Making Congress More Effective", Committee for Economic Development, 477 Madison Avenue, New York, N.Y. 10022 - September 1970. $1.00.
Presents a wide range of specific suggestions to make Congress more responsive to current needs. A good deal of emphasis on the budget-financing procedures. An excellent chart of House and Senate committee and sub-committee structures.
"Letters of a Congressman", Clem Miller, Scribners (paperback). Collection of a congressman's letters to his constituents telling how Congress really works.
"The Case Against Congress", Drew Pearson and Jack Anderson, Pocket Books, Inc. $.95. (and Simon and Schuster, 1968) Emphasis on congressional ethics (Senator Dodd). Flamboyantly written; take with a grain of salt.
"House Out of Order", Richard Bolling, E.P. Dutton and Co., Inc., 1965. The problems and prospects of the House of Representatives written by a congressman from Missouri. Representative Bolling is a principal mover of the Democratic Study Group.
"You and Your Congressman", Jim Wright, Coward-McCann, Inc., New York, 1965. A personal account of the daily life of a congressman. Representative Wright is from Texas.
"The Congress and America's Future", edited by David Truman, Prentiss-Hall, Inc., 1965. A collection of papers from the American Assembly by experts evaluating Congress.

IV. Brief summary of the Legislative Reorganization Bill - 1970, passed by both houses October 1970. These changes will begin January 1971.
For both houses:
1. a majority of the committee membership can force action on a bill.
2. All committee roll call votes must be included in the committee report.
3. General proxies are forbidden on committee votes.
4. Urban Affairs are added to the Banking and Currency Committees in both House and Senate.
5. The Legislative Reference Service is strengthened and the name changed to Congressional Research Service.
6. Congress will recess for the month of August in non-election years.
7. The Joint Committee on Congressional Operations is set up to study congressional reform on a continuing basis.

House changes:
1. Committees are to be opened for radio and TV coverage.
2. Proxy voting is not allowed in committees.
3. Provision is made for 1/3 minority staffing of committees.
4. There is to be public disclosure of committee votes.
5. On demand, teller votes must be recorded.
6. Ten minute debate is allowed on all amendments on the floor.
7. There is provision for faster quorum calls.

8. Conference committee reports must be printed in the Congressional Record three days before they are brought up for action.
9. Only a majority vote in the House is necessary to consider non-germain amendments added in the Senate.
10. Electronic voting devices are now possible.

Senate changes:

1. A Senate Veterans Affairs Committee was created.
2. One Senator can no longer force a committee not to meet when the Senate is in session.
3. Senators can be on only two major committees; they can be chairmen of only one - exempting the current chairmen.
4. Two more staffers are provided for the minority on each committee.

V. Passages from a speech by Representative Harrington, June 23, 1970, pointing up the inadequacies of the congressional committee system as it operates in the House District of Columbia Committee:

. . . Nowhere is the failure of this body to respond to the demands of the 20th century more obvious. All legislation dealing with the District of Columbia must pass the House District Committee. Legislation assigned to the committee is handled either in full committee where the chairman holds control, or is assigned to a subcommittee by the chairman. The chairman appoints all his subcommittee chairmen. But under the rules, the subcommittee may operate without any designated area of concern.

The chairman can assign legislation to any subcommittee he selects. The subcommittee, where visibility is minimal and control is maximum, has the power of life and death over matters coming before it.

Let us look at how this subcommittee system actually works. Subcommittee No. 2 of the House District Committee has been stacked with a disproportionate number of members who generally can be considered in opposition to the practices and philosophy of the chairman. Then Subcommittee No. 2 is passed over by the chairman when major legislation is assigned. In fact, after the chairman of Subcommittee No. 2, a black man, was named chairman, no bills were referred to his subcommittee for the remainder of that session.

Thus far in this session, Subcommittee No. 2 has been assigned 19 pieces of legislation. By way of contrast, Subcommittee No. 3, a favorite of the District of Columbia Committee chairman, has been assigned 87 pieces of legislation. While Subcommittee No. 3 has been responsible for a good part of the District of Columbia Crime Bill, Subcommittee No. 2 has been assigned such legislation as a bill to create a firefighters' museum and a bill to provide additional congressional tags to members.

Committee assignments are not the only controls the chairman holds tightly and arbitrarily. He, like other chairmen, has the power to call committee meetings or to determine not to hold meetings. By committee rules, the chairman must call a meeting on the first Monday of each month. The committee has met only three times at that regularly appointed time.

Or he can call meetings under unusual circumstances. In April 1969 he called a meeting at 11:00. The committee considered 15 separate bills and heard testimony from witnesses on a major city problem. The meeting adjourned at 12:00, one hour later.

Many members are not notified of meetings until the last minute, making their presence at the meeting nearly impossible. Major bills have been passed without testimony from those vitally concerned.

The chairman has also been able to - with absolute authority - deny self-government for the nation's capitol. He has been chairman since 1948. In 1949, 1951, 1953, 1955, 1958, 1959 the committee failed to act on Senate passed home rule or nonvoting delegate bills. In 1962, 1965, 1966, 1969 similar legislation again died in committee. While the problems of the District grow, Congress makes no effort to deal with them.

The District of Columbia Committee is typical of the results of seniority. I cite it as an example of how we have allowed a system to distract us from our chief function, the consideration of national issues and the consideration of matters relevant to current America.

1730 M STREET, N.W., WASHINGTON, D.C. 20036 • TEL. (202) 296-1770

FILE COPY

memorandum

The League of Women Voters of the United States

*Please route this Memo to your Congress study committee.

July 24, 1970

MEMO: To State and Local League Presidents

RE: U.S. CONGRESS: An evaluation of congressional structures, procedures and practices and their effect on responsive legislative processes.

FROM: Mrs. S. Peter Karlow, national Board, Chairman of Congress Study Committee

The first meeting of the committee for the newly adopted Congress study met in Washington July 21 and July 22 to discuss plans for this year's work. It was a most interesting and productive meeting. We want to share with you now an outline of our thinking about the development of the study and invite your suggestions, questions and comments.

THE COMMITTEE

First of all, many of you will already have set up a committee for the Congress study. This area of League concern lends itself to some innovations in committee structure and operation. For example, with the fall elections coming up, the responses to congressional candidate's questionnaires, normally the province of the Voters Service Committee, might be evaluated by a member of that committee who might also watch the campaigns to observe what kinds of techniques candidates are using: their use of television and radio; appearances at candidates' meetings; stumping the district. What issues are candidates highlighting? What kinds of questions is the public asking? In what terms are the responses given? Such analyses have value for both Voters Service and Congress study committees which can share the project.

In the same manner, members of other national program committees, from their work, can feed in information about the course through Congress of legislation related to bills of League interest. Reports from the Hill and Times for Action provide a framework in which, at least in some areas, the Congress committee can get input from other committees on what happens to proposals in their journey through congressional processes.

Leaguers who are unable to attend many meetings because of their work or small children at home can clip for you and serve a useful function on your committee. With Congress finishing up the session, with elections coming up, with the reorganization of Congress for the second session of the 91st Congress in January 1971, there are many articles in magazines and newspapers that will be valuable.

THE SCOPE

We will be evaluating how Congress now operates in terms of its structures, procedures and practices. As we look at these, we will be looking also at proposals that have been made for change, evaluating them, and considering whether or not possible changes might create other problems greater than those the proposals are designed to solve.

We will want to know how our own congressmen see their roles in relation to the national interests and to concerns of their constituents, and what they might suggest to improve procedures and practices. During the year, when your League talks to the representative from your district, you will want to chat with him about his work within the congressional system. You will know, before you visit him, on what committees he serves so that you can encourage him to tell you what he sees as the functions of his committee and what changes he might like to see in its role and procedures or in its part in the legislative process.

THE TIME TABLE

Most Leagues will be having their unit or membership discussions on Congress in March, April, or May. This tentative timetable for help from the national League is planned:

1) This Memo and the short, carefully selected "summer" general reading list now. Share it with members in your Bulletin.
2) An interim guide for leaders as the Congress Committee Section of the September 1970 NATIONAL BOARD REPORT, which will arrive in October. It will have additional suggestions and include a longer bibliography.
3) A Report from the Hill on the current Reorganization Bill, which proposes some changes in congressional procedures. This bill is now being debated on the floor of the House. The Report will come shortly after its passage or defeat in the House.
4) A FACTS & ISSUES by mid-February to promote among your members and the community an interest in Congress, how it operates, and what the thinking is, pro and con, on proposals for making Congress more effective and responsive.
5) The Committee Section of the January NATIONAL BOARD REPORT. It will contain sample discussion questions and further committee helps.
6) A NATIONAL VOTER article in early spring. This article plus the FACTS & ISSUES should give every member at least a minimum of background and an interest in participation in your League's discussion.
7) National League Council in May 1971. Your state delegates to Council will want to know your thinking before they come to Washington so that they can report progress of the study in their state Leagues, what the members are thinking, and aspects to consider during the second year of the study.

THE COMMUNITY AND THE NEW STUDY

With elections coming up and a new Congress meeting in 1971, there are a variety of ways to interest your community in Congress and its responsiveness to the people. Panels and public discussion, radio and TV programs

geared to what congressmen and political scientists say about Congress are some of the ways in which to stimulate thinking and learn from the community.

With our interest and emphasis on involving young people in the political process, your League might interest high school government classes in polling projects. With the right kind of stimulation and with students themselves choosing goals for a poll and working out the design, students can not only learn about the public's attitudes and about some facet of government but also make a contribution to the League study. For example, a government class might design a poll as a predictor for the outcome of the 1970 elections, or as a sampling of what the public thinks about Congress and how it operates, or as an indicator of how well acquainted people are with those who represent them. Students are very good at design and analysis.

