

25. Organization and Officers of Congress



Photograph by The New York Times

THE organization of Congress is designed fundamentally to enable Congress to perform its work. Without certain major elements of organization, Congress would be little more than an unwieldy crowd. Yet, since the very soul of Congress is disagreement over ideas, Congress does not nearly approach the neat and simple organization of an army unit or a typical government agency. Rather, the organization of Congress is a compromise between order and chaos. Its form is that produced by an intimate union of party politics and the need to get business done. Hence, in order to understand the organization of Congress, the student must pick his way carefully through a series of interlocking offices and groups—some of them established by a law or a rule of the chamber and others created by the individual parties for their own guidance.

Six principal features of the organization of Congress merit distinct

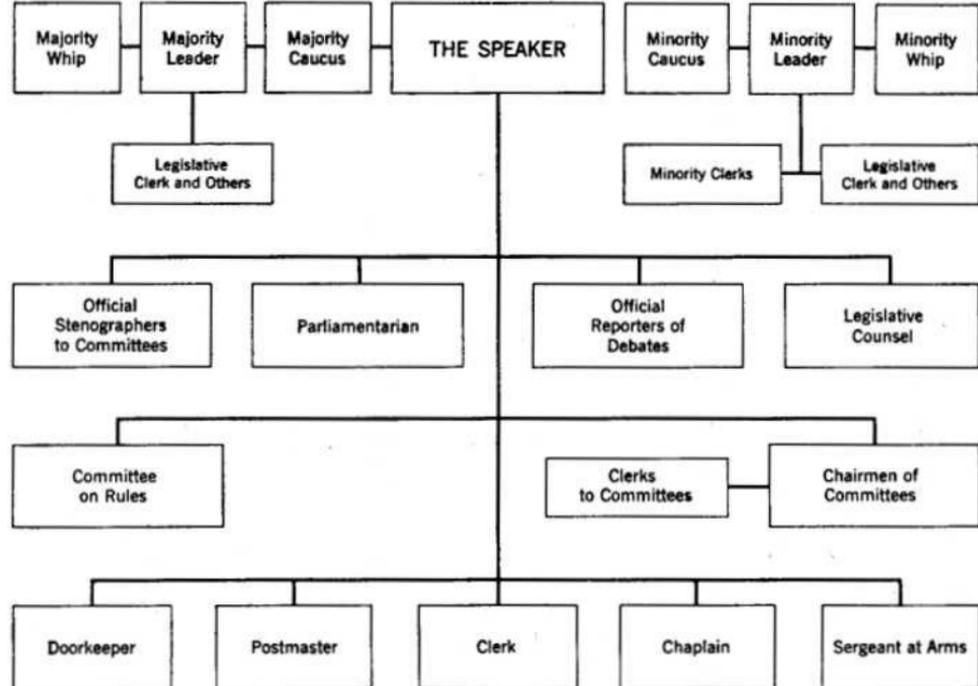


Figure 42. Legislative and Party Organization of the House of Representatives.

treatment. These are: (1) the constitutional basis of congressional organization; (2) the caucus of the majority party, which introduces party politics into the two chambers; (3) the congressional officers, who merge their party functions into the overall operation of Congress; (4) the several party devices for assuring control of lawmaking by the majority party; (5) the rules for conducting work and those who manage the rules; and (6) the committee system that screens and guides proposed laws. Figures 42 and 43 summarize the details of both the political and legislative organization of the House and the Senate as they are discussed in the text that follows.

SOURCES OF CONGRESSIONAL ORGANIZATION

The constitutional basis

One outstanding fact about congressional organization is that it has been created largely by Congress itself, as needs have arisen. The Constitution makes little provision for organizing Congress. It authorizes the House of Representatives to choose "their Speaker and other officers" (Art. I, sec. 2, cl. 5); declares that "The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided" (Art. I, sec. 3, cl. 4); empowers the Senate to choose a President *pro tem*, and other officers (Art. I, sec. 3, cl. 5); and permits each house to "determine the rules of its proceedings" (Art. I, sec. 5, cl. 2). Apart from these few general provisions, however, the Constitution is mute

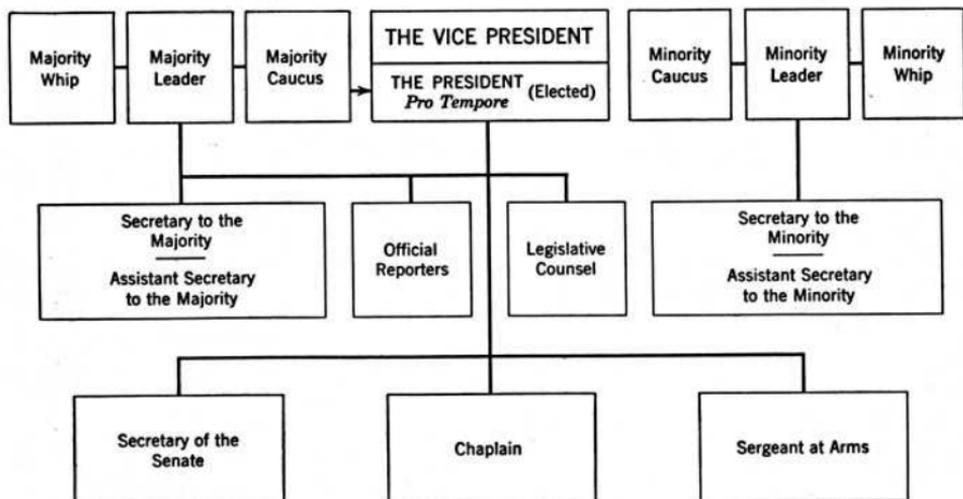


Figure 43. Legislative and Party Organization of the Senate.

respecting the organization of Congress. Hence almost all of the complex apparatus under which Congress functions has been devised by Congress; it has developed piecemeal, with no underlying plan.

The organization of the House and of the Senate is similar but different features receive emphasis in each. The same organizational elements appear in each house in about the same form. However, the organization of the House is much stronger and far more important in the legislative process than it is in the Senate. This condition prevails for several reasons. First, the House has nearly five times as many members as the Senate; it is axiomatic that the need for leadership in a legislative body increases as the size of the body increases. Second, members of the House tend to be younger and less experienced than those of the Senate, so that they need and even demand more leadership. Senators, by comparison, are apt to be more individualistic and to resist efforts to compel their obedience. Also, because members of the House serve for only two years whereas Senators serve for six, Representatives must devote a considerably higher proportion of their time and attention to the problem of reelection; therefore the organization of the House must be capable of marshaling their votes on significant issues.

Important results flow from the fact that the House must organize itself anew every two years, after each congressional election, whereas the Senate is permanently organized. Members of the Senate have overlapping terms, so that only one-third of the seats—perhaps slightly more than one-third, in the event of deaths, resignations, or removals from office—are voted on in any one election. Hence after an election only a minority of the Senate will consist of new members, so that senatorial organization continues from one session to the next. At the beginning of a session it is necessary merely to execute certain organizational details, such as the assignment of new members to committee vacancies.

