A History of the Senate Committee on Appropriations and the Appropriations Process in the Senate

I. THE FIRST CENTURY AND A HALF: 1789–1946

"THE POWER OVER THE PURSE"

The appropriating power of Congress rests upon the authority conferred by Article I, section 9, of the U.S. Constitution:

> No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

The experiences of the Continental Congress left no doubt in the minds of the Founding Fathers about the importance of placing the ultimate control over funds in the hands of those who were directly responsible to the people. James Madison *Federalist Paper* No. 58 cited this point succinctly:

> This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Since adoption of the Constitution, no one has seriously questioned the exclusive right of Congress to appropriate funds or the corollary authority to specify the objects of appropriations and the amounts of specific appropriations. During the 19th and early 20th centuries, however, less agreement existed regarding the degree of control that Congress should exercise over appropriations and over expenditures once appropriations had been made. In 1789, the First Congress made the Secretary of the Treasury responsible for compiling and reporting estimates of the public revenues and expenditures, but failed to give him the authority to review expenditure estimates and to oversee the use of appropriations. During the Presidency of George Washington, Secretary of the Treasury Alexander Hamilton favored wide executive discretion, based on lump-sum congressional appropriations, with the Treasury Secretary having broad authority in his role as a minister of finance and an agent of and adviser to Congress. The administration of Thomas Jefferson, however, took a different approach. Jefferson named Albert Gallatin as Secretary of the Treasury, who

as a Member of the House of Representatives had advocated legislative control over spending through use of specific appropriations. Jefferson's first message to Congress in 1801 spelled out this philosophy:

> In our care, too, of the public contributions intrusted to our direction it would be prudent to multiply barriers against their dissipation by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money varying from the appropriation in object or transcending it in amount; by reducing the undefined field of contingencies and thereby circumscribing discretionary powers over money; and by bringing back to a single department all accountabilities for money, where the examinations may be prompt, efficacious, and uniform.

Acceptance of congressional control in theory, however, did not dissuade the executive departments from seeking loopholes in the law as they spent the funds appropriated. Departments even made expenditures on a deficiency basis, forcing Congress to appropriate new funds for the remainder of a year. They also transferred appropriations without specific authority, let contracts in anticipation of appropriations, and carried forward unexpended balances, despite the enactment in 1795 of a law directing that any unexpended balances should be transferred to the surplus fund. Mingling of appropriations was not uncommon, and the loosest of control was exercised over the use of appropriations once they were made. As early as 1806, John Randolph, the chairman of the House Ways and Means Committee, deplored the decline of congressional fiscal control, stating that appropriations were "a matter of form, or less than a shadow of a shade, a mere cobweb against expenditures."

Congress made periodic attempts to regain authority over the purse strings of the Nation. In 1802, it instituted a postaudit expenditure review, which it strengthened in 1816. An 1809 act (2 Stat. 535, March 3, 1809) required public officials to account for appropriations solely on the basis of the purpose of the appropriation. An 1820 law (3 Stat. 567, May 1, 1820) required the Secretaries of War and Navy to submit annually their estimated financial requirements, together with a statement of the unexpended balances still available from previous appropriations. As time went on, other departments of the Government were required to submit similar information. An 1823 act (3 Stat. 723, January 31, 1823) prohibited the advance of public funds prior to appropriations.

Despite these efforts, an almost constant tug of war between the executive and legislative branches of Government continued throughout the 19th century. While Congress recognized its responsibility to provide legislative oversight of the way funds were used, it was reluctant to impose rigid controls in the event of an emergency. Furthermore, individual members frequently favored

Government activities that would have been restricted by limitations on appropriations.

EARLY DEVELOPMENT OF APPROPRIATIONS PROCESS

In the first two congresses, the general appropriations were made in single bills. The first appropriations bill of record, in 1789, appropriated $639,000 and read as follows:

> An act making appropriations for the service of the present year.
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> Section 1. Be it enacted, etc., That there be appropriated for the service of the present year, to be paid out of the moneys which arise either from the requisitions heretofore made upon the several States or from the duties on impost and tonnage, the following sums, viz:
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> A sum not exceeding $216,000 for defraying the expenses of the civil list under the late and present Government; a sum not exceeding $137,000 for defraying the expenses of the Department of War; a sum not exceeding $190,000 for discharging the warrants issued by the late board of treasury, and the remaining unsatisfied; and a sum not exceeding $96,000 for paying the pensions to invalids.

Beginning in 1791, Congress—always alert to protect its constitutional powers to appropriate funds—frequently made appropriations for a particular purpose, using funds derived from a specific source. One instance illustrates these points: in February, 1791, President George Washington sent to the Senate a message indicating that he intended to ransom U.S. citizens held captive in Algiers and seeking an appropriation "on your earliest attention" for the recognition of the treaty with the new emperor of Morocco. In response, the Senate advised the President by resolution to suspend any effort to ransom the captives until funds were appropriated, and it adopted an appropriation of $20,000 for the purpose of recognizing the emperor, with the funds to be derived from duties on distilled spirits. Continuing the trend towards specific funding measures, Congress in 1794 enacted a separate appropriation for the army, and 5 years later, in 1799, passed an appropriation for the navy.

THE SENATE FINANCE COMMITTEE

In the early years of the Republic, the Senate did much of its legislative work through temporary ad hoc committees specially appointed to handle bills, including appropriations requests. By 1815, the Senate had authorized between 90 and 100 such special committees, while creating only 4 standing committees, which were administrative rather than legislative in function.

Then, in 1816, the Senate adopted a new system. On a motion by Senator James Barbour of Virginia, the Senate added 11 standing committees to the 4 already established. One of these was the Committee on Finance, which for the next 50 years handled appropriations bills. While this arrangement provided some of the need-

ed legislative coordination, the executive branch still had no unified budgetary procedure. No single office was responsible for preparing and coordinating the estimates for appropriations. Instead, each department of the Government requested the amount it believed necessary to fund its programs.

