

CHAPTER VII

LEGISLATIVE ORGANIZATION AND THE BUDGET

BUDGET-MAKING is in the final analysis a legislative function because in the legislature is placed the "control of the purse." This was the conclusion of the last chapter. It was further pointed out that no restriction must be placed upon the legislature in dealing with budget proposals to the end that there may be a genuine expression of the views, needs, knowledge, experience and even prejudices, of the representatives of the people. Responsibility for the budget act is therefore placed directly upon the legislature.

The important thing in the legislative phase of budget-making is to secure adequate, coördinated, pertinent and public discussion of the budget proposals. Perhaps the basic element in securing or preventing such discussion is the organization of the legislature.

There are three elements in legislative organization that have a very direct bearing on the effectiveness of the legislature to perform its function in budget-making. They are: its organization into two houses, the committee system and the legislative rules. These elements will be discussed in these pages primarily with reference to Congress, though some reference will be made to the situation in the states.

I. THE BICAMERAL LEGISLATURE

An increasing volume of criticism is being directed against the bicameral legislature. Is it not simpler and more effective to have a legislature organized in a single house? Would not this prevent unnecessary double consideration of legislative measures? Would not this prevent friction? Would not a single house tend to secure a more careful consideration of bills because one house of the legislature could not "shift the responsibility" to the other house because there would be no other house? Could not legislative responsibility be more definitely fixed in a single house legislature? These are essentially the points raised in favor of the single house: simplicity of organization, definite responsibility and consequent efficiency. The general discussion relates to the whole range of law-making; our concern is limited to the relation of the bicameral legislature to making appropriations.

At least part of the case for the bicameral legislature may be presented, too, in a series of questions: How many times have jokers been discovered during the consideration of appropriation and other bills in the second house? How many times has it been that the real character and danger of a bill have been discovered *after it has passed the first house*? How many times has the disagreement of houses on bills really forced an amount of public consideration greater than a bill has had in its whole course through the legislature? May not these results make one pause before rejecting an institution so obviously useful?

But there is another reason which may serve as a

foundation for the points already made. With a country as large as ours, with its diversity of interests, the process of law-making which affects these interests ought to plan definitely to give these interests, both public and private, legitimate opportunity to inform themselves on the provision of proposed laws and to organize their forces to place their experience at the service of the law-makers. Apart from the questions of geography and distance, there are important questions of content of laws that should have public consideration. Modern legislation and modern budgets are dealing with a multiplicity of subjects of the most complicated character. To formulate public opinion on these subjects is a matter of considerable time. The double consideration of these measures is in the interest of an informed public opinion upon them—provided of course the rules of the legislature permit genuine discussion on the floor of the legislature. If they do not, the thing to do is not to change the structure of the legislature but its *rules*.

This point of view makes the case for the national bicameral legislature *at this time* conclusive. Insofar as the states are smaller and deal with less complex problems, this particular argument is a little less conclusive, but it is, however, sufficiently conclusive as not to justify any change. The difficulty of organizing public opinion or of permitting a public opinion to form on a state-wide basis is ample justification for no change at present. In cities of more compact organization, dealing with less difficult or less complex problems, and in any case, with the machinery of public opinion comparatively well organized and capable

of being quickly mobilized, the case for a bicameral city council is, it seems, inconclusive.

There are many persons with very orderly minds who cannot conceive of the lack of directness, of the friction, of the misunderstanding of the bicameral legislature as serving any useful purpose. The un-æsthetic character of the legislative process annoys them. It is its artistic faults they condemn. These are remedied, they believe, by the single-house legislature. And their faith is based on the artistic grounds that all the foregoing æsthetic faults are remedied, and the one-house legislature is beautifully simple. Presumably the case is made. But is it? President Lowell of Harvard put the answer very well before the New York Constitutional Convention:

“Of course, it is a great deal easier to work in a government the simpler it is; it is simpler to work a government with one House than with two; but it does not always follow that the simpler form of government, which is the easiest to work, is always the best. Good results usually come from more or less friction. If a thing works too easily it does not always work best. The very fact that you have two Houses, and consequently some friction between them, it may be good, or it may not. It does not follow that any system of administration which is the easiest is the best. I think you could work with two Houses or one. Of course it would work easier with one.” (“Budget Systems,” p. 422.)

THE CONFERENCE COMMITTEE

But a special evil of the bicameral legislature is the Conference Committee. This is called by Lynn Haines “the worst parliamentary institution of all.” And more definitely: “The Conference Committee

meets in darkness and keeps no public record of its acts. Its reports are of the highest privilege and cannot be amended. It is the culminating feature of a parliamentary system that is unbelievably dark and undemocratic. So long as there is a bicameral Congress, it will be next to impossible to eliminate this evil." (Lynn Haines, "Your Congress," p. 107.)

In the bicameral legislature the Conference Committee is the parliamentary machinery for settling differences of opinions between the houses. It is perhaps a necessary institution in a bicameral legislature, but it is not at all clear that the evils pointed out by Mr. Haines will be impossible to eliminate. To remedy the evils pointed out in the last quotation two things need to be done. The first is: "Let there be light" on the Conference Committee. The Committee should have public meetings and (or) all of its acts should be a matter of public record. The second thing to do is to limit the Conference Committee to settle points of disagreement and no others. This is the practice in the state of Wisconsin where the Conference Committee is successfully though rarely used.

The power of the Conference Committee is particularly liable to abuse over appropriation measures which are being considered for a fiscal year which has already begun, and the department is operating under temporary authorization. If the state is financed on an annual or biennial basis and not on a continuing basis, some legislative action is necessary, and a department is at the mercy of a very small group of men — the majority of the Conference Committee. Compromise, give and take, and perhaps worse are possi-

ble — perhaps probable. In states like Wisconsin, where the public service is financed on a continuing basis, and the legislature has not determined upon a definite positive policy — hence the disagreement of the houses — legislation is *not* necessary, and the very existence of departments does not depend on the action of a Conference report.

