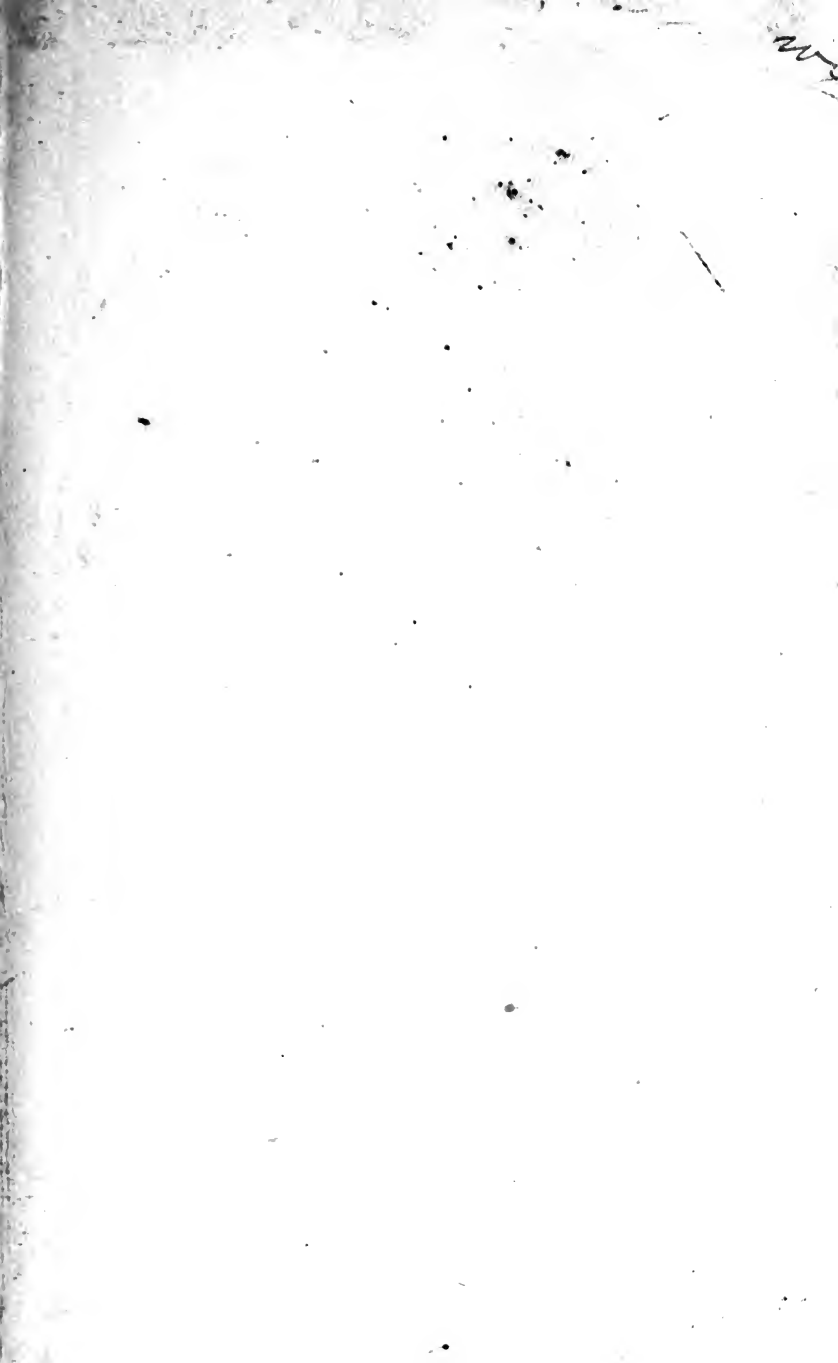




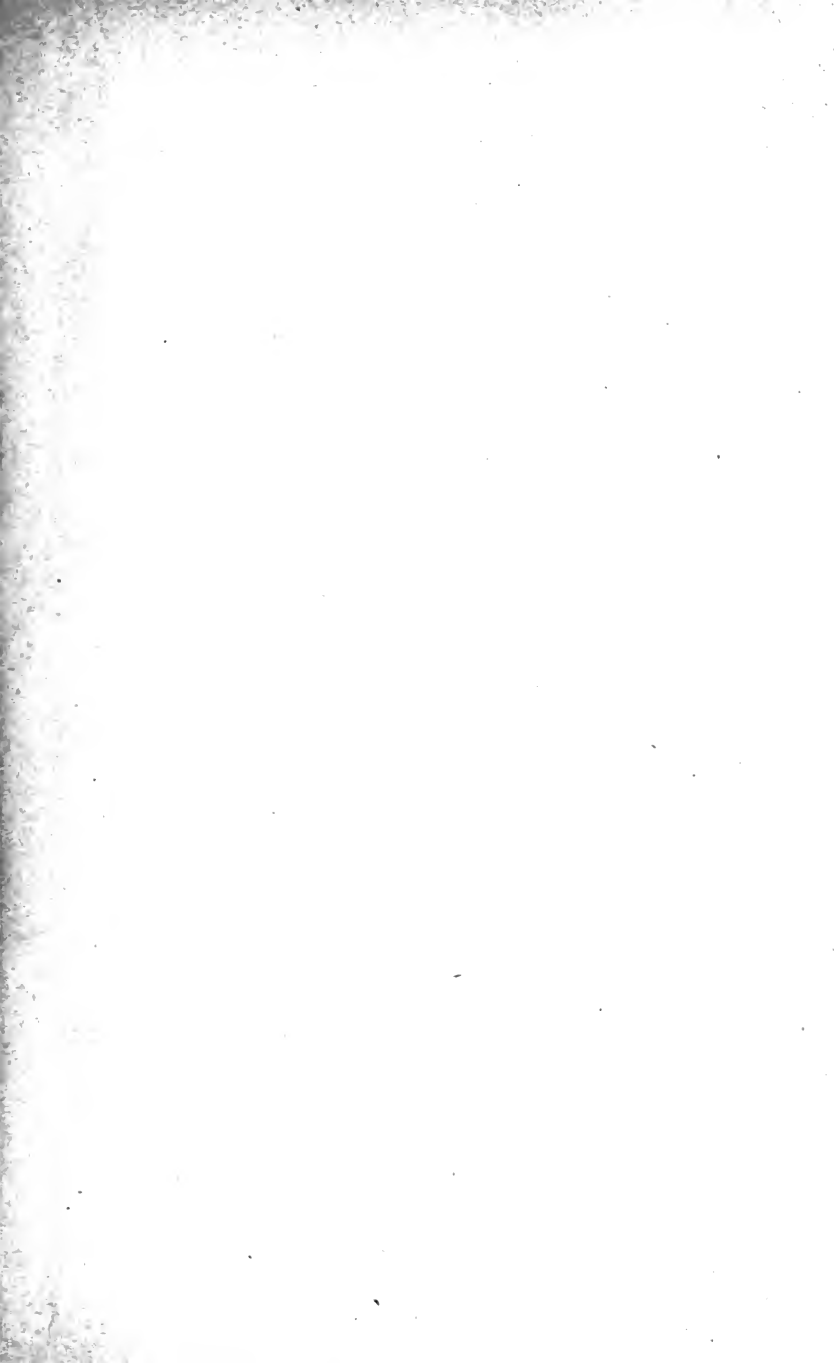
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CONGRESSIONAL COMMITTEES

A STUDY

OF

THE ORIGINS AND DEVELOPMENT OF OUR NATIONAL
AND LOCAL LEGISLATIVE METHODS

BY

LAUROS G. McCONACHIE, PH.D.

NEW YORK: 46 EAST 14TH STREET

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TO
MY FATHER AND MOTHER.



PREFACE.

AMERICA, to paraphrase Emerson, is but another name for evolution. Legislative bodies are living, more or less rapidly changing, political organisms. Each has its own external and internal conditions. In many respects the laws of their being are like those of human society in general. They must have governments. They must adapt themselves to their own peculiar external environments. Within, justice is to be maintained between member and member, between the ruler and the ruled; positive and energetic administration is to have its efficient organs; rules and customs are to be established by the rightful voice of all concerned; and everything ought to be adjusted to the complexity or simplicity of the bodies as regards the number of members, variety or sameness of individual capacities, amount and character of the work to be performed.

Parliamentary law is the law of law-making. The curtain of our legislation rises with an affirmative clashing of spears in the folk-moot of a

Teuton forest; it falls, thus far, with the counting of a quorum in a marble palace by the Potomac. Not to speak of other races, ancient and modern, progress of Germanic civilization can be satisfactorily traced in the law of public meetings and assemblies.

In our earlier history almost the only men who gave any attention to legislative methods were the practical law-makers and politicians. A new school of outside critics may be said to have begun with Horace Greeley, and to have been continued under the lead of such scholars and authors as James Parton, Alexander Johnson, Woodrow Wilson, and James Bryce. These men were attracted by the crashing of parliamentary machinery upon the floor of Congress, that complete break-down due to a sudden and vast augmentation of legislative burdens brought by the War for the Union and its results. They were rightly unanimous in taking their stand as scathing, relentless fault-finders, but failed to suggest remedies, or to discover any process of self-correction in Congress itself. They had, to be sure, one stock model to offer, the British parliamentary system. Their example, as well as the new zeal for comparative study of institutions, has led publicists to look abroad for methods of improvement, and to hold up many foreign forms as worthy of importation. But, by way of reaction, a second and a later school has arisen in

opposition to the first, the defenders of American legislative methods as developments of American political conditions, some of them men of letters, but more largely scholar-legislators, with years of experience in Congress.

Between these masters of attack and defence I have sought the golden mean. But there is another source, the best reliance of the seeker after truth. As Montesquieu somewhere expresses it, laws interpret history, history interprets laws. With the value in mind of applying such a principle to the study of the rules and practice, I have tried to glean from contemporary debates, memoirs, newspapers, and other records the reasons assigned by the author for each innovation as it has entered and enlarged the codes, as well as the testimony of contemporary legislators upon the conditions prevailing in successive stages of the history of our national House and Senate. Some weeks were given to attendance upon the daily sessions of Congress. I have breathed the unselfish devotion to learning, and the loyalty to scientific methods of research, which is in the atmosphere of our American universities. On these accounts, I trust ~~that~~ the following pages have been made to carry some well-founded and useful contributions to knowledge, though faults be many, and, to others, patent.

A few words concerning the foot-notes. Dates

are given numerously for two reasons: they are helpful to simultaneous consultation of the debates, the journals, and other sources with reference to any particular incident; and they are especially important to a progressive view. The initials, H. J., S. J., C. A., C. D., C. G., and C. R. refer to the House and Senate Journals, and to the Annals, Debates, Globes, and Records, of Congress respectively. Thus, 49:2, S. J., 91, Dec. 20, 1886, means the second session of the Forty-ninth Congress, Senate Journal, page ninety-one; and by aid of the date the corresponding account is readily found, 49:2, C. R., 272.

In the preparation of this work I have been under obligation for advice and encouragement to Drs. Jeremiah W. Jenks and Richard T. Ely; for courtesies in the hurry of legislative life to the Hons. George W. Ray, Everett J. Murphy, and George W. Prince; for untiring helpfulness, to the library staffs of Cornell University and the Wisconsin Historical Society.

L. G. M.

CHICAGO, *Jan. 18, 1898.*

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CONGRESSIONAL COMMITTEES.

In societies, as in living bodies, increase of mass is habitually accompanied by increase of structure.

HERBERT SPENCER.

And thereupon they came near, in a great Multitude (more than was ever seen on the First Day of a Parliament in any man's memory) and answered to their Names.

"JOURNAL OF THE HOUSE OF COMMONS."

10 Martii, A. 1603.

The Speaker reads to the House the orderly Method of Parliaments, and the Demeanour of the Members thereof observed in England, which he recommended to them, as civil and good: as also the Method observed by the English in Committees.

"VOTES OF THE ASSEMBLY." (PENNSYLVANIA.)

1st. mo., 12th da., 1683.

CONGRESSIONAL COMMITTEES

CHAPTER I.

ORIGINS AND ANTECEDENTS.

SOCIETY is everywhere using committees. Their importance in the many lines of public and private co-operation is on the increase. Here a fashionable city club chooses certain of its members to arrange for some brilliant reception; there a busy board of trade requires a select few of its body to report upon an important commercial undertaking. The Christian Endeavorers find remarkable utility in the committee idea. So does Tammany Hall. Alike to the primary and to the governing council in a rural American village, to the German Reichstag and to the active municipality of Berlin, the device is indispensable. Not less striking than the number is the variety, — committees of all shades in character, organization, and object. An institution becoming daily more common and necessary may well receive more of the publicist's thought. What is its significance? Why does the British House of Commons present one elaborate commit-

tee system, and the French Chamber of Deputies another, essentially different?

Application of these and of other questions to the committees of our Congress leads ultimately to the deepest principles of political and social science. Since its entrance into English etymology, about the time of the Norman Conquest, the term committee has had half a dozen applications, special and general, three of which are now obsolete.¹ As used by the British Parliament, it has designated a group, the session of a group, or an individual member. With the latter, which was its earliest sense, the collective body reported as "your committees." Survivals of this old definition remain in American legislative codes to this day.² The gradual change to the present aggregate meaning has its hidden contrast between the ages of individualism and our era of socialistic trend. In its underlying ideas the word implies that something is committed by a committent. Here its sphere coincides with that of the more familiar political term, representative. According to a stern rule re-enacted by the ancient British Commons at each session, the door of the Speaker's Chamber, in which committees must meet, was carefully fastened, and the key even locked away

¹ Murray's New English Dictionary.

² Cf. controversy of Garfield and Bayne over the employment of "it" or "they" in speaking of a committee, 42: 2, C. R., 609, Jan. 29, 1880. (For explanation of abbreviations, see Preface.)

by another key during the sittings of the larger general assembly. It was the close rein put upon delegated authority. Though we read in scholarly works little of committee rule, and that mainly denunciatory, there are able historical and philosophical exploitations of representative government. Time has differentiated the meanings of the words committee and representative, but follow them back towards their beginnings and they approach identity. This may be demonstrated without crossing the Atlantic, as, also, by the same examples, the earlier use in America of the term committee in the individual sense. Old records declare that at a General Court of New Plymouth Colony, June 4, 1639, were present the "Committees or Dep^{ties} for eich Towne;" and that, in the pious conventicle of the New Haven barn (1638), with the Bible newly adopted as their constitution, the fathers of Connecticut, when one of their number "stuck that free planters ought not to give the power out of their hands," reasoned with this extreme Jeffersonian antetype, showing how "in all places they chuse committys." All the freemen of Maryland, in 1637, elected from ten candidates five "committees," who were soon succeeded by three men; and these groups constituted the real legislature, since their bills were passed by what was practically mere *referendum*.¹ In

¹ Archives of Maryland, Proceedings and Acts of the Assembly, 1637-8-1664, pp. 10-24.

1774 the General Court of Massachusetts styled the Continental Congress "a meeting of committees from the several colonies." An authority of the present day follows this interchanging of terms, when, in the same paragraph, he speaks of the board of selectmen as "a committee from three to thirteen in number," and cites the Salem Records as calling it the "town representative."¹ In the New World surroundings — or lack of surroundings — committees had rebounded largely to the more primitive use. Primal distinctions may determine that space or distance was the main obstacle maternal to the representative, while time or the need of despatch brought forth the committeeman; but at the basis of both functions lies the idea of a trust imposed. The people to-day in town-meeting and in national assembly bestow the power of government alike upon both. In the latter case the legislature becomes an intermediary between people and committee, and the party machinery of conventions adds other middle stages. Congress, a miniature of the nation, is in turn miniaturized in each of its committees.

Wherever men have begun to use political representation, advantages similiar to those which recommended it to democracy have soon led the assembled representatives a logical step farther to

¹ Howard's "Local Constitutional History of the United States," 75.

commitment. The great first type of modern legislatures is the British House of Commons. In its earliest written records are entries of the appointment of committees. In 1340 there were joint committees of Lords and Commons to draw up the statutes.¹ Beginning with petty clerical tasks, they gradually took on new and higher duties.² Small at first, their size increased. At first *functus officio* upon report concerning a single matter assigned, the lives of some of them naturally began to lengthen by commitment of more than one case, where cases were similar to the same group of members. Thus, in Queen Elizabeth's reign, finally developed the first standing committee, a Committee of Privileges and Elections lasting throughout the session.³ But the critical and the glorious period came in those famous days when divine right of kings struggled most stubbornly against divine right of people. Then it was that increasing membership and increasing business forced upon the House new and deeper division of its labor. In the reign of James I., the Commons invented the Committee of the Whole, a parliamentary machine which has played its nobly sav-

¹ Stubbs's "Constitutional History of England," III. 466.

² The ancient French *comis* was a clerk; cf. the humble origin of the title count (*comes*), Henderson's "Introduction to the Middle Ages," 176, 219; and "Mediæval Europe," 496, 497.

³ J. F. Jameson in "Report of American Historical Association," 1893, p. 394.

ing and conservative part in near three centuries of Anglo-Saxon history. The tyrannical Stuart stood ready to single out and crush that member who dared to speak freely to his fellows; and the officers of the House, including the Speaker, an appointee of the crown, were the king's tattling minions.¹ Therefore, in order to protect their precious right of untrammelled deliberation, the members began to hold secret and informal sessions with a chairman of their own choosing. These so-called Grand Committees met in the afternoons, when the spies were gone. Upon the ancient rolls half a dozen words and a dotted line in place of the spokesman's name are all that indicate the report to the House of their momentous proceedings. By an easy transition, the Commons came to avail themselves of their prized expedient in the midst of the morning session. The Speaker at first withdrew to an outer room, but as time did away with the originating grievance, merely took a seat at one side in the clerk's chair, that official humbly standing at his back, and the moderator of the committee occupying a stool at his elbow.²

At one time, in the Little Parliament summoned by Cromwell, the four grand committees, for Re-

¹ Stubbs's "Lectures on Mediaeval and Modern History," 271-274.

² Journal of the House of Commons, March 23, 1610.

ligion, for Grievances, for Courts of Justice, for Trade, with the already select standing Committee on Privileges and Elections, were organized on a numerical basis, which promised for the moment a committee system like those now existing in American legislatures; but the tide of British history, shortly sweeping away the innovation, restored the former voluntary methods, whereby all Commoners who attended a committee meeting had voices. Finally, when the House of Commons had grasped to itself the supremacy over all other branches of the government, it produced that all-absorbing committee, the Cabinet, and turned over to courts of justice the duties of its committee on elections. Since 1883 the ancient grand committees have been revived. It is a long story, that of the use of committees in the Parliament of our mother country, with many turnings and windings, with incidents in the four centuries preceding 1789 to parallel almost every incident and illustrate almost every phase of the committee since 1789, as in the light of our own experience.

Inquiry is necessary only as to its more direct connections with the procedure of Congress. That stage in British parliamentary experience from which our young colonial legislatures drew most was the very one — so brilliant in its annals — to which attention has been called, when, under the

stress of a life-and-death grapple between monarchy and representation, the machinery of law-making was taking fundamental and lasting outlines. The first and, next to the Pennsylvania Assembly, the chief medium for transmission of British forms to our Federal Congress was the Virginia House of Burgesses. That "miniature parliament" of twenty-two, gathered in the choir of Jamestown's church, was ludicrously yet reverently imitative of the mother assembly that sat beneath London spires.¹ Its first step was a solemn consideration of the credentials of its members; its first business was performed mainly by two committees, consisting each of eight members, — standing committees, too, since they lasted throughout the session of six days! ¹

Williamsburg, St. Mary's, and Philadelphia saw the speech from the throne, the processions and humble addresses of Lords and Commons, verily outdone by Governor, Council, and Assembly.² These ceremonies were the foundation later in New York City for those opening exercises as with President, Senate, and Representatives, whose influence in shaping our committee systems later pages of this study will trace.

The earliest legislative archives of Maryland and

¹ Virginia Colonial Records.

² The colonial journals give these addresses, which are prototypes of our presidential and gubernatorial messages. Parton vividly describes the scenes, "Life of Jefferson," 89-93.

Pennsylvania indicate some subservience of presiding officers towards the proprietors. The Committee of the Whole, or Grand Committee, was in use from the outset. That the device was slow in obtaining its original use in the Old Dominion may be inferred from an incident of the memorable year 1676: the Burgesses, finding themselves subjected to the same tyrannical scrutiny which had led the British Commons to their secret afternoon sessions, knew not, blunt, honest fellows, how to avoid Berkeley and his Councilmen; through "T. M. of Strafford" they have registered the complaint that they "must submit to be overawed and have every carpt at expression carried streight to the Governor." But the days of the greater rebellion just a century thence found the Virginians thoroughly familiar with this committee of freedom. Therein Patrick Henry sounded the bugle of revolution, and Virginia laid the cornerstone of national government.¹

In later colonial times legislators read and common-placed the books of the ancient parliamentarians, among them Elsynge, the clerk of the Commons who resigned to escape the troubles with Charles I.; Hakewill and D'Ewes, members of the lower House, the former under James I., the latter under Cromwell; and Grey, the compiler of debates, whose manuscripts were consulted by

¹ Bancroft's "History of United States," III. 110-112, 436, 437.

Arthur Onslow, for thirty-three years the model Speaker.¹

But, as emphasized by the latest critics, New World institutions have a large element of spontaneity or originality. Jefferson suspects that the commonest forms of English procedure — so common that no one has thought to put them in writing — have escaped the Virginians in their “quarter of the globe.” From the Vice-President’s chair he complained to Wythe: “So little has the Parliamentary branch of the law been attended to, that I not only find no person, but not even a book to aid me.” The House of Representatives, said he, had ways of its own — looked not up to the Senate as it should have done, but inclined to run after the “awkward,” “unparliamentary” and “inconvenient” practice of the Old Congress.² Whoever will compare the Cis- and Trans-Atlantic journals for the later decades of the eighteenth century must be impressed with their differences. The great intervening ocean,

¹ Onslow served from 1728 until 1761. In his Manual, Jefferson constantly refers to these and other seventeenth century authors; sketches of their lives, and titles of their publications, are given in the Dictionary of National Biography.

² Five letters of his upon the state of legislative practice may be consulted in Jefferson’s “Works,” IX. 6; Ford’s “Writings of Jefferson,” VII. 110, 426, 430. As early as 1812 the House purchased fifty copies of Jefferson’s Manual; it has been the sole authority prescribed by the rules since 1837, but is now rarely cited. Cf. statement of Revision Committee, C. R., January 6, 1880.

narrowed but little by printing and not at all by steam or electricity, cut off the American legislator, and confined him to his own resources.

What were the chief American contributions to procedure before 1789? Of deliberative assemblies in the background of our Congress were the conventions which framed and ratified the Constitution, and, receding beyond one another, the Confederation and Continental Congresses, the legislatures of statehood and colonial dependency, the smaller local units, the county, the vestry, the township. Considering only these public bodies, there was much opportunity for original parliamentary developments, and they were the schools from which the men who set the new government going came with long experience. Most advanced of the thirteen original States were Virginia, Pennsylvania, and Massachusetts. From them came almost all the formulative forces for Congressional procedure. Legislative chambers in the other colonies had not attained to a size and an activity which necessitated much interest in new methods. Besides Jefferson in the Senate, Virginia's Burgeses gave Madison as the first floor leader of the House, and sent to it their clerk, rare John Beckley, to impress, by many years of service, the forms of the Old Dominion as only the clerk had opportunity. Madison and R. B. Lee were members of the first House Committee on Rules, whose

report is still, as in Hildreth's time, "the basis of Congressional action." Of the nine other members on this committee, Massachusetts had two; Connecticut, two; New Hampshire, one, — almost a majority for New England. New Jersey had two, Pennsylvania and South Carolina each one. Massachusetts' General Court gave the Senate its first President, Pennsylvania's Assembly sent its Speaker to preside over the first House of Representatives. Keystone methods were further rendered pre-eminent through the existence of all the Pennsylvania journals in published form, credit for which — and accordingly for furnishing the models of our national legislature — belongs to Benjamin Franklin, one-time clerk of the Assembly, and in 1752 its first public printer. He is the father of Congressional printing.

The Massachusetts towns are the many tiny springs of American government held by historians equally important with the larger single streams of Virginia and Pennsylvania. In them, more than anywhere else among the colonies, institutions seem freest from Old World precedent. In them, from pure democracy, rises first pure representation, then pure committeeship. All is on the broad basis of framing "equal laws for the general good." The political seed springs in virgin soil. Representation is regenerated. Again all the successive stages are passed through, but

more easily and rapidly than in the former growth. Because of race inheritances, the marks and scars of the old, slow development do not reappear, but the essential excellences are retained and surpassed.

Two features of this process may be marked, bearing, indeed, upon the very broadest differences to-day observable between our institutions and those of other lands, but having much to do with the distinctive characteristics of American committee systems. One is in the New World man himself; the other, in his conditions. The New Englander led his fellow-colonists as an advocate of individual freedom and democratic equality. Bancroft traces Puritan ideas back to Luther, Calvin, and Erasmus. As was the man, so were his politics. Not only the new nation, but also its governmental establishments, were "dedicated to the proposition of equality." One representative must not exalt himself above another, nor a committeeman do obeisance to his fellow. To the common condition of men in the English middle class from which came our first colonists, and to the racial and religious inheritances that can be traced beyond the leaders of the Reformation, ought to be added that stripping away of artificial distinctions in wealth and rank which pioneer life is so well understood to involve. The frontier has scarcely yet ceased to be a factor in American life. Besides the personal quality, another form

of equality was revived and strengthened in New World settlement; namely, that ancient equality of tribes and petty localities in treating one with another. Isolation, climate, and differences of origin are here accountable. In general courts and assemblies, towns or counties held equal representation; in Continental Congresses, thirteen small and great colonies had each a single voice.¹ Legislative machinery had also to be fitted at first to small aggregations of men. Mainly herein lay the absurdity of Locke's "Grand Model," and the failure of Penn's first "Frame of Government." It was not as when Frenchmen apply a ready-made constitution to their populous land. Just as the first settlement threw off other settlements, and these all, as they grew, united into counties and colonies, so from simpler embryonic forms of pure democracy government was differentiated into departments, and expanded to meet by representative systems the needs of growing populations. Representation was not at first in demand. The device was well known, but its use deferred. When it came, its sphere increased gradually by subtraction from democracy. Multiplying population meant multiplying legislators; and, with a larger body of representatives, committees,

¹ On the mixing of territorial with popular equality, as well as on a general return to first principles, in pioneer Tennessee, cf. Roosevelt's "Winning of the West," II. 344-347, 361-369, 383.

at first not so much needed or used, slowly advanced towards the power and importance which custom had long yielded to those of the massive old assembly in more populous England.

In a sense the selectmen and other permanent officers evolved by the New England town-meeting were its standing committees, while from the time of its origin it used the ordinary select committee for performance of its multitudinous functions.¹ The interesting era of these select committees comes a century and a half after the landing of the Pilgrims. The capacities of representation were developed in Old England by the pedantic tyranny of James I.; George III., with his obstinate menaces, wrought in New England the same enlargement. At Braintree, John Adams got a first taste of fame by his report from a town committee,—a denunciation of the Stamp Act, printed in the newspapers and adopted, he declares, by forty towns.² This episode was but a forerunner to the memorable event seven years later in Boston's town-meeting, when Samuel Adams seized upon the committee idea, and with it laid broad foundations for a continent-spanning political system.³ Nov. 2, 1772, in face of jeer-

¹ The Massachusetts Records, I. 44, 47, 48, contain instances of the use of committees by the governor and council in 1629.

² C. F. Adams's "Three Episodes of Massachusetts History," 838-839.

³ Bancroft's "History of United States," III. 420.

ing Tories and timid Whigs, he carried his motion for a Committee of Correspondence, twenty-one in number, to state the rights of the colonies, and communicate with the several towns of Massachusetts. It was a new application and combination of two old instruments, the committee and the printing-press; and was hailed shortly as an inspiration from heaven or an emanation from the devil. It was "the highest mark the town-meeting ever touched." Before long the New England towns generally had followed Boston's example with a shower of pamphleteering as portentous as that which at the same time or a little later became the dynamic force of the French Revolution.¹

On the whole, New England committees were carefully and lengthily instructed, summarily and vigorously controlled.² They were freely put to every variety of use. In Rhode Island's early history investigating committees traveled from town to town, and joint committees acted for Providence and Warwick.³ The first provincial congresses neatly adapted the sizes of their committees to the manifold purposes which the war emergen-

¹ Six of these committees superintended the Boston Tea Party. King George is said to have believed that each town had its regular committee on tarring and feathering!

² C. F. Adams's "Three Episodes of Massachusetts History," 584, 822, 831-834.

³ Case of Rev. Mr. McSparran (1719) in Munro's "History of Bristol, Rhode Island." "Early Records of the Towne of Providence," II. 65; year 1652.

cies of the Revolution evolved. There were routine or ceremonial committees of two or three, committees of men selected for special fitness, and committees representing in their composition the various counties and localities of the Commonwealth.

To the Virginia House of Burgesses, it is well known, belongs the next step beyond the town cooperation of New England; namely, the institution of intercolonial standing committees of correspondence, and thence the way led to the Continental Congress, the Confederation, the Federal Union.¹ At the time when the Federal Union began, the Virginians were making a large use of select committees, each of which was created only after discussion of a subject in the Committee of the Whole had revealed the advisability of bringing in a bill. They had also an emerging block of standing committees appointed at the beginning of and lasting throughout a session. The titles of these were: Religion, Privileges and Elections, Propositions and Grievances, Courts of Justice, Claims, Commerce, Trade. Several had evidently taken the names of the old-time English grand committees. Clerks were granted to them, and important powers freely conferred. A small quorum was prescribed for each. Unwieldy size was their great defect, due partly, it seems, to reckless additions

¹ Frothingham's "Rise of the Republic," 234.

to their numbers from time to time. The Propositions and Grievances, for example, had above eighty members.¹

The Pennsylvania Assembly evidently furnished much the largest part of our national law-making devices. Therefore a particular examination of its history is appropriate. The men who crossed the Atlantic to found the Quaker State came fresh from the most interesting constitutional developments and the most renowned Parliamentary proceedings in English history. William Penn had his own ideas of legislative processes, as well as of state-building in general. In his first "frame of government" he embodied a plan for a committee system so striking that it is given full presentation as follows:—

"That for the better Management of the Powers and Trust aforesaid the Provincial Council shall, from time to time, divide itself into four distinct and proper Committees, for the more easy administration of the affairs of the Province, which divides the Seventy-two into four Eighteens, every one of which Eighteens shall consist of Six out of the three Orders or yearly Elections, each of which shall have a distinct Portion of Business, as followeth: *First*, a Committee of Plantations, to situate and settle Cities, Ports, Market-Towns, and Highways, and to hear and decide all Suits and Controversies relating to Plantations. *Secondly*, a Committee of Justice and Safety, to secure the

¹ Journal of the House of Delegates begun and held at Richmond, Oct. 20, 1788.

Peace of the Province, and punish the Male-Administration of those who subvert Justice to the Prejudice of the publick or private Interest. *Thirdly*, a Committee of Trade and Treasury, who shall regulate all Trade and Commerce according to Law, encourage Manufacture and Country-Growth, and defray the publick charge of the Province. And *Fourthly*, a Committee of Manners, Education, and Arts, that all wicked and scandalous Living may be prevented, and that Youth may be successively trained up in Virtue and useful Knowledge and Arts. The Quorum of each of which Committees being Six, that is, Two out of each of the three Orders or Yearly Elections as aforesaid, make a constant and standing Council of TWENTY-FOUR, which will have the Power of the Provincial Council, being the Quorum of it, in all Cases not excepted in the Fifth Article; and in the said Committees and standing Council of the Province, the Governor or his Deputy shall or may preside as aforesaid; and in the absence of the Governor or his Deputy, if no one is by either of them appointed, the said Committees or Council, shall appoint a President for that Time, and not otherwise; and what shall be resolved at such committees, shall be reported to the said Council of the Province, and shall be by them resolved and confirmed before the said shall be put in Execution; and that these respective Committees shall not sit at one and the same time except in Cases of Necessity."

Under this constitution the Council originated all legislation, and was in consequence much more important than the Assembly. Of course the beautifully symmetrical committee scheme utterly failed in the wilderness. Instead of the seventy-two members that it called for, but sixteen appeared

for the first session. These were divided into three committees as nearly equal in size as possible. Instead of the grand general objects laid out, to one of them was "referred the burning of woods and Marshes, to have Chattel marked, to erect Bounds of fences;" and to another the preparation of bills "about Prisons, Sowing of hemp and Flax, Runaways, Passes, Selling of Ser^{vs} into other provinces, for Destroying Wolves, to raise Money, & a bill for Hogg stealers." The Council soon dwindled in number and importance to such an extent that its use of committees was discontinued. Nevertheless, Penn's ideas were those of America's future, as the objects of many a present committee list testify in the very words of his plan; his clear vision of order and equality has prevailed, and should prevail more fully, in all our legislative processes.¹

Attempted imitation of Parliament is evident on the face of the first Pennsylvania Assembly's journal. Having nothing to do, since it was but a revising body, it occupied itself at the outset of that three days' session with a consideration of parliamentary practice, and the formulation of a crude written procedure. With a degree of conservatism surprising even for them, the Pennsylvanians held to this down to the inception of

¹ On the first Pennsylvania Council, cf. Roosevelt's "Winning of the West," II. 361-369.

our national government, and carried it to Congress, whence its influence has spread throughout the length and breadth of the land. Its items were reënacted and improved from time to time, so that in Revolutionary days they formed a code of nineteen neatly arranged and numbered rules.¹ In them, and still more in the Assembly records generally, is traceable through a devious history the interweaving of old English methods with innovations that are now especially a part of the practice of our national House of Representatives. Of these may be noted the power of the Speaker, the previous question, and various leading features of the committee system.

A large share in legislation belonged to the Pennsylvania Speaker from the outset. He it was, evidently, who in the times of William Penn compiled the rules, which were approved by vote at the beginnings of sessions, and tacked to the door of the Assembly chamber. Later he was a member of committees on rules, which were raised regularly. He was also upon other important committees. He made motions and participated in debates. He granted or withheld leave of absence, and gave "religious and wholesome counsel." As early as 1687 he began to acquire the appointment of committees, a privilege which was

¹ Journal of Pennsylvania Assembly, Nov. 30, 1776. For rules of 1703, see Appendix.

entirely vested in him by rule in 1701. In the above-noticed first body of rules of 1682, he obtained a power which may be called the origin of the clôture. The words are, "Superfluous and tedious Speeches may be stopt by the Speaker." To these words by 1703 was added, "If it shall at any Time happen, that a Debate prove tedious, and any four Members shall stand up, and request the Speaker to put the Matter in Debate to the Vote, he shall not refuse it." In the years immediately preceding 1789 this summary process in some way, ignorantly or intentionally, came to be called the previous question. The English form of the previous question, at that time and always, has been merely an awkward and puzzling motion favorable to postponement. The Speaker of the Commons would ordinarily put a subject to vote when his judgment told him that no one desired further to discuss or to amend; but any member had the right to raise the *question previously*, "Shall the main question be *now* put?" If the House decided that it should not, the matter was without further ado swept aside in favor of other business. Later consideration of our subject will involve extended notice of the entrance of this Pennsylvania invention into national usage as the very vital nucleus of legislative systems. Though the Virginians had the beginnings of standing committees, the Pennsylvanians were much farther ad-

vanced. Upon the opening of a later Provincial Assembly, they appointed moderately sized committees for Ways and Means, Accounts, Revision of the Laws and the Minutes, Revision of the Criminal Laws, Rules, Claims, Unfinished Business, the President's Message. Most of these lasted throughout all the sessions of that Assembly. Their names are suggestive of the early lists in the national House — indeed, all the forms of opening proceedings at New York in 1789 seem to have been copied almost literally after those which had long prevailed in Philadelphia. Through long and turbulent annals the exchange of courtesies between Pennsylvania's Executive and Assembly had been reduced to an exact science, and one of the practices of the legislature was known as the "dissection of the President's Message." As soon as a communication from the president had been read, it was submitted for analysis to a committee of three, who presently reported recommending so many committees of three, sometimes as high as a dozen, upon such of the various subjects mentioned by His Excellency as it deemed worthy of the honor. This practice was applied also to unfinished business revived from a former session or assembly. Together with the small, uniform sizes of committees to which it gave rise, it is particularly pertinent to the Congressional beginnings.¹

¹ Attention should be directed to the many influences of State

Concerning the use of committees in the national Congresses from 1774 to 1789, the following salient points may be observed. On the third day at Carpenter's Hall in 1774, with forty-five members present, two committees were named to state the rights of the colonists and the instances of their infringement. The first consisted of two members, the second of one member from each State present. After a time the entire business was merged in the larger of the two. Naïvely writes John Adams in 1804: "This committee . . . became an object of jealousy to all the other members of Congress."¹ Jealousy is a sentinel that calls the halt upon every step of government towards centralization.

A measure in that ante-constitutional period, that time of long-spun discussion and thorough sifting, ran about the following gantlet: first, broached and debated in the House; second, referred to the Committee of the Whole and debated; third, referred to a select committee and debated; fourth, referred to one or two individuals for drafting; fifth, back again by the same stages, with debate and amendment all the way, until the final vote of acceptance or rejection put an end to a process

legislatures, new and old, upon the national procedure down to date, a very large subject. Later instances are to be had in Follitt's "The Speaker of the House of Representatives," 92, 155, 201.

¹ Works of John Adams, II. 373-377.

which often lasted for weeks and months.¹ In a leisurely way the appointment of a committee was determined upon one day, its size and composition fixed the next. As a rule, no two of its members were from the same State. But between war-time and peace methods there was marked difference, especially in point of committee stability and power. The opponents of Independence in 1776, by raising Committees of the Whole upon trivial subjects, made them their battle-ground for delay, while the radicals fought for select committees.² Occasionally there was the promise of a standing committee; one on claims — styled a grand committee because it consisted of one member from each State — lasted about a year, and reported eighty-odd times. But by far the greater number of the select committees, of which in the journals for the period of fifteen years there is record of more than eight hundred, were short-lived, limited to a single and often a trivial subject, and liable to be at any moment unceremoniously superseded. The most important interests changed hands with a rapidity almost kaleidoscopic. For example, within six years the infant navy was put out to nine different sets of nurses, such a management as to leave the country without ships

¹ For an example of this word-weighting debate, cf. Bancroft's "History of the United States," III. 273.

² Works of John Adams, III. 43.

at the close of the Revolution, and defenseless against the jealous powers beyond the Atlantic.¹ Likewise the all-important future of the Northwest Territory was left by the same shifting system to the dominion "of Providence."² Certain committees whose functions were executive are especially important as measures of centralizing tendencies in the Congresses. They are the boards of War, Treasury, and Admiralty, and the Committee of the States intended to sit in the recesses. The first three were rather hybrid in make-up, more of commissions than committees. Each consisted of five members, two from the Congress and three outsiders.³ Each had broad executive powers so far as Congress could grant them, and accommodations such as those of the present House have obtained only after a century of pleading.

From Jefferson's little book on parliamentary practice, his legacy to the Senate upon retiring from its chair, may be gleaned an estimate of the stage at which procedure, in America in general and in Virginia in particular, had then arrived, and of American knowledge of usage beyond the Atlantic.⁴ Its pages show that committee proceed-

¹ Goldsborough's "Naval Chronicle of the United States" sketches these transfers.

² Bancroft's "History of the United States," VI., chapter vi.

³ This was the composition only for a limited time in the history of each board.

⁴ Jefferson acknowledges his debt for information to Hatsell, Clerk of the Commons from 1760 to 1797.

ings were not published ; that committees were forbidden to receive petitions except through the House, or to sit when notified that the House was in session ; that joint committees of Lords and Commons often, if not always, acted integrally. Among many precedents cited for the Committee of the Whole are its privilege of electing a chairman other than the one named by the Speaker, its entire freedom for debate, its right of initial consideration over revenue, executive messages, and other important matters, which in the processes of thorough debate, it must transform into resolutions to be presented in the House, whence they were to be referred to select committees as bases for bills. The forms of going into Committee of the Whole, of resuming the sitting of the House, of reporting, even the position of the mace upon or under the table, are noted. When select committees conducted inquiries, witnesses were to be questioned only through the chairman ; all persons save the committeemen were to retire pending parliamentary action or discussion, and the testimony was to be taken in writing for submission to the House. The Speaker should appoint committees, but the House should have "a controuling power over the names and number." A bill should be committed only to those friendly to its main features, for "the child is not to be put to a nurse that cares not for it." Unless the House named

the hour and the place, the committee might sit anywhere and at any time. The committee quorum was a majority. Any member of the House could be present at a select committee's sessions, but only its members could vote. There was full power to change a bill or other paper committed, save as regarded the title. Committees could themselves originate bills, resolutions, and addresses. Finally the chairman was to make the report; and when he had concluded, if the bill were not re-committed to it, the committee stood dissolved and powerless. Besides these particulars, the general setting which this treatise gave to the committees of an assembly, especially the broad latitude for debate and amendment of their work, ought to be considered. Jefferson's Manual is his penance to England for the Declaration of Independence. It has carried Freedom's primal precedents from the older to the newer "land of settled government." Says Parton, "Its influence lives to-day in every legislative hall of the country."

These heads are now noted as to the origins and antecedents of procedure in the American Congress:

Legislative committee systems may be called advanced stages in the development of popular sovereignty. When governments were in their infancy, both in Old England and in New England, what are now known as the executive, judi-

cial, and legislative powers, or as local and central administrations, were as yet not separated and distinguished from one another. Increasing numbers of men in the State, occupying larger areas of land, necessitated the plan of representation for the making of laws, besides distinct departments for their enforcement and interpretation. An unwieldy mass-meeting of lawmakers, with growing demands for dispatch of needed legislation, was compelled to resort to committees for a division and multiplication of its work.

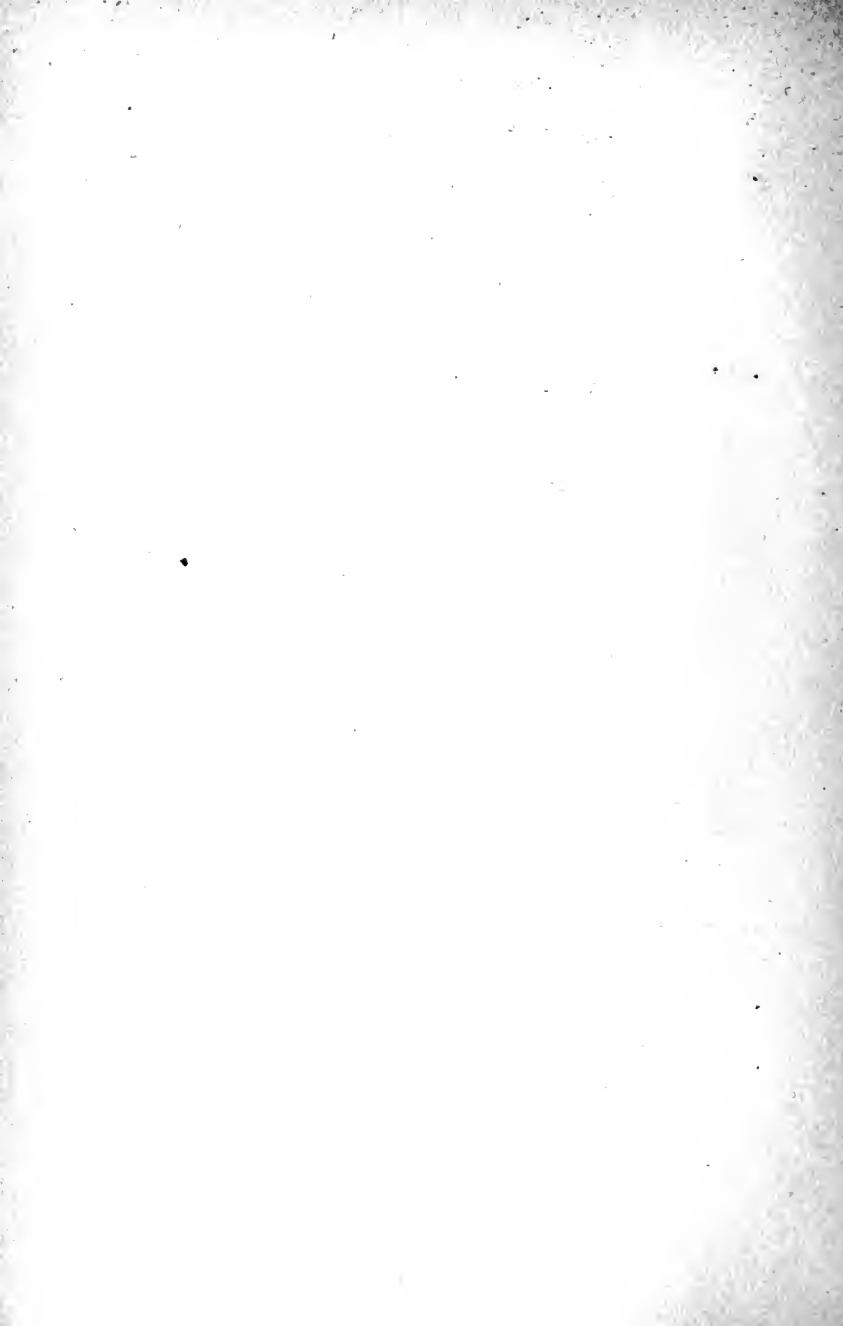
From England the American colonies, most notably Pennsylvania and Virginia, drew and transmitted to the legislative bodies of our Federal Union the commonest parliamentary forms relating to the use of select and standing committees, as well as the device known as the Committee of the Whole.

In the colonial life, there were important original developments in methods of lawmaking. The broad basis of society being, by contrast with Old World peoples, laid largely in the idea of equality between man and man, this doctrine was carried into the superstructure, and applied first to the representative body, then to the committee system. For deep historic reasons equality was insisted upon as between town and town, State and State, when it came to the constitution and procedure of Provincial and Continental legislatures.

Also the small populations with which New World history began necessitated a return to more primitive practice, — an involution, as it were, in committee-ship. As absurd is it for an immigrant just arrived, say in 1629, at Plymouth, to seek in the giant woods for London's ancient towers, as to look for a governmental organization in any degree approaching political developments in the homeland of hedgerows whence he comes. The numbers of the individuals, of the families, of the tribes, or of the states of which it is composed, is highly important in determining the simplicity or complexity of a political system. Therefore the functions of the American committee, like those of all American institutions, had to unfold gradually, along with the natural growth from the small territory and the small company which needed only elementary political contrivances, to the larger state in which representative government was demanded; and when representative government came, colonial and intercolonial, it took a place in legislatures which was in some respects nearer to that of the early, than to that of the contemporary, committee in the English Commons.

The Continental Congresses, from 1774 to 1789, began a combination of the highly various practices which make up the background of our study. In small bodies, such as they were, with their entire memberships hardly as large as some of the

important committees of the British House, unwieldiness did not so much require commitment. In the beginnings of the central government, duties and powers which it could draw from the jealous local organs were limited, and hence the need of a division of labors in order to carry heavier burdens was little felt. Because of these same local feelings, committees were either large or small as compared in size with the body creating them. It grudgingly gave them a share in its work, retaining to itself the larger part; for the same suspicious feelings toward delegated power which, under the time-spirit, the citizen held towards the representative, the representative held towards the committeeman. On the whole, the committee, with its small sphere, had nothing to lose and everything to gain from the evolution that must come with increase of population, and consequent increase of numbers in the representative bodies, with increase of importance in common interests of the entire country, and consequent increase of business in the central government.



THE HOUSE OF REPRESENTATIVES.

Blessed be the memory of the man who invented the Yeas and Nays.

HORACE GREELEY.

There are those here to-day on this floor, who, with grave reasons to support their demands, are clamoring for a member from every State upon the great Committees of Appropriations, of Ways and Means, and of Commerce.

J. C. S. BLACKBURN.

In publicity consists the bond between society and its government. Looking, however, at facts, we find that of the elements essential to a representative government, this is the last which is introduced and gains a firm footing.

M. GUIZOT.

CHAPTER II.

THE PUBLIC AND THE COMMITTEE.

NOT enough study has been given to the methods of our legislatures with a view to discovering the principles which have underlain their unfolding history, and the lines along which they may and probably will yet develop. From a small series of simple resolutions compiled within four days, the rules of the national House of Representatives have grown into an intricate, logically arranged code, shaped during a century by conflict and cooperation among a multitude of minds and wills. They have not been readily understood, because they are unique as compared with other bodies of law, ancient and modern. In their earlier history they accumulated one by one, and very gradually, until at the time of the civil war they were occupying some twenty pages as appendices of the journals. Curiously enough, they were extensively revised just at the moment when the Government seemed to be going to pieces.¹ Then

¹ The revision of 1860 consisted mainly of modifications reported Dec. 20, 1858, by the Committee on Rules upon which the Speaker served for the first time as committeeman.

the busy, active years followed, the most important the House had ever known, and there was no time to think of better devices. But the marvelous changes and expansion of the central government with and after the Union triumph were too heavy a burden for the cumbersome organization of slower days. Desperate because of its inability to make them work, the House in 1879 instructed a committee of its most skillful parliamentarians to sit during the recess for the purpose, to use its own words, of revising, codifying, and simplifying the clumsy accretion of one hundred and sixty-six rules under which it was suffering. Samuel J. Randall, Joseph C. S. Blackburn, Alexander H. Stephens, James A. Garfield, and William P. Frye performed the service. Their report states that "the objective point with the committee was to secure accuracy in business, economy of time, order, uniformity, and impartiality." To this end the arrangement and grouping, with forty-five main rules subdivided into clauses, was made upon a basis of the logical relation between subject and subject.¹ No change was proposed to which all five were not agreed. From time to time for two months the House debated and amended the new code in great detail until its final adoption. This was a labor brilliant and far-reaching. It was in direct line of succession to the work of the con-

¹ 46: 1, C. R., Jan. 6, 1880.

vention which framed the Federal Constitution in 1787. As concerns the House, the discussion to which it gave rise may be called an important supplement to the *Federalist*. But correction did not cease with that Congress. On the contrary, a strong impulse to progress was given, so that since then there have been important biennial revisions. Debate upon the subject occupied a week in 1893. Regulations as old as the House itself have been swept away. Now, the import of this rapid process of change deserves emphasis as regards the committees. No static view can be adequate. One year the onlooker has been impressed with their weakness; another, with their power. The masterly portraits of a few years ago now have a tinge of antiquity.

While the Government was yet very young, two ancient Massachusetts gentlemen fell into a controversy about the House rules, wherein one of them threw off an eloquent declaration that select committees were "like the senses to the soul;" and the other sarcastically rejoined, "What, can we neither see, hear, smell, nor feel without we employ a committee for the purpose?" A seance with these venerable statesmen ought to develop further light concerning the physiology and psychology of the body politic. They might explain fully and at length whether committee functions are motor or sensory, or both; whether it is proper

to call the government the soul, and the masses who are governed the body, or to call the public servants the body, and the sovereign people the soul. Later Congressional debaters have worn their simile threadbare. Whatever their enlarged argument would be, the brief explanation preserved to us makes it clear that committees are the agents, the instruments, the channels of connection between Congress and the nation.

A Georgia Representative recently struck out on a new line of sentiment. He confessed that he had been trying to read in the names of the House committees the history of our government. Whoever glances over their list must be impressed with the thought. Their number and their relations are largely to be accounted for by the remarkable diversity of interests in the United States, a land of many climes and of vast areas adapted to all the different pursuits of men. To make the story complete, the select committees of half a hundred Congresses must also be marshaled in review; for they will recall passing events which have stirred the nation for a moment, and then passed into the category of the forgotten.

The creation of a standing committee has generally been linked with some important historical occurrence. Louisiana was purchased in 1803; the Committee on Public Lands came in 1805. In response to the guns of the Leopard firing upon

the Chesapeake sprang into existence the Committee on Foreign Affairs. Engraving came to be a permanent member of the committee family when the Mexican War and the stirring argosies of '49 called for more extensive service of cartographers. In 1867 the establishment of the Committee on Education and Labor at the instance of James A. Garfield, one-time Ohio tow-path lad and school-master, was significant of the downfall of slavery in the United States.¹

Just as a more rapid increase in the population of the country has signalized the return of peace after war and the exceptional periods of prosperity, so with additions to the list of standing committees. The first administration of Madison saw none created, but thirteen standing committees began during Monroe's Era of Good Feeling. In the quarter of a century from 1838 to 1863, three, all of them routine, on Library, on Printing, and on Expenditures in the Department of the Interior, were the only new ones to put in appearance.² The equal period from 1863 to 1885 brought eleven into full fledge, including the more important for finance, industry, and social affairs; while four select committees took their rise and were revived regularly at the beginning of every Congress, be-

¹ Efforts on behalf of such a committee had always in *ante bellum* Congresses met with quick and angry opposition from the dominant Southerners. 21: 1, C. A., Dec. 16, 1829.

² A standing Committee on Rules lasted from 1849 to 1853.

ing finally, in 1893, transferred to the standing list.¹

The waxing and the waning of committees and their struggles among themselves reflect the changes which are going on in national life. From their composition one knows whether the Philistines of Silver or the Israelites of Gold prevail in the American Canaan. The glory of certain of them is but for the passing hour; the importance of others is constant, because from the nature of the subjects confided to them their duties are continuous and unvarying. When the nation is fighting, the War and Naval Committees and the Ways and Means are a ruling triumvirate; in peace these become pack-horses for public improvement committees and the Appropriations. If Captain Grant is hauling cordwood into St. Louis or buying hides in Galena, the Military Affairs at Washington is leaning back in its chairs with hands in pockets, to what heights will not Appomattox see both captain and committeemen advanced!

Members have become prominent in the House, who, fathoming the currents of public interests, have sought through the Speaker membership upon committees to which issues of coming importance

¹ Namely, Reform in the Civil Service; Election of President, Vice-President, and Representatives (Produced by the Hayes-Tilden contest); Ventilation and Acoustics; Alcoholic Liquor Traffic. A sixteenth was the Committee on Freedmen's Affairs, 1866 to 1875.

are to be intrusted. Thus did Stephen A. Douglas seek membership on the Committee on Territories in the Kansas-Nebraska Question; thus did James A. Garfield gain increased distinction in turning at the close of the Civil War from Military Affairs to Ways and Means. One of the older committees has stood throughout the century without undergoing the expansion which has come, for instance, to the Elections and the Claims; if changes of long-standing policy involve the United States in the intricacies of world-wide politics, this Committee on Foreign Affairs may in the whirl of increasing business also be found to throw off the planets of a new group.¹

Invectives have been launched against the committees for their failures to report upon such questions as the abolition of slavery in the District of Columbia and the promotion of temperance, though petitions in behalf of these reforms have fairly poured into their rooms; back of them, however, has usually been a House using the device of reference as a mild rejection, a quieting of conscience, a skillful allaying of agitation; and back of the House has been a public sentiment upon these subjects hostile, cowardly, unaroused, or indifferent. The superficial glance would have the committee a trident-bearing shell that masters and rules the

¹ Note its prominence in the excitement over the Venezuela and Cuban Questions, 1895-1896.

waves; the deeper view sees in it a drifting vessel tossed upon the heaving seas of public opinion.

The practical relations of an American and his committees may be studied from the standpoints of his influence, first, in determining their composition, and second, in directing their action. In the foregoing chapter are notices of the organization of committees upon a territorial plan. For convenience it may be called State Representation. In the later ante-constitutional times a grand committee was understood to be a committee upon which each and every colony, or county, as the case might be, had one member. The national House of Representatives, upon its convening in 1789, clung to this principle. Its first committee represented the eleven States that had entered the Union.¹ By one of the same size and character the three executive departments were planned, and by another a bill was presented fixing the salaries of the President, Vice-President, and Congressmen. Among other important subjects demanding State representation in the early Congresses were Fortifications, Debarred Claims, the Printing of the Laws, the State of the Treasury Department, a Road between the Southern and the Eastern States. The standing Committee on Post-Offices and Post-Roads, during its first four years, 1806-1810, had a membership of one from each of

¹ 1: 1, C. A., April 2, 1789.

the seventeen States. A proposed abolishment of West Point Academy was referred by the Twenty-third Congress to twenty-four members, as also the Pay, Mileage, and Contingent Expenses of the House. Such committees played a prominent part for adjusting disputes between the free and the slave sections. One of them considered Missouri's troublesome Constitution in 1821.¹ Thirteen, the old number of the original States, reappeared in a committee on the veto of the tariff bill, Aug. 11, 1842; and again, when the noted Omnibus Bill of 1850 was referred to a group of brilliant men, six of the North and six of the South, with Henry Clay as chairman; and again, alas, at the outbreak of the Civil War, when to thirteen Senators and thirty-three Representatives was assigned "the present perilous condition of the country."² Sixteen men of the House were of the joint committee to take action upon the death of Washington. To ceremonial committees the principle has latterly been confined. The four Presidents who died in office were so honored. Both Senate and House followed the plan upon the reception of Lafayette in 1824, and upon his demise ten years later. Every State and Territory had a representative or delegate in the escort which accompanied the re-

¹ Schouler's "History of the United States," III. 184, 185.

² Blaine's "Twenty Years in Congress," I. 108, note; von Holst's "Constitutional History of the United States," VII. 354 *et seqq.*

mains of John Quincy Adams to Massachusetts. Similarly celebrations pertaining to the early history of the Republic have been observed, the centennials of Washington's Birthday, of the Declaration of Independence, of Cornwallis's Surrender.

The idea is prominent where — in the House, though not in the Senate — prospective States of Western regions, each through its delegate, have participated in committee work. As early as 1817 the delegate from Missouri was made chairman of a select committee on the admission of his Territory to the Union. A rule of Dec. 13, 1871, empowered the Speaker to appoint one of the Westerners for the Committee on Territories, and the delegate from the District of Columbia upon the Committee on the District. Sharp objection, involving the constitutionality of admitting other than members of Congress to a direct part in law-making, developed at this time, as had been the case early in the century, when delegates were first given seats upon the floor. Upon this score, however, the conferring of the right to vote would seem to be the only limit. Five years later three others were assigned to the Indian Affairs, the Mines and Mining, and the Public Lands. At this time (1896) the Territories has two, and eight other committees have each one delegate.

