

## THE COMMITTEES OF THE SENATE.

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The most remarkable feature in the legislative procedure of the United States is its system of committees. It is now generally conceded that the practical work of shaping legislation is performed, not in the sessions of the Senate, but in the maze of committee rooms which surrounds the Senate Chamber. The business of the Senate, whatever be the importance, must ordinarily pass the careful scrutiny of one or more of its committees. They are truly the "eyes, ears and hands" of the Senate. An eminent American publicist has correctly asserted of Congress, that "each house is constituted of smaller legislatures which are the actual governing power in Congress."<sup>1</sup>

The present elaborate committee system in both branches of Congress was invented by the House of Representatives. At the inauguration of the Constitution (1789) Congress found itself confronted by complex questions of finance and of foreign and domestic affairs. Under this pressure, the House then originated three standing committees; but, so slow was the growth of the committee plan, that, in 1804, with a membership of 143, the House had only seven committees. The committee plan thus adopted by the House proved to be popular. It afforded greater facility for the examination of pending bills. It gave opportunity for each member to be heard, if not on the floor of Congress, certainly in committee. It involved a more equitable division of the work of legislation than had before been possible.

The Senate is the sole legislative body in the world participating in the executive functions of government. In fact, the functions of this body were considered at the outset largely executive. It did not immediately follow in adopting the committee plan of the House, and, for the first five years of the American Congress the Senate sat with closed doors, engaged with business transmitted by the President.

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<sup>1</sup> Senator Geo. F. Hoar.

Not until 1816 did the Senate appoint standing committees. At first the number was small, but it has been so largely increased that, to-day, the legislative machinery of the Senate comprises fifty-five standing committees, and eight select committees.<sup>2</sup>

These sixty-three committees very thoroughly cover the great field of Congressional jurisdiction. As a rule, the name of a committee is determined by the subject-matter to be considered; as, *e. g.*, Post-Offices and Post-Roads, Naval Affairs, Territories, etc.

Very naturally, the composition of the Senate committees is controlled by the Senate, one of its standing rules being, that "in the appointment of standing committees, the Senate \* \* \* shall proceed by ballot to appoint severally the chairman of each committee, and then by one ballot, the other members necessary to complete the same."

However, since 1840, it has been the practice for both caucuses of the majority and minority members of the Senate each to name a "steering committee," composed of from five to nine Senators. These steering committees name for their respective caucuses a Committee on Committees which prepares a list of chairmen and a schedule for membership of all the committees. In compiling these lists the rule of seniority of service

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<sup>2</sup> STANDING COMMITTEES—Agriculture and Forestry; Appropriations; Audit and Control the Contingent Expenses of the Senate; Census; Civil Service and Retrenchment; Claims; Coast Defenses; Coast and Insular Survey; Commerce; Corporations Organized in the District of Columbia; District of Columbia; Education and Labor; Engrossed Bills; Enrolled Bills; Establish the University of the United States; Examine the several branches of the Civil Service; Finance; Fisheries; Foreign Relations; Forest Reservations and the Protection of Game; Geological Survey; Immigration; Improvement of the Mississippi River and its Tributaries; Indian Affairs; Indian Depredations; Interoceanic Canals; Interstate Commerce; Irrigation and Reclamation of Arid Lands; Judiciary; Library; Manufactures; Military Affairs; Mines and Mining; Naval Affairs; Organization, Conduct, and Expenditures of the Executive Departments; Pacific Islands and Porto Rico; Pacific Railroads; Patents; Pensions; Philippines; Post-Offices and Post-Roads; Printing; Private Land Claims; Privileges and Elections; Public Buildings and Grounds; Public Health and National Quarantine; Public Lands; Railroads; Relations with Canada; Relations with Cuba; Revision of the Laws of the United States; Revolutionary Claims; Rules; Territories; Transportation Routes to the Seaboard.

