

Congressional Control of the Executive Branch

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It is conflict established by the Constitution of the United States that Joseph Harris analyses in **Congressional Control of Administration** (Brookings Institution, Washington, D.C., 1964. 318 pp. \$5.75). The provisions in the Constitution that the Executive and Legislative branches should share certain powers and contend for others set up a competition that has endured, more or less actively, since the beginning of the Republic. But its initial advantages, such as the appropriating power, have enabled the Congress gradually to bend the President to its will. Legislative forays have grown bolder and more irresponsible. Harris is one in a long list of political scientists who find this deplorable. As the consequences become more serious, this situation becomes positively frightening to a serious student.

This book is, however, more than a protest. It is a careful, if brief, review of the means used to hamper and to control the Executive branch. Without having such a purpose, it nevertheless furnishes convincing evidence that structural change alone can end the abuses that it details. When the government was one of limited duties and small personnel, Presidents could meet congressional aggression with some success, although from the first the pattern was evident. But Presidents burdened by the multifarious responsibilities they now must carry are more and more inclined to compromise, and the Executive branch is losing ground.

Legislative devices for control have been repeatedly exposed, but Harris is still able to say of one of them, budgetary review, that "When Congress reviewed and voted on the proposed budget expenditures submitted by President Kennedy for fiscal year 1963 (preliminary actual \$92.6 billions), its procedures were essentially the same as those employed for fiscal 1922, when the new national budget system became effective and expenditures were \$3.3 billion" (p. 104).

The Congress is a static institution in a dynamic society. It was thought that, when the arduous campaign for a federal budget was at last successful (in 1921), the President and the Congress could join to formulate and carry out governmental projects. Actually, proposals coming to the Congress from the Bureau of the Budget were received with suspicion and torn to tatters by examining subcommittees. And the situation at present is such that it can be summarized as follows: "The ten or more appropriations subcommittees in each house consider expenditures at different times and largely independently of each other, and the numerous appropriations bills they annually report to Congress are also considered separately and at different times. Neither house, as a rule, discusses the bills in an effective manner. The House hurries a bill into debate before the public and even other members become aware of what the issues are; the Senate debate, coming late in the session, is more often than not perfunctory. From beginning to end of the process, minimum attention is paid to the budget as a whole" (p. 102).

Riders, Ropewalks, and Shenanigans

And it is well known that the appropriations process is only one of those used by the Congress for interference. It is, however, one of the most important. This is because of the extraneous attachments that are frequently added—for example, the astonishing requirement cited by Harris (p. 89) that the subcommittee in charge shall be consulted *before* decisions are made. Often detailed and specific instructions concerning administration have been included in appropriation bills, but the demand that the law be administered under the supervision of a subcommittee chairman reduces the administrative function to little more than a clerky one.

This is the situation more than 40 years after the battle for the budget was presumably won. Long frustration has given rise to repeated, almost continual, protests from students of government and has provoked resistance by nearly every President. Even the easygoing Eisenhower more than once refused to accept what he regarded as encroachment on his prerogatives. For instance, when he signed the appropriations bill for the armed services in 1955, he sent a message notifying the Congress that it "had no right to confer upon its committees the power to veto Executive action" and said that he would regard the provisions of the rider (Section 638) as invalid "unless otherwise determined by a court of competent jurisdiction." It is of further interest, however, that the President lost this battle. The Department of Defense submitted to the directions of the rider and did not close the facilities that it felt were no longer needed. Indeed of late these battles are always, or nearly always, lost. The government is too big, too complicated, too loosely managed by a harassed President to resist encroachments.

Even those few students who feel that the powers of the Congress must not be attenuated are forced to admit that power without responsibility is indefensible. To insist that an obsolete Boston ropewalk (and like facilities) shall be kept in operation in order to favor a locality is to put every other consideration before the public interest. And this, for a national legislature, is inadmissible.

Harris' critique is full and damaging. But what is the remedy? No one suggests that a legislature is not needed; and very few any longer prefer (as Woodrow Wilson once did and as others have) a parliamentary system with the Executive as an arm of the Legislative branch. The virtues of the two elected branches with separate but independent power are obvious to those who feel that the pluralism of our democracy is necessary to initiative and so to progress. Yet, unless the Congress can somehow be reformed (as the Executive has repeatedly been in recent decades), the abuses may well continue until they overwhelm the ad-

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vantages. Then, when change comes, it may destroy virtues along with faults.

There is, of course, one formidable obstruction to any change at all. Any alteration of structure necessarily involves constitutional amendment, and this can only be initiated by the concurrence of a two-thirds majority in both houses.

The Parts vis-à-vis the Whole

Largely because no one expects legislators to open the way to any loss of their prerogatives, proposals are frequently made, many of them by experienced legislators who fear for the institution to which they belong, for less drastic reforms.