Like the plan of adding a stripe to the national flag for each new State admitted, State rep-

resentation became too unwieldy. Robert Goodloe Harper gave the signal for its abandonment by persuading the House in 1798 to reduce the Ways and Means from sixteen to nine members. But it has not been simply a surviving colonial custom; it finds an enduring basis in the Constitution. Though almost from the beginning membership of every State upon a committee became impracticable, from the very earliest times the practice has obtained, as far as possible, of appointing upon a committee no two members from the same State. Notwithstanding the insistence of some Congressmen that ability, not locality, should be the supreme test, and notwithstanding marked decline in the importance of State lines, State representation in this modified form has constantly prevailed. Any violation of its spirit, casual or intentional, gives rise on the floor of Congress to disturbance and complaint. The Fifty-third Congress, with its territorial basis of parties, and its range of from one up to thirty-four in the number of members from the different Commonwealths, showed no State with more than three on any committee, and but one committee with as high a disparity as four between the number of States for which it stood and its total membership. Local jealousy is a prime cause of the constant increase in the sizes of committees, of the fact that the more important are the larger, and of the vigorous and generally suc-

cessful attempts to add to the numbers of one which begins to emerge from obscurity, or to tower above its fellows. State pride is a very real force in banding the various delegations together. A new member, entering Congress, turns to an older colleague, with whom, probably, he has had previous association in home politics. Fortunate the young man who thus finds powerful elderly friends to help him to choice committee positions, and to speak a good word for his bills in the ear of the Speaker or of the House. Horace Greeley noted the leadership of States for the control of legislation during his brief service in Congress, putting Massachusetts first and Ohio second.¹ Maine, Illinois, and Iowa seem to have combined to rule the Fifty-fourth and Fifty-fifth Congresses.

State representation is certainly a considerable limitation upon the appointing, as well as upon the other powers of the Speaker. A disturbing element has been that officer's display of local bias in making up the committees. In 1861 Galusha A. Grow of Pennsylvania was charged by Westerners with partiality to Easterners. A member from Iowa recently cast such reflections upon a Speaker from Georgia; the South, he declared, had thirty-three of the fifty-five chairmen.

The much-abused Speaker has been bound by the dividing and splitting of parties upon consid-

¹ Greeley's "Recollections," 226.

erations of sectional interest.¹ The slavery issue before the Civil War, and the closely correlated questions of internal improvements and the tariff after its close, are the most prominent illustrations. It has been coast *versus* inland States. The woodsman's ax, blazing westward the national highways, has echoed the border Congressman's lusty clamor for admission to the committee arcaua. Day before yesterday it was Illinois, yesterday it was Washington; but to-day, — can it be? are the "original thirteen" beginning to plead? When the location of the World's Fair was about to be decided, three cities discovered that the fourth had eight representatives on the committee which was to report upon the subject, while their own combined minorities counted but five; there was an immediate recommitment to another set of men, two for each contestant, with an impartial chairman from Massachusetts. The new sectional party which has its strongest following beyond the Mississippi, together with members of the older parties from that region, now revives on the floor of Congress those sentiments which were in the air when Jefferson's followers came up to possess the seats of those whom they called monarchists. Their slogan is, "The West never gets justice." They complain that a single small Atlantic State often appropriates the chief places in each of the four

¹ Wilson's "Congressional Government," 107.

or five foremost committees, while from Lake Superior to the Pacific there may be no more than three chairmanships. Never save once, say they, has a member of the Rules come from beyond the Father of Waters; and there is "no representation" upon the Appropriations and the Ways and Means for ten populous Western Commonwealths. They ask for each State and Territory at least one chairman, and for the House as a whole a chance to veto such appointments of the Speaker as do not meet its approval. Men of the East reply, "You have not a membership in this House to justify your extravagant claims." It must be borne in mind that the lower branch of Congress, unlike the Senate, is based upon numerically equal parts of the country's entire population. Accordingly, a fair allotment of committee places gives New York thirty-four, to one for Washington. As a result the former State is represented on some thirty committees, having in charge as many different national interests, while the latter, the most humid part of the United States, may get a place on the Irrigation and Arid Lands. Largely because of the differences in the importance of committees, and of the fact that there are some three hundred more committee places than there are members, States do not always get equitable voices in committee business. When the majority of the Congressmen from a so-called doubtful State finds

itself in a House minority, it would appear to get particularly cold treatment in the committee lists.

State inequalities as concerns chairmen are especially prominent, for the reason that those important functionaries come all from the same party. Upon this head the Fiftieth, which had a small preponderance of Democrats, may be fairly compared with the Fifty-first Congress, in which the Republicans had a bare majority. On a basis solely of population, Maine would be entitled to one chairman, Kentucky to two; at the Fiftieth Congress Kentucky had four, Maine, none; at the Fifty-first, Kentucky had none, Maine, three. Maine's delegation of four was solidly Republican; Kentucky, out of eleven, had in the first instance eight, in the second, nine Democrats. Yet even in cases in which States were of the same party, differences were considerable. Thus when the Democrats were in power, Kentucky, with eight of that party, had four chairmen; Tennessee, with eight, two; North Carolina and Mississippi, with seven each, each one. At the next Congress, California, with four, had none; Indiana with five, and Massachusetts with ten Republicans, each had one, while Maine had three chairmen. A lion's share would seem to fall in manifold sense to that State which secures the Speakership. Favoritism aside, both the higher and the secondary dignities come to it as rewards for the same set of qualities, of

which conservatism in retaining its men is chief. More than a score of years after the Civil War, the issues of that titanic strife are yet so live that of fifty-four committee chairmen all but four in one Congress came from north, and all but nineteen in another from south, of Mason and Dixon's Line. Forty-five of these miniature speakers, together with the Speaker of speakers, represented in one case a territory confined to the latitudes of New York on the north and Pennsylvania on the south, to the longitudes of Maine on the east and Iowa on the west, — about one-half of the people and one-sixth of the area of the United States. It is certainly to the advantage of the South and West to insist upon State representation.

Thus far the rural regions have held their own. If occasionally in a Democratic Congress New York gets the chairmanship of a committee on Expenditures in one of the Departments, Americus may boast the headship of Elections; Corsicana, of Ways and Means; Farmington, of Interstate and Foreign Commerce. Under a Republican *régime*, that of 1889–1891, the sixty-eight most populous cities of the nation had one member of the Rivers and Harbors and two of the Banking and Currency. The two Congresses above compared, each showed in the total of their four great finance committees a majority of ten for places of less than twenty thousand inhabitants. Under

the Republicans Philadelphia was the only one of the ten busiest centers of trade that held a chairmanship; one of her Representatives was head of the Post-Offices and Post-Roads, another of the Library. The Democrats granted the leading place upon the Appropriations to Philadelphia, upon the Labor to Saint Louis, upon the Pensions to Brooklyn, upon the Expenditures in the State Department to Boston, upon the Expenditures on Public Buildings to New York. No wonder that money needed for harbors and quays where the ships of the world ride has frequently been squandered upon some petty rivulet of a Kiskiminetas, or that occasionally a Congress adjourns without taking a plain opportunity of reducing the interest upon the government debt by millions of dollars. Nor is it altogether strange if capitalists and corporations have sometimes bought protection for rights which their Congressmen have been powerless to protect in the course of honest legislation. However, with a dozen different States, with rural and urban communities, with both political parties represented to some extent upon a large committee, the common weal, the greatest good to the greatest number, does not altogether fail. The majority and minority proportions of a committee's membership are ascertained and assigned with arithmetical exactness; i.e., the total House membership is to the House minority as the total

committee membership is to the committee's minority.

There is a question which seems worthy of thought on the part of those who desire to see the high representative principle of equality preserved and perfected in the House of Representatives. Ought the man who wields the vast power of the Speaker, whose office has mounted in importance far above the Vice-Presidency, so far by the estimate of keen observers as to even rival the Presidency, — ought he to be chosen by a small fraction of the people, the majority of a Congressional constituency? True, secondarily, by the majority of their representatives, a majority of the people of the entire country confer the office. Yet certain disadvantages and abuses of present legislative methods would doubtless disappear, were the direct national voice brought biennially to bear, just as it decides every four years who shall be Chief Magistrate. Do not the arguments for choice of United States Senators without the intermediation of State legislatures apply also in the case of this more important trust? Our Speaker, it is well known, finds his archetypes first in the ancient presiding officer of the British Commons, and second in those of the State legislatures which existed in 1789. No discussion or difference as to the mode of selecting the Speaker has been recorded of the convention that framed the Constitution. The

old parliamentary privilege, as wrested from the monarch, was confirmed in our fundamental law. How unforeseen were the developments which followed! What a wide difference between the power of Muhlenberg and the power of Reed! In the House of Commons to-day sit the Speaker and the Prime Minister; our Speaker is premier and parliamentarian in one, but it does not take a moment to decide that the former far outshadows the latter function.¹ A clerk deeply versed in parliamentary precedents stands constantly at his elbow unraveling for him all the purely legal tangles that occur. The man who shapes great committees which shape national legislation, who as chief of the Committee on Rules decides what business shall be presented to the House, who controls the floor in favor of what individual member or business interest or political faction he pleases, — this man ought to be vested with these important duties by a vote at large of the nation's entire citizenship. Then his course of action will more surely reflect high political qualities, general rather than special interests, the wisdom of the foremost counselors of his party, sensitiveness to popular opinion as to "a strong wind blowing aft."²

¹ Essay on the Speaker as Premier in A. B. Hart's "Practical Essays on American Government;" Miss M. P. Follett's "The Speaker of the House of Representatives."

² Having penned these suggestions as to the choice of a Speaker, the writer afterwards happened upon an advocate of popular

The committees having been appointed, the question of influence of public opinion upon their proceedings presents itself. "Publicity is perhaps the most essential characteristic of representative government," says Guizot. Upon this spot of the committee structure critical Napoleons have trained their guns. They have been outside the lines seeking to demolish, not inside, working to strengthen the weak places. The charge has been that the secrecy which veils committee sessions is fraught with the gravest dangers. Bribery has slipped in through the hidden entrances of these Star Chambers. The great railway has laid down upon their tables shares of its stock as gift offerings, and the uncouth backwoodsman has proved his gratitude to the committeeman by a promissory note for a snug little sum.¹ These transactions, occasionally coming to light, have beclouded the confidence of the people. Even where there is no real basis for suspicions of wrong-doing, the unfathomable mystery that hangs around the inner working-places of Congress does injustice to the honest Congressman, who, without chance for refutation, sees his purest motives maligned, his most disinterested acts ascribed to selfishness. For this cause men who care

election, Mr. Raymond L. Bridgman, in the *New England Magazine* for November, 1894. Alleged corrupt influences in the Massachusetts legislature are part of his argument.

¹ An early example of the latter kind is detailed in 15:1, C. A., Jan. 7, 1818.

for their good names stand off from such situations, but the unscrupulous lurk in the darkened recesses.¹ The people have been in despair of right judgment when the election day has come. In profound distrust they have felt that they must strike, though it be blindly. But one course is left open, because of their inability to know and to understand. To toss overboard whoever may be the rascals, they must sweep the decks clean with a tidal wave. They have faintly hoped that a new party coming into power will uncover the evil deeds of its predecessor. It is government by "see-saw ;" one party down, the other up ; one party up, the other down. It is a modern sovereign applying old William the Norman's Law of Englishry.

Secrecy, however, has not been such an enormity as it would seem at first glance to have been, and becomes less of an evil for a number of causes which are bearing upon it more and more as time passes. "Certainly in no generation has there been such a powerful Drummond light turned upon the lives of public men as now," writes Senator Hoar. The preceding chapter showed what urgent reasons required secrecy in old times, when monarchs, not legislatures, governed the nations. This was the prime source of that rule of non-

¹ "The Decline of Legislatures," by E. L. Godkin, *Atlantic Monthly*, July, 1897, p. 42.

publicity which Jefferson copied. In the last century visitors were first admitted to the House of Commons, and even yet the heavy penalties against intruding outsiders stand unrepealed, while a single member can compel the clearing of the galleries. A distinguished English writer complains that in our time "an English bill begins in petty rivulets or stagnant pools. Then it runs under ground for most of its course, withdrawn from the eye by the secrecy of the Cabinet."¹ In the early days of our national government there existed an honest distrust of the as yet untried experiment of popular censorship over legislatures. The Senate, like preceding colonial bodies, sat with closed doors. Statesmen, with the vision of women wild-eyed and with disheveled hair, clambering into the presiding desk of the French Assembly, feared that the passions of the people might surge into legislative halls.² The galleries of the House have been open from the beginning; and now and then a member has declared, as did one in 1795, that "the public are entitled to know the sentiments of the committee individually, as well as of the House collectively." One of these in 1880 failed to secure an added clause to the rules as follows, "Every report shall be in writing, and shall give the names of the mem-

¹ Sir Henry Maine's "Popular Government," 236-239.

² Bentham's "Essay on Parliamentary Tactics" decries the presence of fair women in legislative galleries, an argument amusing to the modern reader.

oers of the committee who concur in the recommendations thereof." Debate was but brief ; supporters of the measure urged that it meant economy, enabled the House to judge a proposed act from personal knowledge of those committeemen whose names were appended in its favor. Judges of the courts and committees of some State legislatures, said they, give in this way the weight of personal responsibility to decisions and laws. No hint was dropped that the outside public would read the names also. One man went on record as an enemy of the proposition. Members absent from committee meetings, said he, would be treated unjustly, by the exposure of the fact in this way ; by these revelations the lobbyist would know upon just what persons to turn his threats or blandishments.¹ In the Fifty-third Congress a bill was introduced to make unlawful all secret sessions of committees and sub-committees except during the consideration of executive business.²

A number of forces have counted against secrecy, or worked for larger and larger publicity. The lobbyist has not always been sure of his man ; now and then the Representative has exposed him in open House, and to the heavy penalties of the law ; beginning with such a case in 1795, an attempt to bribe the chairman of a Committee on

¹ C. R., Feb. 11, 1880. A first vote stood 45 to 80 for adoption.

² H. J., 543, 1893-1894.

Land Offices with shares of western lands, these bright examples of legislative *esprit de corps* have had occasional manifestation. The earliest form of publicity for committee proceedings came, both in England and America, through the printing of their reports.¹ From the beginning this practice has obtained in the House more and more fully, and journalists continually send to the great newspapers notices of such reports as they think will be of interest.² All reports of committees of whatever description, including those of minorities, must be printed. A recent amendment of the rules corrects, to a large extent, abuses which had grown up in connection with conference reports, by providing that they shall be detailed and explicit as to changes in bills agreed upon by the managers. Each Congressman is entitled to one copy of every printed document.³ Committee sessions are always open to members of the House. The more important committees have become so large that opportunities for cabal are much lessened. With the reporter going the rounds for interviews, with a diversity of interests represented by committeemen

¹ A member avowed in behalf of printed reports that they were for the enlightenment of the House and of public opinion, 21:1, C. A., Dec. 16, 1829.

² During the Civil War reports of investigating committees were printed and sold by one of the New York daily papers.

³ More than 30,000,000 pieces were handled at the Fifty-first Congress. — T. H. McKee's "United States Red Book."

from many States, with a minority on the watch, and quick to report to the House and to the public, with the gossipy confidences which pass among public men, and the easy evasions of that antiquated precedent which forbids any mention of committee proceedings in House debates, with the filibuster whose athletics have sometimes called the attention of the country to iniquitous measures, — publicity has generally got in some degree its due, though often too late.

Tendencies past and present point to the desirability and — perhaps it is not too strong an inference — to the inevitableness of a full publicity for committee work. The committee hearing is the most hopeful sign. No feature of Congressional legislation is more interesting. It is a happy device for gleaning information and gauging public opinion. It is growing in favor, and perfecting its development. A committee at the outset of its session's work will schedule fifteen or twenty days for presentation of arguments upon one of its prominent measures by outsiders. This testimony is caught by the stenographer's pencil, and presently appears as a printed and indexed booklet, which serves as the principal text for the committee's action.¹ Before the daily meeting of the House,

¹ A beginning has been made of preserving hearings in the annual series of public documents; cf. 53: 1, H. Mis. Docs., Vol. VI. 1220 pp.

from 10.30 in the morning until noon, is a usual period for the hearing. The first comers at such a meeting are naturally those who expect to present their views before the committee. They are strangers in the city and the Capitol, and come, it may be, from distant parts of the Union. They find themselves in a large, square room with frescoed dome, from which the sunlight streams downward over a swinging chandelier. Shelves of books and maps mounted for convenient reference line the walls. There are easy sofas, a home-like fireplace surmounted by a fine mirror, and other objects of convenience or comfort. Diagonally across the room extends the great, solid committee table, bordered by ample cushioned chairs, and laden with thick files of the bills which await action. A hum of conversation hushes when the chairman, the first committeeman to arrive, takes his seat at the head of the table. The visitors are introduced by their home Congressman, although he is not a member of the committee. Proceedings begin with a few of the committeemen present, and others drop in one by one, the minority members being the greatest laggards. Upon the Congressman who has introduced his constituents the chair will probably bestow the honor of managing the floor, including the order of the programme, the introduction of speakers, and the equitable division among them of the one hour and a half for debate.

Each advocate or witness stands in turn at the foot of the table facing the chairman, and strives earnestly to impress his views upon the auditory, subject all the while to a fire of cross-questioning from those who choose to interrupt. An important general appropriation or tariff bill may be the theme. Perhaps these invaders of the Congressional halls represent rival towns in a fast developing and somewhat lawless mountain region of West Virginia, where the establishment of a new Federal court has become necessary; or they are the spokesmen of contending religious sects, who urge or oppose the introduction of the name of Deity into the Constitution of the United States; or they stand for two great clashing industries, filled cheese and oleomargarine against butter and full-cream cheese, the grievance of the quiet, self-respecting American cow against the pushing, unscrupulous American porker, the conflict of Vermont meadows with corn and cotton fields of Illinois and Georgia. It is a revelation to the onlooker, an indispensable key to the puzzles of that vast onward sweep of legislation in the full arena of the House. Here he sees the headsprings of law. Here is the despised secret lobby hopefully transforming into the open and fair voice of all who desire to be heard. From every class and occupation the influences come. Ministers of the gospel and labor delegates touch elbows.

The physician and the expert of science contribute their testimony. Clerks and other officials of long experience in government answer the call for information. The judge, the old soldier, the merchant, come burdened with the letters, the affidavits, and the carefully prepared addresses of distant fellow-citizens and comrades. There are readings of newspaper articles, echoes from numerous conventions, indorsements of labor organizations, amendments for pending bills suggested by produce exchanges, even voices from foreign lands. It is the point of mutual touch between two fully developed standing committees, the one maintained by some voluntary association of the people for the purpose of influencing legislation, the other established by Congress to ascertain and supply the needs of society in the way of new laws. While the private advocate is delivering before the committee his careful and labored argument, the legislator leans forward with eyes and ears all eager attention; for afterward, when the bill comes up in the House, he will rehearse the committee hearing in a broader, somewhat dramatized way.

A prominent Senator has playfully called the committees "little legislatures." Why not accept the situation, and make them such in a much fuller sense? Their development in this direction has been marked. To follow for illustration but one

line, consider the accommodations which they have gradually won from an unwilling and often niggardly House. Many a Congressman has spent a large part of his time keeping the records of his committee, and doing other writing which its work has necessitated. The committee on the defeat of General St. Clair paid one hundred and fifty dollars to a clerk, March 2, 1793. June 1, 1796, a clerk employed by the committees was allowed one hundred and fifty dollars for work during the session. In 1803, when a member moved that the committees collectively should have two clerks, the House refused to consider the resolution.¹ Similar propositions were rejected in 1815 and in 1817.² With constant pleading on the part of the chairmen, results began to be obtained about 1835 or 1840. In emergencies of business the favor was then granted, and these assistants were paid by the number of hours or days of their service.³ There were vigorous objections in 1853 to a bill of four thousand, five hundred dollars, for the annual services of three of the four committee clerks then employed by the Claims, the Ways and Means, the Post-Offices and Post-Roads, and the Commerce.⁴ Four new clerks were added when the burdens of the Civil War came. From these modest and slow be-

¹ C. A., Jan. 28, 1803.

² C. A., Dec. 18, 1815; Jan. 30, 1817.

³ C. G., Dec. 15, 1839, and Jan. 15, 1840.

⁴ C. G., Feb. 16, 1853.

ginnings the time of the Fifty-third Congress finds forty-one committees with annual clerks, while there are two stenographers, besides a large number of session clerks and messengers.¹ So it has been as regards other accommodations, libraries, rooms, furnishings.² With about forty standing committees at the beginning of the Civil War, want of space in the great Capitol was not felt. There had been little or no friction since the allotment by a joint committee not long after the second war with England.³ But in 1869 Speaker Blaine complained that committees were crowded two and three together, and the House directed the fitting up of six new apartments.⁴ Next year James A. Garfield protested against being obliged to work in a cramped committee room, and inhale disagreeable odors from the restaurant. At this time the post-office was removed to make larger place for the finance committees. The increase in the number of standing committees to fifty-five, together with their enlarged business, their growing practice of giving hearings, and the accumulation of books, records, and other material through a long series of years, has crowded the building beyond its capacity. In every part of the immense structure, — attic, main

¹ Congressional Directory, 1893.

² The first volume of the House Miscellaneous Documents for each session contains a detailed and interesting inventory of committee expenses and of property in committee rooms.

³ C. A., Jan. 18, 1817.

⁴ C. G., Mar. 26, Apr. 9, 1869.

floor, basement, terrace, and sub-basement, — the committees of Congress lodge, often two in a room; and still they have not sufficient space, so that buildings and apartments are rented in adjacent parts of the city.

These are but two of many lines of their progress. Now, assuming that Congress will some time follow up the suggestions which this steady advance and this necessity for further accommodations are strongly forcing upon its notice, what may be the results? It will resolve, say, to make each one at least of the principal committees a true miniature of itself. The children of the old assembly will in their maturity have separate homes of their own. With the money now wasted upon the committee system, and with additional, but justifiable, expense, the necessary number of commodious structures will rise upon the ample parks that surround the Capitol. Each committee building or hall, planned with the more perfect architectural knowledge of later times and with effort for the best acoustic properties, will have its own galleries, clerks, sergeants-at-arms, doorkeepers, and pages. Those parliamentary processes which are embodied in the Constitution with reference to the House itself, as the power to choose officers, compulsory attendance of absent members, or the keeping of journals, besides such regulations as the nature, business, and circumstances of each individ-

ual committee may require, will be adapted to proceedings. If private bills are yet to be considered by Congress, a system similar to or better than that which is so admirably worked out in England may throw the safeguards of *quasi-judicial* forms about the claim and pension committees, so that visitors at the seat of government will see in their proceedings the fairness and justice which they have long witnessed and admired in the methods of the Supreme Court of the United States.¹ Were there also provisions for disseminating throughout the country more fully and in better forms information, not only of private, but also of public, legislative doings, constituents could form a more intelligent estimate of the work of their representatives, and publicity would have its most beneficial scope.

Invent some such method of what might be called legislative extension, for scattering knowl-

¹ There are numerous descriptions of the British methods of dealing with private legislation, with their ample printed and private notices to parties interested in local or individual bills, public sessions of committees, and the submission of their journals to the House, system of promoters and opposers represented by their counsels, arrangement of costs, legalization of the lobby, security for correct law forms, and careful system of consideration by several committees. Among them may be mentioned: "The Standing Orders of the House of Commons;" Sir T. Erskine May's "Usages of Parliament;" an article by Professor J. W. Jenks on "Methods of Law-Making" in Johnson's Cyclopædia; a note by James Bryce in the Appendix to the third edition of the "American Commonwealth;" and Simon Sterne's article on "Legislation" in Lalor's Cyclopædia.

edge. Train upon those to whom he commits his trust the living eyes of the citizen, an influence compared with which all others are shadowy and uncertain. What would follow? To the committee and committeeman, if honest, would accrue a juster estimate of services rendered, and a truer appreciation of long and laborious study for the public welfare. Calumny and misrepresentation might not so often and so strongly fasten upon those who are really faithful. That unjust treatment which a carefully elaborated report, the work perhaps of months, sometimes receives from the House, — unless it be protected by the personal influence of the committeeman, — would be less practicable; for the members in general must be more careful about rejecting or cutting in pieces a work of whose progress and value the public has been observant. The committee minority would be brought into better play, with a check to the tendency of which a Speaker recently complains; namely, that each part of the large committees tends to act independently of the other. On the opposite score, that species of corrupt cabal which occasionally breaks down party lines would become extinct. Congressmen could not take so much advantage of other speculators in the great markets, through their inside knowledge of forthcoming legislation.

On the part of the House, because of its better

knowledge of the character of the committees, it would make fewer mistakes in commitment; its floor would be managed to a less extent by shrewd log-rolling demagogues, more by careful and commanding statesmen; the better man would come to the front, the worse be relegated to the rear; its confidence in the machinery of its committees could be so great, that the mere formal vote, whereby, so far as it can, it now frequently gives to their determinations the force of law, would be perfectly safe and proper. In such small and select public forums the Cabinet officer who bows himself in and out of a chamber of inquisition — to take the term from Congressmen themselves — might have the ear of the country in replying to interpellations; oratory, lost in the infancy of the House, would revive; the voice of the individual member in warning peal or matchless advocacy might fill the land and traverse the seas, until the Londoner should follow and admire American Representatives as Bostonians have listened to the words of the Grand Old Man or the Great Commoner. Individual and party responsibility for every measure could be fixed beyond doubt, and the suspicions of the people could give way to confidence and pride in that branch of the government which stands nearest to them.

A deliberative assembly is the worst of all tribunals for the administration of justice.

JOHN QUINCY ADAMS.

Repudiation is repudiation, and dishonesty is dishonesty, whether the foreign bondholder or the humble citizen be the victim.

GEORGE F. HOAR.

The power to punish somebody else is a delegated power. It is not inherent in any tribunal, nor in any man.

MATT. H. CARPENTER.

CHAPTER III.

THE COMMITTEE AND PRIVATE INTERESTS.

LEGISLATURES must meet and decide in their proceedings a conflict between public or general, and private or local, rights and interests. In New York City Hall in 1789 Congress first faced these two lines of business, which it has ever since been striving to reconcile. By public law the machinery of a new government in a new country was to be set in motion. That terrible state of affairs, — almost anarchy, — the bequest of the Confederation, presented problems as grave as any that have ever puzzled a lawgiver. On the other hand, came the knocking at the door which the Constitution itself encouraged, and which has since so mightily increased, — prayers of individuals and corporations, inventors, pensioners, war claimants, land-jobbers, seekers of the North Pole, and what not. Our general government being one of enumerated powers, should have much ampler time than that of England, for instance, which may take to itself at will and to any extent the management of local affairs. Yet Congress has more than lost

this advantage by clinging to a vast and ever increasing number of petty private applications, an Atlas burden, such as requires for its proper carrying perhaps many times as many workers as House and Senate can furnish. Four-tenths of all the bills introduced into the House are referred to the Committee on Invalid Pensions.¹ By every device, by iron laws for speedy legislative action, by a continual multiplication of committees, by enlisting the services of the executive departments, and by establishing a Court of Claims and a Pension Bureau, Congress has sought to meet its obligations without relinquishing the power of finally deciding each case. To give to courts entire jurisdiction over such matters would be an abdication to one of the other departments of government. Doubtless something in the relative power of the three grand divisions of the American government explains this jealous tenacity.² The contemporary British House of Commons has felt no such scruples. Not only has it turned over to the courts a large part of its private jurisdiction, it has even bestowed upon them the decision of contested cases of election to its own membership.

A prime root of the much deprecated power of Congressional committees lies, according to Alexander Johnston, in the presence of these petty

¹ C. R., Jan. 23, 1888, remarks of Mr. Walker.

² Cf. Goodnow's "Comparative Administrative Law," II. 285.

measures which crowd the calendars, and, as concerns most bills, banish all the deliberation and all the action save a hurried vote into the committee rooms.¹ Of the eight hundred and seventy-odd statutes established by the Forty-ninth Congress, more than one-half were of a private nature.

In earlier days there was something like reasonable time for both kinds of legislation. The Federalists were more strict than their successors, the Republicans, in giving the preference to public laws. The First Congress, with its three sessions, shows eighty-seven public and four private statutes. The latter, however, deal with some thirty individual cases. A futile struggle to bring forward ninety claims occurred at the special session in 1797. In the same year the standing Committee on Claims was throwing out all cases not founded on the general law. The dragging-in-chancery practice of referring anew all matters committed, and not reported upon at former sessions, had begun at that early date. When Jefferson's party came to possess the gates, its tone was somewhat less strict; "the People" were referred to in argument; the select committee was often raised, now to fix an annuity for a widow, again to consider claims barred by the statute of limitations. But in 1820 the House annulled a rule which gave private bills the preference in Com-

¹ Lalor's Cyclopædia, II. 476.

mittee of the Whole.¹ In 1829 a Congressman complained that committees had free range for partiality; since by the rules their unfavorable reports went to the foot of the docket, and in the press of thousands of such subjects were endlessly delayed.² John Quincy Adams asserted in 1832 that Congress spent one-half its time considering private business, with no uniformity in its decisions.³

Justice in innumerable cases has failed because even the hurried vote of the House for or against a committee report has not been forthcoming. Public business has rightly taken the larger share of the time, and the more pressing it has been the more have private dockets gone to the wall. Roger Q. Mills once asserted that he had passed through at last a claim which had not had a dissenting voice in all the committees which had considered it during twenty-odd years.⁴ "I would suggest to the gentleman from Iowa," said a member of the Fifty-third Congress, "that not a single private bill was considered in the last Congress." Unanimous consent is now required for reference of private claims to any other than six specified committees.⁵ On Fridays only the House entertains a motion to take up the calendar of private bills; but on that day of the week an evening session is commanded for con-

¹ C. A., Nov. 21, 1820.

² C. A., Jan. 30, 1829.

³ J. Q. Adams's "Memoirs," VIII. 480.

⁴ C. R., Feb. 8, 1884.

⁵ Rules of H. of R., XXI. 3.

sideration of pensions, and for removal of political disabilities or charges of desertion from the army.¹ Since the morning hour has fallen into disuse, each day's session is opened with more or less extended action upon private and local bills under unanimous consent. It is a remarkable sight, a dozen or more men of both parties gathered in front of the Speaker's chair, with papers held high over their heads, each silently pleading for recognition. They are grotesque witnesses to the travesty and futility of trying such matters before so immense a court of interested and uninterested judges. By a special order the House, on May 5, 1896, cleared the private calendar of seventy out of four hundred pending pension measures, devoting ten minutes to each bill. A history of the frauds upon the treasury which have probably succeeded through a system which has thus specially tempted men to buy consideration of their schemes, of the days and weeks which Congress has spent in wrangling over petty money bills involving but a small fraction of its running expenses while considering them, of the long succession of martyrs, worthy claimants

¹ Rules XXIV. 6 and XXVI. 3. Since 1821 the appendix to each Journal of the House has contained its rules. This setting apart of Friday dates back to Jan. 22, 1810. For some years both Friday and Saturday were "private-bill days," but were largely thrown away because by the rules an individual member could utter the cabalistic "I object," which, if seconded by a majority, threw a report to the end of the calendar.

to whom reparation has been delayed and denied until death has put them beyond its possibility, — such a history would intermingle the most pathetic and the most reprehensible phases of human life. Congressmen have roughly sketched, but not overdrawn, word-pictures that put the entire story of half a century in small compass. One constitutes himself a watch upon the national funds, and cries: —

“Vigilance, sleepless vigilance, is necessary on our part. We are beset at every corner and in every street and alley with loafers, agents, and separate county court lawyers. Every applicant for relief who attends the Capital has his ten agents to importune you, and every agent has his ten claims to present. And every claim amounts to from ten thousand dollars to one hundred thousand dollars. Every sympathetic feeling is aroused with the tale of woe and poverty; every applicant has a wife and nine small children and one at the breast, and, over and above John Rogers’s number, an aged and tottering father and mother to support, and some cousins. Sir, look at our desks every morning, piled high with fresh claims dripping from the press, while we are swamped knee-deep with those that preceded them the day before, all reported by the Committee of Claims.”¹

Another, with compassion and indignation for

¹ Speech in the House, of Alexander Duncan of Ohio, March 30, 1838.

the wrongs of humble citizens, stands forth to speak for them : —

“Look at this book [holding it up in his hand], the Calendar of this House, a veritable tomb of the Capulets, a grave of dead hopes. There are more tragedies bound up within the covers of this book than in any novel or set of novels ever written. This book represents money due to poor widows and children, and heirs of Revolutionary soldiers, or other worthy and suffering claimants. It represents hopes that have been abandoned. It represents claimants who have come here, year after year, praying the United States to pay its honest debts ; and it represents the disgrace of the United States in not paying its just dues to honest men, women, and children, and to soldiers and sailors, and to many a one who has deserved better treatment at his country’s hands.”¹

Some measures for relief of the government and the claimants have tardily appeared. With a long preceding period of agitation therefor, Congress in 1855 established the Court of Claims.² Concurrent jurisdiction with it has since been extended in cases involving one thousand dollars and less to the Federal District Courts, in cases involving one thousand to ten thousand dollars to the Circuit

¹ Speech in the House, of Selwyn Z. Bowman of Massachusetts, April 21, 1882.

² James Parton praises this action in “Topics of the Time,” 5-7.

Courts. Yet—excepting that the executive departments may refer cases directly to the judicial tribunals—all such must, for consideration and completion, still enter at their first stage, and, with intermediate reference to committees, pass out to the President at their last stage through the legislative halls. Sums for less than one thousand dollars may be combined into an omnibus bill. Cases which do not fall within the scope of existing laws still tax Congress with their entire treatment. Though the Court of Claims had rejected ninety-two per cent of all applications of Southerners for relief on account of Civil War damages, the remaining eight per cent of loyal citizens were denied justice by the Fifty-fourth Congress. Much remains to be done for the cure of these wrongs and this congestion. Private claims upon government are best dealt with by courts of justice exclusively; the legislature finds its exalted sphere of activity in the general welfare.

The compulsory attendance of private citizens upon committees has great interest on the score of a reconciliation between public and private rights.¹ The power of a legislature to send for persons and papers is much older than our Constitution. Before Jamestown or Plymouth, yes, before the sepa-

¹ Clerk Henry H. Smith's "Digest of Decisions and Precedents" is an exhaustive history of the Congress on this and related heads. It is printed as 53:2, Sen. Mis. Docs., Vol. XII. 975 pp.

ration of Lords and Commons, the High Court of Parliament exercised this privilege as to English subjects, often with rudeness and despotism. No express provision of our Constitution gives it to Congress; but, on the other hand, is guaranteed "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures." Very sparingly, to begin with, did the House delegate the right to send for persons and papers to its committees. It was at first confined to those for investigating charges against public officers, a duty, on its face, judicial. In 1792 the select committee on General St. Clair's defeat compelled witnesses to attend, and testify under oath. As late as 1827 the power had been granted only in cases of contested elections and malfeasance in office. In that year the House was much stirred up, and debated an entire day, upon a request from the standing Committee on Manufactures that it be permitted to compel attendance of citizens for examination upon the subject of protection to home industries. The opponents of such action raised that oft-repeated cry, "Unconstitutional." It was an enormous grant, said they, not for the purpose of eliciting fraud or crime, but merely to enlighten the House. Courts had rules to restrain them, but committees had none. Should a committee be given free range to summon busy men from Machias or the

Gulf of Mexico? By an odd play of political forces this step towards a more centralized power won support from those who were fighting the extension of the central prerogative along another line. A speech of Edward Livingston seems to have been most effective in carrying the day for the proposition. Citing the British Parliament as employing this method, he asked: "Have we not memorials from all the manufacturers? Do not our tables groan with the weight of their complaints? What more can be desired? Something more, in my opinion. . . . A long professional practice has taught me the danger of relying on the testimony of interested witnesses, and has also shown me the great utility of cross-examination. From disinterested witnesses it is calculated to elicit truth; but it is invaluable for the detection of those subterfuges to which interest resorts in order to hide truth, or to give a false color to a true statement."¹

From that day the practice has grown. The House freely and frequently grants the privilege, even to sub-committees. Now more often the committee goes to the witnesses: there is a stir in a great Western city; three men have come from the nation's capital clothed with the power of the general government, and will examine its citizens as

¹ C. D., Dec. 31, 1837. The decision was rendered by Yeas and Nays, 102 to 88.

to the condition of their post-office or the causes of industrial depression. In the entire history of the House before the Civil War the right to travel was conferred upon committees but twice.¹ It is justified by the great saving of expenses.² The methods of taking testimony prescribed by Jefferson's Manual yet prevail. An investigating committee of 1837 proceeded about as follows: individual members would produce resolutions that certain questions be asked by the committee; a list of such of these as the majority favored would be made out and propounded to witnesses, who must answer in writing. Beforehand it was determined to what questions the answers should be voluntary; to what, compulsory.³ Strict formality was needed; as note on this very occasion an exciting scene under the evening lights of the committee room: two men stood face to face with hands on concealed weapons, one a bourgeois-despising Southern Congressman, the other a cool-headed representative of private business interests; the committeeman had threatened to kill the witness; consequently the latter refused further attendance, appealing to the House, which decided in his favor.⁴

¹ Statement of Roscoe Conkling in Thirty-seventh Congress.

² By Rule XXXVII., H. of R., witnesses summoned to Washington are allowed five cents mileage each way and a *per diem* of two dollars.

³ Appendix to Vol. XIII., Part II., C. D., 199 *et seq.*

⁴ C. D., Feb. 4, 1837.

From 1795, when the House had called to its bar and imprisoned a would-be briber, Congress exercised unchecked for eighty years the power to incarcerate citizens without due process of law. It based its conduct upon the American inheritance of *lex Parliamentaria*, and upon legislative necessity. Committees whose summons or questions witnesses refused to answer would report to the House, whose Speaker would issue warrants to the Sergeant-at-Arms for arrest of the contumacious parties. Newspaper men were frequent offenders. The House kept them in duress at its will. By a statute of 1857 the presiding officers of the two Houses were charged with the duty of reporting such persons to the Attorney of the District of Columbia. By him they were to be indicted before the grand jury, which could inflict a fine of from one hundred to one thousand dollars, and a term in jail of from one to twelve months.¹ Almost every year thenceforward the irregular imprisonments continued, regardless of this law, until in 1876 the Chief Justice of the District of Columbia issued a writ of *habeas corpus* for a real-estate agent whom the Sergeant-at-Arms held in custody. The House instructed its officer not to honor the jurisdiction of the judge. The judge, in issuing his writ, had declared that Congress, by the law of 1857, specified the manner of punishing an intractable wit-

¹ Revised Statutes of U. S., 102-104.

ness. The controversy having been carried to the United States Supreme Court, Mr. Justice Miller gave opinion some years later that the Constitution confers upon Congress no general and unlimited power to punish for contempt, but that its right in this respect is confined to recalcitrance of witnesses in those few cases where it has received a judicial grant, — contested elections, impeachments, and misconduct of its own members.¹

To present conclusions as to the touch between the people and their committees in its public and private aspects: —

With the legislative rules as a setting, the committees of Congress stand for the history and needs, the political, economic, and moral problems of the Republic;

Their membership is representative, as far as practicable, of the different States of the Union, and is equitably divided between the majority and minority parties of the House;

¹ Incidentally this decision applies that clause of the Constitution which provides, as to members of Congress, that "for any speech or debate in either House, they shall not be questioned in any other place" to a committee session held anywhere within the domains of the United States. The Court disclaimed power to punish the committeemen, but granted damages against the Sergeant-at-Arms in the sum of \$20,000. 44:1, C. R., June 15, 1876; 44:1, H. Mis. Docs., Nos. 169 and 174; 103 U. S. Supreme Court Reports, 168 *et seq.*; Goodnow's "Comparative Administrative Law," II. 269; Spofford's "Manual of Parliamentary Rules," 128-131.

Their responsibility can be clearly fixed by complete publicity, their efficiency increased by better organization and material equipment ;

Justice, the interests of treasury and subject alike, calls for wiser and more honest methods of dealing with claims of indebtedness presented against the government ;

The right of Congress to punish private citizens for refusing to testify before its committees has been closely limited by the supreme judiciary.

No set of rules can shift the responsibility which lies in the majority.

HENRY CABOT LODGE.

The vast number of members which compose this body, the great number necessary to constitute a quorum, the tremendous interests of a local character spreading over this vast country, will necessarily and of themselves, even without the constitutional guardianship of the Senate and of the Executive, prevent rash action or too great an amount of action.

THOMAS B. REED.

CHAPTER IV.

THE CONTROL BY THE HOUSE.

SEVERAL forces have been adduced as working for a distinct American legislative system. The Congressional procedure is not long under examination before the presence of another incessantly asserts itself. Lay a list of the standing committees side by side with the Federal Constitution, and the very names of many of them are discovered in its enumeration of duties and powers. It foreshadows their nature and their relative importance. By contrast with committees in the Congress of the Confederation, it refines them until they are purely legislative.¹ In the differences between the functions of House and Senate are paralleled the differences between their committee rolls. In the general structure of the government, with its highly successful effort for separation and balance of the three divisions, are the influences that most profoundly mould the two committee systems. For illustration, take the relative stability of Executive, Senate, and House. Senators are

¹ Sir Henry Maine's "Popular Government," 231 *et seq.*

elected for six years, and in three classes, that they may form a more continuous body. The Representative, however, has but a brief biennial tenure, and goes out at the same time with all his fellows. The thread of his political life is constantly snapped by cruel constituents of his own or the opposite party. A large and never-failing new element has threatened by its ignorance the precedents of the House. In 1843-1845 the entire delegations of ten States served first terms.¹ More recently the majorities of ten successive Congresses, with one exception, have been new men.² Therefore this large, unwieldy, changing body holds its own with the smaller, longer-lived, more experienced Senate and Executive by centralizing its power remarkably in its older members—in the Speaker and the committee chairmen. The natural laws of politics thus silently adjust inequalities; the system gives strength and continuity in the midst of mutation. Likewise all other constitutional provisions have their telling influence upon the committees of the House. There is not a difference between the fundamental laws of this and other lands, in letter or spirit, that does not operate to produce different committee systems.

Within the new, strange, and powerful walls of

¹ *Alexandria Gazette*, Dec. 1, 1843. Cf. also *National Intelligencer*, Dec. 11, 1821, "at least seventy-five have never been in Congress before."

² Blaine's "Twenty Years in Congress," II. 675.

the Constitution, with the "new roof" overhead, the American variety of legislators began in 1789 to be educated. Attention is first directed to main features. For one thing, old parliamentary methods are remodeled, and adapted to new circumstances, both to those established by the Constitution, and to those from time to time arising out of national development. Familiar with colonial ways of lawmaking, and not at once comprehending the relations which the new form of government had brought, early Congresses show a confusion as to legislative processes, the steps of emergence from which, though slow, may be traced with gratification. Jefferson's complaint of this disorder in his letter to his parliamentary sire, Judge Wythe, has been noticed; years before, Elbridge Gerry had rebuked the House for "continually recurring to the modes of procedure adopted by the late Congress, which was both a legislative and an executive body."¹ By his Manual, Jefferson himself strengthened the bulwarks of conservatism. It has taken nearly a century to loosen the hold of many of his British precedents, and substitute for them regulations conforming more to American circumstances. But the process has gone on until now, by contrast with earlier times, mastery of the Rules of the House is a much more difficult and important test of the new Congress-

¹ C. A., March 19, 1790.

man than any ability along the lines of general parliamentary law.

As a second point, there has been a constant re-adjustment between the two prime functions which belong, as the supplements of each other, to every legislative body, as well as to presidents in their cabinets, to judges upon their benches, and to all men in whatever public and private capacities; namely, the thinking and the doing, "the being sure of rightness and the going ahead." To put it in the law phraseology, it is the long-standing case of *Deliberation vs. Action*. The sphynx test of success or failure for a Congress has ever been a wise balance between these two. As in the individual life, experience crystallizing into habit obviates largely the necessity of minute examinations, so of a legislature. When a Secretaryship of the Treasury was to be created, there was a general tearing up of virgin soil; but the ground did not require so much work upon the addition, a hundred years afterward, of the Department of Agriculture. Many parliamentary questions have received right and final settlement for the House of Representatives. In some senses there have been fifty-five Houses; in others, but one, which from 1789 has been steadily enlarging itself in skill, dispatch, and capacity.

Men have observed the rapid disappearance of time-honored methods with alarm. They have

urged a restoration of the old safeguards. Often, while watching with mournful sentimentality the growing disuse of sails and paddles and wooden sides, their eyes have been holden to their replacement by giant boilers, twin screws, and plated steel. This is the third general feature in the progress of the House of Representatives. Its control over its committees, its defense of its members against corruption, its securities against bad laws, are more effective than ever; though the sharp rap of the gavel now cuts off the debater with precision as nice as the movements of the timepiece to whose minute and second measurements it falls. There are some other ways of sifting right judgment out of a huge assembly than by setting all its tongues a-wagging.

Now, these processes are best appreciated by comparing widely separated stages. Here have not been wanting the so-often emphasized characteristics of Germanic institutions, silent natural growth, defects tardily corrected, but withal soundness and healthy life. During those same years of the Federalist period, when weakling select committees were swaddled in the little legislative chambers of the American Congress, standing committees sprang full-grown and armed from huge new French Assemblies, and rushed forth to strike down, to trample in dust and blood, whoever, high or low, base or worthy, chanced in their paths.

Since that awful time, the French legislator has been taming artificially his overmastering committee, while the American has stood by, and seen his grow gradually and safely towards maturity of strength and usefulness. The one draws up bristling *réglements* for the sessions of committees; the other says to them: Go; govern yourselves; let the fittest survive!

In the House of Representatives action is embodied in an incessant crowding forward of measures by three score and odd standing and select committees. The typical committee for deliberation has been the Committee of the Whole. The term committee is here a misnomer. The Committee of the Whole is but a form of proceeding which has undergone various changes and assumed new names; it has been merely the robe donned by the House in the exercise of authority over the real committees; it has been "the people's committee," the favorite committee of the minority, the conservative committee needing not to be held in check, but rather at times to be urged along with the general advance. Were one of the men of the First Congress to look in upon its present-day sessions, he would hardly recognize it, so great has been its transformation. A younger Congressman recently nonplussed one of his elders with the query: "Can the gentleman tell me what real necessity there is for the Committee of the Whole on the State of the Union?"

A sketch of these changes will show how an ancient legislative garment has been refitted for modern wear. What original features had been given to the Committee of the Whole by the British Parliament have already been indicated, as also how primitive American conditions had assigned it previously to 1789 a most commanding sphere in legislative assemblies. So much was its importance felt, that one of the four sections in the first body of the House Rules was exclusively devoted to its proceedings.¹ Its long, high-sounding title was patterned after that of the Committee of the Whole on the State of the Nation in the House of Commons. It was organized with a chairman other than the Speaker, was identical in membership with the House, and was subject to the same procedure as far as practicable, with the noteworthy exception that debate was absolutely unlimited. Most striking is its greatness during this Federalist period. The pages of the journals are monotonous with the formula, "The House again resolved itself into Committee of the Whole." There, in the white heat of discussion, day after day and week after week, great topics were handled, until long chains of resolutions had been welded into shape, ready for the final touches by select committees. There foundations of American policy were laid, which remain firm as Roman highways. Some select com-

¹ C. A., April 7, 1789.

mittees were so thoroughly informed by those extended debates, so definitely instructed by those carefully worded resolutions, that their work came as near being merely mechanical as the task of the trained lawyer who to-day drafts bills for the British House of Commons.¹ In our time a sub-committee of three considers and reports directly to the House a contested election case; but in 1792, in the noted contention of Anthony Wayne and James Jackson, the Committee of the Whole sat judicially, hearing the speeches of the claimants, weighing the evidence, and finally recommending that the seat be declared vacant. Five years after the establishment of the Union a provision which Jefferson found among British precedents was incorporated in the rules; namely, that "Every proposition for a tax or charge upon the people should be first discussed and voted in a Committee of the Whole House."² This fitted neatly and strongly with the constitutional priority of the House in financial matters, and with some modifications has among all later changes remained the backbone of the Committee of the Whole.

But with all the strength of its beginnings, it was forced from the outset into a struggle destined to long duration. There was strife between the advocates of the Committee of the Whole on the one

¹ Cf. Hildreth's "History of United States," IV. 50.

² C. A., Nov. 13, 1794.

hand, and those of the select committees on the other. The former held the vantage ground as an intermediary for reference of most new topics from the House to the latter. The trouble was stirred up by a proposal that the select committees should have the *first* consideration of business. Contrary to the protest of one of the debaters that this was not a question of party, it was a party question in the profoundest sense. Centralization *vs.* decentralization was the issue, that deep line of cleavage which runs all through the history of parties. A sharp division of Federalists as against Republicans, of Administration as against Opposition, clearly marked the debates. On the one hand the leaders of the battle were Sedgwick, Boudinot, Ames, W. L. Smith, Fitzsimmons, Lawrence; on the other, Madison, Page, Gerry, Tucker, Livermore, White, Vining.

As early as May 19, 1789, in the consideration of the subject of executive departments this contest began. It was renewed in July of the same year, when Madison tried to bring forward the proposed amendments to the Constitution; and another fierce skirmish came later, in December and January, 1795 and 1796. These discussions developed and foreshadowed almost every important phase, advantage or disadvantage, of our committee systems. At this place it is necessary to note only the weak and the strong points urged for and against

the Committee of the Whole. Republicans maintained that it was the proper agent to get the sense of the House, the sentiments of the majority; to determine principles and to outline business; to discuss subjects abstract, dignified, peculiar, or of great magnitude; to give a necessary publicity to the proceedings of Congress. The Federalists charged that it wasted precious time; brought the passions of the people to bear upon the House by its publicity; was inconvenient for the discussion of complicated facts; was liable to desultoriness in debate; could not consider private bills without seeming to be fishing for applicants. Madison said that "there could be only two reasons for referring on any occasion to a select committee, either where there was an absolute want of time for the House to digest the subject themselves, or when any particular papers or documents were to be examined."

Throughout the Federalist period the fight went on. More than once the champions of the Committee of the Whole triumphed. On one occasion they were appeased by reference of the matter in controversy to a committee of one from each State. But the drift of affairs, the logic of circumstances, the growth of the House and of its business, were against them. Should it be discussion by the House in Committee of the Whole first, or investigation first by a select committee? Though the process was gradual, and was far from completion,

the year 1800 found a marked tendency to refer new subjects directly to small committees. The Whole was a waning, the Select a waxing power. Thirty years after the above attempt of Madison to set narrow bounds for small committees, Webster felt called upon to inquire what subjects *need not be intrusted to them*, and concluded that they were "general propositions or general measures in regard to which no investigation as to facts and as to particulars might probably become necessary."¹ From the position of a body whose work had been reviewed by small committees, the Whole — and with it the House, since they were identical — had itself become reviewer. Command had given place to control; authorship, to criticism. Somewhere in the interval between these two statesmen the turning-point had been passed which marked the transfer of the larger part of the business of Congress into its committee rooms.

After this the question had to be, How effectually can the standing committees be curbed and regulated? Even with this less conspicuous part for the Committee of the Whole new plans had soon to be invented. When Charles Rich entered the House in 1813, he found the standing committees crowding subjects most diverse upon the one existing calendar, to the utter confusion of business as a session drew toward its close. The natural

¹ C. A., Dec. 16, 1825.

suggestion was, that, by the same process of classification which was going on among the standing committees, there should be more than one Committee of the Whole. Accordingly, in 1817, Mr. Wendover of New York persuaded the House to enact that there should be a Committee of the Whole for every three bills, the Speaker so distributing them that the three for each group should be analogous in nature.¹ This provision continued in the rules until 1860, when it was stricken out by advice of the revision committee, which confessed total ignorance of its meaning.² In 1824 Charles Rich proposed a long rule which provided, in addition to the Committee of the Whole on the State of the Union, three so-called Committees of the Whole House, one on public bills, one on private or local bills favorably reported, and one on private or local bills adversely reported. Each of these three was to elect its own chairman. Each, following its calendar in impartial order, was to take up subjects upon motion of one member seconded by a majority. The House, after a committee had amended this proposition by setting apart Fridays and Saturdays for private bills, seems to have neglected it; but true lines of division had been suggested. Fridays and Saturdays were given to private legislation in 1826. Rules added Dec. 18, 1847, confirmed a distinction which seems to have before

¹ C. A., Dec. 19, 29, 1817.

² C. G., Mar. 15, 1860.

existed; i.e., between the Committee of the Whole House on the State of the Union for public, and the Committee of the Whole House for private business. At present there are three calendars; one of the House, one of the Committee of the Whole on the State of the Union, and one of the Committee of the Whole.¹ The Committee of the Whole is limited to Fridays.

The motion to go into the Committee of the Whole on the State of the Union yet remains, as in the beginning, a standing order after the reading of the journal.² This important committee, as part of the entire system, was subjected to an exceedingly severe strain by the enormous increase of legislative business after the Civil War. Up to the time of that struggle, according to James A. Garfield, it had had jurisdiction over a large part of the work of the House. But thenceforward it fell into disuse. The provision that it should consider all appropriations of money before their passage, was evaded by enacting payments out of general funds already set apart. With the idea of a return to safe old methods, the House corrected this abuse in 1874; and, in addition, gave to the Whole jurisdiction over bills which dispose of public property. To duly appreciate this

¹ Rules of H. of R., XIII.

² During the Fifty-third Congress it could not be entertained in the Morning Hour, a discrimination in favor of private business.

tardy insertion, let the reader but think of princely public buildings, the increasing adornments of growing American cities, and of wide government domains, too often voted away with generous rashness.¹ As it now stands, carefully worded by later changes, the clause of the rules from which the Committee of the Whole on the State of the Union derives its importance reads: "All motions or propositions involving a tax or a charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriations to be made, or authorizing payment out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole; and a point of order under this rule shall be good at any time before the consideration of a bill has commenced."

A chief feature of the Committee of the Whole has been ever-increasing lack of time for revision, even of the financial measures which have crowded its docket. Reference to it has often meant denial of consideration. This very fact, as will be shown later, is a highly important check upon the positive power of the standing committees. Great efforts to relieve the pressure have in the long run modi-

¹ For such an instance of careless parliamentary methods, cf. Greeley's "Recollections of a Busy Life," 230, 231.

fied the legislative methods of the House in three particulars. First, all measures — very considerable in number and importance — which do not relate to revenue or appropriations are excluded from the Committees of the Whole. Comparison of the calendars for Dec. 1, 1890, shows a ratio of about five bills on that of the House to twelve on that of the Committee of the Whole on the State of the Union. Second, there is a tendency to require a smaller number of members for Committees of the Whole. As early as 1846 Joseph R. Ingersoll moved that the Committee on Rules be instructed to inquire into “the power and expediency” of reducing their quorums. The number remained a majority of the membership of the House until the Fifty-first Congress, when it was fixed at one hundred. The Democrats in the two succeeding Congresses returned to the old requirement; but the Republicans again made it one hundred in 1895. It is a letting down of the bars by seventy-nine votes, justified, according to its advocates, by the necessity of “doing business.”

The third change consists in limitations upon debate. The Committee of the Whole on the State of the Union has always been more especially the seat of deliberation than the House itself. By the earliest rules a Congressman could in its sessions talk as often and at as great length as he pleased upon any topic, however remote from the subject

in hand ; while in the House he could speak a second time only after every other member had had a chance, and a third only with leave of the majority. These simple provisions, which would to-day mean intolerable anarchy, served legislative purposes for several decades. Rules in those times were not only mild, but also not likely to be strictly enforced. For instance, Robert Goodloe Harper in 1794 tried, but failed, to secure the provision which now seems a matter of course in any well regulated assembly ; to wit, that no member should speak save to a motion made, seconded, and stated. Instead, the House provided, under pressure of business near the close of the session, that members should be limited to one speech upon each subject. After two weeks of trial this restriction was removed by motion of Harper, upon ground that it was useless because evaded, and wrong in principle because it trenched upon unlimited speech.

It only needed, however, a sagacious and unscrupulous member of the minority to take fullest advantage of such fine opportunities for obstruction. The occasion and the man appeared in 1806. By 1811 five years of turmoil had wrought out the most important restriction upon debate in legislative history. The result was a new and powerful form of the Previous Question ; the man, John Randolph of Roanoke ; the occasion, those troubled relations with European powers which finally re-

sulted in our second war with England. During the proceedings which followed upon Randolph's sly break with President Jefferson, a main feature of opposition tactics was long and wearisome speech-making.¹ A year or two passed before the House found a bridle for the eccentric Virginian by making the question of entertaining a motion undebatable. Randolph appealed in vain against this violent gag law.² As foreign affairs became more critical, the need of further limitation upon the power of an obstructing minority was more and more felt. In 1810 occurred a grand debate over the proposed rule, "The previous question shall be put in this form: Shall the main question be now put? It shall only be admitted when demanded by one-fifth of the members present, and, if decided in the affirmative, shall be instantly put, without amendment or further debate; but if decided in the negative, the business shall progress as if the previous question had not been called." Here, as in many others of these early discussions of important subjects, the arguments *pro* and *con* were set off so exhaustively that after Congresses had but to echo them more and more feebly, while the question came slowly to final adjustment. It was liberty *vs.* license of speech; rights of major-

¹ C. A., April 21, 1806; Schouler's "History of the United States," III. 368, 369.

² C. A., April 1, 1808.

ity as against rights of minority; debating or doing as the prime function of the House. One side made a scarecrow of Napoleon's dumb legislature, and the other held up for contrast the talking assembly which wearied the first French Republic to death. The indistinguishable border-ground between the use and the abuse of speech was compared to the fine blending of colors in a garment of silk. Peter B. Porter excelled in pleading for the new procedure, and showed in strong light the meaning of majority responsibility under the Constitution of the United States.¹ At about three o'clock on the last February morning of 1811, and after an all-night struggle between supporters and opposers of the coming war, the *clôture* fastened itself upon the House of Representatives, — as its enemies would express themselves, — unlike Sindbad's Old Man of the Sea, never to be shaken off.² Since then in several important particulars it has strengthened its hold. Not one-fifth, but one individual only, is at present required to move the previous question. By custom the privilege belongs to the leader who is said to be in charge of the floor, the very personage most interested and most powerful in bringing debate to an end.³ It applies, not only to the main question, but to

¹ C. A., Jan. 16, 1810.

² For a full history of the previous question, cf. the speech of William Gaston, C. A., Jan. 19, 1816.