SELECT COMMITTEES—Additional Accommodations for the Library of Congress; Five Civilized Tribes of Indians; Industrial Expositions; Investigate the Condition of the Potomac River Front at Washington; Investigate Trespassers upon Indian Lands; National Banks; Transportation and Sale of Meat Products; Woman Suffrage.

has much to do with the assignment of committee chairmanships; the Senator having the longest period of consecutive service upon the committee is ordinarily entitled to the chairmanship of that committee, when the organization belongs to his party. Thus, we find States of the Union, which continuously return the same Senators to Congress, become, by this unwritten rule of seniority, possessed of the most important chairmanships, which fact naturally gives those States some advantage in directing the course of legislation.

Of the entire Senate, the average number of standing committees to which each Senator is assigned is six. Yet, many Senators have places on seven different committees; and at present, two Senators serve on eight committees. This is in striking contrast with the practice in the House, where each member, as a rule, is assigned to only one or two committees, and rarely to three.

It does not follow, however, that the Senator having the largest number of committee assignments is the oldest or the most influential. On the contrary, many Senators as they age in the public service drop some of their minor committee assignments, and confine themselves to a few of the most important committees, where their efforts can be best applied and prove most effective. Rarely is it possible for a Senator to obtain assignment to two of the leading committees simultaneously. A notable exception to this rule is Senator Allison, of Iowa, who is chairman of the Committee on Appropriations, the most powerful committee in Congress, and, also, is a member of the Committee on Finance, the committee next, perhaps, in importance.

The slate prepared by this Committee on Committees is submitted to the party caucus convened in secret session, and when ratified by a majority of the caucus, is forced through the Senate by a strictly party vote. Reorganization of committees usually occurs at the beginning of a Congress, and attempts to change their organization have given occasion for celebrated political fights and compromises. The last complete organization of the Senate committees occurred in 1895. Neither the Democratic nor the Republican caucuses had a clear majority in the Senate, and the balance of power was wielded by six Populist Senators. The Republicans were enabled by a combination to possess themselves of the committee *chairmanships*, but many of the committees were composed of a majority adverse to Republican policy. An illustration of this was afforded by the Committee on Finance, which, although presided over by a

distinguished Republican Senator,<sup>3</sup> reported favorably a bill for "the free and unlimited coinage of silver." The custom is for the dominant political party to name the committees so that each committee shall have a majority in accord with its political faith. Thus, the Committee on Finance, with a membership of thirteen Senators, as at present constituted, is composed of eight Republicans and five Democrats, with a Republican chairman. But, an exception to this rule is found in several of the smaller non-political committees, some of which are assigned to leading Senators of the minority, out of respect for their long service in the Chamber.

The Committee on Rules assigns one or more rooms to each committee. These committee rooms, for the most part, are located in the Senate wing of the Capitol, and are furnished much like private apartments. The old oblong committee tables—many of them historic boards—have been gradually displaced, and the committee rooms more or less closely resemble private libraries, sumptuous with mahogany furniture, leather-covered chairs and handsomely bound books.

Upon assuming the chairmanship, a Senator takes possession of the room assigned to his committee, and during his chairmanship it remains not only the home of his committee, but his personal headquarters, whence he may direct the conduct of political affairs in his State.

Each committee is provided with a clerk, whose pay ranges from \$1,800 to \$3,000 per annum. Occasionally a committee has an assistant clerk, with pay at from \$1,800 to \$2,220, a messenger at \$1,440, and a staff of other assistants, according to the importance of, and amount of work before the committee.

Each bill has (as a matter of course) two readings in the open Senate, after which it is referred to the committee having jurisdiction of the subject-matter of the bill. Often questions of doubt exist as to which committee a given bill should be referred. The fate of a bill may depend upon what committee it comes before—whether it must face a tribunal of friends, or of foes. A recent example is the bill now pending in the Senate, providing that a ten per cent tax shall be imposed upon oleomargarine and its products. This involving a question of taxation, the Committee on Finance ordinarily would be entitled to consider the measure; but the real purpose being to adopt a new agricultural policy, *i. e.*, that of destroying the trade in imitation butters by the imposition thereon

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<sup>3</sup> Hon. Justin S. Morrill.

of a prohibitive tax, carried the bill to the Committee on Agriculture.

