

History of the United States House of Representatives (1789-1994)

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Chapter 9

THE POWER OF THE PURSE

Legislative control of the purse has long been a fundamental principle of representative government. Essential to the overthrow of royal absolutism in England was Parliament's right to tax and to appropriate. Colonial legislatures in America waged a similar battle to gain control over money matters. The U.S. Constitution declares: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." The power of the purse, James Madison noted in *Federalist Paper* no. 58, represents 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." In *Federalist Paper* no. 48, Madison said "the legislative department alone has access to the pockets of the people."

Exactly how money is to be appropriated is left to Congress to decide through its internal procedures and organization. The Constitution does not mention Appropriations Committees nor does it distinguish between appropriations and authorizations. The general record of House action on appropriations bills over the past two centuries, with respect to committee jurisdiction, has been a cycle of centralization and decentralization. Congress did not establish Appropriations Committees until after the Civil War. During the first seven decades of its history, the House of Representatives relied on its Ways and Means Committee to report both appropriations and tax measures. The Senate Finance Committee also handled both appropriations and taxes.

In 1865, under the pressure of Civil War Financing, the House removed from Ways and Means its jurisdiction over appropriations bills and reassigned that responsibility to the newly created Appropriations Committee. Two years later the Senate adopted the same reform. As the Appropriations Committees gained power and influence they encountered resistance and resentment. Beginning in 1877 but reaching a crescendo in 1885, the House stripped the Appropriations committees of much of their authority, allowing authorization committees to report appropriations. On the Senate side, the Committee of Commerce gained authority in 1877 to report the rivers and harbors appropriations bills, but most of the dismantling of Senate Appropriations took place in 1899.

Throughout the nineteenth century the federal government generally ran budget surpluses, enabling it to liquidate the revolutionary war debts inherited from the states. A string of federal deficits, beginning in 1894, prompted renewed investigation of the budget process. Out of this study came the decision to centralize the appropriations power in a single committee in each House, with the expectation that committee reorganization would impose tighter control over federal spending and the deficit. That need was driven home with particular urgency because of the magnitude of federal financing after World War I. In 1920 the House of

Representatives consolidated jurisdiction over all appropriations in the Appropriations Committee; two years later the Senate adopted the same reform.

Although the Appropriations Committees retained formal control over appropriations after 1922, their jurisdiction was gradually undercut by the growth of “backdoor spending” reported by authorization committees. Because of backdoors, the percentage of federal spending under the direct control of the Appropriations Committees declined over the years. By the 1990s the percentage had decreased to less than 40 percent of total spending.

THE ORIGINATION CLAUSE

The Constitution states: “All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.” Are the words “raising Revenue” to be construed narrowly, restricting the prerogative of the House to originate bills only to tax measures? Or are the words to be defined more generously to include appropriations bills as well? It would appear from the constitutional language that the right to originate bills in the House of Representatives is confined to revenue measures, and that either House may originate appropriations bills. But that issue has been in dispute.

One study, published as a Senate document in 1912, concluded that “raising revenue” must mean the same as “raising money and appropriating the same.”⁴³ That position seems reinforced by several passages from the *Federalist Papers*. In *Federalist Paper* no. 58 Madison wrote: “The House of Representatives cannot only refuse, but they alone can propose, the supplies requisite for the support of government. They, n a word, hold the purse...” *Federalist Paper* no. 66, written by Alexander Hamilton, states that the “exclusive privilege of originating money bills will belong to the House of Representatives.” A closer look at the debates at the constitutional convention, held in Philadelphia in 1787, reveals that the issue is more complex.

The delegates were, in fact, quite divided on the question of placing the House of Representatives the exclusive power to originate appropriations bills. On May 31, a proposal that each chamber of Congress should have the right to originate bills was taken up and agreed to unanimously without debate. On June 13 Elbridge Gerry moved to “restrain the Senatorial branch from originating money bills.” He argued that the House of Representatives was more immediately the representative s of the people and “it was a maxim that the people ought to hold the purse-strings.” Pierce Butler opposed the motion and rejected the analogy that was commonly made between the Senate and the House of Lords. By discriminating against the Senate, he said, the best men in the country would decline to serve in it. Madison also rejected the analogy, insisting that the Senate would be as much the representatives of the people as the first branch. Furthermore, as the Senate would be “generally a more capable set of men,” it would be wrong to disqualify them from participating equally in financial matters. Gerry’s motion was rejected by a vote of 7 states to 3.⁴⁴

When the question was next taken up, on July 5 and July 6, the delegates considered a proposal to reserve to the House the privilege of originating all bills for *raising or appropriating* money. On July 5, for example, a committee report proposed “all Bills for raising or appropriating money and for fixing all the salaries of the Officers of the Government of the United States shall originate in the first Branch of the Legislature...” This section reappeared, in

⁴³ S. Doc. 872, 62 Cong., 2 sess. (July 15, 1912), p. 4.

⁴⁴ Max Farrand, ed., *The Records of the Federal Convention of 1787* (Yale University Press, 1937), vol. 1, pp.53, 233-34.

substantially the same form, in July and August, until a motion to delete the section carried on August 8. On August 13 the delegates rejected by a vote of 7 to 4 a proposal to give the House of Representatives the exclusive right to originate “money bills” (bills raising money and appropriating it). A related measure, which would have prohibited any money from being drawn from the Treasury except in pursuance of appropriations originating *in the House of Representatives*, was defeated decisively by a vote of 10 to 1. Hugh Williamson remarked the following day “We have not got a House of Lords which is to originate money-bills.”⁴⁵

The proposal taken up in September provided “All bills for raising revenue shall originate in the House of Representatives, and shall be subject to alterations and amendments by the Senate: No money shall be drawn from the Treasury, but in consequence of appropriations made by law.”⁴⁶ Several concessions had been granted to the Senate. It now had the power to alter and amend money bills, and money could be drawn from the Treasury simply in consequence of appropriations that had originated in the House. Moreover, the language “raising revenue” could be interpreted to mean that the right of the House to originate bills was restricted to revenue bills alone and did not extend to appropriations bills. It remains a fact that on several occasions the delegates had an opportunity to vote in favor of a provision granting the House the exclusive right to originate appropriations bills. On each occasion the proposal was defeated. Furthermore, George Mason offered the following as one of his reasons for refusing to sign the Constitution: “The Senate has the power of altering all money bills, and of originating appropriations of money...”⁴⁷

That the matter was far from settled is evident from a dispute that occurred in 1881, after the Senate passed a bill authorizing the appropriation of funds. The House instructed its Committee on the Judiciary to inquire into the right of the Senate to originate bills making appropriations of money. An extensive analysis of British precedents and the debates at the Philadelphia Convention let the committee to conclude that “the Senate had the Constitutional power to originate the bill referred, and that the power to originate bills appropriating money from the Treasury of the United States is not exclusive in the House of Representatives.” In another situation, in 1885, the House declined to investigate the power of the Senate to originate bills appropriating money.⁴⁸

Despite these contests, the House retained its exclusive right to originate general appropriations bills. Thus, “while there has been dispute as to the theory, there has been no deviation from the practice that the general appropriation bills (as distinguished from special bills appropriating for single, specific purposes) originate in the House of Representatives.”⁴⁹

The Origination Clause is occasionally a subject for litigation, but courts usually leave the matter to Congress to resolve.⁵⁰ When the judiciary does decide to handle questions about the Origination Clause, it can hold narrowly that a “special assessment” by an agency is not a bill for “raising revenue.” Thus, a special assessment raises revenue to support a particular governmental program, rather than raising revenue for government in general.⁵¹

⁴⁵ *Ibid.*, vol. 1, pp. 224-25, 273-80, 287.

⁴⁶ *Ibid.*, vol. 2 pp. 508-09.

⁴⁷ Jonathan Elliot, ed., *The Debates in the Several State Conventions, on the Adoption of the Federal Constitution* (J.B. Lippincott, 1836-45), vol. 1 p. 494.