³ 54: 1, C. R., 5202, 5203, May 13, 1896.

amendments, to secondary motions, to a part or the whole of a series of parliamentary propositions. It yet demands instantaneous putting, except that bills upon which there has been no debate may have half an hour's discussion before their passage. For many years it seems not to have affected debate in the Committee of the Whole. The two-thirds requirement for suspension of the rules, together with changes in them, and new rulings of Speakers, had, by 1841, made it exceedingly difficult to go into Committee of the Whole at all. This immobility was remedied at that time by making it in order for a mere majority to suspend the rules, both to get the House into Committee of the Whole, and to fix definite periods for the Committee's sessions, so as to get measures back into the House.¹ By later additions to the rules, the Committee may entertain, after this closing of debate, four five-minute speeches proposing and combating first and second amendments. Thus a majority can, before resolving itself into Committee of the Whole, decide that the bill to be considered shall be reported to the House within twenty-odd minutes. Notwithstanding this power other tactics have often been employed. Before 1860 reference of a great appropriation bill to the Whole was frequently a time-wasting farce. Immediately upon getting into the Committee a

¹ C. G., July 6, 7, 1841.

spokesman of the majority would propose to strike out the enacting clause of the measure. This amendment, not being itself amendable, would be passed with two five-minute speeches; the Committee would then rise and report to the House, which would disagree to the striking out, and, ordering the previous question, put the bill through with a rush.¹ The Thirty-sixth Congress directed that a bill so deprived of its head should upon non-concurrence of the House go back to its former place upon the calendar of the Whole, and have the decapitated member restored. Just ten years later the subtle Greeks of the Committee on Rules, as one of our classically minded historians would style them, opened a new avenue towards "the rule of the standing committees without let or hindrance." They persuaded the fitfully migrating Barbarians to allow a bill reported from the Committee of the Whole minus its enacting clause to be sent back with instructions to provide a substitute.² How such a provision could be made to work at command of the majority Professor Hart has shown in his entertaining biography—or obituary—of a river and harbor bill.³ Instead of a case of striking out the enacting clause, this is a case of striking out all after the enacting clause;

¹ In this way Alexander H. Stephens brought about action upon the Kansas-Nebraska bill, May 22, 1854.

² C. G., May 26, 1870; C. R., Jan. 6, 1880.

³ Hart's "Practical Essays on American Government."

but both have offered practically the same opportunity for minimizing debate.

To return to 1841, outer confines having been fully established by the power of limiting debate in Committee of the Whole, the next step was to set internal boundaries. In line of natural succession to the Previous Question and Limited Debate came the Hour Rule. It followed immediately after the latter, being adopted the very next day. It was simply a decision that no one member should talk upon a subject longer than sixty minutes. Imprecations heaped upon it then and for many years after might add glow to an Indian's war-paint or terror to his death-cry.

All these developments have strengthened the power of the majority. They have given to it a more-effective control over the standing and select committees. They have vested in it the fixing of the ratio between deliberation and action. If it desires debate, its leaders need not order the previous question.¹ The history of the tariff law of 1897 shows that when these chiefs have a harmonious majority at their back, they can

¹ Cf., incidentally, 54:1, C. R., 5202-8, May 13, 1896; a peculiar and suggestive case, in which these leaders filibustered until nine o'clock at night, contrary to the evident desire of the majority for the previous question. Senators recently worsted by the House would change the royal title of its Speaker from the Great White Czar to the Great White Filibuster, 55:1, C. R. (Senate), April 22, 1897.

extend a "do-nothing policy" into weeks and months.

The Committee of the Whole on the State of the Union has come, in the long run, from broad original jurisdiction over all House measures, to be a secondary stage for limited consideration of public finances. Its field has been partitioned out, part going to the Committee of the Whole, part to the House, by far the largest-share to the standing and select committees. In 1793 the Congressman, glancing up into the galleries, might have likened it to the orator fully and carefully arrayed to sway the multitudes; in 1893, with scarce a thought for the puzzled straggler overhead, he styles it "the House in undress uniform, the House with its coat off."

Finally, new competitors have appeared to further reduce the spheres of the two Committees of the Whole, perhaps in time to send both into superannuation. Of all the tendencies apparent upon a comprehensive view, the most striking is the movement towards a procedure based upon the biennial life of each House. Deliberation marks the opening, and gradually shades off into the breathless action of the closing hours. When the new Congress begins, it has its one opportunity for claiming again the ancient glory of debate; when an old Congress ends, the only words that echo through the great hall are Yea and Nay. The pro-

cess is from full discussion of general policies to sharp five-minute speeches upon specific measures. That criticism, therefore, which avers that the power of the standing committees is almost absolute because their measures are acted upon hastily as the final March day approaches, has its edge dulled by the defense that action ought to be deferred until demands are imperative, so as to give, meanwhile, as long a period as possible for deliberation. Before the Representative is required to vote upon them, he has had in most cases one, in many cases two sessions and an interval, for acquainting himself with pending legislative Acts. Some measures reappear in Congress after Congress. The reports of committees are printed, and, with their accompanying bills, often stand upon the calendar for months. In that large body private conversation, man with man, counts for much as a substitute for public discussion. The press and constituents have ample time for comment upon topics which interest them.

Abuses connected with a large scope for general debate have their most telling illustration in the great slavery struggle. Those inflammatory Congressional harangues which had for their object no definite action had a powerful influence in preventing reasonable settlements between North and South. After having led opposing forces in a fierce three weeks' quarrel upon the question of re-

ceiving Abolitionist memorials, John Quincy Adams and Henry A. Wise voted together against bestowing upon the majority power to limit general debate in the Committee of the Whole.¹ This strife over the adoption of rules or over the election of officers grew more and more violent throughout the '40's and '50's. For weeks or months, at the beginning of a Congress, the contest would wage with no other bridle upon vociferous radicals than the regulations compiled by British parliamentarians of the seventeenth century. In 1861, before he left the House to take part with the Confederacy, John H. Reagan declared that these passionate wrangles had been a chief cause of the disruption of the Union.

In *post bellum* times, by contrast, the organization of the House has proceeded in a leisurely, good-humored way under general parliamentary law until rules are adopted. The Committee on Rules has early reported the usual revision; and then has been witnessed the splendid biennial field-day — or rather days — of unlimited debate, the one period in which, as has been said, the Committee of the Whole on the State of the Union, whether it be called by that name or not, appears most completely vested with its ancient character.²

¹ H. J., July 6, 1841. Adams also voted the next day against the hour rule, but Wise's name does not appear.

² Before the Forty-eighth Congress it had been the prevailing custom, barring the excited contests of the '40's and '50's, for a

With delightful freedom of speech for all, the palaver runs on. A Representative who is getting his first glimpse of the labyrinths of the great Capitol stands for the time equal before the Speaker with the beetle-browed old committeeman who has seen decades under the dome. Discussion of the rules does not mean cold argument over phraseology, clear reasoning upon scientific legislative methods. It is the impassioned utterance of men newly gathered together, and as yet unacquainted with each other, but fresh from constituencies whose districts completely cover the broad surface of the United States. It is the airing-ground where the people through their representatives pass judgment upon the Congress which has gone before, and express their desires concerning great living political issues as an enlightenment preliminary to the formulating of laws by the committee workers. Us-

Congress to adopt the rules of its predecessor temporarily. For a time such action was regarded as binding. But the later Houses have proceeded under general parliamentary law — analogous to common law in the larger field — until a satisfactory revision of former rules has been effected. The lengthiest periods of general debate upon the rules since the codification are to be consulted in the *Record* under the following dates:—

47th Congress,	Jan. 16-19,	1882.
48th	“	Feb. 7-8, 1884.
49th	“	Dec. 9-18, 1885.
50th	“	Dec. 21, 1887.
51st	“	Feb. 10-14, 1890.
52d	“	Jan. 25-Feb. 4, 1892.
53d	“	Aug. 29-Sept. 6, 1893.
54th	“	Dec. 17, 1895, to Jan. 10, 1896.

ally one, two, or three changes in the former code, involving, it may be, the power of some committee whose business has become suddenly of first importance, or relating to the adjustment of majority and minority rights, have constituted the central themes. In these discussions upon the broad subject of the State of the Union, a large part, often the largest part, of the talking is made up of random speeches by the newer members. The older fellows sit back, say nothing, listen. The new man may break some ice as to the meaning of the complex code which governs proceedings, but the old man gathers large ideas as to the character of the complex mass of membership which will soon come under his directing and governing hand. It has been a grand meet, as it were, where new steeds have shown off their paces before wise old Houyhnhnms.

Besides the early period for free and easy exchange of opinions, others less extensive appear here and there, more rarely as the Congress runs forward in its devious course. Two processes bid fair to succeed the Committee of the Whole, — one, the Special Order; the other, consideration of a measure in the House as if in the Whole. About the time of the Forty-ninth Congress the practice came to take on new and great significance of fixing upon some particular day or days, some time in the future, for exclusive consideration of the

business of some committee having a well-known and important measure to present. Such in that body was the action upon the Senate Bill on Polygamy and the Trade Dollar Bill. These special orders take business, public or private, from any of the three calendars, and assign it to any day, Fridays or Mondays not excluded. They go into effect immediately, or after some lapse of time. In the second session of the Fifty-third Congress thirty-five bills were thus favored. Among them, as examples showing the variety, may be cited measures for the admission of Utah, to suspend the tax on the circulation of national banks, to establish a uniform system of bankruptcy, for election of Senators by a direct vote of the people, for bills reported from the Committee on Patents, for a contested election case, for eulogies upon a deceased statesman, for resolutions relative to affairs in the Hawaiian Islands. The old, rather rigid, idea of certain days for certain kinds of business, as seen in the setting apart, first of Fridays, then of Fridays and Saturdays, for the private legislation committees, in the distinction between these two as objection and consideration days, in the giving of Mondays, the second and fourth in each month, to the Committee on the District of Columbia, the first and third to motions for suspensions of rules by individuals and by committees, — this old idea has been undergoing new develop-

ments with reference to all kinds of legislation. Usually when the special order period arrives, the majority and the minority divide the time equally or equitably, and each gives control of its share to a recognized leader. Consideration of a measure in the House as in the Whole is like the Committee of the Whole in the freedom of debate, but differs in that the previous question, a motion to reconsider, the yeas and nays, and a motion to adjourn are admissible.¹

Before leaving the subject of debate as a method of controlling committees, some additional minor points ought to be noticed. Whereas in the first House a member had a clear title to speak twice in general debate, he may now speak but once; save that the committeeman who has charge of the measure may open and close, and may occupy two hours if the discussion extends over from one day to another. The tendency is to delegate increasingly the talking as well as the governing.² Every measure put upon its passage under the previous question or suspension of the rules must have had at least twenty minutes of criticism by its oppo-

¹ Cf. resolutions introduced by Messrs. Pendleton and Everett, H. J., June 10, 1842.

² Cf. the speeches of Messrs. Cannon, Dingley, and Wheeler, summarizing the work of the Fifty-fourth Congress as its last session drew to a close, C. R., March, 1897; also the choice by the minority party of Joseph W. Bailey as its representative orator, 55 : 1, C. R., April 17, 1897, and closing days of the session.

sers, if there be any.¹ General debate, that is freedom to wander broadly from the question in hand, is permissible neither in the House nor in a special order period. Through the practice of offering and withdrawing *pro forma* amendments, discussion is allowed in the shape of five-minute speeches which are highly praised by visiting critics.

To reiterate — the long trend of development reveals a more accurately and strictly defined accountability of the committees to the majority party. This is a prominent feature, not only in their composition, as will be shown, and in the discussion of their measures, but along other important lines. As the minority was driven by the majority from its method of defeating action upon committee reports by endless talking, it found yet other strongholds. Its resistance through parliamentary tactics has been more and more favored by the growing membership and business of the House, and consequent growing complexity of organization. From the loud tam-tam or the prolonged and terrifying shouts of the battle host, it progressed to the serried ranks, the silently pricking bayonet, and smokeless powder. With the same purpose how different the ways of John Randolph and Buckley Kilgore! The minority filibuster, like the earlier Quid, has long since seen the high tide of his power. At least he has retreated into the

¹ Rules of H. of R., XXVIII. 3,

committee rooms, where — as the committee minutes would seem to show — he is yet powerful for making the hours drag monotonously by. Progress on the whole has been from rough, crude methods of control to a procedure more exact and expedite. From attempts to rule its committees directly through fixed orders of business in the pure democracy of the House or of the Whole, necessity has gradually driven the body to bestow administration upon chosen representatives, of whom the Speaker is chief. The minority now brings its strength to bear by appeal to public opinion through the press and the polls.

Among others two practices have stood out as highly important for reining in the committee steeds, of which one has been becoming of less, the other of more weight. The House, in the first place, decides what specific work shall be done, and what committee shall do it. Then, when the work has been completed, it passes judgment upon the reports. These two may be styled Reference and Selection. The regulating law of competition has been operating here with silently increasing supremacy, as the committees have grown in number, and as the business of each has manifoldly increased. Every one of them in later Congresses has had fifty or more competitors. In the records of a single session the labels, H. R. 8053 and S. 2326, indicate that each bill was but one among

ten thousand proposed laws. In the Fiftieth Congress but four and three-fourths per cent of all the measures introduced passed the House.¹ Hereto are pertinent the lively and prolonged struggles of committees for the possession of particular bills, which in later practice gave place to exciting contests for the floor whenever action upon the calendars was pending. For these disputes there has had to be arbitration; and the supreme court of resort by unalterable decree of the Constitution is the House deciding by majority vote, man equal with man. Never has a law been entered upon the statute books of the Federal Government which has not at the final stage of its passage received the sanction of a majority of the Representatives. In many cases, by decision upon secondary motions, this sanction has had repeated expression. This is the essence of the legislative grant. This is the one only part of the lawmaking process which in no instance of a century's history has been given to a committee. Below this narrow limit — the secret ballot, the division, the silent procession between tellers, the *vive voce*, or the yeas and nays — there has been every possible degree of legislative power for committees all the way to the point of making laws without any commitment whatever.²

¹ *Public Opinion*, April 12, 1894.

² As late as the session of 1851-1852, there were nine or more instances of action upon bills without commitment; see 32 : 1, H. J., Index.

The confidence which the House has reposed in the committee has in the main determined this degree of power. Such is the limitation which the individual committee has felt more and more keenly. Its importance will be petty if the House does not bestow upon it the framing of important measures; its work will go for naught if the House refuses to consider its reports. Thus it is influenced to present first those of its many measures which it believes to be most in demand, or least likely to meet with opposition. Its ambition must be to so meet the views of the majority that there will be no amendment or recommitment.¹ The smile and the frown of the House are quickly noted by sensitive chairmen. A favorite of to-day may be thrust down by the wiles of another courtier to-morrow. "The moment a committee is appointed which is not in accord with the wishes and desires of members," says Speaker Reed, "that moment that committee is such an object of suspicion that its power is utterly destroyed or lost." Peculiar enemies lie in wait for a committee; the chairmen of other committees, the speech-makers, the amenders, the filibusters.² More than once these committee tribulations have been the oppor-

¹ Cf. for an interesting example an article on "The House of Representatives and the House of Commons" by Hon. Hilary A. Herbert, *North American Review*, CLVIII., 267.

² Hart's "Practical Essays on American Government," 213-217.

tunity of the Congressional humorist.¹ As early as 1835 the chairman of a committee compared himself to "the man in the almanack stuck all over with sticks." The fire of questions which one of these trained managers of bills undergoes upon the floor of the House is perhaps freer and sharper than the interpellation of the cabinet spokesman at a sitting of the House of Commons.

A kinetic view of the two stages of control, Reference and Selection, may be had from glances at the changing visages of Annals, Debates, Globes, and Records. Of selection something will be said when the Committee on Rules is under consideration. Here may be traced finally the history of the decreasingly important subject of Reference. Early in the nineteenth century the strong initiative of members in laying positive and specific commands upon the committees to produce such and such measures was giving away to the milder plan of directing a committee to inquire into the expediency of enacting this or that law. It was the beginning of the modern bill. The number, variety, and forms of these latter resolutions, about 1827, might well amuse a legislator of to-day. There were such floods of them that John W. Taylor, then beginning his eighth Congressional term, was constrained to sigh for the good old

¹ Cf. speeches of R. G. Horr, C. R., Jan. 15, 1880; S. S. Cox, C. R., Jan. 22, 1880; J. M. Allen, C. R., Jan. 28, 1892.

times when it was "believed that committees had some little share of intelligence," and when they were not "dealt with as if they really had not an idea of their own."¹ In the instructing process the House had that early passed from the mandatory to the advisory attitude towards its committees. There was then, and for a long time after, much dispute and consumption of time as to where a resolution, bill, or petition should go. As has been said, this was an important part of the control exercised over committees, since it was in the nature of a preliminary deliberation and decision, and in its issue indicated which committee stood highest in the confidence of the House. Nowadays each Representative, if we may infer from his after proceedings, travels up to the Capitol with a Saratoga trunk or two specially devoted to embryo laws. A member introducing a bill has the advantage, if the committee to which it is sent does not report, of presenting it again for reference to some other committee. Much is to be commended in the fact that forty or fifty bills relating to the same subject frequently go to a committee, and are framed into one by combination of what is best in all. It is now the duty — doubtless a tedious

¹ C. A., Dec. 19, 1827; an editorial in the *National Intelligencer* of Dec. 11, 1821, comments upon this custom as "a salutary practice, the abolition of which would be to narrow the range of free inquiry, and substitute the pleasure of a majority of the House for the rights of the individual members."

one — of the Speaker and of the Clerk to assign to committees these papers as they fall into the boxes which historian Schouler likens to Chinese prayer-wheels. Wrangling over the possession of them, if there be any, must come at later stages of their journeys. This waning importance of Reference and waxing importance of Selection may be accounted for by coupling together increase of membership and business with the fixed Constitutional provision for absolute equality and majority rule in final voting decisions. With the increasing intensity of the struggle, minor vantage points have been abandoned. The supremely critical stage in legislation, the acceptance or rejection by the House of committee propositions, is the rallying center for contending majority and minority, contending sections and sections, contending committees and committees.

The examination and appraisement of the institutions of the United States is no doubt full of instruction for Europe, full of encouragement, full of warning; but its chief value lies in what may be called the laws of political biology which it reveals, the new illustrations and enforcements it supplies of general truths in social and political science, some of which were perceived long ago by Plato and Aristotle, but might have been forgotten had not America poured a stream of new light upon them.

JAMES BRYCE.

CHAPTER V.

SELECT AND STANDING COMMITTEES.

OUR American legislative system is the unfolding expression of the first principles of politics. There is a creation, a growth, a parallel development of distinct members and of one connected whole. From simple and unnoticed beginnings it expands with an individuality of its own into a complex organism. It yields in the fullness to which it has come to that same deep study which has traced lines of order in the green-garbed earth of Linnæus, from rootlet of grass to crowning tree-leaf; or in the process whereby an innocent child becomes a matured soul, with grouping of good and evil traits into one sum of character; or in many another complex evolvment. If scientists discover divinely predetermined plans or laws in the evolution of animal species, why not in the finer, higher expansions of human governments? Drummond might have traced a natural law in the political as well as in the spiritual world.

One after another the standing committees appear, as one after another white stars crowd into the

blue field of the nation's flag. From the chaos of the beginning, from the nebular dust of scattered business, select committees group themselves into huge growing nuclei, the first standing committees, which, spinning more and more rapidly, begin to throw off new spheres, other standing committees, and meanwhile multitudinous relations appear of light, of heat, of rotation, of revolution, of gravitation.

Business of the earlier Houses went to hosts of select committees. At least three hundred and fifty were raised in the Third Congress. A special committee had to be formed for every petty claim. A bill founded on the report of one small committee had to be recommitted to, or carefully drafted by, yet another committee. But the decline in the number of these select committees was strikingly rapid. In twenty years, at the Congress of 1813-1815 with its three war sessions, it had fallen to about seventy. The reduction was by half to thirty-five in 1833-1835. There were twenty-two at the Thirty-third, and twenty at the Forty-third Congress. Recently the number does not exceed a dozen for a Congress, and is often much smaller. As the converse of the process has been the comparatively slow increase of standing committees. There were half a dozen when the century began; ten in 1810; twenty in 1816; thirty in 1831; forty in 1865; fifty in 1893.¹

¹ See Appendix I.

Statistics of increase in the membership of committees are also noteworthy. From haphazard variety in sizes, the process has been towards absolute uniformity and then again to a certain stable variety. Owing partly to the difficulties of balloting, select committees during the first session of the First Congress were limited mainly to three members. Occasionally at first even numbers were named, but the odd soon came to prevail. Standing committees, with brief exceptions as to the Ways and Means and the Post-Offices and Post-Roads, consisted of seven and three until the new congressional apportionment of the fifth census brought an increase of most to nine and five members. These remained the largest for thirty-five years, until on motion of Robert C. Schenck the Pacific Railroads was advanced to thirteen. From that occasion onward, increase in the size of the House has been but a minor influence working with others more powerful to break up the uniformity and to greatly enlarge many committees. Their membership now ranges through all the odd numbers from three to seventeen, and propositions to make some yet larger have had lusty support. Now and then the membership of a standing committee is temporarily augmented to secure the counsel of certain able Representatives or for other passing cause.

This double process of increase has shown some halting, but few backward, steps. Upon two or

three occasions certain committees have had their sizes decreased. While some have almost entirely lost their original functions, but three have been abolished,—the Engraving, the Freedmen's Affairs, and the Public Expenditures. A statesman suggested not long ago that, with the reduction of the war debt and the solution of other financial problems arising out of the Civil War, revenue and appropriations might be reunited under one committee; but there is no prospect of such a course. The first proposition to divide a standing committee was made in 1810, nine years before its accomplishment. John Slidell anticipated the Coinage, Weights, and Measures twenty years in his suggestion for a Committee on Coinage and Currency.¹ Much bitterness arose in 1847 over a motion for a Committee on the Smithsonian Institute, which was vigorously supported by Andrew Johnson. Other such abortive proposals have sought to establish committees on "Public Health," "Epidemic Diseases," "Admission to the Floor," "The American Isthmus," "Constitutional Amendments."

The words *standing* and *select* as applied to the House committees have taken on additional or different meanings with the evolution of legislative methods. To make this clear we shall need, besides their growth, to consider: (1) The manner of appointing the committees; (2) Their divis-

¹ C. G., Jan. 29, 1841.

ion and subdivision as connected with the business of Congress; (3) The length of their existence; (4) Their composition as to stability and party representation.

The first session of the first House vested the appointment of small committees of three or less in the Speaker; and the second session, on motion of Richard Bland Lee of Virginia, extended his privilege as to all committees, large and small, unless the House should order otherwise.¹ Colonial precedents for this course abounded.² It was an entering wedge upon older customs of motion and ballot. The House has always retained the power of determining the sizes of its committees. Until the hurried times of Speaker Grow the standing committees were never appointed without a special resolution conferring that authority. The few cases in which resort has been had to the ballot have been those of select committees when, upon some suddenly sprung question, the Speaker has been found to hold sentiments at variance with those of the majority, most notably when he has shown himself at outs or in accord with the President of the United States as against the House which has chosen him as its Premier. Upon these occasions the Representatives have advanced a

¹ C. A., Jan. 13, 1790.

² See above, Chapter I.; Jefferson's Manual, Section **xxi.**, Clause 1; fly-leaf rules in Maclay's Journal.

specious argument with a touch of irony in it, — the selection by ballot relieves the Speaker of an unpleasant duty, and saves him from disagreeable imputations! This was the only plea for the ballot made by Randolph's minority at the beginning of the Tenth Congress. Out of one hundred and eleven who voted then, eighty-seven approved of the judgment that the Speaker would feel his responsibility and be cautious in the choice, while the secret ballot would be largely irresponsible, difficult and tedious in so large a body, accidental as to securing fit men, especially since there were many new Representatives who could not choose intelligently. James Sloan, who had vigorously urged a return to the ballot a few months before, was now in favor of the established method, and merely suggested his belief that the two or three more important committees might better be chosen by the House. The critical test came, however, when the next Congress opened. Matthew Lyon and Barent Gardener again urged the ballot. It was more respectful to the nation, they argued; members so chosen were more likely to feel their responsibility to the House; ours is a government based upon the rule of the many. This decisive division discovered sixty-seven for and forty-one against the choice by the Speaker. In recent times outsiders have advocated other plans. Perhaps the only intelligent and noteworthy substitute proposed by a

Representative has been that of Godlove S. Orth, a member of long standing and recognized ability. In 1882 he proposed that a standing board of eleven be chosen by party caucuses, and vested with the nomination of all committees. In the Speaker, said he, was a one-man power of vast proportions ; from his fiat in assignments there was no appeal ; the Congressional destiny, prominence or obscurity, of every newly arrived Representative was absolutely at his disposal ; he could so constitute any particular committee as to imperil the great interests with which it might be charged ; a board need not take more time than did he in organizing the House, since he was never known to accomplish the task in less than two weeks time. Thomas B. Reed replied, ridiculing such a scheme for putting the Speakership in commission to a log-rolling body which must favor itself with fine places, or follow the rare historic example of the self-denying ordinance. The unanswerable argument of Mr. Reed and of others was the appeal to the long century in which the established plan had proved workable with the Speakership fixed in an ever-growing structure as the cornerstone whose removal must mean ruinous collapse.¹

¹ The appointment of a standing committee by a Speaker *pro tem* occurred Dec. 7, 1843. The seat of John W. Jones, who had been chosen Speaker, happened to be contested ; hence he asked to be relieved from appointing the Committee on Elections. Samuel Bearsley of New York made the selection. John Quincy

Custom has quietly limited the Speaker's power to harm or to help along many lines which his critics have failed to see.

One other way has several times been suggested for the avoidance of partisanship, or rather the will of the majority party, in the decision of contested election cases, — namely, the choice of the Committee on Elections by lot. Cyrus King, of Massachusetts, sought the adoption of this plan in 1813. James Graham, of North Carolina, urged it very persistently in 1838–1840. As a curious feature, Graham proposed to make the selection from a list composed of one member from each State; namely, those Representatives who had received the largest popular majorities in the various commonwealths. Reliance upon chance in the American Congress, by happy contrast with the organization of European legislatures, has found no successful advocacy.¹ The only instance of the lot is in the choice of seats, and that would well be superseded by some such intelligent planning as that of the Massachusetts legislature.

Corollary to the subject of the appointment of a committee is the question: How shall its chairman be chosen? Nov. 20–23, 1804, the House

Adams asserts that the ballot was avoided because the House was packed with a view to the use of that method. *Memoirs*, XI., 446.

¹ Cf. for other schemes, C. G., Dec. 13, 19, 1849.

decreed that the Speaker should decide by the order in which he should name members, not only the chairmanship, but also the succession to the office in case of a contingency. However, the right of choosing its own head was reserved to any committee so disposed. Speaker Macon having deposed John Randolph from the headship of the Ways and Means, that committee would not recognize the change.¹ For some years committees were named upon the lists alternately from the Democrats and the Whigs. This caused an awkward predicament in 1835, when Edward Everett was deprived of the right of succession to first place on the Foreign Affairs. Such a difficulty could not now arise, since names from the ruling party all precede those from the minorities.

Other reasons may be added here for the previously suggested choice of the Speaker by the nation at large. Those fierce and protracted contests for the Speakership which have occasionally wasted months of costly time might by such a change be provided against; the Speaker would have more than a year in which by correspondence, travel, and personal interview to learn the desires of the people as well as the wishes and qualifications of Representatives, and to satisfy the latter as to what lines of work would be assigned to them.

The process of division and subdivision in the

¹ Remarks of Stephenson Archer, C. G., Jan. 21, 1835.

committee system springs from logical analysis of the business which comes to the House under the Constitution.¹ As the sphere of Congress has broadened with looser construction of the fundamental law, new committees have been added to those older ones whose functions were written unmistakably within the original charter. These stand for powers, the implication of which would have been denied by the great majority of Americans when the government was young. Though they indeed set a precedent when they entered upon the pages of their sacred document the name of the Speaker, who may be styled the first, last, and all-comprehensive Committee of One, the most farseeing of the Constitution's framers could not have dreamed of such a result as the present standing-committee system. In it Americans of to-day plainly discern the inevitable extra-Constitutional growth which corresponds at one extreme of the government to the huge machinery of party conventions and committees at the other.

Very naturally two or three of those persistent Revolutionary claims or petitions coming in on the same day would in the First and Second Congresses be referred to one committee, so saving the trouble

¹ For a jocular speech setting forth occasional illogical developments, cf. remarks of Representative Horr, C. R., Dec. 20, 1883. He would divide the Ways and Means into two, one on Ways and the other on Means.

and time of constituting two or three. Very naturally, also, certain men surpassing others in dealing with this kind of work got their names familiar in the raising of select committees on claims. The duration of some committees gradually lengthened, and the positions of the able men became more secure. In this way came the standing Committee on Claims in the Third Congress. In this way, generally, standing committees have grown out of select committees. The movement was helped by imitation of parent legislative bodies in the Establishment of the Elections, the Enrolled Bills, the Commerce and Manufactures, the Ways and Means. A longer or shorter time of probation has often preceded the admission of a committee into the standing sisterhood. The Foreign Affairs existed continuously as a select committee for fifteen years before its name was entered upon the code of rules. So of each of the six last added, one of which has been practically a standing committee for twenty-seven years. So of the joint committee on the Library, which first appeared April 25, 1800. Most of the fifty-seven which are now raised regularly for each Congress have had select prototypes at irregular intervals all the way back to the beginning of the government. Only six or eight Congresses, those of earlier days, failed to raise committees on rules. Occasionally a select committee has run through several Congresses and

then disappeared. Certain others are rather cometary, as when the census and the reapportionment trouble Congress once in each decade. Regularly at the beginnings and ends of sessions two Senators and three Representatives, the sages of each House, unite in a visit to the President, having been honored with the trust of telling him that Congress has met and awaits his communications, or that, having finished its work, it is ready to adjourn. Three committees, the Accounts, the Mileage, and the Printing, have been charged with duties which were at first and for a long time performed by the Clerk of the House, the Sergeant-at-Arms, and the Speaker. Besides these origins, a standing committee has occasionally been deliberately divided. The first instance occurred in 1819-1820 upon the separation of those three important industrial subjects, — Commerce, Manufactures, and Agriculture. Pensions and Revolutionary Claims were constituted as two in 1825. The most noted case occurred at the close of the Civil War, when financial affairs, of which the ancient Ways and Means had hitherto had sole charge, were shared with three new committees.

Because of the rapid changes so characteristic of American history the determination of the business province of each committee has been attended with constant difficulty. Representatives have bemoaned the waste of their time in such disputes.

Senators have prided themselves on the fact that they avoid such troubles by fixing no hard and fast lines of reference in their rules, but theirs has been a smaller and more leisurely body.¹ From bulky clauses in the earlier rules the duties of a House committee have come to be defined now by an average dozen words.² Now and then a change in the name of a committee, as that of Revisal and Unfinished Business to Revisal of the Laws, has been significant of alteration in its sphere. The committees may be classed into groups by a general view of their relations. Six pertaining to private legislation, nine which are slumbering watch-dogs of Executive expenditures, and three for joint affairs with the Senate, have some treatment elsewhere. Here will be dealt with more especially the one great executive or administrative committee of the seven which relate to the mechanics of lawmaking, the Rules, and the thirty-two to which the framing of public legislation is intrusted. These latter fall under seven heads: of Finance, of Industry, of Public Property, of War, of Law, of Social, of International Affairs.³

Lastly in the expansion has come the sub-committee. Its importance is a development of *post bellum* conditions. To the full committee it stands

¹ Cf. remarks of John Sherman in Senate, C. R., Dec. 13, 1871.

² Cf. Rules of H. of R., XI.

³ See Appendix II.

in relations similar to those which the full committee sustains towards the House. It is the inner circle of an inner circle. It has majority and minority composition. From duties clerical in the case of the Elections, as the taking of testimony from witnesses, it has come to report directly to the House and not at all to the full committee. The Elections was one of the earliest to be thus segregated into five sub-committees of three. The Fifty-fourth Congress provided three Committees on Elections. Appropriation bills, with which the Committee on Appropriations is charged, are distributed among seven sub-divisions of four and five members each. The five sub-committees of the Ways and Means in the Fifty-first Congress were those on The Public Debt, Funding and Payment Thereof, Revenue Provisions and Commercial Treaties, Amendments of Customs Laws, Amendments of Internal Revenue Laws, Relief Bills and Claims. Those announced by Chairman Babcock for the District of Columbia in the Fifty-fourth Congress were: Judiciary; Ways and Means; Education Labor, and Charities; Street Railways, Streets and Avenues; Steam Railways; Incorporations. Private legislation sub-committees are geographical; that is, each has jurisdiction over claims which originate in a certain district of the United States. Thus, with the narrowing, almost disappearing power of the individual Representative

upon the House floor has come in many instances by inverse ratio vast increase of his influence in committees. In 1882 each of the thirteen leading committees had from fifteen to fifty bills *per* committeeman.¹

Shall the Congressional business be resumed with the stage at which it had arrived when we adjourned in September last, or shall it be taken up *de novo*? This question puzzled the House upon its reassembling in January, 1790. Upon its decision depended for the next seventy years the duration of standing committees. In the former alternative they would last throughout the Congress; in the latter, only through what is now known as a session. The practices of the Virginia and Pennsylvania Assemblies were cited to uphold the one and the other of these methods. With the House of Burgesses was thrown into the scale the British House of Commons; and these two, together probably with the age distrust of power, decided for the case *de novo*. While committees were renamed once or twice biennially until the substitution in 1860 of "Congress" for "session" in the clause which fixed their time limit, all tendencies went towards the nullifying of this early decision. At the first session of the Fifth Congress, the committee on the impeachment of William Blount was directed to sit during the interval,

¹ C. R., Jan. 17, 1882.

collect evidence, and report at the second session. As the standing committees increased, the custom arose of referring *en bloc* to them their several portions of unfinished business, a formality finally obviated by standing orders.¹ Perhaps the first clear indication that the reappointment of committees at the beginning of a second or of a subsequent session had become a mere matter of filling vacancies, is to be distinguished in the action of Speaker Robert C. Winthrop in 1849.² With the advent of long terms of six years for such Speakers as Colfax, Blaine, Randall, and Carlisle, the composition of committees has tended strongly to a duration beyond single Congresses. Though committee work may continue to the very closing hours of a Congress, its beginning is necessarily delayed by the choice of officers, the revision of rules, and the great labor of the Speaker in making out the committee lists.

At the special sessions during James G. Blaine's premiership, he refused to appoint all save a few of the committees until the regular sessions should begin. His example has been followed by Speaker

¹ C. A., Dec. 12, 1796; Mar. 17, 1818; Dec. 13, 1819; Mar. 15, 1860.

² Note, however, the *National Intelligencer*, Dec. 12, 1825: "The last chairmen of all the principal committees (they being now members) are the same as at the last session, except one; and that one (Mr. Crowninshield) is understood to have been transferred with his own consent."

Reed in 1897. The preparation of a tariff bill by the Ways and Means of the Fifty-fourth, and its presentation upon the first day of the Fifty-fifth Congress, as also the introduction of the General Deficiency Bill which had failed in the Fifty-fourth because of a Senate amendment, are suggestive of the trend of the House toward continuity.¹

Stability of committee positions depends upon various circumstances. There is the geographical element, State representation, as heretofore exploited. Prominent committeemen are called to executive trusts. The ups and downs of parties, besides their relegations to private life, cause considerable shifting of members from one committee to another, though the man of marked ability often securely weathers all changes. Thomas B. Reed has been a member of the Rules for eighteen consecutive years. Upon the same committee Garfield served ten years, and Randall twenty. Ability has brought long enduring honors even in the case of the chairmanships, which now never fail to change with change of party control. In early days it made not so much difference if a chairman were occasionally from the minority, though on this head Speaker Barbour showed the partisan

¹ 55:1, C. R., 9, 10, Mar. 15, 1897. A noteworthy innovation is the law enacted by the Fifty-third Congress, which provides that the Speaker of one Congress shall appoint a Committee on Accounts from the members elect to the next Congress to serve during the interval before the meeting of the new House.

temper in 1821.¹ Perhaps the latest instance of the kind is that of Samuel J. Randall, who, under Republican rule, was in 1883 last chief of the unimportant Public Expenditures. For long service as chairman the palm is carried off by a man whose name has been buried in the secret committee room, Thomas Newton of Virginia, for nineteen years head of the Committee on Commerce. Next after him comes John Quincy Adams, self-sacrificing Puritan, draining the bitterness of distasteful destiny for thirteen years amidst the turmoil and dust of the Manufactures.² Following these are two with records each of twelve years, — Lewis Williams of North Carolina on the Claims, and Elihu B. Washburne of Illinois on the Manufactures, — delightful characters, Fathers of the House. William Findley of Pennsylvania, in the beginning of the century, was first on the Elections for ten years. In our own times Richard P. Bland on the Coinage, Weights, and Measures, and William H. Hatch on the Agriculture, both of Missouri, had a decade of contemporaneous service. Upon the District of Columbia, Joseph Kent of Maryland, and upon the Indian Affairs, John Bell of Tennessee, each had four Congresses and a half. Below this list are twelve who have headed com-

¹ Schouler's "History of United States," III., 245.

² *Vide* his complaints: "Memoirs," VIII., 433, 437-557; IX., 48; XI., 34, 36.

mittees for eight; six, for seven; thirty-four for six years respectively. Of the nine with longest service, six belong to the period before, three to the period during and after, the Civil War. The seven-year list is confined entirely to times preceding 1861. But of the forty-six with chieftainships of three and four Congresses, thirty-three belong to the flourishing years of the victorious Union. To their names should be added that of Thaddeus Stevens, for four Congresses in charge of the Appropriations before and after the division of the Ways and Means. The shifting or promotion of chairmen and of members from one committee to another, when taken into account, adds a few shining names to the above roll, and does justice to those deserving of equal praise with men whose records are highest for long faithfulness in one particular kind of labor. These transfers are especially important in the *post bellum* period, and their discussion is reserved for the topic of leadership.

The power of removal from a committee has perhaps never been directly exercised, either by the Speaker or by the House. Resignations have sometimes been practically forced, and from various causes are frequent.¹ The impracticability of removing committeemen was realized by Speaker

¹ For prominent cases of resignation, cf. C. G., Feb. 9, 1842; Dec. 6-11, 1860 · Feb. 1, 1875.

Blaine.¹ Earlier, John Quincy Adams tells of futile endeavors to exchange with Edward Everett his chairmanship of the Manufactures for second place on the Foreign Affairs.² Upon new appointments, formerly occurring every year, now biennially, ample opportunity has been given to distribute rewards and punishments for committee conduct. John Randolph — not to call forth too often the shade of that knight of the Old Dominion — was, for his perverseness with President Jefferson, at first totally left out in the naming of the standing committees at the second session of the Ninth Congress. Richard Fletcher incurred a similar penalty because he had made charges against the Ways and Means in a speech at Fanueil Hall.³ Against the list of seventy Representatives (down until 1895) who had held standing committee chairmanships for periods of six years and upward must be set off some thirteen hundred names of those who had fallen below this line for an idea of the ratio of permanence in committee service.

Consideration of the control of the House over its committees brought out the strong and the weak points of the Committee of the Whole. We may here notice the influences which have advanced and retarded the development of the standing committee system with the advantages and disad-

¹ C. G., Dec. 9, 1869. ² J. Q. Adams's "Memoirs," VIII., 437.

³ C. G., Dec. 13, 1837; J. Q. Adams's "Memoirs," IX., 449.

vantages which have attended it as a legislative organization. Its growth has in the main kept pace with two phenomena over which the government has exercised almost as slight control as over the bounding seas or the upbuilding of coral islands therein; namely, with the growth and spread of population, causing the House to grow in size, and with the demands — steadily enlarging in peace, driving headlong in war — for legislation upon subjects old and new to the province of the Federal authority. Accordingly as these forces exert their influence more or less in the future will further developments change the complexion of the body, which presents differences so striking when the extremes of a century are compared. With such results attendant upon progress from a membership of sixty-five to one of three hundred and fifty-seven, what might be the outcome were the growth to reach six hundred and seventy, the size of the British House of Commons?¹ With the number of bills introduced as an index, beginning with about two hundred per Congress, reaching in 1803 to more than one thousand, in 1867–1869 to two thousand and five hundred, in 1873–1875 to five

¹ An interesting philosophical article of Senator Barbour, favoring a Constitutional amendment to limit membership of the House of Representatives to two hundred, appeared in the *Richmond Inquirer*, Dec. 28, 1821. It was widely reprinted by papers of the day. It rang the changes upon the greatest question of parliamentary progress, the giving up of individual rights for the sake of stronger organization.

thousand, and now above the line of twenty thousand, what new rules may not be evolved when the present ones are no longer adequate to the growing public pressure for governmental regulation?

Representative Holman and others have claimed that the scattering of the appropriation bills among eight different committees, whereas previously to 1880 they were all prepared by one, has involved an increase in expenditures averaging twenty-nine millions of dollars annually.¹ Speaking generally, growth in the number of the standing committees, while forced in the first place by the broadening of the sphere of the general government through causes external to the House, has mightily reacted through their own activity to the further enlargement and intensifying of the Congressional powers. Each has been as a rule so constituted as to give largest representation to regions where the particular interest committed to it is most flourishing. Whether or not this has signified promotion of the general welfare is a question leading beyond the limits of this study. It is only necessary to take from the lips of men who have participated in the movement reasonings wherewith, according to their temperaments, they have sought to delay or to advance the developing system. Those who would have legislative measures prepared by the House, by the Whole, or by very large commit-

¹ Cf. estimates of Samuel J. Randall, C. R., Dec. 15, 1885.

tees, have decried the small select and standing committees for bodies not widely enough representative, and offering by their secrecy, their power of pigeon-holing certain bills and reporting others, their especial adaptation to informal agreement and cabal, rare opportunities for class legislation. Existing standing committees have opposed the creation of others, realizing that every new comer subtracts from their jurisdiction and lessens their power. The Judiciary saw its time-honored circuit threatened by a new Committee on Constitutional Amendments. The Public Lands complained of the raising of a select committee on Irrigation and Arid Lands, and fought down the proposal for a Committee on Public Parks and Reservations.¹ Constant trouble and loss of time have been caused until recently by conflicts of jurisdiction. Government should not make laws by the rod, says the *laissez faire* school, — the standing committee system means larger national expenses and heightened evils of paternalism. “We cannot see the forest for the trees;” responsibility for public measures is divided. Union and harmony in legislation are destroyed by cutting up complex subjects, and rendering impossible the comprehensive view which one body can take. It is better that the same eyes survey the financial income and outgo of government, the necessities of an industry or an interest

¹ C. R., Jan. 28, 1892.

— be it military or manufacturing — and the means at hand for meeting them.

The progressive party, replying, declares that a certain amount of secrecy is necessary, especially for the detection of guilt by investigating committees, and generally upon other grounds of public welfare. While one small committee may be in itself narrowly representative, a large number of them stands both for a large number of localities and industries coming in for a share of power and attention, and for a large number of public men thoroughly informed in the affairs of the country. There is safety in a division of power among men and among interests; one committee exercises a wholesome veto upon another. The smaller the committee, the more it feels its dependence in the presence of the great House. With fewer members, complications arising from numbers are minimized. A quorum is easier to be obtained. Small committees are not debating, but working, societies. While the distracting passions of the Committee of the Whole helped to rend the Union asunder, bright friendships, resulting between men of widely separated regions and vitally antagonistic parties from the touch of elbows around a standing committee table, have gone far to remove those misunderstandings and heal those discords which were cause and effect of the Civil War.¹ By availing itself so

¹ *North American Review*, 158: 266, 267.

extensively of the art of printing, the House has obviated largely whatever evils arise from want of communication between its committees for the correlation of their measures. To do justice to many interests of the country growing rapidly to vast proportions and becoming correspondingly more intricately related, deeper concentration must be had by setting subjects off by themselves, and putting each in charge of efficient specialists. Precision, maturity, and dispatch must be secured by the economic laws of the division of labor, the same ancient processes which have ever characterized the advance of that general human society which legislative assemblies mirror.¹

Hard and fast lines can scarcely be drawn between the character of the standing and the character of the select committee. The former might be defined as one whose existence is made continuous by standing rules, with opportunity for a change in its personnel every two years, with its size and duties varying not at all or slowly. The contrasts between the two kinds have gradually grown less important. Very exciting disputes sometimes occurred in earlier days over the raising of select committees upon the conduct of European bellige-

¹ Discussions relative to the creation and enlargement of standing committees are to be found in C. A. - C. R., Dec. 4, 1809; Nov. 12, 1811; Dec. 8, 1819; Dec. 6, 1821; Dec. 3, 5, 1833; Dec. 17, 1847; Dec. 5, 1861; Mar. 2, 1865; Mar. 3, 1873; Jan. 19, 1882; Jan. 28, 1892; Aug. 18, 1893.

rents. The regular standing committee, with its duties much more miscellaneous and its competitors much fewer than they are now, presented fine opportunities for shelving measures to those with whom anything savoring of resistance to the foreign powers was distasteful. On the other hand, such open and persistent advocates of neutral rights and the laws of nations as Josiah Quincy ridiculed the "patch-work committees," and demanded through select committees prompt, decisive steps toward retaliation upon commercial injuries.¹ It was early discerned that a private claim against government also stood much better chances if it could escape to a select committee from the regular standing committee, which was overburdened, and which had rules of decision rather sifting in their nature. A curious strife with this object on the part of James Monroe's friends frittered away an entire sitting in January, 1825. The retiring President had requested an investigation of his long standing and various accounts with the public treasury. As a rule, standing committees may be said to have administrative regularity and conservatism about them, and to represent in their composition the Union rather than a section; while select committees, in these later days of their rarity, represent aggressive policies upon live political questions, and are usually constituted of Represen-

¹ C. A., Dec. 4, 1805; Oct. 29, 1807.

tatives from particular regions where enthusiasm for their measures is high. The incident of the contest for the World's Fair, elsewhere described, was an accidental exception to these distinctions, since the select committee stood in its composition for fair play. A House battle royal between the East and the "great Northwest" in the first stages of the Civil War turned upon reference of the subject of fortifications for the Great Lakes to the Committee on Military Affairs or to a select committee of nine.¹ Western members, as men generally younger and of briefer service, as in short constituting the "outs" struggling against the "ins," have often found their interest to lie in the creation of new committees. So they urged on the above occasion that the Great Lakes were not represented upon the busy Military Affairs at a time when the subject of their defense was of equal magnitude with that of sea-coast protection, and demanded the advice of those who had personal knowledge of their needs. Doubtless these were surface motives to the more vital subject of the management of campaigns and armies against the South.

¹ C. G., Dec. 5, 1861.

There is a primacy in the order of things in this House and in Congress which cannot be overlooked.

JAMES A. GARFIELD.

I cannot speak for any one else; for myself, I do not feel that I was sent here to act as clerk for any member or any committee, and, if I retain my reason and my self-respect, I surely shall never do so.

JOHN H. REAGAN.

We take the opportunity to express our satisfaction with the liberality which has distinguished the leading appointments on these committees. We find in them no trace either of party or geographical bias, no propitiation of friends, or proscription of adversaries. The Speaker seems to have aimed at as *equal* a distribution as possible of the honors and responsibilities which devolve upon the chairman.

National Intelligencer, Dec. 12, 1825.

CHAPTER VI.

EQUALITY AND LEADERSHIP.

THE spirit of equality which set its mark so deeply upon American colonial life and political institutions found secure lodgment in the Constitution with those clauses which base each State's membership in the House upon equal fractions of the population and — although not expressly stated as in the case of Senators — give to each Representative the right to cast a vote which shall have equal weight with the vote of any one of his fellows.¹ But other forces, within and without the Constitution, have clashed with the idea of equality. In a mixed complement of theories and conditions must be sought an understanding of the relations between the several committees and groups of committees. While Congressmen are made artificially equal, somewhat as the surveyor's chain has plotted wide inland domains off into townships, forces beyond the human lawgiver's guidance trace

¹ The present-day American and English spirit is graphically contrasted in an article entitled "The American Notion of Equality," by Henry Childs Merwin. *The Atlantic Monthly*, LXXX., 354, Sept., 1897.

upon the chart of national legislation outlines as strikingly various in size, position, and relation as those of the commonwealths which give individuality to a political map of the United States. The continually shifting resultant of these forces for equality and inequality helps to make the history of the committee system. Inequality seeks and finds temporary refuge or success in committee machinery, but all the while that patiently working power of numerical units in the Yeas and Nays of the House is trimming away towards uniformity. Theorists of the seventeenth-century type might with nice logic divide the entire business of the House, like its entire voting-power, unchangeably into some three hundred and sixty equal portions, to be assigned to three hundred and sixty committees. But "there is a primacy in the order of things," as Garfield said; and — what his modesty forbade that he should say, his strong career illustrates — nature matches the primacy among things with a primacy among men. The committee system, as standing for a correlation of many dissimilar and unequal legislative objects, has been the opportunity upon which industry and ability have mounted to leadership.¹

Under different forms and with growing intensity the protest against the superior privileges of some over others has, from the start, exerted its

¹ Cf. Bryce's "American Commonwealth," I, 197.

constant moral regulation, and accomplished in the rules its occasional revolutions. The first insistence is for equality among individuals; the second, for equality among committees. In the speech which he sends home to his district, a dissatisfied member, for his mediocrity or for other cause, slighted by the Speaker in the distribution of committee honors, tortures the American eagle on this wise: "The haughty disdain with which members of this House who seek a hearing before some of these committees are treated by the arrogant assumption of those who chance to fill the important position of chairman should remind us of the stern necessity imposed by self-respect to clip their wings, and teach them that we have not yet abdicated the rights conferred upon us by an enlightened constituency." Whereupon the witty Congressman tersely replies, "Is it possible that there is anything in this 'tyranny,' this 'one-man power,' that a man cannot see until he looks at it through a black eye?" The witty Congressman also sees something in "the enviable position of 'end man' to the Committee on Expenditures in the Department of Justice with nothing to do," and knows from his own easy-going experience that "if a man wants to become a splendid cipher, if he wants to get a magnificent position of unimportance, if he wants to become a real nonentity, let him come to Congress, and let him get safely

ensconced on the tail end of an average committee, and his hopes will be realized." Yet there is a genuine ring of democracy when one of the little band which a new party has sent to the House faces the chiefs of older organizations with the words: "Coming up from our respective districts in the interest of our constituents, we are clothed with equal authority and under the Constitution and laws of our country we are entitled to equal privileges upon the floor." "Upon what meat doth this our Cæsar feed that he is grown so great that I cannot even ask a question about a bill, or express a doubt as to its wisdom?" was the Shakespearian shaft recently sent by the Chairman of Appropriations against the Chairman of Naval Affairs.¹ Even Thomas B. Reed, of the ancient imperial title, declared not long before the Speaker's mantle fell upon his shoulders: "For the last three Congresses, the representatives of the people of the United States have been in irons. They have been allowed to transact no public business except at the dictation and by the permission of a small coterie of gentlemen who, while they possessed individually more wisdom than any of the rest of us, did not possess all the wisdom in the world."

However it may have grumbled at their abuse of power, the House, like all other political and

¹ C. R., Mar. 25, 1896.

social bodies, has had to evolve leaders. Firstly appears the Speaker, to whom it has added dignity that almost completely hides the original attribution. Secondly, the chairmen of committees present a gradation of chieftains whose increase in importance, like that of the Speaker, has come from the gradual delegation of functions once common to all members. Thirdly, the parliamentary knowledge required to manage the legislative brakes at a highly increased speed has been bringing to the front the best leadership of minorities.¹ A gallery study of the smaller band that sits watching the rulers of the majority side discovers in its center one to whose frowns or smiles the others are very attentive.² Successive steps by which the Speaker has added power to power have been thoroughly traced.³ The committee chairman, partly lifted by the Speaker in his rise, partly made important by the same conditions which have elevated the Speaker, has taken on function after function. His position was honorary to begin with, almost a mere matter of being named first. Distinction lay more in being called to a great many committees. During Washington's Administration, Fisher Ames served upon about fifty, James Madison upon

¹ Bryce's "American Commonwealth," I., 149, 150.

² This was a distinct impression of the writer upon a first view of the House in 1893.

³ Hart's "Essays on American Government," 10-17. Miss Follett's "The Speaker of the House of Representatives."

eighty. There was an indifference as to which member of a committee should report its measures to the House. That membership upon an important committee was not then so much prized as now is attested by a pleasant incident in December, 1795. Mr. Tracy, who had served in the same capacity at the preceding session, was reappointed chairman of the Committee on Claims. "He rose and observed that he had been extremely hard employed last year, and had undergone much trouble about the business of claims. He would, therefore, if agreeable to the House, be very glad to be left out of the nomination." The members having complimented his high and indispensable services, and having reminded him of his duty to his country, voted him not excused. Then Mr. Christie, another reappointed member, begged the indulgence of the House with better success, urging that the state of his health required a horseback ride every morning. The prominence of an earlier chairman was largely due to the fact that he had to master the details of bills, and be ready to answer questions in debate. Senator Hoar — not, perhaps, from any impression of its religious tone — has called the House of Representatives a sort of presbytery. Seniority in age and service has always been enhanced in its influence by the fact that the membership has been so largely new and unskilled. The Speaker, being himself

an old member, puts confidence in those whom he has come to know in previous Congresses. The influence of these elders, through their command of the suffrages of new members for his election, gives them a very real claim upon his course. Having first determined upon his chairmen, he is more or less ready to consult them as to the remaining committee appointments.¹ Also he is ready to follow up his mark of confidence or personal friendship by preferring them in his recognitions on the floor, a selection which has become an imperative necessity with the growth of the House. In the time of Horace Greeley's brief, brilliant representative career, the great editor was so much impressed with the importance of these senior chieftains as to advocate for them a scale of increasing salaries mounting fifty and one hundred per cent.²

While, from a present view, the chairman has enlarging powers within his increasingly crowded committee, upon whose room, with its conveniences, he has the lion's share of claim and control, whose clerk he appoints, and uses as a private secretary when committee business is dull, and to whose sub-committees he distributes the favors of legislation; yet the place to behold him in his largest influence is in the arena of striving interests, with

¹ J. Q. Adams's "Memoirs," IX., 48; X., 58.

² *New York Tribune*, Jan. 18, 1849.

its competition growing sharper and sharper — in the daily assembly of all the Representatives. There the Speaker sits as umpire, while his party leaders contend each for the cause of his own committee. As likely as not these men have been each other's rivals, and together faced the leaders of the minority upon bloodier battle-fields. "First in war, first in peace," is not characteristic alone of Presidents. Chairmanships of committees call for the highest generalship. Men may enter Congress with names however great for integrity or learning — these are not the chief passports to prominence there. Concerning the failure of such a one upon whom the Speaker had conferred a chairmanship, a writer in the *Nation* has said, "It is folly to trust the floor management of any important measure to any other than an old hand." The chairman's steering qualities do not cease to be necessary when he has vanquished the chiefs of other committees by securing attention to his bills in preference to theirs. It has come about that the kind and length of consideration given to committee measures before the final vote are placed almost solely on his responsibility, and vary with his judgment of the sentiments of the majority. To him, by way of defining his previously existing right to open and close a debate, has been given, since 1880, one or two golden hours of time which he may dole out in quarter hours or ten-minute

pieces to whomsoever he pleases. If he thinks it safe or wise, he insists upon the previous question without permitting talk or amendment.

The rare qualities demanded in these respects make Speakers increasingly cautious in placing their subordinates, and in shifting them from one part of the field to another as occasion may require. The line of promotion has led from headship of some one of the others to headship of the finance committee. Robert C. Schenck, after one term as chairman with the Roads and Canals, 1847-1849, and two with the Military Affairs, 1863, 1869, was first upon the Ways and Means during three Congresses. Garfield advanced from the Military Affairs, 1867-1869, to the Banking and Currency, 1869-1871, then to the Appropriations, 1871-1875. Since 1875 the Democratic party has controlled the House sixteen out of twenty-two years. Four careers of its leaders are noteworthy. William S. Holman held three different chairmanships of two terms each. William R. Morrison was chief of the Public Lands, 1877-1879, of Expenditures in the Treasury Department, 1879-1881, and of the Ways and Means, 1877-1879, 1885-1889. Samuel S. Cox, quick and versatile, besides his leadership of important select committees, was head of at least five standing committees, — the War Claims, 1857-1859; the Banking and Currency, 1875-1877; the Library, 1877-1879; the Foreign

Affairs, 1879-1881; and the Naval Affairs, 1883-1885. The most striking record of all is that of William M. Springer, successively head of seven different committees. He earned a first reputation by putting life into two of the committees on Expenditures, upon which he worked for four years; he came at last to those for monetary measures, to preside over which, upon testimony of one who served in both capacities, involves as much if not more real power than the Speakership.¹

Qualities demanded of a typical chairman are best studied in the careers of Representatives who have risen to the headship of the Appropriations, a place next to the Speakership the most prized in the House. Pre-eminent, during the thirty years of the committee's history, are the records of Thaddeus Stevens and Samuel J. Randall. Though adherents of opposite political parties, the similarities of the two men are marked. Both had had preliminary training in the peculiar politics of Pennsylvania; and no legislature, it will be recalled, seems to have molded the methods of the national House more powerfully than the one that long held its turbulent sessions in the City of Brotherly Love. Their exteriors were as rugged as the Keystone mountains, their wills as strong as the iron dugged thence to bind the Union by far-reaching highways. They were fighters, courageous,

¹ C. R., Jan. 19, 1882.

decided, aggressive, uncompromising, cool in the midst of the highest excitement. They toiled unflaggingly. They despised sham and cant. Their honesty, unselfishness, and broad patriotism commanded the confidence of bitterest foes. Both came to preside over the Appropriations, after many years of preliminary membership in the House. Stevens, its first chairman, had already touched his zenith as head of the Ways and Means while it was collecting and distributing the vast funds which were sinews to the Civil War. He had forged forward as a leader of attack at a time when most men were hesitating. In his fiery three-score-and-ten he could still enthuse and incite Representatives young enough to be his grandsons. Randall figured as an able minority chief. He was a past master of parliamentary tactics at the very period when they availed most in the House. For seventy successive hours he never left his desk, fighting down the Force Bill, defeating the desire of the majority. Said General Grant, "Could Randall have led military forces as he did political ones, his legions would have been invincible." He was a judge of men, approachable, and inspiring warm personal attachment. Upon the floor, his words were few and to the point; he spoke only when it was necessary, and surpassed in repartee. Just at the crisis when they were greatly needed, he brought into the

room of the Appropriations those mercantile ideas of order, economy, and thrift which distinguish the city of his birth and life-long home. He mastered the vast details of all the Executive Departments, and laid his powerful restraining hand upon the Senate. He was an impartial arbitrator among the great and varied interests which clamor before the vaults of the national treasury.

One ideal afternoon in the House of Representatives yet vividly lingers in the memory of the writer. For some time after the opening prayer business had straggled on. Upon the wide amphitheater of the floor a few earnest, attentive, contending men filled the short rows of seats in front of the Speaker's high chair; for members, when they desire to be heard, leave their places quite freely, and descend to this little central area. Thence, ranging the eye toward the long outer circle and the lobbies, the scene became more varied and confused. At length the important work planned by the majority leaders for the day was reached. The chairman of a great committee called from the calendar a bill to abolish the death penalty in all cases of crime save a few, and in those few to provide the alternative of punishing by imprisonment at hard labor for life. It was such a change as would mark the law's tardy progress after civilized opinion, the fulfilling of the poet's prayer, —

Then within a prison yard,
Faces fixed and stern and hard,
Laughter and indecent mirth.
Ah! it is the gallows tree!
Breath of Christian charity,
Blow and sweep it from the earth.