Questions as to the reference of bills are determined by the Senate, but rarely is there difficulty, since bills are customarily referred "appropriately referred" under the rule at the time they are introduced. In addition, all petitions, memorials, and papers relating to bills are sent to the appropriate committee for consideration when the committee takes up the bill.

After introduction and reference in the Senate Chamber, the original draft of a bill goes to the desk of the Secretary of the Senate, where a record of it is entered, and on the following day a printed copy is delivered at the room of the committee to which the Senate ordered the bill referred. The bill can then be said to be in the possession of the committee.

After the clerk has docketed each bill and its accompanying papers, the usual routine is that all bills relating to an executive department of the government shall be referred to the head of the department concerned. Thus, bills sent to the Military Committee are, under a standing order adopted by the committee, referred to the Secretary of War for recommendation. Upon the return of the papers the chairman usually assigns the bill to a *sub-committee* of his committee. These sub-committees are composed usually of from two to five Senators, who, more or less informally, discuss and amend the bill and draft their report. Both the bill and the report are presented at a meeting of the full committee, passed upon, and a report, either favorable or adverse, ordered to be made to the Senate. Oftentimes the minority of a committee disagreeing with the majority, will file a "minority report," setting forth the reasons of their dissent.

An individual Senator, by his ability and special aptitude for particular branches of legislation, is sometimes permitted by his colleagues upon the committee, to perform the functions of both committee and sub-committee. Thus, Senator Vest, of Missouri, a strong partisan in a Senate overwhelmingly opposed to him politically, possesses by courtesy of the Committee on Commerce, of which he is a member, the privilege of passing for that committee (except in cases where there is a contest) upon bills relating to the bridging of navigable waters of the United States—a very important function of Congress.<sup>4</sup>

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<sup>4</sup> "The clerk shall refer all bills on bridges to the War Department."

"All bridge bills, with the returns thereon from the War Dept., shall be referred to the sub-committee on bridges, with authority, in event they agree,

Frequently, cabinet officers appear voluntarily, or by invitation, before a committee or sub-committee, to explain certain legislation which they desire, and are interrogated by members of the committee.

The chairman of a committee relating to one of the executive departments is an important factor at the department. He is brought into close relations with departmental affairs and with the Secretary, and frequently becomes his constant adviser. This is especially true of committees which consider appropriation bills, and subjects more nearly executive than legislative. Officials of the departments concerned are careful not to incur the disfavor of the chairman or any of the members of the committee, in each house of Congress, upon which they depend for appropriations and for special legislation.

The importance of this contact of the legislative with the executive departments of the government is forcibly illustrated in the relations which the chairman of the Senate Committee on Foreign Relations bears to the President and the Secretary of State, in formulating the foreign policy of the Administration. The Senate shares with the President the treaty-making power, which the Constitution declares to be a part of the law-making power. The Senate thus secures a general control over the foreign policy of the Administration. Treaties which have been signed are submitted to the Senate for ratification, and find their way to the Committee on Foreign Relations. It usually behoves the President to keep in touch with the majority in the Senate, and feel its pulse as to treaties in progress of negotiation. This is naturally done through the Committee on Foreign Relations, and its chairman is often consulted in advance upon the course negotiation should take to obtain the approbation of his committee and of the Senate.

A recent illustration of the watchfulness of the President in this particular is the negotiation of the Treaty of Paris in 1898, where not only did the President consult Senators, but *three* of the *five* Peace Commissioners appointed to represent him in the negotiations with Spain, were *Senators*. Thus, the late Senator Davis, then chairman of the Senate Committee on Foreign Relations, and two of his colleagues on that committee, negotiated for the Executive a treaty which they soon after passed upon in the exercise of their duty as Senators—a pro-  
and there is no contest, to report the same to the Senate." (Standing Orders of Committee on Commerce.)

