

LEGISLATIVE REORGANIZATION ACT OF 1946

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by George B. Galloway

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THE OPERATION OF THE LEGISLATIVE REORGANIZATION ACT OF 1946

GEORGE B. GALLOWAY

Library of Congress

In this article I will attempt to review the operation of the Legislative Reorganization Act of 1946 in terms of its own objectives. Criticisms of the limitations and shortcomings of the Act have been discussed elsewhere.¹ In describing the reformed system and the way it works, it is no part of my intention to impute praise or blame to any of the actors in the drama. As a member of the staff of the Library of Congress, I view the legislative scene with as much nonaxiological detachment as an anthropologist would describe the customs and mores of primitive tribes on some tropical island. Whether or not the system is an authentic expression of democratic government, I am not at liberty to say.

I. OBJECTIVES OF THE ACT

As conceived and formulated by its authors and as enacted by Congress, with some significant omissions,² the Act (as I shall henceforth refer to the Legislative Reorganization Act, for the sake of brevity) had the following objectives:

1. To streamline and simplify congressional committee structure.
2. To eliminate the use of special or select committees.
3. To clarify committee duties and reduce jurisdictional disputes.
4. To regularize and publicize committee procedures.
5. To improve congressional staff aids.
6. To reduce the work load on Congress.
7. To strengthen legislative oversight of administration.
8. To reinforce the power of the purse.
9. To regulate lobbying.
10. To increase the compensation of Members of Congress and provide them retirement pay.

II. COMMITTEE STRUCTURE

Modernization of the standing committee system was the first objective of the Act and the keystone in the arch of congressional reform. By dropping

¹ See Joseph P. Harris, "The Reorganization of Congress," *Public Administration Review*, Vol. 6, pp. 267-282 (Summer, 1946); Charles W. Shull, "The Legislative Reorganization Act of 1946," *Temple Law Quarterly*, Vol. 20, pp. 375-395 (January, 1947); Harold Zink, "Reorganization Efforts in Congress," *Parliamentary Affairs*, Vol. 3, pp. 94-103 (Winter, 1949); A. S. Mike Monroney, "The Legislative Reorganization Act of 1946: A First Appraisal," in *The Strengthening of American Political Institutions* (Ithaca, 1949). See also Philip S. Broughton, "Congress is Far From Reorganized," *New York Times Magazine*, May 18, 1947; Robert C. Hartnett, "Has Congress Been Modernized?" *America*, Vol. 77, pp. 429-431 (July 19, 1947); Estes Kefauver, "Did We Modernize Congress?" *National Municipal Review*, Vol. 36, pp. 552-557 (November, 1947).

² Cf. George B. Galloway, *Congress at the Crossroads* (New York, 1946), pp. 342-344.

minor, inactive committees and by merging those with related functions, the Act reduced the total number of standing committees from 33 to 15 in the Senate, and from 48 to 19 in the House of Representatives. This reform has now survived four years and two Congresses—one controlled by the Republicans and one controlled by the Democrats—without change or successful challenge. On February 7, 1949, Senators Holland and Wherry offered a resolution (S. Res. 58) to create a standing Senate Committee on Small Business, which was favorably reported by the Committee on Rules and Administration on June 29, 1949. But after extended debate the Senate, by a two-to-one vote, decided instead to create a select committee to investigate small business problems.³ Thus, the reorganized standing committee system seems to have won congressional acceptance for the time being.

Under the old system the standing committees of the House ranged in size from 2 to 42 members, averaging 19 members each. Under the Act, 15 of the 19 House committees had 25 or 27 members each in 1950 and the average size was 25 members. Rules, with 12 members, and Un-American Activities, with 9 members, remain unchanged in size. Appropriations now has 50 members, compared with 42 before, and Armed Services has 35, compared with a combined membership of 61 on the old Military and Naval Affairs committees.

Before the Act, the standing committees of the Senate ranged in size from 3 to 25 members and averaged 15 members each. Under the Act all of the Senate standing committees have 13 members, except Appropriations with 21, as compared with 25 before.

Before the Act, every Senator was entitled to serve on three major committees and two minor committees. Some individuals had up to ten committee assignments. There were conflicts in committee meetings, duplications in committee jurisdiction, and inefficient distribution of the legislative work load among committees. Under the Act, no Senator may serve on more than two standing committees, except that majority party Senators may also serve on the District of Columbia and the Expenditures committees; and, with minor exceptions, each House member now serves on only one standing committee, instead of on three to five, as many members did in the past.

The rule limiting minority Senators to membership on only two committees has had the effect, with a change in party control of the Senate, of requiring some Senators serving on the District of Columbia or the Expenditures committee, in addition to two others, to resign from one. The result during the 81st Congress was to deprive these "second-class committees" of the continued service of such experienced members as Senators Aiken and Ferguson, who, being limited to two committees, felt that they owed it to their constituents to elect to serve on two "national committees."

To meet this situation, Senator Taft introduced a resolution (S. Res. 24) on January 10, 1949, proposing to increase the membership of 8 Senate committees from 13 to 15 members each; to permit 8 minority Senators to serve on

³ *Congressional Record*, 81st Cong., 2nd Sess., pp. 2011-2034 (Feb. 20, 1950). This and subsequent citations are to the pages of the daily edition.

three standing committees each; and to permit majority Senators to have a third committee assignment upon any one of five specified "minor" committees. Senate Resolution 24 was referred to the Committee on Rules and Administration, which took no action upon it. In its behalf Senator Taft argued that (a) in many cases a committee of 13 members is too small to handle its work load, and that (b) new Senators are deprived of important committee assignments under the two-committee-assignment rule because older Senators fill up the limited number of seats on the more attractive committees and leave only the "second-class" committees open for the freshman Senators. Opponents argued that to differentiate between the size of the standing committees of the Senate would be to create a system of major and minor committees. They further maintained that the proposed change would break down the two-committee assignment rule, would add to the work load and responsibilities of Senators in unrelated legislative fields and would increase absenteeism in the Senate.⁴

Many of the old standing committees of Congress were minor, inactive committees—"ornamental barnacles on the ship of state," in Alvin Fuller's phrase. Under the new scheme all of the standing committees in both houses are major committees with important duties. Although some Members still refer to the District of Columbia and Expenditure committees as "second-class," this is an inappropriate appellation to apply to the Expenditure committees, which were rejuvenated by the Act and given weighty responsibilities in the machinery of government field.

It is often said, and perhaps widely believed, that the reduction from 81 to 34 in the number of standing committees of Congress, effected by the Act, has been offset by the creation of a rash of subcommittees. The fact is that the number of standing subcommittees has not changed since 1945. In that year Congress had 131 standing subcommittees: 34 in the Senate and 97 in the House.⁵ In 1950 there were 131 standing subcommittees: 66 in the Senate and 65 in the House. During the 81st Congress six House committees and four Senate committees had no standing subcommittees at all. Special subcommittees are set up from time to time in both houses to handle individual bills, but their number fluctuates from week to week, making comparisons misleading. The tendency has been, since passage of the Act, for standing subcommittees to replace special subcommittees for individual bills, affording committeemen and their staffs an opportunity to become specialists in correlated fields of legislation.⁶ Readers of Burton K. French's article on "Subcommittees of Congress"

⁴ *Ibid.*, 81st Cong., 1st Sess., pp. 131-133 (Jan. 10, 1949).

⁵ *Hearings* before the Joint Committee on the Organization of Congress, 79th Cong., 1st Sess., pursuant to H. Con. Res. 18 . . . (Washington, 1945), p. 1039. Hereafter cited as *Hearings Pursuant to H. Con. Res. 18*.

⁶ For comments on the operation of subcommittees under the Act, see *Hearings* before the Committee on Expenditures in the Executive Departments, U. S. Senate, 80th Cong., 2nd sess., on Evaluation of Legislative Reorganization Act of 1946 (Washington, 1948), pp. 57, 62, 63, 81, 118, 125, 199. Hereafter cited as *Hearings on Evaluation of the Legislative Reorganization Act*.

in this REVIEW back in February, 1915, will recall that they are nothing new in the legislative process.

Some Congressmen are critical of subcommittees, believing that the entire membership of a committee should handle matters referred to it. Others believe that subdivisions are necessary for the preliminary study of complex matters and are an inescapable feature of the heavy duties now imposed upon the consolidated committees of Congress. The advantages that flow from the division of labor and specialization of function will probably lead most congressional committees to continue to subdivide their work, and to rely on consideration at the full committee stage for coordination and the overall view.