The men who proposed it were no delicate emotionalists, but aging soldiers, maimed and scarred. As soon as the measure had been read, two members tackled the chairman. One threatened to object to its consideration, but yielded, doubtless because he knew that dilatory tactics were of no avail. The other persuaded him to go into Committee of the Whole, so that amendments might be offered. With that, charge of the floor fell by courtesy to the author, or as the chairman called him, the father of the bill. During these preliminaries the legislators, with the exception of half-a-dozen, had been absolutely inattentive. The words spoken had been accurately caught only by the skilled stenographer, as he moved close to each successive speaker. But now the men scattered about the hall or lounging beyond the outer rail seemed to know intuitively that business had reached full headway. A semblance of order and of interest began. The voice of the recognized manager, explaining as he thought necessary, emerged from the din. The leading minority member of the committee,—like the man who

was opening the discussion, a general in the civil struggle of thirty years since, but in the Southern army, — came slowly from his seat far up on the opposite side. Near by, in the space before the Speaker's table, he stood listening and waiting; then, as the other concluded, stepped across the aisle to the majority, and, with some slight criticisms, declared that he favored the bill. The manager spoke again, with high compliments for his war-time foe, and with quick, astute replies to various questions and objections on the part of this and that member. He found at length his chief opponent in a fellow Union general of his own political party. To a prominent member of the committee he now assigned the task of meeting this antagonist, and took to himself the part of a canvasser. His tall, powerful form moved swiftly here and there for low-voiced consultations. He prepared a list of other speakers to follow his friend who was holding the floor. Once he politely approached a leader of the minority, and once, rushing up to a rather obstinate opponent in the majority, seemed to silence him by some effectual threat. He made the closing speech of the general debate, and bestirred himself, as amendments were offered, to prod sluggish followers from their seats to vote upon close divisions. So it was that with untiring activity, upon the counting of a quorum, and upon the final votes in the House, he

played the part of his own whip, as Englishmen might say. Hard, serious work was his, calling for more than a lawyer's sharpness and endurance in meeting from every quarter all kinds of obstacles and opponents ; but success, proving the man rightful owner of the tools, left him the center of a pleasant group of congratulators.

The power of the great committee chairmen tempers the Speaker's power. It is time that the Speaker's limitations were thoroughly outlined, as a corrective to broad assertions concerning his arbitrary authority. Before his election powerful caucus combinations exact from him pledges as to office and policy. That man who can command the largest block of votes thus secures in advance the chairmanship of Appropriations. The leader of the second powerful coterie obtains very likely a minor seat on Appropriations, or the headship of Judiciary and second place on the Rules. The latter makes him the Speaker's personal representative on the floor. The chairmanship of the Committee of the Whole is an interesting position. It originated as a usurpation of the Speaker's authority in the British Commons. The Premier of the American House has used it to relieve the tedium of constant presiding, and to secure time for those other important functions which are properly performed in the retirement of his chamber. He is not in the chair for much the larger

part of the House sittings. The two or three able men who monopolize the chairmanship of the Whole during a Congress are regarded as the Speaker's promising heirs. The place is often very trying. A chairman of the Whole cannot summon or use the sergent-at-arms. Members take advantage of this and of his other limitations to raise disturbance. Beyond moral suasion, his only recourse is to send for the Speaker. A rotund Scotch-Irish minority leader, coming down in front of the desk, proceeds to defy the lightnings of Jove. The chairman, unable to silence him, summons his chief. As the "Man from Maine" enters the desk, and the mace goes to its pedestal, the disturber cries, "Mr. Speaker, I am going to my seat;" and he goes on the run, two steps up grade at a time, the House bursting into a roar of merriment. Again, Mr. J——, an Indianian, comes in tardy, in a bad humor about something, and finds vigorous fault with his fellows for irrelevant debate. He cannot be silenced, the Committee of the Whole gets into a hubbub, and the final resort is had. "Suddenly," says an eye-witness, "the doors burst open, and the large form of the Speaker came into view. The effect of his appearance was electrical. After an instant's cheering the whole House was absolutely quiet. Mr. J—— had taken his seat almost the very second that the Speaker's face appeared within the doors. It was like a big country school. In

the teacher's absence the pupils had thrown all discipline to the winds, and the big boy who had been left as monitor had been openly defied. With the teacher's return all was quiet. Then the big boy made his complaint about having been unable to maintain order; and the teacher, in his kind, fatherly way, which made him loved as well as feared, read a lecture which made them all feel ashamed of what they had done. So it was in the House."

Character study of leaders must be joined with character study of committees. The issue of equality *versus* primacy is also vital with these larger legislative units. The idea that each one of them ought to stand upon the same footing with all the others has lived throughout the entire procedure of the House. No other idea prevailed at first; any committee whose representative could "catch the Speaker's eye" might present its reports, and get them considered immediately. In 1811 the Morning Hour for call of committees in regular order was instituted.¹ In 1837 business had reached a stage of pressure which prevented all the committees from being heard at the same daily hour, and an amendment of the rule extended the call from day to day until each had submitted its measures. This presented an open-

¹ This device may be found in motions made by William Findlay, Jan. 7, 1805, and James Sloan, April 21, 1806.

ing for the crowding out of the less popular by the more popular committees. The rule requiring bills appropriating public property to be considered in the Committee of the Whole was yet far in the future. Therefore the Committee on Public Lands was able to monopolize the Morning Hour by holding it from day to day during the greater part of six years!¹ Other committees at last regained their rights against it by a provision that no committee should in its turn occupy the Morning Hour for more than two successive days. Here came the opportunity of the minority, which got to be so expert in preventing important bills from being reached by simply filibustering away the two hours upon minor measures, that the sixty-minute period came to be called the "nine holes," an allusion to the familiar noughts and crosses of school-boys.² Such has been the delicacy required for any readjustment of the rules! The revision of 1880 did away with this game by dropping the rule, so that there was not even the shadow of the former equality of committees.³ A rescue was effected by Thaddeus C. Pound, ex-speaker of the Wisconsin Assembly. His rule of 1882, purged in 1886 of its serious defect, the bestowal upon any four mem-

¹ C. G., Mar. 22, 1852; Jan. 19, 1854; Dec. 7, 1857, *et seq.*

² C. R., April 9, 1879; June 25, 1879. Article by George F. Hoar, *North American Review*, 128: 121.

³ C. R., Jan. 6, 1880, report of the Committee on Rules under heading, "Orders of the Day."

bers of the power to prevent consideration of a bill, was part of the code as late as 1895. It provided a daily hour wherein committees were called in turn, each with the privilege of occupying the time for *one day* with any *one measure* chosen from any of the three calendars; but the Special Order had long rendered it obsolete.

The general result of this vanishing equality may be seen by any visitor who passes up and down the hallways or penetrates into the lower corridors of the House wing in the national Capitol. Each committee has its apartments, with its name printed upon their entrance. By far the greater number of them will be found closed; occasionally the twinkling of a light within will be seen, or, if the door be standing ajar, a solitary individual sitting at a desk, and the quietness of the place will suggest the pleasures of retirement from a feverish legislative world. But by contrast one may suddenly come upon a screened committee doorway guarded by an athletic employee, where Representatives hurry in and out like bees to and from a hive. According to the Congressional wit, it is the bonanza or corner committee on the one hand; on the other the ornamental committee. Joshua R. Giddings relates how the Slave Power deposed him from his chairmanship of the Claims in 1843, and gave him seventh place on the Revolutionary Pensions, "which

having no business did not meet.”¹ In 1882 Mr. Robeson remarked that thirteen committees had charge of ninety per cent of the business of the House.² Later, Mr. Singleton stated that several committees met but once or twice during a session, and adjourned without maturing any bills or reports; and Mr. Springer declared that the Committee on Militia had reported but once in ten years.³ A minority report of the Committee on Accounts showed in 1892 that one of the committees on expenditures in the departments had never made a report, though three years old, that two others had made none within six years, and that in the same time four others had made on an average one per year.⁴ Mr. Springer proposed to abolish twenty-one committees, and create four in their stead, with the object of reforming abuses in the matter of idle, high-salaried clerks, and of the use of rooms in the Capitol for private convenience. The almost absolute prevalence of the spoils system in the choice of officers and employees for Congress is a great evil, which has found rare opportunity and secure shelter in the committee rooms. A certain chairman, it is said, called a

¹ Giddings's "History of the Rebellion; Its Authors and Causes."

² C. R., Jan. 17, 1882.

³ C. R., Dec. 15, 17, 1885; cf. also remarks of Mr. Horr, C. R., Dec. 20, 1883.

⁴ 52 : 1, House Report, No. 3.

meeting of his committee but once during a recent session, and then for the sole purpose of enabling a clerk to claim twenty-two hundred dollars in salary in lieu of fifteen hundred dollars which he would otherwise have received. Of the two branches the Senate has gone much farther in this extravagance. Thirty-five of the fifty-five House standing committees, and twenty-one of the forty-six Senate standing committees were scheduled for regular weekly meetings in the second session of the Fifty-third Congress. Forty-one House committees had in all fifty clerks, and sixty Senate committees in all sixty-five clerks.¹ The Legislative branch has fairly cured Executive and Judiciary ills by civil service reform; but the physician has yet finally to heal himself with his own remedy.

The dwindling power of some committees having been traced, it is well to follow the course by which others have mounted to supremacy. As heretofore intimated, the chief underlying forces in such direction have been, first, the importance which the national Representatives, under constantly increasing pressure for both, have attached to public over private legislation; and second — under a further compulsion of augmenting burdens

¹ For discussion of an increase of clerk salaries by a Senate rider upon an appropriation bill, cf. C. R., proceedings of the Senate, Mar. 26, 1896, and of the House, April 14, 1896.

— their preference, above other calls for public laws, of those budget duties which the Constitution mainly vests in them. They have consecutively embodied in the growing code of rules: (1) Special privileges bestowed upon committees charged with public business, and rigid limitations upon private bill committees; (2) Privileges for purely financial bills and their committees over all others, public or private; (3) Provisions for a speedy, energetic, and intelligent selection of particular bills from the general docket of all measures awaiting action by the House. What is said in other chapters concerning the committee system and private interests, the process which has terminated in the restriction of the Committee of the Whole on the State of the Union to the subjects of public funds and property, the parliamentary rights of joint and conference committees, throws much light upon the method of this development. The earliest orders of business permitted an equality between bills in the same stage of advancement, and also put the committees on the same footing in the matter of making reports. Experience, proceeding from customs to rulings of Speakers, and finally to standing rules, has gradually subverted both of these conditions, the former by the practice of making special orders, the latter by granting to certain committees the right to report at any time.

A certain word in the joint rules of July 27, 1789, seems innocent enough, but, in the light of later history, contains the prophecy of revolutions in the committee system; the clause that established the Committee on Enrolled Bills directed that its members, upon finishing their examination of a parchment, "should make their report *forthwith* to the respective Houses." The proceedings for thirty years following show no refusal to receive this committee's reports whenever it chose to make them. About 1822 a new rule distinctly stated that it could report at any time.¹ In 1831 it attempted to take advantage of this broad privilege to introduce a resolution to suspend one of the joint rules, but was promptly declared out of order by the Speaker on the ground that its right of reporting at any time applied only to the presentation of examined bills.² The Speaker would probably not have been so strict had he been a member of the committee — but this later. March 16, 1844, at the beginning of the Mexican War, the newly established Committee on Engraving acquired the right to report at all times. The Committee on Printing gained the same privilege, Feb. 17, 1848, upon ground that it could thus avoid unnecessary repetition of type-setting.³

¹ Rule 86, Appendix to 17: 1, H. J., and Rule 134, Appendix to 28: 1, H. J. The latter bears date Mar. 13, 1822, which is perhaps incorrect.

² H. J. and C. D., Mar. 2, 1831.

³ C. G., Feb. 17, 1848, remarks of Mr. Henley.

These three were routine committees. Others, by sufferance of the House, occasionally exercised the privilege prior to 1850. Near the close of the first session in that year appeared a new and important departure in the practice. Thomas H. Bayly, chairman of the Ways and Means, moved that his committee and conference committees should have the privilege by a standing rule. "Bills from the Senate — appropriation bills," said he, "will be coming like a torren tupon us; and if the committee on Ways and Means is to be compelled to wait for the regular call of reports, it will be impossible to get the bills through during the single week that remains of the session." There were enthusiastic cries of "Consent!" But stubborn opposition developed, which, though unable to defeat his proposition, succeeded in limiting it to the appropriation bills and to the nine remaining days before adjournment.¹ With such exceptions, the committees presented reports as their names were called in turn by the clerk, until the Civil War, with its vast financial burdens, brought to the Ways and Means permanent possession of the privilege. For a time previous to 1860, John Quincy Adams's regulation of 1837, which required the Ways and Means to report the general appropriation bills within thirty days from the beginning of a session, had been construed as

¹ C. G., Sept. 21, 1850.

conferring the right to report at any time. John Sherman brought this right into the rules with the restriction "for reference merely," March 19, 1860. He failed at the same time to secure the privilege for revenue bills. His chief opponent said: "There is no good reason for allowing the committee on Ways and Means to give precedence to a tariff bill which would not equally apply in favor of allowing the committee on Commerce to report a river and harbor bill, or of allowing the committee on Public Lands to report a homestead bill." It was a sentence foreshadowing a great future struggle between the finance committees and the committees for general legislation, an epoch the most interesting in the history of committee relations.

Two other phenomena in the unfolding procedure lead up to this important epoch. Both relate to the appropriation bills; the one to their gradual differentiation, the other to the conduct of the House and its committees in the matter of riders.

For the first forty years of the nation's history appropriations were in the main confined to one regular annual law.¹ Mr. T. P. Cleaves, Clerk of the Senate Committee on Appropriations, has compiled a pamphlet history of the appropriation bills.

¹ "Appropriations and Misappropriations," an article by James A. Garfield, *North American Review*, 128:579.

He places the first step toward division in 1794. Following are the data: —

APPROPRIATION BILLS.

DATE OF ORIGIN OF ACT.	DATE OF ORIGIN OF PRESENT TITLE.	PRESENT TITLE OF ACT.
1794	1832	Army.
1799	1799	Navy.
1823	1823	Fortifications.
1826	1854	Pensions.
1826	1871	Rivers and Harbors.
1834	1836	Military Academy.
1837	1837	Indian.
1844	1845	Post-Office.
1856	1857	Sundry Civil.
1856	1857	Legislative, Executive, and Judicial.
1880	1881	Agriculture.
1880	1881	District of Columbia.

This table shows that the same gradual process which had distributed the business of the House among more than forty committees by the year 1880, had also classified the work of the greatest of these committees into thirteen separate annual bills prepared by its sub-committees. The rules first recognized this division by enumerating four general appropriation bills, Sept. 14, 1837. In all the period of nearly a century the amount of the appropriations, swelled suddenly from time to time by war, had been on the increase. Excluding payments on the interest and principal of the public debt, these are the figures: —

1789	\$ 639,000	1840-1845 . . .	\$27,000,000
1791-1800	3,750,000	Mexican War . .	40,000,000
1800-1810	5,500,000	1850-1855 . . .	47,500,000
War of 1812 . . .	25,500,000	1851-1861 . . .	67,000,000
1815-1820	16,500,000	Civil War . . .	713,750,000
1825-1830	13,000,000	1866-1871 . . .	189,000,000
1830-1835	17,000,000	1878	114,069,483
Seminole War . .	30,500,000	1879	146,304,309

Low-water mark in the reduction from the war-footing had been reached in 1878, and with the next year the natural upward movement of peace times had begun.¹ A critical turning-point had come.

The other subject which needs to be understood to know the meaning of the strife among the committees in 1880 is, as has been said, the Congressional experience with riders. The entire history of national legislation is strung with attempts on the part of the House to carry through laws distasteful to the Senate, or to the President, or to both, by attaching them to the general appropriation bills. That ancient English example of forcing on this wise the king and the lords has, by a defective analogy, been a very vital idea with the American Representative. The Senate, through its power of amending these bills, has been able on its part to try coercion upon the President and to retaliate against the House by repayment in the same coin.² The evil was not so prominent in the

¹ Cf. article by Garfield, cited above.

² Cf. Miss C. H. Kerr's "The Origin and Development of the U. S. Senate," 76-80.

simple, halcyon years of the early Republic, when appropriation bills were fewer, when points of difference among the three branches to the enactment of laws were less numerous, when they were in unanimous political accord over periods long unbroken. The expansion of the country and its government, bringing increase of conflicting interests and more frequent reversals of party control, has created such powerful temptations to use the device that all efforts for its restriction by parliamentary laws have been futile. Riders were first forbidden by rule in 1814.¹ An early instance of their employment, connected with the complications with Spain in regard to Florida, seems to have given rise to a standing order that appropriations for treaties should be made in distinct bills.² In 1837 the House provided that no item should be reported in any general appropriation bill, "or be in order as an amendment thereto, for any expenditure not previously authorized by law."³ This, however, was not a sign of reform, but the last feeble protest of a pure against a corrupt era. In it is discernible the hand of John Quincy Adams.⁴ The very next year, in an attempt to increase the emoluments of custom-house officers, this plain prohibition was annulled by adding to it the

¹ C. A., April 8, 1814.

³ C. D., Sept. 14, 1837.

² C. D., Jan. 29, 30, 1819.

⁴ Speech of J. Q. Adams, C. D., Dec. 10, 1835; also his "Memoirs," IX., 261-264.

clauses, "unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the government."¹ By such admirable rhetoric the spoils system had its way! The self-contradictory rule slumbered undisturbed for forty years. Under its friendly latitude the Salary Grab of 1873 rode through upon the Legislative, Executive, and Judicial Appropriation Bill. In connection with the Civil War, and the problems of reconstruction, riders were most numerous.² The Democrats, in 1876, with the idea that riders might be used to force retrenchment upon the Senate and the Executive, resolved to make this old rule of Martin Van Buren's time work downward instead of upward. They added the famous "Holman Amendment," first striking out the clause, "and for the contingencies for carrying on the several departments of the government;" then inserting the words, "nor shall any provision in any such bill, or amendment thereto, changing existing law be in order, except such as, being *germane* to the subject matter of the bill, shall retrench expenditures."³ This the present Republican chairman of the Appropriations has termed the opening of the Pandora's box of legisla-

¹ C. G., Mar. 7, 1838.

² Article on Riders, by Alexander Johnston, in Lalor's "Cyclopedia," III., 642-645.

³ C. R., Dec. 25, 1875; Jan. 17, 1876.

tive confusion.¹ So equipped, Samuel J. Randall, then chairman of the Appropriations, proceeded to make his reduction of thirty million dollars in government expenses. The Morning Hour had come to be but a poor shift in the committee system; and in the four years from 1876 to 1880 this great finance committee, encroaching upon the legislative jurisdiction of all the other committees, was at the zenith of its power. The formulation and passage of the thirteen bills of which it had exclusive charge was by far the heaviest part of the business of each session. It had inherited from the Ways and Means the right to claim the floor at any time for immediate consideration of its reports.² General appropriation bills took precedence of all others in the Committee of the Whole on the State of the Union.³ Therefore any measure to which the majority of its thirteen members and the Speaker would assent was assured of consideration in the House, and might even be forced through as a rider; and — greatest element of its strength — any measure to which the majority of its thirteen members refused their assent was assured of a sharp veto upon the question of consideration.⁴ Two hundred and seventy men were

¹ C. R., Dec. 15, 1885; remarks of Joseph G. Cannon.

² C. G., Mar. 2, 1865.

³ C. D., Sept. 14, 1837.

⁴ C. R., remarks of Messrs. Garfield, Kasson, Hale, and Hurlburt, Jan. 17, 1876; of Messrs. Mills and Reed, April 9, 1879, and

“under the guardianship” of thirteen. To the Appropriations could well be applied Sunset Cox’s quotation from Spenser : —

Each easy to be known by his own visdomie,
But Jove above them all by his great looks and
powers imperial.

Such conditions could last only a brief time. The attempt of the House to make itself more powerful against the other branches of the government, by conferring almost absolute power upon a small coterie of its members, failed because the enemy attacked was too well fortified by constitutional bulwarks; because the Senators, disregarding party allegiance, united to maintain the prestige of their chamber. The recoil brought disorganization in the House ranks, with rebellion of the other committees against the Appropriations.¹ Stronger cause of revolution yet, new political alignments were in progress; the Democratic party was divided against itself upon the tariff and upon internal improvements; the battle was on between railways and waterways. Ways and Means, Roads and Canals, and Commerce had struggled forty years for jurisdiction over the River and Harbor Bill. From 1865 to 1879 the Appropriations had more or less control over this leviathan. Though

Feb. 12, 1880; of Messrs. Cannon, Morrison, and Singleton, Dec. 15, 1885; of Messrs. Reed and Morrison, Dec. 18, 1885.

¹ C. R., remarks of Hilary A. Herbert, Dec. 16, 1885.

its preparation had, for want of time, been turned over by the Appropriations to the Commerce, the former, by a comity between the two, had retained control of the total amount to be expended in the bill, and of the right to manage it when reported to the House.¹ But during some four years prior to 1879 the Commerce, mainly under the strong leadership of John H. Reagan, had broken away from this arrangement, and reported the River and Harbor Bill to be acted upon by the House under a suspension of the rules, without re-reference to the Appropriations. In 1879, upon an attempt by the Appropriations to increase the majority for such suspension from a two-thirds to a three-fourths vote, the Commerce not only repelled the attack, but secured the rights of independent control over the Bill, of freely adding riders to it, and of managing it under equal privileges with the other general appropriation bills.² On this occasion, in fulfillment of frequent forecasts of preceding years, two other committees, the Banking and Currency, and the Coinage, Weights, and Measures, also secured the right to report at any time.³

Every one of the three Democrats and two Re-

¹ C. R., Remarks of Mr. Dawes, Feb. 8, 1873; of Mr. Garfield, April 9, 1879.

² C. R., April 9, 1879; the vote for the new rule stood: yeas, 146, nays, 97; the vote against the power of adding riders, yeas, 110, nays, 128.

³ C. R., April 9, 1879; vote: yeas, 129, nays, 110.

publicans charged with the revision and codification of the Rules in the following summer's recess was opposed to these new developments. Their notable code, presented at the next session, proposed to re-establish the Appropriations in control of the River and Harbor Bill, and to do away with the lately acquired privileges of the Banking and Currency and the Coinage, Weights, and Measures. The battle was on again, fiercer and more prolonged. After months of wordy war, the Commerce again prevailed; and the distribution of the appropriation bills, as a tribute to the farmers, was carried yet farther in the right of the Agriculture to prepare and manage the new agricultural bill. The wall was broken down; three committees now got ready the budget on the side of expenditures, where one had controlled for ninety years before. The distribution was to go on until, in 1887, there would be eight such committees, and the Appropriations would be shorn down to the management of six bills.¹ The privilege of reporting at any time, which had belonged to but four committees from 1789 to 1880, was to be extended until it should apply, in 1896, with restrictions as to subject matters to be reported upon, to sixteen committees.² The Commerce, however, in the

¹ Namely, the Legislative, Executive, and Judicial; the Sundry Civil; the Fortifications; the District of Columbia; the Pensions; the Deficiencies. Rules of H. of R., XI., 3.

² Rules of H. of R., XI., 57.

hour of its triumph, yielded the bill for which it had contended so impetuously to the new Committee on Rivers and Harbors.

A diversion at this point may dispose of the later experience of the House in the matter of legislative riders on general appropriations. Throughout all the struggles since the passage of the Holman amendment, certain leaders in both the great parties have been urging an entire renunciation of the practice. Their attitude is well voiced in the ringing words of Garfield: "Let the Appropriations Committee be the great auditing committee of the House, to do their work under law, and let the rest of us, in our several committee duties, do the legislation for the House."¹ The Democratic party has sought from time to time to narrow the application of the Holman amendment by fastening on restrictive clauses, all in the line of retrenchment.² In 1885 a combination of Democrats and Republicans, led by Messrs. Morrison and Reed, and opposed by Messrs. Holman, Randall, and others, struck out this regulation, returned to the old rule of 1837, and strictly forbade riders either of increase or decrease, except for public works in progress. The Democratic Party reinserted the Holman rule for 1891-1895. In

¹ C. R., Feb. 3, 1880.

² C. R., Jan. 18, 1876; Feb. 19, 1876; Sept. 2, 1893; 53: 2, Rules of H. of R., XXI., 2.

the Fifty-first, Fifty-fourth, and Fifty-fifth Congresses the Republican party has declared adherence to the policy of permitting no riders whatever; and in the two latter Houses, at least, its chairmen have enforced the rule constantly.¹ The thought of true-hearted, honest John Quincy Adams, though uttered in doubt and distress, though unheeded by majorities for half a century, was not uttered in vain.

To return to that critical point at which the House had arrived in 1880, the student may well pause, as it did, and ask: Is it wise and best to distribute the appropriation bills among the committees? Upon that question the ablest Representatives ranged themselves with disregard for party lines. The distribution prevailed despite the opposition of conservative statesmen whose names are held in the highest national esteem. It came apparently by forces as resistless and for reasons as cogent as those which have brought about on the larger scale the division of the entire legislative field among the standing committees or the division of the entire executive field among the departments and bureaus. The arguments, *pro* and *con*, in the two processes are substantially the same, and need not be restated.² Not only is

¹ 1889-1891, 1895-1899.

² Cf. arguments for and against the division of legislative business among many committees, pages 144-147; also the majority and the minority reports of the Rules as to the scattering

the distribution now a permanent feature in the House, but it will probably prevail in the Senate, where for several years the movement in its favor has been powerful. The final quietly accepted prevalence of the new order indicates that the question has come to its right settlement. History is ever proving and repeating that the failure and disappearance of old restraints against wrong, though signalized for a time by feebly checked abuses, are shortly followed by the appearance of other safeguards efficient for the new conditions, and insuring in the long run a better order than that which has passed away. The record of the House of Representatives in respect of this change in its methods of financiering has proved no exception.

The fact that it has proved no exception will be made plainer by a history of the use of Special Orders.

Through the procedure prescribed for these, the unity of legislation has been in process of better establishment out of the disorders of 1880. At this point it is well to remind the patient reader of a statement made above; namely, that two practices have been working for the subversion of the old stereotyped equality of the insignificant bill

of the appropriation bills and the debate thereon, C. R., Dec. 15-18, 1885; May 5, 1896; also articles on Spending Public Money, by Messrs. Reed and Holman in *North American Review*, 154: 319-335.

with the tariff proposition, and of the committee of dead issues with the committee of burning questions. The main facts have been set forth with regard to one of these two practices ; i.e., the granting of the right to report at any time to certain committees. To trace the history of the other in the use of Special Orders is now the further task. From 1789 to 1822 any Representative, with unanimous consent or with a simple majority vote for suspension of the rules, could have any bill or resolution made a special order for a specified date. The privilege does not seem to have been of high value ; for when the day came the same majority was likely, under pressure of competing measures, to set aside or to postpone the special order "until to-morrow." In 1822, however, suspension of the rules was made conditional upon a two-thirds majority. Thenceforth every measure must await its turn unless it could pass the severer ordeal. Effort to return to the simple majority plan failed in 1828 ; instead the rule was reënforced by another clause.¹ It was a crude sifting process, which proved workable for a quarter of a century. For example, the first session of the Twenty-fourth Congress, 1835-1837, acted upon the appropriation bills and seventeen other measures as special orders. Dec. 18, 1847, the motion to suspend was further lim-

¹ C. D., May 5, 6, 1828 ; and 20 : 2, H. J., Appendix, Rules of the H. of R., 104.

ited to Mondays after the Morning Hour, save during the last ten days of a session. This form remained unaltered until March 16, 1860. So far there had been no discrimination between the committees as to the method of procuring special orders; but now the Ways and Means was favored, as regarded the appropriation bills, with the old-time privilege of making special orders by a simple majority vote. During the struggle with President Johnson and the adoption of the impeachment resolutions, this motion for suspension of the rules was declared to take precedence of all others save one motion to adjourn, a substantial blow at the filibuster.¹ The ground for this decision was the scope of the motion to suspend, which included *all* the rules of the House.² To avoid voting upon distasteful political questions the dominant party decreed, Jan. 20, 1874, that motions for suspension, to be entertained, should be seconded by a majority. April 9, 1879, the right of the Ways and Means to make its bills special orders by a simple majority vote was extended to the Banking and Currency and the Coinage, Weights, and Measures. Arguing that the filibuster was practically wasting Mondays, the code of 1880 limited the entertaining of the motion for suspension of the rules to two Mondays instead of all the Mondays of a month, and to the last six instead of the

¹ C. G., Feb. 24, 25, 1868.

² C. G., Mar. 2, 1867.

last ten days of a session.¹ Upon one of the two Mondays individuals were to have the right; upon the other, committees. It also left out the provision which enabled the three above-named committees to make special orders of their bills at any time by a simple majority vote.² The codifiers maintained that, in providing their scheme of calling the committees for reference of reports to calendars, and in providing also a rule giving the Ways and Means and the Appropriations the right to move after the Morning Hour to go into Committee of the Whole to consider a particular revenue or appropriation bill, they would "get rid of special orders piling themselves one upon another as the session progresses."³ Vain persuasion! the coming years were to be full of outcry against their crowded, unwieldy calendars.

By way of summary, a survey of the situation under the newly inaugurated rules of 1880 shows — with an important exception to be described later — a certain body of favored legislation coming from eight of the committees, and comprising the thirteen appropriation bills, the right of a Representative to his seat, measures raising revenue, action on enrolled bills, on printing, and on expenditures from the contingent fund of the House.

¹ C. R., Feb. 27, 1880, remarks of Messrs. Frye and Weaver.

² C. R., April 9, 1879.

³ C. R., Feb. 11, 1880, remarks of Messrs. Mills and Frye.

Besides must be named conference reports, and the business of the Committee on the Library. Part of this will be perceived to be simple routine. The majority could push it forward for action through the rights of reporting at any time, and of demanding precedence in the Committee of the Whole on the State of the Union.¹ But what of the legions of other measures presented by these or by the thirty-seven great committees which enjoyed no such privileges? How could any one of them be reached? A report from the Judiciary, or the Naval Affairs, or the Pensions, for instance? The regular way was to follow the calendars in strict chronological order — when the calendars could be taken up in the regular way! An important bill might never be gotten at because a host of insignificant ones were ahead. Or, if it were finally reached by patient manipulation of legislative machinery, its enemies might sweep it from the floor, and fatally delay it by the intrusion of favored subjects. The resort to special orders was therefore as necessary as ever. At the first session of the Forty-seventh Congress there were twenty-five. In early times they had been made by suspension of the rules; but now, because of almost prohibitory restrictions on that method, they were obtained mainly by unanimous consent. Experience has shown that two-thirds and unanimous consent re-

¹ 46: 2, Rules of H. of R., XI., 47; XVI., 9; XXIV., 5.

quirements in lawmaking put too much power in the hands of small and irresponsible minorities. The Constitution and the people hold that political party which has one more than half of the votes in the House accountable for what the House does and for what it fails to do. All the development of a hundred years has been steadily strengthening this party responsibility. In the years that immediately followed 1880 the majority was groping about for its rightful control over a large part of the business, a control which the rules failed to supply. The Pound Rule, by reviving the Morning Hour in a practical form, gave some relief from 1882 to 1886, and proved a stepping-stone to the final solution. It came to be the custom for a Representative, upon the Monday call of the States and Territories prescribed by the rules, to introduce a resolution to make a bill, or bills — say from the Committee on Naval Affairs — a special order for an advanced date. The resolution would go to the Committee on Naval Affairs. When its turn came in the Morning Hour the Naval Affairs would present this resolution, and try to get for it the necessary two-thirds vote. This round-about proceeding suggested the way to new and far-reaching developments.

The time had now arrived when three lines of parliamentary growth, stretching far back into the annals of the House, were to be brought together

to form a new axis for legislative methods. These three lines had produced the regularly privileged business, the favored business of the political hour, and the primely favored committee. Two of them have been followed under the heads of the Right to Report at any Time and the Special Order. The other must be traced up to 1886 for an understanding of the results of their blending; and that other is the history of the Committee on Rules. Committees for this object have been raised by the House at every Congress, with few exceptions, since the beginning of the government. After their first establishment, however, and prior especially to 1860, the rules were enlarged mainly by amendments presented by individual Representatives, and required to lie on the table for at least one day.¹ The limitation of one day's notice implied that the amendment could of right be called up at any time after the lapse of an adjournment. Select committees on rules were hampered by difficulty in persuading the House to consider their reports. The Standing Committee on Rules, of nine members, an outgrowth of the protracted speakership contest in 1849, lasted through two Congresses.² June 14, 1858, a motion was made and carried for a select committee on rules to consist of four members, together with the Speaker, James L. Orr of South Carolina. The presiding officer had never

¹ C. A., Nov. 13, 1794.

² C. G., Dec. 27, 1849; Dec. 5, 1853.

before served as a committeeman, nor has he on any occasion since belonged to any other committee. The man who deserves to be remembered as the author of this brilliant innovation was Warren Winslow, ex-Speaker of the North Carolina Senate. From that time, without fail, the Speaker has been the stanch friend, the powerful central figure, of the Committee on Rules. Through his favorable rulings it has gradually risen to its present primacy in the committee system. Exactly when its reports were first regarded as privileged above others is difficult to determine. Speaker Blaine declared, during the filibustering over the Civil Rights Bill in 1875, that they were in order at any time, and also hinted, though not positively so ruling, that dilatory motions on a report from the Committee on Rules could be declared out of order by a Speaker on the high ground that they subvert and impair the Constitutional functions of the House, an idea which was to become a cardinal principle with the Republicans for the suppression of filibustering.¹ In the code of 1880, the select committee of five changed itself into a standing committee without any notice to that effect in the accompanying report, although other changes were carefully commented upon. The clauses so establishing the committee were noted as having been

¹ C. R., Jan. 27, 1875; Constitution of the United States, Article I., Section V., Clause 2.

framed from parts of previously existing rules. Further, the clause which defined the powers and duties of the Committee on Rules was much more emphatic in form than all the clauses which defined the powers and duties of other committees; e.g., the clause for the Committee on Education and Labor read: "to education and labor, to the Committee on Education and Labor," but that for the Committee on Rules: "All proposed action touching the rules and joint rules shall be referred to the Committee on Rules." These facts entirely escaped notice in the succeeding protracted struggle over other provisions of the code. In the light of after developments the thought will present itself that those five skilled parliamentarians, sitting by the summer sea, canvassed the fall of the Committee on Appropriations from its supremacy and the slender chance they had of securing its reinstatement, were troubled for the legislative chaos which seemed imminent, and decided, by these covertly inserted provisions, to cast an anchor to the windward.¹ Immediately upon its re-establishment as a standing committee with such a strong footing, rulings followed which tended to secure the place of highest privilege for the Committee on Rules. Feb. 9, 1881, Speaker Randall decided that "the practice of the House had been

¹ For the names of these codifiers and the importance of their work, consult the opening paragraphs of Chapter II.

uniformly to allow the Committee on Rules to report at any time when it was as to the *manner of conducting the business* of the House.” This was expressly confirmed by new rules at the opening of the next session.¹ Then, less than two months later, Speaker Keifer declared a proposition to refer an amendment of the rules to a committee other than the Rules out of order.² In May following came another leading decision. Thomas B. Reed presented a report of amendments to the rules, and the Democratic minority sought to prevent its adoption by filibustering. Thereupon Mr. Reed raised the point of order that dilatory motions were not allowable upon a report from the Committee on Rules. After four hours of debate the Speaker gave judgment that the right of the House under the Constitution of the United States to “determine the rules of its proceedings” “could not be impaired by the indefinite repetition of dilatory motions.”³

Thus by 1886, at the time when the committees had found a way of using other days besides “suspension days” for making special orders, the Committee on Rules had come, in the matter of right of way, to be equal with, if not superior to, the most favored committee of the House, and to possess an exemption — that against dilatory tactics —

¹ C. R., Dec. 19, 1881.

² C. R., Jan. 11, 1882.

³ C. R., May 29, 1882; 47 :1., H. J., 1362.

which had never been accorded to any other committee. But its field of jurisdiction was still narrow. The step necessary to the broadening of its powers was then taken, as has been intimated, by a joining of three lines of parliamentary growth so that it should have the selection of business as developed in the history of the Special Order. Precise facts as to this momentous change, and at the same time a fair example of a special order, are best presented by quoting the records:—

(House Journal, Monday, July 5, 1886.)

“By Mr. Morrison: a resolution fixing a day for the consideration of bills presented by the Committee on Ways and Means; to the same committee” (*i.e. to the Rules*).¹

(Congressional Record, Saturday, July 10, 1886.)

“Mr. Morrison. I present a privileged report from the Committee on Rules. The Clerk read as follows:

‘The Committee on Rules, to which was referred the resolution fixing a day for the consideration of business reported from the Committee on Ways and Means, has had the same under consideration, and reports it back with a substitute therefor, as follows:

‘*Resolved*, That Tuesday, the 13th of July, immediately after the reading of the Journal, be, and is hereby, set apart for the consideration of such business as may be presented by the Committee on Ways and Means, not to in-

¹ According to custom, as described above, this should have been referred to the Committee on Ways and Means. A similar resolution had been sent to the Committee on Rules three months before. H. J., Mar. 16, 1886.

clude any bill raising revenue; and if any bill shall be under consideration and not disposed of when the House adjourns on that day, the consideration of such bill shall continue from day to day, immediately after the reading of the Journal, until disposed of.”¹

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“Mr. Hewitt: I make the point of order on the resolution.

“The Speaker, *pro tempore* (Mr. Crisp): What is the point of order?

“Mr. Hewitt: My point of order is that it is not competent for the Committee on Rules to report in the nature of a rule a regulation of debate which is intended for a single day and a single occasion *pro hac vice*. That is not a rule.”

Mr. Hewitt pointed out very plainly the consequences which were to follow from the new procedure; three men on the Rules could take any bill from any calendar, and ask a majority of the House at any time to give it consideration; committees could combine for this purpose; in the case in hand, since three of the five men on the Rules, Messrs. Morrison, Reed, and Hitchcock, were also members of the Ways and Means, the Ways and Means was “running the Rules.” Mr. Morrison’s party compeers, Messrs. Randall and Mills, spoke in his support. The Speaker, *pro tempore*, ruled: “That the adoption of the resolution would be *pro*

¹ The particular measure intended to be reached was a bill to put out at interest the idle surplus in the U. S. Treasury.

tanto a change of the rules, and that the proper method of making such a change was upon a report of the Committee on Rules.”¹ At the following session the Speaker waived a point of order that such a proposition from the Committee must lie over one day in compliance with the regulations of 1794, and declared that a certain special order proposed by the Committee on Naval Affairs was not a change of the rules of the House.² Upon an attempt of David B. Henderson to secure consideration for a special order by sending it to the table for one day, according to the ancient manner of amending the rules, on Feb. 15, 1887, came the final extensive ruling which settled that thenceforth special orders must go to and come back from the Committee on Rules alone. Such, with changing men and times, was Speaker John G. Carlisle’s reversal of a directly opposite decision by Speaker James K. Polk half a century before.³ The Fifty-first Congress, upon its assemblage under the lead of Mr. Reed, who had taken an active and prominent part for the accomplishment of all these radical changes, embodied them in the code, and they have now come to be fully acquiesced in by both great political parties. The Democrats, in

¹ C. R. and H. J., July 10, 1886. Such ancient expressions from imperial Rome as *pro tanto*, *germane*, *et cetera*, injected into the House rules and rulings, have naturally advanced the “one-man power”!

² C. R., Dec. 8, 1886.

³ H. J., Jan. 26, 1836.

1893, further added to the Committee on Rules a power which had never before been accorded to any committee; namely, the continuing right to sit during the House sessions, and to require immediate consideration when it makes reports. A ruling of Speaker Crisp, followed in the Fifty-fourth Congress by Speaker Reed, gives this supreme committee original as well as secondary jurisdiction over the legislative business by declaring that it can report a special order which has not been previously committed to it by a resolution from an individual or from another committee.¹

After this fashion, while within and without Congress various artificial plans for executive committees or cabinets have been in the air, the House has followed the old race method of building the present and the future upon the past by taking an already existing institution, and, little by little, reshaping it to fit new needs as they have arisen. In the long stretch of a century some rudimentary movements by way of delegating governing powers to other committees have not been wanting. Seven committees have charge of matters pertaining exclusively to the House.² The three Elections decide who shall be of its family: the Accounts has charge of its purse; the Ventila-

¹ C. R. and H. J., Sept. 20, 1893; Jan. 5, 1894.

² Appendix II.

tion and Acoustics provides for its health; the Mileage orders its traveling expenses; the Rules directs its labors and its entertainment. The Accounts determines which committees shall have clerks, and which not; the Judiciary, because of its legalism and of its independent field, has more than once temporarily exercised arbitrating functions which now belong to the Rules; the Ways and Means, in continuance of an ancient English custom, annually goes through the form of dividing the subjects of the President's message among its fellow committees.¹

To analyze, with some repetition of what has been stated, the character and power of the Committee on Rules: —

Like the other committees, it is chosen by the Speaker, and not by ballot of the House; its membership is from the two leading political parties; at its sessions a majority vote determines the extent of its activity within its own field. It has always drawn to itself the chief political leaders of the House, as well as the ablest parliamentarians. Its power is both negative and positive.

Because of the vast demands made upon Congress, of the comparatively limited ability by appropriations and otherwise to meet them, and of the want even of sufficient time for their consideration, by far the greater part of the legisla-

¹ C. R., Dec. 24, 1895.

tion broached must be unattended to or deferred ; and the Committee on Rules is in a position to exercise the lion's share of the veto power which decides what legislative proposals shall be rejected. Therein lies the greater element of its strength. If it determines to pigeon-hole a bill upon the calendar, it needs only to maintain silence, or to engage or cajole the House with other measures. If a proposition to which it is hostile is on the eve of being brought upon the floor by another committee, it may exercise its superior privilege to claim attention for different business. If the filibuster is abroad, and it is in sympathy with him, it may, as the only authority which can check his career by a special order, simply neglect to exercise its functions. As to forbidding changes in the rules, its will is almost absolute. It is the only channel through which amendments of them in the first degree may reach the House.¹ For this reason, while other committees have been doubling their membership, it has remained, from 1858 to 1898, to quote an envious Representative — “the

¹ “In the first degree;” i.e., referring to the parliamentary rule that the main question is subject to one amendment at a time, commonly called a “first amendment,” to which amendment itself one amendment at a time may be pending in the second degree, commonly called a “second amendment.” The Committee on Rules possesses the exclusive privilege of bringing the subject of change before the House by offering “first amendments” to the rules; but when it does offer them, the members of the House at large can present “second amendments.”

sacred committee of five." It never reports a proposition for increase of its own size; and the only opportunity any individual member has of asking the majority to add to its number is when, perchance once in two years, it offers an amendment to that section of the code which enumerates the committees, and fixes their sizes. Similarly the case stands as to all other efforts for limiting or transferring its jurisdiction or privileges. It is to a high degree a close corporation.

But to observe, on the other hand, the positive side of its power: The pettiest claim on the private calendar might find, through its favor, precedence over the greatest appropriation bill; with its aid a despised Committee on Expenditures could push aside the venerable Ways and Means. "It can prepare a bill in the Speaker's room," declares a Representative, "and say to the committee which would ordinarily have charge of the subject: 'Take this or nothing.'" Among the more powerful committees of co-ordinate privilege, that one prevails which gets the alliance of the Rules. While the ability of the other committees to effect changes in the Rules is small, its opportunities for stripping away their powers and otherwise weakening them is large, as for example by increasing their sizes until they are unwieldy. If the minority begins old-time filibustering tactics against a bill, three men of the Rules may at once write

out a brief resolution which claims the floor even against a conference report or the reading of the journal, which demands a vote without one delaying word or motion, which fixes for the opposed measure a time of debate, however brief, and an opportunity of amendment, however limited, before it is put upon its final passage. It is not, therefore, a matter of surprise that the House, in the earlier days of the Fifty-fourth Congress, passed two important measures, the tariff bill and the bond bill, with a rapidity unparalleled, probably, in all its previous history.

In a word, the Representatives confer upon the Rules in large measure that power over the laws of procedure which has been so freely and fully vested in them in the first instance by the people. Is this power of a few men detrimental or dangerous? Are there no checks for the Committee on Rules? With the disappearing ability of the minority to hinder even the speediest action, with the history of the House one steady process of diminishing the minority's ancient privileges, is there no limit to which the majority may not go in foolish, extravagant, destructive legislation? Answers to such questions may be suggested by the withdrawal, Aug. 29, 1893, by the Rules, of a proposition which it had presented for making one hundred members a quorum in the Committee of the Whole, or by those keynote words uttered

in December, 1895, by the majority's caucus nominee for Speaker: "History may accord us praise in this Congress for what we do not do; there are times when rest is as health-giving as exercise; crude and hasty legislation is above all things to be shunned." Why did the Democratic Rules withdraw the proposition which it had presented? Why did the Republican leader declare that the committee of which he was to be chief would pursue this particular policy?

The Committee on Rules consists of five wise and experienced leaders. They represent in the House a solution of vexed problems similar to that which some of our great cities have been adopting; that is, the concentration of power in a few hands so that clear responsibility may be fixed, and energetic, able administration secured. They govern best by governing least, allowing the silently working moral influence of their power to steadily uphold their authority. This small coterie might press upon the House, before all other measures, a proposal to experiment in American legislation for a week under the rules of procedure of the British or the Japanese Parliament; but there are many things which men of plain common-sense refrain from doing. Their skill as parliamentarians versed in the peculiar environment, traditions, character, customs, rules of the House, cannot be matched within or without Congress.

They know how to gauge accurately and finely the sentiments of the body which they lead, whether on subjects political or non-political, so as to avoid a vote which shows want of confidence. Rarely, if ever, do they make the slip of even introducing a special order which will fail of success. They have come through long personal acquaintance to that frame of political mind wherein, though of different parties, they will much more readily and frequently coöperate than will any five Representatives of opposing faiths whose careers are just beginning. Hence, they often stand shoulder to shoulder in preserving peace where discord would otherwise run rampant between the two large heterogeneous crowds of followers upon the floor. But where word is given for battle upon planks of party creed, the committee of five dwindles to a triumvirate which guides and voices the will of the majority; which works for the maintenance of party unity; which conciliates rebels of its own side of the House when it cannot overawe them, and, if overruled on some rare occasion, submits with good grace that brings the Speaker out of his sanctuary to walk between the tellers and be counted as when he was an ordinary Representative a score of years ago; which arbitrates among great committees of equal privilege, arranging the programme for consideration of their bills by the House; finally, which brings together the chiefs

in daily council to hold its touch with the majority within the Congressional Hall and to turn the search-lights out beyond the Capitol over the drifting currents of public opinion. Despotism cannot build itself upon a two years' tenure. At the polls, with advancing civic spirit, the people have been rebuking their Representatives more and more sharply for extravagance and incompetence. By showers of adverse ballots they have overwhelmed alternately both the great political parties. As a consequence, each party, when in power, is beginning to exercise its wits to escape further chastisement by devising effective modes of self-control against repetition of its offenses. This better legislative machinery has come in the rise of the Committee on Rules and of the informal steering committee of which it is the nucleus. Here is the new central instrument for equitable and economical distribution of the annual revenue among the great governmental interests, succeeding to the supremacy of the Committee on Appropriations, and yet not tempted as was it to increase its jurisdiction by the reprehensible methods which led to the revolution of 1880. Here is a revival and perpetuation of that unity of lawmaking which characterized those first years when the Committee of the Whole on the State of the Union held the primacy for the formulation of laws. A better century has begun, wherein the American House of

Representatives will express more readily and truly the more easily known will of the people.

Having viewed from various points and in various lights this century-old House of Representatives, it is well to look back over the study for the leading facts and forces that have evolved a legislative system. They are found first of all in the Constitution. The Speaker is mighty because his name is ineradicably written there. Popular equality is there implied, Representative with Representative, and has subsisted without fail in the process of voting, making a Congressman a Congressman "for a' that," whether he has won his election by the qualities of a David Crockett or of a Daniel Webster. The life of each House is a brief two years, in contrast with the longer possible life of a popular body in the mother Parliament and in other great national legislatures, as well as with the mandate of our Federal Senate or Executive. The Constitution expressly prescribes particular duties for Congress, and lays upon the lower chamber special responsibilities for finances. Lastly, no lawmaking body in the world, perhaps, has such a modicum of judicial and executive functions.

But behind the Constitution has been the national life, or, as the publicist would say, the State, — that power which created it in the first instance, and has been slowly transforming it with chan-

ging conditions of advancing times. The nation's growth, unparalleled for population, wealth, territory, refinement, — a growth that leaped forward with hundred-fold speed and strength when slavery's fetters fell away, has been faithfully mirrored in every phase within its Representative Hall. Inventive genius, continually adding other and better means of communication, has been increasing the touch of government with the governed, of elector with the elected. There has been the special American environment with the foremost instance of colonization in human history, — the planting of civilization from its most advanced continent upon the most inviting continental wilderness.

These blending causes have resulted, for the House of Representatives, in a distinctly American law and practice for legislation. With reference to the dear old assembly of England, our Congressional procedure has become more and more un-Parliamentary. The humble Speaker coming with hat in hand to the throne — he is not here in this powerful chief who dreams of the White House. That glory of unlimited oratory with which Burke and Fox and Pitt filled the midnight hours has paled before the time-weighting glory of the new previous question and the hour and the minute rule. The simpler ancient methods of preparing the budget have been cast aside for machinery

more improved and more adequate. Conditions of old times in legislation required a large field of minority, as compared with majority, rights; the movement everywhere, and markedly under the conditions of the American House of Representatives, has — seemingly more than really — had to be in favor of the latter at the expense of the former. The preparation of laws has moved into the committee hands of the few who are ablest and most experienced, while almost all the process of testing by the entire body has narrowed to the final vote. The system is built upon the biennial tenure. The standing committees are an effort after permanence and power. They have reacted wonderfully to the enlargement of the governmental sphere; and public opinion is demanding and obtaining, and will obtain, more thorough control over their proceedings. Such is the story of a legislative chamber which has faced conditions so radically different from those of other lawmaking assemblies. As did Charles Kingsley generally of institutional history, so of any particular period in this development may our people affirm: Wisdom is justified of her children. The future will bring changes, like those that have been traced, distinctively American.

Here are two Houses, each complete in itself; acting separately, each as a House; they concur in erecting a committee, in delegating an agency to certain members of each House. That does not fuse or amalgamate these two Houses or the members of the two at all; but each stands separate, isolated, intact as it was before.

OSCOE CONKLING.

Shall the President of the United States tell us what we shall refer to a select committee and what to a standing committee of this House? Why, sir, we can refer to a select committee, or to a standing committee, or to a single member if we choose, and the President of the United States has no right to take exception to our action.

JOHN SHERMAN.

The heads of the departments may answer such a request as they please, provided they do not withdraw their own time, and that of the officers under their direction, from the public business to the injury thereof. To that business I shall direct them to devote themselves, in preference to any illegal and unconstitutional call for information, no matter from what source it may come or however anxious they may be to meet it. For myself, I shall repel all such attempts at invasion of the principles of justice, as well as of the Constitution; and I shall esteem it my sacred duty to the people of the United States to resist them as I would the establishment of a Spanish inquisition.

ANDREW JACKSON.

CHAPTER VII.

BONDS BETWEEN JUDICIARY, EXECUTIVE, AND CONGRESS.

To understand the peculiar relations, one to another, of the Judiciary, Executive, Senate, and House of Representatives of the United States, demands an exhaustive knowledge and an unerring estimate for successive periods of the play in the government of centrifugal against co-operative forces. The framework for these relations is in the Constitution, with its different lengths of tenure and different bases of representation for the several branches. Direction and extent of activity at any given time are dependent upon the personalities of the men in office, and upon the state of the highly-wrought political party system. With or without foresight for the greatly increasing power of party spirit which has attended the history of the United States, the Constitution-makers laid down a set of conditions which afford wide variety in the complexion of the government. There may be at the same time a Republican House, a Populist Senate, and a Democratic President, or one party

may be supreme in all three. Between these extremes, combination is possible of House and Senate against President, of House and President against Senate, of President and Senate against House. Any system of inter-relations able to endure, no matter which of the five cases may prevail, must, indeed, rest upon broad and mobile principles. Were these three parties to the enactment of the laws to come into and go out of office at the same time and under the uniform rule of popular majority, a century of development would present elaborated methods of co-operation in marked contrast with the meager progress which a century under existing conditions has shown. But so long as the Constitution, whatever its offsetting merits and defects, remains as it is, so long, doubtless, must the critics sigh because of the absence of "real responsibility for the legislation of the session" and because of "the unorganized relations of the Executive with Congress."¹

In considering the committees as bonds for such relations as have been formed between the House and the other branches, the connection with the Judiciary may be first briefly disposed of. Coördi-

¹ The *Washington Post*, March 17, 1897, asserts that Secretary Olney's appearance upon the floor of the Senate would have made "a ten days' talk," and contrasts a pleasant visit of Secretary Sherman to his recent associates. A debate upon the seating of Cabinet Officers in Congress occurred in the Senate in 1881. Cf. 46:3, Senate Reports, Vol. I., No. 837.

nately with the Senate, the House has had the task of building an entire system of national courts. In its Committee of the Whole, and select committees, foundations of these were laid. The Committee on Judiciary was created on motion of John G. Jackson as the thirteenth standing committee, June 3, 1813, almost a quarter of a century after the beginning of the government. It has held its way steadily among the other committees as always a favorite. The nature of the subjects with which it has been charged has constantly drawn to it the best legal talent in a body so largely composed of lawyers as is the House, has given to its membership a long list of the brightest names in the annals of American statesmanship. Owing also to the non-partisan character of its duties, it has held among its fellows, whether viewed in the committee room or upon the floor, the palm for examples of united action by great parties for the framing of laws. Its work goes steadily on with little regard to reverses of party supremacy in the House, so that not infrequently the chairman from one party is seen co-operating, as a minority member of the Judiciary, with his successor of the other party in the passage of a measure which he has himself fathered at the preceding Congress. Its field is large, including all questions pertaining to the creation of courts, their location, jurisdiction, methods of procedure, judges, attorneys, marshals, clerks,

prisons, etc.; important Constitutional questions, as amendments, impeachments, *habeas corpus*, piracy, counterfeiting; questions of political science generally, as woman's suffrage and citizenship; and many subjects presumably committed to it solely because of the high ability of its membership as compared with the committees that might naturally be supposed to have charge of them. To the second session of the Fifty-third Congress it presented more than eighty reports. Considering the character of its work, and the amount of time and attention demanded of the House, it may be said to be equaled by few and excelled by none of the other House committees.

Much more complex are the relations between House, Executive, and Senate, as compared with those between House and Judiciary. Committees have the duty, not of enacting, but of formulating laws. The President has the veto power, but what of his influence in the committee room where laws have their origin? What of the power of the committee over the Administration?

Americans of later times find as much difficulty as did William Maclay in keeping straight "the profane muscles of the face" over those perplexities as to the ceremonial of communication among the several branches which distressed the punctilious first Vice-President, and gave opportunity to the shrewdness of the first Secretary of

the Treasury.¹ But under the forms were deep and serious problems to be solved. The First Congress was the first national legislature of America that was bicameral. For precedents it had to look to State and colonial governments of two chambers and a governor, or to the British Parliament and King. Yet it met under a distribution of the powers of government markedly different from any of these. The task here is to set forth such incidents as seem worthy of notice in the use of committees for intercourse and coöperation between the House, the Administration, and the Senate. Elsewhere the imitation of English procedure in the joint ceremonies of Governor, Council, and Burgesses at Virginia's colonial capital has been noticed. At New York, in 1789, the Anglican party impressed these forms to a very lasting degree upon the new government. The addresses and messages of the Presidents at the opening of the Congressional sessions are especially in point. After Washington or his successor, Adams, had come in state to deliver the address to Congress, and had left copies in the hands of the Vice-President and Speaker, the Representatives retired to their own chamber, where the address was taken up, and referred to the Committee of the Whole, generally for the next day. By the Committee of the Whole it was referred, for the preparation of a

¹ Journal of William Maclay, 3, 262, 263.

counter-address, to a select committee composed at first of three, and later of five, members. The House, when it had received the report of this select committee, referred it for discussion to the Committee of the Whole, where, on occasions, violent party debates were lengthened out for many days. The Committee of the Whole, having finally amended the document to the satisfaction of the majority, the House would adopt it sometimes after considerable further debate. Then a committee, usually the one which had prepared the counter-address, waited upon the President to know when he would receive it; and, at the time which he deigned to name, the Representatives in a body, with the exception of some rather unmanageable Republicans, proceeded to his house to deliver, through their Speaker, the sentiments decided upon, and to receive a short speech in return. When they had safely gotten back to their own apartments, the Committee of the Whole again took up the President's address, and some member introduced a number of resolutions based upon its suggestions, which were separately referred, often after long and able debates, to various select committees.

These processions of Executive to Legislature and of Legislature to Executive, instead of their intended resemblance to the usually stately British precedents, came, in their attendant rancors and

disorders, at times dangerously near to the likeness of those undignified registrations of edicts which did so much, in the Seventeenth Century, to bring the ruling powers of France into the contempt of the French nation.¹ One occasion of the preparation of a counter-address to Washington, that at the beginning of the Third Congress, is worthy of notice as showing that there was thus early a party division in committees, with sharp tactics, and that such an able politician as James Madison knew well how to present a minority report. The Whisky Rebellion had occurred during the summer recess. Also Mr. Jay had been sent with secret instructions for a final attempt to make terms with England. Washington, in his address, noticed these two important events at some length. The select committee to prepare the answer was composed of two Federalists, Sedgwick and Scott, and Madison, a Republican. The two Federalists, overruling the Republican, decided that the Committee should be partly silent, and partly approve the President's attitude on these

¹ It will be remembered how the British House of Commons eluded the Stuarts by inventing its Grand Committees; oddly enough the United States Senate boldly employed the same device in the very face of our first President. Maclay describes with a relish the stately visit of Washington, to the upper house, and his sudden loss of temper when the business which he had laid before the Senators, instead of being immediately considered in his presence, was whisked away by a successful motion into a committee room. Maclay's Journal, 122, 128-132.

two most important points. But Madison's turn came when the paper had been submitted to the whole House, where he was not mistaken in counting upon a staunch support. He there sprang an amendment which arrayed the two parties sharply as to foreign affairs upon a word-quibble over the use of "a" or "your." Fitzsimons opposed him with an amendment which expressly approved Washington's censure of what he styled "self-created societies," meaning the new political clubs which were springing up throughout the country. Members tried to avoid these issues by urging to recommit to the select committee, and by moving that the committee rise. Madison, having accomplished what was, perhaps, his object, — the provocation of a debate which should go before the country, — withdrew his amendment. Fitzsimons's amendment, after having been amended and counter-amended upon almost tie votes by striking out the phrase "self-created societies" in Committee of the Whole, and reinserting it in the House, and then localizing the societies in "Western Pennsylvania and parts adjacent," was finally lost.