At the beginning of a session of the House, however, since each member

has just been elected or reelected, the whole body must organize itself anew. At the outset of the first meeting there are neither officers, nor rules, nor committees. The clerk of the preceding House calls the members to order and reads the roll according to the alphabetical order of the States. Now the House proceeds to elect a Speaker, from two candidates each of whom has been nominated by one of the major parties. The candidate of the majority party is of course elected; he is brought to the chair by the other candidate, and is there sworn in usually by the Representative with the longest term of service in the House. The Speaker now swears in all the other Representatives. Other House officers have been elected with the Speaker. The House then adopts its standing rules for procedure, ordinarily those of the preceding House, and it chooses the members of its committees. This last act completes the formal organization of the House.

THE CAUCUS OF THE MAJORITY PARTY

The majority caucus, or caucus of the majority party, apart from the few constitutional provisions is the starting point of all congressional organization. A congressional caucus—or, as members of both parties in the Senate and the Republicans in the House prefer to call it, a conference—is an assembly of all Senators or Representatives who belong to one or the other of the two major parties. In this respect the caucuses today have lost importance. The Republican caucuses in both houses have relatively little control over their members' actions. The Democratic caucus of the House can bind its members by a two-thirds vote, provided it is a majority of all Democratic Representatives, but not if the caucus decision violates a commitment that the congressman may have made to his constituents, or if it comprises, in the judgment of the congressman, a threat to his reelection. Caucus meetings from time to time do consider legislative programs; they also may punish party irregulars by limiting their patronage or by refusing party funds to aid them in campaigns for reelection. However, this in general is now only a minor function of a caucus; inasmuch as each major party is composed of distinctive and sometimes clashing blocs, neither can have a comprehensive program to which all its members will subscribe.

The major role of the caucus lies in the organizing of Congress. At some time between a congressional election and the first meeting of a new Congress, the members of each major party from each house assemble in caucus. First they choose one of their members as chairman of the caucus, and another as secretary. The caucus then prepares a slate of candidates for the congressional offices, such as the speakership. Also, in each caucus a committee on committees is named, to select the party candidates for committee posts and committee chairmanships. Moreover, the caucus names members for important congressional party instruments, such as the floor leaders and the whips. The caucus nominations and elections sometimes evoke important contests between the two or more chief blocs making up the party, and the outcome of these choices often indicates which bloc or

coalition of blocs is to predominate. The reason for designating the *majority* caucus as the starting point of congressional organization is that in partisan contests for congressional offices—for example, the speakership—its candidates are invariably elected.

CONGRESSIONAL OFFICERS

Congressional officers may be defined as those officers whose posts are created by the Constitution or by statute and who officially represent the whole membership of either house, not simply one party in a house. The congressional officers include the Speaker of the House of Representatives, the Vice President of the United States, the President *pro tem* of the Senate, and the incumbents of several minor posts.

The Speaker of the House of Representatives

Nature and Origin of the Speakership: The Speaker of the House of Representatives is the presiding officer of that house. He is the most powerful member of Congress and is perhaps next to the President the most powerful elected official in the entire federal government. He draws strength not only from his constitutional position as the chief officer of the House, but also from his high rank in his political party. Therefore his performance of his congressional functions is always modified by partisan requirements.

The office of the Speaker of the House is derived from that of the presiding officer in the British House of Commons, who is also called the Speaker. The name originated from the fact that this officer alone was privileged to speak with the king and to communicate to him the grants and petitions of Commons. In this way he came to be the spokesman for all the interests represented in Commons. However, the British Speaker long ago yielded his preeminence in Commons to the Prime Minister. Today the British Speaker is absolutely distinct from his American counterpart in one major respect: he is chosen on non-partisan grounds, and is expected to conduct himself in a non-partisan fashion.

Selection of the Speaker: Officially the Speaker is elected by the House of Representatives at its first meeting after a congressional election. Actually the caucus of each major party offers its candidate at this meeting; the House chooses between the two candidates, voting almost invariably along party lines. Consequently it is more nearly accurate to say that the Speaker is chosen by the caucus of the majority party; it might be even closer to the truth to say that he is named by the dominant faction at the party caucus. Contests for this office rarely occur on the floor at the time of the election, and are little more common at the caucus nomination.

Today the Speaker is without exception a member of the House of many years' standing who has never failed of reelection and who has climbed a ladder of offices in Congress. He has been able to achieve this continuous service because he represents a virtually one-party district; hence Republican Speakers are usually from the Northeastern or North-

Central region, whereas Democratic Speakers almost always are from the South.

Functions of the Speaker: One significant function of the Speaker is to recognize and give the floor to those members who wish to speak. On the surface it might seem that through this power the Speaker could prevent the voicing of all dissenting opinions, for the Speaker may ask any member for what purpose he rises before extending recognition to him. However, the members of the minority group are actually granted considerable time in which to present their case. Indeed, it would be erroneous to imagine that there are frequent contests among members to secure recognition. Usually, prior to the introduction of a bill, the leaders of each party meet to arrange a distribution of time among those Representatives who wish to speak on the matter; then, when the bill is introduced onto the floor, the speaking time has been allocated in advance, chiefly to the leading members of the standing committee that has been handling the bill. However, the Speaker does use his power of recognition at his own discretion in order to block so-called "dilatatory motions," motions, that is, whose sole aim is to delay business. In this way the Speaker can expedite House business. Furthermore, if such a motion should succeed in reaching the floor, the Speaker in accordance with his own judgment may refuse to put it to a vote. However, such a refusal, like any other ruling by the Speaker, may be appealed and overturned by the House.

The Speaker has many other important functions. With the assistance of the Sergeant at Arms, he keeps the House in order. He interprets and applies the complex rules governing House procedure; should the situation become too knotty for him to unravel he may resort to the aid of the House Parliamentarian, an expert on parliamentary law. In controversial cases he decides to which standing committee a bill shall be referred; through this power he may decree the fate of a bill by sending it to a committee known either to favor or oppose the bill, as the Speaker's own will may dictate. He appoints all members of special House committees, and House members of joint conference committees. There has emerged a formula for the choice of conference committee members, so that the Speaker cannot have much influence over a bill through this function; however, since he is virtually unrestrained in his power to select members for special committees, he can bring considerable force to bear in confining or expanding their potential achievement. He puts all questions and motions to a vote. Like any other member of the House, he may speak and vote on issues; the fact is, however, that he rarely does speak or vote. Since the Speaker always yields the chair when the House is organized as a committee of the whole he is frequently in a position to participate in discussion.