Even from this point of view the evils of the Conference Committee are not inherent defects of the bicameral legislature but are due to the absurd rules governing the procedure and reports of the Conference Committee. The remedy is a reformation of the rules governing the Committee, not a unicameral legislature.

II. THE PRESENT STANDING COMMITTEE SYSTEM

Practical reform of legislative organization is directed at the present committee system. There is now widespread criticism of the dark-lantern methods of committee meetings, of the almost total absence of any record of committee doings, or meaningless records, and of the autocracy of committee chairmen. There is a growing public sentiment against these perversions of legislative machinery. Budget-making is equally affected by these general conditions of committee organization, and the reform of committee organization will be in the interest of improved budgetary procedure, as will be shown.

SUBMITTING THE BUDGET PROPOSALS

Doorkeeper: Mr. Speaker, a message from the President.

Messenger (bows): Mr. Speaker.

Speaker (bows): Mr. Secretary.

Messenger: I am directed by the President of the United States to deliver to the House a message in writing containing the revised budget estimates for the next fiscal year.

The budget is before the Congress.

What shall be done with it?

Two general types of procedure are followed. The estimates may be referred to standing committees or they may be referred directly to the membership of the legislative houses sitting as a Committee of the Whole. The custom in this country is universally to refer budgetary estimates so far as they are prepared to standing committees. These two procedures will form the major topics of this section of the book. However, a more or less concrete discussion of present procedure may very well serve as a point of departure.

CONGRESSIONAL PROCEDURE

Departmental estimates are prepared and transmitted to the Secretary of the Treasury in accordance with prescribed forms. These are put together by the Secretary of the Treasury and transmitted to the houses of Congress.

The rules¹ of each house provide exactly for the reference of each section of the estimates to the appropriations committees. How the estimates are divided and to what committees they are referred is indicated in the following table:

¹ Rule XI of the House and Rule XVI of the Senate.

CHRONOLOGICAL HISTORY OF APPROPRIATION BILLS, FIRST SESSION OF THE SIXTY-FOURTH CONGRESS, DEBATES, DEBATES AND APPROPRIATIONS FOR THE FISCAL YEAR 1916-17 AND APPROPRIATIONS FOR THE FISCAL YEAR 1915-16
 [Prepared by the clerks to the Committees on Appropriations of the Senate and House.]

Title.	Estimates, 1917.	Reported to the House.	Passed the House.	Reported to the Senate.	Passed the Senate.	Law, 1916-17.	Law, 1915-16.
Agriculture	\$24,159,089.09	\$24,501,093.00	\$24,673,893.00	\$23,928,820.00	\$25,230,527.00	\$24,948,952.00	\$22,971,782.00
Army	130,931,483.47	(137,223,246.10)	(132,303,336.10)	(130,539,010.10)	(131,970,447.10)	(127,596,530.10)	101,974,136.87
Diplomatic and Consular	5,426,698.70	5,483,243.66	5,008,345.66	5,259,098.66	5,304,099.66	5,385,099.66	4,061,280.01
District of Columbia	15,473,676.34	11,894,737.34	11,894,737.34	11,921,817.34	12,841,737.34	12,841,737.34	11,850,584.45
Fortifications	23,305,123.80	21,997,050.00	22,368,050.00	25,120,110.00	26,571,734.00	28,747,550.00	6,050,216.90
Indian	10,175,026.66	9,350,646.66	9,350,646.66	12,077,187.44	11,996,796.44	10,967,644.88	9,771,902.76
Legislative, etc.	39,749,977.25	37,601,539.25	37,616,049.25	38,196,762.25	38,220,000.25	37,925,690.25	38,904,793.75
Military Academy	1,422,775.77	1,218,804.57	1,218,804.57	2,238,328.57	2,238,328.57	1,223,043.57	1,063,812.37
Navy	217,652,114.24	241,371,858.59	249,801,961.34	315,720,515.54	316,726,556.54	313,300,565.84	149,651,864.88
Penitentiary	158,065,000.00	158,065,000.00	158,065,000.00	158,065,000.00	158,065,000.00	158,065,000.00	164,100,000.00
Post Office	316,364,879.00	321,332,979.00	321,339,979.00	322,995,679.00	322,915,679.00	322,927,679.00	313,534,667.00
River and Harbor	44,376,710.00	37,898,410.00	37,898,410.00	40,889,935.00	41,723,935.00	40,598,135.00	30,000,000.00
Sundry civil	711,181,116.93	127,297,221.24	127,540,651.24	128,240,443.24	129,657,186.67	128,590,282.24	126,922,750.79
Supplemental estimates	20,112,000,000.00	.....	.....	.....	.....	.....	.....
Total regular annual appropriations	1,262,783,135.16	1,265,509,116.41	1,294,230,430.16	1,325,975,684.76	1,353,746,698.05	1,319,808,769.64	978,722,857.78
Urgent deficiency 1916, mail bags, etc. ....	.....	191,444.17	191,444.17	197,684.17	197,684.17	197,684.17	.....
Urgent deficiency 1916, and prior years, general .....	.....	12,572,304.30	12,572,076.92	13,523,247.17	13,526,247.17	13,442,997.17	.....
Urgent deficiency, Navy, etc. ....	.....	3,260,800.00	3,260,800.00	3,442,600.00	3,609,046.06	3,473,046.06	.....
Urgent deficiency, Army, etc. ....	.....	8,611,502.11	8,611,502.11	8,611,502.11	8,611,502.11	8,611,502.11	12,916,243.90
Urgent deficiency, Army and Navy .....	.....	25,552,058.83	27,536,068.83	27,536,068.83	27,536,068.83	27,536,068.83	.....
Deficiency, 1916, and prior years .....	.....	14,326,272.83	14,332,069.11	15,407,968.66	15,441,870.54	15,288,468.65	.....
Total, regular annual and deficiency appropriations	1,330,783,135.16	1,330,483,508.15	1,360,734,391.30	1,423,975,684.70	1,428,660,117.83	1,418,364,536.63	991,639,301.68
Miscellaneous .....	.....	.....	.....	.....	.....	88,000,000.00	2,330,603.34
Total, regular annual, deficiency, and miscellaneous appropriations .....	.....	.....	.....	.....	.....	1,503,364,536.63	993,969,905.02
Permanent annual and indefinite appropriations .....	.....	.....	.....	.....	.....	123,074,672.60	121,567,307.00
Grand total, regular annual, deficiency, miscellaneous, and permanent annual and indefinite appropriations	1,473,857,808.16	.....	.....	.....	.....	1,626,439,209.63	1,114,937,012.02

¹ The Army bill for 1917, as originally passed, was vetoed by the President on Aug. 18, 1916. The amounts of the vetoed bill are set forth in parentheses in order to preserve its history, but the amounts are not included in any of the totals stated herein.