During the ensuing decades, Congress enacted many laws to wrestle with what was termed ''the usurpation of control by the departments of the Government.'' With little success, legislators adopted procurement and contracting regulations, transportation and salary restrictions, and even expenditure limitations. In the years from 1846 to 1848, Government operation costs skyrocketed, as the war with Mexico engaged the Nation's attention. Total expenditures rose from $22 million in 1845 to $57 million in 1847, and deficits in 3 years aggregated a higher total than any since the War of 1812. Probably as a result, the Senate on December 19, 1850, adopted the first legislative limitation on appropriations, embodied in Rule 30 of the Senate [1], which read as follows:

> No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or in pursuance of an estimate from the head of some of the departments; and no amendment shall be received whose object is to provide for a private claim although the same may have been previously sanctioned by the Senate.

Over the next few years the Senate modified this new rule. Most notably, in 1852, the Senate amended the rule to permit unauthorized appropriations to be moved by direction of a standing committee of the Senate; and, in 1854, it expanded this authority to Senate select committees.

A decade later, the increased Federal Government expenditures incurred during the Civil War dwarfed those from the war with Mexico. For 8 years, between 1858 and 1865, the Treasury Department showed a deficit in Federal balances that reached $963 million in 1865. That year, for the first time, expenditures passed the billion-dollar mark, and, in the following year, the interest on the public debt rose about $100 million. During the Civil War period, the Federal Government spent millions of dollars without Congress making appropriations, in what is generally regarded as the high-water mark of the exercise of executive power in the United States. The exigencies of the moment frustrated congressional attempts to control the purse, as the President wrote, ''I feel that measures, otherwise unconstitutional, might become lawful by becoming indispensable to the preservation of the Nation.'' Once

[1] Rule 30 was framed in terms of amendments to general appropriations bills because the custom (based on the House's insistence) was for the Senate Finance Committee (and later the Appropriations Committee) to amend the House bill rather than originate a Senate bill.

the national danger subsided, however, Congress reasserted its constitutional rights and directed its attention to control of appropriations.

CREATION OF THE SENATE COMMITTEE ON APPROPRIATIONS

At the beginning of the Fortieth Congress in March 1867, Senator Henry B. Anthony of Rhode Island offered a Senate resolution providing for the creation of "a Committee on Appropriations, to consist of seven members." His purpose was "to divide the onerous labors of the Finance Committee with another committee" by separating the tax-writing and appropriating processes. The House had already established an Appropriations Committee 2 years earlier. Without further discussion, Anthony's resolution was considered by unanimous consent and agreed to, giving birth to the Senate Committee on Appropriations on March 6, 1867. The lack of Senate debate over the proposed resolution indicates that Members recognized the need to control the appropriations process, as well as to ensure better management of Government spending by giving one committee the sole responsibility to examine executive agency budget estimates. When the Senate approved the membership of its standing committees the next day, it named the following members to the new Committee on Appropriations:

Lot M. Morrill of Maine, chairman
James W. Grimes of Iowa
Timothy O. Howe of Wisconsin
Henry Wilson of Massachusetts
Cornelius Cole of California
Roscoe Conkling of New York
James Guthrie of Kentucky

Senator Anthony then offered a resolution to amend Rule 30 of the Senate, to which relatively minor changes had been made in 1852 and 1854. The new resolution was far-reaching:

Resolved, That the 30th rule of the Senate be amended by adding thereto the following words, namely: "And all amendments to general appropriation bills reported from the committees of the Senate, proposing new items of appropriation, shall, 1 day before they are offered, be referred to the Committee on Appropriations; and all general appropriation bills shall be referred to the said committee."

This resolution, which the Senate agreed to without debate, gave the committee an opportunity to examine all proposed amendments, thus precluding spontaneous floor amendments. On the first appropriation bill reported by the committee, Senator Lot Morrill raised a point of order—which the Senate sustained—

against a floor amendment about which the Committee on Appropriations had not received prior notice.[2]

The operations of the newly formed committee were in many ways similar to those in practice today. To handle the various appropriation bills, the committee soon established 13 subcommittees, with three members assigned to each, responsible for the following topics:

Agriculture
Army
Deficiencies
Diplomatic and consular
District of Columbia
Fortification
Indian
Legislative
Military Academy
Navy
Pensions
Post Office
Sundry Civil

In the Senate, as in the House, the Committee on Commerce continued to handle the rivers and harbors appropriation bill, which had been provided for as a separate bill since 1826 and was not considered a "general" appropriation bill.

FISCAL REFORM POLICIES

Once created, the House and Senate Appropriations Committees moved promptly to correct loopholes in the way appropriated money was used. They first attacked the problem of commingling and transferring funds. As the power of the Presidency had waxed or waned between 1817 and 1868, Congress had passed at least 11 measures either limiting, regulating, or extending the power of the President to transfer funds from one object of appropriation to another. At the insistence of the Senate Appropriations Committee in 1868, an amendment to a deficiency appropriation bill repealed all acts authorizing the transfers of appropriations. On the floor, the bill was further amended to forbid using money for any purpose other than that for which it was appropriated, although unexpended balances could still be employed for purposes similar to those for which Congress had appropriated the funds. The legislation became law on February 12, 1868 (15 Stat. 35).

[2] This measure, the first appropriation bill ever considered by the Senate Committee on Appropriations, was S. 83, Fortieth Congress, originating in the Senate. It was amended in both houses and in the conference. Only one of the three conferees, Senator Morrill, was a regular Appropriations member. Along with other items for the Senate, House, and executive branch, the bill contained $2,898 for the salary (covering approximately 16 months) for the clerk of the Senate Committee on Appropriations. President Andrew Johnson signed the bill into law on March 29, 1867.