The Vice President as presiding officer of the Senate

The Vice President of the United States is the presiding officer of the Senate. In this post he holds no such commanding role as the Speaker of the House. He is a member of the executive branch of the gov-

ernment and is not a Senator. He is elected by the people of the United States, not by the Senate. Since the Civil War, four Vice Presidents were members of the minority party in the Senate for two years. One of them, Thomas R. Marshall (1913-1921), made the remark, "What this country needs is a good five-cent cigar," in a moment of tedium during a Senate meeting. Hence the Vice President does not manage the Senate in the manner in which the Speaker dominates the House.

He does have the power of recognizing those Senators who wish the floor; however, he may not question the reasons for which the Senators wish to speak, nor does he exercise this power with much consideration for party needs. Vice-presidential decisions with respect to the Senate rules may always be appealed to the Senate itself, and sometimes the Senate may be consulted before the Vice President makes his ruling. The Vice President does choose the members of Senate special committees and the senatorial delegates on joint conference committees. He has no voice in Senate debates; his only vote is a casting vote, that is, a vote in the event of a tie vote by the Senators themselves.

The President pro tem

The President *pro tem* is the presiding officer of the Senate whenever the Vice President is absent. After a President of the United States dies, a President *pro tem* takes over the chair of the Senate until the next presidential election, when a new Vice President will be chosen. Otherwise the President *pro tem* holds the chair only at intervals. The choice of the President *pro tem* is much like that of the Speaker; that is, the Senate chooses between two candidates, each of whom has been nominated by the caucus of one of the major parties, with the candidate of the majority party always victorious. He has, however, only a tiny fraction of the Speaker's powers.

Indeed, his office is the same as that of the Vice President; however, he is in a slightly different position inasmuch as he is always a member of the majority party of the Senate and is a member of the legislative rather than the executive branch. It is noteworthy, however, that this election does not necessarily take place at the first meeting of a new Congress. Since the President *pro tem* is a Senator, he may take part in debates and vote on questions. Hence his personal influence over the Senate is apt to be greater than that of the Vice President. Finally, he follows the Speaker in the line of succession to the presidency.

Other congressional officers and employees

Apart from the Speaker, the Vice President, and the President *pro tem*, there are several other congressional officers whose posts are not established by the Constitution and who are elected by their respective houses. They are to be distinguished from congressional employees, whose positions are usually established by law and who are appointed not by the whole membership of either the House or the Senate but by one or more members of either body. None of these officers or employees are congressmen. Officers

almost always are connected with the majority party; when one party loses control over Congress, the officers lose their posts. Employees, on the other hand, may hold their posts through a number of party changes.

Officers: One important post is that held by the officer known in the House as the Clerk and in the Senate as the Secretary. The incumbents of these posts have quite similar duties, chief among which are keeping a record of the proceedings of his chamber of Congress, which becomes the Journal, and making copies of this record available to every member of his house. The Clerk or Secretary also issues the subpoenas directed by his house; he arranges for all labor and supplies required by his chamber; and he is the paymaster of the many employees and officers of his branch of Congress. The Clerk of the House has one additional function, which is based upon the difference between the two houses. Since the organization of the House lapses after a congressional election, it is provided that the Clerk shall retain his post in the newly elected House until his successor is chosen. Hence the Clerk drafts a list of Representatives-elect and presides over the first meeting until the Speaker has been named. Since the organization of the Senate is continuous, the Secretary of the Senate does not have this function.

The Clerk and the Secretary are more than administrators of detail. Their positions make them political figures of some prominence, somewhat as the trainers of baseball teams have some effect upon the players' games. As masters of many small affairs, they are often called upon by the members for help on weightier legislative subjects. Naturally, since the majority party chooses them, their sympathies incline them toward the problems of the members of the majority party; thus they contribute somewhat to the general leadership of Congress.

Among the other officers, the Sergeant at Arms in each house is probably the most important. His most obvious function is that of preserving order during congressional meetings. He is also authorized to summon absent members in order to make a quorum for a vote. He serves congressional subpoenas. He pays the members of his house their salaries and mileage allowances. A third officer is the Doorkeeper of the House (the Sergeant at Arms of the Senate is also its Doorkeeper), who is entrusted with supervising the admission of the public audience to his house and is also held to account for the books, furniture, and other items belonging to his chamber. Two other officers are the Postmaster and the Chaplain in each house; their functions are evident from their titles.

Employees: Probably the most significant employees are the Parliamentarians of each house. The Parliamentarians are chosen by their respective presiding officers. Their principal function is to serve as authorities on questions of parliamentary law, the law that governs congressional procedure. Another important task of the Parliamentarians is to refer all bills to standing committees; in this task he is subject to the will of the presiding officer. Also, the Parliamentarians frequently give advice to the rules committees, particularly in the House. Other employees include the journal clerks, enrolling clerks, reading clerks, bill clerks, and house tally clerks.

There are numerous minor posts filled by congressional employees whose appointment is almost entirely a matter of patronage, such as the elevator operators in the Capitol.

PARTY DEVICES FOR ASSURING CONTROL

The party devices for assuring control of Congress consist of arrangements whereby congressmen can occupy posts that are significant in the guidance of congressional action. Such arrangements draw their authority not from the Constitution but from the political parties. The principal sheerly party implements are the caucus, which has already been discussed; the steering and policy committees; the floor leaders; and the whips.

The steering and policy committees

Each major party has either a policy or a steering committee in each house of Congress. In the House of Representatives, the Democratic Steering Committee includes the floor leader; the whips; the caucus chairman; the Speaker—if the Democrats are the majority party; the principal Democratic members of the Appropriations, Ways and Means, and Rules Committees; and fifteen other members, each from one of the regions into which the country is divided for this purpose, and each chosen by the Democratic Representatives from the region. The Republican Policy Committee in the House comprises the five chief Republican congressional leaders plus seventeen other members selected like their Democratic counterparts on a regional basis.

In the Senate, the Democrats have both a Steering and a Policy Committee. The former apparently does little more than serve as a committee on committees (see below). The latter includes nine Democratic Senators, among them the whip and the conference secretary; its chairman is the Democratic floor leader, who also names its members, as he names the members of the Democratic Steering Committee. The Senate Republican Policy Committee at the beginning of the Eighty-fourth Congress in 1955 was enlarged from twelve to twenty-three members. Under this new arrangement, ten of its members were former chairmen of standing committees (the Democrats being the majority party in this Congress, there were no Republican standing committee chairmen). Furthermore, all seventeen Republican Senators whose seats faced contests in the 1956 elections belonged to the Policy Committee. One important aim of this change was to give a voice to every faction in the party. The Senate Republican Policy Committee is elected by the Republican conference, on nomination by the conference chairman; it includes a chairman, the conference chairman, the conference secretary, the whip, and the Republican floor leader.