⁴⁸ H. Rept. 147, 46 Cong., 3 sess. (1881), p. 10; Asher V. Hinds, *Hinds' Precedents of the House of Representatives* (U.S. Government Printing Office, 1907), vol. 2, sec. 1501, p. 974.

⁴⁹ *Ibid.*, p. 973n.

⁵⁰ *Moore v. U.S. House of Representatives*, 733 F.2d 946 (D.C. Cir. 1984).

⁵¹ *United States v. Munoz-Flores*, 495 U.S. 385 (1990).

As recently as 1962 the two houses of Congress were involved in a major confrontation over the meaning of the Origination Clause. It had long been the custom, in resolving big differences between the House and Senate on appropriations bills, for conference committees to meet on the Senate side of the Capitol with a Member of the Senate presiding. Early in 1962, however, the House Appropriations Committee asked that the custom be changed to permit one-half of the conferences to meet on the House side of the Capitol. The Senate agreed on the condition that it be allowed to originate half of the appropriations bills.

The dispute deepened after a conference meeting held on April 10. House conferees informed the Senate conferees that they would next meet on the House side and that one of the House conferees would act as conference chairman. A compromise was reached in the case of the appropriations bill for the Department of Defense, after Senate conferees agreed to meet in the Old Supreme Court Chamber (located between the House and the Senate). However, an impasse soon developed on other bills when the Senate insisted on the right to originate appropriations bills.

In October, after the new fiscal year had begun, the Senate passed a continuing resolution to supply funds for the Department of Agriculture. The House promptly passed a resolution charging that the Senate's actions "contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of this House..." Three days later the Senate issued a resolution of its own, contending that "acquiescence of the Senate in permitting the House to first consider appropriation bills cannot change the clear language of the Constitution nor affect the Senate's coequal power to originate any bill not expressly 'raising revenue'..."⁵² As a result of the 1962 dispute, conferees from the House and the Senate Appropriations Committees met in a central location in the Capitol, but later returned to the practice of meeting in the House and Senate rooms.

ESTABLISHING PRINCIPLES: FROM 1789 to 1865

The relative responsibilities of legislators and administrative officials over the spending power were in a state of flux after the Constitutional Convention. When the Departments of Foreign Affairs and War were created in 1789, they were recognized as purely executive in nature and assigned directly to the President. Departmental heads were under no obligation to come before Congress and present reports.

The Treasury Department, however, occupied a more ambiguous position. A proposal on June 25, 1789, to permit the Secretary of the Treasury to "digest and report" plans for the improvement and management of the revenue, prompted legislators to object on the ground that this would intrude upon the privilege of the House to originate all bills for raising revenue. Congress subsequently directed the Secretary to "digest and prepare" plans for improving and managing the public revenue. At the same time, it directed him to prepare and report "estimates of revenue and expenditures, and to report to either branch of Congress, in person or in writing, as required."⁵³

⁵² *Congressional Record* (1962), vol. 108, pp. 23014, 23470, *Congressional Record* (1962) vol. 108, pp. 12898-918. Jeffrey L. Pressman, *House vs. Senate: Conflict in the Appropriations Process* (Yale University Press, 1966).

⁵³ *Annals of the Congress of the United States*, 1 Cong., 1-2 sess. (June 25, 1789), pp. 592-94, 604-07; 1 Stat. 65 (1789).

WAYS AND MEANS COMMITTEE

During debate on the bill creating the Treasury Department, the House created a Ways and Means Committee to handle appropriations and revenue bills. That same year the House disbanded Ways and Means, deciding to rely on select committees to prepare and report appropriations bills, but it restored the Ways and Means Committee in 1794 and made it a standing committee in 1802.

On April 29, 1789, the House appointed a committee of three to “prepare and report an estimate of the supplies requisite for the present year, and of the net produce of the impost as agreed to by the House...” Acting on May 8, the committee reported a bill for collecting duties. On July 24 the House formalized this panel into a ten-man Committee of Ways and Means. It was directed to prepare an estimate of supplies required for the current year.⁵⁴ However, when Congress created the Treasury Department on September 2, the need for a standing congressional committee seemed to disappear. On September 17 the House ordered that the Ways and Means Committee be discharged from further proceeding on the business referred to it, and that such business “be referred to the Secretary of the Treasury, to report thereon.”⁵⁵ The new Secretary of the Treasury, Alexander Hamilton, thus found himself in the office he himself had described a few years earlier in *Federalist Paper* no. 36: “Nations in general, even under governments of the more popular kind, usually commit the administration of their finances to single men or to boards composed of a few individuals, who digest and prepare, in the first instance, the plans of taxation, which are afterwards passed into law by the authority of the sovereign or legislature.”

FLOOR PROCEDURES

On September 21, 1789, the appropriations bill for the national government was read a second time and ordered to be referred to a “Committee of the whole House” on the following day. The bill was actually taken up two days later. The Committee of the Whole adopted an amendment and on September 25 the bill was read a third time and passed.⁵⁶ In the Senate a select committee established to consider the appropriations bill reported it with amendments on September 28. The bill passed that day with the amendments.⁵⁷ As enacted into law, the appropriations bill occupied only thirteen lines in the *Statutes at Large* and used four lump sums to cover all of government: \$216,000 for the civil list, \$137,000 for the War Department, \$190,000 to discharge warrants issued by previous Board of Treasury, and \$96,000 for pensions to disabled veterans.⁵⁸ The appropriations acts for 1790 and 1791 also provided lump sums, although the funds were to be spent in accordance with the detailed estimates given to Congress by the Secretary of the Treasury.

Beginning with the appropriations act of December 23, 1791, Congress narrowed executive discretion still further by using a “that is to say” clause. For example, a little over a half-million dollars was appropriated for the military establishment, “that is to say,” \$102,686 for pay of troops, \$48,000 for clothing, \$4152 for Forage, and so forth. By 1793, appropriations acts

⁵⁴ *Annals of Congress*, 1 Cong., 1 sess. (1789), pp. 231-32, 291, 670-71.

⁵⁵ *Ibid.*, p. 895.

⁵⁶ *Ibid.*, pp. 904, 912, 914.

⁵⁷ *Ibid.*, p. 92.

⁵⁸ 1 Stat. 95 (1789).

were descending to such minutiae as an item of \$450 for firewood, stationery, printing, and other such contingencies in the Treasurer's office.⁵⁹

With the Ways and Means Committee disbanded, the House relied on select committees to draft appropriations bills. Thus, when Secretary Hamilton asked for additional appropriations in 1790, the House first resolved itself into a Committee of the Whole to consider his report. It agreed to several resolutions and reported them to the House. The House appointed five Members to form a committee for the purpose of preparing a bill. Two days later the committee presented a bill; and the House resolved itself into a Committee of the Whole and approved an amendment to the bill, which was then reported to the House and agreed to.⁶⁰ As another option, the Committee of the Whole could recommit an appropriations bill to a select committee with instructions to "new-model" (revise) it.⁶¹

REBELLION AGAINST HAMILTON

As legislators sought to assert their independence and institutional prerogatives, the relationship with Hamilton grew increasingly strained. When Hamilton asked to come before Congress in 1792 to answer questions concerning the public debt, some Members objected that this would improperly mix the branches. They did not want the head of an executive department to originate legislation or even voice an opinion that might influence Congress.⁶²

The campaign against Hamilton became more intense and personal. A House resolution in 1793 claimed that he had violated appropriations laws, ignored presidential instructions, failed to discharge essential duties and committed indecorum against the House. Hamilton was exonerated on every single count, but the complaints continued. A new charge in 1794, regarding a pension claim, was later dismissed by Congress as "wholly illiberal and groundless."⁶³ Nevertheless, legislative attacks persisted until Hamilton, in December 1794, announced his intention to resign.

