

Can Congress Reorganize Itself?

by Alfred de Grazia
New York University

Can Congress Reorganize Itself?

I. The Background

Western man used to give over a goodly amount of intellectual energy to his spiritual salvation. "We are ineradicably sinners," he would proclaim, and still feverishly set to work to write better catechisms of virtue.

Then the irreligious tides of the Enlightenment caught him up, and he "sang in his chains" of perfectability on earth. Man could create not only a good moral relation to his neighbors but also secular social institutions to match his potential for virtuous happiness.

Man dropped the notion of sin and picked up the idea of cure. Man was sick, not wrong. He needed cures. Institutions had to be analysed, not condemned. Modern man began to cool off. There developed a new vocabulary to match him. Sick is a cooler word than sin; inefficiency is a cooler word than corruption.

Contemporary western upperclass man has gone a step farther. He is quite cool. He has moved from sick to sin to cynicism; he has moved from corruption to inefficiency to indifference in his view of institutions, and that is where our story of Congress begins. It begins where ideology ends, -- or where ideology appears to end.

For in history, major phenomena linger indefinitely long. So, to begin, the problem of reform of any institution must cope with three elements in contemporary times; the body of intellectual cynics and indifferent, constituting what is usually regarded as advanced thought, the legions of the experts who believe that technical solutions may be found for essentially moral problems, and the myriads who search for corruption and wickedness in social problems and who would cure ills by epithet enacted into law.

This is a high-flown way to introduce a subject that is in the newspapers everyday but at the very least it can help one understand what the reorganization of Congress is up against: Congress is a low-brow, middle-brow and high-brow all American institution -- it is subject to the attentions of those who would cure it with a blunt ax, again those who would put a scalpel to it without asking what the disease is,

and those who laugh and laugh, especially while sucking on a cube of LSD.

The ideal reorganization of Congress, or report about and recommendations for such a reorganization, should, if our analysis of the situation is correct, set up a few monsters -- but not too many -- and appear to use an ax upon them; it should dress some important controversial problems in technical language and provide them with efficient solutions; it should not pretend to too much lest it be the butt of ridicule. Naturally with all this it cannot read like Earnest Hemingway nor can it fly its full complement of colors. Though in a sense a scientific report, it must (as ever with most scientific reports) be propagandistic.

The ideal that I have sketched thus far has been a practical one suited to one or another of the fundamental theories of what Congress should be. So one more point, the most important one, about the ideal reorganization report: it should have some philosophy in mind. When all is said and done, the ideal report on Congress should propose changes that are in accord with our philosophy of government and society, and these changes should be stowed away in a linguistic vessel that can survive the rough seas which it must encounter.

The Final Report of the Joint Committee on the Organization of the Congress of the United States in the 89th Congress (the Monroney-Madden Committee) scores high on all counts. It has a philosophy, to our view a correct philosophy, and does just about what a report is able to do and puts it in an unusually saleable form.

II. The Report Itself

The most important feature of the Report of the Joint Committee is that it does not surrender the powers and abilities of Congress in the name of reform. Underlying the whole report, and it is remarkable that the minority and majority expressions hardly differ in this regard, is a conviction that the way to strengthen Congress is to improve its capacity to operate independently of the executive branch and even of the political parties.

The present Committee's Report, devised in an atmosphere of indifference from the larger community and even from the Congress and perhaps because of the very fact that large controversy did not generate around it, is consistent in its philosophy.

It does not tie the Congress to the President to the disadvantage of Congress. It offers nothing that tends to the pre World War I British model, which has survived in the textbooks and in the ideology of professors long after its historical demise and even after the actual condition of British politics seems no longer to be worth emulating.

It does not increase political party control over the individual congressmen, despite other trends in the country that go to produce such control. Indeed, there appears to have been, consciously or unconsciously, in the minds of committee members and other experts on the legislature a growing schism between the notion of a party majority or party rule, and a legislative majority and majority rule. I believe this distinction has advantages. In committees or in procedures for governing the whole assembly, legislative democracy appears to me to be a superior objective to party democracy.

It begins the task of building up separate congressional services to protect Congress from being over-influenced by the executive branch. A permanent review specialist on each committee staff would be authorized. "He is to assist the committee in determining that existing programs are being efficiently administered in accordance with congressional intent. He would report annually to his committee. Such an official might become ultimately an important institution of democracy. He would be capable in time of amassing

powerful evidence to counteract the pro-executive documentation continually being brought forward. Furthermore, these review reports are to be provided to the leadership of the Congress and forwarded to the Bureau of the Budget and the President."