The function of the policy or steering committee, as the name implies, is to formulate party policy and to steer legislation. The Senate policy committees have been far more effective than those of the House in the consideration of party programs. This fact may in part be ascribed to the great role played by the House Rules Committee in drafting party

programs; it may to a lesser degree be attributed to the fact that the Senate committees have employed considerable advisory staffs, whereas the House committees have not. Consequently the principal function of the policy and steering committees, aside from the Senate Democratic Steering Committee, has been the planning of a legislative schedule, in cooperation—in the case of the House—with the Rules Committees.

The floor leaders

Each major party in each house possesses a floor leader, whose task is the direction of his party from the floor of Congress. The floor leaders are chosen in their party caucuses. So far as the House is concerned, floor leaders always are among the chief figures in their parties, and have been consistently reelected to their seats, so that, like the Speaker, they usually come from States or districts controlled by one party. The majority floor leader of the House holds the unofficial rank of assistant Speaker; he may expect to become Speaker if the incumbent Speaker dies, retires, or fails of reelection while his party remains in the majority. The minority floor leader in the House is the leading Representative of his party, and is almost certain to become Speaker should his party achieve a majority in the House. In the Republican-controlled Eightieth Congress (1947-1949) Republican Joseph Martin of Massachusetts was Speaker, and Democrat Sam Rayburn of Texas was minority floor leader. In the Democratic-controlled Eighty-first and Eighty-second Congresses, Rayburn was Speaker and Martin minority floor leader. Since the Republicans won control of the Eighty-third Congress, the two men again exchanged positions; then they exchanged once more in 1955 after the Democrats became the majority party in the Eighty-fourth Congress. In the Senate the floor leaders of course do not aspire to hold the chair, because it is conferred by the Constitution upon the Vice President; in fact, the Senate floor leaders may be, as in the cases of William Knowland and Lyndon Johnson in 1955, comparatively young men and relatively secondary party figures in their chamber at the time they are chosen.

The functions of the floor leaders are to guide the work of their parties in their respective houses. In this regard the House majority leader is by far the most active, for he has the direct support of the Speaker. He helps determine what member or members shall speak on a given question, and what phases of the question shall be emphasized; in cooperation with the minority leader he allocates speaking time to members of each party for and against a measure. He shares with other majority party leaders the task of deciding in what order proposals shall reach the floor. In case of intraparty disputes, he may summon a party caucus, where he can urge party unity. He directs the work of the majority whip and his assistants, and bases his plans to a considerable degree upon the information they give him. Usually the majority leader's stand on any issue is the official stand of his party; a recent exception to this condition was Senator William Knowland's opposition to several foreign policies of the Republican administration.

The functions of the minority leader in many respects are similar; they are of course different inasmuch as his party does not control the House. It may perhaps be said that the principal aim of the minority leader is to create party unison so as to oppose the majority party and to win support for the next election. Floor leaders in the Senate, although important figures, cannot so readily direct the course of debate if only because the rules of the Senate allow great personal independence.

The whips

Each party in each house has a whip, or assistant floor leader. The Democratic whips are named by the floor leaders; the Republican whips are named by the party committees on committees, whose chairmen, incidentally, are the Republican floor leaders. Each whip in turn names about a dozen assistants, chosen with an eye to representing all regions of the country. The whips canvass their party members as to their stand upon issues, so as to be able to inform the floor leaders of the probable outcome of future congressional voting. They also notify party members when important issues are to be put to a vote; finally, they insure that the party members are present for the voting.

Congressional Rules Committees

Function: Each house of Congress has a standing committee to supervise its rules, known as the Committee on Rules in the House and the Committee on Rules and Administration in the Senate. The Senate committee is not particularly important. It is normally composed of a few of the more elderly members of the Senate (the chairman at the beginning of the Eighty-fourth Congress was eighty-seven years old); its prime goal is to block any proposals for a radical change in the Senate rules. The House Committee on Rules, by contrast, is an extremely powerful body. In recent years it has contained twelve members, eight from the majority party and four from the minority regardless of the party proportion in the House itself. It is composed principally of conservatives from both parties; Democratic members tend to come from the South, and Republicans from New England and the North Central States.

Thanks to its powers and to the extraordinary proportion of its majority party members, the House Rules Committee is an important cog of the majority party machinery that governs the House. It is one more device for getting favored bills quickly to the floor, and for preventing bills opposed by the majority party leaders or by its conservative members from securing House deliberation. In working toward these ends the committee must frequently coordinate its work with the operations of other party instruments such as the Speaker, the majority floor leader, the whips, and the steering committee. Yet, this coordination sometimes does not spring from fundamental agreement of policies, for the Committee may be at odds with the other leaders in such respects; nor does the Rules Committee have to bow to the other leaders unless they appear to have a solid majority of the House behind them.

The House Rules Committee has unique authority. Supposedly its principal function is the consideration of proposals for amending the standing rules of the House; usually its action is to smother these proposals. Through the years, however, it has won for itself many other powers. Apart from the Committee on Government Operations and the Committee on Un-American Activities, the House Rules Committee is the only standing committee that may meet while the whole House is in session without special permission. No bill may reach the House floor unless escorted by special rules; it is the Rules Committee that drafts all special rules. Its proposals have the right-of-way over those of all other standing committees. Hence at any sign of rebellion in the House, the Rules Committee may meet hurriedly, draft special rules to control the uprising, and present them on the floor in the midst of whatever other discussion may be occurring except that of a conference committee report. It may present amendments to any bill, and it may draft a rule that any given bill may not be amended. It fixes the time allowed any member for the debate of a bill, and it can propose a rule barring all debate on a bill. In fact, it can on its own initiative draft a bill and rush it to the floor with privileges over almost any other business.

STANDING COMMITTEES

The standing committees of Congress are the bodies in which the bulk of proposed federal legislation in the United States is sifted, judged as to its desirability, and readied for formal enactment by Congress. Congress has subdivided itself into these committees to do the work that it, as a unit, would be incapable of completing. Most parliamentary bodies across the world possess a system of standing committees, although probably none is so elaborate as that of the United States. One reason for this is the fact that most other large countries with elective, representative governments have a parliamentary system, in which administrative agencies supervised by the cabinet members do most of the preparatory work on the legislation. Because of the presidential system in the United States, Congress may often refer for advice to administrative agencies but does most of the preparatory tasks itself.