WAYS AND MEANS RESTORED

On March 26, 1794, during Hamilton's last year as Secretary of the Treasury, the House revived its Ways and Means Committee. It operated as a select committee for one session but was not reappointed. An effort was made on December 21, 1795, to reestablish the committee on a permanent basis.⁶⁴ It functioned in that manner, although it was not until 1802 that Ways and Means was formally designated by House Rules as a standing committee.

Between 1794 and 1802 the existence of Ways and Means was sometimes tenuous. For example, on December 4, 1797, after the House had been in session almost a month, a proposal to refer a petition to Ways and Means hit a snag: Ways and Means had yet to be established. Thomas Claiborne of Virginia thought the petition should go to Ways and Means but was

⁵⁹ 1 Stat. 226 (1791); 1 Stat. 327 (1793).

⁶⁰ *Annals of Congress*, 1 Cong., 2-3 sess. (1790), pp. 1722-24.

⁶¹ *Annals of Congress*, 2 Cong., 1-2 sess. (1791), pp. 222-28.

⁶² *Annals of Congress*, 2 Cong., 1-2 sess. (1792), pp. 703-08.

⁶³ *Annals of Congress*, 2 Cong., 1-2 sess. (1793), pp. 899-963; *Annals of Congress*, 3 Cong., 1-2 sess. (1794), p. 458. See also *ibid.*, (1794), pp. 463-66, 954 and Broadus Mitchell, *Alexander Hamilton* (Macmillan, 1962), vol. 2, pp. 245-86.

⁶⁴ *Annals of Congress*, 3 Cong., 1 sess. (1794), pp. 531-33; *Annals of Congress*, 4 Cong., 1 sess. (1795), pp. 159.

informed that “no such committee was at present in existence.” The committee was promptly appointed and the petition referred to it.⁶⁵ The Senate continued to refer general appropriations bills to select committees until 1816, when it established the Committee on Finance as a standing committee.

The control of Ways and Means over appropriations bills fell short of a total monopoly. On rare occasions other committees would also report appropriations. On July 12, 1798, for example, the Committee of Commerce and the Defense of the Country reported a bill making certain appropriations. On January 17, 1819, the Committee of Public Buildings reported a bill making appropriations “for the purchase of a lot of land, and for furnishing a supply of water, for the use of certain public buildings.” The bill was read twice and referred to the Committee of the Whole.⁶⁶ Ways and Means also lost some of its jurisdiction over tariff bills. The Committee on Manufactures reported legislation on tariffs in 1824, 1827, 1830, 1832, and 1833.⁶⁷

FILLING IN THE BLANKS

Some Members of the House looked with suspicion upon the use of standing committees to appropriate money. They believed that republican principles required financial matters to be strictly controlled by the full House. Under their scenario, appropriations bills had to be discussed first in the Committee of the Whole and only then referred to committees, which would be bound by the discussion and directives already set forth. Otherwise, the recommendations of committees might carry too much weight on the floor.⁶⁸ The Federalists were more supportive of standing committees; the Jeffersonian Republicans voiced considerable distrust.

In the Third Congress (1793-95), Republicans took control of the House for the first time. On November 13, 1794, the House adopted a new rule requiring that all proceedings “touching appropriations of money, shall be first moved and discussed in a Committee of the Whole House.”⁶⁹ After that debate, Ways and Means would draft a bill that complied with the floor debate.

When the Federalists regained power in the House in the Fourth, Fifth, and Sixth Congresses (1795-1801), they allowed Ways and Means to initiate appropriation bills before action by the Committee of the Whole. However, ways and Means was not supposed to specify dollar amounts. Those figures would be inserted during floor consideration in the committee of the Whole, where “the blanks of the bill were filled” and the “several blanks were filled up.”⁷⁰

On at least one occasion, in 1798, Ways and Means made the mistake of reporting an appropriations bill with the numbers filled in. When it was objected that the bill violated the rule

⁶⁵ *Annals of Congress*, 5 Cong., 1 sess. (1797), p. 672. See also Patrick J. Furlong, “The Origins of the House Committee on Ways and Means,” *William and Mary Quarterly*, vol. 25 (1968), p. 587.

⁶⁶ *Annals of Congress*, 5 Cong., 2-3 sess. (1798), pp. 2175; *Annals of Congress*, 15 Cong., 2 sess. (1918), pp. 464.

⁶⁷ Charles H. Stewart III, *Budget Reform Politics: The Design of the Appropriations Process in the House of Representatives, 1865-1921* (Cambridge University Press, 1989), pp. 72-73; Thomas W. Skladony, “The House Goes to Work: Select and Standing Committees in the U.S. House of Representatives, 1789-1828,” *Congress & the Presidency*, vol. 12 (autumn 1985), pp. 165, 176.

⁶⁸ *Annals of Congress*, 3 Cong., 1 sess. (1794), p. 532; Ralph V. Harlow, *The History of Legislative Methods in the Period before 1825* (Yale University Press, 1917), pp. 211-214.

⁶⁹ *Annals of Congress*, 3 Cong., 1-2 sess. (1794), pp. 881.

⁷⁰ *Annals of Congress*, 5 Cong., 1 sess. (1797), pp. 433; *Annals of Congress*, 7 Cong., 1 sess. (1802), p. 1243.

of 1794, the quick-thinking manager of the bill asked the Chairman of the Committee of the Whole “to read the resolution as blank, and he would afterward move to fill them up with the sums with which they were at present filled.” That was done and the bill was agreed to without debate.⁷¹

By 1819 it was customary for Ways and Means to report appropriations bills with the blanks filled in. As William Lowndes of South Carolina asked: “was it not fairer, as well as more convenient, that, by reporting the bill with the sums specifically state, the House should have notice of any proposed variation from the [executive branch] estimate, than that they should be taken by surprise when the House was called upon to fill blanks in the bill?” John Taylor of New York objected to this practice, but conceded that it was appropriate to have the sums in the bill if “the bill was still considered as in blank, and the Chairman continued to put the question on each particular appropriation” rather than having the blanks filled “as acquiesced in, without putting the question, unless objected to.” The Chairman agreed with Taylor’s suggestion.⁷²

EXPENDITURE COMMITTEES

During the early 1800s Congress handled the nation’s finances with little difficulty. An abundance of customs revenues easily covered the modest expenses of the national government. By exercising control over both revenues and appropriations, the House Ways and Means Committee, in concert with the Senate Finance Committee, had an opportunity to maintain a coherent picture of national financial needs.

In 1802 the House directed the Ways and Means Committee “to examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws...” Critics claimed that the committee did an inadequate job in monitoring agency spending. A separate House Committee for Public Expenditures was established in 1814 to take that responsibility from Ways and Means. Proponents of this change explained that it was necessary to relieve ways and Means “from much of the business at present referred to it, and which it was unable to properly to consider.” In 1816 the House further divided the labor by setting up six separate committees to oversee the expenditures of the Departments of State, Treasury, War, Navy, and Post Office, as well as expenditures for public buildings.⁷³

SEPARATE APPROPRIATIONS BILLS

Beginning in 1794, Congress passed two general appropriations acts, one for the support of government and one to support the military establishment. In 1799 Congress passed a separate appropriation bill for the Navy Department (created the previous year) and during the 1820s it enacted separate appropriations bills for fortifications (1823), for pensions (1826), and for rivers and harbors (1826). Separate appropriations were provided in later years for other areas: Military Academy (1834), Indian affairs (1837), Post Office (1844), consular and diplomatic services (1856), and the legislative, executive, and judicial branches (1858).

⁷¹ *Annals of Congress*, 5 Cong., 2 sess. (1798), pp. 789-90.

⁷² *Annals of Congress*, 15 Cong., 2 sess. (1918), pp. 470-71.

⁷³ *Annals of Congress*, 7 Cong., 1 sess. (1802), p. 412; *Annals of Congress*, 13 Cong., 2 sess. (1814), pp. 1627-28, 1695; *Annals of Congress*, 14 Cong., 1 sess. (1816), pp. 1090-91, 1297-99.