It breaks ground for the introduction of automatic data processing into congressional operations. I quote from the Report:

"The Joint Committee on Congressional Operations shall be authorized and directed to explore and evaluate automatic data processing and information retrieval systems, with a view to determining the feasibility of their use in congressional operations and recommending such installations as may be found appropriate."

We also find an interest in automatic data processing in connection with budget information:

"In order to facilitate the utilization by Congress of automatic data processing capabilities and modern program evaluation techniques, the General Accounting Office shall develop systems design and cost-benefit analysis capabilities necessary to meet adequately the needs of the Congress. To facilitate performance of this responsibility, the GAO shall arrange to provide the functions described below:..."

"Our budgetary process urgently requires the systematic employment of modern automatic data processing techniques. Extensive use of these techniques can provide the Government with essential fiscal and budgetary data, vastly improve the evaluation of these data, and make this information more accessible to individual Members.

Automatic data processing now makes it possible to sift millions of individual budget items and make selective inquiry in specific fields. Duplication of effort will be more easily discovered. Norms of performance can be established for comparable activities. It may someday be possible to achieve a quality of budget review which would today seem sheer fantasy.

ADP, however, offers no panacea to congressional budget problems. We must know the right questions to ask, and be able to interpret the data properly. This will require trained staff and an increased awareness by Members themselves as to the means of utilizing this vast storehouse of information."

I quote at length here because the language of the Report is adequate to show an awareness both of the need and of the limits of automatic data processing.

The desire for improved research services extrudes prominently in the Report.

- a. Employment of outside consultants by standing committees would be authorized. (p.22)
- b. Professional competence of committee staff is stressed. Both by pre-qualification and by in-service training. (pp.20-21)
- c. The Legislative Reference Service is relegated to a small response-routine role in a more serious and important legislative Research Service, a proposal that probably will please the LRS itself.

A sense of constructive activity in the control of the fiscal operations of the executive branch is noticeable. The Committee proposes to inventory and classify all federal activities and to gather information regularly on them, for computational and analytic purposes. New cost-effectiveness techniques are proposed. Multiple year financial projections are suggested. These should help the long-range planning of Congress.

The organization instrument for the new techniques is to be the General Accounting Office. This arouses some questions in my mind. Admittedly the GAO is there -- very much there, and congressmen and professors are used to turning to it. But without considerable redesign of functions the GAO probably cannot march successfully into the future of modern general fiscal management. It is, we all know, too bogged down in details of accounting.

The beginnings of a public projection of the image of Congress are manifested.

1. Legislative committees are asked to hold hearings on major reports required of the Executive. (p. 24)

2. A Joint Committee on Congressional Operations would be formed "with new and important functions that involve the Congress as an institution, as well as continuing scrutiny of its organization and operations, including implementation of the present recommendations." (p. 45) It would be a kind of catch-all, and besides would conduct a continuous study of Congressional operations and would ensure that the collective interest of Congress is represented in relevant court proceedings.

In time, I believe, these functions would increase in number and significance.

Committee government is reinforced. There is a definite consensus now in Congress, and it is up to political scientists to observe, criticise and readjust their sights to this, that neither a Congress of equals nor a kind of "Joe Cannon Congress" nor a presidential Congress should be the structural ideal, but that the weight of rule should be centered in the committees -- in the House, of course, to a larger extent than in the Senate. Once the committee system may be made to function well, it is felt, Congress will have attained the optimal form of organization for maintaining its representative, its operational, and its supervisory functions. The Report in this connection bolsters the rules for providing true member participation and majority-rights in committee decision-making. (pp. 8-14) Open hearings are encouraged. (pp. 10-11)

There is a daring yet realistic attempt to bring about a stronger minority presence in the government, and especially upon Committees.

1. Committee staff is guaranteed to minority members.
2. A minority view would even give the minority a set of committees for reviewing the administration. I would oppose this not because a duplicate set of committees would arise, but because this would set up a stiff party-adversary scheme. Witch-hunting kinds of investigation would be encouraged. And a false front would be lent to the opposition and incumbent party, confusing the public to the issues involved. If the minority in a committee is strengthened, it can usually influence one or another majority leaders of the committee to go

after a delict in an agency. Granted credit might go to the majority party but discredit would go to the presidency. In the resulting expected confusion of partisan motives, the honest motive of public criticism is likely to prosper.