² One-half of the amounts for the District of Columbia payable by the United States, except amounts for the water service (estimated for 1917 at \$130,480), which are payable from the revenues of the water department.

³ The expenses of the Postal Service are payable from postal revenues to the extent that they are sufficient therefor and the remainder is paid out of the Treasury. For the fiscal year 1917 the sum of \$8,000,000 is estimated, under permanent annual and indefinite appropriations, as the amount required from the General Treasury to supplement the postal revenues.

⁴ In addition to this amount, the sum of \$1,462,800 to meet contracts authorized by law for river and harbor improvements is included in the sundry civil estimates for 1917.

⁵ In addition to this amount, the sum of \$1,482,800 is appropriated in the sundry civil act to carry out contracts authorized by law for river and harbor improvements for 1917.

⁶ In addition to this amount, the sum of \$3,982,000 was appropriated in the sundry civil act to carry out contracts authorized by law for river and harbor improvements for 1916.

⁷ This amount includes \$1,462,800 to carry out contracts authorized by law for river and harbor improvements, and \$27,536,469.13 for construction, maintenance, operation, and fortification of the Panama Canal for 1917.

⁸ This amount includes \$1,482,800 to carry out contracts authorized by law for river and harbor improvements, and \$21,335,000 for construction, maintenance, operation, and fortification of the Panama Canal for 1917.

⁹ This amount includes \$12,196,550 for construction of public buildings; \$3,982,000 to carry out contracts authorized by law for river and harbor improvements; \$19,579,048.30 for the construction, maintenance, operation, and fortification of the Panama Canal; and \$13,530,000 for the Reclamation Service previously provided for under permanent appropriations.

¹⁰ This amount is approximated.

¹¹ This amount is approximated, and includes \$50,100,000 in the shipping act; \$20,000,000 in the national-defense act; \$6,000,000 in the good-roads act; \$6,100,000 in the farm-loan act.

¹² This is the amount submitted by the Secretary of the Treasury in the annual estimates for the fiscal year 1917, reduced in stating the appropriation for 1917 in the sum of \$4,000,000 on account of the repeal of the permanent appropriations for the Organized Militia and \$8,000,000 for postal deficiency included in amount of annual postal appropriation act. The exact amount of permanent appropriations is not ascertainable until two years after the close of the fiscal year. This sum includes estimated amount of \$60,757,000 to meet sinking-fund obligations for 1917.

¹³ In addition to this amount contracts are authorized to be entered into, subject to future appropriations by Congress, as follows: By the District of Columbia act, \$700,000; by the fortification act, \$13,800,000; by the naval act, \$209,459,325.20; by the river and harbor act, \$2,287,950; by the sundry civil act, \$5,107,000; by the deficiency act, \$508,000, and by the Sandusky, Ohio public building act, \$85,000; in all, \$231,945,276.20.

¹⁴ In addition to this amount contracts are authorized to be entered into, subject to future appropriations by Congress, as follows: By the District of Columbia act, \$100,000; by the fortification act, \$300,000; by the naval act, \$27,460,000; in all, \$27,760,000.—Congressional Record.

TABLE NO. 1
Committees in Charge of Bills in Congress

Name of Bill	House Committee	Senate Committee
Legislative, executive and judicial	App. ¹	App.
Sundry civil	App.	App.
Pensions	App.	Pensions
Fortifications and coast defenses	App.	App.
District of Columbia	App.	App.
Deficiencies	App.	App.
Dept. of Agriculture	Agriculture	Agric. and Forestry
Diplomatic and consular	Foreign Affairs	App.
Army and Military Academy	Military Affairs	Military Affairs
Navy	Naval Affairs	Naval Affairs
Post Offices and Post Roads	Post Offices and Post Roads	Post Offices and Post Roads
Indian Affairs	Indian Affairs	App. (?)
Miscellaneous	_____	App.
Rivers and Harbors	Rivers and Harbors	Commerce

The financial history of these bills during the third session of the Sixty-fourth Congress is given in the accompanying table.

All questions of revenue are referred to the Committee on Ways and Means in both the House and the Senate. These questions are not considered with reference to the appropriations to be made for the next fiscal year.

THE DEFECTS OF CONGRESSIONAL PROCEDURE

Does this first step of Congressional procedure help to secure the best budget for the United States? Let us see.

¹ App.—Appropriations Committee.

The obvious trouble with the reference of the appropriation bills at present is revealed by a glance at the table. It is the apparently haphazard, ill-considered, unrelated consideration (if there be any at all) of the budget estimates as a whole. The aggregation of estimates as at present collected is not the expression of a national plan or program, but is merely an aggregation. Even if these estimates were revised by the President as they should be, they would be none the less merely an aggregation. The preparation of these estimates is prescribed by Congress and in its larger aspects such preparation is determined by present committee organization. An attempt by President Taft to rearrange the estimates was met by a severe expression of Congressional disapproval.