Followed by all later Presidents, Jefferson had the good sense to avoid this too close contact between Congress and Executive by sending in a written Message, and hinting that an answer, immediate and in person, was not expected.¹ The annual

¹ See his letter to the Senate, C. A., Dec. 8, 1801.

discussions over reference of the Message to select and standing committees have continued until the present time. Sometimes an opening Message has created much excitement and parliamentary fencing; sometimes it has been quietly received and referred with trivial debate.¹ This suggestive power of the Presidents has varied with their larger or smaller influence in the various periods of our history; but in the long run it has been very considerable. If the lists of select committees raised upon the Messages during the first forty years be scanned, they reveal an important directive influence in the expansion of the standing committee system. Americans of to-day cannot appreciate the part played before the development of newspapers and magazines by Presidential communications to Congress. The wires now flash them throughout the land; they appear in the morning papers as but part of extensive gleanings of news from all quarters of the earth; periodicals comment upon them at but little if any greater length than upon many other current topics; but in the good old times relays of fast horses, specially organized, carried them north and south from city to city, and all other matter was but narrow border to their compact columns in the modest-sized newspapers, which finally penetrated to the remote country stores and firesides, where they served as

¹ C. R., Dec. 24, 1895.

intellectual and civic food for many a day. Of course, as the number of standing committees increased, fewer select committees needed to be raised upon the Message, and the process became more a matter of routine. There was a breaking away from this Presidential initiative in 1818, when John W. Taylor introduced, in addition to the ten resolutions on the different parts of the Message, four others for select committees on topics not touched upon by the President. "Mr. Pitkin, of Connecticut, objected to acting on these subjects, as proposed, on the ground that they did not flow from the Message; and that it had been usual in the Committee of the Whole on the State of the Union, on the President's Message, not to introduce any topic foreign to the Message." By a vote of sixty-one to fifty they were laid upon the table, but Mr. Taylor immediately afterwards moved them with success in the House.¹ There was a still wider departure towards independence at the opening of the session in 1821.² Action upon reference of the Message towards the close of Andrew Jackson's "reign" seemed a return in point of consumption of time and wrangling to the distempered disputes of John Adams's Administration. At the beginning of the Civil War the House, and not the Committee of the Whole, is seen dissecting the Message without debate; and in 1863 the Commit-

¹ C. A., Nov. 18, 1818.

² C. A., Dec. 6-10, 1821.

tee on Ways and Means has in some way secured the prerogative. Since then the Ways and Means has distributed the subjects, with some struggle on the part of other committees to reduce the lion's share which it is prone to appropriate to itself, and to take away jurisdiction from each other. Samuel S. Cox declared the process to be a sham and a nonentity.¹ What a contrast with scenes of the long gone by in early American Congresses on the same occasion and in ancient British Parliaments — the aged ex-Speaker Grow, returned by the conservative Keystone State, not entirely through a whim sentimental, rising in 1895 among the Representatives of a new generation to move that the House resolve itself into a Committee of the Whole on the State of the Union on the President's Message, and proceeding therein, without reply from Democrat or second from Republican, to deliver a solitary speech upon the Tariff!

But meanwhile the Executive influence has been felt in various ways more informal. During Washington's Presidency members of his cabinet, notably Hamilton as Secretary of the Treasury, had a marked initiative in the preparation of bills of which the House soon became jealous. March 11, 1794, Madison wrote to Jefferson: "I forgot to mention in my last that the question whether the Ways and Means should be referred to the Secre-

¹ C. R., Dec. 10, 1877.

tary of the Treasury, as heretofore, or to a committee, lately came on, and decided the sense of the House to be regenerated on that point.”¹ Of his own action of Dec. 21, 1795, Albert Gallatin wrote: “My first step was to have a standing committee of Ways and Means appointed. That this should not have been sooner done proves the existing bias in favor of increasing as far as possible the power of the Executive branch.”² Feb. 2, 1797, Speaker Dayton ruled out of order a motion of Mr. Coit that the Secretary of the Treasury be directed to bring in a bill upon imposts and tonnage. While the direct connection of the Executive with the House, and every shadow of claim to the initiation of laws, was thus early cut off, it has always subsisted to a greater or lesser degree in a voluntary way with the committees or with individuals as intermediaries. John Quincy Adams, as Monroe’s Secretary of State, mentions several instances where members of Congress came to him to submit drafts of bills that he might suggest modifications or obtain for them the opinion of the President.³ Certain newspaper publications of 1837 throw interesting light upon the drafting of bills in the times of Jackson and Van Buren. *The Atlas* and other Boston papers reported Richard Fletcher, a member of the House Ways and

¹ Madison’s Works, II. 9. ² Adams’s Life of Gallatin, 157, 172.

³ Memoirs, IV., 503.

Means, as declaring in a speech at Faneuil Hall during the summer recess: "The Chairman of the committee steps up to the White House, and there receives from the President or the Secretary of the Treasury such bills as they wish to have passed by the House. The chairman puts the bills in his pocket; takes them to the committee without any examination; the majority of the committee approve them; the minority can do nothing; the bills are presented to the House, and received as the doings of the committee." Upon the re-assembling of Congress, Chairman Churchill C. Cambreleng of the Ways and Means published in the *Washington Globe* a reply to this and other charges of the Boston speech. "The usage from the commencement of the government," said he, "has been for the committee, through its chairman, to consult the head of the Department in regard to such measures as he may recommend for the consideration of Congress; for the Secretary to attend on, and confer with the committee, if invited, and to furnish drafts of bills embracing his own propositions, when requested to do so."¹ He denied however the slavish acceptance of Executive measures "word for word, letter for letter, comma for comma;" cited in proof the history of several bills; and presented in parallel columns

¹ Cf. Hildreth, IV. 383-4; C. A., Nov. 13, 14, 1792, for an early case of Secretaries before a committee.

the Secretary's draft of one of them, with its modified form as reported from the Ways and Means.¹ Recent examples of this practice are to be had in the presentation to the Ways and Means of suggested amendments to the Administrative Customs Act by Charles S. Hamlin, Assistant-Secretary of the Treasury, and in the comments on the Wilbur Filled-Cheese Bill sent in to the same committee by Henry E. Alford, Chief of the Dairy Division in the Department of Agriculture.² There are many avenues leading from the Departments to the Capitol; what cannot find an entrance through the House comes in by way of the Senate; "It is a favorite scheme," says Chairman Cannon, "for Executive officers, when they cannot get appropriations recommended under the jurisdiction of one committee, to shift around, and submit estimates so that they will come in under another committee."

Where a party has been in possession of the Presidency and the House at the same time, the influence of the Executive in the choice of the Speaker, and consequently in the composition of the committees upon questions which divide the party into two wings, has often been direct and powerful. The contest of James K. Polk and

¹ Dec. 13, 1837.

² Cf. Hearings on these subjects before the Ways and Means, Washington, January and February 1896.

John Bell for the Speakership in 1835 is a case in evidence.¹ Earlier, John Quincy Adams found his administration handicapped in its beginning by the organization of all the committees of Congress in favor of his beaten rival, Andrew Jackson.² "I rather think that the House will be organized by the election of a Speaker who will consult the President and Cabinet in the appointment of the committees," says a correspondent of the *New York Herald* in 1853. Stephen A. Douglas, according to Henry Wilson, was put down from his committee chairmanship in the Senate at the bidding of Buchanan's administration.³ One committee of the House stands on a peculiar footing as regards relations with the Executive; namely, the Foreign Affairs. The trickery of the chairman of the Ways and Means, John Randolph, in failing to report on Jefferson's message with reference to the conduct of European belligerents, and in delaying the appropriation bills so as to prevent the purchase of Florida, and his punishment therefor, are cited elsewhere.⁴ Later, in 1819, when this

¹ Schouler, IV. 221.

² *Ibid*, III. 417. J. Q. Adams's Memoirs, I. 404; Editorial in *National Intelligencer*, Dec. 4, 1827. *The Washington Post*, Dec. 22, 23, 1895, comments upon the capture of twenty-five House chairmanships by New York, Pennsylvania, and Iowa as a probable plot against certain aspirants for the coming Republican nomination to the Presidency.

³ Blaine's "Twenty Years of Congress," II. 504.

⁴ Above, Chapter IV.

same purchase was under more successful negotiation, the chairman of the Foreign Affairs seems to have attended a meeting of the Cabinet and set forth his views.¹ In a debate on the deposing of Edward Everett from the chairmanship of Foreign Affairs, one speaker urged that the chairmen of that committee especially, and of other important House committees generally, ought to be "men who were in confidential relations with the government;" and another speaker, "that every committee of the House was the organ exclusively of the House, and as such it owed no duty elsewhere."² Speaker Bell, defending himself against the charge of subserviency to Jackson on this occasion, declared that he had acted upon a principle which he had once heard enunciated by John Quincy Adams, to the effect that, if ours is to be a *practicable* government, the several departments must be regarded not only as coördinate, but also as to a due degree *coöperative*.³ The same thought is expressed by *The Nation* in commenting upon the removal, after ten years of service, of Charles Sumner from the chairmanship of Foreign Affairs in the Senate, because of his opposition to General Grant's desire for the purchase of San Domingo.⁴ The

¹ J. Q. Adams's Memoirs.

² C. A., Jan. 11, 1835; cf. J. Q. Adams's Memoirs, XI. iii.

³ Appendix to C. G., VIII. 189.

⁴ *The Nation*, Mar. 16, 1871; Blaine's "Twenty Years of Congress," II. 503; Works of Charles Sumner, XIV. 121.

newspapers of June, 1896, noted as to the Cuban Question, the fact that President Cleveland had met the Foreign Affairs of the House, and satisfied it concerning his attitude upon the recognition of belligerency.

From the standpoint of the House in its assertion of a right to examine, control, and prescribe the conduct of the Executive, the history of committee activity presents itself under five heads: first, the general discussion of the Executive doings in the Committee of the Whole with decision by vote in the House; second, the select committees raised from time to time to make inquiries upon charges of misconduct with the ultimate object of censure, impeachment or vindication of the Executive; third, certain standing committees of expenditures in the departments; fourth, those standing committees charged with the general appropriation bills; and fifth, the committees for general legislation. Treatment of these heads follows herewith in order.

Examples of the first class characterize the earliest methods of the House. Hamilton's operations with foreign loans were thus sustained after two days' discussion of the Giles resolutions.¹ President Adams's delivery of Thomas Nash on requisition of the British minister received a similar approval.² Discussions in the House resulted in neg-

¹ C. A., Feb. 28-Mar. 1, 1793. ² C. A., Feb. 20-Mar. 10, 1800.

atives to Josiah Quincy's and Barent Gardenier's resolutions of inquiry into the official conduct of President Jefferson and Secretary Gallatin.¹

The first select House committee of inquiry into Executive affairs was that upon the defeat of General St. Clair, ordered March 27, 1792. The motion for its raising was substituted for a resolution requesting the President to conduct an investigation. The duty of the House to guard all expenditures of the public money, and its Constitutional right of impeachment, were cited as justifying this procedure.² Upon this committee no member of the House who had voted against the inquiry was named. Before it, upon a recommitment for that special purpose, came the Secretaries of War and Treasury — the first appearance of cabinet officers before a House committee. After the above-mentioned approval of Hamilton's conduct in the Committee of the Whole, he sought and received further vindication by the investigations of a select committee. His successor, Wolcott, followed his example, and later Secretaries Calhoun and Webster. President Monroe asked an examination of his accounts as a public officer.³ While professing themselves ready to facilitate any inquiry based upon

¹ C. A., Jan. 25, 1809, Feb. 19, 1810.

² On the right to demand papers upon the Executive files, with an exhaustive chronicle of precedents since 1789, cf. 52:2, Sen. Mis. Docs., Vol. VII. pp. 232-272.

³ C. A., Jan. 11, 1825.

specific charges, Andrew Jackson and his cabinet officers very pointedly refused to comply with the large and general demands of an investigating committee raised on the motion of Henry A. Wise.¹ James Buchanan, in the matter of the celebrated Covode special committee of inquiry, admitted freely the right of Congress to inquire into the failure of the President or of his subordinates to execute the laws, but protested rather weakly against the methods of the House in proceedings preliminary to an impeachment for corrupting Congress and its committees.² Whenever a proposition for these special investigations of abuses has been sprung against high Executive officers, the House has always found itself divided into two camps, the defenders of Executive independence of Congress, and the advocates of the control of the Legislature over the Executive. Each of these has had its moderates and extremists. Often the friends of the Administration have defied its enemies to discover abuses, and welcomed the closest inquiry, arguing that innocence will be proved and protected against injurious calumny. On the other hand, those who have taken the broadest grounds for investigation have claimed that knowledge of the whole machinery of the de-

¹ For their letters, as well as for the lengthy report of Wise and his committee, cf. Appendix to C. D., Vol. XIII., Part II., 189-224.

² C. G., March 29, 1860.

partments is necessary to performance of the Constitutional duties of the House in the preparation of laws. Such inquiries have generally been unsatisfactory so far as calm judicial arrival at the truth has been concerned. They have been more partisan than patriotic. Sometimes the committee has been dubbed the President's, or the whitewashing committee. Playing upon this last expression, a defender of the President once denounced a committee hostile to the Administration as a *blackwashing* committee. Daniel Webster complained of the report of a committee to inquire into the burning of Washington as calculated "to cover up in a mass of prolixity and detail what he considered a most disgraceful transaction."¹ Ten years later Webster is himself the principal figure in an investigating committee, one with which Presidential aspirations are deeply effervescent; and John Quincy Adams suspects that the "timid, insidious, and treacherous partiality" of the New England Samson in conducting the affair comes because of the promise of a high office "in the event of Crawford's election."² Of the undignified conduct of the Seventeenth Congress in those rancorous closing days of the Era of Good Feeling, Schouler draws a lively picture: "Committees

¹ C. A., Nov. 29, 1814.

² J. Q. Adams's Memoirs, VI. 296 *et seq.*; Schouler, III. 307, 308.

instituted inquiries, ran the eye up and down accounts, pointed out little items, snuffed about dark corners, peeped behind curtains and under beds, and exploited every cupboard of the Executive household with a mousing alacrity, not so eager, it would appear, to correct abuses as to collect campaign material for damaging some candidate, and playing the detective in preference to the judge.”¹ Upon an investigating committee elected by ballot the friends of President Van Buren charged that the majority had chosen six well-qualified members to represent itself, but had forced upon the minority three incompetent representatives; upon another, that upon the adoption of the Lecompton Constitution, Schouler affirms that Speaker Orr, in order to stifle the matter, gave a majority of one to those who opposed the inquiry; upon another, during Grant’s Presidency, the Administration Senators, according to *The Nation*, put lukewarm members and but one Democrat.² The effect of the work of these high political committees, if any follows, is therefore to be discovered in the returns of national election days. Andrew Jackson came from Tennessee to Washington in 1819 to await impatiently the conclusion of an inquiry into the Arbuthnot and Ambrister affair; with the decision

¹ Schouler, III. 258.

² Schouler, V. 394; *The Nation*, Dec. 21, 1871.

of the committee in his favor the political doom of those who pressed for the investigation was sealed, and the hero of New Orleans started upon a tour of glory which brought him to the White House. The voluminous report of the Covode committee furnished campaign material to aid the Republicans in the election of Abraham Lincoln.¹

But where the attack of such select committees has been directed against lesser offenders than those of immediate Presidential circles; against those whose duties are rather administrative than political, and especially against those who are guilty of financial dishonesty, some good may be said to have been done in the direction of pure and economical government. The Star Route disclosures are an illustration.² In the beginning of the Civil War, July 8, 1861, select committees were appointed to report at any time upon secessionists in office and upon government contracts; and a little later were given the unusual rights to sit during the recess, to

¹ "The Covode Inquisition" was a broad inquiry into James Buchanan's administration, generally as to the corrupt practices of spoils officials, and particularly as to the President's attitude toward the Lecompton Constitution of Kansas. Cf., for a summary of its damaging disclosures, Schouler's "History of the United States," V. 450-452. The findings of the Committee in massive detail are extant in 36:1, House Reports, Vol. V., No. 648, June 16, 1860, 835 pages.

² Another successful case is commented upon in John Sherman's Autobiography, I. 158-161. Sherman also gives a full account of the mission of a committee upon which he served, one which went to investigate the troubles in "Bleeding Kansas."

travel, to employ stenographers and clerks, to use *subpœnas* issued by the Speaker, and to command the services of the Sergeant-at-Arms. Although strongly objected to by some upholders of the Administration, the latter committee was a valuable check upon profligacy in the rapid expenditure of millions of dollars.¹ Later, in 1866, the joint select Committee on Retrenchment arose and ran its course of six years, laying bare abuses in the disordered civil service, notable in the New York custom-house and in the transportation of merchandise from California to New York. Historically it stands in a parental relation to the present standing committees on Civil Service and Retrenchment in the Senate, and on Civil Service Reform in the House. Like the slavery question formerly in general American politics, the spoils system is the hidden key to most Congressional inquiries.

On these very occasions the question was propounded: Why raise a select committee, when there are eight standing committees on expenditures? The original standing Committee on Expenditures was created near the close of the war of 1812 as a relief for the Ways and Means.² Its duties were to examine into the state of the departments and of appropriation laws, to watch for violations of the law in expenditures, and to report provisions looking to economy and to accountability of pub-

¹ C. G., July 17, 1861.

² C. A., Feb. 24, 26, 1814.

lic officers. At the next Congress a magnificent phalanx of six standing committees, one for each department and one for public buildings, was established. These were measures proposed by Virginia Congressmen, Eppes and Tucker, during the administration of a Virginia President. Since that time three others have been added, and the original committee has been abolished.¹ A foreigner, surveying at any time since 1816 the impressive chart of duties laid out for these committees in the rules, and ignorant of the facts, might surmise that they were House committees of the highest importance, just as he might be impressed with the elaborate provisions for an electoral college in the national Constitution. But the truth is, that their names have usually been by-words with the Representatives; and the Speaker, while he may honor them now and then with the names of leaders on the great House committees, blesses them in his appointments as convenient shelving places for the members with whose unfitness as legislators he has been impressed. Why they have proved thus insignificant is doubtless due partly to the disinclination of the average Congressman for the thankless task of the detective and the economist. Waste of public money is as often a legislative as an administrative sin; many will say oftener. The custom has come to be, in view of the facts that gross ad-

¹ See Appendices I. and II.

ministrative abuses are exceptional incidents, and that entire Congresses may slip by without scandal in the Administration, to constitute the standing committees on expenditures upon grounds other than those assigned for them, and to rely, when a grave call for investigation arises, upon a select committee of the ablest men the House can furnish. Yet other reasons for this unimportance are revealed in the relations of the standing committees for finance and general legislation to the Executive departments.

These relations with the Administration are the most important study of all. It is not in the exposure of abuses, but in the direction of administrative activity through the power of granting or withholding money and of enacting new restrictive laws, that Congress finds by far its greatest power over the Executive, and *vice versa*. It is in the arcana where laws have their birth that Executive and Legislature come into that steady contact which yields the largest results. There was little fruit from the work of the great investigating committees connected with the Civil War by way of punishing wrong-doers, but their names are written in the foundations of that monument to Civil Service Reform which Congress has built into the statute-books. By far the greater number of the laws to be enacted are of a non-political character. The Cabinet officer is before the committee often,

his subordinates much oftener. He feels the need of being there, because the success of his work depends upon the effectiveness of his legal backing. The committee, so largely composed of men of entirely lay training, feels the need of his counsels because of his expert practical knowledge of the working of the law, his ability to point out defects and to suggest remedies. There is no suffrage for the administrative officer in a committee meeting, yet he has there the more important power which superior knowledge always gives. Whoever will examine the printed cross-examinations of a committee hearing, and compare therewith the changes wrought through official testimony between the first and final draft of a bill, must be impressed with the reality of the administrative influence. Yet in the exercise of final judgments or decisions, the committee dominates the trained official with a vigor that suggests the contrasts between American popular self-government and European bureaucracy. American Anglo-maniacs have highly deplored, and English Americano-maniacs have equally highly lauded, the departure from British practice when Hamilton set the example of reporting to Congress in writing rather than in person.¹ But the practice of the committee room shows the use of both methods. As early as 1791 the Congressional screws were being tightened, as the fol-

¹ Cf. Maine's "Popular Government," 231 *et seq.*

lowing standing orders then established indicate : first, on the second Monday of every session a committee was to be appointed to examine and report upon the state of the Treasury ; second, the Secretary of the Treasury was to report on the finances of the previous year on the third Monday of each annual session ; third, the Secretary of the Treasury was to report each year in January concerning appropriations expended and unexpended, a committee being immediately appointed to examine said report. By the statutes of the United States the number of printed reports to Congress from various administrative officers upon various subjects, most of them required annually, has since then increased to more than two hundred and thirty.¹ To these must be added legions of special reports in response to the constant running demands of committees. Thirty-nine volumes, with near thirty thousand printed pages, extensive indexes, expensive maps, charts, and other illustrations, was the contribution in the way of Executive documents to a single session of the Fifty-second Congress.

In making up the general appropriation bills, each committee compares those of these reports which fall within its sphere of action with the general Book of Estimates furnished by the Secretary of the Treasury. If there is a call for additional

¹ For the list, cf. 53:2, "Manual and Digest," H. of R., 617-646.

expenditures, the officer demanding them is almost certain to be summoned before the committee to make explanations. For example, before the subcommittee of the Appropriations in charge of the Sundry Civil Appropriation Bill appeared, from March 12 to March 21, 1896, between fifty and sixty administrative officers of various grades. The chairmen of the Appropriations for two successive Congresses, Messrs. Sayers and Cannon, unitedly affirm that the Appropriations enters upon its bills no items which are not recommended from the Secretaries of the departments, or in the Book of Estimates compiled by the Secretary of the Treasury.¹ This Book of Estimates, as submitted for 1897, carried \$410,080,033.92, which was reduced by the House standing committees to \$383,575,524.65; increased by amendment in the House Committee of the Whole to \$383,996,842.25; increased by the Senate standing committees to \$403,699,852.69; increased by amendments in the Senate to \$406,917,285.55; and reduced in conference committees to \$396,280,660.49.² Writers who make sweeping assertions of the chaotic relations between Legislature and Executive disregard old custom, which creeps in like green blades upon stony streets, gently though silently filling up the chinks

¹ Hearing on the Sundry Civil Appropriation Bill for 1897, 251, 252.

² Cf. the speeches and tables of Messrs. Cannon and Sayers, C. R., June 10, 1896.

between the laws. They have directed their criticism ineffectually against the organization of the House or of the Administration, and utterly failed to suggest improvements at the point where the two come together, namely, in the committee room.

In their liability to be controlled by different parties, enhanced as it is by the different bases upon which they are constituted, obstacles to coöperation between the Senate and the House of Representatives have been noticed at the outset of this chapter. Three species of equality are discernible in the Federal Government, — personal equality, as in the House constituencies; territorial or historical equality, as in the States which Senators represent; and corporate equality, as in the three grand divisions of the Constitution, or in the relations of the two branches of Congress. This latter kind confronts the student of methods of communications between the Senate and the House. It is here a peculiar equality, since it does not permit the principle of majority rule to operate. Compromise, the entire yielding of one party, or the failure of a measure, are the alternatives when there is disagreement. “We must give and take,” says Senator Cullom. Each lawmaking body has some functions that are not shared by the other. Each is jealously watchful of encroachments on its prerogative.

These and other facts that may suggest themselves all tend to minimize an overriding of the bi-

cameral idea by the use of committees constituted of members from both branches. In fact, with the exception of conferences upon money bills, the experience of our national legislature has added little or nothing to the practice worked out in the British Parliament before ever there was thought of an American confederation of colonies.¹ Developments in some Northern Commonwealth legislatures are, on the contrary, much more marked. That of Massachusetts conducts the affairs of ordinary legislation upon initiative of committees with homogeneous membership selected from both branches, and with the privilege of reporting indifferently to either.²

Committees for relations between Senate and House fall into three classes, — joint committees, conference committees, and what, for want of a name, may be called similar or kindred committees. In the First Congress there was a brave start towards the use of select joint committees. The earliest was appointed April 9, 1789, to prepare rules for conference, and to choose chaplains. The Senate seemed particularly partial to them, at least until it was worsted in its ambition for aris-

¹ Cf., for the simple details of this anciently originated common parliamentary practice, Jefferson's Manual, in 53:2, "Manual and Digest," H of R.; Cushing's "Law and Practice," 878 *et seq.*; May's "Laws and Usages," 437 *et seq.*

² Cushing's "Law and Practice," 790; Manual of the Massachusetts General Court. See also Appendix IV.

tocratic titles, and for distinctions over the House in the way of larger salaries. They were employed for the ceremonies of the first inauguration, and have frequently since served occasions of state.¹ Small joint committees regularly inform the President of the assemblage of Congress, and of its readiness to adjourn. They have now and then arranged, as between the two branches, allotment of space in the Capitol building, as in the case of the New York City Hall in 1789.² Certain joint standing committees, four in number, have attended to matters of routine legislative business. In July, 1789, the joint rules established such a committee to correct errors in engrossed bills, and to present them for signature to the President. To this have been added, Dec. 7, 1843, the Committee on the Library, which had select committees for predecessors as early as 1800-1802; the Committee on Printing, July 24, 1846; and the Committee on Disposition of Useless Papers in the Executive Departments, Feb. 16, 1889. Although the joint rules, after a continuous existence of eighty-seven years, disappeared by a singular disagreement between the Houses in 1876, the Enrolled Bills and the Library still by tacit consent perform joint as well as separate functions, and the other two are established by the laws.³ Earlier Congresses were

¹ See above, Chapter II.

² Cf. also C. A., Jan. 18, 1817.

³ R. S., Section, 3656; Stats. at L., Vol. XXV. 672.

went to couple together for determination of a joint committee the fixing of a time for adjournment and the question of legislation necessary to be completed.¹ A Senate bill passed in 1800, but rejected by the House, proposed to choose by lot a so-called Grand Committee, composed of an equal number from each branch, and empowered to decide secretly and without revision all matters relating to that vexed joint function of counting the electoral votes for President and Vice-President.² Henry Clay, after ordinary processes of legislation had failed, successfully used the joint committee for a speedy completion of the Missouri Compromise.³ In the period of secession and reconstruction, the decade from 1861 to 1871, center the most important phenomena for the study of joint committees. They flourished then because of the centralizing influence of war in demanding larger and prompter legislation; because of the economy of substituting a united inquiry for two separate investigations, especially where extensive traveling was requisite; and because of the long political accord of the two Houses, coupled with their united opposition to the policy of the Executive towards the Southern States. In this latter respect a British parallel may be drawn from the relations of Charles I. and

¹ C. A., Jan. 11, 1790; Dec. 8, 1794; March 13, April 1, 8, 1806.

² C. A., Index, under the head "Elections;" Schouler, I. 463.

³ C. A., Feb. 20, 21, 1821; Schouler, III. 184.

Parliament two centuries before. The Committee on the Conduct of the War, consisting of three Senators and four Representatives, was raised primarily to inquire into the disaster at Ball's Bluff.¹ Later it investigated other troubles and reverses, as the Fort Pillow massacre, Bull Run, the attack on Petersburg, the treatment of Northern prisoners, the campaigns of McClellan, Banks, and Sherman. Other committees were those on Emancipation, Condition of the Indian Tribes, Reconstruction, Southern Outrages, and Retrenchment. Nine Representatives and six Senators were favorite numbers for their membership. To name recent examples, the subjects of Free Alcohol in the Arts, and of Charities in the District of Columbia, having evoked much discussion in the first session of the Fifty-fourth Congress, were referred by provisions in the laws finally enacted to select joint committees of three members from each branch, with instructions to hold hearings during the recess, and to report by bill or otherwise on the first Monday of December, 1896.²

Very rarely, then, are joint committees employed for ordinary legislation in the American Congress. Their use is confined mainly to matters of routine, ceremonial, and taking testimony. Besides the obstacles pertaining in general to co-

¹ Blaine's "Twenty Years of Congress," I. 378.

² C. R., May, June, 1896.

öperation between Senate and House, joint committees have some peculiar shortcomings. Each House will prefer sending a bill initiated and prepared at its own free will to run the gantlet of amendment, with chances of escaping unchanged in the other House, rather than in the outset to have but a partial voice in a joint committee for its preparation, and with chances of a report wholly contrary to its own sense.¹ The early joint committees on business met with the disapproval of such statesmen as Webster and Benton, because they recommended new subjects, instead of making selections from the calendars of the two Houses, and dictated measures according to their personal feelings, with too little regard for the wishes of their fellows.² Those same objections to concentration of power in a few hands which are urged against the ordinary standing committees apply with manifold force to a joint committee. Jealousy between the Houses is likely to arise over the question as to which shall furnish the chairman. It has proved difficult, if not impossible, to punish contumacious witnesses.³ The slow process of concurrent resolution is necessary to instruction and discharge. Perhaps as great a difficulty as any, since the vote is *per capita*, lies in the mechanical impossibility of

¹ C. A., Jan. 11, 1790.

² C. D., April 24, 1828; Miss Kerr's "The Origin and Development of the United States Senate," 94, 95.

³ C. G. (Senate), Dec. 7, 1871.

having an odd member for avoidance of ties without giving the preponderance to one branch over the other.¹ For reasons similar, it is said that, up to the middle of the nineteenth century, no joint committees had been employed in the British Parliament for one hundred and fifty years. "A committee of the Senate with a corresponding committee of the House works much more readily, more handily, and, I think, more efficiently," said Henry B. Anthony, President *pro tempore* of the Senate.

While the beginnings of legislation are thus so unyielding to joint action, it is fairly indispensable to the completing touches. For these has been elaborated the conference. Conference committees are confined in jurisdiction to the adjustment of those points in a bill upon which the Houses disagree.² They vote as two coequal bodies, a majority of each being necessary to agreement. From long experience they have come to consist almost invariably of three Senators and three Representatives, the small number being favorable to dispatch, and the equal weight of membership to a fair contest. The leading men of the committees having charge in their respective Houses of the bill about which there is variance are selected as the conferees, and styled the "managers." The prime idea

¹ C. G. (Senate), Dec. 12, 1865.

² Cf. decision of Speaker Clay, C. A., June 23, 1812.

upon which conferences are based is dispatch toward positive legislation; and all the parliamentary rulings under increasing necessities of time, numbers, and business have tended to make them increasingly important. That they early took a leading place in lawmaking is indicated by a brief statement of the *Annals of Congress*, June 26, 1789: "A number of members attending the interesting conference which took place with the Senate on the impost and tonnage bills, no business was done in this House." On appropriation bills, however, the development of their power came with the increasing tendency of the Senate to amend, which was so slow that by 1819 there had been but six of them.¹ The present state of affairs towards the close of the session in either House may be described in the words of Senator J. L. Mitchell: "Even though a conference report is privileged, and may be called up at any time for consideration, other conference reports are pressing, and above all loom the appropriation bills and their innumerable conference reports."²

Almost every writer on Congressional methods has denounced the conference committee. In the eyes of Professor Hart it is a tyrant.³ The Librarian of Congress is impressed with the vastness of

¹ Miss C. H. Kerr's "History of United States Senate," 76.

² Article, "How a Law is Made," *North American Review*, November, 1894.

³ "Practical Essays on American Government," 221.

its power in absorbing the functions of individual members.¹ Since it is raised, in the most important instances, upon non-concurrence of the House with Senate amendments, Senator Hoar declared, previous to his transfer from the House, that the former body was put under a degrading duress.² Its reports, say those who have opposed its encroachments, are of the highest privilege; cannot be amended; are so lengthy, complex, and unintelligible that new and extraneous measures creep in surreptitiously and become laws without the knowledge of those who vote for their passage.³

While these evils will be admitted to exist in the most aggravated forms, it is well to inquire how far they may be considered exceptional and limited in scope. Senator Hoar argues that the defect is organic in the gravest instances, lying not in the conference, but in the power of the Senate to amend money bills.⁴ Conferences are of remedial intent. They give one more opportunity for deliberation. An amendment may be good in that it corrects some oversight; and, if the non-concurring House be won over in conference, the worthiest object of a bicameral system is realized. An amendment may be bad, and the conference

¹ Article on Congress (United States) by A. R. Spofford, Lator's Encyclopedia, I. 589.

² *North American Review*, cxxviii. 118, 119.

³ Remarks of Senator Lyman Trumbull, C. G., June 15, 1860.

⁴ Cf. article cited above.

gives another chance to fight the wrong. Leaving out the history of the general appropriation bills, conferences may be said to be comparatively rare, amounting in the period from May 25 to June 13, 1896, the closing days of the session, to eleven on seventy-five public or local bills, and to eight on one hundred and forty-one private bills which reached the President. None of these required a second conference. Reports of managers on general legislation or private bills are usually short, and from the nature of the case easily understood.

With rare exception the conference reports upon great appropriation bills are the only ones amenable to the charge of obscurity. In practice, such bills involve several successive conferences, each one briefer than the last, as points of disagreement are compromised. At the first session of the Fifty-fourth Congress the District of Columbia bill required five; The Legislative, Executive, and Judicial, five; the Indian, six; the Post-Office, two; the Naval, four; the Sundry Civil, five; the River and Harbor, three; the Fortifications, one; the Deficiencies, two; the Agriculture, one. Time occupied in conferences may be estimated by comparison of the dates upon which these bills passed the Senate with the dates upon which they became laws. The average was thirty-three days.

The danger of obscurity in conference reports is mitigated by the long discussions earlier in the

session, which have familiarized Congressmen with the provisions of the bills. When a bill, however heavily loaded with Senate amendments, comes out of conference, there are more than three hundred Representatives each supplied, for purposes of ready comparison, with his printed copies of the report, and of the bill as passed by the Senate. Since 1880 the House has required of its conferees explicit and detailed explanations in writing.¹ In the Senate, by invariable custom, conference reports have come to lie over at least one night, so that members may have leisure to inspect them.² The latter is doubtless the better safeguard, but the practices of the two branches might advantageously be combined and supplemented by publicity of conference sessions. After a conference the leading manager usually accompanies the written results with a verbal explanation, members interpolate him, and vigorous debate may follow preparatory to a new trial upon points not yet settled.

With such chances against concealed paragraphs, conferences which assume functions of joint committees must do so with little expectation of escaping notice. That they do initiate legislation is true, but as to the frequency of the offense doctors

¹ Rule XXIX., H. of R.

² Cf. the use made of this opportunity by Senator Hale, C. R., May 28, 1896.

disagree. Senator Chandler has affirmed of one such instance that it is the most extraordinary parliamentary proceeding during his nine years of service as a Congressman. Senator Allison supports him with the statement that such a thing has been done but once upon an appropriation bill during the twenty-three years of his membership with the Appropriations, and then *sub silentio*; that it has been done upon other bills only with unanimous leave of the Senate. On the other hand, Senator Vest cites the tariff bill of 1883 as an example, Senator Teller declares that some of the best national laws have originated in conferences, and other Senators allege various instances.¹ It is a mooted question of parliamentary law whether such legislation may be ruled out of conference reports by the presiding officer in either branch, as seems to have been done in one case by Speaker Reed.²

As for the conferees, they are, as a rule, true leaders in their respective Houses; the most skillful and learned specialists upon the subjects in controversy; each seeking in the contest the honor of his own branch; each sensible of the possibility that those whom he represents may reject his work; tried and trusted men, who seek to be instructed as

¹ C. R., debate on Indian Appropriation Bill, May 28, 29, June 1, 1896.

² *Ibid.*

to the collective will of their fellows, rather than to force their own desires upon reluctant voters.

Which branch is most frequently victorious in a conference contest, is an interesting question. It will very probably require different answers for different periods in the long history of Congress. In the first case of adherence the House won through the casting vote of Vice-President Jefferson in the Senate.¹ The prevailing opinion of recent observers is on the side of the Senate. This view may be modified upon consideration that the Senate is the sole amending body in the case of bills which receive great notice; namely, those for revenue and expenditure. It is a mere matter of form for the House to disagree in bulk to *all* amendments of an appropriation bill when it is returned from the Senate, but a first conference will discover that the vast majority of the changes are not really matters of disagreement. Thus the first report upon the River and Harbor Bill of 1896 quickly disposed of more than three hundred challenged amendments by the receding of the House, amended some thirty Senate amendments, and left only three items for a second conference.² Of the total amount for 1896 adjusted in conferences upon appropriation bills, \$22,920,442.30, the House yielded \$12,283,818.24. The bitterest and most prolonged struggles occur over riders attached

¹ C. A. (Senate), Aug. 25, 1789. ² C. R. (Senate), May 20, 1896.

by the Senate, for the attitude of the two codes of rules upon that subject is now the reverse of what it used to be. Many of these objectionable additions are instigated by House members who run over to the Senate wing, especially by minority Representatives when the two branches are controlled by opposite parties, and by Representatives from new Western States which are insignificant in the popular, but powerful in the territorial body. "The rule is unvarying that the body proposing legislation as a rider upon a money bill must recede if the other body will not assent," declared Mr. Cannon, the most prominent conferee of the House in the Fifty-fourth Congress. But the rule has been broken. After fighting long the attachment of nearly two million dollars of French spoliation claims to the General Deficiency Bill, the House, in June, 1896, had to give way, but President Cleveland came to its rescue with a veto; and the Republican chairman of Appropriations gleefully reported, for quick passage through both branches, a new bill which left out, not only the Senate rider, but also claims to which the President had not objected.

While, occasionally, self-reliant characters in Senate, House, and Executive have strongly marked the highest insistence for the independence of the three, and while conferences are required for important disagreements, these noisily advertised

events should not distract attention altogether from the quiet undercurrent of steady connections which in passing years has worked more and more for the unity of the government. The same increasing division of labors has gone on in all three, — in the two branches of Congress by parallel committee lists, and in the Executive by a corresponding erection of departments and bureaus. For eighty years a standing committee of Ways and Means in the House, a standing committee of Finance in the Senate, and an Executive Department of the Treasury have been in constant existence and in remoter or closer touch with each other. Every now and then another such triangular link is bound about the tripartite system. The classification of appropriations into thirteen bills, and the distribution of these among seven House committees thus far, with likelihood that the Senate will follow suit in trimming away the sole jurisdiction of its great finance committee, doubtless similarly tend to closer connections. One statesman argued for this distribution in the House that it would lessen the Senate's power of amending; and it may be said to have increased, or at least to have conserved, the veto power of the President. The growth of the Senate standing committee system, owing to less pressure in that body of increasing numbers and business, has in general slowly followed the rapid expansion in the House. When, in December, 1816, the upper

chamber decided for the plan of standing committees by creating outright a dozen of them, nine had the same functions as nine committees long before entered upon the House list. This correspondence may be asserted to-day of the duties of twenty-five or thirty; twenty-two committee names are identical in the two systems; and all except the Census and the Epidemic Diseases in the Senate list, and the Alcoholic Liquor Traffic in that of the House, are paralleled in one way or another.¹ There are routes from the committee rooms in one wing to the committee rooms in the other which are becoming more beaten paths; printing draws the two Houses together; conferees are but sub-committees of these similar committees; cases are of record where concurrent resolutions have authorized kindred committees to act jointly, and it is said that they sometimes come together of their own motion.²

Inspection of the bonds between the House, the Senate, and the Executive reveals the following prominent features: —

1. The Judiciary and the Foreign Affairs are distinguished among the committees for singular character. The Judiciary is largely exempt from the influences of current political strife, and the Foreign Affairs from the ordinary party lines

¹ A chronicle of the Senate committees is contained in 37:3, Sen. Mis. Docs., No. 42.

² How signally did the House coerce the Senate by refusing to appoint the committees at the special session of 1897!

drawn by domestic policies. In the Senate they have jurisdiction over treaties, and appointments to the bench.

2. There has been an increasing interaction of Executive and Congress upon each other, mainly and steadily through the regular work of the committees in preparing general appropriations and general legislation. Presidential messages of early times played a part in developing the committee systems. The spoils of office, and the Administration's superior expert knowledge of legislative needs, have brought their baser and nobler influences to bear upon committee action. On the other hand, the power of the committees has occasionally told upon the results of political campaigns by inquiries into the conduct of higher executive officers, and upon the safeguarding of private rights or public property by discoveries of scandal chiefly in the lower administrative ranks.

3. The House and the Senate coöperate rarely by initiatory work of joint committees and mostly by use of corresponding committees, which, in extreme cases, complete legislation by their representatives in conference.

4. Though progress in methods of coöperation among the great governmental divisions has been retarded by differences in their character, tenure, and politics, and also in the case of Senate and

House by mechanical difficulties, yet there has been, on the whole, an oiling of intercourse, a binding together by the sutures of custom, which, though quietly unobtrusive, is nevertheless substantial.

THE SENATE.

I know what burdens of hatred every member of this body must carry when he goes home, because we have insisted that the inviolable right of asylum for the minority shall be preserved here.

DAVID TURPIE.

I am too familiar with the grandeur and the sweetness of what is called Senatorial courtesy to wish to infringe in the slightest degree upon the privilege of Senators on the other side.

WILLIAM E. CHANDLER.

There is a belief in the public mind that proper deference is not given by the Senate of the United States to the demands and interests of the people, and that this is largely due to the fact that Senators do not owe their positions to the people who are permanent, but to the legislatures which are transient.

JOHN H. MITCHELL.

CHAPTER VIII.

ANTECEDENTS AND OUTWARD RELATIONS.

THE foregoing study of the House of Representatives is helpful for an understanding of legislative methods in the United States Senate. Exposition of the latter's development may be briefer because of a large parallelism in the histories of the two chambers. No Cisatlantic body has made such extensive contributions to parliamentary law as has the House. Indeed, an assertion that it has outstripped the House of Commons might fail of successful challenge. Since the House has been the more progressive, the Senate has been put somewhat in the attitude of following, a fact which crops out in the Senate's debates from the earliest times. Whatever example the Senate has set for the House has been meager. On the other hand, much of the Senate's progress is traceable to the spurring influence of the lower branch. Though few men have gone as members from the upper to the lower body, a continuous procession of legislators, educated under the strict and intricate government of the House and import-

ing its ideas of procedure, has entered the Senate's doors.

Mere citation, then, of the common forces in the background often suffices. For instance, the experiences of the two have been about the same as to investigating committees; public hearings; relations with witnesses; the rivalry of the highly diverse interests of our broad land in legislative halls; the main sectional struggles of North as against South, of East as against West; the slower or faster progress attendant upon eras of peace and prosperity, or of war and depression; the vastly increasing demands for national legislation characteristic of recent times. The Senate advances tortoise-like along many lines over which the House has long since traveled. Here the stages which it has reached are to be marked. The sources of its history throw some light upon the rise of our standing committee system which those of the House do not furnish. Finally, the comparative view brings out the contrasts between the two, and sets forth principally the Senate's special and independent contributions to legislative science.

The same ancient parliamentary experience was common inheritance for House and Senate upon their first assemblage. Those old bonds the Senate has cherished more tenaciously than the House through all of its history. From them more conservatively it drew for its earliest code the most

venerable forms, to which it added few of its own devising.¹ The spirit in which the Senate was conceived, the spirit in which it has lived, has been the spirit of the past. Go back to the Constitution builders at Philadelphia. Two forces are striving among them. The one looks back to conditions which prevailed chiefly in the beginnings of society, to the simplicity and individual liberty which belonged to isolated conditions, when men were fewer and territorial reaches wider. The other urges forward to the social liberty of organization, to the necessity of government more compound and complex as the children of men are "fruitful, and multiply, and replenish the earth." A compromise between these two determined the character of Congress. In the Senate the smallest and most scantily populated was to be, and has been, on an equal footing with the largest and most densely populated State. The House was made to stand for organization, the Senate for individualism; the House for nationality, the Senate for historic Statehood; the House for the American's coming emancipation from physical environment, the Senate for the lingering necessities imposed thereby.

Now, this original spirit has not merely endured; it has been quickened by the circumstances of national development. The Mother of States in the first and formative half of our history was not

¹ 1:1, C. A., I. 20, April 16, 1789.

Massachusetts, but Virginia.¹ The Mother of Senators was not New York, but Kentucky. Even as far north as Wisconsin the votes of Southern immigrants tipped the scale against negro suffrage until after the Civil War. Even as far west as Kansas the Southerner met the Northerner in that fierce deadlock of the late '50's which presaged the end of Southern supremacy in all branches of the government. As late as 1881 thirty-four Senators were of Southern birth and early training, and two of foreign nativity had been reared in the South. Of the other Senators at that time, twenty-seven were sprung from the group of original States north of and including Pennsylvania; eleven from the States formed from the Northwest Territory, and one from a foreign land. Virginia and Kentucky tied New York and Ohio, each as the birthplace of seven Senators. Their origin was limited to twenty-three out of the thirty-eight States. In 1897 they come from thirty of the forty-five States. Seven are foreign-born and of Northern education. Ohio is the banner Commonwealth, with ten to her credit; New York ranks second, with eight; Virginia third, with five; and Tennessee, Massachusetts, Kentucky, and Vermont fourth, with four each. Thirty-six are of Southern nativity, twenty-eight from the Atlantic group north of Mason and Dixon's line, nineteen from

¹ Roosevelt's "Life of Benton," pp. 2, 10, 11.

the Northwest and the West.¹ The South not only reared her own Senators, but cradled those of the new frontier States which one by one enlarged the Union. Her people and her leaders have taught the let-alone principle, whether as against centralization in the government generally, or as against stricter organization in a code of rules for the Senate. The West, as a border-land, has stood for relapse towards individualism, independent even of its Southern antecedents.² The South and the West together have always outnumbered the Northeast in the Senate. This "wide-arched Union" can to-day be divided into two groups of about equal population, — the one north of Mason and Dixon's Line, and east of the Mississippi, and comprising fourteen States, with from one-seventh to one-eighth of the country's area; the other of thirty-one States in the more sparsely settled and vastly larger outlying regions. Add to these facts the Senate's comparatively slow and limited growth, — even now it is not as large as the House was

¹ The Fifty-fifth Congress is distinguished by the presence of a member who had never been east of the Mississippi River until he crossed it on his way to take his seat in the Senate; his inbred individualism is said to be evidenced, like that of the young Texan leader of the House minority, by uncompromising refusal to don a dress-coat.

² The "Significance of the Frontier in American History," by F. J. Turner, in the Proceedings of the State Historical Society of Wisconsin, 1894, pp. 3, 27-29; Editorial on the Force Bill, *Nation*, Vol. LII., p. 81, Jan. 29, 1891.

a century ago, — and the consequently less pressing need for encroachment by rules upon the prerogatives of the individual Senator. All these, — the absolute voting equality of the States in the Senate, the original provincial spirit which gave it birth, the earlier predominance of the agricultural South, the Western backwoodsman's traditional hatred of restraint, the smallness of membership, — have thus far combined to maintain unbrokenly within the legislative hall the old order against the new, the field of the individual against the field of the body politic, minority against majority rights. They are the peculiar and important conditions which should be understood and appreciated in a study of the Senate's committees, and of the general procedure which forms their setting.

Take first the subject of the touch between the public and the committees of the Senate. In the Convention of 1789 the idea that it should be largely independent of popular influence held strong ascendancy. In this respect it was to stand next, perhaps, to the Supreme Court. Men who believed that the new-born republic would be turned to monarchical forms saw the beginnings of possible aristocracy in the upper chamber. These men were numerous as members of the Senate itself. Beginning with a bare quorum of twelve, the important first session transacted its business with a working force at no time exceeding eighteen, and

fourteen months elapsed before the full complement of twenty-six was present. This small body, little different in size from an ordinary House committee of our day, sat, during its first five years, in secret conclave.¹ The pages of Maclay's Journal are full of the whisperings and the caballings which began with the first hour, full of figures passing along the narrow New York streets from house to house, by day and by night — the beginnings of the Senatorial caucus. Throughout the history of Congress secrecy has characterized the Senate more than the House. The choice of Senators by legislatures has largely favored men who succeed by secrecy — by bargain or ambush. Let the visitor in the Senate gallery watch the groups of two or three in the seats upon the floor, study the soberness or the shining of their faces, as they bend together in consultation, and forget the dull argument of the speaking member under the disturbing consciousness of power that mocks the public eye. How much the weaker must be the people's knowledge of the Senate's committee recesses. Sitting quietly among their fellows in the Senate chamber are two, the caucus chieftains, whose power over the Senate committee system is of the same character as the power of the Speaker over the House committees. It is a two-men power. How many Americans can name them? Who de-

¹ 42: 2, C. G., 2875, April 29, 1872, remarks of John Sherman.

nounces them as autocrats? Who urges for the functions that they perform a publicly known and Constitutional officer like the head of the House? All this is not saying that those many changes which have lessened the evils of secrecy in the House have not likewise operated upon the Senate, nor that the Senate has been totally irresponsible to the popular voice. In 1856 Senator John P. Hale stood up alone among his political foes, with the vision of workmen spinning wires throughout the land, and with fire in his eye prophetic of the mighty evolutions electricity was to aid. How the slow old leaders in their seats must have started as he cried, "What we do here to-day, to-morrow's sun flashes broadcast over the continent!" Freedom of debate is proving less and less adequate in the Senate, and, as a truer regulator, has come, and must come in larger measure, responsibility to the more and more clearly knowable popular will. Election of Senators directly by the people is one step towards this end.¹ An amendment to the Constitution effecting this change in the method of choice seems inevitable, if we review the growing agitation of recent years, both without and within the Senate.

But even with this improvement the territorial basis of the Senate will remain as a varying ele-

¹ "Election of Senators by Popular Vote," by Senator John H. Mitchell, *The Forum*, XXXI. 385.

ment for keeping it out of harmony with the popular majority. State representation, treated for the House in a preceding chapter, has not needed insistence in the Senate. States have there found their stronghold upon the floor. The time has never been when all of them could, as a uniform practice, be represented upon the committees; for that would mean half the Senators to a committee. As a rule, committees consisted at first of three, and later of five members. There was, however, at the First Congress one fully representative committee of eleven on salaries for the President and the Vice-President.¹ In earlier days, with occasional exceptions, no State furnished two members for a committee. In the first block of standing committees, that of 1816, other considerations, as ability and sectional interest, had more weight than State equality.² Eleven committees of five members each furnished fifty-five places in all. States most concerned held most influence over a subject. An Ohio Senator was chairman of the Public Lands, and three other frontier States had membership therein. Upon the Commerce and Manufactures four Northern States were represented. No New Englander was upon the Military Affairs, no member from a new State upon the Pensions or the Claims. Upon the Judiciary were Vermont,

¹ 1:1, C. A., 1:58, Aug. 6, 1789.

² 14:2, S. J., 43-45, Dec. 13, 1816.

Rhode Island, Connecticut, Kentucky, Georgia. Both Senators from New Hampshire were members of the Finance. Tennessee was distinguished with two chairmanships, those of the Finance and the Military Affairs. Four out of the fifty-five was the commonest number of places to a State; but Pennsylvania had six, while Ohio, North Carolina, South Carolina, and Delaware had each but one.

The principles of this first list of eleven standing committees characterize the fifty-nine in the system of to-day. Committees having in charge broad national interests are made up of men from all extremes of the land, with no State represented by both of its Senators. Such are the Appropriations, the Post-Offices and Post-Roads, the Education and Labor. Others particularly important to certain regions are composed mainly of men from those regions, as the Fisheries, the Relations with Canada, the Mines and Mining. Occasionally Senatorial colleagues find themselves upon a committee together, the one from the majority, the other from the minority party. Positions sometimes come to a new member by a sort of vested right of his State. In 1837 Mr. Tipton, the new Senator from Indiana, took the place as chairman of the Post-Offices and Post-Roads of Mr. Hendricks, from that State, whom he had succeeded. Senator Pritchard of North Carolina was assigned to the District of Columbia in 1895 "because his predecessor, the late

Senator Vance, was for many years an active member of the committee.”¹ Often Senators are temporarily appointed to hold places for men whose entrance into full membership of the Senate has been for some reason delayed. Very commonly one Senator from a State keeps them for the other. Upon the arrival of the Senators from the new State of Utah six places held for them were resigned, three to each.² Mr. Call of Florida advocated a rule which should allow to no Senator more than one place upon the combined membership of nine specified leading committees.³ Mr. Earle, recently chosen as a new Senator from South Carolina, urged that the delay of more than a month in the reorganization of the Senate’s committees was an injustice to his State.⁴ Yet, as the result of constantly finer readjustments of the committee positions, the power of the States, old and new, majority and minority, has approximated as nearly as would seem possible to equality. The usual present quota of places to each Senator is six, though minority members often get but five.⁵ Not only is this numerical basis closely observed, but the impor-

¹ *Washington Post*, Dec. 15, 1895. On this ground Senator Hanna claimed Senator Sherman’s place upon the Finance, *Washington Post*, March 7, 1897.

² 54: 1, C. R., 1774, Feb. 12, 1896.

³ 47: 1, C. R., 1947, March 16, 1882; 54: 1, C. R., 341, Dec. 27, 1895.

⁴ 55: 1, C. R., 659, April 6, 1897.

⁵ Each Congressional Directory gives an alphabetical list of Senators with their assignments.

tant and the unimportant positions are almost as evenly distributed, whether Maine be compared with Texas, or Nevada with New York. The only exception noticeable in the list of the Fifty-fourth Congress is a slight favoring of the little group of latter-day Quids who held the balance of power.

Another aspect, however, shows considerable inequality. The practice of assigning chairmanships according to seniority of committee service has operated in favor of those States which are most conservative, whether for political or other reasons, in changing their Senators. As a result the six States of New England hold in the Fifty-fifth Congress a remarkable lead, comparable only to the superiority in the Fifty-third of a continuous chain of Southern States, Florida, Alabama, Mississippi, Tennessee, Arkansas, and Missouri. With two-fifteenths of the Senate's voting strength these New England men are either the heads, or the heirs apparent to the headships, of three-fourths of its standing committees. Every one of them has an important chairmanship, and together they hold eight out of the dozen or so which are of the first rank. The six Atlantic States immediately south of them, including the two most populous and wealthy of the Union, have only six chairmanships, but one of which is even of secondary importance. Beyond these are twelve Southern States with eleven insignificant minority chieftainships.

The States of the Northwest Territory, together with West Virginia, hold eight first places, one-half of which are important. Just beyond these is a group of six, Iowa, Minnesota, the Dakotas, Kansas, and Nebraska, which stands next in advancement to New England. With two-fifteenths of the Senate's membership, it holds first and second places on three-eighths of the committees; and its Senators head ten of them, including the Appropriations and the Foreign Relations. The remaining nine States of the Far West have twelve chairmanships, which are, with one exception, more of local than of national interest.

Statehood, as a factor, the reader will have observed, is overshadowed by sectionalism. The histories of the two branches have not differed as to principle in this respect.¹ North and East have faced South and West.² Sectionalism is probably capable of greater exaggeration in the Senate. Slower changes in the Senate's membership, easier mastery where the body is small, as well as the greater stress laid upon seniority as a test for positions and promotions, work to this end. The South held unbroken control of the Senate committee system when its Senators withdrew in 1861, and

¹ Above, pp. 48-52.

² Cf. editorials against the dominance of the "Southern Oligarchy" over the Senate committees, *New York Tribune*, Dec. 24, 1849; Dec. 13, 14, 1855; Dec. 19, 1859; also a triangular debate of Senators from Northeast, Northwest, and South, 35:1, C. G., 41, Dec. 16, 1857.

its power was heightened then, as even now, because they had seen much longer service than those who were coming from the changing North. Likewise the older sisters of the East have been tenacious of power. With outward show of courtesy they gave to Utah the share of Cinderella. Yet fewer rivals, old age, and death play a larger part for new Senators than for new Representatives. Once he has gained the citadels, the miner from the camp of the Rockies is peer of the scholar-politician from Boston. The States south of the Ohio and those west of the Mississippi have combined during the last three Congresses, and held the Senate's committees in party equilibrium.¹

Sectionalism is interwoven with the question of the party composition of the Senate's committees. Here the two branches of Congress have developed different methods. Both began in 1789 with choice of committees by ballot. The House quickly discarded the practice; the Senate found it practicable for half a century. "All committees shall be appointed by ballot, and a plurality of votes shall make a choice," was the brief rule adopted by the latter, April 16, 1789. This clause gave the largest group in the chamber the headship of the committee under process of appoint-

¹ The money question has been the issue; for a suggestive debate arising from this deadlock, cf. 54: 1., C. R., 420-429, Dec. 30, 1895.

ment because the man of its choice stood first in the number of votes. Through absence of concerted action, through a very free exercise of individual preferences, the committeeman standing second in number of votes would be elected by an aggregation of voters slightly, or it may be markedly, different from that which had conferred the chairmanship. So it would be as concerned the remaining members of the committee. Thus, at the outset the ballot left larger latitude to a minority than did the House regulations, a latitude too deeply grounded by the long prevalence of the above rule to be disregarded when later plans of choice came into vogue. Custom has constrained the Speaker of the House from the first to grant membership, in the committees which he appoints, to its minority, and to conform, in the number of places he gives, more and more to the exact ratios of the House membership, in which latter respect the records of the House seem fairer than those of the Senate. But the House minority had not time in the beginning to establish a privilege of determining its personnel in the committees, and on that head has only in these later times found the Speaker's arbitrary authority limited by seniority and other customs.¹ On the other hand, it has

¹ The Speaker consults with the recognized minority leader in slating the minority membership of committees, *Washington Post*, Dec. 1, 1895.

been the rare exception rather than the rule for the Senate's majority to have any voice whatever in the distribution of minority favors.

The right of the majority, or of the plurality, to chairmanships was probably customary in the beginning. The chairmanship was not then of such importance as to be fought over by a committee's members. It may be inferred that the President of the Senate would designate the man who had most votes as chairman simply by naming him first.¹ The Senate's code had for the first thirty-seven years no provision giving the majority the chairmanships. The right was established Dec. 8, 1826, by a new rule, of which Ezekiel F. Chambers of Maryland was the author. Thenceforward the majority chose all chairmen upon distinct ballots, and afterwards the remainders were filled out by plurality votes. In 1824 the right of the majority to largest representation upon a committee was ratified by the rejection of an odd proposal to associate as one the Finance and the Commerce and Manufactures for consideration of the tariff bill of that year; the two combined would have given to the Senate's minority a majority hostile to the measure.² The respective voting strengths of the parties determined the ratios of their commit-

¹ Jefferson's Manual, VII. 1; J. Q. Adams's Memoirs, I. 384, 482.