The League of Women Voters of the U.S. has available, 2 for 10 cents, a two-side sheet of simple directions: "So You Want to do a Poll". These might be ordered and given to high school civics or government teachers interested in a class project involving polling.

CONCLUSION

You can see that there are many innovative ways your committee can begin early to build a background by reading and to challenge community interest. We as a committee found our own discussions stimulating. We are sure your committee will, too.

You might like to know who the members of the national League Congress study are:

Mrs. Sherrod L. Bumgardner, President, League of Women Voters of South Carolina
Mrs. Harold Hixon, League of Women Voters of Los Angeles
Mrs. W. D. Kelley, President, League of Women Voters of Arizona
Mrs. Richard Malchon, President, League of Women Voters of Florida
Mrs. J. C. McFarlin, State Board, League of Women Voters of Arkansas
Mrs. Hans-Ullrich Scharnberg, National Board, District of Columbia
Mrs. Irwin Toback, League of Women Voters of New York City
Mrs. S. Peter Karlow, Chairman, National Board, Montgomery County, Maryland

If you have ideas or questions you would like to share with us, address them to Mrs. Karlow, national office.

BIBLIOGRAPHY

We have tried to select titles really for summer reading. Many of these references are available in paperbacks and some may be in your local libraries. If your library is part of an interlibrary loan system, and if you are not too impatient about waiting for the book to arrive, some can be obtained by asking for the loan service.

Bailey, Stephen K., Congress in the Seventies, 1970, St. Martin's Press, $1.75.

Bolling, Richard, House Out of Order, 1965, Dutton, N. Y. paperback, $1.45.

Clapp, Charles, The Congressman, His Work As He Sees It, 1963, Brookings Institution, paperback, $1.95.

or

Tacheron, Don, and Udall, Morris, The Job of the Congress (Prepared for Orientation Seminars for new Congressmen), 1966, Bobbs Merrill, $2.75.

Clark, Joseph S., Congress: The Sapless Branch, 1964, Harper & Row, New York, $1.95.

House Republican Task Force, We Propose: A Modern Congress, 1966, McGraw Hill, paperback, $1.45.

Organization of Congress: Final Report of the Joint Committee on the Organization of Congress--Congress of the United States, 1966, (89th Congress, 2nd Session, Report No. 1414). Copies not available except through local libraries.

Truman, David, Congress and America's Future, 1964, Spectrum Press, paperback, $1.95 (Report of the American Assembly, Arden House, 1965).

Wilson, Woodrow, Congressional Government, 1925, Houghton Mifflin, (Provides an historical perspective and a critical analysis of indications of change at close of 19th century), $2.45.

Congressional Quarterly, Congressional Reform, Special Issue of Congressional Quarterly, April 1964, $2.00. Only a few copies available from Congressional Quarterly, 1735 K Street, N. W., Washington, D. C.

How Our Laws are Made, 35 cents.
Available from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

U. S. CONGRESS

An evaluation of congressional structures, procedures and practices and their effect on responsive legislative processes.

At the 1970 Convention, the interest of League delegates in a study of the U. S. Congress was heightened by the crises at home and abroad; by the frustrations of individuals and groups, including young people, who, finding the established channels unresponsive and slow, were using other methods, sometimes violent ones, to achieve their goals. In addition, delegates to the Convention realized that success in all areas of their concern depended not only on the League's ability to persuade congressmen but also on the effectiveness of the Congress and its procedures. So the Convention, believing a study of the U. S. Congress especially timely, chose for its program this study, which had not been recommended by the national board.

The members wish to study Congress as it actually operates to determine whether or not changes in its present organization and procedures would make it more responsive to the needs of the people or whether or not the system as it is would operate more responsively if it were better understood. Factors to consider include: selection and roles of committees, their membership and leadership; length of congressional terms and feasibility of top age limits for congressman; procedures involved in assignment and scheduling of congressional business; rules for proceedings and debate both in committee and on the floor; rules of evidence and testimony; sources of information used by congressmen; need for open and closed meetings; possibilities for recording of all votes and for electronic voting machines. Leagues should also evaluate the role of the congressman in his interrelationships with other congressmen; the relationships between the Senate and the House; congressional communication and relationships with the executive branch; methods of informing the public and of responding to public wishes; pressures on the congressmen; a workable code of ethics.

The League will examine how Congress operates and the many proposals that have been made for change. Members will then determine whether changes are needed, and if so, which changes. The League, as it begins this new study, has a unique opportunity to interest and involve the community in discussion. Not only the League but all citizens will benefit from a better understanding of the practices and procedures of Congress. A study of Congress gives Leagues the opportunity to discuss ideas with their senators and representatives and opens up possibilities for greater rapport and better understanding and mutual respect between the League members and their representatives in Washington. League members need for their evaluations input from their Congressmen, from the public, from political scientists. If changes seem desirable, to effect them requires a broad base of public understanding and support. Public interest can be challenged from the very beginning.

The impact of congressional action or inaction is immediate. Increased mobility in the nation; regional approaches to problems of transportation, the environment, provision of services, federal assistance to state and local projects require that most state and local League programs operate within a framework of national legislation. The study of Congress will have widespread influence on nearly all areas of national, state and local League concerns.

FILE COPY

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, SECOND SESSION

Vol. 116 WASHINGTON, TUESDAY, JUNE 23, 1970 No. 104

House of Representatives

INADEQUACIES IN THE OPERATION OF THE DISTRICT GOVERNMENT AND IN THE CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. HARRINGTON) is recognized for 60 minutes.

Mr. HARRINGTON. Mr. Speaker, the way the city of Washington, D.C., is run says a great deal about the structure of the U.S. Congress.

Using one as an example, we mirror the inadequacies of the other.

For instance, in the morning I drive to the House Office Building from Georgetown where I rent a townhouse. After veering off M Street to Pennsylvania Avenue, I am soon within view of what is traditionally known throughout the Nation as Washington, the seat of our national government.

I pass the Executive Office Building, White House, the Treasury Building. All beautifully kept. Strikingly impressive. Another block and I can see the Capitol and I drive by the massive buildings enclosing the Mall.

After parking in the convenient Rayburn garage, I make my way past the cordial greeting of security officers into the elevator and to my office.

My view as I come to work matches the view of thousands of visitors who come to see the Nation's Capital annually. Girl Scouts see the House of Representatives and are told by well-instructed tour guides that here is one of the two legislative bodies of our Government which makes the laws of the land. Tourists inspect the Rotunda and visit their Congressmen, and at every step of the way they are pampered by staff and by security guards who courteously help them on their tour.

The tourists and I move easily amidst marble, amidst quotations from famous figures in American history, amidst manicured greens and spacious halls. We, the tourists and I, see the Washington we all know so well from calendars and picture books.

What we miss is the "other Washington."

The Girl Scouts do not travel the 10 blocks from the Nation's Capitol to see the slums. They miss the hungry children, the frustrated minorities, the documented stories of rat infestation. They do not pass the sign along the Potomac River which reads, "Danger, Health Hazard." And they do not notice that there are not any polling booths in November for the 850,000 residents of the city.

Neither the tourists nor I see the Washington which has been held captive by the House District of Columbia Committee. Neither the tourist nor I see the closed meetings of the congressional committee where the real business of the city takes place. Neither the tourist nor I can readily sense the power exercised over the National Capitol by the chairman of the House committee charged with control of the city.

The gap between what Washington could be and what Washington is describes the gap between what Congress could be and what it is.

Washington suffers from the archaic system of rules and tradition of the House of Representatives which has placed the rule of the Capitol in the hands of one man—a man 32 years in Congress and representing a rural district several hundred miles to the south.

I do not criticize the man. I criticize ourselves. Congress. Because nowhere is our failure to reflect our national constituency more evident than in the way we prescribe the rule of the District of Columbia. Nowhere is the failure of this body to respond to the demands of the 20th century more obvious.

Let me cite detail.

All legislation dealing with the District of Columbia must pass the House District Committee. Legislation assigned to the committee is handled either in full committee where the chairman holds control, or is assigned to a subcommittee by the chairman.

The chairman appoints all his subcommittee chairmen.

But under our rules, the subcommittee may operate without any designated area of concern.

District subcommittees have no names, just numbers.

The chairman can assign legislation to any subcommittee he selects. And to the subcommittees, as we all know, is granted the power of life and death over matters which come before them.

Do you remember those eggs within an egg which we played with as children? Remember how you opened one, then another, and still another in descending size?

That's how government is made in Washington, D.C. Inside the Congress, inside the District Committee, inside the subcommittee of the District Committee's choice—that is where legislation is found. Where visibility is minimal, where control is maximum. There the chairman of the District of Columbia Committee appoints his chairmen and assigns legislation to those subcommittees of his choice. His power is conclusive; his constituency—a rural district of the South.

Let us look at how this subcommittee system actually works.

Subcommittee No. 2 of the House District Committee has been stacked with a disproportionate number of members who generally can be considered in opposition to the practices and philosophy of the chairman. Then Subcommittee No. 2 is passed over by the chairman when major legislation is assigned. In fact, after the chairman of Subcommittee No. 2, a black man, was named chairman, no bills were referred to his subcommittee for the remainder of that session.

Thus far in this session, Subcommittee No. 2 has been assigned 19 pieces of legislation. By way of contrast, Subcommittee No. 3, a favorite of the District of Columbia Committee chairman, has been assigned 87 pieces of legislation.