In the form in which it passed the Senate, the Act prohibited special committees.⁷ Although this provision was stricken in the House, the spirit of the Act clearly frowns on the creation of special committees. The La Follette-Monroney committee had recommended that the practice of creating special investigating committees be abandoned, on the ground that they lack legislative authority and that the jurisdiction of the new standing committees would be so comprehensively defined, in the reformed rules, as to cover every conceivable subject of legislation. In practice, special committees have not been abandoned, but their number has diminished. In the 79th Congress, before the Act, there were 18 of them: 6 in the House, 9 in the Senate, and 3 joint select committees. In the 80th Congress there were 12 special committees: 6 in the House, 3 in the Senate, and 3 joint ones. Nine special committees were created during the 81st Congress: 6 in the House on small business, lobbying, use of chemicals, campaign expenditures, veterans' education, and roof and skylights; and 3 in the Senate on small business, organized crime, and roof and skylights. They had a combined membership of 65 in 1950.

The Senate has complied more closely than the House with the spirit of the prohibition of special committees. During the 80th Congress it converted its old Special Committee to Investigate the National Defense Program into a standing subcommittee of the Committee on Expenditures in the Executive Departments, and its Special Small Business Committee into a standing subcommittee of Banking and Currency. In 1950, on the other hand, the Senate revived its Select Committee on Small Business in response to the persistent efforts of Senators Murray and Wherry, who maintained that small business problems cut across the jurisdiction of many of the standing committees of the Senate and who wanted a forum for their activities in this field. In the House special committees on small business and campaign expenditures are hardy biennials.

Although the Senate version of the Act sought to stimulate joint action between the twin committees of the two houses, this optional provision was struck on the House side; therefore, the Act did not change the joint committee structure of Congress, except to make the long-standing Joint Committees on Printing and the Library in effect joint subcommittees of the two Administra-

⁷ A special or select committee is one which lacks authority to report bills. Its life expires with the Congress during which it was created.

tion committees of the House and Senate. However, the creation of roughly parallel committee systems in the two chambers, with similar nomenclature and jurisdictions, has tended to facilitate joint action on measures of mutual interest by means of joint hearings and staff collaboration. In recent years several successful joint hearings have been held by twin committees or subcommittees on the reorganization of the government of the District of Columbia, on the budget requirements of the District Government, on foreign economic cooperation and military aid, and on public housing. There has also been a good deal of collaboration between the professional staffs of corresponding committees, which have exchanged information, memoranda, etc., but there are few instances of joint research or cooperation in the preparation of committee reports. Similarly, since the end of World War II the Foreign Affairs committees have occasionally met together in order to hear reports and statements by the Secretary of State, thus saving him the loss of time in a duplicate appearance; but they have then considered and reported their conclusions separately to the two houses.

Despite the evident advantages of joint action, it is opposed by some Senators as an impairment of their "appellate jurisdiction," and by some Representatives who are jealous of their own independence and prerogatives. Critics of joint hearings doubt if they save much time and suggest that they raise questions of protocol about such simple things as the seating of Congressmen around the table and precedence in interrogation. Other alleged deterrents to joint action are the different time tables of House and Senate, surviving jurisdictional differences between the parallel committees, and differing perspectives, interests and modes of operation among the Members.

Nevertheless, the number of joint standing committees in Congress has doubled since 1946. In the 79th Congress there were four standing and three select joint committees; in the 80th Congress there were seven standing and four select joint committees; and in the 81st Congress there were eight joint standing committees. The new joint committees on the Economic Report, on Atomic Energy, and on Foreign Economic Cooperation⁸ were appointed during the 80th Congress; and the new Joint Committee on Defense Production was established by the Defense Production Act of 1950. The Joint Committee on the Library dates back to 1806 and the Joint Committee on Printing to 1846. The Joint Committee on Internal Revenue Taxation was created in 1926 and the Joint Committee on Reduction of Nonessential Federal Expenditures (the Byrd committee) in 1941. On February 24, 1950, Senator Humphrey introduced a bill (S. 3116) to abolish the Byrd committee because, he said, it was duplicating the work of the Expenditures committees and was a waste of money. This move stirred up a hornet's nest in the Senate and the Byrd committee is still extant.⁹ Eighty-two members of Congress were serving

⁸ The Joint Committee on Foreign Economic Cooperation was terminated as of Aug. 31, 1950.

⁹ *Congressional Record*, 81st Cong., 2nd sess., pp. 2353-2355, 2646-2667, 14863-14865, 15085-15086.

on its joint committees at the end of 1950, exclusive of the insignificant Select Committee on the Disposition of Executive Papers—the so-called “waste basket committee.” Both houses are always equally represented on the joint committees, which, therefore, always have an even number of members. The most important and successful of the existing joint congressional committees are those on the Economic Report, which has four active subcommittees,¹⁰ and on Atomic Energy, which alone among the joint committees has legislative authority. Space does not here permit a full evaluation of the work of these joint committees.

The Act also called for joint action on the part of the revenue and spending committees of both houses in the formulation of a “legislative budget.” But this provision, which I shall discuss more fully below, has miscarried.

III. COMMITTEE OPERATION

Consolidation of the standing committees and definition of their duties in the rules—an innovation in the Senate—have reduced but not eliminated jurisdictional disputes over the reference of bills. Although House bills are occasionally re-referred by unanimous consent, open conflicts between committees in the lower chamber have almost disappeared.¹¹ In the Senate, however, several jurisdictional questions have arisen since 1946. Bills dealing with the complex economic and social problems of the modern world sometimes cut across the defined jurisdictions of two or more standing committees. Intricate legislation designed to solve the problems of an interdependent economy cannot always be reduced to the clear-cut lines of a blueprint of committee duties.

During the 80th Congress, for example, Senate committees argued over the reference of the portal-to-portal bill, the bill proposing unification of the armed forces, automobiles for disabled veterans, an interstate oil compact, and interstate water rights on the Colorado River. Senator Taft questioned the conflicting jurisdiction of the Finance and Labor committees on the subject of veterans' affairs, which he thought ought to be “all in one committee.”¹² During the 81st Congress Senate committees quarreled about jurisdiction over small-business problems, the reference of Reorganization Plan No. 8 relating to the Department of Defense and the reference of the Foreign Military Assistance bill. The reference of the last mentioned bill was settled by the unique device of sending it for joint study and report to the combined committees on Armed Services and Foreign Relations—an arrangement which worked quite well.¹³ Most of the bills implementing the recommendations of the

¹⁰ On investment, unemployment, low-income families, and monetary, credit and fiscal policies.

¹¹ Rep. Thomas A. Jenkins protested reference of the Health Insurance bill (H.R. 4312) to the House Committee on Interstate and Foreign Commerce instead of to the Ways and Means Committee. *Congressional Record*, 81st Cong., 1st sess., pp. A2661–A2662 (April 28, 1949).

¹² See *Hearings Pursuant to H. Con. Res. 18*, p. 34.

¹³ *Congressional Record*, 81st Cong., 1st sess., pp. 10528–10533 (July 28, 1949).

Hoover Commission were referred in both houses to the committees on Expenditures in the Executive Departments, despite the possibility of conflict implicit in the combination of provisions for both policy and structural changes in some of these measures.

Evidently the language of the Act still leaves room for jurisdictional disputes, as Senator Vandenberg pointed out in his ruling on the reference of the Armed Forces Unification bill.¹⁴ The fact is that jurisdiction over the various aspects of several subject-matter fields is split among many standing committees in both houses of Congress. The committees on Foreign Affairs, Appropriations, Armed Forces, Expenditures, and Foreign Commerce are concerned with various phases of our foreign relations. National defense policies and expenditures are reviewed in piecemeal fashion by several committees in both houses; as Harold Lasswell has shown, "At least two-thirds of the fifteen standing committees of the Senate regularly touch upon some aspect of the security problem."¹⁵ Jurisdiction over our international economic relations is likewise widely scattered. The fiscal machinery of Congress is also splintered and fragmented, and control over major water resource programs is split, in both houses, between the Public Lands and Public Works committees.¹⁶

Several remedies for these jurisdictional problems have been proposed. They include the reference of bills, in cases of conflict, to the claimant committees concurrently, consecutively, jointly, or to a joint subcommittee of the interested committees, as was done in the case of the House Select Committee on Foreign Aid (the Herter committee) in the 80th Congress.¹⁷ Another suggestion calls for the creation in such fields as national defense and foreign relations of Senate and House "leadership" committees, composed of members drawn from all committees whose jurisdiction covers some fragment of the field.¹⁸ Cross-membership among committees in overlapping areas is another solution. More joint hearings and joint action by committees with common interests, following the example of the Armed Services and Foreign Relations committees on the Military Defense Assistance program, are also advocated. Some favor further use of joint standing committees. In any event, a thorough study of existing committee duties and a redistribution of jurisdictions along more rational lines seem clearly to be necessary.

Under section 133 of the Act, committee procedure has been regularized in regard to periodic meeting days, the keeping of committee records, the reporting of approved measures, the presence of a majority of committeemen as a condition of committee action, and the conduct of hearings. In practice, 13 Senate committees and 9 House committees have fixed regular weekly or bi-weekly meeting days; the other 12 meet upon the call of their chairmen. How complete

¹⁴ *Ibid.*, 80th Cong., 1st sess., pp. 1465-1467 (Feb. 26, 1947).