² 18:1, S. J., 307, 311, 312, April 20, 21, 1824; J. Q. Adams's Memoirs, I. 383, 385.

tee memberships under the ballot method roughly indeed; for the committees were small, and unexpected results were frequently forthcoming. There were about twice as many Republicans as Federalists when, in 1816, the standing committee system was initiated. The election at that time resulted in ratios of three Republicans to two Federalists for five committees, and of four Republicans to one Federalist for four committees. The minority always had one or two members of a committee of five, no matter what the method of appointment.

Present day students of the Congressional procedure need to bear constantly in mind the difference in the strength of party lines in earlier and later times. The progress toward stricter party organization finally discarded the ballot system. Under the ballot the accidental could figure, and small combinations of Senators, favored by the unorganized condition of their fellows, could sometimes decide elections.¹ The minority controlled the Finance Committee in 1816, and held the chairmanship of the Commerce and Manufactures, while the Military Affairs was chosen entirely from the majority. The attitude of the sections towards the War of 1812, and New England's superior financial condition at its close, may be recalled as explaining this arrangement. The ballots for committee

¹ For comments on phases of balloting for committees, cf. J. Q. Adams's *Memoirs*, I. 329, 336, 369.

chairmen in 1833 and 1835 show party struggles for some places, but non-partisanship in filling others.¹ There were always three or four scattering votes. Those were grand transitional times in party history. Majorities in committee elections were small when places were sharply contested. The personal element counted for much. In 1833 Webster was honored with a chairmanship at the same time with Benton and Poindexter. His rival then and in 1835 was Silas Wright. Frelinghuy- sen distanced Clay in 1833 by one vote; but Clay obtained a chairmanship in 1835, being elected by a ballot of twenty-three to nineteen over King of Alabama. Clayton won the headship of the Judiciary over Forsyth and Buchanan in turn. Calhoun, the Nullifier, was not even put in nomi- nation. As a rule, in these two ballotings defeated candidates were not afterwards placed with their vanquishers upon the committees for whose leader- ship they had contested. For interests of the in- terior tried chairmen were reëlected unanimously, as Hendricks upon the Roads and Canals, White upon the Indian Affairs, Grundy upon the Post- Offices and Post-Roads. But upon the opening of the second session of the Twenty-fourth Congress, Dec. 12, 1836, the very men who at the first ses- sion had chosen Clay and Webster to the headships of the Foreign Relations and the Finance, deposed

¹ 23: 1, C. D., Pt. I., pp. 42, 43; 24: 1, C. D., Pt. I., pp. 11, 12.

them to lay membership upon their committees, and put in their places James Buchanan and Silas Wright, at the same time changing by large majorities of from eighteen to twenty-five votes the chairmanships of all but four of the other eighteen committees — a remarkable political upheaval, preliminary not only to the passage of the Expunging Resolutions, but also to the new dominance of important and far-reaching policies in the Senate.¹ Another radical reorganization came with the complete triumph of the Whigs in 1841, when Benton lost the chairmanship of the Military Affairs which he had held so long.

What whispered conferences, what fevered bargainings, may have filled the intervening periods of counting ballots for committeemen in those old days when the Senate's giants touched their grandest stature! To get at the outset of a session the humiliating or the encouraging estimate of one's peers, mathematically exact — that was the fascinating game! But the ballot was constantly getting less satisfactory. With the growth of the Senate, and the increase in the number and the importance of the committees, as well as with the adoption of the plan of organizing them all at the same time, the old, slow device proved irksomely tedious and time-wasting.² Two or three days

¹ 24: 2, C. D., Pt. I., pp. 6, 7.

² 19: 1, C. D., Vol. II., Pt. I., p. 525, April 12, 1826, remarks of John Randolph; 23: 1, C. D., Vol. X., Pt. I., pp. 20-24, Dec. 9, 1833.

were often required for the work. As has been said, such elections were subject to chance and to plurality cliques. They were often influenced, according to one who participated in them, by the fact that certain members sat near to each other. The secret vote was too independent of party control and guidance. Mr. Chambers's rule of 1826, providing for distinct ballots and majority decisions as to the chairmen, may have afforded some relief. It doubled the number of ballotings; but said the reporter upon the first occasion of its use, "In no case was a second balloting necessary." Influences which were undermining the ballot and working towards the future order are traceable from the very beginning.¹ Naturally certain Senators would scheme and intrigue in advance of the elections. "On this transaction I remark — first, the singular effects of the spirit of party. When the New York memorial was presented, Wright wanted it to lie over till the next day, for the purpose of having the committee agreed upon out-of-doors, by the *party*," wrote Senator John Quincy Adams in 1806.² Assignment of committee places is a function executive or judicial in character. As such the experience of most legislative bodies has determined for its performance by a few men

¹ Ford's "Writings of Jefferson," VII. 132, letter to Madison, June 1, 1797.

² J. Q. Adams's Memoirs, I. 384, 385.

or by one man. The Senate's devious history has not been exceptional.

It was common during the Presidency of Monroe for some Senatorial leader to move to fix for the appointment of the committees a day and an hour somewhat in advance. Later, as the first week of a session was drawing to a close, the following Monday would be set. This gave the weekly holidays for consultation. Difficulties incurred in 1819 while making these previous arrangements are indicated by three postponings of the ballot, and by its delay until ten days after the beginning of the session.¹ Before the appointment in 1821, John H. Eaton of Tennessee testifies his dissatisfaction with recent events by moving that a select committee be instructed to consider the rules, and "to expunge so much thereof as relates to standing committees." The rules had never prescribed any other method than the ballot previous to 1823. That year Mr. Eaton, reënforced by Andrew Jackson as a colleague, courageously renewed his efforts for reform, making them this time constructive. He was for choosing by ballot the chairmen of five leading committees, and vesting them with the power of filling all of the remaining committee positions. The Senate considered his plan in Committee of the Whole, but adopted in its stead James Barbour's simpler prop-

¹ 16: 1, S. J., 7, 22, 26, 28, 29.

osition for the appointment of all committees by the presiding officer.¹ Thenceforth until 1845 the committees were named, now by the President *pro tempore*, now by the Vice-President, now by recurrence to the ballot, now by a combination of methods. None of these were satisfactory.² We have various hints that the "spirit of party" was all the time working underneath for a new order. Against return to the ballot, William R. King, with fourteen years of Senatorial service behind him, urged upon one occasion that "arrangements might be made out-of-doors, and members might be influenced for the moment by popular individuals;" against appointment by the Vice-President, Willie P. Mangum, also a veteran, scented the danger of his being "dictated to by members of the body over which he presided."³ From 1836 to 1845 these two able statesmen, with Samuel R. Southard, served in succession as Presidents *pro tempore*; and by unanimous consent uniformly appointed the committees. Probably they employed methods in making up the lists which had important formative influence for the later practice.

Whatever precedents they may have set, it was reserved for the Mexican War crisis to give the

¹ 18: 1, S. J., 26-28, Dec. 7-9, 1823.

² The failure of the presiding officers is considered below, Chapter IX.

³ 23: 1, C. D., Vol. X., Pt. I., p. 21, Dec. 9, 1833; 29: 1, C. G., 19, 20, Dec. 4, 1845.

plan for appointment, and to shape the methods of organization as nothing before or since has done. The records of the Senate's proceedings upon the opening of the Twenty-ninth Congress mark that distinct step which put the selection of the committees into the charge of majority and minority caucuses. For some time previously to 1845 party majorities in the Senate had not risen beyond half a dozen votes, and now a reversal of power had brought the Democrats into control. Decided agreement between the two sides prevailed for the support of Polk's policies with reference to Texas and Mexico. On Thursday, the 4th of December, some Democrats joined with the Whigs to form a bare majority of one against appointment of the committees by Vice-President Dallas. In the debate preceding this vote frequent references were made to organization of the majority for control in the filling out of the committees. Senator Mangum, as the minority leader, spoke of "a list made out and decided on by a meeting of members of this body belonging to a particular party." Replying, Senator Allen denied that the resolution for appointment by the Vice-President had emanated from a "caucus of the Democratic members," but Sidney Breeze undertook to justify conditions which would make that officer the mere agent of the majority for presenting its previously arranged slate. At the next meeting, on Monday four days

later, the balloting for committees was postponed, perhaps, as intimated by Senator Crittenden, with a view to further harmonizing conferences between the party managers. On Tuesday and Wednesday the chairmen were elected by strict party votes, with the exception of William Upham, who was unanimously placed at the head of the Pensions. Party spirit and comity were further evidenced by a determination of majority and minority rights as to second and third places. Vice-President Dallas was for naming lay members of the committees in order from the one receiving most to the one receiving least votes. This had been the early usage.¹ But Senator Sevier, spokesman of the Democrats, took the matter in hand by motions which rearranged the names, and safeguarded the majority's succession to chairmanships which should become vacant. The Whigs were playing for delay; and only two committees had been filled out by the third Monday of the session, when Senator Cass sprang some warlike instructions to the Military, Naval, and Militia Committees. Though these were not yet appointed, the Whigs were whipped by a two days' debate into a unanimous vote for Mr. Cass's resolutions. At length, on the 17th of December, the end of the organization of the committees was reached; the war committees

¹ 34: 1, C. G., 22, Dec. 13, 1855, remarks of the President of the Senate.

and the Commerce were named by ballot, but all the rest — and here is the central turning-point in the Senate's practice — upon unanimous consent to lists presented by Senators Jesse Speight and Ambrose H. Sevier.

A year later, Dec. 14, 1846, in the same Congress, when the annual choice of committees had proceeded as far as the election of the first six chairmen, the following colloquy occurred between Whig and Democrat: —

“Mr. Davis (Massachusetts) suggested that, if any gentleman upon the other side of the Chamber had a list of the committees as they had been agreed upon by the majority, it might by common consent be read, and declared to be a list of the standing committees of the Senate, which would be a great saving of time, without altering the result which would be arrived at by the tedious process of balloting.

“Mr. Sevier (Arkansas) observed that he had a list of the committees which had been agreed upon, not only on his side of the Chamber, but upon the other also, which might be read and adopted by common consent.

“The list having been read, —

“Mr. Mangum (minority leader) then moved that the list of committees just read be the standing committees of the Senate; which was also agreed to.”

A further item as to the above transactions is attributed to Mr. Sevier at the next appointment: "According to the arrangement of the last session, three members on each committee had been elected on his side of the Senate. The list had been handed to the Senators on the other side, and they had filled it up. The Naval and Military committees, which had been increased by order of the Senate, would stand five to two."¹

Whigs and Democrats were congratulating themselves and each other upon having now at last invented arrangements so harmonious and so expedite, but a fresh difficulty shortly presented itself. Upon the third trial of this caucus method a new Senator refused to affiliate with either of the two parties, and declined the three insignificant committee places which they had assigned to him. It was John P. Hale, Freesoiler and solitary pioneer of the Republican Party in the Senate. Upon the appointments of the committees at the two following sessions he was ignored. At the outset of his second Congress he availed himself of his most emphatic protest, the breaking of unanimous consent to the suspension of the rules. Salmon P. Chase and himself, as constituting the caucus of a third party, had not, he averred, been most remotely consulted in the preparation of the com-

¹30: 1, C. G., 19, Dec. 13, 1847; cf. also 31: 1, C. G., 39, Dec. 18, 1849, remarks of Willie P. Mangum.

mittee list. His movement was a stumbling-block for the old-time politicians. With some beating about the bush, they fell back upon the tedious but time-honored ballot rule, first for the chairmen, the election of whom occupied that day. The recalcitrants were so far persuaded by the next meeting as to allow all of the committees to be named by mutual agreement save three, the Judiciary, the Territories, and the District of Columbia, which were important for the Freesoil issue.¹ Four years later these independents won the beginnings of recognition upon the committees through sufferance of the older organization. The Democrats appointed Chase upon the safely non-political committees, the Claims, the Roads and Canals, and the Patents; the Whigs ungraciously left vacant the last places upon the Pensions and the Enrolled Bills, which the Democrats filled in with the name of Charles Sumner.² John P. Hale again obstructed organization of the committees, Dec. 12, 1855; and the Senate put in by balloting some of the abundant leisure incident to waiting for the end of one of the celebrated Speakership wrappings of the House.³ The Whig Party had disappeared from the Senate, and at this time some small recognition was again given to the men of new poli-

¹ 31: 1, C. G., 39, 44, 45.

² 33: 1, S. J., 31, 32; *New York Tribune*, Dec. 13, 14, 1853.

³ 34: 1, C. G., 17-20, Dec. 12, 1855.

tics. Said the *New York Times*: "The committee appointed by the Democratic caucus of the Senate to report a list of Senate committees to be voted for by the body have concluded that the Republicans and Know Nothings are 'healthy organizations,' sufficient at least to justify their sharing in the labors of the committee room."

From 1855 until 1861 the Republicans were not only accorded places, but some right of naming their representatives. Without forcing the ballot they contented themselves with demanding the Yeas and Nays upon the final adoption of committee lists.¹ Their sense of unfair treatment was also proclaimed in their speeches. Lyman Trumbull asserted that his party, with one-third of the Senate, had been excluded by the majority utterly from some of the committees, and upon others had been given but one member out of seven; Hannibal Hamlin figured that the Republicans had received but twenty-six of the thirty-nine committee places to which they were entitled.² In 1859 the Republican side, waxing fat and kicking more lustily, was disposed to show discontent by refusing to name its own representatives.³ When the caucus plan of appointing had been first tried, the lists, as has been shown, were presented in open Senate

¹ 34: 3, S. J., 29, 30, 388, 389; 35: 1, S. J., 39-41.

² 34: 3, C. G., 384.

³ *New York Tribune*, Dec. 19, 20, 1859.

by a minority member, as if to witness the perfect accord of all concerned. In such spirit William H. Seward and Jesse D. Bright later performed the same office.¹ This custom, however, did not survive war times.

In the War Congresses, the Southern element being absent and party lines being somewhat broken, the Republican caucus performed the entire function of committee assignment. Nevertheless, Senator Saulsbury entered a protest, March 5, 1863, because the Democrats had had no voice in the selection of their own members, and was followed in the same strain at the next session by Senator Powell.² Answering the latter, John P. Hale reviewed, in his good-humored, humorous way, his own above recounted experiences; and Henry B. Anthony, Republican caucus spokesman, admitted that the list had not been submitted to the minority, but insisted upon its justice and liberality. Before long, however, the Democrats regained their privileges. March 10, 1871, John Sherman stated without contradiction that they had received at the session then beginning their exact quota of positions, and that the Republicans had not changed a single assignment which they had made.³ The minority was getting larger — twenty-nine out of seventy-six Senators — when, in 1875, “great dis-

¹ 34:3, S. J., 388, 389. ² 37:3, C. G., 1554; 38:1, C. G., 15.

³ 42:1, C. G., 50.

satisfaction was expressed that the majority had left only two places on the Finance Committee for Democrats to fill, instead of three places as on all the other important committees composed of nine members.”¹

As usual at the opening of a Congress, some sort of reorganization was necessary in 1881; but the Senate was for the first time clearly and evenly divided between two political parties. One Republican Senator died, and three others were drawn into Garfield's Cabinet. David Davis and William Mahone further complicated matters by their independent attitudes. There was considerable talk of high-handed proceedings for the possession of the committees. The Democrats brought in a list in the preparation of which the Republicans had had no part. A dramatic debate ensued. By plain intimations of a resort to filibustering the Republicans secured delay until the vacant seats were filled. With the help of the Virginian readjuster and of Vice-President Arthur, who held the casting vote, they then carried off the organization. Garfield's death withdrew Arthur, and made the situation so much more delicate that all the Republicans dared do for two years was to move for the revival and continuance of old lists, with filling of vacancies by Mr. Davis, who had been chosen President *pro tempore*. The Senate's latest history

¹ *New York Tribune*, Dec. 9, 1875.

has been marked by the presence of a larger balance-of-power group, the Populists and the Silver Republicans. With no element in the majority, the plurality has by common consent obtained the chairmanships and accompanying advantages. To get these, it has had to be very careful and liberal in its gifts to the third party. A proposition in the Republican caucus of 1895 for union with the Democrats, to the ignoring of the Populists, in distributing committee positions, by contrast with the Whig-Democratic agreement of the '40's, was opposed vigorously and defeated.¹ The ratio on committees of special importance for present issues has been, as a rule, an equal membership to the two large parties, and one representative from the third. The fact that its determinations finally depend upon unanimous consent makes the organizing party exceedingly ready to hear the complaints and grant the requests of the others.²

What has been presented in detail bears witness to what was prefaced as to majority and minority rights. Rarely now is a committee chosen by ballot.³ Many vacancies, occurring singly as sessions have run on, have been filled by the Vice-President or by the President *pro tempore*; but even

¹ *Washington Post*, Dec. 3, 1895; cf. also March 9, 1897, p. 4, and March 30, 1897, p. 6.

² *Washington Post*, Dec. 19, 28, 1895.

³ Cf. S. J., March 5, 1872, for an instance since the War.

these cases seem of late to be only formal announcement of caucus decisions, or mere recognition of binding Senate customs. Forty years of trial have established securely and completed the plan of choosing the committees by party caucuses. We may survey from a distance a recent "reorganization of the Senate." A new Congress is beginning. At the preceding session the Democrats were in control, but now the Republicans are considering whether or not their ranks are sufficiently recruited to capture the places of power. They decide in the affirmative. They prepare a new committee list, in which they name all of the chairmen and a majority of each committee. Following Democratic example, they are careful to assign to the Populists and Silver Republicans such tempting balance-of-power plums as will conciliate them, and reconcile them to the proposed change. The slate is presented to the Democrats, who, in the minority rôle, have been patiently awaiting events. The Democrats are at first doubtful what course to pursue. They are not sure that conditions are so changed as no longer to guarantee their supremacy. A trial of strength upon the floor of the Senate may be advisable, say in the election of a President *pro tempore*. But upon further reflection they take up the proffered schedule, and begin a series of parleys with the enemy. "The Senate will be largely

given up this week to caucusing by all parties, and the daily sessions will likely be brief," observes at this stage a knowing newspaper correspondent. Granted that the general change shall be made, the Democrats are not altogether satisfied with some of the ratios proposed. They send certain counter-propositions in written form to the Republicans. Meetings of representatives from the two parties follow. When all disputed points are at length settled, the Democrats retire within their own quarters, and proceed to write in their names upon the blanks — by no means a harmonious family task for either party.¹ The Republicans are now impatience personified, realizing that they are at the mercy of Democratic delay. They scold, and threaten to refuse to adjourn for the holidays until the completed list is returned to them. A House resolution for adjournment is favorably reported from the Senate Appropriations Committee to which it has been referred, and which, accidentally, has a Democratic majority. In this way the subject of committee organization is projected upon the floor of the Senate. There the Republicans are scandalized by the unprecedented proposal for laying over appointment of the committees until the New Year. The Democrats declare in self-defense that they are expected to accomplish in

¹ The concluding pages of Chapter IX. describe this internal procedure of the party caucuses.

three days a task for which the Republicans have taken three weeks. The Republicans thoroughly sound them as to their intentions. They play a little upon the suspense of the would-be organizers, but at length give out that they may be ready to report the day before Christmas. Meanwhile the President of the United States also finds the holiday argument available in a message urging no recess before the national finances are relieved. The House retracts its proposal to adjourn. Accordingly the Democratic Senators take their time, and return the completed list to the Republicans on the 28th of December. The next to the last day of the year consummates the process. Unanimous consent in open Senate once more suspends the ancient ballot rule. The leader of the largest group presents the list. Democrats demand the Yeas and Nays, and Populists will not vote. A long debate follows, by which, contrary to custom, the relations of the party caucuses are a second time aired for a candid gallery and journalistic world. Finally a cynic voice proclaims the reorganization an accomplished fact, with the words: "If the debating society is over, I wish to move that the Senate proceed to the consideration of executive business."

A phase of Senatorial committee development within the last score of years requires notice. Upon the occasion of the deadlock in 1881 the Democrats

slated the Republicans with three minor, non-political chairmanships. The Republicans of that Congress, in their successful list, gave not only these three positions to the Democrats, but also the headships of three select committees and one joint committee, with majorities upon all of the seven.¹ There were then forty-four committees, there are now (1898) fifty-nine. Thirteen chairmen are now taken from the minorities, eleven Democrats and two Populists.² Upon some of the committees headed by Republicans the majorities are from a minority party; many are constituted as of old with Republican majority and Democratic minority; some are made up wholly of Populists and Democrats; some have a Republican minority thrust into the midst of Democrats and Populists. The key to these increased privileges of the minorities, and to this enlargement or inflation of the committee system by one-third, is the demand of individual Senators for quarters and clerical aid at public expense. This motive was avowed by Lyman Trumbull twenty-five years ago.³ When a select committee on woman's suffrage was created, Dec. 16, 1881, Senators Vest and Morrill intimated that the covert object was a room and employees

¹ 47 : Special Session, Cong. Directory, 3d ed., pp. 81-85; *New York Tribune*, March, 1881.

² 54 : 1, C. R., 424, Dec. 30, 1895, remarks of Senator Gorman; *Washington Post*, Dec. 9, 1895.

³ 42 : 1, C. G., 50, March 10, 1871.

for a Senatorial lord of creation.¹ "What these gentlemen want, to come down to the real facts of the case," said Senator Morgan, "is a convenient body servant, a man who will wait upon them in a quiet and excellent way. It is not for the public service, it is for private service, that we are voting these messengers, and for the accommodation of a few gentlemen."² The Senate refused to abolish the Committee on Revolutionary Claims because its room belonged by custom to the minority caucus.³ In 1884 Senator Vest returned to the charge against "the sinecure committees," affirming that there were six which had "never had a bill or a resolution or a particle of business before them."⁴ At that time the Butler House, rented annually for from twenty-five to thirty-five thousand dollars, was being used avowedly for committee meetings, really for individual accommodation, and the Maltby House is now similarly employed. Said the chairman of the Committee on Rules, William P. Frye, "There are a dozen or sixteen committees of the Senate that can be dispensed with just as well as not; and if each Senator has a clerk, the necessity for those committees, if ever there was any, ceases with the employment of that clerk."⁵

Plainly here are Senatorial usages respecting

¹ 47 : 1, C. R., 144. ² 47 : 1, C. R., 5387, July 27, 1882.

³ 48 : 1, C. R., 232, Jan. 7, 1884.

⁴ 48 : 1, C. R., 308, Jan. 11, 1884.

⁵ 49 : 1, C. R., 88, March 31, 1885.

which Vice-President Jefferson, as he compiled his Manual, was silent. These admissions show that the Senate is not unlike many another delegate body in that fear of popular punishment which leads to indirection. They may be taken at their worth as measures of its alleged indifference to public opinion. What a Websterian fund of rhetoric, logic, imagination, is that which transforms the Committee to Inquire into all Claims of Citizens of the United States against the Government of Nicaragua into the Committee on the Construction of the Nicaragua Canal, the Quadro-Centennial into the International Expositions, the latter half of the Agricultural and Forestry into the Forest Reservations in California, then into the Forest Reservations, then into the Forest Reservations and the Protection of Game! What skill of leadership, surpassing Henry Clay's, will shortly pilot them into the standing list, and cut their names in twain, when, presto, there will be two committees where one was before! Could he but return long enough to read over the latest annual reports of property under the care of the Sergeant-at-Arms, — mostly in committee rooms, — and of moneys disbursed by the Secretary from that Contingent Fund which covers such a multitude of sins, — mostly committee sins, — the charge of luxurious extravagance would be more than amply sustained in the mind of any one of those out-of-date Constitutional

Fathers who planned the upper house of Congress. He would wonder at the silk gloves, the corkscrews, the quinine pills; he would shake his head over the Turkish rockers, the Smyrna and Axminster rugs, the antique oak French bevel mirrors. But the American of twentieth century aspirations, though to-day his pockets be empty as he treads Washington's beautiful public halls, though he sees reflected in their golden domes the stintings of his coffee and sugar, rather condones and forgives it all in the proud sense that anything less were not worthy of a nation so rich and so grand — his own country.

While the Senate has been so generous toward itself, what care for the interests of private citizens has its committee system reflected? From the number of reports presented by their private bill committees the two branches of Congress seem in this respect to be about equally active. The Senate's rules have shown discrimination in favor of public as against private measures, but not to nearly so marked a degree as those of the House. The tendency is noticeable as early as 1833.¹ Feeble imitations of the House plan of making Fridays and Saturdays private-bill days failed in *ante bellum* times.² The more loosely organized Senate

¹ 22:2, C. D., 359, Feb. 6, 1833.

² 23:1, S. J., 247, 256, 367, June 28, 1834; 24:1, S. J., 379, May 24, 1836.

code enables private measures to be reached upon its calendar, and to secure consideration upon the demand of the individual member. Petitions, generally of an unselfish and public-spirited character which does honor to American citizenship, are heard as of old in open Senate, to the inspiration of lofty legislative aims. Time is not pettily wasted in questioning the reports of claim and pension committees. They are trusted so implicitly, and their bills are enacted into law so readily, that the onlooker carries away an impression of rashness and carelessness. To such and worse charges the newspapers have given sensational currency. The Senators, in self-defense, go back to the committee rooms, and claim that, in these, courts of thirteen men each pass twice upon every private measure as carefully and as strictly as would regular judicial tribunals.¹ They recognize the need of some corrective for public misapprehension, but do not suggest for the committee meetings that publicity which attaches to the proceedings of ordinary courts. The Senate appears more able and more willing than the House to bring private legislation to a finality. Senator Hoar, contrasting the two, charges the latter, by admission of its Speaker, with such an inability to sift private measures that it must either let through more of the evil than of the good, or let through

¹ 54:1, C. R., 2046, 2047, Feb. 24, 1896.

none at all.¹ The opportunities and the inducements of log-rolling are smaller in the Senate. Because of those same conditions which have enabled it in respect of public and personal expenditures to be much more regardless of restraining popular sentiment, it has shown a more liberal and often a juster spirit towards private citizens with claims against the government. Though it has lent a too willing ear to the business barons, its records are clearer of niggardliness and selfish favoritism in its relations with that multitude of humbler men who have had irons in the Congressional fire.

¹ An article entitled "Has the Senate Degenerated?" by George F. Hoar, *The Forum*, XXIII. 140.

The rule of the Senate has been its own sense of propriety and dignity.

HENRY B. ANTHONY.

I am not much of a stickler anyway regarding the jurisdiction of the committees; they are but auxiliary to the business of this Senate.

HORACE CHILTON.

Yet I stay here wrangling vile politics in a contentious Senate, where there is no harmony of soul, no wish to communicate a happy sensation; where all is snip-snap and contradictory; in short, where it is a source of joy to place the speech of a fellow Senator in a distorted or ridiculous point of view.

WILLIAM MACLAY.

CHAPTER IX.

INTERIOR ORGANIZATION.

ABSENCE of development is the first feature to be marked in a history of Senatorial legislative methods. It is impressed by the testimony of Senators themselves, especially of New Englanders, from John Quincy Adams to Henry Cabot Lodge. "The rules of the Senate are practically unchanged from what they were at the beginning," declares the latter.¹ "Rules are never observed in this body; they are only made to be broken. We are a law unto ourselves," commented President *pro tempore* Ingalls.² Mutual respect, courtesy, forbearance, kindness, propriety, dignity, sedateness, character, reputation, honorable obligation, high responsibility as gentlemen and Senators, — these are the graces that keep the Senate's peace. Fixed and arbitrary law is for law-breaking assemblies. Tyro legislators need a Yankee schoolmaster, but Senatorial maturity revels in a graduate seminary. When his attention was called to the plurality provision for choice of the committees,

¹ *North American Review*, 157:526. Cf. also editorial in the *Washington Post*, March 8, 1897. ² 44:2, C. R., 266, Dec. 18, 1876.

a chairman of the Senate's Committee on Rules exclaimed: "I had no idea such a rule was in existence!" Contrast his lack of familiarity with the sharp and exact parliamentary knowledge of every House leader. New Senators who have served in other legislative bodies are puzzled, and now and then overleap themselves in an amusing way, because of the simplicity and insignificance of the Senate's code. No occasion there for midnight poring over the manual and digest, or desperate outcry against a complicated procedure.

The nineteen brief regulations of 1789 upon which the Senate founded its system were simplicity itself. They had but one or two references to committees, and no prescription of an order of business save that the legislative day was to begin with reading of the journal. Seventeen years passed before the Senate bethought itself of a revision. Then Jeffersonian ideas of a return to first principles prevailed. Almost as long a time intervened before the third general remodeling, and succeeding attempts have likewise been few, feeble, far between. The Senate has never adopted the excellent House practices of appending the rules to each journal, and of annually collating into a manual its procedure and precedents.¹ It

¹ In 1789 William Maclay, with Keystone example in mind, proposed that the Senate's rules be engrossed, and hung up conspicuously in the Chamber, with facilities for attaching to them the names of Senators guilty from time to time of misbehavior!

prefers oral tradition and custom to the nice modern print. Its standing Committee on Rules, beyond looking after janitors and the restaurant, is a nonentity; it is, to repeat a favorite figure of radical Congressmen, little more than a graveyard for proposed parliamentary reforms.

Some idea of legislative methods in the House of Representatives when Washington was President may be found ready at hand by looking down from the Senate's galleries to-day. That strong framework which the House has reared is wanting, — the previous question and the hour rule for regulating time, the three calendars and the two committees of the whole for classifying business, the one supreme committee for selection. Each committee can report in its alphabetical turn. Bills rank upon the solitary calendar simply according to the times of their introduction.¹ Stress is laid upon the order of precedence among motions, and special orders are limited by the two-thirds device. The Committee of the Whole on the State of the Union figures with its ancient character. "Half our business is done by unanimous consent," is about as true now as in the day of Lyman Trumbull.² According to Senator Platt there are but two ways of getting a vote:

¹ 54:2, C. R., 1607, 1608, remarks of Senators Hale, Tillman, *et al.*

² 42:1, C. G., 49, March 10, 1871; *Washington Post*, April 11, 1897, article on the Previous Question by Senator R. Q. Mills.

by unanimous consent to fix a time for action; by "sitting it out."¹

Some weary night, like that historic one of the House in 1811, the Senate may "sit in" the previous question. In its ancient form this rule was included in the first code, but it rested uneasily upon the necks of the Fathers. Jefferson, while President of the Senate, described and sympathized with a ruse for its avoidance.² He later refused to apply it to amendments. His successor, Burr, inveighed against it in that remarkable farewell speech which prophesied the Constitution's dying agonies for the Senate's floor.³ Burr's suggestion for its discardure was adopted in 1806.⁴ The previous question in the modern sense, however, has found no entrance to the Senate, though the list of attempts therefor is impressive. Benton and his coadjutors heaped unmeasured denunciation upon Clay's threat to apply House methods of limiting debate.⁵ Stephen A. Douglas was for the clôture in its most unlimited form, and would not be satisfied with a rule advanced by Senator Underwood for laying an amendment on the table

¹ 53:1, C. R., 1636; *Washington Post*, April 11, 1897, R. Q. Mills.

² Ford's "Writings of Jefferson," VII. 224.

³ J. Q. Adams's *Memoirs*, I. 365, Mar. 2, 1805.

⁴ 9:1, C. A., 201, Mar. 26, 1806; 51:2, C. R., 1687, Jan. 22, 1891, Senator Harris's assertion that it had been used but four times.

⁵ Roosevelt's "Life of Benton," 250-252; 27:1, C. G., 411, Aug. 31, 1841; 51:2, C. R., 1687.

without prejudice to the original measure.¹ Likewise have fallen short a score of other efforts by such statesmen as Hale, Pomeroy, Hamlin, Wilson, Wright, Blair, Hoar, Hill, Vest, and Mason. The most notable of later attempts are those of 1891 upon consideration of the so-called Force Bill, and of 1893 upon the Repeal of the Silver Purchase Act.² Distribution of the appropriation bills among the committees has been agitated with the same unsuccessful outcome.³

The main reasons for this unvarying unwillingness to organize along stronger lines lie in those outward social forces which, as has been set forth, originated the Senate, and have never surrendered their influence. What a bulwark for the minority has been Mr. Jefferson's opening quotation of Onslow in his Manual! How far and how long has it thrown the shadows of kings across the sea! How often have its venerable cadences silenced the innovator of the Senate! Rules, it decrees, must be conservative, not creative; defensive weap-

¹ 31: 1, C. G., 1688-1690, Aug. 28, 1850.

² For review of the movement, cf. speech of Senator Harris, 51: 2, C. R., 1669, 1670, Jan. 22, 1891; also 52: 2, Sen. Mis. Docs., Vol. VII., pp. 217-230. Senator Mills argues for introduction of the previous question, *Washington Post*, April 11, 1897.

³ Cf. distribution in the House, above, pp. 181-186. For cases of agitation in the Senate consult 46: 1, S. J., 57, 58, April 1, 1879; 48: 1, C. R., 204-210, 266-276, 342, 343, Dec. 20, 1883, Jan. 8, 1884; 54: 1, C. R., 1412-1426, 1458-1471, 1522-1538, 1575-1578, Dec. 11, 1895, Feb. 4, 1896 *et seq.*; 54: 2, C. R., Feb. 27, 1897, remarks of Senator Dubois.

ons of the lesser parties, not tools of the responsible majority; watchful of justice and individual liberty, rather than promotive of a more effectual legislative order. By the Senate the Constitution makers intended to secure the wisdom of elders sitting continuously as a council of revision. The upper chamber was not to be as active as the lower in initiating laws; and for a long time it continued truer to the conception than it is now. Professor Woodrow Wilson observes that this purpose is promoted by "simple, comparatively unencumbered forms of procedure."¹ The large element of new and unacquainted membership, instanced as partly responsible for the centralizing tendency in the House, cannot possibly figure in the Senate; nor has necessity brought the subject of rules to notice with biennial regularity. The average age of Senators is sixty; in 1890 the youngest was fifteen years above the Constitutional minimum.² In no legislative body of the world do the older members govern more supremely, and the conservatism of old age is tritely proverbial. They are upon the inside of the Rules Committee's room, braced against the doors; and only death carries them away.

¹ Cf. also Henry Litchfield West, in *Washington Post*, Mar. 14, 1897, p. 6.

² George F. Hoar in *Youth's Companion*, Nov. 13, 1890, reprinted in 51:2, C. R., 1680.

The House has shown a rapid and constant passage of legislation from the floor into the committee room. By 1825, it will be remembered, the larger part of the work of law construction had come within the latter field. This process has dragged in the upper branch. Clear ideas of the exact *status* are to be had by considering and comparing the spheres of the Senate in its entirety, — the majority, the minority, the caucus, the committee, the individual. The large power of individuals and minorities is a striking corollary of slow parliamentary advance. As between the individual and the committee, in the Senate, the evidence goes to support the former as the real legislative unit. Dr. von Holst would inscribe over the entrance to its chamber Benton's often repeated phrase: "Proud as a Roman Senator." In the House one sees different grades and types of members, — the member who is going somewhere, and the member who does not know whither he is going; the member who is pushing his hair back from a brain-heated forehead, and the member who is too lazy to stand or to sit upright. The busy member does not know that the lazy member exists; and the lazy member's dreamy eyes are too far above the gallery rims to perceive the busy member. But in the Senate every man stands upon his feet, alert; watchful of the comings and goings of his fellows; according to temperament, pee-

vish, irascible, inquisitive, calculating, smoothly smiling or serenely self-poised. Upon a first view of our Senate, most visitors feel away down in their hearts some stirring of that awe which overtook the untutored Gaul when he burst into its august Roman prototype. Nevertheless, an irreverent child of latter-day democracy now and then whispers, "bear-garden."

Senators are diplomats in securing election. Diplomacy is one of their Constitutional functions. They are diplomats, in some sense, as are members of the German Bundesrath. Whereas in the House three hundred and fifty-seven comparatively small and equal areas fret against each other, in the Senate, embracing the same vast territory, there are but forty-five of the most abrupt variety in sizes and conditions. What is there in common physically between Maine and Texas, the one in its unity, the other in its entirety? Senators often demonstrate the weakness of the bonds which unite them into committees. Sometimes, in their large independence one of another, they even make war upon caucus determinations, revealing family secrets to the enemy in open Senate. The disratings of Sumner and Douglas from their chairmanships by their compeers roused Achillean wrath. Party lines and caucus schemes of "conciliation and compromise" quickly went to pieces over the repeal of the Silver Purchase Act because

one Senator flew the track. Publicists generally note for the Senate the absence of such sharp and prolonged wrangles over parliamentary questions as have been common in the House. Senators are rather given, as they themselves state it, to "scolding," to "reading lectures" one to another. Parliamentary tricks are not required as brakes upon legislation; they do serve sometimes to accelerate its movement. The Senate's smaller number has made each voice and vote correspondingly more valuable. Therefore the absence of a particular member has more than once brought the looked-for opportunity of putting a measure through. In his vivid personal gallery, Maclay draws the sarcastic picture of a Senator brought in with his bed and with night-cap on, in order that Congress might be prevented from moving to Philadelphia.¹ Jefferson emphasizes the importance of the absentee for the passage of those great measures which engaged the earlier Congresses.² Just a century later Mr. Hill charges that advantage is artfully taken of his withdrawal from the chamber to refer a bill prohibiting the use of alcoholic liquors in the Capitol to a committee constituted dangerously favorable for reporting it back.³

¹ "Maclay's Journal," 285; cf. also pp. 145, 169 *et al.*

² Ford's "Writings of Jefferson," VII. 132, 133, letter of June 1, 1797.

³ 54: 2, C. R., 1512, Feb. 4, 1897; cf. also the Du Pont incident mentioned below, p. 311.

So much for the general importance of the individual Senator. What advantage has he, or has a minority, when pitted against a committee? The distortion of the committee system for personal and minority convenience merely material has been described.¹ Bills may be presented by Senators, and placed upon the calendar without any reference whatever, and are there on a footing of absolute equality with committee measures.² The power of the individual is evidenced by those favorable reports obtained from committees by what Senator Vest styles, "the reprehensible practice of polling members on the floor." A project for a new rule, introduced and reintroduced by the Senator from Missouri, explains itself, and is here in point: "Resolved, That no report shall be received by the Senate from any standing or select committee unless such report has been considered by said committee at a session attended by a quorum of its members."³ In the two privileges of unlimited debate and unlimited amendment the individual or a minority can absolutely overawe the committee. Amendment, according to Senator Hoar, is "perhaps more important even than free debate." "A long speech, wandering off from the bill, is a very different thing from a short amendment, directed to the texture of the bill

¹ Above pp. 292-296. ² 54:1, C. R., 424, Dec. 30, 1895.

³ C. R., Feb. 26, 1897, March 16, 1897.

itself, and intended to increase its beneficial, or to diminish its prejudicial action," said Thomas H. Benton. The great strength which the small minority, or even a single Senator, obtains by combining the two, has been demonstrated by amendments of appropriation bills against the will of two-thirds of the Senate.¹ Long before an appropriation bill comes from the House, the Senators begin to send amendments to the committee which has jurisdiction over the particular subject; e.g., to the Naval Affairs in case of the Naval Appropriation Bill. These are reported back, and re-committed to the Appropriations. Having passed through this regular process of double consideration, each is ready to be called up without gain-say by the original introducer. The weakness of the committee under such conditions is manifest. Upon the floor its chairman is a nervous, deferential, conciliatory body. In him is wanting the so often quickly displayed irritation of the House chieftain when interrupted by attacks or inquiries of other members. He is the victim of "parliamentary blackmail." He sits silent, afraid to discuss or to defend his measures, lest the opposition be aroused to an eternity of talk. Committees make themselves felt, however, in a negative way; that is, they bury bills. The doubt which impends as to the fate of a resolution is often appar-

¹ 42: 2, C. G., 2874, April 29, 1872, Senator Sherman.

ent in the explanatory remarks and appeals to public opinion with which a Senator accompanies its introduction, and in his efforts to secure from the chairman outspoken promises to report it one way or another, or to have the committee positively so instructed by vote of the Senate. Even this negative power is offset by the large rights of a committee's minority, which can report its views directly to the Senate and have them printed without intervention of the chairman. A successful surprise was sprung upon the majority in connection with the Du Pont contested election case. Two majority Senators were absent and unpaired. A minority member of the Committee on Privileges and Elections, without consulting its chief, moved that the Senate take up the subject immediately, and carried the day against vigorous objection.¹

Due emphasis having been given to what the Senate has not done, it is now meet to trace the parliamentary progress which it has made. To say that none has been shown is altogether too broad a statement. Compared with the present moment, there has never been a time in its history when changes more numerous or more important were being agitated.² The same general causes

¹ 54: 1, C. R., 4768-4772, May 4, 1896.

² Editorial on the Rules of the Senate, *Washington Post*, Mar. 7, 1897.

noted for the House advance have operated, though in a less degree, for the Senate. They have brought it to the stage of those devices already named and described as characteristic of its present rules and customs.¹

Its membership has increased from twenty-six to ninety. If its entire history be divided into decades, four stand out conspicuous for marked growth. Twelve Senators were added from 1810 to 1820; ten, from 1840 to 1850; eight, from 1860 to 1870; twelve, from 1880 to 1890.² Quickened parliamentary development has distinguished each of these four periods. In 1810-1820 the standing committee plan was adopted, and the old method of choosing committees by ballot broke down. In 1840-1850 the device of filling committee lists by majority and minority caucuses came into vogue, and special orders received their first regulation. This decade having enlarged the Senate to more

¹ Above, p. 302.

² YEAR.	NUMBER OF STATES.	NUMBER OF SENATORS.	INCREASE OF SENATORS.
1790	13	26	0
1800	16	32	6
1810	17	34	2
1820	23	46	12
1830	24	48	2
1840	26	52	4
1850	31	62	10
1860	33	66	4
1870	37	74	8
1880	38	76	2
1890	44	88	12
1898	45	90	2

than sixty members, the committees, which until 1853 consisted uniformly of five or three Senators, were enlarged to seven or five. In 1860-1870 the Appropriations Committee was created; the treatment of its bills was carefully prescribed, and custom speedily gave them precedence. Special orders were put under a two-thirds requirement. With the close of the decade, debate limitations were applied to amendments upon appropriation bills, and to proceedings upon the calendar under the Anthony Rule. Certain committees were increased in membership in 1873 from seven to nine, and a new one was added with eleven. The augmentation of the fourth period, 1880-1890, has been followed and marked by incessant public discussion and dissatisfaction with the Senate's methods, and by many attempts to introduce and apply the previous question. Uniformity in the size of the committees has almost disappeared; they now range through all the scale of odd numbers up to fifteen.

The onward sweep of changing national life and the great central phenomena of the Civil War have played their parts also. Original legislation on the part of the Senate in 1841-1843 is indicated by the presentation of five hundred and four bills. Many of these, however, were but reintroductions at the second and third sessions. Comparison with the House is best made by figures

for the second session, at which Senators brought in three hundred and thirty-seven bills, and Representatives five hundred and ninety-four. In 1861–1863 Senators introduced seven hundred and fifteen, Representatives nine hundred and fifty-one; in 1881–1883, Senators two thousand, six hundred and fifty-two, Representatives eight thousand and fifty-two; in 1895–1897, Senators three thousand, nine hundred and forty-five, Representatives ten thousand, six hundred and thirty-nine. Thus half a century has seen the Senate's activity in this respect grow to more than tenfold.

Other general features of the development may be succinctly stated. The progress, like that of the House, has been away from the foreign parliamentary law with which a beginning was made. By a growth of custom as well as by the adoption of new rules the Senate has been gradually adapting itself to its environment. A marked characteristic of the regulations added from time to time has been the large attention which they have given, not to the committee, but to the individual. The key-word of the first rules is "member;" of the latest, "Senator." A large block of methods dealing with impeachments, treaties, and nominations forms part of the code. The Senate's Executive functions give a greater importance of a particular kind to certain committees than the corresponding committees of the House enjoy. Nominations, for

instance, are referred in great numbers to the Foreign Relations, the Indian Affairs, the Post-Offices and Post-Roads, and the Judiciary. The House and the Executive having both passed through a much more rapid evolution than the Senate, their influence, the one on each side, in pulling and tugging it along, as it were, is noteworthy. This influence has given an artificial cast to the Senate's changes. House example was partly responsible in 1816 for the Senate's creation of eleven standing committees at a stroke, and the occasion for raising such a number at one time was an analysis of the President's Message. The strong force of House analogy has been felt and feared by those Senators who have opposed the previous question and the distribution of the appropriation bills. An increasing flood of partially enacted laws has poured in from the House for Senate action; an increasing flood of nominations has poured in from the President for confirmation or rejection. The impression seems to be abroad that the Senate has grasped to itself a share in lawmaking which it ought not to have. That this is incorrect the above data for the introduction of bills go towards showing. Business has rather been forced upon it. If the Senate had even kept up its proportion, the number of its bills would now be twice as large as it is. If appropriation and tariff bills are amended more than

formerly, their changed character and enlarged importance, as well as the increasing inability of the House to perform the function, must justify the Senate's greater interference.

In connection with these bills have come the most important limitations upon debate and amendment, the vital part of the process by which the Senate has reached its present order and methods of business. The central transition period from the old to the new began with 1870, and was completed upon the codification of the rules in 1884. Since 1884 the rules have been modified in but two cases that have even approached importance.¹

What, in the first place, was the progress that had been made by 1870? Under the earliest rules debaters were restricted to two speeches upon the same subject in any one day.² The narrowing process began with prohibitions of debate upon secondary and subsidiary motions. For example, in 1820 Senator Burrill proposed to make the motion to lay on the table undebatable. Such requirements of decision "without debate" are now a noticeable feature of the Senate's code. The most general are those secured by the late Senator Harris, which make undebatable almost all motions to

¹ 49:1, S. J., 945, June 21, 1886; 50:1 S. J., 427, 428, March 7, 1888.

² An instance of the enforcement of this rule is given in J. Q. Adams's *Memoirs*, I. 323, 324.

depart from the order of proceedings laid down in the rules.¹ Time was ample enough at first for the consideration of all measures introduced. Senator John Quincy Adams complained of "the continued state of nihility," and noted occasions when the Senate, having dispatched what business had come up from the House, adjourned pending the arrival of more. An important bill would be set for a certain day and hour in advance, doubtless to give the orators time and notice to prepare. Early in the century the custom of confining these special orders to the latter part of each day's session arose. Revisions of 1820 and 1828 gave precedence to the unfinished business coming over from one day to another. A rule proposed by Benjamin Ruggles in 1828, and evidently based upon the then prevailing practice, prescribed as the daily order of business: 1, Resolutions of State legislatures, petitions, and memorials; 2, Reports of committees, and bills introduced on leave; 3, Motions or resolutions of individual Senators; 4, Orders of the day. This is the framework for arrangements of to-day. - The present programme for the routine, so-called morning, business dates from 1834. The increase of special orders demanded in 1856 regulation of their priority strictly according to the time of their creation. In 1862 John P. Hale secured the limitation of a two-thirds vote for their making, with the

¹48:1, S. J., 442, Mar. 19, 1884.

suggestion that it would be valuable in giving precedence to financial measures.

The close of the Civil War found the business of the Senate so suddenly augmented, that what with the precedence of appropriation bills and Executive business, and what with the time consumed merely in the introduction of petitions, bills, reports, and so forth, not to mention unlimited debate, many important committee measures failed for want of final consideration and a vote. If a few of them did get through, it was, in the language of Senator Edmunds, "just by a kind of sporadic impulse." Attempts for reform began with the motion of Henry B. Anthony for a committee of three to revise the rules. The Senate agreed, and appointed Messrs. Anthony, Pomeroy, and Edmunds. Hitherto such committees had been raised at irregular intervals, but henceforth they were to be a constant feature. The select committee on rules was made a standing committee on motion of Mr. Anthony in 1874, and its membership was increased to five on motion of Mr. Morgan in 1880. Each of the three original members had his favorite plan for a better order. All were tried as dangerous experiments for limited periods, — during the remainder of the present session was the modest phrase, — and all in modified forms finally found their way into the order of business.

Mr. Pomeroy was for enabling the Senate to lay

on the table amendments to the appropriation bills without tabling the bills themselves. As has been stated, this rule had been broached when Douglas tried to introduce the previous question in 1850. He proposed also to limit remarks upon such amendments to five minutes for each Senator.¹ His measures were the first to be accepted, that one with reference to laying on the table being applied to amendments upon all kinds of bills. They have proved of high value.

The chairman of the committee originated what came to be known as the Anthony Rule. A daily period, first of half an hour (1 to 1.30 P.M.), and later of an hour (1 to 2 P.M.), following the routine morning business, was devoted to going over the calendar in strict order under Mr. Pomeroy's five-minute rule. Consideration was to be given only to bills to which no one should object. The serious defect of the regulation is apparent on its face. A Senator anxious to reach some pet measure will object to the bills that precede it, one after another. After his own has been considered for a time, some other Senator will probably enter objection in the midst of proceedings, and away it will go without definite action. The five-minute limit cannot withstand the spell of Senatorial courtesy. The practice crept in of occasionally pro-

¹ 41:2, S. J., 703, May 25, June 6, 9, 1870; 41:3, S. J., 336, Feb. 22, 1871; 42:2, S. J., 630-632, C. G., 2867-2883, April 29, 1872.

ceeding with a bill by a majority vote, if it were objected to. President *pro tempore* David Davis raised no small tempest by ruling that in such case the five-minute limit should still apply; it was the phantom of the previous question, and a new clause was at once attached to the rule to reverse his decision. The best that can be said for the Anthony Rule is the comment of Mr. Edmunds, "Far better than nothing." It has been used only irregularly, and mainly towards the hurried close of a session, and is now almost a dead letter. Many loopholes in the Senate's practice permit such special periods of time to be invaded by privileged business, morning routine, unanimous consent.¹

The third plan, that of Mr. Edmunds, was originally proposed as a substitute for Mr. Anthony's, but has come into the code for determination of proceedings after two o'clock, when there are no special orders. By it a list of general orders is to be considered under four privileged motions decided without debate: first, to take up an appropriation bill; second, to consider any other bill; third, to pass over the pending subject; fourth, to place such subject at the foot of the list. "Un-

¹ Debates on the Anthony Rule throw light upon the Senate's methods generally: 41: 2, C. G., 2740, April 18, 21, June 22, 1870, Dec. 5, 1872; 43: Special Session, C. G., 116; 45: 3, C. R., 36, 605; 47: 1, C. R., 869-875, 984, 3305-3308, 3345, 3346; Rules of Senate, VII.-X., XVI., 3, 4, XVII.

der this rule most of the business of the Senate is reached and concluded," says McKee.¹ Theoretically rather than practically the daily programme is divided into three parts. From twelve to one come matters of routine; from one to two, bills under the Anthony Rule; from two onward, bills under the Edmunds Rule. Commonly two measures will run along in parallel discussions for a number of days as unfinished business. Upon signal from the Vice-President the first will be dropped for the second as the clock's hands point to two. Often the sitting ends in the evening's dusk with tired action upon petty private affairs, or secret consideration of executive business. But between the beginning and the end of a Congress there is great variance.

The topic of the growth of the Senate's committee system, and the relations of its committees one to another, may be the more speedily disposed of because of similarities between the histories of the two branches.² Some of the committees exercise supervisory powers. Unless otherwise ordered, the Committee on Printing has jurisdiction over

¹ McKee's "United States Red Book," 178-188; comment on the order of business by Senator R. Q. Mills, *Washington Post*, April 11, 1897, p. 1.

² Chronicles giving the origins of the Senate's standing committees are contained in 37:3, Sen. Mis. Docs., No. 42; 52:2, Sen. Mis. Docs., Vol. VII. Other facts are to be had in 20:1, S. J., 41, Feb. 14, 1828; 47:1, C. R., 53, Dec. 8, 1881; 54:1, C. R., Dec. 9, 1895, Jan. 28, 1896.

requests of other committees for leave to publish. The Committee of Audit and Control regulates the employment of help by other committees, and all matters involving an expense upon the contingent fund. Amendments proposed by other committees for increasing appropriations, or relative to post-offices and post-routes, must go to the Appropriations, the Commerce, or the Post-Offices and Post-Roads. That condition which prevailed in the House before the Appropriations was shorn of its strength now obtains to a degree in the Senate. Prior to 1867 the Committee on Finance, whose name had been adopted in 1816 in place of the ancient one of Ways and Means, held jurisdiction over all of the general appropriations save the River and Harbor Bill, which belonged to the Committee on Commerce. The Finance, of course, also had charge of measures for raising revenue. The Appropriations, created at that time, has inherited control of all of its appropriation bills. Now and then the jealousy and bickering between the Appropriations and the committees for general legislation which preceded the fall of the House Appropriations crop out also in the Senate. But the system stands until the present. Doubtless one reason therefor is the limitation of the upper branch to the somewhat lesser part of amending. The Senate has never secured the privilege of originating appropriation bills, though it has made consid-

erable effort to that end. Palliation lies also in the plan of having one representative from each of the Senate's thirteen more important committees for general legislation a member of the Appropriations.¹

Progress towards continuity and stability in business methods has been stronger than in the House. Like the lower branch, but by a narrow majority and after a long debate, the Senate at first decided to take up legislation anew at the beginning of each session, rather than once for all at the opening of a Congress.² This useless process, of course, speedily became merely formal, but the decision of that earliest Congress was not reversed by rule until 1868. Re-reference of business at a second or a subsequent session, by the same arguments, involved the reappointment of the committees. Previous to 1884 — as in the House previous to 1860 — committee lists were presented and adopted regularly twice or three times in the course of a Congress. The six-year tenure of Senators, with the choice biennially of one-third, will readily be recognized as the great agency in minimizing changes, and making reorganizations

¹ On appropriations in the Senate, cf. 52:2, Sen. Mis. Docs., Vol. VII., pp. 282-310; 40:1, S. J., 8, Mar. 6, 7, 1867; 48:1, C. R., 366, 367, Jan. 11, 1884; Hinsdale's "American Government," 188; Rules of the Senate, XVI. 2.

² 1:2, C. A., 975, Jan. 25, 1790; Maclay's Journal, 179-187; above, p. 137.

much easier than in the House.¹ Once upon a committee, a Senator has rarely, if ever, been removed against his will. Trading of places, and changes upon the expressed desire of individuals, have been common enough. Every two years the influx of new Senators is sufficiently large to warrant a reorganization. Fifteen Republicans awaited assignments in 1895. The committee list seemed somewhat shot-torn, even enfiladed, after the campaign; and the first duty was to recruit its ranks. The change of power meant simply the putting of each committee's minority names in front, with an addition of one to their number, and the dropping of the lowest name on the side that had hitherto ruled.

Until very recently the adjournment of a Congress has disbanded the Senate's committees. But the practice has now arisen of continuing them from one Congress into another. For this a precedent had been standing some years in a rule relative to the three on Library, Printing, and Audit and Control.² Some Senatorial leader moves, say on the 3d of March of an odd year, that the committees as at present constituted be by unanimous consent continued until their successors are

¹ For prominent examples of the tendency to continuity in membership from session to session, cf. 23:2, S. J., 5, 27, 35, Dec. 1, 2, 11, 1834.

² Rules of the Senate, XXV.

chosen.¹ For this reason the reorganization could be delayed until a month or more after the Senate had met in the first session of the Fifty-fifth Congress, evidently to the advantage of the old members and of the Republicans who hung breathless upon the news from Kentucky.²

Where the upper classmen have constantly a two-thirds majority, the control of the machinery will be always firmly within their grasp. If the House of Representatives is a presbytery, the Senate is a college of cardinals. Out of the claim of the majority to the chairmanships has been evolved as nice a system of seniority as could be devised. In 1845 and thereafter, when the five members of a committee had been elected by ballot, their names were on motion arranged as follows: —

- | | |
|---------------------|---------------------|
| 1. <i>Democrat.</i> | 4. <i>Democrat.</i> |
| 2. <i>Democrat.</i> | 5. <i>Whig.</i> |
| 3. <i>Whig.</i> | |

If there were but one Whig on the committee, he stood third. This readjustment to give a member of the majority party second place and right of succession to the chairmanship sent the frontier

¹ 51:2, C. R., Mar. 3, 1891; the first instance.

² Senator Morgan condemned this innovation, 55:1, C. R., April 22, 1897. The Kentucky legislature was in deadlock, but finally elected a Republican Senator, giving the Republicans a clear majority in the Senate; meanwhile, every day had spread its rumors of combinations to wrest away their power.

Senator from Florida into amusing tantrums upon the subject of primogeniture. But the hold of the custom grew, until finally all the members from the majority were grouped first, with the distinct understanding that names were to be pushed forward as vacancies occurred in their front, and that new Senators were to "take their places at the bottom of the ladder." Men who thus find themselves at the heads of two or more committees when a new Congress opens, make a choice, and relinquish all but one chairmanship.¹

The committee chairman is a leader of secondary importance, much less privileged on the floor of the Senate than on the floor of the House. His place was of such mere narrow distinction at the outset, that Maclay could generously propose to fill it with the "Senator of the most northerly State of those from whom the committee are taken." Such, permit us to repeat by the way, is practically the rule now, thanks to superior Yankee tenacity and longevity! Its material advantages and the honor, more than the greater power, raise a chairmanship above the other committee positions. The chief of the Appropriations is, however, a man not to be contemned.

The highest Senatorial leaders are to be sought elsewhere. Mr. Speaker's great power in the House has become familiar. The Constitution-

¹ *Washington Post*, Dec. 9, 1895.

makers forced upon the Senate a presidency weak and artificial, which it has supplanted, as far as it has dared, by leaders of its own creation. The difficulties, confusion, and struggles attendant upon this process have joined with the other numerous influences which have retarded organization. Our Constitution declares: —

“The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

“The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.”

From the qualifications and duties of the Vice-President, as described in the Constitution, and from the Senate's history, are to be gathered the reasons for, and the evidences of, his unfitness for the headship of the Senate. Statesmen were puzzled in 1789 over this position.¹ By their final decision the office was put, so to speak, half-way between the White House and the Capitol, where it has ever remained. The Presidency of the Senate is unusually liable to become vacant. For a body chosen primarily to represent territory was provided a president primarily representative of population. His tenure was made different from that of a Senator, four years instead of six. As a rule he

¹ *The Federalist*, No. 68.

was to have no vote to strengthen his power. Necessarily this original inadaptation has made and kept him a figurehead. "Leaders are not elected, but born," cries the Congressional wit. By the light of experience in the House and in the government generally, had the office been free from its overshadowing consideration, the succession to the chief magistracy, limited to two years, and filled by a majority of the States rather than a majority of the people, true and beneficent leadership, which is conditioned upon accord with the majority of an assembly, would have speedily evolved therefrom.

The first Vice-President was not an ideal chairman, as any one at all acquainted with his personality will perceive.¹ The second was not in political touch with the majority of those over whom he presided. The third was a disappointed Presidential candidate, irregular in attendance, taking his seat with indictments for murder hanging over his head.² The fourth, by testimony indeed of one whom he had overruled, was wanting in parliamentary perception and experience.³ So on down the list, there is more of the unsatisfactory than of the satisfactory. The man who stands out preëmi-

¹ Maclay's Journal, with bitter enmity, portrays him in the Senate's presiding chair.