UNAUTHORIZED APPROPRIATIONS AND RIDERS

Appropriations bills were frequently delayed because Members of Congress attached legislative items, or “riders,” to them. To avoid this practice, the House Committee on Rules in 1836 recommended a rule providing that: “no appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law.”⁷⁴ The House, however, did not adopt this proposal. John Bell of Tennessee later added a rider to the fortifications appropriations bill for the purpose of allowing surplus funds in the National Treasury to be distributed to the states. The Senate refused to accept that provision, and the bill was not enacted. Apparently this incident prompted the House, on September 14, 1837, to agree to the rule proposed the previous year.⁷⁵ On March 13, 1838, in order to prevent the disruption of ongoing public works projects and to permit action on contingencies, the House amended the rule to read:

No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress and for the contingencies for carrying on the several departments of the Government.

This rule applied only to riders in the nature of appropriations (i.e., any *expenditure* not previously authorized by law). Extraneous matter in the nature of policy could still be injected into appropriations bills. In 1855, for example, a proviso to the army appropriations bill prohibited the use of federal troops for enforcing territorial law in Kansas. Although Democratic Members and President Pierce denounced the language, “the young champions of the new era stoutly maintained that the Representatives were but exercising the ancient right of Englishmen when they imposed conditions on making grants.”⁷⁶

REFORMS AFTER THE CIVIL WAR

During this period both houses of Congress created separate appropriations committees. Having consolidated that power in a single committee, each house later began to strip away the appropriations power and parcel it out to particular authorizing committees. In the House the process of dismemberment began in 1877 and was completed by 1885. Decentralization in the Senate took place from 1877 to 1899.

CREATING THE APPROPRIATIONS COMMITTEES

In 1865, in response to the financial magnitudes of the Civil war, the House reduced the jurisdiction of Ways and Means to revenue bills, parceling out its former responsibilities to two new committees: an Appropriations Committee and a Committee on Banking and Currency. Proponents of this change cited the dramatic increase in workload for Ways and Means. Before the war, federal expenses ran about \$70 million a year. Over the five years of the Civil war the average appropriation each year was at least \$800 million. In addition to appropriations, Ways

⁷⁴ *Hinds' Precedents*, vol. 4, sec. 3578, p. 383.

⁷⁵ *Congressional Globe*, 25 Cong., 1 sess (1837), p. 31.

⁷⁶ Robert Luce, *Legislative Problems* (Houghton Mifflin, 1935), p. 426.

and Means also had to handle the loan and other fiscal bills. ⁷⁷ Crediting Ways and Means with faithful and diligent service, Congressman Samuel S. Cox noted:

No set of men, however enduring their patience, studious their habits, or gigantic their mental grasp, when overburdened with the labor incident to the existing monetary condition of the country growing out of this unparalleled civil strife, can do this labor as well as the people have a right to expect of their Representatives.

The expenditures resulting from the Civil War required close scrutiny and control. The resolution's sponsor offered this hope:

I need not dilate upon the importance of having hereafter one committee to investigate with nicest heed all matters connected with economy. The tendency of the time is to extravagance in private and in public. We require of this new committee their whole labor in the restraint of extravagant and illegal appropriations.

Two years later the jurisdiction of the Senate Finance Committee was similarly reduced in scope. The magnitude of Civil War financing appears to have been the major factor in this committee reorganization. The creation of the Senate Appropriations Committee was justified as a means of dividing the "onerous labors of the Finance Committee with another committee." The Senate resolution was taken up by unanimous consent and approved."⁷⁸

THE HOLMAN ROLE (1876)

The creation of the House Appropriations Committee and its exercise of power soon produced resentment. A number of Members objected that the committee had gained unacceptable control over the work of the authorizing committees. Opposition increased after adoption of the "Holman Rule" in 1876. Before that time House Rule 120 provided that no appropriation shall be reported in a general appropriations bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law "unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government." As interpreted by the House, the effect was to permit the Appropriations Committee to increase salaries but not to reduce them.⁷⁹

The change in 1876 deleted the words after "progress" and added: "Nor shall any provision in any such bill or amendment thereto, changing existing law, be in order except such as, being germane to the subject-matter of the bill, shall retrench expenditures." The Holman Rule gave House Appropriations authority to retrench expenditures by reducing the number and salary of federal officials, the compensation of any person paid out of the Treasury, and the amounts of money covered in an appropriation bill.

Representative James Garfield of Ohio (who five years later would be President) warned that the Holman Rule might backfire against the Appropriations Committee. Cutting salaries was one thing. But suppose, he said, that Members used the Holman Rule to abolish 10 or 15 missions in the consular and diplomatic appropriations bill:

⁷⁷ *Congressional Globe*, 38 Cong., 2 sess. (1865), p. 1312.

⁷⁸ *Congressional Globe*, 40 Cong., 1 sess. (1867), p. 10.

⁷⁹ *Congressional Record* (1876), vol. 4, p. 445.

Now, by all custom at all times in the history of this House, such a motion would be ruled out of order, because it would change the law in so far as there was any law to regulate that matter. But as I understand the rule now proposed, it will allow the Committee on Appropriations to re-organize the Army, to re-organize the Navy, to re-organize the Treasury Department, in short to recast all the legislation concerning the public service, not merely as to the amount of money to be appropriated, but as to the size and condition of that service.⁸⁰

Garfield proposed that it would be better to have the Appropriations Committee report a change in the law, if the thought a change was needed, and to ask that the new legislative language be first made in order to an appropriations bill and then taken up under a suspension of the rules. The House would have to specifically authorize such changes. The Holman Rule suggested a more radical course: “But to give the Appropriations Committee such a general sweeping power now is substantially to render obsolete the power of all the other committees of the House.” Stephen A. Hurlbut of Illinois hammered home the same point: “The proposed rule will practically abolish all committees except the Committee on Appropriations.” The House adopted the Holman Rule by the vote of 156 to 102.⁸¹ One study reported that the vote was “highly structured by party identification—slightly over 90 percent of the Democrats voted yes; over 90 percent of the Republicans, no”⁸²

In an article published in 1879, Garfield said that the construction given the Holman Rule resulted in putting a “great mass of general legislation” in appropriations bills. Then, in a prophetic warning, he stated:

If this rule be continued in force, it will be likely to break down the committee on Appropriations, and disperse the annual bills to several committees, so that the legislation on that subject will not be managed by any one committee, nor in accordance with any general and comprehensive plan.⁸³

After adoption of the Holman Rule the House gradually reduced the jurisdiction of its Appropriations Committee. Looking back at that process in 1965, Congressman George H. Mahon (D., Tex.), Chairman of House Appropriations, noted: “All authorities seem to agree that the committee’s construction of, and practices under, this [Holman] rule, admitting germane legislation on the appropriation bills if it retrenched expenditures, fanned the flames of jealousy, sowed the seeds of resentment, and helped lay the groundwork for the soon-to-come contest for division of the Committee on Appropriations.”⁸⁴

THE STEPS OF FRAGMENTATION

⁸⁰ Ibid.

⁸¹ Ibid., p. 447

⁸² David Brady and Mark A. Morgan, “Reforming the Structure of the House Appropriations Process: The Effects of the 1885 and 1919-20 Reforms on Money Decisions,” in Mathew McCubbins and Terry Sullivan, eds., *Congress: Structure and Policy* (Cambridge University Press, 1987). p. 208.

⁸³ James A. Garfield, “National Appropriations and Misappropriations,” *North America Review*, vol. 271 (1879), pp. 572,586, also reprinted in James A. Garfield, *Works*, (J.R. Osgood, 1883), vol. 2, pp. 740-52.

⁸⁴ *Congressional Record* (1965), vol. 111, p. 3960.