One of the less admirable facts to be considered is the legislator's loyalty to local and private interests. This goes to the theory of representation. Is it true that the pursuit of these interests adds up to the interest of the whole, as the Fathers assumed? If matters have so changed in a century and three quarters that the whole has absorbed and personifies the overriding desires of citizens for wellbeing and security, then a system that allows the parts to control the whole has become obsolete. This is not pluralism but hidden dictatorship.

The great debate concerning government in the coming decades may well center in this question. It was not Harris' purpose to proceed so far, and it is perhaps inappropriate to suggest such an extension of his conclusions here. He meant only to show how formidable the administrative controls by the Legislative branch have become and how they reduce governmental integrity and hamper its modern mission. But the total effect is devastating. The perversion of the appropriations procedure is a good example of powers used for other than public purposes. But examination of other devices, originally intended as reforms, shows how often efforts are defeated by subterranean machinations. There is, for instance, the audit procedure.

A Comptroller General, responsible to the Congress, was established in the same bill as the Budget Bureau. He was expected to be an auditor, but soon began preauditing; and this enabled him to interfere in administrative decision making. His interferences are responsible for innumerable delays and subterfuges, all stemming from the

extrapolation of powers that the legislators refuse to define and from his desire to follow the wishes of congressional insiders who desire to determine policy.

A device of a different sort is the legislative veto. When Roosevelt signed the Reorganization Act (1939) that gave him the right to rearrange agencies, he assumed that he had gained an important initiative. He was to act and the Congress was to disapprove within a limited time; otherwise what he had done would stand. Students felt that the helplessness of Congressmen in dealing with numerous complex issues had at last had some recognition. It was not exactly a new device; it had been tried in other jurisdictions, but it was new to the federal government.

But see what the old hands in the Congress did to it when they went to work. The rearrangement of the Executive establishment was allowed to involve only those agencies in which Congressmen had no strong interest. First one limitation and then another was attached, all calculated to direct the process. Since 1940 more than 40 bills with legislative vetoes have been passed with such conditions. From the total exemption of certain Bureaus, the legislators progressed to allowing the subcommittees, rather than the Congress itself, to control the reorganizations. Finally, certain chairmen were authorized to supervise without reference even to their committees. But even beyond this there are a long line of "come into agreement" provisions, whose effect is to associate a committee or its chairman with actions to be taken by administrators. This is not supervising: it is participating; it is not legislating: it is administering.

Harris points out the usefulness of this device in placing the offices of governmental installations in a chairman's district, in protecting certain interests in his locality, and in favoring certain policies that he may wish to impose.

If even such devices for reform can be turned so easily to local or private uses and if repeated attempts at internal reorganization—such as the La Follette-Monroney Act of 1946—can be defeated by obstructive tactics or simply by ignoring the law, some more general pressure from outside would seem to be the only recourse.

Whatever the means used, the end clearly to be kept in mind is the separation of legislators from their local and private affiliations in order to turn

them toward the national interest. This need not destroy legislative oversight. Harris states succinctly the desired effect; it should, he says, "seek to galvanize the internal disciplines of the Executive establishment rather than to impose external controls"; it "should set the general direction and limits of policy"; and it should then have the means for holding administrators accountable.

What he proposes for the purpose is a legislative-executive commission "to examine the essential meaning of the oversight responsibility . . . and conduct a searching inquiry. . . ." If this seems a weak proposal after all the assembled evidence, it is possibly because the more rigorous proposal of a citizens' reappraisal seems to him, as it has long seemed to political scientists, unlikely to happen.

The Congress is so well protected from any reform at all that only the second method of amendment provided in the Constitution could conceivably be effective. Amendments have traditionally begun with the familiar two-thirds majority resolutions; but another means is authorized by the constitution. This would allow the legislatures of two-thirds of the States to demand a convention for proposing amendments, which would be valid when ratified by three-fourths of the states. It is a formidable procedure; but a persistently recalcitrant Congress might cause it to be used.

An Authoritative Introduction

Radio Astronomy Today. H. P. Palmer, R. D. Davies, and M. I. Large, Eds. Harvard University Press, Cambridge, Mass., 1963. viii + 242 pp. Illus. \$6.

In the summer of 1962 a school was held at Jodrell Bank by the University of Manchester for the purpose of presenting a general introductory course on radio astronomy. The papers presented by the distinguished group of lecturers have now been published in this pleasing book. In all there are 20 contributions on a variety of topics.

The entire range of radio emissions from the sun is summarized by Paul Wild; after this there is a corresponding report on planetary emissions, by F. T. Haddock, and a discussion of interplanetary radar, by J. H. Thompson. Emission from Mercury, Venus,