A further problem not addressed by the 1868 act continued, however, because executive agencies often tapped unexpended balances in years subsequent to those for which Congress had appropriated the money. Because this practice made it virtually impossible for the Treasury Department and Congress to ascertain the exact amounts of these unexpended funds, the Appropriations Committees were unable to judge accurately the actual needs of the various agencies. The legislative appropriations bill in 1870 became the vehicle to rectify the problem. As finally enacted, the law provided that all unexpended balances from appropriations made specifically for a given fiscal year would be placed in the surplus fund of the Treasury, although such funds could be used to fulfill contracts made within that year. Another section in the same act later became section 3679 of the Revised Statutes, subsequently known as the Anti-Deficiency Act. This section stated that no department could make greater expenditures during a fiscal year than the amount provided by Congress. Nor could a department involve the Federal Government in any contract for the future payment of money in excess of appropriations.

In addition, the act provided that the Treasury Department should report all balances of appropriations that had remained on the books without being drawn against for 2 years after the date of the last appropriation. If these amounts were not required in order to settle accounts, they might be transferred to the surplus fund. An interpretation by the Attorney General, however, virtually nullified the intent of this provision. His ruling stated that any agency's authority to expend would be automatically extended for another 2 years if any part of the unexpended balance was drawn on within the first 2-year period. Congress hastened to correct this assumption by passing a law in 1874 that stipulated:

> . . . the Secretary of the Treasury shall cause all unexpended balances of appropriations which shall have remained upon the books of the Treasury for 2 fiscal years to be carried to the surplus fund and covered into the Treasury.

The measure excepted permanent specific appropriations and those for rivers and harbors, lighthouses, fortifications, public buildings, and the pay of the navy and marine corps.

No significant changes occurred in the committee's structure during the next three decades. Although its membership was enlarged from 7 to 9 in 1873, temporarily to 10 in 1885, and then to 13 in 1895, no revisions in the subcommittee makeup are recorded during this period. General revisions of the Senate rules in 1877 and 1884 had little impact on the committee, except that in the latter year the Senate adopted Rule XVI, regarding amendments to appropriation bills, incorporating much of what had previously been contained in Rule 30. Passage of the Dockery Act in

1894 improved the fiscal management of the Government but continued to vest control of spending in the executive branch, so that Congress still lacked the authority to conduct an independent review of agency expenditures.

RESTRICTIONS ON COMMITTEE IN 1899

On January 28, 1899, the Senate adopted a rules change that profoundly affected the operation of the Committee on Appropriations by removing most of the appropriation bills from its jurisdiction. The House of Representatives had already taken similar steps from 1879 through 1885, in total, the House removed all but 6 of the 14 general bills from the control of its Appropriations Committee, referring them instead to the related legislative committees.

Students of Government assert that the sentiment to restrict the power of the Committee on Appropriations developed in reaction to the practices that had helped Congress maintain some control over the national purse strings. Executive agencies and others concerned about establishing and operating individual programs chafed under restrictions that hampered their previous freedom of operation. They objected to requirements initiated by the Appropriations Committee, such as the detailed itemization of appropriations, restrictions on their power to transfer funds, the provision returning unexpended balances to the treasury, and the prohibition on contract obligations in excess of appropriations.

In December 1895, Senator Fred T. Dubois of Idaho introduced a resolution to curb the committee's power by amending Rule XVI to strip the Committee on Appropriations of most of its control over appropriations. The resolution directed that the appropriate legislative committees would handle appropriations dealing with agriculture, consular and diplomatic activities, the military establishment (including the military academy), the naval establishment, post offices, Indians and Indian tribes, rivers and harbors, fortifications, the District of Columbia, and pensions. The Appropriations Committee would retain control only over appropriations for the legislative, executive, and judicial expenses; sundry civil expenses; and all deficiencies. Two months later, Senator Dubois, objecting to consideration of an urgent deficiency appropriation bill, insisted that his resolution be made the pending business. The Appropriations Committee chairman, Senator William B. Allison, defended the committee, asserting that it "has with fidelity represented the interests of the Senate as manifested by votes here upon this subject," and another committee member, Senator Eugene Hale of Maine, denounced the motion as a proposal "to dismantle the committee." After extended debate, punctuated by considerable parliamentary maneuvering, the Senate re-

ferred the resolution to the Committee on Rules with instructions to report back to the Senate by the beginning of the next session. Three days after the second session began, on December 10, 1896, Senator Nelson W. Aldrich, for the Committee on Rules, requested and received an extension of time to consider the resolution.

The committee took no further action in that Congress. Two years later, on December 21, 1898, Senator William E. Chandler of New Hampshire, on behalf of Senator Thomas H. Carter of Montana, offered the same resolution to amend Rule XVI. The stated purpose was "to facilitate and expedite the business of the Senate." Senator Chandler resubmitted the resolution 3 weeks later on January 10, 1899, and asked that it be placed on the calendar. He indicated that either he or Senator Carter would move to proceed to its consideration at the earliest appropriate moment. When Senator Aldrich of the Committee on Rules called up the resolution on January 28, it was considered by unanimous consent and agreed to without comment. That no debate took place seems to indicate that opinion in the Senate had come to support the resolution, which established a procedure similar to one adopted by the House more than a decade earlier. Under the resolution as passed by the Senate, the rivers and harbors bill continued to be referred to the Committee on Commerce, and the bills on agriculture, the army, the military academy, Indians, the navy, pensions, and the Post Office went to the appropriate legislative committees. These changes left the Appropriations Committee with a diminished, but still substantial, jurisdiction, divided among six subcommittees. Among the remaining subcommittees, for example, the Legislative Subcommittee was responsible for funding for the salaries and contingent expenses of most of the executive branch departments (including the civilian administration of the Navy and War Departments, but not the Agriculture Department) in the Legislative, Executive, and Judicial bill. The Sundry Civil Subcommittee provided funding for the activities of a wide variety of agencies (such as the Bureau of Mines, the Customs Service, the Interstate Commerce Commission, and the Veterans' Bureau). The Sundry Civil bill was frequently the largest of the general appropriations bills. The Appropriations Committee also retained subcommittees to consider the Diplomatic and Consular, District of Columbia, and Fortifications bills, as well as a subcommittee devoted to deficiencies.