¹⁵ Harold D. Lasswell, *National Security and Individual Freedom* (New York, 1950), p. 195.

¹⁶ See Arthur A. Maass, "Congress and Water Resources," *AMERICAN POLITICAL SCIENCE REVIEW*, Vol. 44, p. 593 (Sept., 1950).

¹⁷ *Hearings on Evaluation of the Legislative Reorganization Act*, pp. 149-150.

¹⁸ Lasswell, *op. cit.*, p. 106.

the records of "all committee action" are, frankly I do not know, but I assume that most committees keep fairly full minutes of their meetings. There may have been some infractions of the rule requiring the presence of a majority for committee reports, because many committees have experienced difficulty in securing the attendance of a majority or even a quorum of their members, both at executive sessions and at open hearings. Under this rule, proxy voting is permissible only after a majority is actually present. It is a common and discouraging experience on Capitol Hill for invited witnesses, who have worked hard and long on the preparation of their testimony, to appear before committees and find only one or a few members present. The requirement that witnesses file written statements of their testimony in advance of hearings is observed by some committees and ignored by others; hearings are sometimes called on too short notice for this action to be possible. Most committees have held open hearings, except the House Committee on Appropriations which has availed itself of the allowed option of holding its hearings in camera. Committee offices, staff personnel and records are now kept separate and distinct from those of committee chairmen.

In accordance with section 134 (b) of the Act, semi-annual reports of all standing and select committee staff personnel and payrolls are made and published in the *Congressional Record*¹⁹ in January and July. Useful information on the staffing of congressional committees is thus made public, although this provision has been interpreted as not applying to joint committees or party policy committees.

In practice, the prohibition against the holding of standing committee meetings while the Senate or House is in session has been so frequently waived, by special leave, especially in the upper house, as to be ineffective in promoting that full attendance on the floor which was its primary purpose. On several occasions in recent years Senators have criticized granting leave to committees to sit while the Senate was in session, but have not been so discourteous as to refuse unanimous consent requests to this end.

Over and beyond the provisions of the Act, a few aspects of committee procedure may be mentioned. There have been noteworthy improvements in the format and content of some committee calendars, of which a conspicuous example was the calendar of the House Judiciary Committee in the 80th Congress—the handiwork of C. Murray Bernhardt, its counsel. Sections 133 and 134 of the Act, on committee procedures and powers, are usually printed in the committee calendars, and in recent years a number of committees have developed the habit of producing comprehensive annual reports of their activities, thanks to their new professional staffs. On February 1, 1950, the Senate adopted an amendment to its Standing Rule XXV which authorized each of its standing committees, and their subcommittees, "to fix a lesser number than

¹⁹ This section was amended by *Public Law* 197, 80th Cong., to provide for the publication of this information concerning House committee employees in the *Congressional Record* instead of in the *Congressional Directory*. S. Res. 123, 80th Cong., made the same change for Senate committee personnel.

one-third of its entire membership who shall constitute a quorum thereof for the purpose of taking sworn testimony." This amendment was the Senate's answer to the decision of the Supreme Court in the Christoffel case. Of 34 petitions filed during the 81st Congress to discharge House committees from the consideration of certain bills or resolutions, four obtained the required number of signatures and passed the House.

The Act restated the old rule that the authority of conference committees is limited to matters which are in disagreement between the two houses, while recognizing their right to report a substitute on the same subject matter. No points of order against conference reports under this rule have been sustained in recent years.²⁰ After an intensive study of 56 conference committees from the 70th to 80th Congresses, inclusive, Gilbert Steiner concludes that the influence of the House outweighed that of the Senate in 57 per cent of the cases.²¹ A recent example of the triumph of Senate conferees, however, was seen in the conference report on the Executive Reorganization Act of 1949. Three matters were in dispute between the conferees on this bill: (1) the duration of the grant of reorganization power to the President; (2) the exemption of specified agencies from the scope of the Act; and (3) the legislative veto procedure: one- or two-house veto of the reorganization plans. After this bill had been deadlocked in conference for one month, the House conferees finally yielded on each of the issues. They limited the operation of the Act to four years; they eliminated the agency exemptions sought by the House; and they accepted the one-house veto procedure favored by the Senate.²²

On September 15, 1950, the Senate agreed to a concurrent resolution (S. Con. Res. 79) providing that every conference report shall be accompanied by a statement explaining the effect of the action agreed on by the conference committee. The House of Representatives had adopted a similar rule on February 27, 1880 (Rule XXVIII-1b). The Army Civil Functions Appropriation bill for fiscal 1950 was in conference from June 1 to October 3, 1949—a period longer than any within the memory of living Members. According to Rep. Cannon, "The delay was due to the unanimous objection of the managers on the part of the House to agreeing to exorbitant and unwarranted expenditure of public funds proposed by the other body."²³ One man's opinion of the power of conferees was reflected in a satirical speech by Senator Fulbright, who congratulated the conferees on the National Defense Appropriation bill "for so forthrightly disregarding the wishes of the common lay Members of the Senate and the House." He said:

²⁰ See *Congressional Record*, 80th Cong., 1st sess., pp. 6537-6539 (June 4, 1947), for a point of order against a conference report that was overruled by the Speaker.

²¹ Gilbert Y. Steiner, *The Congressional Conference Committee* (1950), Ch. XII.

²² For a full discussion of conference action on the Reorganization Act of 1949, see Ferrel Heady, "The Reorganization Act of 1949," *Public Administration Review*, Vol. 9, pp. 166-174 (Summer, 1949). For floor discussion of this conference report, see *Congressional Record*, 81st Cong., 1st sess., pp. 7747-7749; 7940-7941, 7983-7994 (June 13 and 16, 1949).

²³ *Ibid.*, p. 13970 (Oct. 3, 1949).

I submit, Mr. President, in all sincerity that there is no need whatever for the ordinary, lay Member of Congress to come back to Washington for a special session. It is clearly evident, Mr. President, that to save the world and the people of this country from disaster, all that is needed is to reconvene, preferably in secret, only those incomparable sages, the conferees of the Appropriations Committee. From their deliberations the same results would be achieved and without the expense and trouble to everyone that is involved in going through the archaic ritual of pretended legislation. It is quite clear that regardless of what the common Members of this body may wish, the conferees make the decisions.²⁴

Party ratios on the standing Senate committees have traditionally corresponded with the party division in the Senate. In accordance with this principle, during the 80th Congress there were 11 committees with a 7-6 ratio and three committees with an 8-5 ratio. Appropriations, with 21 members, was divided 12-9. In the 81st Congress there were six of the 7-6 committees and eight of the 8-5 committees, reflecting the shift in the party ratio in the whole body from 51-45 in 1947-48 to 54-42 in 1949-50. Appropriations was divided 13 to 8. In the 82nd Congress the party ratio is 7-6 on 14 of the Senate standing committees and 11-10 on Appropriations. It is a matter of voluntary discretion with the majority leadership to decide which shall be the 7-6 committees and which shall be divided 8-5.

When the Democrats announced their decision on January 5, 1949, as to the party ratios which would obtain on the Senate standing committees during the 81st Congress, Senator Vandenberg sharply protested the change in the ratio on Foreign Relations from 7-6 to 8-5. He regarded it as a departure from the spirit of bipartisan cooperation in foreign affairs and as implying that "Republican Senators are not quite trustworthy." Senator Barkley defended this change as justified by the shift in the political complexion of the Senate and as entirely free from partisan motivation. Four Democrats had lost seats on Foreign Relations in 1947 as a result of the Reorganization Act, but no Senator was to be removed from the committee in 1949 because of the change in ratio. (Hatch and Barkley retired from the Senate; Wagner asked to be transferred to Judiciary.)²⁵

A majority of one on the 7-6 committees is a rather thin one on controversial issues. The question has been raised whether some change should be made to permit the majority party to exercise stronger committee control. It is pointed out that at present a single defection can upset majority control, as, for example, the defection of Senator Byrd on the nomination of Mon Wallgren as chairman of the National Security Resources Board.²⁶

Party ratios on the standing committees of the House of Representatives are determined by agreement between the majority and minority leaders. Ways and Means is presently fixed at 15-10, Rules at 8-4. On the other House committees the ratio corresponds roughly, but not with mathematical precision, to the party division in the Chamber.

²⁴ *Ibid.*, 80th Cong., 2nd sess., p. 9206 (June 19, 1948).

²⁵ *Ibid.*, 81st Cong., 1st sess., pp. 53-56 (Jan. 5, 1949).

²⁶ For objections to such change, see testimony by Senator La Follette in the *Hearings on Evaluation of the Legislative Reorganization Act*, pp. 64-65.