An examination of these bills reveals the fact that the various items entering into a national program, say public health, are never considered together. The various elements making up what the nation is now doing to promote public health are nowhere brought together. No committee considers them as a whole. Each committee considers the fraction of the subject that is referred to it and arrives at its decision not with reference to other public health activities of the nation, but by itself or with reference to entirely unrelated subjects. Congress itself nowhere considers the subject itself or has presented to it a plan in which it can fit individual items into a complete statement of what we are doing for such major activities of government as public health. See what the result is of distributing without plan to different committees the various elements entering into the government service.

This prevents any coördination in a committee. The condition described resulting from a number of committees considering parts of what ought to be a correlated program is aggravated by the fact that these committees consider these bills at different times and report in their recommendations at still other different times. This makes coördination of service programs practically impossible.

These conditions are further aggravated by other facts. The financing of the overhead charges at Washington is presented in one bill and considered by one committee; and the financing of the field services in the same department is presented in another bill and considered in another committee. And, furthermore, none of these appropriations are considered with reference to either a national spending program or a national revenue program.

And committees, as will be pointed out more definitely a little later, develop a peculiar affection for and interest in the departments which come within their jurisdictions. This is natural. But one of its results is that there are in each house seven or eight roads into the public treasury, and, as Mr. Tawney put it, "as many byways as there are members of these appropriating committees."

There is abundant perception of the defects of this system both inside and outside of Congress. As long ago as 1904 Mr. Burton put the case very aptly:

"I desire to touch briefly upon some of the dangers which pertain to our system of making appropriations and raising revenue and to some of its characteristic features.

"The most characteristic feature can be expressed in one

word—the word ‘severance.’ First, the severance of the executive department from the legislative; next, the severance of the committees or branches of the legislature which provide the revenue from those which determine expenditures, and, third, the severance of the committees which consider estimates and present appropriation bills.” (Congressional Record, Fifty-eighth Congress, Second Session, March 15, 1904, p. 3295.)

The explanation of this rather remarkable and obviously bad procedure is historical. “The committee organization,” said President Taft in a message to Congress, “is largely the result of historical development rather than of the consideration of present needs.” (President Taft’s Message to Congress, June 27, 1912.)

From the beginning until the Civil War all financial measures in the U. S. House of Representatives, whether for expenditures or for revenue, were considered by one committee—the Committee on Ways and Means. In 1865 because the Committee on Ways and Means was overburdened, its work was divided with the Committee on Appropriations, all questions of expenditure being referred to the Committee on Appropriations, and all questions of revenue being referred to the Committee on Ways and Means. “And in 1885,” says Representative Fitzgerald, “a number of important appropriation bills were taken from the Committee on Appropriations and given to other committees of the House.”

“The history of that movement,” continues this chairman of the Appropriations Committee, “shows unquestionably that it was undertaken largely for the

purpose of breaking the power of Mr. Randall of Pennsylvania, who at that time, as the chairman of the Committee on Appropriations, a man of great power and force, twice speaker of the House of Representatives, had led a revolt in the Democratic party in the preceding Congress, by which the enacting clause of the Mills Tariff Bill was stricken out; and in order to break his power the movement was initiated and culminated in the distribution of these bills. ("Budget Systems," Bulletin of the New York Bureau of Municipal Research, June, 1915, p. 300.) In that year the appropriation bills relative to the army, navy, Indian affairs, foreign affairs and rivers and harbors were assigned to other committees. At the present time the Appropriations Committee of the House has jurisdiction over six of the fourteen supply bills.

This beginning of the budget procedure in the Congress is in a chaotic condition and calls for immediate correction before any effective budget can be established.

THE IMPROVEMENT OF PRESENT PROCEDURE¹

The present procedure calls for a radical change. The change may be made in the direction of an improved standing committee procedure or in the substitution of a thoroughgoing committee of the whole procedure. Both will be discussed in detail. The present discussion relates to the improvement of standing committee procedure.

¹ The problems of rules reform is intimately connected with the subject matter of this section but is reserved for separate treatment. The question discussed here deals solely with number and organization of committees.

In the Congressional discussion there are two principal reforms suggested regarding committee organization. The one, sponsored most persistently by Representative Fitzgerald, is a return to a single committee on appropriations in place of the existing appropriation committees. The other, sponsored by Representative Sherley, is also for a single committee — a super-committee — but to be composed of the chairmen of the existing appropriation committees, which are continued in existence, and certain members of the Committees on Rules and on Ways and Means. These will now be discussed and also the proposal for a joint committee on finance.

THE SUPER-COMMITTEE PROPOSAL

Representative Sherley's proposed super-committee disturbs the present organization of Congress least. In fact it accepts it and adds to it. Mr. Sherley's proposal is contained in the following resolution:

“Resolved, That the following rule be added to the rules of the House, and to be known as section 6 of Rule X:

“6. There shall be a committee on estimates and expenditures, whose personnel shall consist of the following members: The chairmen and three ranking majority members and the ranking minority member of the Committees on Ways and Means and Appropriations, and the chairmen and the ranking minority member of the Committees on Rules, Agriculture, Foreign Affairs, Military Affairs, Naval Affairs, the Post Office and Post Roads, Rivers and Harbors, and Indian Affairs. The chairman of said committee shall be selected by the members thereof. Said committee shall, as soon after the convening of each regular session of Congress as may be, report to the House the amount

of revenue probably available for appropriation for the next fiscal year, and apportion the amount to the several appropriation bills within the jurisdiction of the committees empowered by the rules and practice of the House to report appropriations from the Treasury. This report, or supplementary reports to meet exigencies of the public service, may be made on any legislative day after the reading of the Journal, and when agreed to by the House shall limit the totals of the appropriations reported by the several committees."