While Subcommittee No. 3 has been responsible for a good part of the District of Columbia crime bill, Subcommittee No. 2 has been assigned such legislation as a bill to create a firefighters' museum and a bill to provide additional congressional tags to members.

Members of Subcommittee No. 2 have consistently asked for more legislation, particularly revenue or crime legislation, but the chairman has not honored their requests.

In fact, after Subcommittee No. 2 had completed preliminary work in an investigation into the problems of education in the District of Columbia, the chairman of the District of Columbia Committee stated that the subcommittee was not prepared to go into any investigation.

At that time the subcommittee had been assigned only three minor bills. But the chairman said he would have to appoint a special select subcommittee to investigate District of Columbia education.

Interestingly enough, despite the fact that his committee was already overburdened, the chairman of Subcommittee No. 3 was asked to head the special select subcommittee. Half of the Democratic members of the committee were busy subcommittee chairmen. In the meantime Subcommittee No. 2 continues to ask for more work.

Committee assignments are not the only controls the chairman holds tightly and arbitrarily.

The chairman of the District Committee, like other chairmen, has the power to call committee meetings. He can, of course, determine not to hold meetings.

The committee rules state that the chairman must call a meeting on the first Monday of each month. But the committee has met only three times at that regularly appointed time.

Or the chairman of the District of Columbia Committee can call meetings under unusual circumstances.

Such was the case in April 1969 when he called a meeting at 11 and adjourned the meeting at 12. In 1 hour the full committee heard subcommittee reports, considered 15 separate bills, and heard testimony from witnesses from the District government discuss a major city problem.

Many members are not notified of meetings until the last minute, making their presence at the meeting nearly impossible. One committee member has reported that on three separate occasions, March 25, April 8, and April 9 of this year he received only 1-day notice, once by phone with no clue as to what was on the agenda.

The same member received notice for full committee consideration of important crime legislation at noon on February 3, the day before the meeting was scheduled.

These are, of course, only some of the ways in which the committee chairman can use the powers we have relinquished to maintain control of the committee, often against the majority will.

Many of us have become so conditioned to these practices that we assume that they must be a part of the legislative process. They need not be. But to demonstrate to the skeptic the effects these practices can have on a major piece of legislation, let us examine the District of Columbia crime bill.

This bill is important because it has received severe criticism and is the major piece of legislation to come from the District of Columbia Committee in the 91st session of Congress. By taking a brief look at the manner in which some of the controversial points were included in the bill, the rules and traditions which we have set to govern the internal operation of this legislation are brought to obvious and serious question.

Let me begin by quoting from the testimony of Congressman BROCK ADAMS, a member of the House District of Columbia Committee, who testified before the Senate Judiciary Committee on June 19. His testimony—supported by other members of the committee—tells us something of the rules under which we operate. I quote:

> First, no hearing was ever scheduled before the D. C. Committee on proposals for preventive detention. A review of my records indicates that on January 29, 1970, a hearing was scheduled and held on a bill to establish a congressionally-appointed Police Commissioner for the District of Columbia. An executive session of Chairman John Dowdy's subcommittee had been scheduled

that morning, following the public hearing. Instead, Mr. Donald Santarelli, representing the Justice Department, appeared to testify on pretrial detention in the District of Columbia. None of us had any advance indication of this shift in committee scheduling. None of us had been notified of the Department of Justice's apparent 180-degree reversal of its previous postion which was to oppose any pretrial detention for the District because it would be on a non-national, piecemeal basis. None of us were prepared to extensively debate this issue, and, because of the announced schedule, I was unable to even attend the hearing.

No other witnesses were invited to testify on this highly controversial proposal. No judges were asked to appear. No members of Congress appeared, even though at least one member whom I personally know had requested to appear. No representatives of the American Bar Association, the D. C. Bar Association or any other organization appeared. And no official from any appropriate District of Columbia or federal department was invited or appeared, including the Mayor and the Chairman of the D. C. City Council.

The preventive detention proposal, further, had been surreptitiously inserted as Title II in the bill under the general subject "To amend the District of Columbia Bail Agency Act to increase the effectiveness of the District of Columbia Agency. . . ."

That was just part of Mr. ADAMS' critical testimony.

The pretrial detention proposal is one of the most controversial pieces of legislation passed by the House of Representatives this session. I wonder if any of us would be proud to explain its passage through the House District of Columbia Committee to the Cub Scouts touring the Capitol today.

But that is not all.

The proposal to transfer Lorton Prison from the city government to the Department of Justice did not come from any regularly constituted subcommittee but from a special select subcommittee that heard testimony on conditions and problems at Lorton in a series of investigative hearings.

Neither the Department of Justice nor the city government testified on the bill itself. The only testimony regarding the actual provisions of the bill came from the bill's sponsor, Mr. SCOTT of Virginia.

The bill was passed in executive session called on a Friday with only four hours notice over strenuous objections of the gentleman from Minnesota (Mr. FRASER) that a quorum was not present.

This is the kind of system under which the District of Columbia Committee operates.

There was only 1-day advance notice to committee members of the markup of the crime bill which occurred on February 17 and this continued over to February 18 with no advance notice of the hearings on that day except oral notice given at 9:30 a.m. for a 2 p.m. executive session.

Again, only Mr. Santarelli of the Justice Department appeared in any hearing regarding the controversial code revision which abolished jury trial for juveniles.

Only Mr. Santarelli appeared in any hearing regarding the juvenile code revision that sanctioned lowest civil standard of proof.

Only Mr. Santarelli appeared in hearings regarding the provision defining all juveniles over 16 who are accused of a violent crime as adults for purposes of prosecution.

These proposals were submitted at varying times and there was no chance for public questioning of the advocates of the proposal nor the solicitation of testimony by possible opponents of the proposal.

The proposal to abolish the Commission on Revision of Criminal Laws was introduced in the House on January 27, and only 1 day later Subcommittee No. 3 reported it favorably to the full committee. This was done in an unannounced executive subcommittee session held at 5:30 p.m. on January 28 and there were no public hearings.

There were no hearings and no testimony offered on three separately introduced bills which were later incorporated into the District of Columbia omnibus crime bill dealing with a provision to make the breaking into a vending machine burglary in the second degree, making carnal knowledge of a female under the age of 16 a crime punishable from zero to 30 years—later increased to life, and additional penalties for commission of crimes while armed.

Not only can the chairman of the House District of Columbia Committee control important legislation coming to his committee, he has been able to—with absolute authority—deny self-government for the Nation's Capital.

The chairman has served in that capacity since 1948.

In 1949 hearings were held but no further actions was taken in the House District Committee on the Senate-passed council manager bill.

In 1951 the House District Committee failed to approve the Senate-passed home rule bill.

In 1953 the Senate-passed bill providing for a nonvoting delegation to the House was tabled by the committee.

In 1955 the Senate-passed home rule bill died in committee.

In 1958 the bill establishing District of Columbia territorial government was passed by the Senate but received no action in the House District Committee.

In 1959 the committee failed to report the Senate-passed home rule bill.

In 1962 a bill again died in committee.

Again in 1965 attempts to dislodge the administration home rule bill from the grasp of the District of Columbia Committee failed.

On May 11, 1966 the House District Committee under the chairman's lead rejected an effort to set up a conference with the Senate District Committee in order to cordinate some action on a home rule bill.

This is not majority rule. That bills of this type have continuously been defeated in the House District Committee is owed to a system that allows the chairman dictatorial power with no accountability.

The Senate passed the nonvoting Delegate and Commission bill on October 1, 1969. Though a majority of the District of Columbia Committee has introduced legislation to the same effect, the District Committee has been unable to act.

I repeat, a majority of the members of the committee favor the two bills presently before the committee dealing with home rules, yet no bill has been voted on in committee. This is not majority rule.

On a per capita basis, in 11 States which have a lower population than the District of Columbia, there is one Member in Congress for approximately every 143,000 people in those States. There are 850,000 people in the District of Columbia who have no voice at all because one single Congressman, who is 2 years beyond the mandatory retirement age for civil service, a member of a rural district in South Carolina, and a Member of Congress for some 32 years.

District residents pay the same Federal taxes and the usual complement of local taxes that other U.S. citizens pay.

Yet we, by our own rules and traditions, have not allowed them a voice in their government, and instead of dealing with the critical national issue that faces us we must debate property tax exemptions, congressional tags for Members, and park regulations in Washington.

While the Nation's Capital is second only to Mississippi with the highest infant mortality rate, while gonorrhea infection is the highest in the country, while the District of Columbia General Hospital runs out of penicillin and has been out of 100 of the 685 drug items stocked at the hospital, the District of Columbia Committee of the House of Representatives has not passed one major piece of legislation this session dealing with health.

While the city of Washington is the fastest growing urban area in the United States, and while there are still about 120,000 Washington blacks making less than $3,000 annually, the District of Columbia Committee has made no effort in the 91st Congress to deal with poverty among the disenfranchised citizens of the Nation's Capital.

While there are about 300,000 people in the District of Columbia who live in inadequate housing—representing about 40 percent of the District—while half of them pay more than 25 percent of their income for housing, and while between 1965 and 1968 there was an 85-percent decline in the number of housing starts from the private sector in the District of Columbia, not one bill has come in this session from the District of Columbia Committee addressing the problems of housing in the Nation's Capital.

While the city becomes more congested and construction of highways steals more land—land which is bound to come from the poor unable to exert political influence—and while the city and concerned people attempt to develop a mass transit system for the Capital of the richest Nation in the world, one Member of the House of Representatives of the Appropriations Committee can by himself withhold funds for a mass transit system until the city agrees—against its wishes—to build yet another bridge for cars.