In 1877 a jurisdictional struggle broke out between the chairmen of the House Commerce Committee and the Railways and Canals Committee, both insisting on control over rivers and harbors legislation. Commerce won that battle. A year later it gained the right, through suspension of the rules, to report appropriations for rivers and harbors. To frustrate this tactic, the Rules Committee proposed in 1879 that the majority needed under suspension be increased from two-thirds to three-fourths, making it more difficult for the Commerce Committee to meet this higher threshold. This move backfired. Not only did Commerce defeat this change in the rules; it secured passage of a substitute giving it “the same privilege to report a bill making appropriations for the improvement of rivers and harbors that is accorded to the committee on Appropriations in reporting general appropriation bills.” An effort in 1880 to transfer the rivers and harbors bill back to the Appropriations Committee failed.⁸⁵

The Committee on Agriculture and Forestry gained the right, in 1880, to receive estimates and to report appropriations in its area. It was argued that if any appropriations bill were referred to other authorization committees they would “investigate the question more closely than can be done by the Appropriations Committee, and even if they do increase the amount, it will be proper and practical legislative economy.”⁸⁶

The major change came in 1885 when the House stripped the Appropriations Committee of six additional areas: consular and diplomatic affairs, Army, Military Academy, Navy, Post Office, and Indian affairs. For those who argued that the Appropriations Committee had amassed too much power, John Davis Long of Massachusetts said that no such move was being contemplated against Ways and Means: “The Committee on Ways and Means has the same privilege, the same power. Does anyone suggest that we go into the Committee on Ways and Means and distribute its bills; that we give its bills relating to the tariff on wools to the Committee on Agriculture, or its bills with regard to the tariff on woollens to the Committee on Manufactures, and so on?”⁸⁷

REASONS FOR FRAGMENTATION

Several theories have been advanced to explain this attack on the House Committee on Appropriations. Some attribute the breakup to a revolt among the rank-and-file who wanted greater spending for their districts. They believed that the Committee had emphasized economy at the expense of constituent needs. When I was pointed out that the splintering of the appropriations process might lead to greater spending, Charles Lore of Delaware asked: would a legislator “come here and wear his boy’s roundabout which he has outgrown and when he has come to man’s stature? Would he take his old coat split up the back like a locust?”⁸⁸ Speaker Thomas Reed of Maine also emphasized the needs that had been pressing upon the country in 1885:

But Mr. Carlisle and Mr. Morrison would not have been able to strip the Committee on Appropriations of its bills merely because they wished to deprive Mr. Randall of power. Behind them and behind the movement were the growing needs of the country. When economy is carried to extreme and becomes parsimony, it is only a

⁸⁵ *Congressional Record* (1877); vol. 7, pp.18-26; *Congressional Record* (1878); vol. 7, pp. 2713-17; *Congressional Record* (1879); vol. 9, 326-38, *Congressional Record* (1880), vol. 10, pp. 200, 663, 1261.

⁸⁶ *Congressional Record* (1880), vol. 10, pp. 684-86.

⁸⁷ *Congressional Record* (1885), vol. 17, p. 280. see also pp. 168-76.

⁸⁸ *Congressional Record* (1885), vol. 17, p. 286.

hindrance and a stumbling-block instead of a virtue. In 1885 economy had become parsimony, and the real needs of the country had been repeatedly sacrificed to a mere show of figures.⁸⁹

The combination of John G. Carlisle of Kentucky and William Morrison of Illinois against Samuel J. Randall of Pennsylvania concerned a long-simmering dispute over tariff policy. During his service as Speaker in 1877, Randall had demoted Morrison by transferring him from the chairmanship of Ways and Means to that of low-tariff policy. Morrison bided his time, waiting for an opportunity for revenge, which came in 1883 after the Democrats regained control of the House. Morrison led the opposition against Randall's reelection as Speaker. Carlisle, named the new Speaker, promptly put Morrison back as Chairman of Ways and Means. Randall was made Chairman of Appropriations. When Morrison reported out a tariff-reduction bill, Randall helped defeat it by siding with the Republicans. In 1885 Morrison helped strip Randall's committee of six areas of jurisdiction.⁹⁰

Members also objected to the ability of Randall and House Appropriations to report legislation as privileged, thus blocking action on bills from authorization committees. The tariff bill was a prominent example, but there were others.⁹¹ Before the 1885 vote that stripped House Appropriations of much of its jurisdiction, the *New York Times* reported:

The Conduct of Mr. Randall during the last session of Congress in blocking the way of important legislation with the appropriations bills is likely to lead to a very important and very desirable amendment to the rules of the House. The distribution of the appropriations bill among the committees have charge of the various interests for which they provide would at once relieve the Appropriations Committee from a burden of labor which has been made an excuse for dilatory action and deprive its Chairman of a power of legislation which experience has shown may be grossly abused.⁹²

A week later the *Times* suggested that it might be better to maintain the jurisdiction of House Appropriations and, instead, simply depose Randall.

Another impetus behind the breakup of House Appropriations was the perception that it was too oriented toward the interests of the Atlantic Coast. With the country moving westward, many Members wanted the power of appropriations dispersed to address the needs of the central and western states. Congressman James Laird of Nebraska protested:

While the center of population of the United States has passed a thousand miles westward from the Atlantic Coast, the center of appropriations and expenditures of public money will be found on a line drawn from this Capitol through the city of Philadelphia to Boston by way of New York... We are moving on; you are standing still. You are developed; we are developing; you are cautious, conservative; we are audacious, progressive.⁹³

FRAGMENTATION IN THE SENATE

⁸⁹ Thomas B. Reed, "Spending Public Money: Appropriations for the Nation," *North American Review*, vol. 424 (1892), pp. 319, 321.

⁹⁰ De Alva Stanwood Alexander, *History and Procedure of the House of Representatives* (Houghton Mifflin, 1916), pp. 239-50; H. Coc. 164, 66 Cong., 1 sess. (1919).

⁹¹ Stewart, *Budget Reform Politics*, p. 120.

⁹² *Ibid.*, p. 121.

⁹³ *Congressional Record* (1885), vol. 17, p. 323.

In 1877 the rivers and harbors appropriation bill was assigned to the Senate Committee on Commerce. Not until 1895, however, did Senator Fred Dubois of Idaho introduce a resolution to distribute most of Senate Appropriations' jurisdiction to ten other committees. He argued that it was physically impossible for the Appropriations Committee to give adequate consideration to all the budget requests. The glut of appropriations bills at the end of each session interfered with debate and limited the opportunity for amendments. Other senators expressed a desire to put an end to the "monopolistic dominance" of the Appropriations and Finance Committees.⁹⁴ The final dismantling of Senate Appropriations took place in 1899. In addition to the referral of rivers and harbors bills to Commerce, six other appropriations bills were dispersed to legislative committees. The agricultural bill went to Agriculture and Forestry; the Army and Military Academy bill to Military Affairs; the Indian bill to Indian Affairs; the naval bill to Naval Affairs; the pension bill to Pensions; and the Post Office bill to Post-Offices and Post-Roads.⁹⁵

STEPS TO THE BUDGET AND ACCOUNTING ACT OF 1921

The decentralization of the appropriations process was followed by increased federal spending and a renewed call for reforms within Congress to impose better controls. In the meantime, congressional party leaders intervened to check some of the impulse for freewheeling spending.

THE RESULTS OF FRAGMENTATION

Commentators on the breakup of the appropriations Committees generally have concluded that it led to greater spending and a loss of accountability. At the time of the breakup in 1885, Congressman Randall warned: "Experience and observation demonstrate such distribution leads to continually increasing appropriations, and renders it more difficult to keep expenditures within the limits of receipts." He continued:

The best interests of the people require that the subject of appropriations should mainly be committed to the charge of one committee—not that one set of men is abler or more honest than another set, but because experience has shown it is the safest course to pursue. Such body of men can make careful scrutiny into every detail by itself, and, in connection with others, and taking a survey of the whole field of receipts and expenditures, it will be responsible to the House to see to it that the later shall be reduced to an economical basis, and kept within the limits of public revenue.