The Joint Committee has to say something about conflicts of interest and ethical problems. There is always an avid audience for discussions of this theory of reforming Congress, as I have indicated. The Committee commendably advances quickly into and out of the subject, except for a dissent from Senator Case who fashions out of morality the foundation of his theory of Congress.

For the ethics of congressmen are a function of the ethics of their constituencies, of the spread of moral practices and beliefs in the country as a whole, and of the degree of centralized rule and what is convenient to those who hold the centralized rule in the legislature.

If individual congressmen count for little then ethics of their behavior cannot be very consequential, since they would have nothing to sell. (Thus it is with the rank and file of the British Parliament.) If they are subject to a strongly centralized party and executive domination, then congressmen would automatically and often be called to account on whatever principles of ethical conduct the leadership presumes proper; this is the situation among the leaders in the English Parliament and Government. The American way permits a great deal of leeway in the interpretation of conflicts of interest and moral conduct among congressmen, consonant, I think, with the wide spectrum of ethical values found in the country and consonant also with the almost intuitive knowledge among congressmen that the power to be a moral judge is a power to be a judge in many causes and that, therefore, such power would constitute a step towards the general integration of Congress under a central oligarchy or the presidency.

The role of the two parties in this Report might be referred to. Generally the philosophy of the Report including the Republican views is an integrated one and subscribed to by men who take rather different positions on issues. This is so much the case that political scientists, politicians, and judges who belong to the school of indifference, who believe that "institutions don't matter against issues", might take a second look into their views. A great many congressmen, aside from their positions of

issues (regrettably so in many cases), subscribe to the principles of a strong independent Congress with a new wide range of freedom of action and constructive controls over the executive branch and the enforcement of law. It may be, therefore, that this rather inconspicuously-produced and offered Report will receive formidable support in the two houses of the legislature.

III. The Reaction of Political Scientists

What posture might political scientists and the community of legislative experts generally take on the Report of the Joint Committee?

I think it would be unfortunate to let cynicism and indifference prevail. Congress is as reformable as any person or other institution. It has greater possibilities of self-reformation than most institutions, by its very nature, since it is its own control system.

The more cynicism and indifference outside, the more within, of course, and therefore the expression of expert individual opinion in furtherance of the Committee's work should have some impact.

Others besides the indifferent, inside and outside of Congress, who might be persuaded to act positively: there are the strict constitutionalists, or static constitutionalists, some would call them, who might under certain conditions join together with those who hold safe and comfortable seats and together block by sheer inertia a program of action. These too, I believe, can be moved if only because the constitutionalists can rightly feel that for the first time in generations a conception of Congress akin to that visualized in the first years of the republic is given modern and effective form.

The chief problem of opposition to the Committee's Report would be expected to arise from the presidential party in Congress. In this group are those who believe only the president can run the country, that the executive agencies need a freer hand and more money, that current issues such as poverty and inadequate education are too important and their remedy too well known to let any discussion of the mode of solution cause any hesitation in acting upon them.

It is naive to think that this opposition to congressional reform will be completely overcome. (There is no question, for example, that on the key issue of a four year House term tied into the Presidential election, many congressmen would in effect sign the death warrant of Congress in the name of curing its defects.)

Still political scientists with their longer view, and more time, and obligation to think things through to the end, can engage in a healthy form of stock-taking. They would first of all have to ask themselves seriously whether American Democracy can exist unless Congress is much stronger than even the present Congress.

They can inquire whether Congress should not expend a couple of hundred millions of dollars a year, not a couple of millions, in institutionalizing and rationalizing the processes of scrutiny, control, government of the executive agencies.

The political science profession should consider further whether we have made enough studies of the growth and decline of the thousands of publics that constitute the American civic society. That is, have political experts developed what John Dewey, Mary P. Follett and others called for long ago, a responsible science of the democratic public? Political scientists should furthermore study the impact on government by legislature of the sort of administrative science that has dominated political science and governmental administration for many years.

Empirical positivist political scientists, furthermore, often want to study only facts without regard to applications. But, nowadays, we can sympathize with their dislike of political science of the evangelical and highly moral type, the kind that cannot wait for an issue to be born before swearing a crusade on behalf of one or the other side of it. Moreover, they are, in ways that they scarcely realize, frequently deluded by a conventional set of values. Political science is no less a science for performing systematic applications. It is more of a science too when it can be applied on both sides of issues. It is most scientific when its language, its approach, and its expectations are cool, smooth, exacting, continuous, systematic, and complete.

Political Scientists have a new kind of Congress cropping up in the pages of the Joint Committee Report. They should enjoy the challenge to help it grow up and flourish.