Party policy committees were set up in the Senate in 1947 to plan the legislative program, coordinate and guide committee activity, focus party leadership, and strengthen party responsibility and accountability. The creation of such policy committees in both houses was originally recommended by the Joint Committee on the Organization of Congress and in the Heller Report on *Strengthening the Congress*, and was approved by the Senate in passing the Legislative Reorganization bill. This provision was lost in the House, but it was restored for the Senate in the form of an item in the Legislative Branch Appropriation Act.²⁷ Additional funds are obtained from the appropriation for clerical assistance to the Majority and Minority Conferences.

Both Senate party policy committees have now been operating actively for four years. They meet regularly each week while Congress is in session. During the 81st Congress the Democratic Policy Committee had six regular members: Lucas (chairman), Tydings, Russell, O'Mahoney, Green, and Hill; and two advisory members: McMahon (conference secretary) and Myers (party whip). It had a staff of two lawyers, one legislative analyst and three clerks. Meanwhile, the Republican Policy Committee had 11 members: Taft (chairman), Millikin (conference chairman), Young (conference secretary), Wherry (floor leader), Saltonstall (party whip), Bridges, Cordon, Hickenlooper, Ives, Margaret Smith, and Vandenberg. It had a staff of 12 employees, including a staff director, seven researchers, three clerks, and one secretary.

Republican policy committeemen are elected by their party conference for two-year terms and are limited to two consecutive terms. Democratic policy committeemen are appointed for an indefinite term by the party leader on authority of the party conference.

With the aid of their staffs, the Senate policy committees have performed a variety of useful functions. They have surveyed legislation pending before the standing committees and on the Senate calendar and, when in the majority, have scheduled business for floor consideration. They have met with the chairmen of standing committees to coordinate committee work. They have heard individual Senators present their views on matters of personal and party interest and have tried to reconcile divergent opinions in order to achieve party unity on legislative questions. They have considered and recommended with regard to Presidential nominations of national and party importance, advised on the institution of certain committee investigations, considered questions of parliamentary procedure, recommended the calling of party conferences and prepared broad statements of party policy. On occasion, the Senate Republican Policy Committee has met with its counterpart committee in the House. During the early months of the 80th Congress it employed a personnel adviser to assist the committees and members of the Senate with their staffing problems.

As devices for coordinating legislative policy-making and strengthening

²⁷ For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, \$45,715 for each such committee; in all, \$91,430. *Public Law* 759, 81st Cong., 2nd sess., p. 2.

party leadership, the Senate policy committees have thus far failed to achieve their full potential. As instruments for promoting more effective liaison and cooperation with the President, they have also been a disappointment, partly because of the lack of similar party policy committees in the House of Representatives. Their limited achievements to date can be attributed, I suggest, to their composition, to the fragmentation of power in Congress and to the deep internal divisions within both of our major political parties. They are not composed of the chairmen of the standing committees, as was originally contemplated. Moreover, "the proliferation of leadership committees means that in neither house of Congress is there a body of party leaders who have the power of managing party affairs in Congress and who therefore can be held accountable for it. The result is that many things are left undone or—what is just as bad—are done in a dictatorial manner by individual party leaders. Also, too great a burden is thrown on the overworked Big Four and the Senate and House minority leaders."²⁸ But, as Victor Jones has pointed out, "The principal difficulty with developing party policy committees into an effective group of legislative leaders is that there is no congressional party to be led. The task is to develop parties to govern and to oppose the government. This cannot be done by designating a group of men, some of whom are not leaders in fact, as a party policy committee while Congress sub-contracts its work to committees and subcommittees."²⁹

The parties in the House have continued their informal "steering" committees, which are roughly comparable to the Senate policy committees but have no staffs. The Republican Steering Committee, now called the House Republican Policy Committee, is presently composed of 21 members elected biennially: the floor leader (chairman), chairman of the party conference, secretary of the conference, party whip, chairman of the congressional committee, three chosen by the Committee on Committees, and 13 others selected on a geographical basis. It is an advisory committee to the Republican leadership and membership. It meets prior to any important action on the floor, discusses issues with committee members handling the bills, and reports its suggestions for action and policy to a party conference or through the whip organization. No major issue affecting national party policy is brought to the floor of the House with the consent of the Republican leadership until after a party conference has been held and the subject fully discussed. No Republican member of Congress is bound by the decisions of the policy committee, but its suggestions are designed to guide the members to a firmer national policy.

The Democratic Steering Committee in the House is composed at present of the Speaker, the majority floor leader, chairman of the party caucus, party whip, the chairmen of the Ways and Means, Appropriations, and Rules

²⁸ Committee on Political Parties, American Political Science Association, "Toward a More Responsible Two-Party System," *AMERICAN POLITICAL SCIENCE REVIEW*, Supplement, Vol. 44, p. 59 (September, 1950).

²⁹ Victor Jones, in "The Social and Political Framework of Stabilization Policy," Ch. 2 of "Income Stabilization for a Developing Democracy" (unpublished ms., 1950), p. 37.

committees, and one representative from each of the 15 zones into which the country is divided for party purposes, each such representative being elected by the Democratic delegation from his zone in the House. This steering committee is, in effect, the executive committee of the caucus. It has the continuing responsibility of watching legislative developments and making decisions from day to day with respect to party action. In performing this function, it exercises wide discretionary powers.

IV. STAFFING OF CONGRESS

More and better staff aids for members and committees of Congress were a major objective of the Act, and much progress in the staffing of Congress has been achieved. Most Senators have appointed administrative assistants, at \$10,000 a year, who are helping them in many ways. Four of them are Senators' sons and many were formerly senatorial secretaries.³⁰ A similar provision for Congressmen was lost in the House, but the clerk hire allowance of each Representative has been raised to \$12,500 a year. The staff of the Office of Legislative Counsel, established in 1919 to draft bills for members and committees of Congress, has also increased under the Act, from 11 to 28 persons. The Senate Office now has a staff of 14 persons—7 counsel, 3 law assistants, and 4 clerks; and the House Office is comprised of the same number, in the same capacities. The chief counsel are appointed by the President Pro Tempore and the Speaker, respectively, and they, in turn, appoint their staff members. The combined office, with a budget of \$199,500 for fiscal 1951, is thus a permanent career staff independent of politics. The services rendered are of the highest quality.

Now in its thirty-fifth year, the Legislative Reference Service was greatly strengthened by the Act (section 203), as the research and reference arm of Congress. The duties of the Service were defined for the first time in statutory form, and the appointment of all necessary personnel was authorized "without regard to the civil service laws and without reference to political affiliations, solely on the ground of fitness to perform the duties of their office." Senior specialists were authorized to be appointed in some 19 subject fields "for special work with the appropriate committees of Congress." Under the Act, appropriations to the Service have increased from \$178,000 in 1945 to \$790,000 for fiscal 1951 and its staff has grown from 66 persons in 1945 to 156 in 1950, of whom 14 are political scientists. Fifteen senior specialists have been appointed in a dozen different fields. Several of them have been detailed to the professional staffs of congressional committees for varying periods and five (Elliott, Gallo-way, Graves, Kreps and Wilcox) have served as staff directors of such committees. In addition, several new types of service have been inaugurated in recent years, including the public affairs abstracts and bulletins, digests of committee hearings, and special studies for committees of Congress. Under the able guidance of Dr. Ernest S. Griffith, its director, there has been a steady

³⁰ See the story of "Operation Falseface," by Howard M. Norton in the *Baltimore Sun*, March 6 and 7, 1947.

upward trend in the congressional use of the Service during the past decade.³¹

In the professional staffing of the standing committees the Act marked a real innovation. Section 202 authorized each standing committee (other than the Appropriations Committees, on which no staff ceiling was placed) to appoint "not more than four professional staff members . . . on a permanent basis without regard to political affiliations and solely on the basis of fitness to perform the duties of the office." In 1946, before this section became effective, Senate and House committees employed 356 clerks at a total annual payroll of \$978,760. Few of them were professionals, with the exception of the staffs of the Appropriations committees, the Joint Committee on Internal Revenue Taxation and a few others. During 1950, after the Act had been in effect four years, the committees of Congress, standing, special and joint, had a combined staff of 673 persons and a total payroll of more than \$3,000,000. Two hundred and eighty-six of them were classified as professionals: 98 were employed by House committees, 135 by Senate committees, and 53 by joint committees. Ten House and all 15 Senate standing committees had at least their full quota of four or more professional staff members. Five House committees and 11 Senate committees had received authority to expand their professional staffs beyond the figure of four fixed in the Act. Thus, the House Expenditures Committee with its subcommittees had a combined professional staff of 20 persons in 1950, while the Senate Judiciary Committee had 19 experts. Meanwhile, the House Appropriations Committee had 14 professionals, 18 clerks, and 42 special investigators on its payroll; and the Senate Appropriations Committee had 12 professionals and six clerks. Joint committee professional staffs ranged from one on the Byrd Committee to 17 on Internal Revenue Taxation.