This is how the system works. It is our system. We, the Congress, have established the system, and we keep it going. It is not the product of the chairman of the District of Columbia Committee, nor the creation of the proponent of the Three Sisters Bridge.

It is our system.

The District of Columbia Committee is typical of the results of seniority.

I cite it as an example of how we have allowed a system to distract us from our chief function, the consideration of national issues and the consideration of matters relevant to current America.

I do not wish to belabor the point. But the District Committee's irrelevance is repeated throughout the committee-seniority system.

Each of the three major committees in the House of Representatives is, for instance, again chaired by southerners from rural districts despite the fact that our country is predominantly urban and serves North, East, and West as well as South.

Nor has the seniority system only discriminated geographically. Since 1913, only one freshman Member has been appointed to the Ways and Means Committee. This powerful committee—the committee that parcels out committee assignments in the House—this committee denies itself the insight of contemporary attitudes by keeping young Members off the committee. And not one black man has served on the Ways and Means Committee since Reconstruction.

The Rules Committee is equally narrow. No freshman has been appointed to that committee since the 1946 Reorganization Act. No blacks serve on the Rules Committee.

Eighty-eight percent of the committee chairmen of the House of Representatives have, over the past two decades, come from virtually one party, rural districts.

Are we representative? Or have our rules deprived urban and contemporary America from representation? My own district—does the Congress give it fair and equal representation in Congress? It does not.

While we observe the dictum of the Supreme Court in terms of one man, one vote, we nonetheless continue by indirection to distort the meaning of equal representation as long as we assign rank to the Congressman longest in office.

Nelson Polsby, political scientist at the University of California, states that as an organization institutionalizes, it stabilizes membership and lengthens time for apprenticeship for leadership within the organization.

This is hardly salutory for our legislative body, which in the structure of Federal Government, was shaped to reflect most the immediacy of current life. Congress, mandated by a 2-year term of office, has managed through seniority to thwart its constitutional design.

We must change if we are to regain a rightful place as a power and constructive influence in the United States and the world.

JUL 01 1965

League of Women Voters of the U.S.
1200 17th Street, N.W.
Washington, D.C. 20036

May 25, 1965

STATEMENT IN SUPPORT OF THE WORK OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS TO THE SENATE AND HOUSE SUBCOMMITTEES ON INTERGOVERNMENTAL RELATIONS BY THE LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

The needs for which the Advisory Commission on Intergovernmental Relations was established in 1959 are no less pressing today than they were at the time Congress created the Commission. But there seems to be more recognition now by the public of the problems of federalism than there was at the time Congress established the Commission. There are some hopeful signs of willingness, as well as ability, on the part of governments to seek and accept changes which will bring about solutions to these problems.

The role of the Commission in contributing to the volume of research has been invaluable. In addition a backlog of experienced Commission opinion is being built up at a time when this can make a real difference.

The impressive list of state adoptions of Commission recommendations in the Commission's Sixth Annual Report is proof, if any is needed, of its effectiveness.

We want to congratulate the Commission on its first five years of successful operation. By creating and supporting the Commission Congress demonstrates its concern for strengthening a mature federalism suited to the second half of the Twentieth Century.

# # # # #

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES 1730 M STREET, N.W., WASHINGTON, D.C. 20036 — LEAGUE ACTION SERVICE — $7.50 A SESSION

Action Alert

SEP 3 1974

August 26, 1974

TO: State and Local League Presidents

FROM: Ruth C. Clusen, President; Judith B. Heimann, Representative Government Chairman; Ruth L. Sims, Action Chairman

RE: House Committee Reform

[SPOTMASTER Reminder: For latest developments, call every weekend from 5 pm Friday through noon Monday: (202) 296-0218.]

N.B. Attached you will find a comparative analysis of selected recommendations in H Res 988 (Bolling) and H Res 1248 (Hansen) on which League positions authorize action.

* *
* Needed between now and September 12 -- constituent contacts with all House Mem- *
* bers, see page 2. Please advise the LWVUS Legislative Action Department of any *
* response immediately. *
* *

Political picture: Anticipating floor action on impeachment articles, the House leadership decided to postpone consideration of Bolling/Hansen until after the August recess. After President Ford took over, the Leadership scheduled a Rules Committee hearing on the resolutions for August 20th; that session was abruptly cancelled and is now rescheduled for September 12. Representatives who support real reform are convinced that a coalition of dissatisfied committee chairmen and organized labor is trying to prevent the measures from reaching the floor at all. In addition, the Democratic leadership appears to prefer no action to the divisiveness among Democrats which will surface in a floor fight.

The first order of business for proponents of reform is, therefore, to apply strong constituent pressure on Speaker Albert, Majority Leader O'Neill and the Democratic members of the House Rules Committee (see list at end of memo) to ensure that the Rules Committee takes up the resolutions on September 12 and reports the rule agreed to by the Democratic caucus without delay. [You will recall that the caucus directed the Democratic members of House Rules to vote an open rule for debate and amendment on H Res 988, permitting substitution of H Res 1248 for H Res 988. That is, action on Hansen would precede action on Bolling (see R/H 93-II-5, p. RG 1).]

The next order of business is to ensure that the open rule is accepted on the floor. We understand that opponents of the recommendations will attempt to defeat the rule, thereby killing both resolutions without debate on the merits.

The third order of business, once H Res 988 is before the House, is to defeat all resolutions which are in order as substitutes for H Res 988 under the rule (including H Res 1248) so that the significant realignments proposed by the Bolling Committee can come up for debate. While there are recommendations in H Res 1248 which the League supports, unless that resolution (or any other which may be proposed between now and September 12) is defeated, all of the major recommendations which emerged from the year and one-half study by the House Select Committee on Committees (Bolling)

will go down the drain. Congressman Bolling has committed himself to the open rule on H Res 988, so that when his resolution is actually up for debate, amendments from the Hansen proposal will be in order.

What We Need To Do

I. Leagues in the districts of Speaker Albert, Majority Leader O'Neill and Democratic Rules Committee members should concentrate on arousing public interest and pressure on these men between now and September 10. Appointments with them during the recess would be useful. They must be convinced that the public is watching, that the public cares, and that the public will not look kindly on Democratic obstruction of full floor debate on H Res 988.

II. All Leagues should urge their MC's to:

A. support the open rule on H Res 988 when it comes to the floor;
B. vote down the Hansen (H Res 1248) and any other substitute resolutions;
C. support H Res 988, as amended, as evidence of Congressional intention to put its own house in order.

House Rules Committee Members

Ray J. Madden (D IN), Chairman

James J. Delaney (D NY)	Gillis W. Long (D LA)
Richard Bolling (D MO)	Clem McSpadden (D OK)
B. F. Sisk (D CA)	Dave Martin (R NB)
John Young (D TX)	John Anderson (R IL)
Claude Pepper (D FL)	James H. Quillen (R TN)
Spark M. Matsunaga (D HI)	Delbert Latta (R OH)
Morgan F. Murphy (D IL)	Del Clawson (R CA)

* * * * * * * *

There are a number of recommendations in both H Res 988 and H Res 1248 which address problems on which the League has no position. The attached sheet speaks only to those areas in which League positions authorize action. You may want to refer to one or more of these points to one or more of these points in your communications with your Representative, or to excerpt from the sheet for use in your Bulletin or in the community.

League of Women Voters of the U.S.
1730 M Street N.W.
Washington, D.C. 20036

August 26, 1974

Selected Points of Agreement with League Positions:
H Res 988 (Bolling), H Res 1248 (Hansen)

N.B. While the League raises some questions with respect to H Res 988, our overriding concern is passage of that resolution.

Environmental Quality

LWV supports programs to improve air and water quality and upgrade the physical environment.

I. League supports Bolling consolidation of all forms of transportation (including mass transit) in Public Works and Transportation.

II. League supports consolidation of all environmental concerns in one special committee, but we have reservations about Bolling recommendation to combine environmental and energy jurisdiction in one committee. We are not confident that a proper balance could be maintained and fear that energy interests would dominate.

III. League opposes Bolling recommendation to transfer public grazing and farm lands, and some forestry jurisdiction to Agriculture and Forestry. Environmental decisions affect us all and cannot be separated into rural and urban concerns.

Human Resources

LWV supports equal opportunity in education, housing and employment.

LWV supports Bolling proposal to split Education and Labor Committee into two separate committees. Both education and labor issues are of major federal concern, needing on-going Congressional oversight. The complexity of labor and education legislation demands additional staff and committee member expertise. Separation into two committees would increase the staff and member expertise in each area. It would also speed the legislative process because currently, when the full committee considers educational issues (such as ESEA extension), labor issues must go on the back burner and vice versa.

International Relations

LWV supports a liberal, flexible trade policy, abolition of protective tariffs, and U.S. development assistance.

I. LWV supports Bolling recommendation to consolidate all international trade legislation under the Foreign Affairs Committee whose sole concern is U.S. international relations.

II. Neither Bolling nor Hansen recommends a jurisdictional split for consideration of military assistance separately from development aid. The League strongly favors separate consideration of these two issues.

Representative Covernment

LWV supports an open, representative and responsive Congress that is accessible and accountable to the public; supports campaign financing laws which ensure public's right to know, combat undue influence, enable equitable competition for office.

I. LWV supports Bolling recommendation to place campaign financing and federal election oversight into Committee on Standards of Official Conduct. Jurisdiction over elections, and their financing, belong in an ethics committee not in a committee designed to oversee internal operations.

II. LWV supports Bolling recommendations to limit committee assignments to one "A" committee per House Member and to abolish proxy voting; these changes would increase active participation and member knowledge, making more effective use of Members' time.