For the next 20 years, little significant change occurred in the appropriations process. In 1911, the committee's membership rose to 17 and in 1915 to 20, but no revisions of consequence took place in the referral of bills and the authority of the committee.

Even under the decentralized approach to Federal financing, the Appropriations Committee continued its efforts to place some restraints on Government spending. During the period between 1897 and 1909, the expenditures occasioned by the Spanish-American War, together with enlarged Federal functions, practically doubled annual appropriations. Because the customs duties and tariff revenues that had provided the major source of Government funds from the early days of the Republic no longer sufficed to finance the increased outlays, this extensive spending resulted in an unbalanced budget, with deficits existing in 10 of the 16 years between 1894 and 1909.

A further problem from a congressional standpoint was the growing use by executive branch agencies of a device that has been termed "coercive deficiencies." An agency would spend at a rapid rate money that had been appropriated for an entire year. When the funds neared exhaustion, the agency informed Congress that, if additional appropriations were not provided, the required services would have to be stopped, in order to comply with the Anti-Deficiency Act of 1870. Although Congress complained about this practice, it felt obliged to grant the funds, in order to avoid curtailing or shutting down some executive function deemed vital to the Nation. Compounding the problem, the loss of jurisdiction by the Appropriations Committee meant that two different committees might have handled the original appropriation and the deficiency request. The Senate and House Appropriations Committees, led by their chairmen, Senator Eugene Hale and Representative (later Senator) James A. Hemenway, resolved to end this practice of the "understrappers," as Senator Hale termed them, who flaunted their power in the face of congressional edict. In 1905 and 1906, Congress twice amended the antideficiency language in section 3679 of the Revised Statutes. In addition to the provision of 1870 requiring that expenditures be limited to money appropriated for a given fiscal year, the new law stipulated that the appropriations should be apportioned by monthly or other allotments, in order to prevent excessive expenditures in one portion of the year that would necessitate a deficiency appropriation later on. Such apportionments could not be waived or modified except "upon the happening of some extraordinary emergency or unusual circumstance which could not be anticipated" at the time of the apportionment. In cases in which an apportionment was waived or changed, the law required the head of the applicable department or agency to explain the reasons to Congress.

In another action, the Appropriations Committee in 1906 sought to stop the practice of permitting the heads of departments

to submit their estimates "piecemeal," as Senator Hale termed it. Instead, Congress directed each agency to include in its initial request the full amount that would be needed to carry out its responsibilities. If additional funds were later required to implement new laws or to provide a necessary public service, the request should include a full statement explaining the urgency of the need and the reasons for omitting the amount from the annual estimates. Further, a provision of the Sundry Civil Appropriation Act in 1909 made the President responsible for recommending to Congress the methods by which annual expenditure estimates might be brought within the estimated revenues.

THE BUDGET AND ACCOUNTING ACT OF 1921

Although the decentralized approach to appropriations was slow to die, a new concept of budgeting gradually developed in the first two decades of the 20th century. In 1910, shortly after the revision of antideficiency legislation, President William Howard Taft appointed a Commission on Economy and Efficiency. Its report 2 years later urged the adoption of a Federal budget system. Shortly before leaving office in 1913, President William Howard Taft attempted to implement a key recommendation of the Commission by submitting a consolidated executive budget, but Congress refused to consider it, and the Commission quietly went out of business the following year. The outbreak of the First World War delayed further congressional consideration of the question of a new budget system, but by the time the Budget and Accounting Act was signed into law by President Warren G. Harding in 1921 the idea of an executive budget had been accepted as a necessity for achieving economy and efficiency.

During World War I, as in previous wars, the executive branch was granted great flexibility in its use of appropriated funds. A Congress eager to support the war effort and avoid having fiscal procedures hinder military operations permitted such tactics as lump-sum appropriations, the use of revolving funds, and a generally worded permission to employ contract authority and incur obligations in excess of appropriations. Once the war was over, however, Congress moved to reassert its control over the use of funds, particularly in light of a general concern that retrenchment was needed. The average annual appropriation for the 10 years prior to World War I had hovered at the billion-dollar mark but, by the war's end, the amount had soared to $27 billion. For fiscal year 1920, the first peacetime year, appropriations stood at approximately $6.5 billion, over six times the prewar average. The answer appeared to be a major budgetary overhaul.

Congress took the first steps soon after the war, when it discontinued as no longer necessary the practice of making large lump-

sum appropriations. Congress also rescinded some appropriations and curtailed the use of revolving funds, while liquidating many of the war-spawned Government corporations. Such changes controlled practices brought about by wartime exigencies, but they did not strike at the root of the problem. For example, coercive deficiencies continued to flourish, despite the requirement of section 3679 of the Revised Statutes that appropriations be allocated over the course of a full year. Although Appropriations Committee Chairman Senator Francis E. Warren of Wyoming fought against this practice, he faced the old problem that, if Congress denied these requests for deficiencies, it would be penalizing public servants and others who had earned their salaries or furnished commodities for which they should be paid. The fact also remained that no one had been punished under the provisions of the Anti-Deficiency Act.

Other major problems were all too evident. Each agency of the Government had generally dealt directly with Congress in its requests for funds. Neither the President nor the Treasury Department exercised any coordinated control over budgetary policies and requests. In 1909 the Treasury Department had the responsibility to inform the President if a budget deficit was anticipated, little or no overall budgetary control existed. The Treasury Department collected the estimates submitted by the departments and agencies and transmitted them to Congress without changes.