A survey of the professional staffs of congressional committees, made in 1949, showed that 43 per cent of them were lawyers, 43 per cent had formerly been employed in the executive branch of the national government,³² 68 per cent had previous congressional experience and 81 per cent were college graduates. Lawyers constituted the largest single occupational group, with a scattering of economists, political scientists and engineers. Their basic annual compensation ranged from \$5,000 to \$8,000, which grossed \$7,775 to \$10,846. About half of them received the maximum salary.

The authors of the Legislative Reorganization Act recommended creation of an office of Personnel Director for the Congress who would develop a modern personnel system for all its employees and abolish the patronage system; but

³¹ In 1947 the Office of Coordinator of Information for the House of Representatives was created. This Office renders a general information service to members of the House. It has a small staff of nine persons and a budget of \$69,000 for 1951. The Coordinator is appointed by the Speaker and is compensated at the rate of \$12,000 a year. H. Res. 183, 81st Cong., 1st sess.

³² Section 202(g) of the Act forbade the appointment of any professional staff member to any position in the executive branch for one year after his committee service. But this prohibition was repealed by *Public Law* 8 of the 81st Congress.

this provision was lost in the Senate debate. In its place, Mr. George Smith, secretary of the Senate Republican Policy Committee, developed a plan for the efficient professional and clerical staffing of the committees of the Senate and circulated it among their chairmen on the eve of the 80th Congress.³³ Mr. Smith was also instrumental in the appointment early in 1947 of a personnel adviser who was of material assistance in the staffing of the Senate during the first session of the 80th Congress. Meanwhile, the writer developed a set of job specifications for the new professional and clerical positions on all the reorganized standing committees of both houses, and some use was made of it.

After four years of their full-scale operation, the quality of the professional staffs appears mixed. About half of the standing committees today are staffed with well-trained and competent experts in the fields involved. Their handiwork is reflected in the improved performance of their committees, more adequate records, better hearings and reports, more effective liaison between committees and the corresponding administrative agencies, and general improvement in efficiency. Many committees have carried out the intent of the Act in the appointment and retention of qualified people. On the other hand, about half of the committees seem to be poorly or inadequately staffed by persons selected with political considerations in mind. At the opening of the 81st Congress, with the change in party control of both houses, there was a turnover of one-third among the professional staffs of the standing committees—which meant that around two-thirds of the incumbent employees were retained from the 80th Congress, despite Senator McGrath's remark that it might be necessary to find some "Democratic experts." By and large, the conclusions reached by Gladys Kammerer in 1949 are still valid: that not all members of Congress know how to use staff; that some members use staff data to support preconceived ideas or party dictates; that some professional staff people feel frustrated by the subordination of facts to political exigencies and sectional prejudices, and by the occasional inactivity of their committees; that political considerations are often paramount in staffing; that systematic personnel arrangements are still lacking in committee staffing; and that there is room for improvement both in the quality of professional staff and in the processes of recruitment and selection.³⁴

According to Ernest Griffith's evaluation of committee staffing, "some committees have survived changes in party control without impairment, largely in instances in which party considerations did not influence the original appointments. In other instances a reasonable stability has been secured by the division of appointments between the parties. Others have been partisan. Lawyers and journalists have been employed in considerable numbers, economists and subject specialists perhaps somewhat less so than would have been anticipated. A few have been obtained on loan from the Legislative Reference

³³ George H. E. Smith, *Memorandum on Committee Staff Organization*, to Chairmen of Senate Committees. Undated, 13 pp.

³⁴ Gladys M. Kammerer, *The Staffing of the Committees of Congress* (Lexington, Ky., 1949), pp. 38-43.

Service, and this has resulted in almost perfect integration of the two agencies in those cases in which this took place."³⁵

In the absence of a personnel director, no one is so centrally situated as to be able to evaluate all of the professional committee staffs. But committee staffing appears to be still in transition from the old patronage system to a modern merit system. Congress is handicapped by the lack of a modern system of personnel administration. If it needed a Congressional Personnel Office in 1945, as the La Follette-Monroney committee said it did, it needs it more than ever today to help members and committees with their staffing problems, to secure the selection of qualified personnel and to develop safeguards of tenure. Experience has also shown that the limit on the number of professionals imposed by the Act is too low and should be lifted, that there has been little coordination of staff work between the twin committees of the two houses, that larger staffs are needed to assist the more active committees with their onerous legislative and supervisory duties, and that Representatives from the more populous districts should be given administrative assistants such as Senators now have.

Seen in historical perspective, "this Act marked the birth of a full-fledged congressional staff," as Ernest Griffith has recently observed. Although the results of its operation have been uneven with respect to the quality of staff for committees, members of Congress and subject-matter fields, striking gains have been achieved. Total appropriations for committee staffs, the Legislative Reference Service and the Office of Legislative Counsel have multiplied fivefold since 1944. They amount to more than \$5,000,000 for fiscal 1951. The staffing of Congress effected by the Act has introduced a "third force of experts, usually designed as a corrective to the bias of the special interests and to the substantive recommendations of the executive. . . . The enlargement and strengthening of the staffs of Congress have in fact been the major factor in arresting and probably reversing a trend . . . in the direction of the ascendancy or even the virtually complete dominance of the bureaucracy over the legislative branch through the former's near-monopoly . . . of technical competence. . . . Congress has mastered—or has provided itself with the tools to master—the problem of assuring itself of an unbiased, competent source of expert information and analysis which is its very own."³⁶

V. CHANGES IN WORK LOAD

Another major objective of the La Follette-Monroney committee was to reduce the work load on Congress caused by non-legislative duties and by the consideration of private and local legislation. To this end, it recommended more staff aids for members and committees, expansion of the bill-drafting and legislative reference services, creation of a stenographic pool, reduction in committee assignments to one or two per member, delegation of private claims, and home rule for the District of Columbia. Most of these recommendations were embodied in the Act.

³⁵ In Chapter VI of his *Stokes Lectures*, to be delivered at New York University in April, 1951.

³⁶ *Idem*.

In practice, the work load of committees has more than doubled since 1946 in terms of the number of measures referred to and reported by them.³⁷ The ban upon the introduction of four categories of private bills, imposed by section 131 of the Act, effected some reduction in the private bill work load in the 80th Congress; but this gain was lost in the 81st Congress when 1,052 private laws were enacted, which was 55 per cent of all laws passed prior to the "lame duck" session. The continuing flood of private bills consists largely of claims bills, whose introduction is still permitted under the exceptions allowed by the Federal Tort Claims Act (Title IV of the Legislative Reorganization Act), and private immigration bills whose introduction is unrestricted. In 1949 Congress received a record total of 1,351 private bills designed to permit aliens to enter or to remain within the United States, reflecting the efforts of displaced persons to find permanent refuge within our borders. In addition, the 80th Congress widened the power of the Attorney General to stay the deportation of aliens here illegally. Such suspensions must be confirmed in each individual case by concurrent resolution of Congress; 5,000 cases were handled in 1949-50 by the Judiciary committees, whose calendars are engulfed by the rising flood of private bills.³⁸

Despite the effort of the Act to distribute the legislative work load more evenly among the standing committees of Congress, the burden in practice varies within wide limits from time to time and from session to session, depending upon the nature of the national and international problems that are paramount at the time. The Appropriations and Foreign Relations committees have been among the hardest working since the War because of the importance of their measures and mounting international problems. The authors of the Act never asserted that structural reforms in our legislative machinery would reduce the volume of congressional business. The burden of this business has inevitably become increasingly onerous with the steady expansion of governmental activities at home and abroad in recent decades. The purpose of the changes in committee structure was not so much to reduce the work load as it was to effect a more systematic and rational division of labor among the reorganized committees. The reorganization of committee work is an improvement over the previous situation because it has eliminated many duplicating and overlapping jurisdictions and has consolidated related functions.

The work load of individual members of Congress has not been lightened by the Act, but more and better staff aids have enabled them to do a better job. Administrative assistants to Senators have helped them immeasurably with their departmental business, constituent inquiries, and speech writing. Enlargement of the Legislative Reference Service has been followed by a great increase in its use by individual members for legislative research, speech

³⁷ In the 79th Congress, 7,239 measures were referred to, and 2,728 were reported by, the standing committees. In the 81st Congress, not including the "lame duck" session, 16,328 measures were referred and 5,716 were reported.

³⁸ For a full description of this situation, see my memorandum on "The Reform of Private Bill Procedure," *Congressional Record*, 81st Cong., 1st sess., pp. A3047-A3050 (May 12, 1949).

writing, fact finding, and answering constituent inquiries. The Service is currently handling congressional inquiries at the rate of more than 38,000 a year. And, as we have seen, one measure of the effect of the Act on the individual work load is seen in the limitation of standing committee assignments to one per member in the House and to two per member in the Senate, with minor exceptions. This reduction has been offset in part by service on subcommittees and on special and joint committees, yet there was a decline of 50 per cent from 1946 to 1949 in the average number of committee assignments of all kinds for each Senator.