Number: In 1946 Congress enacted the Legislative Reorganization Act, which set the number of committees at nineteen in the House and fifteen in the Senate, making more or less parallel committee structures in each house, and which established distinct regions of legislation that each committee was to supervise. The act further provided that a Representative might serve on no more than one committee, save for certain committees that had relatively little work to do, and that a Senator might serve on no more than two committees, with similar exceptions. As will be noted below, circumstances have compelled the acceptance of some changes in this last provision. The present standing committees, together with their membership in the Eighty-fourth Congress excluding the territorial delegates' seats, are as follows:

House

Agriculture (36)
Appropriations (50)
Armed Services (37)
Banking and Currency (30)
District of Columbia (25)
Education and Labor (30)
Foreign Affairs (32)
Government Operations (30)
House Administration (25)
Internal and Insular Affairs (29)
Interstate and Foreign Commerce (31)
Judiciary (32)
Merchant Marine and Fisheries (29)
Post Office and Civil Service (24)
Public Works (34)
Rules (12)
Un-American Activities (9)
Veterans' Affairs (24)
Ways and Means (25)

Senate

Agriculture and Forestry (15)
Appropriations (23)
Armed Services (15)
Banking and Currency (15)
District of Columbia (9)
Labor and Public Welfare (13)
Foreign Relations (15)
Government Operations (13)

Internal and Insular Affairs (15)
Interstate and Foreign Commerce (15)
Judiciary (15)

Post Office and Civil Service (13)
Public Works (13)
Rules and Administration (9)

Finance (15)

Figure 44 is a diagram of the organization of one of the standing committees. Despite the reduction in the number of standing committees, there is still considerable fragmentation in legislative work because of the many subcommittees. Any committee chairman may appoint some members of his committee to form a subcommittee in order to deal with one particular bill or phase of a bill. Subcommittees have great power, especially in the case of those of the two Appropriations Committees, so that their reports may be the final judgment of the committee itself. It has been charged that since the enactment of the Legislative Reorganization Act of 1946 the number of subcommittees has greatly increased; however, this is not the case, for the number is approximately the same as it was before the Act was passed. In the Eighty-fourth Congress, First Session (1955), there were 156 standing subcommittees, seventy-five in the Senate and eighty-one in the House.

Selection of committee members

The selection of standing committee members is purely a party affair, although the selections receive a formal endorsement by the houses. After an election, but before the first meeting of a new Congress, each party caucus names a committee on committees to choose party candidates for the various standing committees. In the House, the Democratic caucus first selects its members for the Ways and Means Committee; this delegation then names the Democratic candidates for the other committees. The House Republican committee on committees consists of one Republican from each State having at least one Republican Representative; each member has as many votes as there are Republican Representatives from his State. In the Senate, the Democratic Steering Committee functions also as a committee on committees; the Republican committee on committees is chosen by the Republican conference chairman. It is noteworthy

that in the House the Republican floor leader is ex officio chairman of the committee on committees, but that in the Senate the Republican floor leader is not even a member of this committee.

At the very outset the committee on committees of the majority party in each house has a great advantage, for it determines how the committee positions shall be apportioned between the two major parties. Usually it sets a ratio that is similar to the party division in its house. However, when the majority party has only a small numerical superiority over the minority party, the majority committee on committees may set no fixed ratio; instead it will provide safe majorities, despite the ratio of the parties in the Congress, on the most significant committees and give itself only a bare majority in the comparatively unimportant committees. It is forced to this resort because congressmen may normally sit on only one House committee or two Senate committees.

The standing committee assignments made at the beginning of any Congress are decided almost entirely on the basis of seniority, that is, upon the number of consecutive terms the members have been elected to their house, and the number of consecutive terms they have served on a given committee. Since the majority of congressmen are reelected at any election (in the House of the Eighty-fourth Congress, 379 of the 435 Representatives, or 87%, had been members of the Eighty-third Congress) the committees on committees have only to assign them to their previous posts. They must also entertain requests that members be assigned to other, and presumably more important, committees. New members must then accept the remaining committee posts; hence they generally commence in one of the less significant committees. If a congressman fails of reelection for one term, he reverts to the bottom of the seniority list when he again appears in Congress, ranking above only those newly elected members who have never before served. For instance, Representative B. Carroll Reece despite fourteen terms in the House was at the end of the seniority list in the Rules Committee in the Eighty-third Congress because his terms were not consecutive.

A Senator or Representative is not apt to suffer with respect to his committee assignments because of his congressional voting record. However, he may be punished if he has not supported his party in an election. In the Eighty-third Congress, for example, Senate Wayne Morse was taken off the Armed Services and the Labor and Public Welfare Committees—both significant bodies—and installed on the District of Columbia and the Public Works Committees—two relatively minor bodies; this was done because he had refused to support the Republican presidential candidate, Dwight Eisenhower, in 1952, and had proclaimed himself an independent. His demand that he be given his old assignments as a member of the Independent Party was voted down. In 1955, in organizing the Eighty-fourth Congress, the Democrats awarded him a coveted seat on the Foreign Relations Committee. In 1949, by contrast with Morse's experience, the southern Democrats who had supported the States' Rights Party candidate in 1948, because they formed part of the core of the Democratic Party