III. LWV supports Bolling recommendation to increase committee staff and guarantee one-third of all staff to the minority party.

IV. LWV supports Hansen recommendation to require all standing committees with more than 15 members to have at lease four subcommittees. This requirement would expedite Ways and Means consideration of extremely complicated issues and increase committee member participation in, and knowledge of, committee business.

Individual Liberties (in the LWV Principles)

LWV believes in protection of the rights of the individual.

I. LWV supports abolition of the Internal Security Committee recommended by both Bolling and Hansen.

II. LWV prefers the Bolling recommendation with respect to use of subpoena power by House committees. Under present system, all committees except the Judiciary Committee, Government Operations and Standards of Official Conduct must request subpoena power for investigation from full House. When authority has been granted, subpoenas may be issued either by the Chairman, or by majority vote of the full committee. The Hansen plan would permit any committee to subpoena witnesses, though Hansen would require a majority committee vote; Bolling requires all subpoenas, except those issued by Appropriations, Government Operations and Standards of Official Conduct to be approved by the full House. Bolling would also require a majority vote by any committee to authorize issuance of a subpoena.

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES 1730 M STREET, N.W., WASHINGTON, D.C. 20036 — LEAGUE ACTION SERVICE — $7.50 A SESSION

time for Action

DEC 17 1973

FILE COPY

December 11, 1973

TO: State and Local League Presidents
FROM: The National Board
RE: Action with respect to a fair and thorough impeachment inquiry by the House Judiciary Committee

BACKGROUND

The League of Women Voters is committed to orderly governmental processes and promoting citizen confidence in public officials and the institutions they are responsible for. Recent developments on the national scene have undermined that confidence and disrupted those procedures to the point where the House of Representatives, specifically the House Judiciary Committee, has begun an inquiry as to whether there are grounds for recommending that impeachment proceedings be instituted to remove the President from office.

That inquiry has just gotten underway and it is essential that it be carried out in a manner that will help restore citizens' confidence in the ability of their elected officials to govern responsibly and equitably. The impeachment process is established by the Constitution and is dealt with in more detail in the enclosed fact sheet. On November 15, the House voted an appropriation of one million dollars to the House Judiciary Committee for expanded staff and services in order to investigate whether or not impeachable offenses have been committed by the President.

THE LEAGUE POSITION

The League considers the impeachment process a legitimate constitutional means whereby the representatives of the people (Congress) can determine whether or not there are grounds for removal from office of a member of the executive or the judiciary. The League does not prejudge whether an individual is guilty or innocent nor does it have a position on what causes impeachment might be based upon.

We believe, however, that whatever the outcome, the American public must be convinced that a fair and thorough inquiry has been made. To assure that end, the Chairman of House Judiciary should guarantee to the minority that at least one-third of the appropriated funds will be available for minority staffing, and that the minority will be represented in all planning for staff, strategy and timing. In addition, a Special Counsel with the highest qualifications should be appointed quickly and hearings begun as expeditiously as possible. In line with its U.S. Congress position, the League believes that the Committee hearings must be open so that the public can follow all major developments and lines of inquiry. This openness should also cover acquisition and publication of documents pertaining to specific charges that can be released within the limits of national security and protection of individual rights as determined by the Supreme Court.

WHAT YOU SHOULD DO

Write to your Congressmen urging that they tell their colleagues on House Judiciary to commence the inquiry and return a recommendation. Emphasize the need for all deliberate speed in resolving the problem so that the federal government can get back to governing. "Deliberate" speed should carry with it the reiteration that thoroughness is essential, that the views and staffing needs of the minority party must be heeded, and that open hearings are a requirement.

If your Congressman/woman is on House Judiciary (see below), a direct plea should be made along the same lines.

MEMBERS OF THE HOUSE COMMITTEE ON THE JUDICIARY

Democrats

Peter W. Rodino, Jr., Chairman (NJ)
Harold D. Donohue (MA)
Jack Brooks (TX)
Robert W. Kastenmeier (WI)
Don Edwards (CA)
William L. Hungate (MO)
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League of Women Voters of the U.S.
1730 M Street, N.W.
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December 11, 1973

FACT SHEET
(To accompany TIME FOR ACTION on the Impeachment Inquiry)

The TIME FOR ACTION which this "Fact Sheet" accompanies, is limited to action on the impeachment inquiry, but it is necessary that League members and the public understand the larger context in which an inquiry takes place. The process of impeachment is already underway. This is the first step provided in the Constitution; it takes place in the House.

- Resolutions to investigate charges against the President and asserting specific articles of impeachment have been introduced by House members and referred to the House Judiciary Committee Chairman, Peter W. Rodino.

- The House has granted $1 million to the Committee for expanded staff, etc., to investigate whether or not impeachable offenses have been committed by the President. (The resolution - H Res 702 - passed 367 to 51, with Republicans voting 138 for passage and 47 against, and Democrats voting 229 for and 4 against.)

- 31 staff members are already at work and Samuel L. Garrison has been named Chief Counsel for the Republicans.

Misconceptions abound and many questions are raised about "impeachment":

-- What does the term "impeachment" mean?
-- How does it fit into the overall Constitutional process for removal of public officials from office?
-- What is that overall process of bringing charges and determining the innocence or guilt of an individual?

To answer those and other questions for League members, and provide a basic community information tool, this fact sheet provides:

1. The provisions set forth in the Constitution with regard to removal from office upon impeachment and conviction;
2. A discussion of terms pertinent to discussion and action;
3. A brief description of the distinctly separate processes for which the House and Senate are responsible;
4. A brief review of official House action to date;
5. A brief list of resource material.

WHAT THE CONSTITUTION SAYS

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors. [*Article II, section 4.*]

The House of Representatives . . . shall have the sole Power of Impeachment. [*Article I, section 2.*]

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law. [*Article I, section 3.*]

In summary:

- The House alone has the power to bring charges of impeachable offenses; that is, to impeach.

- The Senate alone has the power to bring the accused individual to trial and determine innocence or guilt; that is, possibly to convict and remove from office.

- The only penalty the Senate can impose is removal from office and disqualification from holding any future public office.

DISCUSSION OF TERMS

1) Impeachable offenses: The Constitution lists these as "treason, bribery, high crimes and misdemeanors." Not all of these terms have been defined precisely by law or legal precedent, and one purpose of the inquiry is to define "impeachable offenses." Definitions range from A to Z as you can see from the following quotes:

- "Impeachable offenses are not confined to acts interdicted by the Constitution or the federal statutes, but include also acts not commonly defined as criminal or subject to indictment."

and

- "Impeachment may be based on offenses of a political character, on gross betrayal of public interests, inexcusable neglect of duty, tyrannical abuse of power and offenses of conduct tending to bring the office into disrepute." -- From Cannon's Precedents of the House of Representatives (Vol. VI, Sec. 545).

- "Those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. . ." Impeachable offenses are political, "as they relate chiefly to injuries done immediately to the society itself." -- From The Federalist (No. 65) by Alexander Hamilton.

- "What, then, is an impeachable offense? The only honest answer is that an impeachable offense is whatever a majority of the House of Representatives considers to be at a given moment in history." -- Gerald Ford, April 1970, in connection with his effort to have U.S. Supreme Court Justice William O. Douglas impeached.

2) Inquiry: an official investigation by a House committee to determine whether or not there is justification for a formal accusation. *An "inquiry" does not constitute impeachment.*

3) Articles of Impeachment: an official statement of one or more charges (or accusations) that are deemed to be offenses which could constitute justification for removal of certain public officials from office. The "articles" may be submitted by individual House members in resolutions or may be drawn up by a committee charged with investigating claims or evidence of "impeachable" charges.

4) Impeachment: one step in the process of removal of a public official -- the formal accusation by majority vote in the House that one or more "impeachable offenses" has been committed. Such a vote of accusation (i.e. impeachment) by the House does not result in removal from office; it is comparable to indictment by a grand jury and leads to trial to determine innocence or guilt with regard to the charges or accusations.

5) House Managers: one or more members selected by the House to prosecute the impeachment (accusation) in the Senate.

6) Impeachment Trial: the Senate procedure for determining innocence or guilt of charges brought by the House. The procedure may be compared to trial by jury, but is more flexible than civil or criminal court proceedings. In effect, the Senate serves as the courtroom, the House Managers as Prosecutors, the Chief Justice of the U.S. Supreme Court as judge, and the Senators as jury.

7) Conviction: a two-thirds vote by the Senators present agreeing that the individual accused is guilty on at least one article of impeachment. It is only after such a Senate vote that a President or other public official can be removed from office. A failure to attain the two-thirds vote in the Senate has the effect of retaining the accused individual in office, but still liable to indictment and conviction for criminal and indictable offenses in judicial branch procedures.

THE PROCESS OF REMOVAL FROM OFFICE

. . .The process of impeachment in the House may begin in a variety of ways: by charges made on the floor by a member; by resolution or memorial; by charges transmitted from the President, a state legislature, a grand jury; or in response to facts derived and reported by an investigating committee of the House. Indeed, 'common fame', such as facts contained in newspaper reports, has at times led the House to order an investigation with a view toward impeachment. As Thomas Jefferson, drawing on a 1625 Resolution of Parliament, said: 'Common fame is a good ground for the House to proceed by inquiry, and even to accusation.'