Despite these gains, the burden of work imposed upon the members and committees of Congress by their legislative and investigative duties and by the importunities of constituents is truly enormous. According to George Smith, a close observer of the congressional scene, the work load is more than they can handle. "There are now signs that the limits of capacity have been reached. . . . This enormous extension of activities of the Federal Government generates a volume of detailed and complex business which I believe has gone beyond the capacity of Congress to handle. . . . A law of diminishing returns is actively at work in the field of Federal Government. . . . The work load is beyond effective legislative control."³⁹

If Congress desires to lighten the mounting burden of its business, several steps are available. It could complete the evolution begun in 1946 by (a) repealing section 421 of the Federal Tort Claims Act, which excepts twelve classes of claims from its provisions, (b) delegating the adjustment of immigration and deportation cases to the Immigration and Naturalization Service, and (c) delegating the issuance of land patents to the Bureau of Land Management or to the Bureau of Indian Affairs in the Department of the Interior. Senator Wiley, who was chairman of Judiciary in the 80th Congress, has suggested that the introduction of private bills could be banned in both houses merely by amending their standing rules.⁴⁰ Congress could grant home rule to the District of Columbia and thus get rid of its duties as a city council for the city of Washington. The Kefauver home rule bill passed the Senate in May, 1949, but has been pigeon-holed ever since in the House District Committee. It could prohibit its members from appearing before administrative agencies on the claims and complaints of their constituents, as Professor Lawrence Chamberlain has suggested.⁴¹ It could try to reduce the magnitude of Federal operations via the devolution of appropriate functions to state and regional authorities, as George Smith has urged.⁴² It could authorize members of the House of Representatives to employ administrative assistants such as Senators now have. It could save much of its time every session through voting by electricity and through the central scheduling of committee meetings to avoid

³⁹ See his testimony in *Hearings on Evaluation of the Legislative Reorganization Act*, pp. 170-180.

⁴⁰ *Ibid.*, pp. 253-254.

⁴¹ *Ibid.*, p. 264.

⁴² *Ibid.*, p. 180. Mr. Smith has also suggested creation of an Advisory Council on Federal Legislation to screen proposals for new Federal functions and agencies.

conflicts. And it could expedite its business by staggering committee meetings and chamber sessions on alternate days. Taken together, these steps would go far to bring the work load of our national legislature within its capacity to carry.

VI. OVERSIGHT OF ADMINISTRATION

Another main objective of the Act was to promote closer cooperation and better relationships between the executive and legislative branches. To this end the standing committees were directed (section 136) to exercise "continuous watchfulness" of the execution of the laws by the administrative agencies under their jurisdiction. In recommending "legislative oversight by standing committees," the La Follette-Monroney committee observed that "without effective legislative oversight of the activities of the vast executive branch, the line of democracy wears thin. . . . We feel that this oversight problem can be handled best by directing the regular standing committees of the Senate and House, which have such matters in their jurisdiction, to conduct a continuous review of the agencies administering laws originally reported by the committees. . . . Such review might well include a question period by the committee. . . . We recommend that the practice of creating special committees of investigation be abandoned. . . . By directing its standing committees to perform this oversight function, Congress can help to overcome the unfortunate cleavage between the personnel of the legislative and executive branches."

Some critics of the Act have alleged that this section provided, in effect, for duplicating and overlapping investigations of the executive branch of the government by many committees. But it was the intention of the authors of the Act to bring about a three-way division of labor in the performance of the oversight function. Their thought was that the Appropriations committees, on the one hand, would exercise financial control before expenditure through scrutiny of the departmental estimates; that the Expenditures committees, on the other hand, would undertake to review administrative structure and procedures and that the legislative committees would review the operation of substantive legislation and consider the need of statutory amendments.

This feature of the Act has met with only partial success to date. Many standing committees have been too heavily burdened with their legislative duties and limited staffs to keep very close watch upon the executive agencies within their jurisdiction. A survey of committee activity during the second session of the 81st Congress shows that ten standing and five special committees of Congress were carrying on special investigations of matters which involved some oversight of executive activities. The most active committees in this field have been the Appropriations, Expenditures, Armed Services, and Commerce committees. Perhaps the most publicized inquiry last year was that by a subcommittee of Foreign Relations into charges of disloyalty among Department of State personnel. A new "watchdog subcommittee" of the Senate Armed Services Committee, set up last July under the chairmanship of Senator Lyndon B. Johnson, is probing deeply into the administration of the national defense program. The detailed results achieved by these supervisory com-

mittees are set forth in their reports.⁴³ The work of certain government corporations such as the Maritime Commission, subversive activities in government, national defense preparations, and the manipulations of the "five per centers" have been among the chief fields of legislative oversight in recent years.

Parliamentary government has almost disappeared in Europe. Its survival in the United States largely depends upon congressional oversight of administration. Administrative agencies are responsible for making decisions within the policy standards and procedural machinery fixed by statute, subject to judicial review to assure compliance with the statutory requirements. Congress is responsible for amending the law if a change in standards or methods of procedure proves necessary, and legislative oversight of agency operations is the means by which Congress discharges its responsibility. Creation in recent years of several so-called "watchdog committees" in such fields as atomic energy control, foreign aid, Federal expenditures, and defense production has focused attention on this oversight function. The joint committee is a useful device for performing this function because its duties are explicitly assigned by statute. Seniority does not apply in its selection, and it thus provides an outlet for the zest and zeal of younger members. The joint committee is also a valuable instrument of legislative surveillance and statutory amendment in experimental and controversial fields where economic stability and national security are at stake. In times of crisis, with growing concentration of power in the executive, more energetic performance of the oversight function would appear to be in the public interest, provided that both Congress and the agencies keep within their respective spheres of responsibility.

In exercising its oversight function Congress has available several tools. It can first of all study the periodic and special reports which the agencies submit to the legislature. These reports contain valuable information on agency operations and expenditures, their administration of the statutes and particular problem areas. Investigations of particular agencies may be conducted by the Appropriations or Expenditure committees, by the standing committees charged with jurisdiction over their activities, by the joint watchdog committees such as the Atomic Energy Committee, or by special committees such as the Kefauver Committee on Interstate Crime. An appropriations committee may look into an agency's budget requests to see if they are excessive or inadequate, comparing notes meanwhile with the appropriate standing or watchdog committee concerned. An expenditures committee may make a post-audit of an agency's administration of its affairs to see if it has been economical or wasteful. A legislative committee may hold hearings or an informal question period with agency officials to determine whether or not they are enforcing a statute in accordance with the legislative intent, or to discuss constituent complaints concerning alleged agency abuses of authority, or to consider proposed legislation in the light of past decisions and regulations. A joint watch-

⁴³ For good examples of committee reports reflecting the oversight function, see *House Report No. 2433*, 80th Cong., 2nd sess.; *Senate Doc. No. 4*, 81st Cong., 1st sess.; *Senate Report No. 5*, 81st Cong., 1st sess.

dog committee may be used to investigate novel or emergent problems of mutual interest to both houses, such as the international control of the hydrogen bomb or raw material shortages. Or a special committee may be set up to investigate a particular problem or agency, such as speculative transactions on the commodity markets by government employees or the Federal Communications Commission. In general, I believe that the oversight function should be exercised by standing rather than special investigating committees. The latter trespass upon the assigned jurisdiction of the standing committees; they lack continuity and legislative authority; and they impair the efficiency of the administrative agencies of the government by requiring their officials to repeat their testimony on the same subjects before several committees of Congress in cases where legislative action is indicated. Special committees may also be used for partisan or personal purposes.

Another tool in the oversight kit is the committee report evaluating agency operation and suggesting changes in current administration of existing law. Good examples of such reports were the activities reports of the Senate Expenditures Committee and its Investigations Subcommittee at the end of the 80th Congress, and the series of intermediate reports on various agencies and commissions issued by the House Expenditures Committee during the 81st Congress. Such reports are not necessary under the Legislative Reorganization Act, but they are required of the watchdog committees created by the Taft-Hartley Act and the Atomic Energy Act.

Informal conferences at the committee and/or staff level with agency officials is another method which has proved helpful in performing the oversight function. First used by Chairman Lanham and Administrator Blandford on national housing matters, this method has helped resolve complaints and misunderstandings, made for closer cooperation, and laid a foundation of mutual respect and confidence. During the second session of the 80th Congress, the House Committee on Interstate and Foreign Commerce held a series of such meetings with representatives of 14 regulatory agencies in its field. The committee stated that these meetings enabled it to exercise closer supervision over these agencies; that they were a means of acquainting the new members of the committee with the activities with which they would become concerned; and that they provided a channel for the various agencies to present their ideas to the committee concerning possible measures for improving their work or making it more effective.⁴⁴ Although only a few committees have made sporadic use of this conference technique for oversight purposes, the practice might well be extended of holding periodic meetings at the subcommittee-commission level or of increasing the use of qualified staff personnel to study the problems of particular agencies. To this end some expansion of the professional staffs of the supervisory committees appears necessary.