From a legislative standpoint, the system that the Senate had employed since the turn of the century had obvious drawbacks. With no centralized responsibility for budgetary consideration, eight different committees pursued their own courses, and appropriations for a single department might be handled by several different committees. As an extreme example, appropriations for the War Department were contained in four different bills before three separate committees. Over the years, many legislators contended that such fragmentation of appropriations among numerous committees was in the end extravagant, with some describing the prevailing system as "illogical, unscientific, and universally condemned by disinterested students of our Government." The platforms of both major parties in 1916 had also stressed the need for reform.

To address these problems, Congress in 1920 passed a budget and accounting bill, which President Woodrow Wilson vetoed on constitutional grounds involving his power to remove the comptroller general from office. The next year, however, the attempt succeeded, and President Warren G. Harding signed the Budget and Accounting Act of 1921. Passage of the law brought major changes in the entire appropriating procedure, designed to give

Congress greater control over the budgetary process and to establish a more centralized approach to financial policy in both the executive and legislative branches.

The most far-reaching single fiscal reform measure promulgated since the establishment of the Republic, the Budget and Accounting Act provided for unified executive control over budget submission and created a legislative agency whose duties included a centralized oversight of all executive spending. Implementation of the act also led to a consolidation of the congressional appropriations process.

Thus, after 130 years, the financial operation of the Government was to be brought within a centralized system. Specifically, the law required the President to transmit to Congress the proposed annual budget of the United States. To oversee this process, it established a Bureau of the Budget, predecessor of the current Office of Management and Budget, located in the Treasury Department but under the immediate direction of the President, which was empowered to assemble, correlate, revise, and reduce or increase the estimates of the several departments and establishments.

In addition, the act established the General Accounting Office [3], headed by a comptroller general of the United States, which was to be entirely independent of the executive branch and responsible only to Congress as its fiscal representative and auditor. The agency's powers, which have since been enlarged, were sweeping, giving Congress an independent agent to audit executive accounts and investigate all receipts, disbursements, and applications of public funds. The new General Accounting Office also absorbed powers previously delegated to the Treasury Department under the 1894 Dockery Act. In regard to deficiencies, the act specified that the comptroller general should report to Congress expenditures or contracts made by any department or agency in violation of the law.

COMMITTEE JURISDICTION RESTORED

In 1922, after the new act took effect, the Senate confronted the need to adjust to the altered arrangement of appropriations measures. With the approval of the President, the Bureau of the Budget proposed a new structure for considering the regular annual appropriations bills, and the House Committee on Appropriations—which had assumed control over all general appropriations again in 1920—adopted the procedure. According to the Senate procedure followed since 1899, a large number of appropriations bills were referred to legislative committees, while the remainder went to the Committee on Appropriations. The new arrangement wiped

[3] On July 7, 2004, the name of the General Accounting Office was changed to the Government Accountability Office.

out most of the old categories of appropriations bills and substituted new ones, grouped according to the various units of governmental organization. Although the law required, and the Bureau of the Budget provided, alternative lists of estimates (one under the old method of procedure and one under the new) the Senate needed to offer some direction regarding the proper course to pursue. As Senate Appropriations Committee Chairman Francis Warren pointed out:

> . . . if the so-called budget law is put into effect as it was intended, it will require us to pursue very much the same procedure as the other House is now pursuing and under which they are working so harmoniously and expeditiously in the present Congress. On the other hand, if it be sought to divide over the various appropriation bills as heretofore, then, I think, it will be better that the rule shall distinctly refer to the bills under this new designation and cause their reference to whatever committee may be provided. My purpose will be to state the facts and to introduce a resolution which may go to the Committee on Rules in order that they may consider the entire subject.

The new procedure, envisaging a changed structure cutting across the lines of the previous appropriations process, affected the bills referred to the various legislative committees as well as those sent to the Appropriations Committee. Not one bill previously handled by the legislative committees remained as it was; only one bill, the deficiency measure, remained unchanged; and only two bills under the old titles would be referred to the Senate Committee on Appropriations. Concerned about the need to take some action, Senator Warren proposed the following resolution—while indicating that he had no desire to infringe on the rights and privileges of any individual Senator or committee:

> *Resolved,* That clause 1 of rule 16 of the Standing Rules of the Senate be amended so as to read as follows, to wit:
>
> "1. All general appropriation bills shall be referred to the Committee on Appropriations, and no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during that session; or unless the same be moved by direction of a standing or select committee of the Senate, or proposed in pursuance of an estimate of the head of some one of the departments."

The effect of the proposed resolution would be to bring all general appropriations back under the control of the Committee on Appropriations, which, in turn, could set up subcommittees compatible with the new budget structure and the operations of the House committee.

The subject was broached by Senator Warren on January 16 and 18, 1922, and the actual debate on the resolution began on March 1 and continued until March 6. The Rules Committee recommended that Senate Rule XVI be amended so that all general

appropriation bills would be referred to the Senate Committee on Appropriations and that the chairman and two other members of the Committees on Agriculture and Forestry, Military Affairs, Naval Affairs, Post Office and Post Roads, Commerce, and Foreign Relations would sit with the members of the Committee on Appropriations on those matters over which the legislative committees maintained jurisdiction. It was further proposed that an appropriation bill would be subject to a point of order if the bill contained amendments proposing new or general legislation.

Although some opposition existed to the entire concept of the Committee on Appropriations assuming control over all appropriations, most of the debate centered on the idea of having ex officio members from the legislative committees sitting with the Committee on Appropriations when agencies within their legislative jurisdiction were requesting funds, and, similarly, having them represented on the conference committees. Senator Pat Harrison of Mississippi moved that the Senate reverse the proposal and provide that three members of the Committee on Appropriations sit in conference with the members of the legislative committees. Senator George Norris of Nebraska, on the other hand, favored eliminating the ex officio legislative committee members from appropriations consideration. The final arrangement authorized three members of the legislative committees to sit with the Committee on Appropriations during consideration of appropriations for the designated departments, and authorized one to sit on the conferences. The District of Columbia legislative committee received the same rights as the other legislative committees.