And Mr. Sherley's statement in defense of his proposal may be quoted rather fully:

"The proposal is substantially this: That instead of undertaking what I believe to be the impossible task of bringing back to the Committee on Appropriations jurisdiction of all the supply bills, to create a committee composed in its personnel of the heads of the various appropriating committees. I gave to the Committee on Ways and Means representation greater than any other committee except Appropriations. I did that because the Committee on Ways and Means is properly charged with the great function of determining the amount of revenues that shall be available. I gave to the Committee on Appropriations a preponderance over other appropriation committees, not out of partiality for that committee, but because it has under its charge six of the great supply bills, whereas the other great appropriating committees have only one, except in the instance of the Committee on Military Affairs, which reports two supply bills. I also made as a part of that committee the chairman and the minority member of the Committee on Rules, because that is necessarily the great political committee of the House and should have a voice in a matter so fundamental as the arrangement of a budget.

"This committee would consist of 16 majority Members and 10 minority Members. It is urged that that is too large a number, but I desire to suggest to the House

that it is really two committees, because the majority members would necessarily come to their conclusions in private, just as the majority members of the Committee on Ways and Means now do, and they would then present to the minority members their proposal.

“A counter proposal of the minority would be made, and those two proposals would come to the House for adoption or modification. These reports would bring to the attention of this House and require the consideration by it of the real purposes of government and of legislation, for in the final analysis nearly every proposition that comes before a deliberative body is one either of taxation or expenditure.

“Now, I insist that one of the most vicious things that has occurred in America has been the constant raising of revenue without any consideration of the needs of revenue for the purposes of government, and, as a result of that—having a country whose tax limit has never been even approached, let alone reached—we have at various times piled up great surpluses in the Treasury, a constant invitation to extravagance in expenditures.

“This report when adopted should be made a limitation upon the power of any committee to report. As an illustration, the committee on the budget estimates that the revenues will amount to a thousand million in the ensuing year and that that sum should be the amount proper to be expended. Having determined that general amount, it then allots it, and it says to the Army, ‘You will have \$90,000,000.’ It says to the Navy, you shall have a hundred and thirty million dollars—of course, I am speaking just in loose figures—and to the various other appropriating committees, you can appropriate such sums. The problem, then, that will confront the department will not be simply how much can we expend—that has been determined—but how best can we expend that sum in the interest of the people of America? And instead of having the ingenuity of the department expended in trying to arrive at reasons for increased appropriations you will compel every department which comes with a particularly new or pet proposal of theirs to show something that can be

eliminated or economized in order to make room for the new proposal." (Speech of Hon. Swagar Sherley in House of Representatives, Feb., 1913.)

This proposal is built on the assumption that appropriations must be kept down, and in order to do that it is further assumed that prior to the consideration of any of the supply bills a maximum shall be established in accordance with the probable revenue for the next fiscal year. And then subsequent to this the maximum for each appropriation bill shall be determined, and the special appropriation committees may not report bills in excess of this amount.

This is a wholly mechanical way of attacking the budget problem. The assumption may or may not be desirable. In a period of national or state expansion it is a hindrance. In a nation or state whose revenue system is admittedly tentative (and every state is in this situation) any budget plan based upon a tentative revenue system must be likewise tentative.

The fundamental error in the whole procedure is that it begins at the wrong end. THE STARTING POINT OF THE BUDGET INQUIRY MUST BE THE ECONOMIC AND SOCIAL NEEDS OF THE SOCIETY WHICH THE GOVERNMENT SERVES. A full consideration of these is mechanically restricted practically, if not necessarily, by the financial limitations set by the super-committee.

If the super-committee decides the limitation for all bills and of each appropriation bill, it must practically determine the items upon which these bills are made or else it is not acting on the fullest information. How then can it arrive at its totals?

Let us see what is the practical result of this proposal.

It is to introduce a new sphere for log-rolling. As pointed out elsewhere the present organization of the legislature for appropriation purposes is unaffected. Accompanying it is a result that has been noticed by all competent students of the subject. Congressman Fitzgerald words it thus: "It is inevitable that those who administer a service and those who formulate the legislation that determines the activity of a service will be keen to be overgenerous rather than critically scrutinizing in providing means to conduct the service. If retrenchment is imperative, they believe it should be elsewhere, and nothing is done to curtail the service with which they are intimately identified." (Congressional Record, March 15, 1915, p. 6363.)

Bringing these selfish interests together will not tend to make them less selfish. It makes the committee on estimates and expenditures the arena for the give and take of log-rolling. It puts the members of this committee from the Committees on Rules, on Ways and Means and on Appropriations in a very powerful position because frequently they will hold the balance of power. Upon them will depend the success of this plan if it is put into operation unless there is a power greater than they.

And there is. And Mr. Sherley thus describes how it will operate. The sixteen majority members will meet in private, reach a conclusion and present it to the minority, just as they do in the Committee on Ways and Means now. The minority will similarly formulate a proposal, and both propositions will go before the House.

It is unquestionably true that Mr. Sherley's pro-

posal is very much better, indeed, than the present practice. It takes into account very fully the present situation and is probably the most practical next step because it is conceivable that Congress may be willing to take it.

THE SINGLE COMMITTEE

Mr. Fitzgerald proposes through a series of amendments to return to the Appropriation Committees practically¹ all appropriation matters. "The effects of these changes," says Mr. Fitzgerald, "would be to enlarge the Committee on Appropriations sufficiently to enable its work to be properly done. It would place on that committee the chairmen of the committees which now have annual supply bills, so that they could continue in touch with the respective bills now committed to legislative committees over which they preside. This would largely reintroduce a practice which has followed from the creation of the Committee on Appropriations in 1865 till the end of the Forty-fourth Congress of having as conferees on the respective supply bills two members of the Committee on Appropriations and one member of the legislative committee having jurisdiction of the legislation affected by the bill."²

¹ "The question of the naval program could not be determined upon the appropriation bill. The number of officers, men, and vessels of every character would be provided in separate bills reported by the Committee on Naval Affairs, as would the increase or reduction of the commissioned officers and enlisted men and their pay and allowances be reserved for separate action by the Committee on Military Affairs." (Congressional Record, June 24, 1913, p. 2159.)

² Minority as at present would have one-third representation.