² J. Q. Adams's Memoirs, I. 277, 314, 315.

³ *Ibid.*, I. 274, 383-385.

nently as embodying the weakness of the office, and as responsible for its long decadence after he was gone, is John C. Calhoun. Twice in succession he was chosen to the place. His long, slow journeys to Washington almost invariably brought him in late for the opening of Congress. Oddly enough, John Randolph's harangues played the same part in degrading the Vice-Presidency as in elevating the Speakership. We see these two gaunt figures of the Old South communing, the one by his silence, the other by his noise, in the Senate. Calhoun, the doctrinaire, decided that the Constitution and the Senate's rules gave him no power to call the raving Virginian to order. Though the Senate, after one of those marvelous debates of its earlier history, thrust upon him the duty which he had rejected, he muttered, "As to the power conferred upon the chair it was not for him to speak," and his evil work continued to bear fruit.¹ When, in 1881, a Senator faintly challenged the right of the Vice-President to a casting vote in the adoption of the committee list, it was as if the wizard specter of the long ago had suddenly reared itself behind the presiding chair.

The Carolinian came into the Presidency of the Senate just at the time when the choice of committees was first being intrusted to the presiding officer. His first and only performance of the

¹ 20 : 1, C. D., 278-341, Feb. 11-15, 1828.

duty was so unsatisfactory that it was at once taken out of his hands by an almost unanimous vote, — a deprivation which he seemed rather to enjoy than to regret.¹ The investment of the appointing power in the President *pro tempore* shortly thereafter was considered a distinct intimation to the Vice-President not to put in appearance until the committees were organized.² A dozen years after Calhoun's failure, the task, through Clay's suave persuasion, was intrusted to Richard M. Johnson, the only Vice-President that the Senate has ever elected; and he performed it twice.³ The third and last instance was in 1845. Vice-President George M. Dallas, at the two weeks' special session that followed immediately upon his inauguration, appointed all of the committees under an injunction of secrecy which was shortly removed.⁴ What were the real motives that prevailed for this proceeding, and why the Senate twice afterwards refused to bestow the authority upon him, is difficult to determine. He was promptly at hand in De-

¹ 19:1, C. D., 525, 571, 576, 757-760, April 12, 15, 17, 1826; 52:2, Sen. Mis. Docs., Vol. VII., pp. 118-124. Also Millard Fillmore's paper in defense of the Vice-Presidency, which was adopted by the Senate unanimously, and spread upon the Journal, 31:1, C. G., 631-633, April 3, 1850. That Calhoun's decision could operate to the embarrassing of his later disciples is evident from a discussion of June 26, 1856, 34:1, C. G., 1477-1485.

² 23:1, C. D., 22, 23.

³ 25:1, S. J., 26, 27, Sept. 7, 8, 1837; 25:2, S. J., 26, 27, Dec. 6, 1837.

⁴ 28:2, S. J., 289, 290, March 10, 1845.

ember following; but four members of his party, with Benton as leader, united with the Whigs against him, twenty-one to twenty. Buchanan and he were rival Pennsylvania politicians, and Buchanan was Polk's Secretary of State. That may have had something to do with the matter. Since then the power has lodged elsewhere, save for the occasional filling of vacancies, as by John C. Breckinridge in 1861, upon the withdrawal of the Southern Senators, or by Schuyler Colfax for a short session in 1871. In other ways the Senate has limited the Vice-President's power, notably in its refusal to allow Mr. Dallas and his successors to delegate the functions of the chair.¹ What a bit of sophistry was the proposition of those rival Republicans who, before the late nomination, thought to lure Speaker Reed's followers from his support for the Presidency by visions of a *rôle* for him as reforming Vice-President in the Senate. There is an interesting ring of contrast in the valedictory and the salutatory of Vice-Presidents Stevenson and Hobart. The former's words carry the weight of experience; the latter's hardly justify the capital that has been made out of them, let alone the idea of a remaking of the Senate through his authority.² The Vice-President has realized Frank-

¹ 29:2, C. G., Jan. 11, 1847.

² 54:2, S. J., 189, 192, March 4, 1897; editorial on power of the Vice-President, *Washington Post*, March 7, 1897.

lin's jest, "His Superfluous Majesty." In recent times he has found his greatness as a leader of polite society at the gay national capital.

Turning from him to the President *pro tempore*, the first objection to this officer as the central pillar upon which to rest a legislative organization lies in the fact that his selection from among the Senators disturbs that equality of the States upon which the Senate is based. The question whether or not he can be chosen from without the body has been raised in later days, but not seriously entertained.¹ Despite the superiority accruing to his State, he might have become just such another power for appointing the committees, and perhaps for other functions, as the Speaker of the House, had it not been that, from 1792 until 1886, he, like the Vice-President, stood by law in line of succession to the Presidency, and that until 1876 his office was construed by the Senate to terminate upon the appearance of the Vice-President to claim its chair. With a well-nigh unbroken record from 1792, the Senate chose a President *pro tempore* near the close of each session, the Vice-President retiring meanwhile. The object was to guard the succession to the chief magistracy, for the tenure of the man so elected extended through the recess into the beginning of the succeeding session. But while the Vice-President was actually occupying

¹ *New York World*, Dec. 1, 1885.

the chair, the Presidency *pro tempore* was considered to be vacant, so that an election occurred upon each occasion of his absence. In 1876, however, and again in 1890, the Senate decided, after careful inquiry, that the President *pro tempore* held his office at its pleasure, coming into the chair whenever the Vice-President might be away. Therefore his tenure now extends indefinitely, until he resigns, or is superseded by the election of another to the place.¹

A President *pro tempore*, John Gaillard, was the first presiding officer to be intrusted with the appointment of the committees. Calhoun's dereliction deprived both positions of the privilege, but in 1828 it was conferred upon the President *pro tempore* alone. Four times the work was smoothly performed, and then, in December, 1833, came a political tangle. Calhoun had not appeared at all for the preceding session until, having resigned the Vice-Presidency, he came as a Senator in January. Hugh Lawson White of Tennessee had been chosen President *pro tempore* Dec. 3, 1832, and had appointed the committees according to rule.² Holding the office continuously, he resumed the chair at the opening of the next Congress, a year later. Here, at the outset of this most brilliant of Senatorial sessions, was a delicate conjuncture. White

¹ 52: 2, Sen. Mis. Docs., Vol. VII., pp. 167-190.

² Parton's "Life of Jackson," III. 463, 478.

and Van Buren were rivals for the heirship to Jackson. By appearing, and taking his seat as the newly-elected Vice-President, Van Buren could very speedily terminate White's office as President *pro tempore*, and deprive him of the selection of the committees, which would revert to ballot by the Senate. This would have pleased the Whigs. But Van Buren held off, resting upon his singular laurels, and did not come until the month was half over. Meanwhile, though White had his list prepared, the Senate, under the impulse of high feeling involved by the selection of a committee to report upon Rhode Island's right to unseat one Senator and put another in his place, abolished the rule which had vested appointment of the committees in the chair. The intimate friendship of White and President Jackson, not yet greatly impaired, was probably the chief underlying cause of this slight. Senator Poindexter said that "he had learned that lists of the names of committees had been sent in to the Departments to see if they were acceptable;" and it may be noted that Senator Poindexter was the next President *pro tempore*.¹ All this would not have occurred had it been customary, as previously to the Act of 1792, to leave the Presidency *pro tempore* vacant during a recess, and fill it, if necessary, at the beginning of the following session. In such case the Senate

¹ 23: 1, C. D., 11-29, December, 1833.

could have chosen a man in fresh accord with its sentiments. The tedious ballot prevailed until Vice-President Johnson came in 1837, and, without disturbance after him, appointment of the committees fell to Presidents *pro tempore* for six years, each time by unanimous consent. The conduct of Vice-President Dallas in 1845 broke off these harmonious arrangements finally and for good, at the same time ushering in the caucus method. Because of Dallas's failure or refusal to vacate the chair at the close of his first brief session, which would have accorded with unbroken custom, a President *pro tempore* was not elected. Even had one been in office when the following session began, the prompt appearance of Mr. Dallas would have excluded him, as it did upon the opening day of the third session in 1846. Consequently the Senate had to make choice of appointment by the Vice-President, the ballot, or some new device.¹

Henry Clay saw possibilities in the President *pro tempore*. "If it were permitted to grow into a practice," said he, for that officer "to appoint the committees in the absence of the Vice-President, the exception might become the rule and the rule the exception." He was seconded in this view by Mr. Fessenden when the President *pro tempore* last

¹ There was no President *pro tempore* from March 4, 1845, until Aug. 8, 1846, save an occasional substitute named, not without protest on the part of Senators, by Mr. Dallas, 29: 1, C. G., 95, 96, 1209, 1210, Dec. 23, 1845, Aug. 8, 1846.

performed the task.¹ As it is, large powers have pertained to the position, which the Vice-President has not enjoyed. Besides the right to vote upon all occasions, the President *pro tempore* has his places upon the committees. Custom, in the '20's and '30's, prescribed that the Senate should elect him to a fine chairmanship before he announced his committee list. In later times he has had his full share of the places. Mr. Ferry, in 1877, was chairman of the Post-Offices and Post-Roads, second on the Rules, and third on the Finance. Mr. Frye, in the Fifty-fifth Congress, is chairman of the Commerce, and holds positions upon four other committees of first importance.

There are possibilities of conflict between the two Constitutional dignitaries. By unbroken attendance a Vice-President of one political faith has been able to exclude from the presiding functions a President *pro tempore* of another. During the Fifty-fourth Congress the Vice-President was absent but nineteen days. Under the old theory he could prevent a majority of other politics than his own from deposing a President *pro tempore* elected when its opponents were in power, and choosing one from its own membership. Whether he can now do so may be a mooted question. A Republican majority came into control in December, 1895, but did not elect a President *pro tem-*

¹ 37 : 3, C. G., 1554, Mar. 5, 1863.

pro until the 7th of February following, upon which date Vice-President Stevenson first absented himself.¹ The party's hold was but nominal, and this election was noted as a sequence of its previously acquired precedence upon the committees.² However, departures from custom at the two immediately preceding elections are noteworthy. The Senatorial service of President *pro tempore* Ingalls ending March 4, 1891, it devolved upon the Republican caucus to nominate another man. After somewhat of a contest, Mr. Manderson of Nebraska, the candidate of the Silverites, was selected.³ Mr. Sherman, chairman of the caucus, proposed his name in the Senate, and his election was remarkable for two circumstances: it was unanimous; and for the first time in the Senate's history, the Vice-President — on this occasion Mr. Morton — was not only present, but administered the oath of office to the President *pro tempore*. The same course was followed at the next election, that of Mr. Harris, at which time Mr. Manderson significantly said, "Recognizing a change of condition, and, perhaps, also a change of theory, I now tender my resignation." Here was added a third new precedent; namely, that the President *pro tempore* should go out of power at once with his party. From these

¹ 54:1, C. R., 1443, Feb. 7, 1896; the election was unanimous.

² *Washington Post*, Feb. 8, 1896.

³ *New York Tribune*, March 2, 1891.

changes, the dropping of the old incumbrances upon the office, and the new interpretations of its tenure, interesting developments may come. Although always resembling the Speaker of the British Commons rather than the Speaker of the American House, undoubtedly the man who sits in the Senate's chair has been getting to be a more and more important personage as the century has run its course.

But if, on that hurried March day of the expiring Fifty-first Congress, the question had been asked which of the three central participators in the election was the greatest power in the Senate, the answer must have been, not Mr. Morton nor Mr. Manderson, but the caucus chairman who moved the tersely worded formulas, John Sherman. He was the true premier. His was the leadership which the Senate has evolved to supply the defects in its original endowment. Party caucuses in Congress are old as the government, and have had their presiding officers and their committees from the beginning. Naturally a party has put forward the man whom it has chosen to preside in its caucus also to lead it upon the Senate floor. When Theodore Sedgwick of Massachusetts, on a May day of 1797, proposed and pushed through the Senate upon strict party votes the list of three committees which had previously been agreed upon in a Federalist caucus, he was

but the archetype of Thomas H. Carter, Republican from Montana, who much more easily secured the appointment of sixty on a May day of 1897.¹ These powerful caucus chiefs of ruling majorities in the Senate — a little reflection will recall many of them: before the Civil War, King of Alabama, Mangum, Sevier, Cass, Douglas, Bright, and peerless Henry Clay; after it, Trumbull, Anthony, Edmunds, Sherman, Gorman, and Allison. In earlier records they are most easily recognized as those who made the time-honored motions that belonged to the opening days of a session. At all times they have been prominent upon the Senate's floor when legislative crises have been pending. The chance visitor may ordinarily overlook them, so quietly are they sitting in their places; but let a sharp political skirmish arise, and they are to be seen, either pushing forward their lieutenants, or coming boldly to the front themselves. When they speak, the Senate listens; the people, too, are beginning to hearken.

Their power is puzzling without some knowledge of what goes on behind the scenes. It originates in those secret voluntary organizations of Senators which are unknown to the Constitution, the statutes, or the parliamentary code. On different floors of the Senate wing, and quite removed

¹ 5:1, C. A., 21, May 29, 1797; Ford's "Writings of Jefferson," VII. 132.

from each other, are the headquarters of the two great political parties. The minority chief, a much more powerful personage in the Senate than in the House, has his room in a secluded part of the so-called attic story. Here he presides at councils which plan the battle in the Senate. He appoints the caucus committees, including that one which slates his party's membership of the Senate's legislative committees, and which is known as the Committee on Committees. Often the caucus assigns to him powers plenipotentiary for negotiations with the enemy's caucus chairman, who on his part appoints the majority's Committee on Committees and Steering Committee. Do these two veteran Senators join each other in a pleasant home parlor of an evening, behold there, haloing their whitened locks, the power of the Senate at its acme!

Mutterings of their arbitrary rule now and then arise among Senators, as do threats of revolt against the Speaker among Representatives. Revolutions come at rare intervals. In 1871, when a Wisconsin man presented the list of committees to the Senate, an honor which had long fallen to the aged Senator from Rhode Island, the Republicans did but fight over again in public the quarrel which had begun in the recesses of their caucus. Republicans of the far West held a sectional consultation in 1895, preliminary to the general consultation, and resolved to stand together. They demanded

of the main caucus the election of the Committee on Committees by ballot, but were quieted by an agreement that the chairman's selections should be conditioned on caucus confirmation.

The Committee on Committees, it may well be believed, is a high governing body. So also is the Steering Committee, which corresponds to the House Committee on Rules. One committee sometimes serves in place of these two. In naming their members, seniority is the main guide of the caucus chairman, just as it is the first consideration of the Committee on Committees in filling out the legislative committees. Increase in size has characterized caucus committees also. Messrs. Foote, Dixon, and Bingham were the Republican Committee on Committees in 1859. In 1865 it had five members; in 1879, nine. It reverted to five for the close struggle with the Democratic Senators in 1881. In 1883 it had seven; in 1897 it again has nine. For many years the Democratic Committee on Committees has consisted of nine Senators. Steering committees are smaller. Those of recent sessions have had memberships of five. The Democratic caucus chairman appoints himself as chairman of the Committee on Committees; the Republican appoints some one else. Senator Allison has named himself as head of the Republican Steering Committee in the Fifty-fifth Congress. The rule is, once on, no removal until

death or failure of reëlection to the Senate; and, in general, the characteristics of the legislative committees are those of the caucus committees, save that the majority and minority representation, if there be such, is from wings of the same party instead of from different parties, that is, from parties within parties.

Steering committees watch proceedings upon the Senate floor, call caucuses, and give the cues to action. On the 10th of March, 1897, the Republican Senators appeared in their seats promptly upon the opening of the Senate; each had received a note from the Steering Committee, bidding him to so order himself, though without any reason assigned. The heaviest responsibilities of the Committee on Committees fall, of course, at the beginning of a Congress. However, filling of the vacancies which occur at later times is being gathered within its prerogative. Its very difficult tasks are sometimes evidenced by sittings many hours long. Seniority usually makes the assignment of chairmanships easy, but the other positions must be filled after lively competition among self-avowed candidates. New members clamor for speedy assignment, and the chairmen of the committees that pass upon Executive nominations cannot brook delay. Sometimes the Committee on Committees summons the discontented to a hearing. Again, its members go upon the floor to

consult the other Senators as to their desires, and to reconcile them, if possible, to its proposed appointments. Finally, it presents the completed list to the caucus for approval or disapproval. Thereupon it may be accused of having provided too liberally for itself, and its decisions may be overruled. If this submission for ratification is omitted, even in the filling of an occasional vacancy, complaint is likely to follow. But generally the labor is satisfactorily performed.

In this caucus system the Senate has worked out methods peculiarly its own. Silently and naturally they have taken shape. All the intricacies of the situation are at last met. The forms are plentiful, but have not attracted general attention. They lack a certain vital quality. There are customs and there are leaders. From them the Senate, in its own good time and only when it recognizes the full necessity, will select such as are fittest for its stronger self-government. Meanwhile, saith the Senator, let pessimistic Mugwumps and a pampered college populace breathe out magazine attacks as long and as airy as the flights of Duns Scotus or Saint Thomas Aquinas!

From the study of the Senate's procedure a summary is drawn as follows. Caucuses with their chairmen and their committee machinery have been its only escape from dire confusion and weakness of leadership due to Constitutional difficulties.

The Presidency *pro tempore*, in addition to other shortcomings, was handicapped during early times by the Senate's narrow construction as to its tenure, and by the statute which put its occupant in line of succession to the Presidency of the United States; but the latter drawback has been removed, and a new interpretation of the Constitution gives always and continuously a President *pro tempore*, whose term is contemporaneous with the supremacy of his party. The committee systems, both of the Senate and of the caucuses, have emphasized that basal idea that the Senators shall come from among the elders of the land by giving the lead in lawmaking to the elders of these elders. A moderate parliamentary development measures the Senate's share in the progress of all things American. Committees are much less powerful in the upper than in the lower chamber. The six New England States, and a chain of six Southern States, with Florida and Missouri as extremes, are the two steadfast party regions of the United States whose conservatism in retaining their men enables them to hold the chief places of the Senate. Popular control over Senators has been growing to some extent. The Southerner and the Westerner have hitherto continuously combined in powerful resistance to centralization by legislative rules. A knitting together of the general government makes the Senate more dependent than formerly upon

the attitudes of the House or of the Executive. Strong organization in the House, backed by public opinion, can exert an effective moral suasion upon the other wing of the Capitol.

The times seem ripe for a few next steps. The committee system needs to be pruned of dead branches. Routine business at daily sessions might be shortened. Election of Senators by the people directly, rather than by the State legislatures, is in line with the democratic trend of political institutions. That four general appropriation bills failed in the late Congress is signal of their coming distribution among the committees on the Senate side. Finally, the arguments for the previous question are accumulating. This Senate issue of more than five decades involves principles for the most part identical with those which have been sketched for the earlier, quickly decided House struggle. Two sentences from the two first great Senate champions of 1841 are all-inclusive texts for the opposing views. Henry Clay said, "The greatest grievance complained of by the people with regard to Congress is the delay of public business by long speeches." Thomas H. Benton replied, "The previous question and the old sedition law are measures of the same character and children of the same parents, and intended for the same purposes. They are to hide light, to enable those in power to work in darkness." It was best that Benton should

triumph then. The conditions of 1800, to which he looked back, were yet too little relieved. Would that he had succeeded in his manly efforts against national plunder. Even Clay was but half-hearted in his advocacy. But all our progress since that day has been subtracting from Benton's side, and adding to Clay's. Even the Senator who sits in the chair of Benton recently experienced a remarkable conversion to the cause of limited debate. The telegraph, the railroad, the printing-press, the larger, better reported Senate, the modern increase in Federal business, — these are but leading arguments added by a wonderful change of conditions. The people to whom the Kentuckian appealed looked up to their Senators; now the Senators must look out to their people. From the flickering interior illumination of the past the Senate turns to broadest day streaming in through a thousand windows. The previous question deals simply with the length of speech; it does not note the character of what is said. From its many forms advocated at various times the Senate can construct that one which most nearly suits its conditions. The errors of the House are avoidable. The half-hour of grace there may be extended into days divided equitably between the Senate's majority and minority. Freedom of action upon amendments need have no prohibition. That same courtesy which has served as the only check upon minority debate would be

but transferred across the aisle, there to likely serve as too powerful a limit upon majority action.

Our nation seems to have reached the halting-ground. All our vast territory is blocked out into States. The land-offices are closing. We have caught sight of Japan. The westward movement rolls back upon itself. It is the parting of the ways between extensive and intensive growth, the time for a mighty amalgamation of North, South, East, and West. In view of our entrance upon this new era, the future of the Senate is a subject of concern. That part of the United States which lies east of the Mississippi, together with Louisiana, comprises less than twenty-seven per cent of the entire area, Alaska excluded, and yet possesses forty-six votes in the Senate. Recently the conflict between a majority of the Senators representing a minority of the people, and a minority of the Senators representing a majority of the people, has had unpleasant exhibition. Will such differences deepen or diminish as the years go on? Will the immense inequalities in territorial extent, not to speak of capacity for life sustention, develop insufferable inequalities in popular power? Or will the future spirit of the people grow so strongly in the direction of unity and the higher life as to render numerical and physical differences of less consequence? These are remote problems, subject for speculation. A

strong bridge has the Senate been, at any rate, suspended between the Old and the New. None other than its mighty cables could have stood the strain. Providence fixed its anchorage over the widest chasm and the swiftest rapids of change that human history knows. Across its narrow way we still peer back into the regions whence we have come, — see the morning of the world, the marches of the Teuton forests, Hellenic tribal bounds, snowy-haired patriarchs of Orient, the solitary cave-dweller gazing out over Britain's untamed seas.

APPENDIX I.

ORIGIN AND DEVELOPMENT OF STANDING COMMITTEES.

CONGRESS.	PERIOD.	SIZE OF HOUSES.	NUMBER OF COMMITTEES DURING THE PERIOD.	SIZES OF COMMITTEES DURING EACH PERIOD.	NAMES.	DATES OF CREATION.	BY WHOM ORIGINATED.	SIZE OF EACH WHEN ORIGINATED.	PRESENT SIZE OF EACH.	NUMBER OF STATES REPRESENTED ON EACH AT 53D CONGRESS.
1st	1789-1791	64	2	7, 3	Elections. Enrolled Bills (Joint).	April 13, 1789 July 27, 1789	Committee on Rules. Committee on Rules (Joint).	7 2+1	15 7+	12 7
2d	1791-1793	68	2	7, 3						
3d	1793-1795	105	3	7, 3	Claims (Off-shoots at 13th and 14th Congresses).	Nov. 13, 1794	Committee on Rules.	7	15	13
4th	1795-1797	104	6	14, 16, 7, 3	Commerce, Manufactures, and Agriculture (sub-divided into three committees at 16th Congress; name changed Dec. 16, 1801, to "Interstate and Foreign Commerce").	Dec. 14, 1795	Hugh Williamson of North Carolina.	7	17	15

Origin and Development of Standing Committees. — *Continued.*

CONGRESS.	PERIOD.	SIZE OF HOUSES.	NUMBER OF COMMITTEES DURING THE PERIOD.	SIZES OF COMMITTEES DURING EACH PERIOD.	NAMES.	DATES OF CREATION.	BY WHOM ORIGINATED.	SIZE OF EACH WHEN CREATED.	PRESENT SIZE OF EACH.	NUMBER OF STATES REPRESENTED ON EACH AT 3RD CONGRESS.
4th	1795-1797	104	6	14, 16, 7, 3	Revisal and Unfinished Business (name changed, July 25, 1868, to "Revisal of the Laws").	Dec. 14, 1795	Select Committee on Rules.	3	13	11
					Ways and Means (Off-shoots, Mar. 2, 1865, were Appropriations, Banking and Currency, Pacific Railroad).	Dec. 21, 1795	Albert Gallatin of Pennsylvania.	14, 16	17	15
5th	1797-1799	106	6	16, 9, 7, 3						
6th	1799-1801	106	6	9, 7, 3						
7th	1801-1803	107	6	9, 7, 3						
8th	1803-1806	143	7	7, 3	Accounts.	Nov. 7, 1804	Michael Leib of Pennsylvania.	3	9	9
9th	1805-1807	146	8	7, 3	Public Lands (Off-shoots at 10th and 19th Congresses).	Dec. 17, 1805	William Findley of Pennsylvania.	7	15+ D	14+ T

10th	1807-1809	142	10	17, 7, 3	District of Columbia.	Jan. 27, 1808	Philip B. Key of Maryland.	7	15	15
					Post-Offices and Post-Roads.	Nov. 9, 1808	John Rhea of Tennessee.	17	15+	15+
11th	1809-1811	141	10	17, 7, 3						T
12th	1811-1813	144	10	7, 3						
13th	1813-1815	182	13	7, 3	Judiciary.	June 3, 1813	John G. Jackson of Virginia.	7	17	13
					Pensions and Revolutionary Claims. (Subdivided at 18th Congress into Revolutionary Claims and Military Pensions. Name changed to "War Claims," Dec. 2, 1873.)	Dec. 22, 1813	Stephenson Archer of Maryland.	7	13	10
					Public Expenditures (Offshoots at 14th Congress. Abolished, Dec. 19, 1883).	Feb. 26, 1814	John W. Eppes of Virginia.	7		
14th	1815-1817	183	20	7, 5, 3	Private Land Claims.	Apr. 29, 1816	Thomas B. Robertson of Louisiana.	5	13+	12+
					Expenditures in Department of, — State, Treasury,	Mar. 30, 1816	George Tucker of Virginia.	3	D	T
						Mar. 30, 1816	George Tucker of Virginia.	7	7	7
						Mar. 30, 1816	George Tucker of Virginia.	3	7	5

¹ D, Delegate; T, Territory.

18th	1823-1825	213	27	7, 3	Naval Affairs.	Mar. 13, 1822	Select Committee on Rules.	7	15	12
					Foreign Affairs.	Mar. 13, 1822	As a Select Committee, by John Dawson of Virginia, Oct. 29, 1807.	7	15	13
19th	1825-1827	214	28	7, 3	Military Pensions (Off-shoot at 21st Congress. Name then became "Revolutionary Pensions." Changed to "Pensions," Feb. 11, 1880).	Dec. 9, 1825	Peter Little of Maryland.	7	13	12
					Territories.	Dec. 13, 1825	James Strong of New York.	7	13 + 2 D	12 + 2 T
20th	1827-1829	213	28	7, 3						
21st	1829-1831	216	29	7, 3	Invalid Pensions.	Jan. 10, 1831	James Trezvant of Virginia.	7	15	13
22d	1831-1833	216	30	7, 3	Roads and Canals. (Name changed, April 9, 1869, to "Railways and Canals.")	Dec. 15, 1831	Charles F. Mercer of Virginia.	7	13	11
23d	1833-1835	241	30	9, 5, 3						
24th	1835-1837	241	31	9, 5, 3	Militia.	Dec. 10, 1835	Ransom H. Gillet of New York.	9	13	13
25th	1837-1839	242	34	9, 5, 3	Patents.	Sept. 15, 1837	Select Committee on Rules.	5	13	13
					Public Buildings and Grounds.	Sept. 15, 1837	Select Committee on Rules.	5	15	14

Origin and Development of Standing Committees. — *Continued.*

CONGRESS.	PERIOD.	SIZE OF HOUSES.	NUMBER OF COMMITTEES DURING THE PERIOD.	SIZES OF COMMITTEES DURING EACH PERIOD.	NAMES.	DATES OF CREATION.	BY WHOM ORIGINATED.	SIZE OF EACH WHEN CREATED.	PRESENT SIZE OF EACH.	NUMBER OF STATES REPRESENTED ON EACH AT 33D CONGRESS.
25th	1837-1839	242	34	9, 5, 3	Mileage.	Sept. 15, 1837	William C. Dawson of Georgia.	5	5	5
26th	1839-1841	241	34	9, 5, 3						
27th	1841-1843	252	34	9, 5, 3						
28th	1843-1845	225	36	9, 5, 3	Library (Joint).	Dec. 7, 1843	Senator Benjamin Tappan of Ohio.	3+3	3+3	3
					Engraving (Abolished, Mar. 19, 1860).	Mar. 16, 1844	Samuel Simons of Connecticut.	3		
29th	1845-1847	233	37	9, 5, 3	Printing (Joint). (Established by approval of President to R. S. 3656.)	July 24, 1846	Senate Committee on Contingent Expenses.	3+3	3+3	3
30th	1847-1849	232	37	9, 5, 3						
31st	1849-1851	232	38	9, 5, 3	Rules (Became again a select committee, Dec. 5, 1853, and so continued, with five members, until it became a sec-	Dec. 27, 1849	Linn Boyd of Kentucky.	9	5	5

32d	1851-1853	229	38	9, 5, 3	ond time a standing committee, Mar. 2, 1880. The Speaker was first made a member, June 14, 1858, on motion of Mr. Winslow).						
33d	1853-1855	234	38	9, 5, 3							
34th	1855-1857	233	38	9, 5, 3							
35th	1857-1859	237	38	9, 5, 3							
36th	1859-1861	237	39	9, 5, 3	Expenditures in the department of the Interior.	Mar. 16, 1860	Select Committee on Rules.	5	7	7	
37th	1861-1863	176	38	9, 5, 3	Coinage, Weights, and Measures.	Jan. 21, 1864	John A. Kasson of Iowa.	5	17+	17+	T
38th	1863-1865	186	42	9, 5, 3	Appropriations.	Mar. 2, 1865	Samuel S. Cox of New York.	9	17	16	
					Banking and Currency.	Mar. 2, 1865	Samuel S. Cox of New York.	9	17	15	
					Pacific Railroad(s).	Mar. 2, 1865	As a Select Committee, by Samuel R. Curtis of Iowa.	9	15	14	
39th	1865-1867	185	44	9, 5, 3	Mines and Mining	Dec. 19, 1865	Elihu B. Washburne of Illinois.	9	13+	10+	T
					Freedmen's Affairs. (Abolished Dec. 15, 1875).	Dec. 4, 1866	As a Select Committee, by Thomas D. Eliot of Massachusetts, Dec. 6, 1865.				

Origin and Development of Standing Committees. — *Continued.*

CONGRESS.	PERIODS.	SIZE OF HOUSES.	NUMBER OF COMMITTEES DURING THE PERIOD.	SIZES OF COMMITTEES DURING EACH PERIOD.	NAMES.	DATES OF CREATION.	BY WHOM ORIGINATED.	SIZE OF EACH WHEN CREATED.	PRESENT SIZE OF EACH.	NUMBER OF STATES REPRESENTED ON EACH AT 53D CONGRESS.
40th	1867-1869	192	45	9, 5, 3	Education and Labor (Subdivided at 48th Congress).	Mar. 21, 1867	James A. Garfield of Ohio, Feb. 14, 1866.	9	13	10
41st	1869-1871	229	45	13, 9, 5, 3						
42d	1871-1873	246	45	13, 9, 5, 3						
43d	1873-1875	293	46	13, 11, 5, 3.	Expenditures in the Department of Justice.	Jan. 16, 1874	Select Committee on Rules.	5	7	6
44th	1875-1877	293	46	13, 11, 7, 5, 3+	Mississippi Levees. (Name afterward changed to "Levees and Improvements of the Mississippi River.")	Dec. 10, 1875	Randall L. Gibson of Louisiana.	11	13	11
45th	1877-1879	293	46	13, 11, 7, 5, 3+						

46th	1879-1881	203	46	15, 13, 11, 7, 5, 3+								
47th	1881-1883	294	46	15, 13, 11, 7, 5, 3+								
48th	1883-1885	323	47	15, 13, 11, 7, 5, 3+	Labor.	Dec. 19, 1883	Jehu Baker of Illinois, Mar. 20, 1867.	7	13	10		
					Rivers and Harbors.	Dec. 20, 1883	Pol Dexter Dunn of Arkansas, Dec. 4, 1883.	15	17	17		
49th	1885-1887	325	47	15, 13, 11, 9, 7, 5, 3+								
50th	1887-1889	325	48	15, 13, 11, 9, 7, 5, 3+	Merchant Marine and Fisheries.	Dec. 21, 1887	Nelson Dingley, Jr., of Maine.	13	13	13		
51st	1889-1891	332	49	15, 13, 11, 9, 7, 5, 3+	Expenditures in the Department of Agriculture.	Dec. 20, 1889	Committee on Rules.	7	7	7		
52d	1891-1893	332	49									
53d	1893-1895	356	55	15, 13, 11, 9, 7, 5, 3	Reform in the Civil Service.	Aug. 18, 1893	Thomas A. Jenckes of Rhode Island, Mar. 12, 1866.	13	13	10		

APPENDIX II.

CLASSIFICATION OF COMMITTEES.

A.—LEGISLATIVE DEPARTMENT.

I. *Exclusive Affairs of the House :*

1. Elections, Apr. 13, 1789.
2. Accounts, Nov. 7, 1804.
3. Mileage, Sept. 15, 1837.
4. Rules, Dec. 27, 1849; Mar. 2, 1880.
5. Ventilation and Acoustics, Aug. 18, 1893.

II. *Joint Affairs with Senate :*

1. Enrolled Bills, July 27, 1789.
2. Library, Dec. 7, 1843.
3. Printing, July 24, 1846.

B.—JUDICIAL DEPARTMENT. Judiciary, June 3, 1813.

C.—EXECUTIVE DEPARTMENT.

Expenditures in :

1. Department of State, Mar. 30, 1816.
2. Department of Treasury, Mar. 30, 1816.
3. Department of War, Mar. 30, 1816.
4. Department of Navy, Mar. 30, 1816.
5. Department of Post-Office, Mar. 30, 1816.
6. Public Buildings, Mar. 30, 1816.
7. Department of Interior, Mar. 16, 1860.
8. Department of Justice, Jan. 16, 1874.
9. Department of Agriculture, Dec. 20, 1889.

D.—PRIVATE LEGISLATION.

1. Claims, Nov. 13, 1794.
2. War Claims, Dec. 22, 1813.
3. Private Land Claims, Apr. 29, 1816.
4. Pensions, Dec. 9, 1825.
5. Invalid Pensions, Jan. 10, 1831.
6. Patents, Sept. 15, 1837.

E.—PUBLIC LEGISLATION.**I. *Financial:***

1. Ways and Means, Dec. 21, 1795.
2. Coinage, Weights, and Measures, Jan. 21, 1864.
3. Appropriations, Mar. 2, 1865.
4. Banking and Currency, Mar. 2, 1865.

II. *Industrial:*

1. Commerce, Dec. 14, 1795.
2. Manufactures, Dec. 8, 1819.
3. Agriculture, May 3, 1820.
4. Railways and Canals, Dec. 15, 1831.
5. Pacific Railroads, Mar. 2, 1865.
6. Mines and Mining, Dec. 19, 1865.
7. Levees and Improvements of the Mississippi River, Dec. 10, 1875.
8. Rivers and Harbors, Dec. 20, 1883.
9. Merchant Marine and Fisheries, Dec. 21, 1887.
10. Irrigation of Arid Lands, Aug. 18, 1893.

III. *Law:*

1. Revisal of the Laws, Dec. 14, 1795.
2. Election of President, Vice-President, and Representatives, Aug. 18, 1893.

IV. *Public Property:*

1. Public Lands, Dec. 17, 1805.
2. District of Columbia, Jan. 27, 1808.

3. Post-Offices and Post-Roads, Nov. 9, 1808.
4. Territories, Dec. 13, 1825.
5. Public Buildings and Grounds, Sept. 15, 1837.

V. *War* :

1. Military Affairs, Mar. 13, 1822.
2. Naval Affairs, Mar. 13, 1822.
3. Militia, Dec. 10, 1835.

VI. *Social* :

1. Indian Affairs, Dec. 17, 1821.
2. Education, Mar. 21, 1867.
3. Labor, Dec. 19, 1883.
4. Immigration and Naturalization, Aug. 18, 1893.
5. Alcoholic Liquor Traffic, Aug. 18, 1893.
6. Reform in the Civil Service, Aug. 18, 1893.

VII. *International* :

1. Foreign Affairs, Mar. 13, 1822.

APPENDIX III.

RULES PROPOSED FOR THE PENNSYLVANIA
ASSEMBLY, AND ADOPTED IN 1703.

THAT any Member indecently carrying himself towards the Speaker, or any of the Members, by Reflections, or other uncomely Behavior, in the House, or shall transgress this or any of the following Rules, shall for the first Offence be reproved, for the second and after fin'd, as the House thinks fit, not exceeding *Ten Shillings*.

That all Members, offering to speak, stand up and direct their Speech to the Chair, speak pertinently to the Occasion, and having ended to sit down; none to speak above twice to one Matter (especially upon Bills) without Leave of the Speaker.

That none presume to interrupt another, nor offer to speak until the first sit down.

That the Members forbear talking to each other, and keep Silence, unless they have Occasion to speak in order as aforesaid.

That no Member endeavour to pervert the Sense of another's Speech.

That the Speaker have Power to stop all unnecessary, tedious, or superfluous Discourse, and to command Silence when needful.

That the Members avoid naming others when they may have Occasion to observe or take Notice of their Speech, but have respect to the Time of their Speaking, or to the Seat they have, as Right or Left of the Chair, &c.

That no Member presume to go in or out of the House

before the Speaker, he being present, nor depart the House without his Leave.

That upon Debates and passing of Bills, the Majority of Votes shall govern, and when the Votes of Members are equal in Number, the Speaker shall have the Casting Vote.

That the Speaker, with Consent of the House, require any Member offending to Stand at the Bar, and there receive the Censure of the House.

That no Member presume to divulge the Debates or Secrets of the House.

That no Member, who is against the Body of a Bill, shall be appointed to be of a Committee concerning that Bill.

That the Speaker have Power to nominate Persons for Committees ; and that none who are nominated, refuse the Service ; not that any of the Members shall be hereby debarr'd of their Privilege of nominating Persons if they think fit, or rejecting such as are by the Speaker nominated ; in which Cases the Opinion of the House shall rule.

That Bills to be pass'd into Laws, may be brought in by any particular Member, or received by them, or the Speaker from others, and presented to the House, who is to order the Clerk loudly to read them ; and after reading, to be respectfully delivered to the Speaker, and him to mark and note (by Breviate or otherwise) all Bills, and declare the Nature and the Use of the same, which, if not rejected, to cause to be read a second Time, and after deliberate consideration thereon, and Amendments made, if needful, cause it to be read a third Time, and drawn fair, and sent to the Governor, as the House shall think fit, for his Assent, or Rejection ; but that no Bill be read twice in one Day, except on extraordinary Occasions.

That at the first Reading of Bills, the Members avoid any close Debate, and seriously deliberate on the Contents, in order to their better Information before the second Reading.

That all Questions put by the Speaker to know the Mind of the House by Vote, be answered by the Members standing up, and saying Yea, or Nay, as they shall see meet.

That if it shall at any time happen, that a Debate prove

tedious, and any four Members shall stand up, and request the Speaker to put the Matter in Debate to the Vote, he shall not refuse it.

That after the Meeting of an Assembly, the Regularity of Elections being first inspected, Committees shall be appointed on the several Occasions of their Sessions, so far as they have Knowledge thereof, wherein the Command of the Crown shall be preferred, and next that of the Governor : after which, inspection shall be made into the Law for Safety of the Government, and Preservation of Liberty and Property ; next of Grievances ; of publick and private Bills ; of Petitions &c. in Course.

APPENDIX IV.

COMMITTEES IN STATE LEGISLATURES AND
MUNICIPAL COUNCILS.

THOUGH little more can be done in this connection, the mere calling of attention to a field so rich and so important should not be without value. The United States has a hundred State legislative chambers, each with its own parliamentary rules. Comparative study of these collections by legislators should do much to raise the standard of lawmaking. They have not even been brought together in a single compilation. A series of historical monographs devoted to State legislatures might set forth intelligently the merits and defects of the various systems, and point out the true lines of advance. States should know themselves, and study their neighbors. Some of our Commonwealths are much richer in wise methods than others, but none will be found so poor as to have nothing to give.

These parliamentary codes may be assigned to three main categories: those of the original Atlantic seaboard States; those of the Southern and Middle-West States which were admitted to the Union prior to 1861; those of the Western States which have come in since 1861. The influence of the Congressional procedure upon the three groups and upon the several States that compose them varies both as to degree and as to the stage of its own development at the time that each first drew from its store. The customs and rules of Western legislatures may also be traced back directly to such older bodies as those of Virginia, Pennsylvania, and Massachusetts. There is, besides, the valuable sphere of original and special

developments, the product of a thousand blending causes. Ignorance and common sense have each played their parts. So have physical conditions, industries, and population. So have differences in State constitutional provisions; e.g., the lengths of sessions, or the salaries of the legislators. Our examination of the national procedure has emphasized the importance of the legislative chamber's size and of the amount of its business as bearing upon its legislative methods. What differences, much wider than actually exist, ought to be expected between the two neighboring Commonwealths whose early antagonisms are so interesting, the simple, agricultural Vermont, and New York, the Empire State, with five times the area, with great cities and vast, varied industries. Vermont has thirty Senators; New York, fifty. New York has one hundred and fifty Representatives; Vermont, two hundred and forty-four. With Senates of about equal sizes, New Jersey has a House of sixty members, and New Hampshire a House of three hundred and fifty-eight. By so much as the duties of a State legislature differ from those of a national Congress, by so much ought it to display independence and self-reliance in the manner of grappling with legislative tasks.

As typical to an extent of the three groups indicated, take Massachusetts, Illinois, and Wyoming. Massachusetts builds upon a fine experience of near three centuries, a comparatively slow and therefore healthy development from the simplest to the most intricate governmental forms. Her General Court inherits the characteristics of the town-meeting. By frequent amendment and revision she has kept her legislative procedure up to date, conserving and more perfectly securing those vital ideas of equality, order, fitness, and economy which shine in her early history. Her joint committee system saves time and expense, divides business equally between the two branches, and minimizes the liability to misunderstandings between them. For a number of reasons it is more practicable in a State than in the national legislature. Maine and Connecticut follow the mother Commonwealth in this respect. The rules are nicely adapted to local requirements. There are no

surplus, ornamental, or vote-catching committees in the Massachusetts list of thirty-three. The idea of equality appears in their uniformity of size and in the equal distribution of committee positions, with hardly an exception three to each Senator and one to each Representative. Bills are considered in the strict order of their introduction, saving only when a four-fifths vote directs otherwise. Individual rights are guarded without stinting power to the Speaker, who stands for order and unity. Upon its passage a bill incurs frequent inspection. When it is introduced, the House Speaker or the Senate's Committee on Rules passes upon its merits; when it nears the end of its journey, committees on third reading and on engrossed bills are its censors. The jurisdiction of the finance committees as against those for general legislation is defined at length. The House of Representatives divides itself into four sections, for each of which the Speaker appoints two lieutenants or monitors, who take the number of votes, or of members present, for the chair, and assist him in preserving order. If their authority is defied, they report to the House, which may see fit to deprive an unruly member of his right to vote or to speak. These monitors and certain committee chairmen sit in seats specially assigned to their offices. While a bill is under discussion, the chairman of the committee from which it comes controls the time, and allots it to the debaters. Altogether there is probably not a legislative system among the forty-five more worthy of emulation than that of the old Bay State.

Illinois, like other great central States, North and South, inherits the framework of a parliamentary code and practice from times and conditions not the most favorable for a beginning. In 1818 the backwoodsmen of French Kaskaskia had small store of experience, and maybe but one exemplar in the way of books, the journals and annals of Congress. Appended to the former they fortunately — or unfortunately — found the rules of the national House, from which both chambers clipped out blocks of regulations almost word for word. The development of Illinois has been in many respects even more rapid

and extreme than that of the nation at large. Between 1818 and 1869 the number of Senators in her legislature increased from fourteen to fifty-one; the number of Representatives from twenty-seven to one hundred and fifty-three. The first assembly represented some fifty-five thousand Southern farmer folk; men are yet living who remember it, and contrast with its simple day this present time, when the interests of the third State in the Union and of the next to the greatest city in the New World are dependent upon action at Springfield. Results are such as are to be expected from such conditions. In the outset disrespect and disregard for the collection of rules were bred by its ill-adaptation. Its accumulation has kept pace with the swift growth of the State. The printed regulations are feebly connected with the actual practice. The House list of fifty-eight standing committees surpasses in distortion that of the United States Senate. The committees range in size all the way from seven to thirty-five men, and furnish an average of twelve places to each legislator, not to speak of a fairy labyrinth of nooks for petty political henchmen. As a general result, power centralizes in the hands of a few men, who are law unto themselves. Legislative reform is needed in the Mississippi Valley.

Of Wyoming little may be said save that she has made a beginning, and, with the showing of her journals as compared with the earliest journals of older States, a fair one. Modern conditions have put well within her reach the ripened experience of Eastern Commonwealths and of the general government, from which she has judiciously selected a code. Combining the old and the new, her parliamentary authorities are Jefferson's Manual and Reed's Rules. History will not belie itself, if, with such opportunities, the new States of the Louisiana Purchase furnish advanced lessons in legislative methods.

COMMITTEES OF THE MASSACHUSETTS LEGISLATURE.

SENATE: Judiciary, Ways and Means, Bills in the Third Reading, Engrossed Bills (three members each); Rules (the President and four members).

HOUSE: Judiciary (nine); Ways and Means (eleven); Bills in the Third Reading, Engrossed Bills, Pay Roll (three each); Elections (seven); Rules (the Speaker and eight others).

JOINT: Agriculture, Banks and Banking, Cities, Constitutional Amendments, Counties, Drainage, Education, Election Laws, Federal Relations, Fisheries and Game, Harbors and Public Lands, Insurance, Labor, Libraries, Liquor Law, Manufactures, Mercantile Affairs, Military Affairs, Parishes and Religious Societies, Printing, Prisons, Probate and Insolvency, Public Charitable Institutions, Public Health, Public Service, Roads and Bridges, State House, Taxation, Towns, Water Supply (each consisting of three Senators and eight Representatives); Metropolitan Affairs, Railroads, Street Railways (each consisting of four Senators and eleven Representatives).

COMMITTEES OF EXACTLY THE SAME NAMES IN LISTS OF MASSACHUSETTS, ILLINOIS, AND WYOMING.

Agriculture, Education, Elections, Federal Relations, Judiciary, Printing, Railroads, Rules.

OTHER COMMITTEE NAMES.

CALIFORNIA: Culture and Improvement of the Grape Vine.
COLORADO: Stock.
CONNECTICUT: Temperance; Woman's Suffrage; Manual and Roll.
FLORIDA: Mining and Phosphate.
ILLINOIS: Fees and Salaries; Building, Loan, and Homestead Associations; History, Geology, and Science; Horticulture; Miscellaneous Subjects; Parks and Boulevards; State and

	County Fairs; Rights of the Minority; Judicial Apportionment; Congressional Apportionment; Senatorial Apportionment.
INDIANA:	Sinking Fund; Rights and Privileges of Inhabitants of the State; Natural Gas.
IOWA:	Medicine, Surgery, and Pharmacy; Text-Books; Telegraphs and Telephones; Pardons; Police Regulations.
KENTUCKY:	Propositions and Grievances; Religion and Morals.
MAINE:	Leave of Absence; Change of Name; County Estimates; Interior Waters.
MICHIGAN:	Executive Business; University; Lumber and Salt.
MINNESOTA:	Forestry and Fire Protection; Grain and Warehouse; Illuminating Oils; Logs and Lumber; Binding Twine and Manufacture of the same; Local Bills; Crimes and Punishments.
MISSISSIPPI:	Levees.
NEBRASKA:	Common Schools.
NEW HAMPSHIRE:	Journal of the House; Mileage; Normal Schools.
NEW JERSEY:	Riparian Rights.
NEW YORK:	Codes; Electricity, Gas and Water Supply.
PENNSYLVANIA:	Centennial Affairs; Iron and Coal Companies; Bureau of Statistics; Pensions and Gratuities; Vice and Immorality.
TEXAS:	Frontier Protection.
VERMONT:	Governor's Messages; Grand List; Distributing (Pub. Docs.).
WASHINGTON:	Harbors and Harbor Lines; State Tide Lands.
WYOMING:	Lands and Irrigation; Corporations; Arbitration; Immigration; Memorials to Congress.

COMPARISON OF THREE MUNICIPAL COUNCIL COMMITTEE
LISTS.

MINNEAPOLIS, MINN.	WORCESTER, MASS.	ATLANTA, GA.
Ways and Means.	Finance.	Finance.
Salaries.		Salaries.
Claims.	Claims.	Contested Claims and Litigation.
Taxes.		Tax.
Licenses.		
Bonds of City Offi- cers.		
Accounts of City Offi- cers.		
Public Grounds and Buildings.	Public Buildings.	Public Buildings and Grounds.
Roads and Bridges.	Highways and Side- walks.	Parks.
Street Grades and Additions.	Assessm'ts for Street Betterments.	Streets.
Fire Department.	Fire Department.	Bridges.
Waterworks.	Water.	Fire Department.
Gas.	Lighting Streets.	Fire Masters.
Underground Wires.		Waterworks.
Sewers.	Sewers.	Electric Lights, Tele- graph, and Tele- phones.
Markets.	Assessments for Sew- ers.	Sewers and Drains.
Printing.	Printing.	Printing.
Railroads.		Electric and other Railroads.
Police.	Police.	Police.
Paving.	Military Affairs.	
Health and Hospi- tals.		Sanitary Affairs.
Cancellation.		

**COMPARISON OF THREE MUNICIPAL COUNCIL COMMITTEE
LISTS. — *Continued.***

MINNEAPOLIS, MINN.	WORCESTER, MASS.	ATLANTA, GA.
Ordinances.	Ordinances.	Ordinances and Legislation.
Bethany Home.	Charities.	Relief.
Rules.		Cemetery.
		Manufacturers, Statistics, Freight Rates and Transportation.
	Public Works.	Prisons.
		Public Improvem'ts.
	Education.	Schools.
	Mayor's Inaugural, and Unfinished Business.	Minutes.
	Enrollment.	
	Bills in the Second Reading.	
	Elections and Returns.	

APPENDIX V.

THE FINANCIAL COMMITTEES OF CONGRESS.

THE development of our national finances as yet conceals itself for the most part in the pages of a thousand dusty volumes. A single comparison of extremes suffices to show the great scope of the subject. There was but one general appropriation bill in 1789. Its thirteen modest lines authorized the expenditure of six hundred and thirty-nine thousand dollars. To-day an expert clerk may require an hour and a half to read to the House one of the fourteen bills, and its bristling items may carry a sum total larger than all of the national outlay during Washington's Presidency.

Notwithstanding this vast difference, threads of continuity bind together the first bill and the latest. The development of the one into more than a dozen has been logical. Some items in our tariff and appropriation measures are survivals from the days when Congress sat in New York City. The framers of the Wilson Bill looked back to the McKinley Bill, and the framers of the Dingley Bill back to the Wilson Bill.

In our government, as in others of the world, the initial steps of appropriation fall to the Executive. Those who are engaged in the activities of administration best know its needs, and, voluntarily or by requirement, furnish to the legislative holders of the purse the information which serves as a basis for supply. Besides two score large volumes of general information, the appropriation committees annually receive the so-called Book of Estimates. With the opening of the fiscal year in July, bureau clerks begin to collect the facts for this important manual. Gradually each head of a Department compiles them into a report, which he sends to the Secretary of the Treasury. The Treasury Department digests them further

until they take final shape, and places the completed Book of Estimates in Mr. Speaker's hands when Congress meets.

The compact columns of this book exhibit clearly and minutely each object of appropriation, with the volume, the page, and the section of the laws, that sanction the expenditure. They present the totals, and, side by side with them for comparison, the totals for the preceding year. They include fine print explanatory notes by the various officers, where changes are asked for, and are supplemented by a text of written explanations and an index.

Step by step, with unceasing effort, Congress has worked out a system of limitations upon expenditure by the Executive. In the earlier years appropriations were made in gross. The bill of 1789 contained but four items, — for civil expenses, for military expenses, for payment of the public debt, and for pensions. A statute of our time requires that each section of a bill "shall contain as nearly as may be a single proposition of enactment," and the number of sections is legion. Among others two prime abuses have been corrected. For a long while the Executive could transfer an appropriation from the object for which it was made to some other object. These transfers have been forbidden by statutes of 1809 and 1868. The second evil was the accumulation of unexpended balances in the various departments. By a law of 1870 such sums, to the enormous amount of one hundred and seventy-four million dollars, were covered into the treasury. All balances must now be reported annually, and after two years returned to the general public funds.

The century-long process of an increasing membership and an increasing budget has required an increasing number of workmen for preparation of the financial bills. In Washington's time the Ways and Means controlled the entire field of finances in the House of Representatives. Before the Civil War came, it had consigned its jurisdiction over private relief bills to the Claims, the War Claims, the Pensions, and the Invalid Pensions. It gave over the entire subject of expenditure to the newly created Appropriations in 1865. Upon that oc-

casion Robert C. Schenck suggested the distribution of the Appropriation Bills to the committees generally. This distribution came in 1879 and 1885, when the Appropriations was forced to yield up eight of its precious bills, two to the Military Affairs, and one to the Agriculture, the Foreign Affairs, the Naval Affairs, the Indian Affairs, the Post-Offices and Post-Roads, and the Rivers and Harbors, respectively. The Appropriations now controls but sixty per cent of the annual expenditure, and its share includes the tremendous but fixed bill for pensions. These nine committees for public finances have increased in size each to fifteen or seventeen members. Their combined membership of one hundred and forty-seven is about thirty-two per cent of the House total. In its true inwardness the entire movement has tended to preserve and restore to the Representatives an equal voice upon financial subjects. Whereas formerly a sub-committee of three prepared the Navy Bill, a full committee of fifteen now operates. Those who raised the banner of revolt in 1885 might well have inscribed upon it, "No taxation without representation."

This same general objection to the control of the finances by a few men in Congress holds against the preparation of tariff bills by the commissions which have been advocated or appointed; they are not truly representative. To be sure, the peculiar conditions which have hitherto tended to confine the membership of the Ways and Means so largely to country members have crippled its representative character. The practical remedy has been found and partly applied in the committee hearing, which imperatively summons experts from the great marts to the doors of Congress. "The framing of a tariff law," says Robert P. Porter, "with all the delicate questions of public revenue which are interwoven with it, constitutes the most difficult and the most complicated problem that statesmanship has to deal with. Every statesman since the war who has been called upon to grapple with this question has either wrecked his party or himself, or both, before he was through with the job."

The framing of an appropriation law is also difficult enough.

Very wisely, and in face of the spoils doctrine, the House and Senate Committees on Appropriations retain year after year their able and experienced clerks. The estimates, with an abundance of other printed data, are at hand; and the committees of both chambers profess, like the British Commons, to rule out everything that has not been submitted by the Executive. But there are many elements of uncertainty that require nice calculation. A percentage of the estimates must be fixed upon, for they are almost always too large. Upon a general view in 1870, Senator John Sherman enumerated as points making for uncertainty: bounties, the Indian service, the call for public works, Congressional liberality or economy, transfers of appropriations from one head to another, appropriations for the previous year remaining unexpended, the manner of making appropriations, *e.g.*, once for all, piecemeal, or by continuing contract, and the claims likely to be allowed by Congress or by the courts. "Under our system," said he, "it would require more than human sagacity to guess within five million dollars of our expenditures for the next year."

Passing from the committees, two or three salient features of the treatment of the great financial bills upon the legislative floor are worthy of notice. First to be emphasized is the growing use and usefulness of the printer's art. Take, for illustration, the enactment of the present tariff law. Ten thousand copies of the hearings before the Ways and Means were distributed to members of the House and the Senate. Upon the appearance of the bill in the House, both the majority and the minority of the committee presented their carefully drawn reports. Five thousand copies of the bill were published, and five thousand copies of a comparison with former tariff measures. Unlimited leave to print was granted to every Representative. Expert clerks of the Senate also prepared a comparative statement, showing in parallel columns, with specific duties stated in terms of *ad valorem*, "the law of 1890, known as the McKinley Act, the law of 1894, and the House bill and the Senate amendments, with all the rates respecting these bills." The bill in full was twice afterward reproduced

in the *Congressional Record*, the first time with its eight hundred amendments, when it had passed the Senate ; the second time with all further changes, when it had come out of conference,—a course which had never been taken with a conference report before. If publicity be one of the essentials of sound finance, it here presents itself in abundant measure.

The right to debate is an old-fashioned essential of publicity. There are two kinds of debate in the House. First comes general debate, for which the majority assigned forty-one hours upon the Dingley bill. According to custom one-half of this time was controlled by Chairman Dingley; but the majority yielded most of their share to the minority, who confined themselves mainly to discussion of the general principles of Protection and Free Trade. Usually the majority leader opens general debate with an explanation of the bill, and with patient reply to all inquiries. The minority keeps its ablest speakers to the last, and a chief of the majority delivers the closing argument in rebuttal. Then follows the five-minute debate upon paragraphs. For this five days were allowed in considering the Dingley tariff. Each five-minute speech is based upon a proffered amendment.

The procedure of amendment is a third salient feature in the treatment of financial bills. In the House it has come about that few amendments succeed except those which are presented or accepted by the committee that has originated the money-bill under consideration. An early victory of the committees over would-be amenders lay in the adoption of the rule that an amendment could be laid upon the table without prejudice to the main question. Amendment of the financial bills is a particularly delicate matter because of their peculiar characteristics. One of the canons of parliamentary law declares that no bill shall relate to more than one subject, and that this shall be expressed in its title. Many States have inserted this in their Constitutions, with or without express exception of appropriation bills. From the necessities of the case each one of these huge bills is more or less of an omnibus, with all of the lurking temptations that such measures

are known in history to have presented to the legislator. Our entire expenditures are divided into two classes, those which are regularly reviewed by the Congressional committees every year, and those which are made payable by statutes that remain unchanged during considerable periods. The ratio between the two at different stages of our Government's progress is of interest, and the comparative value of the methods has been a subject of debate. The appropriations belonging to the latter class—now decreased to less than one-third—cause little or no trouble. The bulk of those in the former and larger class is very unequally divided into fourteen sums, that range from not quite half a million to more than one hundred and forty million dollars. Appropriation bills vary in character, not only among themselves, but from year to year. The history of any one of them can never be surely predicted. Some pass into laws before the holiday recess, and without change of a cent from the original estimate or the original amount fixed by the House committee; others drag on in fierce contests, and die in the feverish closing hours of an out-going Presidential Administration.