...

It has been stated heretofore in the debate on this subject that history of legislation in Congress shows that amendments to appropriation bills coming from other committees having jurisdiction of general legislation concerning kindred subjects have been invariably in the direction in increased expenditure. When these same committees shall have the power not only to originate

⁹⁴ Senate Journal, 44 Cong., 2 sess. (January 17, 1877), p. 123; *Congressional Record* (1895), vol 28, pp. 42, 132-33, 1288.

⁹⁵ *Congressional Record* (1899), vol. 32, p. 1212

legislation, but also the power to provide appropriations to carry that legislation into effect, who can tell what the end will be?⁹⁶

Congressman James A. Tawney (R., MN) Chairman of the Appropriations Committee from 1905 to 1911, concluded in 1910 that the “division of jurisdiction and responsibility in the matter of initiating appropriations has contributed more than any single cause to the enormous increase in appropriations during recent years.”⁹⁷ Allen Johnson, a professor of Bowdoin College, wrote in 1910:

The result of this development is a lamentable dispersion of responsibility. No one committee can properly be held to account for congressional extravagance. Each committee has within its purview only the expenditures contemplated for a single object or group of objects. A member of the Rivers and Harbors Committee may become profoundly solicitous for certain items in the bill to be reported by his committee and thus lose utterly a sense of proportion between local wants and national expediency.⁹⁸

In a 1987 study two scholars analyzed the period from 1867 to 1915 to determine whether decentralization of the appropriations process from 1877 to 1885 resulted in increased spending. The study concluded that expenditures for rivers and harbors and for agriculture rose sharply after authorizing committees gained the right to appropriate. For the period from 1867 to 1879, when the Appropriations Committees had sole jurisdiction over appropriations, the average annual change for federal spending was -0.21 percent. From 1880 to 1915, when that jurisdiction was shared with legislative committees, the average annual percentage change was 2.62 percent.⁹⁹

Similar conclusions appear in a 1989 book by Charles H. Stewart III. Even after allowing for (1) price changes; (2) economic, population, and territorial growth; (3) wars; and (4) major programmatic changes sponsored by the authorizing committees—all of which added to higher spending—the structural reforms from 1877 to 1885 produced significantly higher expenditures.¹⁰⁰ One chart prepared by Stewart shows a gently sloping increase in federal spending from 1870 to 1885, followed by a sharp upswing in spending in the decades that followed. He notes that a number of factors, other than committee jurisdiction, contributed to this spending growth: price changes; economic, population, and territorial growth; and wars. Even after controlling for those factors (especially inflation), he still found a significant increase in spending after 1885.¹⁰¹

Another chart by Stewart focuses on appropriations for the Agriculture Department, reflecting a similar pattern; generally level spending from 1870 to 1880, a slight increase from 1880 to 1885, and a marked increase after that. He explains that some of this growth in spending resulted from legislative changes establishing new programmatic responsibilities for the Department. For example, in 1884 Congress passed an act creating the Bureau of Animal Industry within the Department; in 1887 it authorized a system of agriculture experiment

⁹⁶ *Congressional Record* (1885), vol. 17, p. T171.

⁹⁷ James A. Tawney, “Federal Appropriations: their Rapid Increase,” *Review of Reviews*, vol 42 (1910), pp. 343, 348.

⁹⁸ Allen Johnson, “American Budget-Making,” *Yale Review*, vol. 18 (1910), pp. 363, 367.

⁹⁹ David Brady and Mark A. Morgan, “Reforming the Structure of the House Appropriations Process: The Effects of the 1885 and 1919 Reforms on Money Decisions,” in McCubbins and Sullivan, eds., *Congress: Structure and Policy*, p. 225.

¹⁰⁰ Stewart, *Budget Reform Politics*, pp. 133-71.

¹⁰¹ *Ibid.*, pp. 134-37.

stations; and in 1891 it transferred the Weather Bureau from the Army Signal Corps to the Agriculture Department. He finds that about half of the growth in Agriculture Department appropriations after 1880 was due to these new legislative functions and programs.¹⁰²

A study in 1992 by John F. Cogan traces the history of appropriations control and concludes that during periods when spending jurisdiction was centralized in the Appropriations Committees, “deficits have been rare or nonexistent.”¹⁰³ A table he constructed illustrates the impact of centralized/decentralized budgeting on federal deficits as a percent of gross national product:

Time Period	Average Deficits (Percentage)
Centralized Budgeting	
1799-1885	-0.26
1922-1931	0.77
Decentralized Budgeting	
1886-1921	0.69
1932-1991	3.67

The splintering of the Appropriations committees shifted some of the fiscal responsibility to party leaders, who played the role of constraining the budget. The speaker could refuse to recognize Members who wanted to advocate extravagant proposals. Thomas Reed, Speaker during 1889-1891 and 1895-1899, used his recognition power to resist demands for an omnibus public buildings bill, despite the signing of a petition by 308 Members urging its passage.¹⁰⁴ An article in 1897 recommended stronger party control as a means of limiting national expenditures. That control was to be exercised either through the party caucus or through the Speaker, giving him “the power over legislation, including appropriations, which he now wields secretly, and to insist upon his having an acknowledged public responsibility, as leader of his party, as well as the private one which he now really has.”¹⁰⁵

Joseph Cannon of Illinois, during his years as Speaker (1903-11), also used the power of recognition to curb spending. More than two-thirds of the Members had signed a petition asking to have a public buildings bill considered by unanimous consent or under suspension of the rules. When Cannon learned that the bill contained \$20 million, he notified the chairman of the committee that he would not recognize him. Cannon is reported to have said: “I will not recognize any one to move to suspend the rules to pass that bill, but if two-thirds of this House has the courage of its convictions, as indicated in

¹⁰² Ibid., pp. 138-139.

¹⁰³ John F. Cogan, *Federal Budget Deficits; What’s Wrong with the Congressional Budget Process?* (Hoover Institution, 1992), p. 4.

¹⁰⁴ Henry Jones Ford, “Budget Making and the Work of Government,” *The Annals*, vol. 62 (1915), p. 12.

¹⁰⁵ Rollo Ogden, “The Rationale of Congressional Extravagance,” *Yale Review*, vol. 6 (1897), pp. 37, 46-47.

that petition, it can remove me as Speaker, and put in a Speaker who will acquiesce in their wishes and pass the bill.”¹⁰⁶

THE BUDGET AND ACCOUNTING ACT OF 1921

Expenditures by the national government expanded sharply at the turn of the century. On top of pension bills and rivers and harbors projects, federal outlays were further swelled by the Spanish-American War and by construction of the Panama Canal. After 28 straight years of surpluses, from 1866 to 1893, the nation was to encounter deficits for the next six years. Some budget surpluses appeared at the turn of the century, but a decline in customs revenue in 1904, coupled with a sharp rise in expenditures (reflecting a \$50 million right-of-way payment for the Panama Canal), produced a sizable deficit for the administration of Theodore Roosevelt. He appointed the Keep Commission in 1905 to determine how the executive branch might conduct its affairs on the “most Economical and Effective Basis in the light of the best modern business practices.”¹⁰⁷

As a result of larger receipts from customs and from internal revenue in 1906 and 1907, the budget moved back to a surplus, but only momentarily. Heavy deficits reappeared in 1908 and 1909, and another deficit was forecast for fiscal year 1910. Congress responded in 1909 by directing the Secretary of the Treasury to estimate revenue for the coming year. If a deficit appeared likely, he was to recommend reductions in appropriations. If he considered that course impracticable, it was his responsibility to recommend loans or new taxes to cover the deficiency.¹⁰⁸

In 1910, at the request of President William Howard Taft, Congress appropriated \$100,000 for an investigation into more efficient and economical ways of conducting the public business. Taft used the money to set up a five-member Commission on Economy and Efficiency. In June 1912, he submitted to Congress the commission’s proposals for a national budget, which placed upon the President the responsibility for organizing departmental estimates into a coherent document. The President’s Budget was to serve as the basis for intelligent, informed legislative action.¹⁰⁹

President Taft directed departmental heads to prepare two sets of estimates: one for the customary “Book of Estimates,” and a second for the national budget recommended by his commission. Since the Budgetary situation had improved and legislators were concerned that Taft might use the new budget authority to reduce federal programs, Congress moved to block his plans. An act of August 23, 1912, directed administrative personnel to prepare estimates and submit them to Congress only in the form required by law. Congress considered the budget format to be part of its spending prerogative, while Taft regarded the form in which he transmitted recommendations to Congress as a purely executive matter. Taft proceeded with his

¹⁰⁶ John J. Fitzgerald (Chairman of the House Committee on Appropriations), “American Financial Methods from the Legislative Point of View,” *Municipal Research*, vol. 62 (1915), pp. 299, 326.