The idea of a single committee merely as a device to secure reduced expenditures is not convincing. As has been frequently pointed out in these pages, it is a placing of the cart before the horse. It is this arbitrary maximum, too, in Mr. Sherley's plan that seems inadvisable. However, as a remedy for what Mr. Tawney calls "unnecessarily increasing appropriations"¹ (*Review of Reviews*, Sept., 1910), and what Mr. Cannon calls more directly "needless appropriations,"² there can possibly be no question. But in this discussion the distinction must be carefully made between "lower" and "needless" appropriations.

But as a remedy for a crazy-quilt appropriation plan for piecemeal consideration of appropriation bills singly without reference to the others, the single appropriation committee plan, if there is to be a standing committee, is a beneficent reform.

Mr. Harlan Updegraff, formerly of the United States Bureau of Education, has worded quite uncon-

¹ "The real remedy for unnecessarily increasing appropriations lies in the adoption of a rule upon the organization of the House in the Sixty-Second Congress, authorizing the appointment of one committee sufficiently large to represent all sections of the country, vested with exclusive jurisdiction over all estimates for appropriations. This would be a genuine reform in the rules of the House, one that would be of practical benefit to the people. It would save to the Federal Treasury from fifty to seventy-five millions of dollars annually." (Congressional Record, June 24, 1913, p. 2160.)

² "Mr. Speaker, that change, in my judgment, based upon intimate knowledge and observation, has cost this country many, many millions of dollars in needless appropriations and expenditures. . . . No matter what the stress of circumstances may bring about in our national life now or hereafter, or how necessary it may become to apply the pruning knife, it can never be done without harsh and inequitable results through the medium of many committees as now provided under our House rules." (Congressional Record, June 24, 1913, p. 2160.)

sciously a conclusive argument for the single committee plan. He complains that the lack of development and comparative lack of influence of the Federal Bureau of Education is due to the fact that its appropriations were considered by the Appropriations Committee who balanced its needs against the needs of the other departments that were presented to it. Had these appropriations been submitted to the Education Committees of the House and Senate, larger appropriations would have been given, and says Mr. Updegraff, "In consequence of the higher appreciation which would have resulted, it is also quite probable that the Congress would have increased its appropriations from year to year until their magnitude would have become more nearly commensurate with the high regard in which all Americans hold their public schools." (Congressional Record, June 24, 1913, p. 2160.)

In short, Mr. Updegraff wants the education appropriations considered by what he later calls "friends at court." He wants to take advantage of the condition repeatedly pointed out that committees dealing with a single department acquire a *special bias* for the department with which it specially deals. In other words, he is in favor of increasing the number of special committees considering appropriation bills — prolific cause of log-rolling.

At this point Mr. Updegraff's words may be quoted in full:

"However, there is an underlying cause for this situation in the business procedure of each of the two Houses of Congress. Under this procedure the estimates for some departments are acted upon by their friends at court, while the

estimates for other departments are passed on by a tribunal whose main object is economy. All appropriation bills for the Department of Agriculture are prepared in the House Committee on Agriculture, and are reviewed in the Senate by the Committee on Agriculture and Forestry. This same practice also holds with the appropriations for the Diplomatic Service, the military service, the naval service, and the postal service. On the other hand, the appropriations for the other branches of the executive departments are prepared by the Committee on Appropriations of the House and are referred in the Senate to its committee of like name. Quite naturally the attitude of these Committees on Appropriations toward the estimates submitted by their respective branches of the executive department is distinctly different from that shown by the committees which recommend the appropriations for a single department or bureau. Members of the latter class of committees have their attention centered on one particular set of governmental activities, which they hold in growing appreciation as their knowledge of the work increases. On the other hand, members of the Committees on Appropriations have their attention divided among several departments and independent offices and commissions, all of which are more or less desirous of increased funds. *Strong attachment to the work of any branch of the Government service is not fostered by such a condition.*¹ Moreover, the numerous insistent demands that come upon them develop a controlling idea in the minds of these Appropriations Committees — not the great good that may come to the people through any branch of the service, but rather the desirability of cutting appropriations to the lowest possible limit in order that the party in power will not be held accountable for large expenditures. In brief, all the appropriations for the Department of Agriculture, and the principal appropriations for the War, Navy, and Post Office Departments, are in the hands of their friends, while those of the remaining Government offices must come before a tribunal the chief aim of which is to keep the total appropriations, including those framed by

¹ Italics are ours.

the special committees, within certain fixed limits. It follows from this that the liberal appropriations recommended by the special committees have a tendency to lower the appropriations for the other departments, which are drawn directly by the Appropriations Committees. Had the estimates of the Commissioner of Education during the past 40 years been referred in the House to the Committee on Education and in the Senate to the Committee on Education and Labor, there would undoubtedly be to-day a far different story to tell. If such a reform in the procedure of the Houses could be carried out to-day, an increased participation of the National Government in the educational development of the country would probably result." (Congressional Record, p. 2160, June 24, quoted from *American School Board Journal* for May, 1912.)

Mr. Updegraff seems not to realize the alternative in the public interest that all appropriations should be referred to an agency which will give them a critical review, which will balance the needs of one department against the other — and ultimately of one social need against the other. This is the consummation in consideration of budget needs both by executive and by legislature that is devoutly to be wished for.

And yet there is much truth in Mr. Updegraff's protest and his contention. He is right in protesting against making budget decisions solely on financial considerations; he is right in protesting against having one service considered by its friends in the light of its own peculiar needs, and another service of no less social urgency considered, principally, with reference to financial considerations and without regard to its special problems and needs. He is undoubtedly right in his statement of the net result upon our own national

educational agency — the Bureau of Education — of our present method of national financing. But he is wrong in his method of remedying the condition. We want not a further disintegration of our national budget-making machinery, but an integration; and we want social considerations not less prominent than financial.

There is a further advantage of the single committee plan under the proposed method of preparing budget estimates recommended in this book. The departmental estimates have been submitted to the executive and revised by him to express a state or national financial and social program. It is essential that this plan be not broken up and considered piecemeal without reference to its other parts. It is essential therefore that the whole plan be considered together and preferably by the same persons. This is best accomplished by means of a thoroughgoing committee of the whole procedure. Under a standing committee procedure it is accomplished best through a single appropriation committee.