. . .If the investigating Committee recommends impeachment, it sends to the House a resolution and articles of impeachment which specify the grounds of accusation. These are then debated and voted upon, a majority vote of those present being required to bring the President to trial. The House then selects 'managers' to prosecute the impeachment in the Senate trial. In the past, House managers have been chosen by the Speaker or by majority vote of House members. The House managers then transmit the articles of impeachment to the Senate. The Senate, in turn, informs the House when it is ready to proceed with the trial.

The Senate trial is governed by the Senate Rules of Procedure.... When the President is on trial, the Chief Justice presides. The trial begins with the Justice administering an oath to the Senate members. Each must swear or affirm that he or she will 'do impartial justice according to the Constitution and laws.' The accused is then summoned to appear and answer the charges. The accused may appear personally or by counsel. A failure to appear personally or by counsel

is treated as the equivalent of a plea of "not guilty".

The proceedings are somewhat similar to, but far more flexible than, those applicable in either a civil or criminal trial. Both sides may present witnesses and evidence and the accused has the right to cross-examine witnesses. Procedural questions which arise during the trial, such as questions of evidence, are ruled upon by the Chief Justice. However, at the request of a single member, he may be overruled by a majority vote of the Senators present.

The Constitution specifically provides that conviction requires a two-thirds vote of the Senators present. The Senate rules require a separate vote on each article (charge). A two-thirds vote on a single article is sufficient for conviction.

The Constitution limits the penalties to removal from office and disqualification from future office.

-- Summarized from Jefferson's Manual and House Rules, by the American Civil Liberties Union in "The Impeachment Handbook," November 1973, pp. 26-27.

RESOLUTIONS BEFORE THE HOUSE JUDICIARY COMMITTEE

The Committee has before it 107 resolutions of two basic types:

-- one kind sets forth specific charges (Articles of Impeachment) which it requests the Committee to submit to the House for a vote. There are 31 resolutions of this kind, which set forth either three, seven, or eight charges of criminal, illegal, or political acts the sponsors deem to be impeachable offenses;

-- the other type of resolution (with 76 sponsors and co-sponsors) calls for official Committee investigations of the President "to determine whether high crimes have been committed and to report any articles of impeachment or other recommendations it deems proper."

The Committee also has before it one resolution asking that Congress censure and condemn the President for his "announced defiance of the judicial branch. . . ."

RESOURCE MATERIAL

In recent months a number of books and publications have been issued. The few we cite are intended to provide facts and official documents related to impeachment and removal from office and to place that issue in the context of increased executive branch power.

1) Raoul Berger, Impeachment: The Constitutional Problems, Harvard University Press, 1973.

2) House Committee on the Judiciary, 93-I, "Impeachment: Selected Materials," (1973), Y.4. J89/1: IM 7/2. Government Printing Office, Washington, D.C. $4.40.

3) Arthur M. Schlesinger, Jr., The Imperial Presidency, Houghton-Mifflin, 1973. (The Atlantic, November '73, reproduces the last chapter from that book - "The Runaway Presidency.")

1730 M STREET, N.W., WASHINGTON, D.C. 20036 • TEL. (202) 296-1770

memorandum

The League of Women Voters of the United States

This is going on DPM

December 10, 1973

TO: Local, State and ILO Presidents

FROM: Lucy Wilson Benson, President

On December 3 and 4, the Board of Directors held a special meeting to discuss possible League reaction to the current chain of events in Washington. We did so out of deep concern for the effect that the so-called Watergate revelations are having on public confidence and trust in all levels of government and to see what role, if any, the League could play in restoring a sense of equilibrium and perspective.

As you can well imagine, the discussion covered a broad range of subjects. From the outset of the meeting it was clear, as I indicated in my memo of October 24th, that we could not, as an organization, speak to many of the specific issues, charges, and counter-charges which are so much a part of the Watergate controversy. While nothing is certain in these tumultuous times, it seems highly likely that the impeachment process now underway in the House of Representatives may ultimately provide the answers to some of the questions raised by Watergate as well as other actions taken by the Executive Branch over the past five years.

It is not the League's business to judge the validity of the charges that have been made -- that task rests with the House Judiciary Committee. However, the Board does believe that as an organization dedicated to responsible and responsive government we have an obligation to insist that the impeachment process be carried out as expeditiously, fully and fairly as is possible. For that reason, the Board authorized the enclosed Time for Action which speaks to the Judiciary Committee procedures.

In doing so, the League is speaking to a process that has already been put in motion and one that has been seconded by Republicans and Democrats, conservatives and liberals. George Aiken (R., Vt.) put it most succinctly when he said, "Either impeach him or get off his back." In talking about impeachment, the Board found itself wrestling with the whole question of what the word really means and what the process actually involves. The steps now being taken by the House Judiciary Committee are preliminary steps -- they constitute an inquiry into whether or not impeachable offenses have been committed by the President. Because of the difficulties we had and because of the general public confusion over the nature and semantics of impeachment we have prepared the enclosed Fact Sheet for League information and use. We are also considering publishing a fuller version for all members in the next issue of THE VOTER.

The Board also believes that Leagues can play a vitally important public education role on the impeachment issue -- in giving citizens the facts about the process, how it came into being, and what it entails. In short, that it is not a process to be feared unless one fears the Constitution. The Board will be discussing the League's public education role in more detail at its next regular meeting January 7-10. In the interim, we hope that if you have a congressional interview scheduled in the upcoming recess you will bring the matter up with your Congressman. Leagues

should also consider sponsoring community discussions on the process either through public meetings or via radio or television public affairs programs. Your Congressman, for example, might welcome the opportunity to discuss the matter on a League moderated panel along with other community leaders and authorities. If you have any suggestions for League activities that you'd like the Board to consider, please let us know.

For your information, the Representative Government Committee will meet next week to analyze the results of the campaign finance decision making and to formulate recommendations for the Board to consider. Since Congress failed to act this session, there will be plenty of work for the League in 1974. We plan to mail the results out as quickly as possible after the Board meeting. In addition, you can get a detailed summary of our new campaign financing position by calling (202) 296 0218, the League Spotmaster service, any time between 9:30 a.m. Friday, January 11 and 5:00 p.m. Monday, January 14.

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September 21, 1973

TESTIMONY BEFORE THE HOUSE SELECT COMMITTEE ON COMMITTEES ON REFORM OF HOUSE COMMITTEES

by

LUCY WILSON BENSON
President, League of Women Voters of the United States

I am Lucy Wilson Benson, President of the League of Women Voters of the U.S., a political action and education organization whose purpose is to increase citizen participation in government. We have approximately 150,000 members in 1300 local Leagues in every state plus Puerto Rico, the Virgin Islands and the District of Columbia.

I am honored to have the opportunity to appear before this Select Committee on Committees chaired by you, Mr. Bolling. Through your books and thoughtful consideration of Congressional reform over the years, you have made a major contribution to understanding of the problems Congress faces and the opportunities for change. I commend you and your colleagues in the House for recognizing the urgent need for reform, and the members of this Committee for their dedication in dealing with the highly sensitive and difficult matter of change from within. I was pleased to note in the September 18th Washington POST that the Committee plans to have its recommendations ready to submit early next year. It will serve the best interests of the House and the general public if bold new proposals for strengthening the committee system of the House can be enacted prior to election of the 94th Congress.

The League celebrated its 50th anniversary in 1970. Our organization has a long history of concern about the way Congress works. For example, in 1944 League members adopted an action position in support of measures to improve the legislative process and the relationship between Congress and the executive. We worked actively on behalf of the Legislative Reorganization Act of 1946.

Our most recent activity began in 1970 when League members undertook a new study aimed at understanding how Congress works and at reaching consensus on action for congressional reform. We concluded that the structures, procedures, and practices of the U.S. Congress must be characterized by greater accountability, representativeness, decision-making capability and effective performance. That's a pretty large order, and comprises a set of goals to which almost everyone can subscribe in theory. The League, however, is not out simply to propound theories or ideals. Our aim is specific reforms to bring goals and practice into closer alignment.

In early 1973, the League published a Community Guide to congressional reform titled appropriately, we hope, "Congress: A Time of Renewal." In this, we set forth some of the problems of the committee system and noted with satisfaction the changes achieved in the first days of this session designed to liberalize the process of selecting committee members and chairmen, to open House committee hearings to the public, and to modify the closed rule procedure. A copy is attached for your information.

Before I discuss specific recommendations today, I would like to emphasize that League members approach this knotty problem with a mixture of humility and confidence. We do not profess the theoretical knowledge of your academic witnesses or the pragmatic expertise of the Members of Congress who have testified before you. Instead, we

bring to this hearing an independent viewpoint and insight based on our experience as an organization which lobbies actively. We bring, in addition, a conviction that the present procedures and committee structures of Congress frustrate not only the desire and ability of members to achieve what they believe to be in the best national interest, but make it almost impossible for citizens and public interest organizations to fulfill their responsibilities.

We do have the further advantage of representing views of concerned citizens whose primary focus is the public interest, and without whose understanding and support representative government cannot function democratically. Special interests are, of course, essential ingredients of our system of government, and we do not downgrade their importance. But the public interest, which is to say the general well-being of the nation and all of its people, cannot be served by a mere balancing of, and trading off between, special interests. The overall general national welfare is a special component which is slighted at grave risk to us all.

The need for congressional reform is not new to members of this Select Committee, but at least three recent developments have generated a new focus on the problems.

First came the Presidential reorganization and expansion of the White House and Executive Office staffing and functions which had the effect of bypassing established departments over which Congress had traditionally exercised oversight. Coincidental with that development were the executive branch's aloofness from Congress and the imperative to secrecy imposed on executive personnel.

Secondly, there was the executive branch's excessive impoundment of funds legally authorized and appropriated for such programs as water pollution control and educational impact aid, and unilateral executive actions to end such programs as rural housing, OEO community action agencies, and urban renewal.