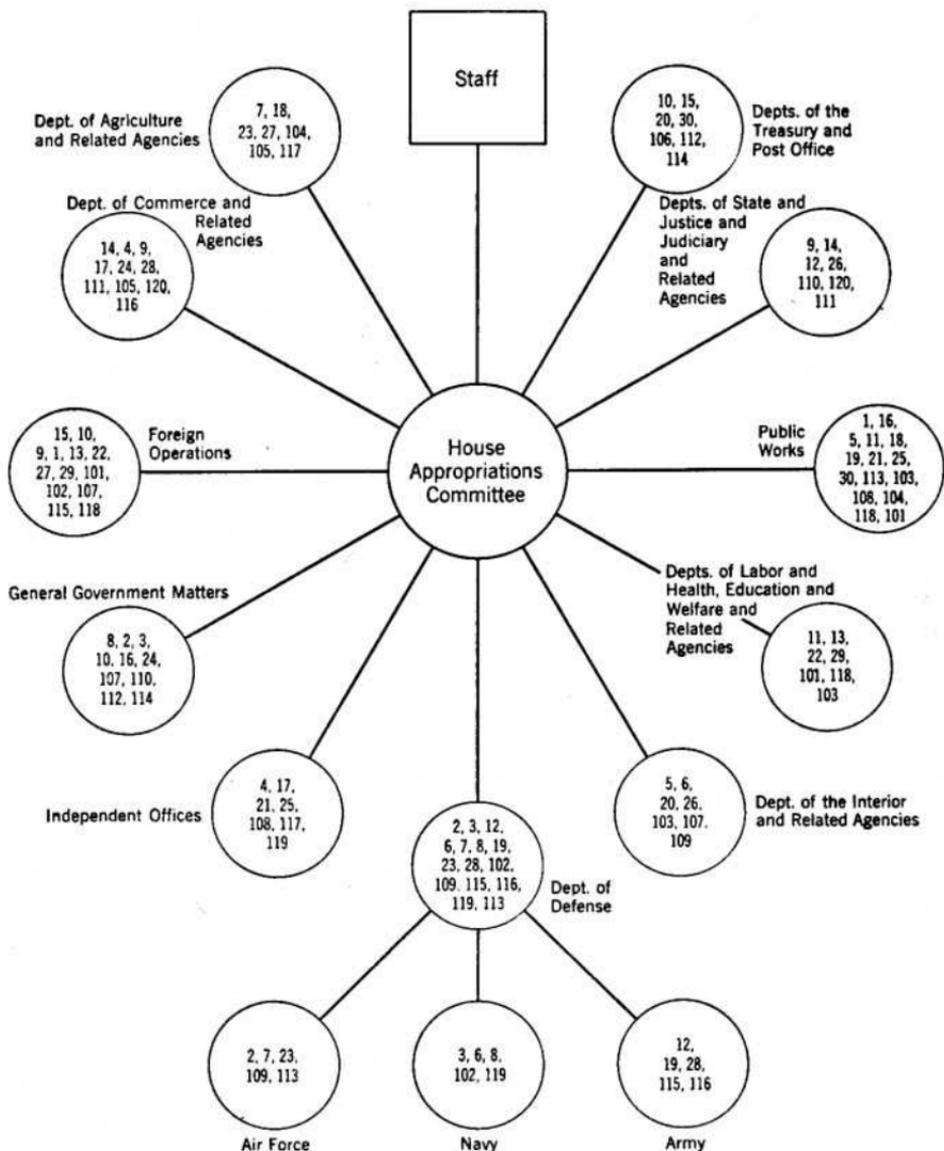


Figure 44. Organization of a Standing Committee.

The House Committee on Appropriations
Eighty-fourth Congress, First Session (1955)

Membership

Democrats

- | | |
|---------------------------|------------------------|
| 1. Cannon, Mo. (chairman) | 10. Gary, Va. |
| 2. Mahon, Tex. | 11. Fogarty, R. I. |
| 3. Sheppard, Calif. | 12. Sikes, Fla. |
| 4. Thomas, Tex. | 13. Fernandez, N. Mex. |
| 5. Kirwan, Ohio | 14. Preston, Ga. |
| 6. Norrell, Ark. | 15. Passman, La. |
| 7. Whitten, Miss. | 16. Rabaut, Mich. |
| 8. Andrews, Ala. | 17. Yates, Ill. |
| 9. Rooney, N. Y. | 18. Marshall, Minn. |

and because their votes and influence were needed by the Party, were not penalized in their committee assignments.

Committee Chairmen: Committee chairmen are the presiding officers of their respective committees. They achieve their posts through consistent reelection; in short, they rise to leadership of their committee by virtue of the seniority system—provided, of course, that their party is in power. Hence committee chairmen, like Speakers of the House, tend to come from States or districts controlled by one party; they usually are concentrated in the region where their party is strongest.

In a Democratic Congress, most committee chairmen will come from the South, with a few from northern large cities; in a Republican Congress, most will come from New England and midwestern small towns. In the House of the Republican Eighty-third Congress, fourteen of the nineteen chairmen came from the area west of Pennsylvania, east of Utah, and north of the Ohio River and the Missouri Compromise line; five were from Illinois alone. In the House of the Democratic Eighty-fourth Congress, eleven of the nineteen chairmen were from east of the Mississippi and south of the Ohio River and the Mason-Dixon Line; two more were from Texas; two, from New York City; and one, from Chicago.

It is noteworthy that in recent decades the presidential candidates of both parties have usually come from regions other than those in which the party's committee chairmen are concentrated, or at least the candidates have been supported by a faction of their party hostile to that providing their chairmen. Such presidential nominations have been made, of course, because the party leaders can be rather certain of winning the area that supplies the chairmen, and desire to appeal to other areas by means of

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| 19. Riley, So. Car. | 25. Boland, Mass. |
| 20. Sieminski, N. J. | 26. Magnuson, Wash. |
| 21. Evins, Tenn. | 27. Natcher, Ky. |
| 22. Lanham, Ga. | 28. Flood, Pa. |
| 23. Deane, No. Car. | 29. Denton, Ind. |
| 24. Shelley, Calif. | 30. Murray, Ill. |

Republicans

- | | |
|--------------------------|----------------------|
| 101. Taber, N. Y. | 111. Clevenger, Ohio |
| 102. Wigglesworth, Mass. | 112. Wilson, Ind. |
| 103. Jensen, Iowa | 113. Davis, Wis. |
| 104. Andersen, Minn. | 114. James, Pa. |
| 105. Horan, Wash. | 115. Ford, Mich. |
| 106. Canfield, N. J. | 116. Miller, Md. |
| 107. Fenton, Pa. | 117. Vursell, Ill. |
| 108. Phillips, Calif. | 118. Hand, N. J. |
| 109. Scrivner, Kans. | 119. Ostertag, N. Y. |
| 110. Coudert, N. Y. | 120. Bow, Ohio |

The members of the committee are listed here in the order of their committee seniority. In the figure they are listed in the subcommittees in order of their subcommittee seniority; the first subcommittee member listed is the chairman of the subcommittee. Note that half the Democratic members of this unusually important committee come from southern States, and that almost half the Republican members come from midwestern States.

the presidential candidate. However, as a result of this practice, the struggle between the legislative and the executive branches of the government is apt to be intensified in the years after the election.

Generally speaking, the chairmen have great power in their committees. They summon committee meetings, determine the subjects for discussion, control the discussions, and report their results to their respective houses. In the main they operate the committees under the rules of their houses whenever the rules apply. Hence they can be voted down by a committee majority. Furthermore, if they refuse to call a committee hearing, they may be compelled to by a specified number of committee members. It can be said, however, that they stand in about the same relation to their committees as the Speaker to the House.

Committee staffs

The staffs of congressional committees perform the administrative, research, and investigative tasks of the committee. Under the Legislative Reorganization Act of 1946, each standing committee may appoint a professional staff of up to four members. Whereas the staff members are assigned to the committee chairman and to the ranking minority member, they usually work for the committee as a whole. Committee staffs have an important function beyond their evident task of keeping Congress informed; as experts, they can serve as a counterbalance to the analogous counsellors of the executive branch. Hence at hearings the committees do not have to rely solely upon representatives of the administration for information respecting proposed legislation; they may turn to their own staff experts for corroborative or contradictory testimony. Thus the staffs may enable Congress to protect its legislative initiative. However, the committee staffs so far have not carried out this function so successfully as was hoped; committee members still rely to a large degree upon special staff personnel who are provided them temporarily by the executive branch, and also upon experts from various pressure groups, for their information.

Joint standing committees

A joint standing committee is a committee created by law, which contains members from both houses of Congress, usually in equal numbers; it may sometimes include members of the executive branch as well. The establishing law normally fixes the means whereby the members are chosen; sometimes the selections are made in the same fashion as those for ordinary standing committees, and at other times they are made by the presiding officers of the two houses, after consultation with congressional and party leaders. Generally representation is accorded to the two parties in rough proportion to their seats in Congress. Customarily the first-named Senator becomes chairman of the joint standing committee; but in the Eighty-third Congress, Representative W. Sterling Cole of New York was named chairman of the Joint Committee on Atomic Energy; in the Eighty-fourth Congress, however, Senator Clinton P. Anderson of New Mexico became chairman.