Some Senators also worried about making the Committee on Appropriations all powerful, but the amendment to Rule XVI, as perfected on the floor, stilled much of the opposition by forbidding the committee to report an appropriation bill containing amendments proposing new or general legislation. A point of order could be lodged against any bill including such an amendment that, if sustained, would send the measure back to committee. The Senate adopted the amendment to Rule XVI by a vote of 63 to 14.

To implement the revised structure of appropriations bills, the committee established a new set of subcommittees, including: Agriculture; Commerce and Labor; Deficiencies; District of Columbia; Independent Offices; Interior; Legislative; Navy; Post Office; State and Justice; Treasury; and War Department, which was responsible for both military and civilian functions (such as river and harbor improvements done by the Corps of Engineers). During the next 25 years only minor changes took place in the subcommittee structure, such as the combination of the Treasury Department and

the Post Office subcommittees, and the combination of the State and Justice Departments with the Commerce and Labor Departments subcommittees (and later, establishing a separate Labor Department subcommittee).

The committee procedure remained generally stable from the time of the 1922 amendment to Rule XVI to the passage of the Legislative Reorganization Act in 1946. The size of the committee, however, did fluctuate somewhat. By 1915, the committee had increased to 20 members, but the amendment to Rule XVI decreased it again to 16, because of the fear of either a too unwieldy or a too powerful committee, as well as because of the addition of ex officio members to the committee (a practice that lasted until the 94th Congress). In 1927 it was increased to 19 members, in 1931 to 23 members, in 1935 to 24 members, and in 1943 to 25 members.

II. THE MODERN ERA

LEGISLATIVE REORGANIZATION ACT OF 1946

As World War II was drawing to a close, many Members of Congress recognized the growing need for a major overhaul of the Federal structure. The depression of the 1930s and the war in the 1940s had spawned a vast number of new agencies to meet these national crises. At the same time, the close scrutiny over appropriations and their use that Congress had so painstakingly evolved was again loosened to permit executive flexibility in the administration of emergency measures. Once more, Congress had resorted to lump-sum appropriations, had legalized transfers of appropriations, and had created a multiplicity of corporations, first to combat the depression and later to aid the conduct of the war. In the closing days of 1945, Congress passed the Government Corporation Control Act and an act to provide for the reorganization of Government agencies. These laws were designed to make possible financial control of Government corporations and promote economy in Government by eliminating, coordinating, and consolidating agencies. Congress also again ended lump-sum appropriations and prohibited transfers of appropriations.

Recognizing that it must also set its own house in better order, Congress in 1945 created a joint committee, chaired by Wisconsin Senator Robert M. La Follette, Jr., with Representative A.S. Mike Monroney of Oklahoma as vice chair, to make a full study of the organization and operation of Congress. As a result of that study, joint committee members introduced a bill in 1946 proposing changes in the institutional operations of Congress. The Senate passed the legislation in June; the House acted the next month;

and President Harry Truman signed it into law on August 2, 1946. The measure as enacted stipulated that there should be a total of 15 standing committees in the Senate, a marked reduction from the previous 33. It further required—for the first time in history—that the rules of the Senate define the jurisdiction of the reorganized committees. The act described the jurisdiction of the Committee on Appropriations as follows:

"to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Appropriation of the revenue for the support of the Government. . . ."

The original bill had proposed that the membership of the committee be reduced to 13, but a floor amendment raised the number to 21, still a decrease of 4 from the previous 25.

The act also provided that Senators could serve on no more than two standing committees, with the exception of majority-party members of the Committees on Expenditures and the District of Columbia who could serve on no more than three committees. This change eliminated the multiplicity of assignments, which had risen to as many as 10 standing committee memberships for a single Senator.

To provide more adequate staffing of congressional committees, the act authorized employing four staff experts for each committee except the Senate and House Committees on Appropriations. Each of these committees were authorized to set their own committee staff levels. Left to each standing committee's discretion were the qualifications of the staff, which had been a focus of discussion during the Senate debate. In 1947 the number of committee staff members was increased considerably.

JOINT COMMITTEE ON THE LEGISLATIVE BUDGET

The Legislative Reorganization Act also revived and expanded an idea that had been suggested by Senator Miles Poindexter of Washington in 1921. He had urged creation of a joint committee "to meet promptly at the convening of each session of Congress," in order to examine Government revenues and prepare to allocate the funds that would be available for appropriation during the ensuing fiscal year. The new act established a Joint Committee on the Legislative Budget to be composed of members of the Senate and House Appropriations Committees, the Senate Finance Committee, and the House Ways and Means Committee. The joint committee was to meet at the beginning of each regular session and, after study and consultation, report to the respective houses a legislative budget for the ensuing fiscal year, including the estimated Federal receipts and expenditures for that year. The report would recommend the total amount to be reserved for deficiencies,

as well as a reduction in the public debt if estimated receipts were expected to exceed expenditures. A concurrent resolution was to accompany the report, fixing the maximum amount to be appropriated for expenditure during that year. If expenditures were estimated to exceed receipts, the report would include a statement of the sense of Congress that the public debt would be increased by the amount of the excess. After considerable discussion, the date of the report was fixed at February 15 of each year, although the original recommendation had been April 15. At the time, Senator Alben Barkley of Kentucky expressed reservations about the timing of the report, and subsequent experience demonstrated that his misgivings were well founded.[4]

Attempts were made in 1947 and 1948 to carry out the intent of the legislative budget provision, with little success. In 1947 the conferees between the two Houses were unable to reach a final agreement on the differing versions of two budget resolutions passed after joint meetings. In 1948, both Houses adopted a joint resolution, but a strongly worded minority report noted basic defects in the procedure. In 1949, a joint resolution that would have suspended the legislative budget provision pending further study was introduced but blocked by an objection. The joint committee held no further meetings after that time.