¹⁰⁷ Elting E. Morison, ed., *Letters of Theodore Roosevelt*, vol. IV (Harvard University Press, 1951-1954), pp. 1201-02; Oscar Kraines, “The President versus Congress: The Keep Commission, 1905-1909,” *Western Political Quarterly*, vol. 23 (1970), p. 5.

¹⁰⁸ 35 Stat. 1027, sec 7 (1909)

¹⁰⁹ 36 Stat. 703 (1910); H. Doc. 854, 62 Cong., 2 sess. (1912), p. 138.

plan to submit two budgets. However, his model budget for FY 1914 was almost completely ignored by Congress.¹¹⁰

Just as the magnitude of Civil War financing led the House to strip from Ways and Means its jurisdiction over appropriations bills, so did the financial pressures of World War I prompt Congress to adopt budget reform for both the executive and the legislative branches. World War I pushed federal expenditures from about \$700 million before the war to \$12.7 billion and \$18.5 billion by 1918 and 1919. The total national debt—slightly over \$1 billion in 1916—passed beyond \$25 billion by 1919. It was widely recognized that debt management problems after the war would require greater centralization in both Congress and the President.

In March 1918 Medill McCormick (R., IL) introduced a number of bills and resolutions calling for unification of departmental estimates by the Secretary of the Treasury, creation of a House budget committee to replace the Committees on Ways and Means and Appropriations, establishment of an independent audit of departmental accounts, and reorganization of the Treasury Department.¹¹¹ In 1919 the House passed a resolution offered by James Good (R., IA) to create a Select Committee on the Budget. The resulting committee report criticized the lack of internal executive checks on departmental estimates. Economy and efficiency could be secured only by making a single officer responsible for receiving and scrutinizing the requests for funds by bureau and departmental officials; “In the National Government there can be no question but that the officer upon whom should be placed this responsibility is the President of the United States.”¹¹² A bill for an executive budget passed the House on October 21, 1919. The Senate, preoccupied with the World War I peace treaty, did not act until the following spring. The bill that finally emerged from Congress was vetoed by President Woodrow Wilson because it excluded Comptroller General, and his assistant, of the (newly created) General Accounting Office. Congress had provided for removal solely by impeachment or by concurrent resolution. A concurrent resolution requires action by both Houses but is not presented to the President for his signature or veto. Wilson regarded presidential removal power as an “essential incident” of the appointing power of the President.¹¹³

Congress passed a new bill early in 1921 that placed the Budget Bureau in the Treasury Department and authorized the President to appoint his own budget director. The bill also provided for a General Accounting Office, to be under the control and direction of the Comptroller General. All accounting and auditing responsibilities that previously had been vested in Treasury Department personnel were transferred to the GAO. Removal of the Comptroller General and his assistant was to be accomplished by joint resolution, a procedure that requires submission of the resolution to the President. On June 10, 1921, marking an end to one controversy over the spending power, President Warren Harding signed the Budget and Accounting Act.

CANTRALIZING APPROPRIATIONS BILLS IN CONGRESS

¹¹⁰ 37 Stat. 360, 415 (1912); *Congressional Record* (1913), vol.49, pp. 3985ff; Frederick A. Cleveland, “The Federal Budget,” *The Annals*, vol. III (1912-13), pp. 167-68.

¹¹¹ H. Doc. 1006, 65 Cong., 2 sess. (1918).

¹¹² H. Rept. 362, 66 Cong., 1 sess. (1919), p. 5.

¹¹³ James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents* (Bureau of national Literature, 1897-1925), vol. 17 (June 10, 1920), p. 8851.

Anticipating these changes, in 1920 the House consolidated jurisdiction over all appropriations in a single committee. In 1922 the Senate adopted the same reform. The initiative for a single House Appropriations Committee came from the House Select Committee on the Budget, appointed in 1919 to draft legislation for a national budget system and to propose changes in the method of dealing with appropriations, estimates, and expenditures. On October 11, 1919, the select committee reported H. Res. 324, which centered in one Appropriations Committee, composed of 35 members, the authority to report all appropriations. It stated that its system of decentralizing appropriations control after 1885 “has been universally and by their special study of the problem involved became authorities on the subject.”¹¹⁴ The report provides quotations from several authorities, including James A. Garfield, Thomas B. Reed, Samuel J. Randall, Joseph G. Cannon, James A. Tawney, John J. Fitzgerald, Swagar Sherley, and others.

Presidents Wilson and Taft also favored the consolidation of appropriations authority in a single committee in each House.¹¹⁵ The Democratic platform of 1916 supported a return by the House “to its former practice of initiating and preparing all appropriation bills through a single committee chosen from its membership, in order that responsibility may be centered, expenditures standardized and made uniform, and waste and duplication in the public service as much as possible avoided.”¹¹⁶

The House considered H. Res 324 on June 1, 1920. One of the arguments presented on its behalf was the need to adopt this internal congressional reform as part of the larger reform of a national budget system. Congressman Simeon D. Fess (R., OH) states: “This resolution is the last step to make the budget system a reality. It is supplemental to the budget bill and s necessary to make it workable.”¹¹⁷ Congressman Walter W. Magee (R., NY) added: “Having voted for the budget bill, we are in honor bound to adopt this resolution. In no other way can we consummate an effective national budget system.”¹¹⁸ Opponents of the resolution objected to vesting in a single committee the control over all appropriations and doubted that the Appropriations Committee could match the scrutiny and knowledge of the authorizing committees.

The resolution from the House Rules Committee to take up H. Res. 324 passed by the narrow vote of 158 to 154. A total of 115 Members did not vote. During debate on H. Res. 324, Congressman Martin B. Madden (R., IL) repeated the linkage between executive and legislative reforms:

We have just passed what is known as a budget law. We propose to regulate the conduct of the executive branch of the Government. That compels the executive branch of the Government to give to the Congress of the United States a photograph, if I may so speak, of its program for the entire year. Now, that program as photographed in the budget as presented by the President should be visualized by some central body in the Congress which will be able to prevent extravagant expenditures...¹¹⁹

In rebuttal, Congressman Gilbert N. Haugen (R., IA) called the budget bill, vesting responsibility in the President, a “camouflage” for reorganizing congressional committees.

¹¹⁴ H. Rept. 373, 66th Cong., 1 sess. (1919), pp. 4-5.

¹¹⁵ *Ibid.*, p. 8.

¹¹⁶ *Ibid.*

¹¹⁷ *Congressional Record* (1920), vol. 59, p. 8103.

¹¹⁸ *Ibid.*, p. 8106.

¹¹⁹ *Ibid.*, p. 8109.