THE JOINT COMMITTEE ON APPROPRIATIONS

If the single appropriation committee is accepted as the agency through which the houses of the legislature wish to handle appropriation matters under a standing committee procedure, then it ought to be possible to take the next step. That step is the adoption of a joint committee on finance or appropriations. In Wisconsin such a committee is provided for in these words: "At the commencement of every session of the legislature there shall be appointed by the respective houses a joint standing committee consisting of five

members of the senate and nine from the assembly, to be called the committee on finance; all bills or accounts requiring the appropriation of money by the legislature and all bills providing for revenue or relating to taxation shall be referred to said committee before being passed or allowed."¹ A highly condensed summary statement of the advantages of such a procedure is here given for the sake of completeness.

In Wisconsin the joint committee procedure works admirably. No question has been raised as to the "jealousy of the houses," but the daily contact of the leading members of each house has helped very much, indeed, in mutual understanding. The reference of appropriation bills to conference committees instead of being the usual thing is comparatively infrequent. While perhaps there is no saving of the time of the individual committee, there is a saving of the time of the legislature because presumably when one house is ready to act, the other house is also ready or will be shortly. There are none of the vexatious delays of the usual separate consideration of finance bills by committees.

¹ The other provisions of the law are: "Such committee shall keep a full and complete record of all bills, accounts, and claims referred to them, and of its proceedings thereon, which record shall, at the close of each session of the legislature, be deposited by the chairman of such committee in the office of the secretary of state, who shall, upon request, deliver the same and the records of any previous sessions to the committee on finance of the next succeeding legislature. The chairman of such committee shall return all such records to the secretary of state at the close of each session. Such committee is authorized to employ a clerk when necessary." (Wisconsin Statutes, 1915, Sec. 106.) During the sessions of 1913 and 1915 the joint committee on finance took over the accounting staff of the State Board of Public Affairs to assist it in shifting the data and getting information directly from the departments and institutions of the state.

But more important than the saving of the time of the legislature is the saving of the time of citizens, through saving their appearances before both committees. Moreover, the joint character of the committee adds dignity to its proceedings and would be a stimulus to citizens to appear before it because more is at stake and a large group of influential members of the legislature may be appealed to. Proceedings before a joint committee on finance are more likely to receive newspaper publicity than separate treatment in committees in each house. And newspaper reports of committee hearings are a valuable means of stimulating citizen interest in legislative budget-making.

Perhaps in conclusion it should be pointed out that joint consideration of proposals by a joint committee on finance does not mean joint consideration by the two houses of the legislature. The legislative consideration will proceed as usual.

COMMITTEE OF THE WHOLE PROCEDURE

When deciding on the spending policy of the government was a process of "crazy-quilt" legislation, there was some excuse for the standing committee procedure in budget-making. When departments did not dare or refused to present carefully prepared information formally to the legislature so that it might have an intelligent basis for action, and when the executives refused to use their power to inform Congress on the state of the union in order to present a comprehensive appropriation plan, the legislature had to get the information somewhere, had to study the subject and formulate bills. When members introduced appro-

priation bills affecting various departments and their own constituencies, the legislature had to provide a clearing house agency to organize the chaos. Thus was the standing committee justified.

But with all plans of budget-making the preliminary work is transferred to where it belongs — to the administrative departments. The collection of the information and its organization with specific reference to budget-making needs are preliminary work that may very properly be done by those governmental officers who have the day-to-day experience in administering the laws. Hence the justification of the standing committee in organizing the chaos of older methods of budget-making is considerably lessened by the new procedure recommended in practically all budget plans.

There are, besides, certain evils — remediable, however — that have grown out of the standing committee that may be mentioned in this connection. Congressional committees, through their power to report or not to report, hold absolute sway over legislative proposals, and most frequently this power is personally exercised by the chairmen. Besides this autocratic power of committees, or perhaps making it possible, are the dark-lantern methods of committees. Practically all the work in formulating the various phases of the sovereign act is done behind closed doors. This means lack of both legislative and public consideration of these bills. Besides this lack of legislative and public consideration in formulating bills, there is no opportunity for either after the bill reaches the floor of the legislature for final action. The budget bill or

bills are pancakes to be served, and they are brought in the last minute and "gulped" down.

These evils of the standing committee procedure in practice make all the more desirable the introduction of the committee of the whole procedure. The budget proposals as they come to the legislature are immediately ready for legislative discussion. Why not begin it at once? The best device for doing that is in the committee of the whole.¹

The committee of the whole is an informal organization of the whole legislature. It permits non-members to address the legislature. It is before the legislature in a committee of the whole that administrators are summoned to answer questions. It is most frequently in a committee of the whole that the legislature is a critical agency. It is *via* the committee of the whole that in many cases the legislature chooses to work out big legislative propositions. In the states the committee of the whole is not used to a very great extent. In the United States government it is used much more.

The very great advantage of the committee of the whole procedure is that its setting fits the occasion of the consideration of the sovereign act. It furnishes a background for first page publicity. It is this potentiality that makes it possible to secure concurrent con-

¹ In the House of Representatives one must distinguish between a Committee of the Whole and a Committee of the Whole House on the State of the Union. Though both illustrate the committee of the whole procedure there have developed practically different functions. The Committee of the Whole now deals with private bills only; the Committee of the Whole House on the state of the Union deals with public bills and it is to this Committee that we would have budget proposals submitted.

sideration of the budget proposals by the legislature and the public and stimulate a healthy interaction between public opinion and legislative budget-making. To secure these ends the committee of the whole procedure must, of course, be public, which it is in all cases.