Although routine inquiries are in order, intervention of individual members of Congress in the affairs of administrative agencies with a view to expediting

⁴⁴ *Activity of the Committee on Interstate and Foreign Commerce, 80th Cong. House Report No. 2433, 80th Cong., 2nd sess., pp. 2-3.*

or influencing agency decisions on behalf of constituents is considered improper when the Congressmen are not members of the corresponding supervisory committee. It was the intention of the authors of the Legislative Reorganization Act that the oversight committees would serve as a "clearing house" to which Members would refer all such constituent complaints and inquiries and which would then bring them to the attention of the agencies concerned. The volume and character of such complaints would be a rough index of the performance and weaknesses of the agency. At the same time, as the Hoover Commission *Task Force Report on Regulatory Commissions* remarked, "this method would shield both the Congressman and the commission from the suspicion of influence inherent in direct approaches for constituents."⁴⁵

In a lucid analysis of the oversight problem, the Committee on Administrative Law of the Bar Association of New York City states that "vigilant and conscientious exercise of proper oversight and consultation are much to be desired and encouraged." The problem is one of achieving a "suitable accommodation of popular control and flexible administrative expertness." The analysis also suggests the advisability of erecting certain self-imposed boundaries. Legislative committees ought not to try to influence the decisions of pending cases, issues before an agency, or the manner in which a particular case is being handled—"a precept not universally respected in practice." Nor should decided cases be criticized with a view to influencing an agency to reverse a previous ruling or to limit a trend in agency decisions, except when a committee is genuinely considering amending the statute. However, it is considered proper for a committee to make suggestions to an agency with respect to its procedures or internal organization and to comment upon proposed substantive rules.⁴⁶

VII. STRENGTHENING FISCAL CONTROLS

One of the major aims of the Act was to strengthen the congressional power of the purse. To this end, the Act provided for a legislative budget (section 138), development of a standard appropriation classification schedule (section 139b), studies by the Comptroller General of restrictions in the appropriation acts (section 205), expenditure analyses by the Comptroller General (section 206), studies by both Appropriations committees of permanent appropriations and of the disposition of funds resulting from the sale of Government property or services (section 139d), and expansion of the staffs of the committees on Appropriations (section 202b).

In practice, many of the fiscal reforms embodied in the Act have been virtually ignored or have failed to work. Attempts to carry out the legislative budget provision during 1947-49 proved abortive; in 1950 this section was ignored and it now appears to be a dead letter. In congressional circles the aim of the

⁴⁵ Commission on Organization of the Executive Branch of the Government, *Task Force Report on Regulatory Commissions* (Washington, 1949), pp. 37-38.

⁴⁶ "Congressional Oversight of Administrative Agencies," *The Record of the Association of the Bar of the City of New York*, Vol. 5, pp. 11-29 (January, 1950).

legislative budget is generally regarded as laudable, but experience with it seems to have shown that the instrument is not properly suited to its task. Its failure to date is attributed to the shortness of time allowed for the job, the unwieldy size of the Joint Budget Committee, inadequate staffing, improper adjustment to the appropriation process, resistance within Congress to ceilings on appropriations for favorite agencies, current Federal accounting practices, and external spending pressures on the legislature. However, there is strong sentiment in Congress for further trial of the legislative budget idea, and measures have been introduced to amend section 138 of the Act with a view to overcoming the difficulties mentioned above.

The Wherry resolution (S. Con. Res. 38, 81st Cong., 1st Sess.), presented on May 11, 1949, by a bipartisan group of eight Senators, would reduce the Joint Budget Committee to 20 members, and would authorize it to employ an expert staff and to report a legislative budget with a recommended ceiling on expenditures by February 15. There would be no formal adoption of the budget by concurrent resolution under the Wherry plan. This resolution was reported favorably by the Senate Rules Committee on April 14, 1950, and has been on the Senate Calendar ever since.

The McClellan bill (S. 2898, 81st Cong., 2d Sess.) introduced on January 19, 1950, would repeal section 138 of the Act and create in its place a Joint Congressional Committee on the Budget to carry on a continuing, year-round study of budget requests and requirements. It would be a ten-member group, with five members selected from the Appropriations Committee of each house. It would make its reports to these committees and to other standing committees. Every Federal agency would be required to submit to the joint committee a duplicate of any money request made to the Budget Bureau. This requirement, which would apply to both regular and supplemental appropriations and would include the detailed justification data filed by each agency in support of its request for funds, would permit a long-term study of each agency's needs and of its own requests for funds, as well as of the amount which the Budget Bureau finally asks Congress to authorize. Aside from this detailed study of each agency's budget requests and requirements, the joint committee would make periodic reports on any improper uses of funds or deviations from congressional authorizations, on methods of achieving greater economy and efficiency, and on estimated revenues and general economic conditions.⁴⁷

The need of simplifying and standardizing the pattern of the appropriation bills, which the Act called for and which the Hoover Commission recommended, has been carried out in part in the 1951 performance budget and in the Budget and Accounting Procedures Act of 1950.⁴⁸

The studies by the Comptroller General on useless restrictions in appropria-

⁴⁷ For a fuller account of experience with the legislative budget, see my Public Affairs Bulletin No. 80, *Reform of the Federal Budget* (April, 1950), pp. 47-48, 100-110. See also A. S. Mike Monroney in *The Strengthening of American Political Institutions*, pp. 17-20; and his testimony at the *Hearings on Evaluation of the Legislative Reorganization Act*, pp. 84-87.

⁴⁸ Galloway, *Reform of the Federal Budget*, pp. 70-72.

tion bills were completed in January, 1949, and will probably result in the elimination of many obsolete provisions which have been carried on from year to year in the supply bills. But the expenditure analyses of government departments which he was directed to make, so as "to enable Congress to determine whether public funds have been economically and efficiently administered and expended," have not yet been made because funds for the purpose have been denied by the Appropriations Committee.

No systematic study of permanent appropriations appears to have been made, although the House subcommittees reviewed these items during their 1948 hearings and the Senate committee gave them considerable attention during 1947-49.

On the staffing of the Appropriations committees, the La Follette-Monroney committee recommended that four qualified staff assistants be assigned to each of the subcommittees on a year-round basis. But at the insistence of the leaders of the House Appropriations Committee, a change was made and they were authorized by the Act to employ whatever staff they considered necessary. "This was done," according to Rep. Monroney, "in the belief that they would add sufficient professional personnel to gain a complete understanding of every item in every appropriation request."⁴⁹ In practice, the staff of the House Appropriations Committee has been increased above the stenographic grade from 11 clerks in 1946 to 17 clerks during the six-month period from January 1, 1950, to June 30, 1950. During the same period the committee also employed an investigative staff consisting of two full-time investigators, 23 part-time investigators borrowed from 12 administrative agencies, 11 temporary clerical and editorial assistants borrowed from 10 agencies on a reimbursable basis, and 4 clerk-stenographers. Total expenditures for the combined clerical and investigative staff for the fiscal year 1950 amounted to \$290,628.98.⁵⁰ No administrative analysts or professional staff have been employed by the House committee "because of a conviction that professional and clerical staff impede each other."⁵¹ Thus, considering both the clerical and investigative staff, the combined 42-man staff handled a work load of appropriations during 1950 of more than one billion dollars per staff member. "No one can question the ability of those employed," observes Mr. Monroney, "but I feel that a greatly enlarged staff would enable the committee to ferret out of the money bills much more information and facts regarding the agencies than is now done with the small staffs used."⁵²

During the 80th Congress, on the other hand, the Senate Appropriations Committee took advantage of the Act's authority to recruit a professional staff of eight experienced persons, in addition to the regular clerical and investigative force. And during the first six months of 1950 this committee had a staff of 6

⁴⁹ *Hearings on the Legislative Reorganization Act*, pp. 86-87.

⁵⁰ As reported by Chairman Clarence Cannon, *Congressional Record*, 81st Cong., 2nd sess., p. 11054 (July 24, 1950).

⁵¹ Kammerer, *op. cit.*, p. 7.

⁵² *The Strengthening of American Political Institutions*, p. 20.

clerks, 6 professionals and 6 clerical assistants, at a total gross annual salary for the fiscal year of \$132,927. The Senate committee needs a smaller staff than the House committee because the former sits and holds hearings only on specific appeals from House decisions.

Thus, the greatest failure of reorganization has been in the field of more effective fiscal control. This failure was offset in part in 1950 by the consolidation of eleven separate supply bills into one omnibus appropriation bill for the first time in more than a century and a half. Hitherto, the supply bills have gone through the legislative process in piecemeal fashion. Last year they were merged into one measure which was ready for the President's signature two full months ahead of the budget completion date in 1949. This big money bill represents a forward step in appropriation procedure in that, by bringing all the general supply bills together into a single measure, it gives Congress and the country a picture of the total outlay contemplated for the coming fiscal year. The new procedure also permits a comparison of total proposed appropriations with the latest available estimates of total Treasury receipts. This comparison enables Congress to decide in its wisdom whether to balance the budget, to create a surplus for debt retirement, or to incur an increase in the public debt. The new procedure also allows Congress to see the claims of spending pressure groups in relation to the total national fiscal picture and thus to appraise their relative worth. The consolidated supply bill procedure falls short, however, of the objectives of the legislative budget in that it does not fix a ceiling on expenditures or give a coordinated view of prospective income and outgo. (But no ceiling on expenditures could long contain the huge current outlays for national defense.)