Joint standing committees have almost always had only supervisory and investigative functions. The Joint Committee on Atomic Energy is unique in having legislative power as well; that is to say, it may not only conduct studies of a particular activity of the government but may also draft and introduce bills to regulate that activity. The refusal to extend legislative power to these committees probably arises chiefly from the unwillingness of the two chambers to surrender their legislative initiative, which they might lose if joint committees had the power to review, recommend, or shelve proposed bills. Typical of the supervisory joint committees are those on printing and on the Library of Congress. The Atomic Energy Committee is the outstanding instance of a joint committee organized for not only supervisory but also investigative and research functions. This committee maintains a large staff of experts that has produced some scholarly reports. Another joint committee of comparable efficiency is that on the Economic Report, which was created in 1946 to deal with the presidential economic message.

Select or special committees

A select or special committee is a committee made up of members of either house of Congress, or of both houses, that has been named to deal with one specific piece of legislation or one field of legislation. The members of all select committees are named by the presiding officer of the house concerned. At one time, as was indicated earlier in this chapter, select committees played an important part in American legislation. In recent years, however, they have appeared less and less frequently. Since 1946, however, there have been a few select committees, created chiefly for investigative functions.

THE INVESTIGATIVE FUNCTION OF COMMITTEES

In a general sense, every hearing with respect to a bill before a standing committee is an investigation, in that the committee is seeking information that will either justify the enactment of the bill into law or demonstrate that the bill should die in committee. In a more specialized sense, however, the investigative function refers to hearings that are particularly designated as investigations.

Congressional investigations are almost always conducted by one form or another of bipartisan committee. Some investigations are carried on by standing committees, such as the House Un-American Activities Committee. In fact, it was believed that after the passage of the Legislative Reorganization Act of 1946 all investigations would be entrusted to standing committees. Although this has not been the case, a larger proportion of investigations than before are now handled by standing committees. Some investigations are executed by subcommittees of congressional standing committees, such as the Subcommittee on Permanent Investigations of the Committee on Government Operations, whose controversial head during the Eighty-third Congress was Senator McCarthy. Other investigations

are assigned to select committees, such as the Special Committee to Investigate Tax-Exempt Foundations in the Eighty-third Congress; it is noteworthy that whereas such special committees were once numerous, in the first session of this Congress there were only two. Matters of greater complexity may be turned over to a joint special committee, such as that which investigated the Japanese attack upon Pearl Harbor. Finally, some investigations are made by groups containing members from each house of Congress and from outside Congress as well, such as the Commission on Intergovernmental Relations, which included Senators, Representatives, deputies from the executive branch, State governors, and interested private citizens.

Committee powers to secure facts

Since the broad purpose of investigating committees is to gather facts related to present or possible laws, it is of considerable significance whether they have the power to force the yielding of the facts. Today most investigating committees receive from Congress the power to subpoena witnesses and relevant documents or other objects. Normally a witness who refuses to testify after being subpoenaed may be held in contempt of Congress and sentenced to jail. Such a refusal may emanate from the witness' belief that he is being denied his judicial rights and privileges, especially that of cross-examination. But a congressional investigation is not a court trial, and need not be conducted according to the principles of court procedure; if a witness is authorized to cross-examine others, he is given the authority as a privilege by the committee.

Use of Fifth Amendment: A more reliable protection that some witnesses invoke is the clause in the Fifth Amendment that guarantees all persons the right to withhold answers to any questions when the answers might tend to incriminate them. For example, should a person be asked by a committee to state his income in a certain year, and should the answer to this question lay him open to prosecution by the Department of Justice for failure to pay his income tax, he may decline to answer the question. To take a second instance, should a committee inquire whether the witness was a member of the Communist Party, and should the witness feel that an answer to the question might possibly subject him to prosecution for criminal conspiracy or for asserting a criminal falsehood on a previous occasion, the witness might again refuse to answer, citing his right under the Fifth Amendment.

Obstacles by the Executive Branch: Owing to the doctrine of the separation of powers, Congress has striven in vain to compel officers of the executive and judicial branches of the government to testify, or to surrender documents that chiefs of those branches may refuse to yield. The precedent for these refusals was set by George Washington, who, after being asked for certain papers, declared "that the executive ought to communicate such papers as the public good would permit and ought to refuse those the disclosure of which would injure the public."

The Truman administration refused to produce documents for Congress

on at least nine important occasions. On March 4, 1948, the Secretary of Commerce refused to give over an FBI letter-report on Dr. Edward U. Condon, Director of the National Bureau of Standards. On March 15, 1948, President Truman issued a directive forbidding the departments and agencies to furnish information pertaining to the loyalty of their employees to any court or committee of Congress, unless with presidential authorization. The same month, Dr. John R. Steelman, Confidential Adviser to the President, was directed by the President to refuse to appear before the House Committee on Education and Labor, despite two subpoenas that the Committee served upon Steelman. On August 5, 1948, the Department of Justice refused to provide the chairman of the Senate Investigations Subcommittee with material on the case of W. W. Remington. On February 22, 1950, the President denied access to State Department loyalty files after the Senate had passed a resolution demanding them; the Attorney General and FBI Director, J. Edgar Hoover, supported his position during the following month of argument. On May 16, 1951, General Bradley declined before the Senate Foreign Relations and Armed Services Committees to discuss the deliberations of the executive branch that led to the dismissal of General MacArthur. On January 31, 1952, the President ordered the Secretary of State to refuse to give the Senate Internal Security Subcommittee the reports and views of Foreign Service officers. On April 22, 1952, the Attorney General declared that the files on "open cases" would not be shown to the Committee on the Judiciary. On April 3, 1952, the President ordered all security and loyalty files on employees to be withheld from the Senate Appropriations Subcommittee.

These and other precedents were cited by President Eisenhower when he too directed the Secretary of Defense to withhold from Congress information concerning internal agency conversations and communications. The letter containing the instructions is reprinted below as it was issued in the prolonged hearings on the controversy between Senator McCarthy and Army Department officials. It should be especially noted that two separate doctrines are used in cases like this one: the national security and the principle of the separation of powers.

THE WHITE HOUSE,
May 17, 1954

The honorable the SECRETARY OF DEFENSE
Washington, D. C.

DEAR MR. SECRETARY: It has long been recognized that to assist the Congress in achieving its legislative purposes every Executive Department or Agency must, upon the request of a Congressional Committee, expeditiously furnish information relating to any matter within the jurisdiction of the Committee, with certain historical exceptions—some of which are pointed out in the attached memorandum from the Attorney General. This Administration has been and will continue to be diligent in following this principle. However, it is essential to the successful working of our system that the persons entrusted with power in any one of the three great branches of Government shall not encroach upon the authority confided to the others.

The ultimate responsibility for the conduct of the Executive branch rests with the President.