The presence of the whole legislature or a goodly number of the legislators would be a challenge to those citizens or administrators who are to appear before them to give careful consideration to what they say and especially to have an adequate basis of fact for their proposals or criticisms. This condition, too, would tend to dignify the consideration of the budget. Many of the persons who appear before committees would not appear before the legislature in the legislative hall. The white spotlight of publicity would be too glaring. The trivial character of many committee discussions would be abated because one is more likely to be considerate of the time of a large number of people who wouldn't be so considerate of the time of a small number. Though these factors count, the great justification of the committee of the whole procedure is that it facilitates and stimulates public consideration of the budget alongside of the legislative consideration.

It is under these conditions that public hearings on the budget would be held. It would make many of these very much more worth while than they are at present.

NEED FOR ORGANIZATION IN THE LEGISLATURE

But the presentation of a carefully prepared plan by the executive to the Committee of the Whole will

not be handled intelligently unless there is definite legislative organization. In the succeeding chapter various elements entering into such legislative organization are outlined in detail. In the first place the opposition should be organized as an agency of criticism as a part of the administrative polity. Provision for first hand presentation of the administrative program by the administrative officer should be made on the floor of the legislature. The legislative majority will, if for no other reason, organize its own forces to meet the organized efforts of the opposition.

One notices a rather striking change that has recently come over the national House of Representatives. There are no longer desks in the House, but simply chairs or rather benches. In addition, however, there are two large tables, one for those supporting a measure, the other for the opponents. This is merely an outward sign of the more definite organization of the legislature. As will be seen a little later, there is provided for the minority in the legislature the machinery and power of independent investigation. This will compel organization on the part of the majority. Without this organization for the effective consideration of bills it would be futile to throw the budget directly into the legislative arena.

With the potentialities in our system of a legislature opposed to the executive, of a legislature divided against itself, it may be advisable to prepare a special rule for the preliminary consideration of the budget proposals by a legislative committee. This consideration may be had during the time that the legislature is holding its public hearings on the bills in the

Committee of the Whole. At any rate, the reference of budget proposals directly to a Committee of the Whole presupposes some legislative organization so that there shall be intelligent consideration in the public interest. The details of this organization are described elsewhere.

III. RULES REFORM

But even if the organization of the committees were satisfactory, there would remain the larger question as to how this organization would function. No matter which form of organization be adopted, there are certain evils in Congressional procedure which must be described and adequate remedies sought. These evils are made possible through the fact that a clique — bipartisan in character — is in control of the House of Representatives in particular and prevents both public and adequate discussion of all propositions, financial and other in the House, and prevents adequate public information of what is happening in Congress. Control of the machinery of legislation is through several legislative devices: the caucus, the Rules Committee, and the Conference Committee.¹

A member introduces a bill and from that moment his control over it is gone. It is put in the mill of the Congressional machine — the innermost group. The routine business of Congress is done through standing committees who have power of life and death through their power to report or not report bills submitted to them.² The Committee was organized

¹ For Conference Committee, see p. 133.

² "Standing committees keep no public record of their acts.

at the beginning in the interest of the machine.

But early in the career of a bill the caucus takes hold if necessary. Its power may be indicated in the following statement by a close student of the subject:

“The greatest fallacy of all is the contention that the caucus sometimes is used to promote good legislation. The caucus in its influence is always obstructive, and never constructive. Not once in the last Congress did the caucus contribute the deciding factor of strength to secure the passage of a measure. On the other hand, it was employed repeatedly to shield and mantle with vague, shifting irresponsibility the obstructive tactics of so-called leaders.” (Lynn Haines, “Your Congress,” p. 76.)

“Yet the majority party caucus, an unofficial institution, essentially secret, its meetings held behind barred and bolted doors; with no record of the debate, not even a sound escaping; with no assured integrity of the meager records it does keep; with absolutely no power to prevent dodging or the manipulation of quorums; with its portals ever open to pork-barrel bargainers, and all the underground influences of politics; with rarely more than a fourth of the whole membership of the House doing the deciding, has often usurped the official functions of the House itself.” (Ibid, p. 77.)

The Rules Committee through its absolute power operates the machine and keeps it going producing models on the same pattern.¹ Changes are abhorred.

With only two or three exceptions, they keep no calendars. At present there is chaos in this direction. Members themselves have to take hours and days if they want to investigate bills along any certain line.” (Lynn Haines, “Your Congress,” p. 102.)

¹“During the Sixty-Third Congress, after this assurance that the Committee on Rules would play fair with the independent, anti-machine members, and that it could be depended upon to do what the House had no power to compel, sixty-eight different

The *status quo* is maintained. The caucus prepares the plan and the Rules Committee carries it into effect.

The net result of the system as affecting all kinds of bills is lack of both adequate and public consideration of law-making.

The present organization of Congress is designed to promote neither adequate consideration nor public discussion of bills. The system is controlled and maintained by pork. The remedy for the pork-barrel is indicated fully in the second chapter on the pork-barrel (Chapter X). But the "machine control" of the legislature is built into the legislative organization through the standing committee organization and the peculiar powers given to the Committee on Rules and to the caucus. So far as standing committee organization is responsible for lack of consideration of budget proposals, the remedy described elsewhere (p. 135) is found in a thoroughgoing committee of the whole procedure. But in so far as the change to a committee of the whole procedure is not now possible, the remedy is to be found in rules reform.

The principal changes required in the rules of the legislature that are fairly described by this section of the discussion may be summarized as follows:

1. Meetings of standing committees should be public.

amendments to the rules were introduced. Congress closed with sixty-seven of them still buried in the Rules Committee. The only proposal acted upon was one offered by Mr. Henry himself (H. R. No. 104), which involved only the creation of a new standing committee on roads." (Lynn Haines, "Your Congress, pp. 93-94.)

2. Reports of standing committees should contain roll call of members on each bill.
3. Committees should report to the legislature each week the status of all business before it.
4. Committees should publish calendars of meetings at least a week in advance of the meeting.
5. Committees should report all bills submitted to them in a definite limited time — finance bills might very properly have a little longer time than other bills — or secure time from the House for further consideration.