OTHER EFFORTS TO CONTROL SPENDING

In 1950 Congress attempted another experiment, in the form of a consolidated appropriations bill, in which all appropriations were to be considered in a single measure. The proponents believed that the plan would promote economy, speed up the appropriations process, and provide Congress with the total funding picture before any appropriations were made. The complexity and magnitude of the operation, however, made the committee's work difficult and floor consideration cumbersome. The experiment was therefore not repeated.

Congress did enact other laws designed to improve and strengthen controls over the budgetary process that were more successful. The National Security Act Amendments of 1949, for example, reorganized the fiscal management in the Department of Defense to promote efficiency and economy. In 1950 the Budget and Accounting Procedures Act improved the process for budgeting, accounting, and auditing, as well as permitting the President to prepare a performance budget focusing on the functions

[4] The original bill also included a deficit reduction provision that was eventually dropped. If, midway through the fiscal year, total Federal expenditures appeared likely to exceed receipts by more than the congressionally approved deficit, the provision required the President uniformly to reduce all appropriations to bring the deficit within the limit previously set, unless there was a national emergency.

of the Government. That act also strengthened the Office of the Comptroller General and placed a variety of statistical and informational requirements on the executive branch, in order to provide both branches of Government with better tools for legislative and management controls. The Supplemental Appropriations Act for 1955 tightened the basis for reporting obligations. In addition, the Appropriations Committees took steps to strengthen antideficiency legislation during the 1950s by adopting more effective controls, simplifying the allotment system, and limiting the nature of deficiency requests. In 1958 Congress amended the Budget and Accounting Act of 1921 to authorize an accrued expenditure limitation system, although opponents of the plan believed that the legislation would not provide the desired controls.

Fiscal controls have been enhanced since the 1950s by more frequent use of the annual authorization process initiated by the legislative committees. Originally, appropriations were based on the legal authority contained in basic statutes creating Government departments and agencies and by revisions of those laws. The change to require annual authorizations for many programs enables Congress to review twice—through the authorization process and through the appropriations process—the financial requirements of many Government agencies, particularly in those areas where requirements change markedly from year to year. Since the upper limits of many appropriations are defined through the authorization process, the appropriation procedure is closely tied to authorization action.

THE 1974 BUDGET ACT AND SUBSEQUENT DEVELOPMENTS

During the late 1960s and early 1970s, the budget deficit grew as a result of increased spending for both the Vietnam war and domestic programs, leading Congress on several occasions to adopt spending limits. Then, during the Presidency of Richard Nixon, as the executive branch became increasingly concerned about controlling spending, the President began impounding certain program funds appropriated by Congress that exceeded the amount included in his original budget. This action raised the question whether the executive branch or Congress had final control over spending.

In response to this executive-legislative branch conflict, Congress passed the 1974 Congressional Budget and Impoundment Control Act, creating a comprehensive new Federal budget process. Since the goal was to enable the Senate and House to examine the entire budget for a fiscal year including appropriations, direct spending, and revenues, and set priorities among programs, Congress needed access to independent fiscal estimates and technical expertise, rather than relying on executive branch agencies that re-

ported to the President. The legislation therefore established a Congressional Budget Office as a legislative branch agency reporting to Congress. While retaining the Senate and House Appropriations Committees in their traditional roles, the law created Budget Committees in each body to oversee the new process. In order to combat the impoundment problem, the act established a system permitting the President, with congressional approval, to defer or rescind spending of appropriated funds. Under the new process, Congress would use a concurrent resolution to establish a plan setting forth the levels for taxation, spending, and the deficit. The plan would then be implemented through enactment of budgetary legislation in the traditional manner. The act also changed the Government's fiscal year to begin on October 1 rather than July 1 as it had previously.

In spite of the new budget process, the national budget deficit climbed steeply in the early 1980s, leading Congress in 1985 to adopt the Balanced Budget and Emergency Deficit Control Act (known as Gramm-Rudman-Hollings after its Senate sponsors, Senators Phil Gramm of Texas, Warren B. Rudman of New Hampshire, and Ernest F. Hollings of South Carolina). Aimed at achieving a balanced budget within 5 years, this law provided that, when the Federal deficit exceeded certain levels, automatic across-the-board cuts in spending (known as "sequestration") would take place.

When budget deficits again began to rise a few years later, congressional leaders tried the so-called budget summit approach, in which they met with representatives of the administration to seek agreement on ways to reduce the deficit. While they achieved some temporary success, by 1990 the deficit soared once more, far exceeding the targets set under Gramm-Rudman-Hollings. As part of a budget summit plan negotiated with President George H.W. Bush to cut the deficit, Congress enacted the Budget Enforcement Act of 1990. This act shifted the focus of budgetary control away from the deficit and instead defined limits for the contents of budgetary legislation. It established two new control mechanisms, both enforced by sequestration: spending caps designed to limit the level of discretionary spending provided in appropriations acts; and the pay-as-you-go (PAYGO) process designed to limit changes in the overall level of revenues and direct spending due to new legislation (but not due to external factors, such as economic conditions). Initially these restrictions were designed to last through 1995, but in 1993 they were extended through 1997, and in 1997 they were extended through 2002.

As a result of spending conflicts between Congress and the President, and within Congress as well, during the 1980's it be-

came increasingly difficult to enact all of the appropriations bills in a timely fashion. In response, Congress began to use continuing resolutions—originally designed to provide temporary funding at the start of a fiscal year if action on one or more of the regular appropriations bills were stalled—as a substitute. Congress used such continuing resolutions as omnibus measures, combining the contents of 2 or more regular appropriations bills, culminating in combining all 13 appropriations bills in a continuing resolution in both 1986 and 1987. Except for 7 years (fiscal year 1988-fiscal year 1995) the practice of using omnibus appropriations bills has generally continued to date. Although continuing resolutions were generally not used as a vehicle for such action.