Within this Constitutional framework each branch should cooperate fully with each other for the common good. However, throughout our history the President has withheld information whenever he found that what was sought was confidential or its disclosure would be incompatible with the public interest or jeopardize the safety of the Nation.

Because it is essential to efficient and effective administration that employees of the Executive Branch be in a position to be completely candid in advising with each other on official matters, and because it is not in the public interest that any of their conversations or communications, or any documents or reproductions, concerning such advice be disclosed, you will instruct employees of your Department that in all of their appearances before the Subcommittee of the Senate Committee on Government Operations regarding the inquiry now before it they are not to testify to any such conversations or communications or to produce any such documents or reproductions. This principle must be maintained regardless of who would be benefited by such disclosures.

I direct this action so as to maintain the proper separation of powers between the Executive and Legislative Branches of the Government in accordance with my responsibilities and duties under the Constitution. This separation is vital to preclude the exercise of arbitrary power by any branch of the Government.

By this action I am not in any way restricting the testimony of such witnesses as to what occurred regarding any matters where the communication was directly between any of the principals in the controversy within the Executive Branch on the one hand and a member of the Subcommittee or its staff on the other.

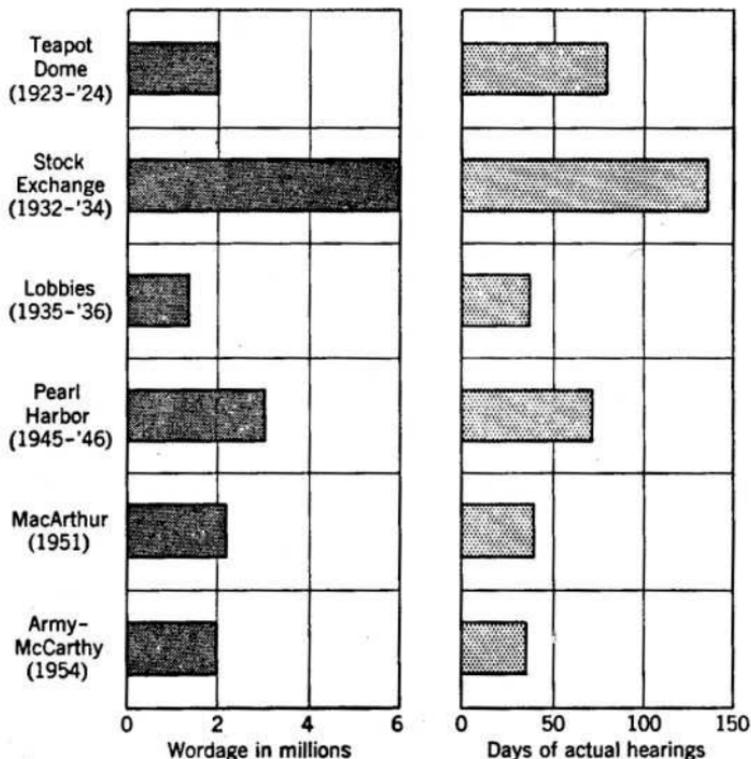
Sincerely,

DWIGHT D. EISENHOWER

Of course, a President, in refusing to cooperate with congressional committees, may have in mind no such high purpose as Washington and others have specified; he may only resent congressional efforts to investigate the functioning of the executive branch, or more simply may not wish to reveal documents that might embarrass his administration. By the same token, a President may gladly surrender documents when the publicity secured by revealing their contents may serve him, his administration, or his party. For this reason it can be expected that any change in party control of the White House may be followed by the publication of certain documents heretofore withheld from Congress.

Criticism of investigating committees

Investigating committees have been the objects of persistent criticism down through the years. One of the chief criticisms has been that the committees have disregarded the principles of constitutional legal procedure. However, as pointed out above, an investigating committee is not a court of law, but an arm of Congress; therefore it is not obliged to follow those principles. From time to time, committee chairmen and members have abused witnesses, made reckless charges against persons or groups, and sometimes damaged the reputations of innocent persons. The committee hearings provide an easy way to get publicity, and the temptation to make



Adapted from New York Times, May 2 (3E) and June 20, 1954 (2E)

Figure 46. Duration of Some Lengthy Recent Congressional Investigations.

political capital from exaggerated showmanship is sometimes too strong for certain congressmen to resist. Under such circumstances, a rule of law and fairness to witnesses can be preserved only by the intervention of other politicians, the press, and representatives of interested groups.

Whatever the methods and findings of an investigation may be, certain interests are apt to denounce them as too lenient and others will find them overly severe. That these two positions existed more than a century ago is shown by the two cartoons illustrating divergent viewpoints on an investigation during the presidency of Martin Van Buren (1837-1841). (See Figure 45.) Moreover, the observer's attitude toward committee procedure is often modified by his opinion of the value of the investigation. In the 1950's, for example, Senator McCarthy has been the leading exponent of untrammelled procedures in investigation. He might in fact agree with the following as a classic statement of his position:

The question is not whether people's feelings, here and there may be hurt, or names "dragged through the mud," as it is called. The real issue is whether the danger of abuses and the actual harm done are so clear and substantial that the grave risks of fettering free congressional inquiry are to be incurred by artificial and technical limitations upon inquiry.

The procedure of congressional investigation should remain as it is. The power of investigation should be left untrammelled, and the methods and forms of each investigation should be left for determination by Congress and

its committees, as each situation arises. The safeguards against abuse and folly are to be looked for in the forces of responsibility which are operating within Congress, and are generated from without.

Thus wrote a staunch liberal in the May 21, 1924, issue of the *New Republic* magazine; he was Professor Felix Frankfurter of Harvard Law School, later Associate Justice of the federal Supreme Court. Obviously some measure of tolerance depends upon whose ox is being gored.

Regardless of the criticism that investigations provoke in some quarters, Congress will vote investigations whenever they serve the interests of the majority. For example, for the period 1953-1954 the Eighty-third Congress carried out 228 investigations, and appropriated over eight million dollars to conduct them. As Figure 46 shows, certain investigations in late years have consumed much time of the members of Congress.

QUESTIONS AND PROBLEMS

1. Contrast the *legislative* organization of the House with that of the Senate. How do you explain the major differences?
2. Contrast the *party* organization of the House with that of the Senate. How do you explain any differences?
3. Sometimes during the nineteenth century the Speaker of the House was regarded as being more powerful than the President. Considering the respective (but changing) powers of the two offices and of the personalities that might occupy them, how do you think that this could have happened?
4. What are the functions and powers of the Committee on Rules of the House?
5. Define the following terms in one sentence: standing committee; joint standing committee; special or select committee; committee on committees of the Democratic Party of the House; steering committee; policy committee; subcommittee.
6. How is seniority in the Congress determined for the purpose of assigning committee memberships?
7. What are the powers of the chairman of a congressional standing committee?
8. Do you think a line should be drawn between ordinary legislative committees and investigating committees? Explain your answer.
9. What are the major criticisms that have been voiced against congressional investigating committees?