The demand or the necessity for change, for increase or decrease of expenditures, has been one disturbing element; and another has been the effort to fasten upon these all-important bills measures that cannot succeed save as riders. To separate the sphere of appropriation and the sphere of general legislation has often been difficult. In construing the House rules for the amendment of money bills, the Speaker and the Chairman of the Committee of the Whole have often found exercise for the finest subtleties of logic. There have been no contests over the legislative code sharper than those which have centered around what is now clause two of Rule XXI. Formerly this clause included the "Holman Amendment" (*q. v.*, p. 179), as a substitute for which such Republican leaders as Reed and Garfield at one time supported a rule permitting amendment of an appropriation bill by striking out any sum of money and inserting a less sum.

A measure tacked to an appropriation bill by one House,

for the compulsion of the other, is properly termed a rider. When a number of members in one of the chambers combine to insert in block their several pet measures, the process is called log-rolling. Long before a bill comes from its committee the log-roller may be forming combinations for its alteration. A favorite scheme of his has been to secure consideration for it in the secret party caucus. River and Harbor bills, and bills charged with the granting of public buildings, have been most susceptible to such blackmail. A measure loaded down and passed by log-rollers violates that old parliamentary principle which forbids interested members from voting upon legislative subjects. Log-rolling has been flagrant in the House because the Representative depends upon a small constituency, which has often been willing to exploit the rest of the country for its own selfish ends. How can we fuse into this popular body an element which will represent territorial areas larger than the ordinary Congressional district? At least one member at large from each State could easily be provided for by a slight change of statute law. There is a participator in lawmaking who stands for a constituency broad as the Union; the often-advocated extension of the President's veto to the items of appropriation bills would be a death blow to log-rolling.

While the House committees sometimes suffer at the hands of House amenders, their formidable enemies are in array at the other extremity of the Capitol. The Senate committees, the Finance and the Appropriations, do not wait for the coming of the money-bills from the lower branch, but take them up for consideration as soon as they emerge from the document-room. Most of the Senate changes are wrought out in the guarded committee-room, not upon the open floor. In the conference the Senate is on the aggressive, the House on the defensive.

A general view of the public finance usually discovers the House, the Senate, and the Executive each struggling for its rights or for advantage over its fellows. By delay the House reduces the Senate's opportunity for changing the money-bills, and by delay the Senate retaliates in kind. Between them

they have often forced the President to the alternative of signing or vetoing a complex measure which he has never read. In 1837 John Quincy Adams originated a rule which required the Ways and Means of the House to report the appropriation bills within thirty days after the opening of a session; but his rule was a dead letter from the beginning, and has long since disappeared. The second, or the short regular session of Congress has suffered most from the evil of delay. An equitable division of legislative time among the House, the Senate, and the President is needed. To lengthen the short session by pushing it back into November, or to convene the committees long before its December opening day, would afford relief.

The date upon which a tariff law shall go into effect is an important consideration. The farther it is put from the hour when the propositions of the Ways and Means become public, the more the nation's commercial interest may be disturbed, and the more the government's revenues may be deranged and crippled by anticipatory importations. Chairman Dingley estimated that anticipatory importations would cut down the revenue from his bill forty million dollars during the first year of its operation. He inserted a retroactive clause which failed of enactment. The English practice might suggest for our government a way out of this difficulty. In a manner not strictly legal, the Administration there takes the responsibility of levying the newly suggested duties as soon as they are reported from the Committee on Ways and Means to the House of Commons. There seems to be no reason why a general and independent statute might not impose like action upon our customs officers.

Petty juggling with the appropriation bills has found opportunity in the fact that a Congress does not meet until more than a year after it is elected. If a party be dethroned by the fall elections, it can so manipulate the appropriations in its final session of power as to throw some of its own budgetary expenses forward into succeeding years.

How far do the financial methods of Congress measure up

to the true standards of economy? The question is often asked and variously answered. The Republican dubs his Democratic friend a "cheese-parer," and the Democrat routs his Republican friend upon the issue of the "billion-dollar Congress." Certainly, in the light of recent experiences, we need some of that wise legislation and administration which, ages ago and in another civilization, eked out by seven plenteous years seven that were lean and hungry. While fixed responsibility and concerted action in budgetary business have not been as positive as they should be, their operation has perhaps been underestimated. Say what its leaders will, the House of Representatives is mainly accountable. Congressmen have been inaugurating a practice of reviewing the financial conduct of each session as it draws to a close. The Secretary of the Senate and the Clerk of the House are required to compile and publish at that time tabular statements exhibiting the history of all the appropriation bills, the new offices created, and the new or increased salaries. In these closing days, the great parties mutually criticise each other's financiering, and many a parliamentary thunderstorm clears the atmosphere of indirection. But more of intelligent planning, more of general counsel among the great House chairmen and among the administrative chiefs, are needed for the legislative beginnings. As for the final regulative power, the words of a high authority upon finance will bear repetition: "The rules of budgetary legislation are serviceable in keeping administration within limits; but prudent expenditure, productive and equitable taxation, and due equilibrium between income and outlay, will only be found where responsibility is enforced by the public opinion of an active and enlightened community."

The First General Appropriation Bill, September 29, 1789.

AN ACT making appropriations for the service of the present year.

SECTION 1. *Be it enacted, etc.*, That there be appropriated for the service of the present year, to be paid out of the monies which arise either from the requisitions heretofore made

upon the several States or from the duties on import and tonnage, the following sums, viz. : A sum not exceeding two hundred and sixteen thousand dollars for defraying the expenses of the civil list under the late and present Government ; a sum not exceeding one hundred and thirty-seven thousand dollars for defraying the expenses of the Department of War ; a sum not exceeding one hundred and ninety thousand dollars for discharging the warrants issued by the late board of treasury, and remaining unsatisfied ; and a sum not exceeding ninety-six thousand dollars for paying the pensions to invalids.

Development of the General Appropriation Bills.

I. Act making appropriations for the support of the Government, Sept. 29, 1789.

A. Military and Naval Establishments Bill, 1794.

1. Naval Establishment Bill (now called Navy), 1799.
2. Military Establishment Bill (now called Army), 1799.
 - a. Fortifications, 1823.
 - b. Pensions, 1826.
 - c. Military Academy, 1834.
 - d. Indian, 1837.

B. Civil and Diplomatic Expenses Bill, 1794.

1. Post-Office, 1844.
2. Diplomatic and Consular, 1856.
3. Sundry Civil, 1856.
 - a. District of Columbia, 1880.
4. Legislative, Executive, and Judicial, 1856.
 - a. Agricultural, 1880.

C. Rivers and Harbors, 1826.

Special Order of the House for its First Consideration of the Dingley Tariff Bill.

Resolved, That on and after Monday, March 22, 1897, and until the final vote on the bill hereinafter mentioned shall have been taken, the House shall meet on each legislative day at 10 o'clock, A. M. ; that on each of said days immediately after the reading of the Journal the House shall resolve itself

into Committee of the Whole House on the State of the Union for consideration of the bill (H. R. 379) to provide revenue for the Government and to encourage the industries of the United States ; that general debate shall continue on said bill during each day until 5 o'clock, P. M., and at evening sessions, to which a recess shall be taken, to be held from 8 o'clock till 11 o'clock, P. M., until and including Thursday, the 25th day of March, unless sooner concluded ; that from the conclusion of general debate until the 31st day of March there shall be debate upon the said bill by paragraphs, and during this time the bill shall be open to amendment as each paragraph is read, but committee amendments to any part of the bill shall be in order at any time ; that not later than Wednesday, the 31st day of March, at 3 o'clock, P. M., the said bill, with all amendments that shall have been recommended by the Committee of the Whole House on the State of the Union, shall be reported to the House, and the previous question shall then be considered as ordered on said amendments and said bill to its engrossment, third reading, and final passage, and on a motion to reconsider and lay on the table.

General leave to print remarks on said bill is hereby granted, to continue for twenty days after the final vote of the House thereon.

Special Order of the House, July 8, 1897, obviating Reference of the Dingley Bill to the Committee on Ways and Means.

Resolved, That upon the adoption of this resolution it shall be in order to move to nonconcur in gross in the Senate amendments to House bill No. 379, and agree to a committee of conference, asked for by the Senate, on the disagreeing votes of the two Houses ; and the House shall, without further delay, proceed to vote upon said motion ; and if the said motion prevail, a committee of conference shall be appointed, without instructions, and said committee shall have authority to join with the Senate committee in renumbering the paragraphs and sections of said bill when finally agreed upon.

Special Order of the House for Consideration of the Appropriation Bills that had failed in the Fifty-fourth Congress.

Resolved, That on Friday, March 19, 1897, immediately after the adoption of this rule, the House shall proceed to the consideration of the bill (H. R. 16) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1898, and for other purposes ; that said bill shall be considered under the rules governing general debate during the said day for not exceeding forty minutes ; that at the conclusion of such general debate the bill shall be read *in extenso* ; that the previous question shall then be considered as ordered on the bill to its final passage ; that after the final vote thereon the House shall proceed to the consideration of the bill (H. R. 14) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1898 ; that said bill shall be considered under the rules governing general debate during the said day for not exceeding forty minutes ; that at the conclusion of such general debate the bill shall be read *in extenso* ; that the previous question shall then be considered as ordered on the bill to its final passage ; that after the final vote thereon the House shall proceed to the consideration of the bill (H. R. 15) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1898, and for other purposes ; that said bill shall be considered under the rules governing general debate during the said day for not exceeding forty minutes ; that at the conclusion of such general debate the bill shall be read *in extenso* ; that the previous question shall then be considered as ordered on the bill to its final passage ; and that this order shall continue from day to day until all of the bills herein mentioned are disposed of."

A PAGE FROM THE BOOK OF ESTIMATES.
 Estimates of Appropriations Required for the Service of the Fiscal Year Ending June 30, 1896. — *Cont'd.*

GENERAL OBJECT (TITLE OF APPROPRIATION) AND DETAILS AND EXPLANATIONS.	DATE OF ACTS, OR TREATIES PROVIDING FOR THE EXPENDI- TURE.	REFERENCE TO STATUTES AT LARGE, OR TO REVISED STATUTES.		ESTIMATED AM'T RE- QUIRED FOR EACH DE- TAILED OB- JECT OF EX- PENDITURE.	TOTAL AMOUNT TO BE APPRO- PRIATED FOR UNDER EACH HEAD OF EX- APPROPRIA- TION.	AMOUNT AP- PROPRIATED FOR THE FISCAL YEAR ENDING JUNE 30, 1895.
		Vol. of R. S.	Page.			
UNDER THE NAVY DEPARTMENT. GENERAL EXPENSES. <i>Pay of the Navy.</i> Pay of officers on sea-duty; officers on shore and other duty; officers on waiting-orders; offi- cers on the retired list; clerks to commandants of yards and stations; clerks to paymasters at yards and stations; general storekeepers; re- ceiving-ships and other vessels; extra pay to men re-enlisting under honorable discharge; interest on deposits by men; pay of petty offi- cers, seamen, landsmen, and boys, including men in the engineers' force, and for the Coast Survey Service and Fish Commission, eight thousand two hundred and fifty men, and seven hundred and fifty boys, at the pay pre- scribed by law.	.	R. S.	246	1367	\$7,472,848.00	\$7,480,500.00
	.	R. S.	248	1386-88		
	.	R. S.	265	1556		
	.	R. S.	269	1569		
	.	R. S.	269	1573		
	.	R. S.	272	1595		
	May 12, 1879	21	3	1		
	Aug. 5, 1882	22	285-7	1		
	Mar. 3, 1883	22	472, '3	1		
	Mar. 3, 1885	23	340	1		
	Mar. 2, 1889	25	809	1		
	July 19, 1892	27	236	1		
	Mar. 3, 1893	27	715	1		
July 26, 1894	28	123, '37	1			
NOTE.— The foregoing estimate is made up as follows:— Pay of 1,494 officers of the active list, \$3,404,950. Pay of 300 naval cadets under instruction, \$150,000. Etc., etc.						

**Chronological History of Appropriation Bills, Second Session of
Fiscal Year 1897-1898; and Appropri-**

NOTE. — River and Harbor Appropriations were included in the Sun-

TITLE.	ESTIMATES, 1898.	REPORTED TO THE HOUSE.		PASSED THE HOUSE.	
		Date.	Amount.	Date.	Amount.
Agriculture	\$ 2,385,742.00	1897 Jan. 13	\$ 3,152,752.00	1897 Jan. 30	\$ 3,155,702.00
Army	23,892,307.65	1896 Dec. 14	23,126,344.30	1896 Dec. 17	23,126,344.30
Diplomatic and Con- sular	2,082,728.76	1897 Jan. 26	1,675,908.76	1897 Feb. 2	1,672,708.76
District of Columbia, Fortifications	8,686,616.38	1897 Jan. 28	5,780,811.06	1897 Feb. 6	5,788,811.06
Indian	15,815,256.00	1897 Feb. 10	9,178,325.00	1897 Feb. 11	9,253,325.00
Legislative, Execu- tive, and Judicial . .	7,279,525.87	1896 Jan. 14	7,525,691.67	1896 Jan. 28	7,424,609.09
Military Academy . .	22,767,150.80	1896 Dec. 15	21,642,369.80	1896 Dec. 22	21,641,369.80
Navy	521,812.83	1897 Dec. 17	489,572.83	1897 Jan. 11	474,572.83
Pension	34,215,936.19	1896 Feb. 20	32,165,234.19	1896 Feb. 23	32,165,234.19
Post-Office	141,328,580.00	1896 Dec. 7	141,263,880.00	1896 Dec. 8	141,263,880.00
River and Harbor . . .	97,515,411.15	1897 Feb. 10	95,611,714.22	1897 Feb. 12	95,535,338.75
Sundry Civil	100,000.00	1897 Feb. 11	50,664,743.92	1897 Feb. 15	50,664,743.92
Total	58,805,812.81		392,277,347.75		392,166,639.70
Urgent Deficiency, Navy, etc.	15,500,000.00	1896 Dec. 19	881,862.71	1896 Dec. 19	881,862.71
Deficiency, 1897, and prior years		1897 Feb. 18	8,441,029.43	1897 Feb. 22	8,442,027.85
Total			401,600,239.89		401,490,530.26
Miscellaneous	430,896,880.44				
Total regular an. appropriations, Permanent annual appropriations	2,000,000.00				
Grand Total	432,896,880.44				
	120,078,220.00				
	552,975,100.44				

the Fifty-fourth Congress; Estimates and Appropriations for the
ations for the Fiscal Year 1896-1897.

dry Civil and Urgent Deficiency Bills to the amount of \$22,878,053.16.

REPORTED TO THE SENATE.		PASSED THE SENATE.		LAW, 1897-1898.		LAW, 1896-1897.
Date.	Amount.	Date.	Amount.	Date.	Amount.	Amount.
1897	\$	1897	\$	1897	\$	\$
Feb. 9	3,212,902.00	Feb. 10	3,217,902.00	Vetoed	3,182,902.00	3,255,532.00
Jan. 14	23,129,344.30	Jan. 18	23,129,344.30	Mar. 2	23,129,344.30	23,278,402.73
Feb. 6	1,695,308.76	Feb. 11	1,695,308.76	Feb. 20	1,695,308.76	1,642,558.76
Feb. 17	6,993,677.44	Mar. 1	7,447,727.44	Mar. 3	6,187,591.06	5,900,319.48
Feb. 26	9,717,141.00	Mar. 2	9,817,141 00	Mar. 3	9,517,141.00	7,377,888.00
Feb. 12	7,672,436.89	Feb. 26	7,740,680.89	Vetoed	7,670,220.89	7,390,496.79
Jan. 18	21,702,254.80	Jan. 20	21,712,516.90	Feb. 19	21,690,766.90	21,519,324.71
Jan. 18	479,572.83	Jan. 27	494,572.83	Feb. 10	479,572.83	449,525.61
Feb. 27	35,728,234.29	Mar. 1	33,228,234.29	Mar. 3	33,128,234.29	30,562,660.95
1896		1896		1896		
Dec. 15	141,263,880.00	Dec. 16	141,263,880.00	Dec. 22	141,263,880.00	141,328,580.00
1897		1897		1897		
Feb. 24	95,835,338.75	Feb. 27	95,785,338.75	Mar. 3	95,665,338.75	92,571,564.22
• •	• • • •	• •	• • • •	• •	• • • •	12,659,550.00
Feb. 25	51,827,727.84	Feb. 27	52,703,827.84	Vetoed	53,030,051.58	33,096,710.19
	399,257,818.90		398,236,475 00		396,640,352.36	381,033,113.14
1896		1896		1896		
Dec. 22	884,885.78	Dec. 22	884,885.78	Dec. 22	884,885.78	} 15,341,911.07
1897		1897		1897		
Mar. 1	10,334,939.20	Mar. 2	11,393,940.16	Failed	• • • •	
	410,477,643.88		410,515,300.94		397,525,238.14	396,375,024.51
• •	• • • •	• •	• • • •	• •	500,000.00	416,010.06
• •	• • • •	• •	• • • •	• •	398,025,238.14	396,791,034.57
• •	• • • •	• •	• • • •	• •	120,078,220.00	119,054,160.00
					518,103,458.14	515,845,194.57

APPENDIX VI.

RULES OF THE HOUSE OF REPRESENTATIVES.

FIFTY-FIFTH CONGRESS.

RULE I.

DUTIES OF THE SPEAKER.

1. THE Speaker shall take the chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting, immediately call the members to order, and on the appearance of a quorum, cause the Journal of the proceedings of the last day's sitting to be read, having previously examined and approved the same.

2. He shall preserve order and decorum, and, in case of disturbance or disorderly conduct in the galleries, or in the lobby, may cause the same to be cleared.

3. He shall have general control, except as provided by rule or law, of the Hall of the House, and of the corridors and passages and of the unappropriated rooms in that part of the Capitol assigned to the use of the House, until further order.

4. He shall sign all acts, addresses, joint resolutions, writs, warrants, and subpoenas of, or issued by order of, the House, and decide all questions of order, subject to an appeal by any member, on which appeal no member shall speak more than once, unless by permission of the House.

5. He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: "As many as are in favor (as the question may be), say Aye;" and after

the affirmative voice is expressed, "As many as are opposed, say No;" if he doubts, or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative; if he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one from each side of the question, to tell the members in the affirmative and negative; which being reported, he shall rise and state the decision.

6. He shall not be required to vote in ordinary legislative proceedings, except where his vote would be decisive, or where the House is engaged in voting by ballot; and in all cases of a tie vote the question shall be lost.

7. He shall have the right to name any member to perform the duties of the Chair, but such substitution shall not extend beyond an adjournment: *Provided, however,* That in case of his illness, he may make such appointment for a period not exceeding ten days, with the approval of the House at the time the same is made; and in his absence and omission to make such appointment, the House shall proceed to elect a Speaker pro tempore, to act during his absence.

RULE II.

ELECTION OF OFFICERS.

There shall be elected by a viva voce vote, at the commencement of each Congress, to continue in office until their successors are chosen and qualified, a Clerk, Sergeant-at-Arms, Doorkeeper, Postmaster, and Chaplain, each of whom shall take an oath to support the Constitution of the United States, and for the true and faithful discharge of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House; and each shall appoint all of the employees of his department provided for by law.

RULE III.

DUTIES OF THE CLERK.

1. The Clerk shall, at the commencement of the first session of each Congress, call the members to order, proceed to

call the roll of members by States in alphabetical order, and, pending the election of a Speaker or Speaker pro tempore, call the House to order, preserve order and decorum, and decide all questions of order subject to appeal by any member.

2. He shall make and cause to be printed and delivered to each member, or mailed to his address, at the commencement of every regular session of Congress, a list of the reports which it is the duty of any officer or Department to make to Congress, referring to the act or resolution and page of the volume of the laws or Journal in which it may be contained, and placing under the name of each officer the list of reports required of him to be made.

3. He shall note all questions of order, with the decisions thereon, the record of which shall be printed as an appendix to the Journal of each session; and complete, as soon after the close of the session as possible, the printing and distribution to Members and Delegates of the Journal of the House, together with an accurate and complete index; retain in the library at his office, for the use of the members and officers of the House, and not to be withdrawn therefrom, two copies of all the books and printed documents deposited there; send, at the end of each session, a printed copy of the Journal thereof to the executive and to each branch of the legislature of every State and Territory; preserve for and deliver or mail to each Member and Delegate an extra copy, in good binding, of all documents printed by order of either House of the Congress to which he belonged; attest and affix the seal of the House to all writs, warrants, and subpoenas issued by order of the House, certify to the passage of all bills and joint resolutions, make or approve all contracts, bargains, or agreements relative to furnishing any matter or thing, or for the performance of any labor for the House of Representatives, in pursuance of law or order of the House, keep full and accurate accounts of the disbursements out of the contingent fund of the House, keep the stationery account of Members and Delegates, and pay them as provided by law. He shall pay to the officers and employees of the House of

Representatives, the last day of each month, the amount of their salaries that shall be due them ; and when the last day of the month falls on Sunday he shall pay them on the day next preceding.

RULE IV.

DUTIES OF THE SERGEANT-AT-ARMS.

1. It shall be the duty of the Sergeant-at-Arms to attend the House and the Committee of the Whole during their sittings, to maintain order under the direction of the Speaker or Chairman, and, pending the election of a Speaker or Speaker pro tempore, under the direction of the Clerk ; execute the commands of the House, and all processes issued by authority thereof, directed to him by the Speaker ; keep the accounts for the pay and mileage of Members and Delegates, and pay them as provided by law.

2. The symbol of his office shall be the mace, which shall be borne by him while enforcing order on the floor.

RULE V.

DUTIES OF THE DOORKEEPER.

1. The Doorkeeper shall enforce strictly the rules relating to the privileges of the Hall and be responsible to the House for the official conduct of his employees.

2. At the commencement and close of each session of Congress he shall take an inventory of all the furniture, books, and other public property in the several committee and other rooms under his charge, and report the same to the House, which report shall be referred to the Committee on Accounts to ascertain and determine the amount for which he shall be held liable for missing articles.

3. He shall allow no person to enter the room over the Hall of the House during its sittings ; and fifteen minutes before the hour of the meeting of the House each day he shall see that the floor is cleared of all persons except those privileged to remain, and kept so until ten minutes after adjournment.

RULE VI.

DUTIES OF THE POSTMASTER.

The Postmaster shall superintend the post-office kept in the Capitol for the accommodation of Representatives, Delegates, and officers of the House, and be held responsible for the prompt and safe delivery of their mail.

RULE VII.

DUTIES OF THE CHAPLAIN.

The Chaplain shall attend at the commencement of each day's sitting of the House and open the same with prayer.

RULE VIII.

OF THE MEMBERS.

1. Every member shall be present within the Hall of the House during its sittings, unless excused or necessarily prevented ; and shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question.

2. Pairs shall be announced by the Clerk, after the completion of the second roll-call, from a written list furnished him, and signed by the member making the statement to the Clerk, which list shall be published in the Record as a part of the proceedings, immediately following the names of those not voting : *Provided*, That pairs shall be announced but once during the same legislative day.

RULE IX.

QUESTIONS OF PRIVILEGE.

Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings ; second, the rights, reputation, and conduct of members individually in their representative capacity only ; and shall have precedence of all other questions, except motions to adjourn

RULE X.

OF COMMITTEES.

1. Unless otherwise specially ordered by the House, the Speaker shall appoint, at the commencement of each Congress, the following standing committees, viz. :

On Elections, three committees, to consist of nine members each, to be called number one (1), two (2), and three (3), respectively.

On Ways and Means, to consist of seventeen members.

On Appropriations, to consist of seventeen members.

On the Judiciary, to consist of seventeen members.

On Banking and Currency, to consist of seventeen members.

On Coinage, Weights, and Measures, to consist of seventeen members.

On Interstate and Foreign Commerce, to consist of seventeen members.

On Rivers and Harbors, to consist of seventeen members.

On the Merchant Marine and Fisheries, to consist of thirteen members.

On Agriculture, to consist of seventeen members.

On Foreign Affairs, to consist of fifteen members.

On Military Affairs, to consist of fifteen members.

On Naval Affairs, to consist of fifteen members.

On the Post-Office and Post-Roads, to consist of seventeen members.

On the Public Land, to consist of fifteen members.

On Indian Affairs, to consist of seventeen members.

On the Territories, to consist of thirteen members.

On Railways and Canals, to consist of thirteen members.

On Manufactures, to consist of eleven members.

On Mines and Mining, to consist of thirteen members.

On Public Buildings and Grounds, to consist of fifteen members.

On the Pacific Railroads, to consist of fifteen members.

On Levees and Improvements of the Mississippi River, to consist of thirteen members.

- On Education, to consist of thirteen members.
- On Labor, to consist of thirteen members.
- On the Militia, to consist of thirteen members.
- On Patents, to consist of thirteen members.
- On Invalid Pensions, to consist of fifteen members.
- On Pensions, to consist of thirteen members.
- On Claims, to consist of fifteen members.
- On War Claims, to consist of thirteen members.
- On Private Land Claims, to consist of thirteen members.
- On the District of Columbia, to consist of fifteen members.
- On Revision of the Laws, to consist of thirteen members.
- On Reform in the Civil Service, to consist of thirteen members.
- On Election of President, Vice-President, and Representatives in Congress, to consist of thirteen members.
- On Alcoholic Liquor Traffic, to consist of eleven members.
- On Irrigation of Arid Lands, to consist of eleven members.
- On Immigration and Naturalization, to consist of eleven members.
- On Ventilation and Acoustics, to consist of seven members.
- On Expenditures in the State Department, to consist of seven members.
- On Expenditures in the Treasury Department, to consist of seven members.
- On Expenditures in the War Department, to consist of seven members.
- On Expenditures in the Navy Department, to consist of seven members.
- On Expenditures in the Post-Office Department, to consist of seven members.
- On Expenditures in the Interior Department, to consist of seven members.
- On Expenditures in the Department of Justice, to consist of seven members.
- On Expenditures in the Department of Agriculture, to consist of seven members.

On Expenditures on Public Buildings, to consist of seven members.

On Rules, to consist of five members.

On Accounts, to consist of nine members.

On Mileage, to consist of five members.

Also the following joint standing committees, viz.:

On the Library, to consist of three members.

On Printing, to consist of three members.

On Enrolled Bills, to consist of seven members.

2. He shall also appoint all select and conference committees which shall be ordered by the House from time to time.

3. The first-named member of each committee shall be the chairman ; and in his absence, or being excused by the House, the next-named member, and so on, as often as the case shall happen, unless the committee by a majority of its number elect a chairman ; and in case of the death of a chairman, it shall be the duty of the Speaker to appoint another.

4. The chairman shall appoint the clerk or clerks of his committee, subject to its approval, who shall be paid at the public expense, the House having first provided therefor.

RULE XI.

POWERS AND DUTIES OF COMMITTEES.

All proposed legislation shall be referred to the committees named in the preceding rule, as follows, viz. : Subjects relating,

1. to the election of members : to the respective Committees on Elections ;

2. to the revenue and the bonded debt of the United States : to the Committee on Ways and Means ;

3. to appropriation of the revenue for the support of the Government, as herein provided, viz. : for legislative, executive, and judicial expenses ; for sundry civil expenses ; for fortifications and coast defenses ; for the District of Columbia ; for pensions ; and for all deficiencies : to the Committee on Appropriations ;

4. to judicial proceedings, civil and criminal law : to the Committee on the Judiciary ;

5. to banking and currency : to the Committee on Banking and Currency ;

6. to coinage, weights, and measures : to the Committee on Coinage, Weights, and Measures ;

7. to commerce, life-saving service, and light-houses, other than appropriations for life-saving service and light-houses : to the Committee on Interstate and Foreign Commerce ;

8. to the improvements of rivers and harbors : to the Committee on Rivers and Harbors ;

9. to the merchant marine and fisheries : to the Committee on the Merchant Marine and Fisheries ;

10. to agriculture and forestry : to the Committee on Agriculture, who shall receive the estimates and report the appropriations for the Agricultural Department ;

11. to the relations of the United States with foreign nations, including appropriations therefor : to the Committee on Foreign Affairs ;

12. to the military establishment and the public defense, including the appropriations for its support and for that of the Military Academy : to the Committee on Military Affairs ;

13. to the naval establishment, including the appropriations for its support : to the Committee on Naval Affairs ;

14. to the post-office and post-roads, including appropriations for their support : to the Committee on the Post-Office and Post-Roads ;

15. to the lands of the United States : to the Committee on the Public Lands ;

16. to the relations of the United States with the Indians and the Indian tribes, including appropriations therefor : to the Committee on Indian Affairs ;

17. to Territorial legislation, the revision thereof, and affecting Territories or the admission of States : to the Committee on the Territories ;

18. to railways and canals, other than Pacific railroads : to the Committee on Railways and Canals ;

19. to the manufacturing industries : to the Committee on Manufactures ;

20. to the mining interests : to the Committee on Mines and Mining ;

21. to the public buildings and occupied or improved grounds of the United States, other than appropriations therefor : to the Committee on Public Buildings and Grounds ;

22. to the railroads and telegraphic lines between the Mississippi River and the Pacific coast : to the Committee on Pacific Railroads ;

23. to the levees of the Mississippi River : to the Committee on Levees and Improvements of the Mississippi River ;

24. to education : to the Committee on Education ;

25. to and affecting labor : to the Committee on Labor ;

26. to the militia of the several States : to the Committee on the Militia ;

27. to patents, copyrights, and trade-marks : to the Committee on Patents ;

28. to the pensions of the civil war : to the Committee on Invalid Pensions ;

29. to the pensions of all the wars of the United States, other than the civil war : to the Committee on Pensions ;

30. to private and domestic claims and demands, other than war claims, against the United States : to the Committee on Claims ;

31. to claims arising from any war in which the United States has been engaged : to the Committee on War Claims ;

32. to private claims to land : to the Committee on Private Land Claims ;

33. to the District of Columbia, other than appropriations therefor : to the Committee for the District of Columbia ;

34. to the revision and codification of the statutes of the United States : to the Committee on the Revision of the Laws ;

35. to reform the civil service : to the Committee on Reform in the Civil Service ;

36. to the election of the President, Vice-President, or Rep-

representatives in Congress : to the Committee on Election of President, Vice-President, and Representatives in Congress ;

37. to alcoholic liquor traffic : to the Committee on Alcoholic Liquor Traffic ;

38. to the irrigation of arid lands : to the Committee on Irrigation of Arid Lands ;

39. to immigration or naturalization : to the Committee on Immigration and Naturalization ;

40. to ventilation and acoustics : to the Committee on Ventilation and Acoustics.

41. The examination of the accounts and expenditures of the several Departments of the Government and the manner of keeping the same ; the economy, justness, and correctness of such expenditures ; their conformity with appropriation laws ; the proper application of public moneys ; the security of the Government against unjust and extravagant demands ; retrenchment ; the enforcement of the payment of moneys due to the United States ; the economy and accountability of public officers ; the abolishment of useless offices ; the reduction or increase of the pay of officers, shall all be subjects within the jurisdiction of the nine standing committees on the public expenditures in the several Departments, as follows :

42. In the Department of State : to the Committee on Expenditures in the State Department ;

43. In the Treasury Department : to the Committee on Expenditures in the Treasury Department ;

44. In the War Department : to the Committee on Expenditures in the War Department ;

45. In the Navy Department : to the Committee on Expenditures in the Navy Department ;

46. In the Post-Office Department : to the Committee on Expenditures in the Post-Office Department ;

47. In the Interior Department : to the Committee on Expenditures in the Interior Department ;

48. In the Department of Justice : to the Committee on Expenditures in the Department of Justice ;

49. In the Department of Agriculture : to the Committee on Expenditures in the Department of Agriculture ;

50. On public buildings : to the Committee on Expenditures on Public Buildings.

51. All proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules ;

52. Touching the expenditure of the contingent fund of the House, the auditing and settling of all accounts which may be charged therein by order of the House : to the Committee on Accounts.

53. The ascertaining of the travel of members of the House shall be made by the Committee on Mileage and reported to the Sergeant-at-Arms.

54. Touching the Library of Congress, statuary, and pictures : to the Joint Committee on the Library.

55. All proposed legislation or orders touching printing shall be referred to the Joint Committee on Printing on the part of the House.

56. The enrollment of engrossed bills : to the Joint Committee on Enrolled Bills.

57. The following-named committees shall have leave to report at any time on the matters herein stated, viz. : The Committee on Rules, on rules, joint rules, and order of business ; the Committee on Elections, on the right of a member to his seat ; the Committee on Ways and Means, on bills raising revenue ; the committees having jurisdiction of appropriations, the general appropriations bills ; the Committee on Rivers and Harbors, bills for the improvement of rivers and harbors ; the Committee on the Public Lands, bills for the forfeiture of land grants to railroad and other corporations, bills preventing speculation in the public lands, and bills for the reservation of the public lands for the benefit of actual and bona fide settlers ; the Committee on Territories, bills for the admission of new States ; the Committee on Enrolled Bills, enrolled bills ; the Committee on Invalid Pensions, general pension bills ; the Committee on Printing, on all matters referred to them of printing for the use of the

House or two Houses ; and the Committee on Accounts, on all matters of expenditure of the contingent fund of the House.

It shall always be in order to call up for consideration a report from the Committee on Rules, and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn ; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of.

58. No committee, except the Committee on Rules, shall sit during the sitting of the House without special leave.

RULE XII.

DELEGATES.

The Speaker shall appoint from among the Delegates one additional member on each of the following committees, viz. : Coinage, Weights, and Measures ; Agriculture ; Military Affairs ; Post-Office and Post-Roads ; Public Land ; Indian Affairs ; Private Land Claims, and Mines and Mining ; and two on Territories ; and they shall possess in their respective committees the same powers and privileges as in the House, and may make any motion except to reconsider.

RULE XIII.

CALENDARS AND REPORTS OF COMMITTEES.

1. There shall be three Calendars of business reported from committees, viz. :

First. A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property.

Second. A House Calendar, to which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property.

Third. A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

2. All reports of committees, except as provided in clause

57 of Rule XI., together with the views of the minority, shall be delivered to the Clerk for printing and reference to the proper Calendar under the direction of the Speaker, in accordance with the foregoing clause, and the titles or subjects thereof shall be entered on the Journal and printed in the Record.

Provided, That bills reported adversely shall be laid on the table, unless the committee reporting a bill, at the time, or any member within three days thereafter, shall request its reference to the Calendar, when it shall be referred as provided in clause 1 of this rule.

RULE XIV.

OF DECORUM AND DEBATE.

1. When any member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker," and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality.

2. When two or more members rise at once, the Speaker shall name the member who is first to speak; and no member shall occupy more than one hour in debate on any question in the House or in committee, except as further provided in this rule.

3. The member reporting the measure under consideration from a committee may open and close, where general debate has been had thereon; and if it shall extend beyond one day, he shall be entitled to one hour to close, notwithstanding he may have used an hour in opening.

4. If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call him to order; in which case he shall immediately sit down, unless permitted, on motion of another member, to explain, and the House shall, if appealed to, decide on the case without debate; if the decision is in favor of the member called to order, he shall be at liberty to proceed, but not other-

wise; and, if the case require it, he shall be liable to censure or such punishment as the House may deem proper.

5. If a member is called to order for words spoken in debate, the member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened.

6. No member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer, or introducer of the matter pending, in which case he shall be permitted to speak in reply, but not until every member choosing to speak shall have spoken.

7. While the Speaker is putting a question or addressing the House no member shall walk out of or across the Hall, nor, when a member is speaking, pass between him and the Chair; and during the session of the House no member shall wear his hat, or remain by the Clerk's desk during the call of the roll or the counting of ballots, or smoke upon the floor of the House; and the Sergeant-at-Arms and Doorkeeper are charged with the strict enforcement of this clause. Neither shall any person be allowed to smoke upon the floor of the House at any time.

RULE XV.

ON CALLS OF THE ROLL AND HOUSE.

1. Upon every roll-call the names of the members shall be called alphabetically by surname, except when two or more have the same surname, in which case the name of the State shall be added; and if there be two such members from the same State, the whole name shall be called; and after the roll has been once called, the clerk shall call in their alphabetical order the names of those not voting; and thereafter the Speaker shall not entertain a request to record a vote or announce a pair unless the member's name has been noted under clause 3 of this rule.

2. In the absence of a quorum, fifteen members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent members, and in all calls of the House the doors shall be closed, the names of the members shall be called by the Clerk, and the absentees noted ; and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained ; and the House shall determine upon what condition they shall be discharged. Members who voluntarily appear shall, unless the House otherwise direct, be immediately admitted to the Hall of the House, and they shall report their names to the Clerk to be entered upon the Journal as present.

3. On the demand of any member, or at the suggestion of the Speaker, the names of members sufficient to make a quorum in the Hall of the House who do not vote, shall be noted by the Clerk and recorded in the Journal, and reported to the Speaker with the names of the members voting and be counted and announced in determining the presence of a quorum to do business.

4. Whenever a quorum fails to vote on any question, and a quorum is not present and objection is made for that cause, unless the House shall adjourn, there shall be a call of the House, and the Sergeant-at-Arms shall forthwith proceed to bring in absent members, and the yeas and nays on the pending question shall at the same time be considered as ordered. The Clerk shall call the roll, and each member as he answers to his name may vote on the pending question, and, after the roll-call is completed, each member arrested shall be brought by the Sergeant-at-Arms before the House, whereupon he shall be noted as present, discharged from arrest, and given an opportunity to vote and his vote shall be recorded. If those voting on the question and those who are present and decline to vote shall together make a majority of the House, the Speaker shall declare that a quorum is constituted, and the pending question shall be decided as the majority of those

voting shall appear. And thereupon further proceedings under the call shall be considered as dispensed with. At any time after the roll-call has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present, to be ascertained by actual count by the Speaker ; and if the House adjourns, all proceedings under this section shall be vacated. But this section of the rule shall not apply to the sessions of Friday night, until further order of the House.

RULE XVI.

ON MOTIONS, THEIR PRECEDENCE, ETC.

1. Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any member, and shall be entered on the Journal with the name of the member making it, unless it is withdrawn the same day.

2. When a motion has been made, the Speaker shall state it or (if it be in writing) cause it to be read aloud by the Clerk before being debated, and it shall then be in possession of the House, but may be withdrawn at any time before a decision or amendment.

3. When any motion or proposition is made, the question, Will the House now consider it? shall not be put unless demanded by a member.

4. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely ; which several motions shall have precedence in the foregoing order ; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question.

5. The hour at which the House adjourns shall be entered on the Journal.

6. On the demand of any member, before the question is

put, a question shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain.

7. A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert ; and no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

8. Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn ; but after the result thereon is announced he shall not entertain any other dilatory motion till the vote is taken on suspension.

9. At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.

10. No dilatory motion shall be entertained by the Speaker.

RULE XVII.

PREVIOUS QUESTION.

1. There shall be a motion for the previous question, which, being ordered by a majority of members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

2. A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon

an actual count by the Speaker that a quorum is not present.

3. All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

RULE XVIII.

RECONSIDERATION.

When a motion has been made and carried or lost, it shall be in order for any member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any member may call it up for reconsideration: *Provided*, That such motion, if made during the last six days of a session, shall be disposed of when made.

2. No bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, shall be brought back into the House on a motion to reconsider; and all bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.

RULE XIX.

OF AMENDMENTS.

When a motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon. Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate.

RULE XX.

OF AMENDMENTS OF THE SENATE.

Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union if, originating in the House, it would be subject to that point.

RULE XXI.

ON BILLS.

1. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state the question to be: Shall the bill be engrossed and read a third time? and, if decided in the affirmative, it shall be read the third time by title, unless the reading in full is demanded by a member, and the question shall then be put upon its passage.

2. No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

3. No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following-named committees, viz.: To the Committee on Invalid Pensions, to the Committee on Pensions, to the Committee on Claims, to the Committee on War Claims, to the Committee on Private Land Claims, and to the Committee on Accounts.

RULE XXII.

OF PETITIONS, MEMORIALS, BILLS, AND RESOLUTIONS.

1. Members having petitions or memorials or bills of a private nature to present may deliver them to the Clerk, indorsing their names and the reference or disposition to be made

thereof ; and said petitions and memorials and bills of a private nature, except such as, in the judgment of the Speaker, are of an obscene or insulting character, shall be entered on the Journal with the names of the members presenting them, and the Clerk shall furnish a transcript of such entry to the official reporters of debates for publication in the Record.

2. Any petition or memorial or private bill excluded under this rule shall be returned to the member from whom it was received ; and petitions and private bills which have been inappropriately referred may, by the direction of the committee having possession of the same, be properly referred in the manner originally presented ; and an erroneous reference of a petition or private bill under this clause shall not confer jurisdiction upon the committee to consider or report the same.

3. All other bills, memorials, and resolutions may, in like manner, be delivered, indorsed with the names of members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules, shall be entered on the Journal and printed in the Record of the next day, and correction in case of error or reference may be made by the House without debate in accordance with Rule XI. on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred.

4. When a bill, resolution, or memorial is introduced "by request," these words shall be entered upon the Journal and printed in the Record.

5. All resolutions of inquiry addressed to the heads of Executive Departments shall be reported to the House within one week after presentation.

RULE XXIII.

OF COMMITTEES OF THE WHOLE HOUSE.

1. In all cases, in forming a Committee of the Whole House, the Speaker shall leave his chair after appointing a

chairman to preside, who shall, in case of disturbance or disorderly conduct in the galleries or lobby, have power to cause the same to be cleared.

2. Whenever a Committee of the Whole House or of the Whole House on the state of the Union finds itself without a quorum, which shall consist of one hundred members, the chairman shall cause the roll to be called, and thereupon the committee shall rise, and the chairman shall report the names of the absentees to the House, which shall be entered on the Journal; but if on such call a quorum shall appear, the committee shall thereupon resume its sitting without further order of the House.

3. All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

4. In Committees of the Whole House business on their calendars may be taken up in regular order, or in such order as the committee may determine, unless the bill to be considered was determined by the House at the time of going into committee; but bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors shall have precedence.

5. When general debate is closed by order of the House, any member shall be allowed five minutes to explain any amendment he may offer, after which the member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment; and neither an amendment nor an amendment to an

amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the committee.

6. The committee may, by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or, at its election, upon the pending amendments only (which motion shall be decided without debate); but this shall not preclude further amendment, to be decided without debate.

7. A motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered equivalent to its rejection. Whenever a bill is reported from a Committee of the Whole with an adverse recommendation and such recommendation is disagreed to by the House, the bill shall stand recommitted to the said committee without further action by the House; but before the question of concurrence is submitted it is in order to entertain a motion to refer the bill to any committee, with or without instructions, and when the same is again reported to the House it shall be referred to the Committee of the Whole without debate.

8. The rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable.

RULE XXIV.

ORDER OF BUSINESS.

1. The daily order of business shall be as follows:
 - First. Prayer by the Chaplain.
 - Second. Reading and approval of the Journal.
 - Third. Correction of reference of public bills.
 - Fourth. Disposal of business on the Speaker's table.
 - Fifth. Unfinished business.
 - Sixth. The morning hour for the consideration of bills called up by committees.
 - Seventh. Motions to go into Committee of the Whole House on the state of the Union.
 - Eighth. Orders of the day.

2. Business on the Speaker's table shall be disposed of as follows:

Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from the heads of Departments, and other communications addressed to the House, and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner and with the same right of correction as public bills presented by members; but House bills with Senate amendments which do not require consideration in a Committee of the Whole, may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee.

3. The consideration of the unfinished business in which the House may be engaged at an adjournment, except business in the morning hour, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of, and the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

4. After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order, and then select committees, and each committee when named may call up for consideration any bill reported by it on a previous day and on the House Calendar, and if the Speaker shall not complete the call of the committees before the House passes to other business, he shall resume the next call where he left off, giving preference to the last bill under consideration: *Provided*, That whenever any committee shall have occupied the morning hour on two days, it shall not be in order to call up any other bill until the other committees have been called in their turn.

5. After one hour shall have been devoted to the consideration of bills called up by committees, it shall be in order, pend-

ing consideration or discussion thereof, to entertain a motion to go into Committee of the Whole House on the state of the Union, or, when authorized by a committee, to go into the Committee of the Whole House on the state of the Union to consider a particular bill, to which motion one amendment only, designating another bill, may be made; and if either motion be determined in the negative, it shall not be in order to make either motion again until the disposal of the matter under consideration or discussion.

6. On Friday of each week, after the unfinished business has been disposed of, it shall be in order to entertain a motion that the House resolve itself into the Committee of the Whole House to consider business on the Private Calendar; and if this motion fails, then public business shall be in order as on other days.

RULE XXV.

PRIORITY OF BUSINESS.

All questions relating to the priority of business shall be decided by a majority without debate.

RULE XXVI.

PRIVATE AND DISTRICT OF COLUMBIA BUSINESS.

1. Friday in every week shall be set apart for the consideration of private business, unless otherwise determined by the House.

2. The House shall on each Friday at 5 o'clock, P. M., take a recess until 8 o'clock, at which evening session private pension bills, bills for the removal of political disabilities, and bills removing charges of desertion only shall be considered; said evening session not to extend beyond 10 o'clock and 30 minutes.

3. The second and fourth Mondays in each month, after the disposal of such business on the Speaker's table as requires reference only, shall, when claimed by the Committee on the District of Columbia, be set apart for the consideration of such business as may be presented by said committee.

RULE XXVII.

UNFINISHED BUSINESS OF THE SESSION.

All business before committees of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.

RULE XXVIII.

CHANGE OR SUSPENSION OF RULES.

1. No rule shall be suspended except by a vote of two-thirds of the members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month, preference being given on the first Monday to individuals and on the third Monday to committees, and during the last six days of a session.

2. All motions to suspend the rules shall, before being submitted to the House, be seconded by a majority by tellers, if demanded.

3. When a motion to suspend the rules has been seconded, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition, and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

RULE XXIX.

CONFERENCE REPORTS.

The presentation of reports of committees of conference shall always be in order, except when the Journal is being read, while the roll is being called, or the House is dividing on any proposition. And there shall accompany every such report a detailed statement sufficiently explicit to inform the House what effect such amendments or propositions will have upon the measures to which they relate.

RULE XXX.

SECRET SESSION.

Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House.

RULE XXXI.

READING OF PAPERS.

When the reading of a paper other than one upon which the House is called to give a final vote is demanded, and the same is objected to by any member, it shall be determined without debate by a vote of the House.

RULE XXXII.

DRAWING OF SEATS.

1. At the commencement of each Congress, immediately after the Members and Delegates are sworn in, the Clerk shall place in a box, prepared for that purpose, a number of small balls, of marble or other material, equal to the number of Members and Delegates, which balls shall be consecutively numbered and thoroughly intermingled, and at such hour as shall be fixed by the House for that purpose, by the hands of a page, draw said balls one by one from the box and announce the number as it is drawn, upon which announcement the Member or Delegate whose name on a numbered alphabetical list shall correspond with the number on the ball shall advance and choose his seat for the term for which he is elected.

2. Before said drawing shall commence each seat shall be vacated and so remain until selected under this rule, and any seat having been selected shall be deemed forfeited if left unoccupied before the call of the roll is finished, and whenever

the seats of Members and Delegates shall have been drawn, no proposition for a second drawing shall be in order during that Congress.

RULE XXXIII.

HALL OF THE HOUSE.

The Hall of the House shall be used only for the legislative business of the House and for the caucus meetings of its members, except upon occasions where the House by resolution agree to take part in any ceremonies to be observed therein; and the Speaker shall not entertain a motion for the suspension of this rule.

RULE XXXIV.

OF ADMISSION TO THE FLOOR.

The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto, viz. : The President and Vice-President of the United States and their private secretaries, Judges of the Supreme Court, Members of Congress and Members elect, contestants in election cases during the pendency of their cases in the House, the Secretary and Sergeant-at-Arms of the Senate, heads of Departments, foreign ministers, governors of States, the Architect of the Capitol, the Librarian of Congress and his assistant in charge of the Law Library, such persons as have, by name, received the thanks of Congress, ex-members of the House of Representatives who are not interested in any claim or directly in any bill pending before Congress, and clerks of committees when business from their committee is under consideration; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule or to present from the chair the request of any member for unanimous consent.

RULE XXXV.

OF ADMISSION TO THE GALLERIES.

The Speaker shall set aside a portion of the west gallery for the use of the President of the United States, the members of his Cabinet, Justices of the Supreme Court, foreign ministers

and suites, and the members of their respective families, and shall also set aside another portion of the same gallery for the accommodation of persons to be admitted on the card of members. The southerly half of the east gallery shall be assigned exclusively for the use of the families of members of Congress, in which the Speaker shall control one bench, and on request of a member the Speaker shall issue a card of admission to his family, which shall include their visitors, and no other person shall be admitted to this section.

RULE XXXVI.

OFFICIAL AND OTHER REPORTERS.

1. The appointment and removal, for cause, of the official reporters of the House, including stenographers of committees and the manner of the execution of their duties, shall be vested in the Speaker.

2. Stenographers and reporters, other than the official reporters of the House, wishing to take down the debates and proceedings, may be admitted by the Speaker to the reporters' gallery over the Speaker's chair, under such regulations as he may, from time to time, prescribe; and he may assign one seat on the floor to Associated Press reporters, and one to The United Press reporters, and regulate the occupation of the same. And the Speaker may admit to the floor, under such regulations as he may prescribe, one additional representative of each press association.

RULE XXXVII.

PAY OF WITNESSES.

The rule for paying witnesses subpoenaed to appear before the House or either of its committees, shall be as follows: For each day a witness shall attend, the sum of two dollars; for each mile he shall travel in coming to or going from the place of examination, the sum of five cents each way; but nothing shall be paid for traveling when the witness has been summoned at the place of trial.

RULE XXXVIII.

PAPERS.

1. The clerks of the several committees of the House shall, within three days after the final adjournment of a Congress, deliver to the Clerk of the House all bills, joint resolutions, petitions, and other papers referred to the committee, together with all evidence taken by such committee under the order of the House during the said Congress and not reported to the House; and in the event of the failure or neglect of any clerk of a committee to comply with this rule the Clerk of the House shall, within three days thereafter, take into his keeping all such papers and testimony.

RULE XXXIX.

WITHDRAWAL OF PAPERS.

No memorial or other paper presented to the House shall be withdrawn from its files without its leave, and if withdrawn therefrom certified copies thereof shall be left in the office of the Clerk; but when an Act may pass for the settlement of a claim, the Clerk is authorized to transmit to the officer in charge with the settlement thereof the papers on file in his office relating to such claim, or may loan temporarily to any officer or bureau of the Executive Departments any papers on file in his office relating to any matter pending before such officer or bureau, taking proper receipt therefor.

RULE XL.

BALLOT.

In all other cases of ballot than for committees a majority of the votes given shall be necessary to an election, and where there shall not be such a majority on the first ballot the ballots shall be repeated until a majority be obtained; and in all balloting blanks shall be rejected and not taken into the count in enumeration of votes or reported by the tellers.

RULE XLI.

MESSAGES.

Messages received from the Senate and the President of the United States, giving notice of bills passed or approved, shall be entered in the Journal and published in the Record of that day's proceedings.

RULE XLII.

EXECUTIVE COMMUNICATIONS.

Estimates of appropriations, and all other communications from the Executive Departments, intended for the consideration of any committees of the House, shall be addressed to the Speaker and by him referred as provided by clause 3 of Rule XXIV.

RULE XLIII.

QUALIFICATIONS OF OFFICERS AND EMPLOYEES.

No person shall be an officer of the House, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government, or be interested in such claim otherwise than as an original claimant; and it shall be the duty of the Committee on Accounts to inquire into and report to the House any violation of this rule.

RULE XLIV.

JEFFERSON'S MANUAL.

The rules of parliamentary practice comprised in Jefferson's Manual shall govern the House in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the House and joint rules of the Senate and House of Representatives.

RULE XLV.

PRINTING.

1. All documents referred to committees or otherwise disposed of shall be printed unless otherwise specially ordered.
2. Motions to print additional numbers of any bill, report,

resolution, or other public document shall be referred to the Committee on Printing ; and the report of the committee thereon shall be accompanied by an estimate of the probable cost thereof. Unless ordered by the House, no bill, resolution, or other proposition reported by a committee shall be reprinted unless the same be placed upon the Calendar. Of bills which have passed the Senate, and of House bills as amended by the Senate, when referred in the House, there shall be printed four hundred copies.

APPENDIX VII.

LIST OF WORKS CITED, WITH DATES AND PLACES OF PUBLICATION.

- ADAMS, CHARLES FRANCIS. "Three Episodes of Massachusetts History." 2 vols. Boston and New York, 1893.
- ADAMS, CHARLES FRANCIS. (See Adams, John, and Adams, J. Q.)
- ADAMS, HENRY. "Life of Albert Gallatin." Philadelphia, 1880.
- "ADAMS, JOHN, WORKS OF." Edited by Charles Francis Adams. Boston, 1856.
- "ADAMS, JOHN QUINCY, MEMOIRS OF." Edited by Charles Francis Adams. 12 vols. Philadelphia, 1874.
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- "ANNALS OF CONGRESS," 1st to 18th Congresses. Gales and Seaton. Washington, 1834-1855.
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- Atlantic Monthly.* Boston, 1857-1897. (See Godkin, E. L.; Merwin, H. C.)
- BANCROFT, GEORGE. "History of the United States." Revised edition. New York, 1885.
- BENTHAM, JEREMY, Works of. Edinburgh, 1843.
- BENTON, THOMAS HART. (See Roosevelt, Theodore.)
- BLAINE, JAMES G. "Twenty Years of Congress." 2 vols. Norwich, Conn., 1884.
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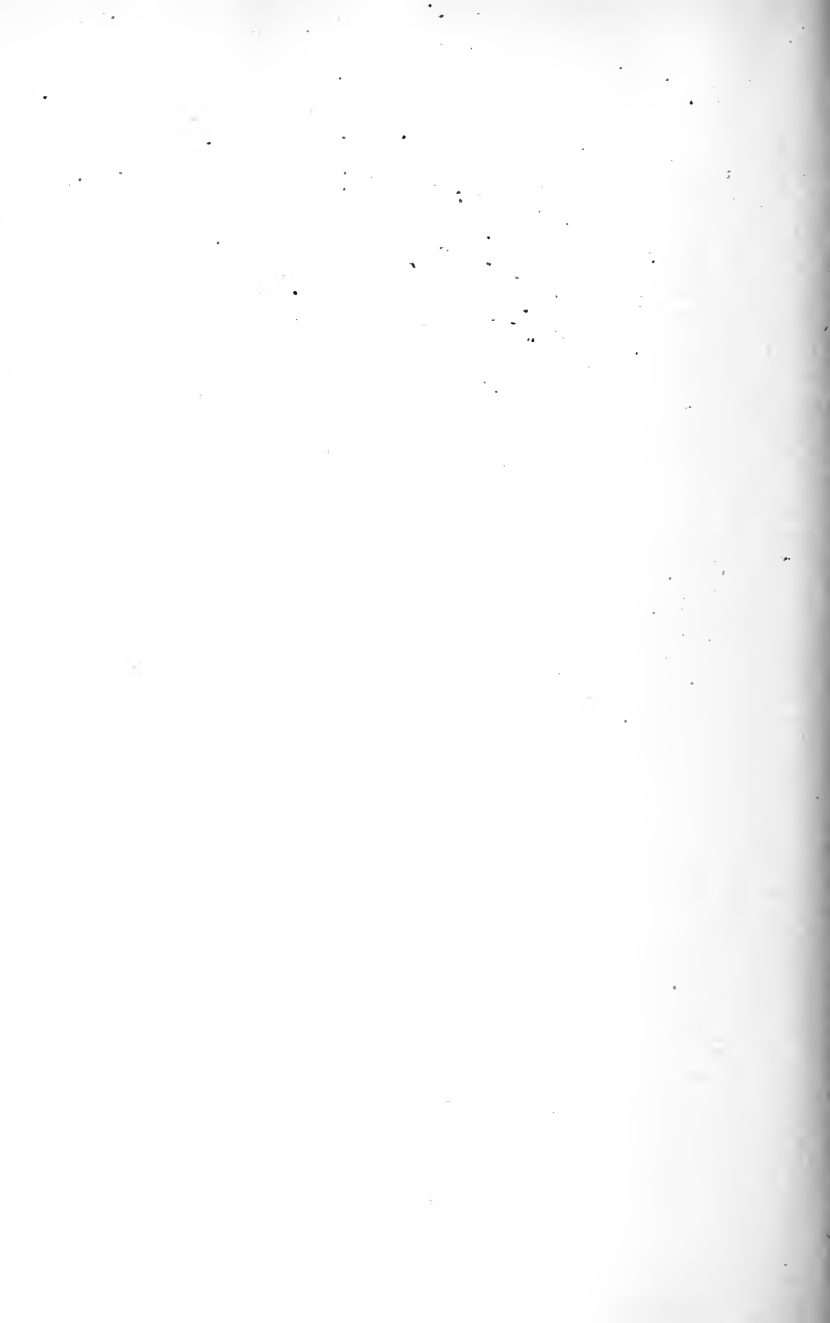
- BRISTOL, RHODE ISLAND. (See Munro, Wilfred H.)
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- "CONGRESSIONAL DEBATES," 18th to 25th Congresses. Gales and Seaton. Washington, 1825-1837.
- "CONGRESSIONAL DIRECTORY." Washington, 1809, 1816, 1819-1898.
- "CONGRESSIONAL GLOBE," 23d to 42d Congresses. Blair and Rives. Washington, 1834-1873.
- "CONGRESSIONAL RECORD," 43d to 55th Congresses. Government Printing Office. Washington, 1874-1898.
- COOKE, JOHN ESTEN. "History of Virginia." American Commonwealth Series. Boston, 1884.
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- "DINWIDDIE, R., THE OFFICIAL RECORDS OF." Edited by R. A. Brock. 2 vols. Richmond, Va., 1883-1884.
- "FEDERALIST, THE." Contained in Vol. IX., Alexander Hamilton's Works. Edited by H. C. Lodge. New York, 1885-1886.
- FISKE, JOHN. "Civil Government in the United States." Boston, 1891.
- FOLLETT, M. "The Speaker of the House of Representatives." With an Introduction by Albert Bushnell Hart. New York, 1896.
- FORD, PAUL LEICESTER. (See Jefferson, Thomas.)
- Forum, The.* New York, 1886-1898. (See West, Henry Litchfield; Hoar, George F.; Mitchell, John H.)
- FROTHINGHAM, RICHARD. "Rise of the Republic of the United States." Boston, 1872.
- GALLATIN, ALBERT. (See Adams, Henry.)
- GARFIELD, JAMES A. "Appropriations and Misappropriations." In *North American Review*, Vol. cxxviii.
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- GOODNOW, FRANK J. "Comparative Administrative Law." 2 vols. New York, 1893.
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- JOHNSTON, ALEXANDER. "Riders." In *Lalor's Cyclopaedia*.
- "JOHNSON'S UNIVERSAL CYCLOPEDIA." Edited by Charles Kendall Adams. 8 vols. New York, 1893. (See Jenks, J. W.)
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