This sub-committee, at present consisting of Senators Vest, Elkins and Jones, generally permits Mr. Vest to act without consulting the other members.

ceeding which has been characterized as "packing the court." This action of the President has been severely criticized, both in and out of Congress, as an invasion of the rights of the Senate, and bills have been introduced declaring for the future that such a proceeding shall be unlawful.<sup>5</sup>

A committee does not possess the right to originate a bill, but it may, in effect, originate legislation by causing a bill which it wishes to consider, to be introduced and referred to itself. A committee can formally amend a bill as it may choose. In this way the committee may practically originate legislation by striking out the substance of a bill that is being considered, and inserting a measure radically differing from the original. The latter course was adopted by the Senate Committee on Finance in the tariff debate of 1888. The House sent to the Senate the "Mills Bill," which was based upon free-trade principles. The Senate Committee on Finance, controlled by a majority differing politically from that in the House, struck out the entire bill after the enacting clause, "*Be it Enacted,*" etc., and inserted a substitute framed upon high protective tariff principles. It is matter of history that tariff revision at that time failed, and that the Senate amendments of 1888 were, in 1890, substantially embodied in a law, since famous as the "*McKinley Bill,*" or the Tariff of 1890.

A committee does not possess the right to formally extinguish a bill, but it can practically accomplish this by reporting adversely, and recommending that consideration of the bill be indefinitely postponed, or, by delaying a report until late in the session, or, by failure to report.

Amendments to a pending measure are often submitted to the committee by the departments concerned, or by private persons, and associations, and hearings are often given by the committee, or a sub-committee. Moreover, lawyers make an honorable and lucrative livelihood by practicing before Congressional committees, not often in the attempt to unduly influence legislation, but to fairly present the claims of their clients.

Meetings of the committees are held, during sessions of Congress, usually in the forenoon, the meeting hour of the Senate being 12 noon. However, they often gather in adjourned

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<sup>5</sup> Compare: "No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office." *U. S. Constitution*, Art. I, Sec. 6, 2.

or extraordinary session at their respective rooms, so that during an uninteresting debate upon the floor of the Chamber, with but few Senators present, several committee meetings may be in progress simultaneously. They may also sit during recesses of Congress, and are frequently convened in cities remote from the Capitol.

The fact that the real business of the Senate, except perhaps close party questions, is settled in committee, in advance of its discussion in the Senate Chamber, has occasioned much comment. A recent writer has called attention to the fact that division of responsibility between Congress, the committee, its sub-committee, and the Executive, is responsible for much defective and inharmonious legislation. It is said that the interest of Senators centres less in the proceedings upon the floor, and more in the committee—a course which tends to generate a spirit of carelessness. But, the committee system is purely a creature of necessity. In each Congress the Senate has before it between five and ten thousand bills,<sup>6</sup> many of which involve large expenditures of public funds; and each bill requires much labor, close scrutiny, and the exercise of careful discretion, all of which the committee system apparently supplies. So enormous is the accumulation of bills before some of the committees, that it has been necessary to appoint from the committee standing sub-committees upon branches of the work of the committee. And, in one case at least (Committee on Commerce) there is a sub-committee of a sub-committee. The report of a sub-committee of course possesses great influence over the full committee, and the report of the full committee upon a measure carries with it great prestige. So, it may transpire that the findings of one or two Senators, considering a bill as a sub-committee, eventually become the judgment of the Senate itself.

It is difficult to conceive how the Senate could exist without its committee system, or some equivalent therefor. Over against the criticism of those who, from the seclusion of their libraries, are inclined to cavil at the enormous power apparently reposed in the hands of the chairmen of a few important committees of Congress, may be opposed the steady check-rein placed upon those chairmen by their opponents both in committee and upon the floor of the house, and especially the vast amount of valuable work which Congress, with ability and thoroughness, actually accomplishes.

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<sup>6</sup> FIFTY-SIXTH CONGRESS: 

Senate—	Number of Bills,	6,955
House—	“	15,195
Total,		22,150