Lastly, there came the revelations of Watergate which have provided a new and immediate focus on the problems of legislative-executive relations and power alignments.

The erosion of congressional power, however, cannot be attributed to events of the past few years or to the fact of a Republican Administration and a Democratic Congress. It is related to the constant pressures of hot and cold war crises prevailing since World War II, to an ever-present concern with national security (real and imaginary), and to the increasing aspirations and goals of our citizens and those of other countries.

These and other factors point up the seriousness and urgency of the job this Committee and the Congress face. The challenge is not simply a matter of re-aligning power between the legislative and executive branches in the United States. In addition, Congress is right up against the absolute necessity to equip itself to serve the public interest efficiently and insightfully and to do so with maximum awareness of national and international problems and opportunities. The Congress simply cannot afford to postpone action much longer.

All of those words are easy to say, but we recognize that nothing is more difficult than internal change undertaken by those who must do the changing and who will also be affected by it. Restructuring of the committee system is only one step. But it is an essential step toward enabling Congress to re-establish and reassert its authority as a co-equal branch of government. It is a <u>must</u> if the House is to carry its full legislative responsibility for determining national priorities and restoring confidence in the legislative branch. For our part, I can pledge to you a continuing support from the League for changes to enable Congress to be more effective.

Some specific areas the League is concerned about include: inefficient and overlapping committee jurisdictions, the need for new committees to deal with problems of the seventies and eighties, the necessity for more rational and expeditious management of the budget and appropriations, and the need for more adequate staff and information resources for House committees and members.

I. COMMITTEE JURISDICTION

League program action covers the gamut of domestic programs such as housing, adequate income and services to alleviate poverty, clean air, water pollution control, as well as foreign trade, and long range development programs for lesser developed countries. In lobbying and in stimulating citizens to take action, we run head-on into irrational complexities of the legislative system.

Take the matter of peripheral jurisdiction. Many committees have assumed, or had thrust upon them, legislative assignments which are actually peripheral to their major responsibilities, yet central to those of other committees. Examples with which the League has been directly involved include the Ways and Means jurisdiction over social services and day care for federal public assistance recipients, Agriculture Committee jurisdiction over food stamps and P.L. 480 programs, Banking and Currency Committee jurisdiction over international development institutions. These jurisdictional conflicts, however rational they may have seemed at one time, work against legislative efficiency and make constituent response difficult.

To illustrate my point, I will expand on the problems inherent in Ways and Means jurisdiction over day care for children of public assistance recipients. We understand how this situation came about and our objection to it in no way implies that Ways and Means Committee members are less sympathetic to the needs of children than are members of any other committee. The point is that the Ways and Means Committee's major assignment in the 92nd Congress was reform of the public assistance system. Another committee (Education and Labor) was working simultaneously on a new federal system for child care programs. To place jurisdiction over "welfare" children in Ways and Means and over other children in Education and Labor is not rational or necessary; it stands in the way of developing a cohesive federal policy for child care. The split jurisdiction itself served to deepen the separation between disadvantaged and more advantaged people. And, from a practical point of view, the day care provisions in HR 1 undermined support for the major welfare reform proposals developed by the committee. So neither program was served by the arrangement.

Now, to the example of Banking and Currency Committee jurisdiction over international development institutions. For many years, the League has worked for closer coordination of bilateral and multilateral assistance programs, and yet the first basic legislative step remains to be taken: unified committee jurisdiction. The present division of responsibility between the Foreign Affairs and Banking Committees makes it harder for committee members and the House as a whole to consider the full range of development aid problems coherently, and thereby weakens the capacity of the House to exert the leadership expected of it in this matter.

Take the matter of clearcut responsibilities. For example, some of the subcommittees, instead of having clearly defined areas of responsibilities, have very broad jurisdictions and are sometimes responsible for programs which have very little relation to each other. Two of the Appropriations subcommittees come to mind: the marriage of agriculture, environment and consumer protection in one subcommittee, and HUD, space, science, and veterans in another. The appropriations bill developed by the latter subcommittee boggles the mind of constituents interested in each separate field and defies sound budgeting practice. The result is that Congressmen have difficulties in dealing with each set of problems in a rational way, or in a way that truly reflects their opinions or positions. It is little wonder that most citizens feel terribly remote from and frustrated by the processes of Congress.

II. COMMITTEE ALIGNMENT TO DEAL WITH TODAY'S PROBLEMS

The present House committees were set up over 25 years ago. Are they flexible enough to handle the problems of the 70s and the 80s, or do we need to have new committees specifically mandated to deal with such problems as education, urban life, international development and energy?

On the other side of the coin, do we still need all the committees that were set up in 1946? Are some of them overworked and some not busy enough?

These are the kinds of questions League members raised as they reviewed the organization of Congress, and they are the kinds of questions with which this committee will have to come to grips. We join many Congressmen who have indicated to you their convictions that the present committee structure is not set up to cope with problems of the 70s: new areas of concern have developed and old ones have faded away.

As you know, the number of standing committees has remained pretty much the same since the passage of the Legislative Reorganization Act of 1946 -- only two new ones, Science and Astronautics and Standards of Official Conduct having been added. But subcommittees have multiplied rapidly. The House had 106 in 1945 and now has almost 150. New subcommittees are, of course, necessary for Congress to cope with new problems, but the proliferation itself reflects a need for change in the standing committee structure. A multiplicity of subcommittees perpetuates little fiefdoms which are highly vulnerable to special-interest pressures.

This committee knows very well the major new areas for which consolidated consideration may be required. The whole field of energy, about which we have been hearing so much recently, certainly comes to mind. The Committees on Science and Astronautics and Public Works have subcommittees on energy; the Interior Committee has a subcommittee on Water and Power Resources, and the Commerce Committee has one on Communications and Power. Are all of these separate subcommittees really necessary and productive?

Responsibility for national environmental and land use policies is fragmented among too many different committees. And it would seem to us that the problems of the cities and education require the concerted congressional attention that only exclusive committee jurisdiction can provide.

A growing number of persons inside and outside Congress are agreed that the Committee on Internal Security no longer serves a useful purpose. Questions have also been raised as to whether or not the Post Office and Civil Service Committee has sufficient work to warrant its continuation as a separate entity.

III. COMMITTEE RESPONSIBILITY FOR THE FEDERAL BUDGET AND SPENDING

The problems of executive-legislative relations, staffing, and information availability and priorities are all tied up in the congressional budgetary process. Special attention has been devoted to this issue during the 93rd Congress and the League agrees that changes must be made. House members themselves have been among the first to acknowledge that Congress lacks effective mechanisms and procedures for dealing with its fiscal responsibilities in a coordinated fashion. Congress must itself create the structure and find the resources needed to establish national priorities by dealing with total programs, with budget expenditures and revenue as a whole, rather than in bits and pieces. Conflicting interests must be weighed, one against the other, and reconciled for the good of all by a Congress with the knowledge, resources and determination to make the necessary hard choices.

Whether or not powerful new Budget Committees should be established before your Committee has evaluated the total structure is something you and your colleagues must work out in the months to come. The League supports coordination of the overall budgetary/appropriation process. We do have major reservations with respect to bills presently before the House. Our reservations are based on our members' concern that these decisions be made in a way that assures democratic and full participation by all Members of Congress and does not hamper expeditious action.

The League's prime concern is less with budget control as a method of containing federal expenditure, however, than with coordination of revenues and expenditures to make possible a rational and humane allocation of available resources.

Certainly, there will always be conflicts among needs and hard choices to be made. It is our belief, nonetheless, that given a rational committee structure along with technical and professional means for evaluating needs in relation to resources and revenues, the Congress <u>can</u> determine priorities and appropriate funds to meet the needs of <u>people</u>.

Until such a system is devised, however, the House and its appropriations committees must give high priority to passing appropriations bills on time. Otherwise, state and local governments cannot plan rationally for the administration of programs Congress has authorized. Last year, for example, Leagues which had acted as sponsors of the Emergency School Assistance (ESAP) agencies in their communities were caught without funds. This was due primarily to the hiatus between enactment of the new Title VII Emergency School Assistance Act (ESAA) and passage of appropriations for that program. During recent years, Leagues have worked hard to support Title I programs for disadvantaged children and then found educational agencies did not get funds in time to carry out carefully developed plans. We are well aware that this kind of frustration was exacerbated this year by Executive-branch fund impoundments or enforced reductions in spending; but the problem of late funding has been pretty routine, and has indeed been an important factor in undermining public confidence in the Congress.

To make the requisite budgetary/appropriations decisions intelligently and with due regard for a reasonable resolution of conflicting demands, Congress must find answers to a number of difficult problems:

1. Great power will rest in committees which propose total budget allocations in the light of revenue and the economic picture. For this reason, their membership should be representative of the Congress as a whole. It is desirable, of course, that the appropriations and taxing committees should be represented but not in the overwhelming numbers recommended in HR 7130, HR 8876, or other similar proposals;

2. Adequate facilities, resources, and professional staff must be provided to serve members as budget decisions are made. By adequate, we mean that there must be enough technical backup for a large and professionally trained staff to analyze administration proposals and national needs, and to present realistic alternatives for concurrent consideration;

3. The calendar under which budget committees and Congress are to operate and the rules and procedures for committee and floor action must be flexible enough to facilitate citizen response to proposals, as well as knowledgeable and effective floor debate by <u>all</u> Members of Congress. Indeed, we want to expand the opportunities for important participation in the priority setting process by Congress as a whole and by the public. At present, the irrationality of the overlapping budgetary/appropriations process makes it nearly impossible for the public to know what is going on or to have a voice in the decisions made.