VIII. LIGHT ON LOBBYING

Title III of the Act requires persons whose principal paid activity is seeking to influence Federal legislation to register and file quarterly financial statements of receipts and expenditures with the Secretary of the Senate or the Clerk of the House. The La Follette-Monroney committee had recommended that *all* lobbyists should register and file statements; it did not intend that registration and reporting should be limited to persons "principally" engaged in lobbying. The joint committee was led by testimony it heard, as well as by its own independent studies, to believe that the registration of the representatives of organized groups would "enable Congress better to evaluate and determine evidence, data, or communications from organized groups seeking to influence legislative action" and thus avoid the distortion of public opinion. It was also influenced by the recommendation of the Committee on Congress of the American Political Science Association in 1945 that "all groups, representatives of which appear before congressional committees, should register and make full disclosure of their membership, finances, and so forth." The joint committee believed that inclusion of a lobby title in the Act would strengthen the Congress by "enabling it better to meet its responsibilities under the Constitution." To turn the spotlight of publicity on lobbying activities and expend-

itures would be a big step forward, they felt. After the lobby law had been in operation for a few years, it was hoped that experience would reveal any defects which could be corrected by amending and strengthening the Act.⁵³

In practice, the administration of the lobby law has furnished Congress and the country with more useful and important information about lobbyists—their identity, sponsorships, sources of support, and legislative interests—than has ever been known before. The compilations of filings and financial data which are published quarterly in the *Congressional Record* provide a wealth of informative data on the activities of these gentry. The facts on lobbying for the first quarter of 1950, for example, consumed 177 pages of the *Record* of July 14, 1950, and reflected the work of the House Select Committee on Lobbying Activities, which secured adoption of a new standard reporting form and achieved a record of outstanding compliance with the law.⁵⁴ Under the chairmanship of Hon. Frank Buchanan, this committee made an objective and intensive study during 1949–50 of lobbying by private groups and individuals and government agencies: extent of activity by each group, fund-raising and lobbying techniques, grass-roots pressure, causes and costs of lobbying, etc. The study shed much fresh light on modern methods of lobbying and recommended several improvements in the law.⁵⁵

Administration of the lobby law has been handicapped by its vagueness and ambiguities. Many organizations and individuals who are engaged in influencing legislation have not complied with the Act, on advice of counsel, because they claim that their "principal purpose" is not to influence legislation. They claim that "principal" means "primary" or "major." Many persons have registered who disclaim that they are engaged in lobbying, or who assert that lobbying is only incidental to their other activities. An analysis by W. Brooke Graves of experience under the lobby law during the 80th Congress showed that, of 1807 organizations maintaining offices in Washington, 667 registered during 1947 and 725 during 1948. Eight hundred and thirty-five organizations failed to register either year, although representatives of 298 of them appeared before the Judiciary Committees during 1947–48.⁵⁶ By the end of 1949 a total of 2,878 persons and groups had filed under the lobby law, of which 495 were original filings; their reports showed that they had collected more than \$55,000,000 since the act went into effect and had spent more than \$27,000,000.⁵⁷ Dr. Graves concludes that it is almost impossible to estimate the extent of compliance with the lobby law. "While the existing law marks a significant

⁵³ Cf. testimony by George B. Galloway before the House Select Committee on Lobbying Activities, March 28, 1950, Part I, pp. 97–105.

⁵⁴ See statement by Hon. Frank Buchanan, *Congressional Record*, 81st Cong., 2nd sess., pp. A5411–A5413 (July 17, 1950).

⁵⁵ See General Interim and Final Reports of the House Select Committee on Lobbying Activities, *House Reports* No. 3138 and 3239, 81st Cong., 2nd sess.

⁵⁶ W. Brooke Graves, *Administration of the Lobby Registration Provisions of the Legislative Reorganization Act of 1946: An Analysis of Experience during the Eightieth Congress* (Washington, 1950).

⁵⁷ Hearings before the House Select Committee on Lobbying Activities, Part I, p. 112.

advance, its provisions are in urgent need of strengthening and revision, if the objectives of the framers are to be fully realized."⁵⁸

Impartial students of the subject are agreed that there is urgent need for some kind of supervision and control over lobbying in Washington; that the lobby law of 1946 suffers from defective draftsmanship; and that it should be revised and clarified after a thorough investigation of the whole problem such as the Buchanan committee has now made. Specific suggestions for revision include clarification of the law's terminology, coverage and filing requirements; centralization of responsibility for its administration in a specific agency equipped with an adequate full-time staff to file, tabulate and analyze registrations and financial reports, and to investigate compliance with the act; provision for termination of inactive registrations; exact specification of financial data required; requirement of submission of full information regarding an organization's membership, internal structure and methods of policy determination; and extension of the act's application to lobbying before administrative agencies as well as before Congress.⁵⁹

IX. COMPENSATION AND RETIREMENT

The final aim of the Act, and one which probably sweetened the pill of its passage, was the provision raising congressional salaries 25 per cent to \$12,500 a year, granting each Member a tax-exempt expense allowance of \$2,500 a year and extending to Members of Congress optional retirement coverage under the Civil Service Retirement Act. The salary boost was designed to help Members meet the rising cost of living and campaigning. The allowance was to assist in defraying expenses incurred in the discharge of official duties. It was hoped that the eligibility to participate in the Federal retirement system on a contributory basis might both encourage superannuated Members to retire and conduce to a greater sense of security and independence of thought and action on the part of the younger members.

The salary increase and expense allowance became effective on the day on which the 80th Congress convened. To be entitled to a retirement annuity a Member of Congress must have served at least six years, have attained the age of 62, and have contributed a percentage of his base pay to the retirement fund at the rate provided by the Retirement Act. The annuity of Members of Congress consists of 2.5 per cent of their average salary received as a Member, multiplied by their years of service. As of June 30, 1950, 52 former Congressmen were drawing annuity benefits. As of August 3, 1950, 476 Congressmen and Senators were contributing to the civil service annuity fund.

Some who have analyzed the responsibilities, duties and importance of the congressional job believe that it is worth a salary of \$25,000 and that the expenses of the job call for such a salary. They assert that congressional salaries should be such that members would have no excuse for augmenting their in-

⁵⁸ *Ibid.*, pp. 106-107.

⁵⁹ *Idem.* See also Belle Zeller, "The Federal Regulation of Lobbying Act," *AMERICAN POLITICAL SCIENCE REVIEW*, Vol. 42, pp. 268-271 (April, 1948).

come by means which might be prejudicial to the effectiveness of their work; and that the salary should be such as to widen the field that could be drawn upon for congressional talent and thus in the long run raise the level of legislative ability. It is also urged that the salary should be sufficient to lead toward the desirable objective of upgrading the salaries of all public service positions.⁶⁰

X. CONCLUSION

In summary, we can report that the basic reforms in committee structure have survived four years' trial and worked well on the whole. Committee procedure has been improved and regularized in several respects, although some jurisdictional disputes still occur. Party policy committees have functioned actively in the Senate, but have failed to achieve their full potential. Striking gains have been achieved in the staffing of Congress, but there is room for improvement in the quality of professional committee staffs and in the methods of their selection. Congress is handicapped by the lack of a modern personnel system, but its new staff aids have apparently arrested its decline in relation to the executive branch. The work load on Congress has not been reduced by the Act, but more and better staff aids have enabled it to do a better job. The Judiciary committees are overburdened with thousands of private bills about matters which should be handled elsewhere. Operation of the oversight function has been partially successful and various devices are available for its fuller performance. The fiscal control provisions of the Act have either been ignored or have proved unworkable in practice. In fact, the greatest failure of congressional reorganization has been in the fiscal control field. Administration of the lobby law has disclosed a wealth of new information concerning the identity and finances of lobbyists, but has been handicapped by defects in the statute, which needs revision and clarification. Congressional salaries have been raised and 476 of 531 Members of Congress are presently participating in the Federal retirement plan.

Representative government has broken down or disappeared in other countries. Here in the United States it remains on trial. Its survival may well depend upon its ability to cope quickly and adequately with the difficult problems of a dangerous world. Congress is the central citadel of American democracy and our chief defense against dictatorship. Hence the importance of congressional reorganization and of further steps toward strengthening our national legislature.

⁶⁰ See testimony of William T. Rhame, of Robert Heller and Associates, in *Hearings* before Subcommittee No. 4 of the House Judiciary Committee, February 9, 1945.