PRESENT COMMITTEE STRUCTURE

Throughout the 1970s to date, the Senate Committee on Appropriations has continued its work on individual appropriations bills, while operating within the framework of the budget process established in 1974, as modified in 1985 and 1990. A number of members of the Senate Appropriations Committee also serve on the Budget Committee, providing an informal liaison between the two committees.

Over the decades, the subcommittee structure has also changed to reflect developments in the executive branch. With passage of the National Security Act of 1947, as amended in 1949, for example, the subcommittees dealing with the military establishment were combined, first into the Armed Services Subcommittee and later, in 1955, into the Department of Defense Subcommittee. In 1967 a Transportation Subcommittee was established to handle appropriation requests for the newly formed Department of Transportation.

In 1969 (91st Congress), the Full Committee relinquished consideration of bills for funding foreign aid to a Subcommittee on Foreign Operations. In 1971 (92nd Congress), the Committee reserved consideration of general supplemental bills to the Full Committee and eliminated the Subcommittee on Deficiencies and Supplementals, leaving the Committee with 13 subcommittees.

In 2003 (108th Congress), in response to the enactment by Congress of legislation in 2002 creating a new Department of Homeland Security, the Committee created a Subcommittee on Homeland Security whose jurisdiction mirrored that of the new department. Portions of departments, agencies, bureaus and accounts that had been previously funded in eight subcommittees were moved to the jurisdiction of the new subcommittee. Activities previously funded in the Transportation and Related Agencies subcommittee and the Treasury, General Government subcommittee but not moved to the Homeland Security sub-

committee, were considered by in a new Transportation, Treasury and General Government subcommittee. After restructuring, the Committee continued to have 13 subcommittees.

In 2005 (109th Congress), the Senate Appropriations Committee adopted a major reorganization, eliminating the Subcommittee on Veterans Affairs, Housing and Urban Development, and Independent Agencies and making the following major changes:

—jurisdiction of the National Aeronautics and Space Administration (NASA), the National Science Foundation, and the Office of Science and Technology Policy transferred to the former Subcommittee on Commerce, Justice, State, and the Judiciary;

—jurisdiction of Veterans Affairs transferred to the former Subcommittee on Military Construction;

—jurisdiction of the Department of Housing and Urban Development transferred to the former Subcommittee on Transportation, Treasury and General Government;

—jurisdiction of the Judicial Branch transferred from the former Subcommittee on Commerce, Justice, State, and the Judiciary to the former Subcommittee on Transportation, Treasury and General Government;

—jurisdiction of the Environmental Protection Agency transferred to the Subcommittee on Interior and Related Agencies;

—jurisdiction of energy-related accounts formerly exercised by the Subcommittee on Interior and Related Agencies transferred to the Subcommittee on Energy and Water; and

—jurisdiction of the State Department and related agencies transferred to the former Subcommittee on Foreign Operations.

In 2007, in order to facilitate action on each of the appropriation bills, the House and Senate Appropriations Committees coordinated to establish 12 subcommittees with virtually identical responsibilities.

The present subcommittee structure is as follows:

Agriculture, Rural Development, and Related Agencies
Commerce, Justice, Science, and Related Agencies
Defense
Energy and Water Development
Financial Services and General Government
Homeland Security
Interior, Environment, and Related Agencies
Labor, Health and Human Services, and Education, and Related Agencies
Legislative Branch

Military Construction and Veterans Affairs, and Related Agencies

State, Foreign Operations, and Related Programs

Transportation and Housing and Urban Development, and Related Agencies

In order to promote improved decisionmaking with regard to congressionally directed spending items, the Appropriations Committee, in 2007, under Chairman Robert C. Byrd, worked to establish a new Rule XLIV of the Standing Rules of the Senate (in Public Law 110–81). The new Rule XLIV establishes unprecedented transparency and accountability to the process of approving member requests.

CONCLUSION

Article I, Section 9 of the Constitution of the United Sates reads: "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law." In this 16-word clause, the Constitution explicitly vests Congress with the power of the purse, the national power over expenditures of Government funds.

In *Federalist* 58, James Madison, the Father of our Constitution, wrote that "this power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."

Even the foremost proponent of executive power at the Constitutional Convention, Alexander Hamilton, in *Federalist 78*, acknowledged that the legislative "commands the purse".

After winning the Revolution, our Founding Fathers built a system of Government to inhibit tyranny. They did so by devising a form of Government that separated the three branches of Government, the executive, legislative, and the judicial, because, as Madison pointed out in *Federalist* 47, tyranny results whenever the three branches of Government are concentrated in the same hands. Then, in *Federalist* 51, he noted that the key to avoiding a concentration of power in a single branch was "in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others."

In giving the legislature the power of the purse, our Founding Fathers were fully aware of the long struggles over money between Parliament and Crown in England. In *Federalist* 58, Madison wrote that the power of the purse was "the powerful instrument by which we behold, in the history of the British constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance."

Through appropriations of Federal money, Congress not merely sets aside particular amounts of money; it defines the character, extent, and scope of authorized activities. With the power to appropriate funds, Congress can define and limit Presidential power. In domestic as well as in foreign affairs, it can withhold all or part of an appropriation and may attach riders to appropriations measures to proscribe certain actions. The Founders knew that by making the President the Commander in Chief, they were giving him awesome powers that could be abused. For this reason, George Mason warned the Philadelphia Convention in 1787, that "the purse and the sword ought never to get into the same hands." For this reason, the sword was placed in the hands of the executive, while the purse was placed in the hands of Congress, the representative of the people.

Congress is the people's branch of Government, and it is Congress that will best preserve the American republic. If Congress is to ensure that we will never have a strong, unchecked executive with the capacity to abuse power and endanger individual freedoms, and if Congress is to continue as a coequal branch of Government, a healthy, vigorous system of checks and balances is essential. If Congress is to remain a strong, independent, vigorous and aggressive branch, ready, willing, and capable of retaining close control over executive agencies and the President, it must retain control of the purse strings.