4. The recent experience with the fiscal 1973 Labor/HEW Appropriations bill furnishes a dramatic example of the hazards inherent in funding major programs for a year under continuing resolutions. The President and the Office of Management and Budget used the lack of a regular appropriations bill to claim that the Administration's lower Budget Request for FY 73 in fact constituted the legitimate appropriation for health, education, manpower, etc. programs. The argument was specious, of course, but the executive branch used it to justify a $1.8 billion reduction in spending for those programs. The damage to programs serving human needs is obvious. But the Congress itself suffers too. It is difficult for Members of Congress to defend themselves or the Congress successfully against such highly technical claims and to make the legislative position clear to the public. Thus, confidence in the House and Congress as a whole is undermined.

IV. COMMITTEE NEEDS FOR SPECIAL RESOURCES

League members are convinced that special assistance must be provided to members of the House and its committees to enable them to cope more readily with the complexities of today's problems. A specific example of League experience leading us to that conclusion is the two-year struggle for welfare reform. As you are well aware, the Ways and Means Committee spent long months of hard and dedicated work in two sessions of Congress developing legislation.

The Committee faced a difficult job in resolving major philosophical disagreements on this highly controversial matter. In addition, it experienced difficulty in getting accurate and up to date information. Members needed to know, for example, how the public assistance system actually operated, the practical impact of cash assistance and in-kind services relative to the incomes of lower-income working people, and the realistic costs necessary to serve people in need and to meet desired goals.

The Ways and Means Committee is in the same boat with most other committees: it does not have the staff or funds to oversee programs of the magnitude of the federal/state welfare systems. For program evaluation and current data, therefore, this committee had to rely primarily on the Department of Health, Education and Welfare which had a point of view to promote and whose data was not as current as was needed. Witnesses, including state and county welfare administrators, of course, supplied information about their programs, and there were proposals and findings from independent organizations, such as the Brookings Institution. But findings and reports yielded conflicting information and did not seem to the League to provide an adequate or a standard base for making the refined judgments necessary to developing a complex new national alternative to the present welfare system.

It has been suggested to this Committee that one of the reasons the executive branch has more influence and power than the Congress is that the Presidency and administrative agencies have far better facilities for getting and using information about public problems than does Congress. There is no question that a better informed Congress would be in a stronger position to assert itself on a co-equal basis with the executive branch.

The 1970 Legislative Reorganization Act took several steps forward in that regard. It provided new opportunities for enlarging and training committee staffs, for strengthening the Congressional Research Service, the General Accounting Office and the House information systems. House committees have not taken maximum advantage of those advances, however, and that can be done without further legislation. Cannot the House insist also that the central data and information retrieval service available to the executive and legislative branches be operated under a mutually agreed upon and equally available system, and that a standard system for programming information be established?

V. MEMBERSHIP AND ORGANIZATION AND OPENNESS OF COMMITTEES

While League members recognize the importance of expertise in the subject matter of committee concern, we believe that safeguards must be provided against over-dependence on information supplied by special interests. One such safeguard is deliberate action to assure that members on each committee represent diverse attitudes, interests, experiences and constituencies. The present system tends to freeze members on committees and to prevent the infusion of new blood. Some of the 1970 Act reorganization requirements and new seniority rules adopted this year point the direction to be taken.

I am not in a position to propose new specific recommendations about how committee membership should be determined or committee work organized. I would, however, like to pose a few questions indicative of those League members ask:

- Why cannot substantive and appropriations committees hold joint hearings periodically, especially at the point of determining and assessing facts about national needs? Would this not save time and make it easier for the public to participate in the process?

- Is it possible for committees to organize themselves in pre-Congressional sessions, so that the work of each new Congress can be expedited?

- Cannot some system be devised for rotating committee membership and the chairmanship, to guard against entrenched and powerful special interest groups gaining an undesirable amount of influence, and to give new members greater opportunity?

- Cannot greater use be made of joint meetings by House committees that have similar and/or overlapping jurisdictions and between comparable House and Senate committees? [Sometimes, we wonder how federal administrators have the time to carry on their duties, in the face of all the duplicated appearances they must make before Congressional committees.]

- Why cannot appropriations committees be abolished or combined with legislative committees to eliminate one step in a highly duplicative and complex process?

A special point I would like to make is that Congressional decisions must be made in the most open and democratic way possible. As we all know, nothing undermines public confidence more than the appearance that deals are being made behind closed doors. People are frustrated if they don't know what decisions have been made or the impact of those decisions on their lives. And when they're frustrated they become angry and distrustful. Democracy is not very effective under these conditions. Progress has been made in opening up committee deliberations to the public. But further steps must also be taken to make full and timely information on committee proceedings available.

Finally, I would like to recommend that this committee set up procedures whereby an automatic and regular review of House committee structure will occur in the future. What worked in 1946 doesn't work in 1973. And what works today or next year certainly cannot be guaranteed to work even in 1980 much less 2000.

In summary, the League recommends for this committee's consideration:

1) consolidation of committees with overlapping jurisdiction; abolition of unnecessary committees; reduction of subcommittees;

2) establishment of committees in important new program areas;

3) representation of diverse interests and constituencies on committees;

4) coordination of the budget process permitting full participation by every Member and the public;

5) increased professional staffing and improved information systems;

6) as far as possible, open meetings and full, timely publication of proceedings;

7) automatic and regular review of committee structure and jurisdiction.

Again, I thank you for the opportunity of testifying before this Select Committee on Committees and reiterate the pledge of continuing League support for measures to strengthen the House committee system and House procedures.

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Attachment: "Congress: A Time of Renewal" published by the League of Women Voters Education Fund.

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League of Women Voters of the U.S.
1730 M Street, N.W.
Washington, D.C. 20036

December 4, 1972

STATEMENT TO THE SENATE AD HOC COMMITTEE ON POLITICAL REFORM

by

Lucy Wilson Benson, President
LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

on

CONGRESSIONAL REFORM

The League of Women Voters' position on congressional reform is based on a year-and-a-half study undertaken by its 160,000 members. The study was completed this year. In general, we concluded that: the structures, procedures and practices of the U.S. Congress must be characterized by greater accountability, representativeness, decision-making capability and effective performance.

However sound the diagnosis may be, we know that cures will be harder to come by.

Recent surveys have made much of the point that the American people have grown distrustful of their political leaders and institutions. However, this year's display of ticket splitting showed a willingness to think, compare and make choices for their elected representatives. While the electorate still may not trust them, it apparently still cares.

think it would be tragic if the 93rd Congress did not exhibit similar concern over its form and functions. Considerable attention is being paid to changing relationships among the executive, legislative and judicial branches of government. With few exceptions, Congress shows up with the short end of the stick, certainly in terms of getting itself together so it can be, as the Constitution intended, a co-equal parti-

cipant in responsible government.

Many of Congress' ills are self-induced. It has been weakened as an institution because both its members and leaders have been reluctant to exercise the same oversight responsibilities on themselves as they wield over executive agencies.

This was evident during October's brouhaha over the President's $250 billion ceiling on federal expenditures. Congress exhibited no mastery of where cuts could or might be made -- what programs were working or not working. Basically, the initiative has been passed to the President and the Office of Management and Budget.

The simple fact is that Congress lacks effective mechanisms and procedures which would allow it to deal with its fiscal responsibilities in a coordinated fashion. The League believes that Congress must create for itself the resources needed to deal with total programs, establish national priorities and deal with budget expenditures and revenue as a whole rather than in bits and pieces. Conflicting interests must be weighed, one against the other, and reconciled for the good of all by a Congress with the knowledge, resources and guts to make the necessary hard choices.

This means computers, adequate professional staff to secure and make effective use of information both for individual members and committees. Now, Congress relies too much on data supplied by /the executive branch both in its consideration of new legislation and its review of how authorized programs are being implemented. Obviously, Congress cannot have staff which would duplicate that of the administrative agencies. But you should have enough competent people to get a firm handle on how the Executive is interpreting your purposes.

These are steps which only Congress can decide to take -- just as next month it will be up to the parties to decide how best to organize.

League members feel quite strongly that the seniority system should be modified. They

object to procedures which make chairmanships automatic by virtue of only one criterion -- seniority. They believe that procedures can be found which limit the number of years a chairman may serve. On the other hand, they recognize that more is involved in the selection of a chairman than would be accomplished by an equally arbitrary rule requiring that the choice be made according to a publicly recorded caucus vote. The League also believes that committee members should play a more significant role in how their committee will operate.

A recent Congressional Quarterly survey of committee hearings in the 92nd Congress underscored the need to open hearing doors for public scrutiny. As citizens and voters, League members strenuously object to the unnecessary secrecy surrounding so many deliberations. We therefore support moves to require open meetings to the fullest extent possible and, also, to have recorded committee votes. A closed door hearing may make life easier for the committee and its witnesses, but it is a grave disservice to Congress' constituents -- the people.

The League position calls for other reforms and changes which are spelled out in the materials given to this committee. However, I'm sure that Congress has no need of a League of Women Voters or Ralph Nader study to realize that both its houses are not in order.

Cries for congressional reform are not new. Virtually since its inception, citizens have grumbled about poor legislative performance. Congress may never be perfect but it does have an obligation to conduct its business on as efficient and effective a level as possible.

It is up to Congress to decide how responsive it will be to its own needs and the needs of the country. Through hearings like today's, both returning and new members will be exposed to the options for change that exist. The League's hope is that these options will be carefully considered and that responsible actions will follow.

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