Congressman Frederick C. Hicks (R., NY) challenged the view that the House Appropriations Committee would function as a unit in reviewing the President's budget: "...I imagine these subcommittees of the Committee on Appropriations are now, in practice, separate and independent committees, that have very little to do with each other in making up the various bills reported from the Committee on Appropriations, and therefore do not coordinate appropriations as claimed."¹²⁰ A motion to recommit H. Res. 324 failed on a vote of 79 to 121. On the question of agreeing to the resolution it passed 200 to 117.

A SINGLE APPROPRIATIONS BILL

The House Select Committee on the Budget contemplated that the Committee on Appropriations, with all appropriations power centered within it, would act "so that the budget can come before Congress in one measure." The consideration of that measure "will involve a full and comprehensive discussion in Congress of the big problem of Government finance." With a single bill, Members of Congress "can see at a glance the entire picture." The financial obligations of the national government, viewed in this manner, "will have a tendency to sober the temper of Congress when it comes to passing legislative bills that may mean the taking up of new Government activities which will require future appropriations."¹²¹

During House debate in 1919, John M. Jones (D., TX) asked: "Is it planned to have the budget presented en masse to the House?" Edward T. Taylor (D., CO) answered "Oh, yes." Taylor expected the budget to be presented to the House as a single bill and "considered systematically and consecutively as the great national budget, and will be by all odds the most important bill before each Congress, and will probably require weeks to thoroughly consider and pass it." There would be "one great appropriation committee of 35 [to] bring the President's budget, with such changes as they agree upon, all at one time, so that it may all be considered at once."¹²²

Nevertheless, instead of waiting for all subcommittee products to come before Congress "in one measure," Congress acted on the appropriations bills one at a time. With the single exception of the omnibus appropriations bill in 1950, that has been the practice. In recent years there have been occasions when Congress has passed a continuing resolution containing the full text of the appropriations bills—in effect an omnibus appropriations bill.

FROM THE 1921 ACT TO BUDGET REFORM IN 1974

Although, under the rules, the Appropriations Committees regained formal control over appropriations, their actual jurisdiction was undercut by the growth of "backdoor spending" reported by the authorizing committees. In 1950 Congress experimented with an omnibus appropriations bill, but never tried it again. Part of the purpose of the Congressional Budget and Impoundment Control Act of 1974 was to place restrictions on "backdoors." Nevertheless the continued growth in the cost of entitlement programs has gradually reduced the portion of the budget controlled by the Appropriations Committees.

BACKDOOR SPENDING

¹²⁰ Ibid., pp. 8109, 8114.

¹²¹ H. Rept. 373, 66Cong., 1 sess. (1919), p. 10.

¹²² *Congressional Record* (1919), vol. 58, p. 7126.

The two major forms of backdoor spending took the form of borrowing authority and contract authority. Both financing techniques allow the authorizing committees to either circumvent the control of the Appropriations Committees or to compel them to appropriate funds to liquidate obligations already made.

Borrowing authority allows a federal agency to incur obligations and make payments for specified purposes out of borrowed moneys. Borrowing can come from two sources: public debt authority (derived from the sale of public debt securities of the federal government) and agency debt authority (derived from the sale of agency debt securities, the issuance of mortgages, and other sources). During the period from January 22, 1932—when Congress created the Reconstruction Finance Corporation—through June 30, 1973, the amount of authority to spend from debt receipts totaled about \$133.5 billion.¹²³ Of that amount, only \$17 billion passed through the Appropriations Committees. The balance was handled by other committees.

Contract authority allowed agencies to enter into obligations prior to an appropriation. Certain kinds of contract authority have been subject to restrictions in appropriation bills, but in most cases once an obligation is placed upon the government as a result of contract authority, the Appropriations Committees must liquidate those obligations by appropriating the necessary funds. As an example, Congress included in the Clean Water Act of 1972 a total of \$18 billion in contract authority over a three-year period. Through that authority the Environmental Protection Agency was able to enter into contracts for waste treatment plants. When Congress later had to provide funds to liquidate those contractual obligations, the hands of the Appropriations Committees were tired.

A third type of backdoor consists of “mandatory entitlements” in the form of food stamp and school lunch programs, veterans’ pension increases, social security benefits, and railroad retirement programs. In most cases funds are not provided for in advance by appropriations bills, even though the United States is obligated to make such payments to persons or governments who meet the requirements established by law. A large portion of entitlements are covered by “permanent appropriations”—funds that become available without any current action by Congress, such examples include interest on the public debt and such trust funds as Federal Old-Age and Survivors Insurance, federal disability insurance, and unemployment compensation. In a few cases the Appropriations Committees must provide the funds in advance, but their actions are mandated by law. With respect to mandatory entitlements, they have no discretion to limit or reduce funding.

Because of the growth of backdoor spending, the effective jurisdiction of the Appropriations Committees became smaller with each passing year. In 1973, on the eve of the Budget Act of 1974, a joint congressional committee estimated that the Appropriations Committees had “effective control over less than fifty percent of the budget...”¹²⁴

The Legislative Reorganization Act of 1946 established a joint budget committee composed of the two Appropriations Committees, House Ways and Means, and Senate Finance. The joint budget committee was directed to meet at the beginning of each regular session to report a legislative budget, including the estimated overall federal receipts and expenditures. The report would contain a recommendation for the maximum amount to be appropriated for expenditure, together with the amount reserved for deficiencies that might seem necessary. The

¹²³ U.S. Department of the Treasury. *Combined Statement of Receipts, Expenditures and Balances of the United States Government* (June 30, 1973).

¹²⁴ H. Rept. 147, 93 Cong., 1 sess. (1973), p. 9.

deadline for the report was February 15. The report was to be accompanied by a concurrent resolution to adopt the budget and fix the maximum amount to be appropriated.¹²⁵

Congress failed to agree on a legislative budget in 1947, voted funds in excess of the legislative “ceiling” the next year, and was unable to adopt a legislative budget in 1949. The experiment failed for many reasons: February 15 was too early for a deadline, spending reductions were ordered without specifying where, the size of the joint committee (102 members) was unwieldy, the joint committee lacked a permanent staff to make independent studies on budget estimates, and action on a legislative budget had no binding effect on congressional actions.

THE OMNIBUS APPROPRIATION ACT OF 1950

In 1950, instead of handling appropriations by separate bills, the House Appropriations Committee reported a single-package (“omnibus”) appropriations bill. In part, the omnibus bill was meant to replace the failed legislative budget. The idea of acting on all appropriations in a single bill had been pressed by Senator Harry F. Byrd (D., VA), who argued that a consolidated appropriation bill would deter nonessential spending. Hearings on the idea had been held as early as 1947.¹²⁶

The Chairman of House Appropriations, Clarence Cannon, put the concept into practice in 1950. The omnibus appropriations bill reported by House Appropriations that year consisted of chapters corresponding to the regular appropriations bills enacted in previous years. Ten subcommittees were organized, with each subcommittee concentrating on a single chapter. An executive subcommittee consolidated the chapters and the full Appropriations Committee approved the bill (431 pages long). Committee voting was strictly along party lines. All Republicans present opposed the bill (for appropriating too much money), while all Democrats present voted in favor. The full Committee spent only about three hours discussing the omnibus bill.¹²⁷

As it turned out, the “omnibus” appropriations act of 1950 covered less than half of the cost of government. It did not attempt to include funds for the Korean War, which was financed by large supplemental appropriations bills. Total appropriations for FY 1951 reached \$74.9 billion, compared to \$36.7 billion in the omnibus bill.¹²⁸

On January 29, 1951, the House Appropriations Committee voted 31 to 18 to abandon the omnibus bill. Democrats now turned against it; only 14 of 30 favored an omnibus bill. Republicans opposed it 17 to 2. Members complained that the omnibus appropriations bill was too large and complex to be understood. It was comprehensive but also incomprehensible.¹²⁹

¹²⁵ 60 Stat. 832, sec 138 (1946).

¹²⁶ *Congressional Record* (1949), vol 95, pp. 941, 5847; “To Include All General Appropriation Bills in One Consolidated General Appropriation Bill,” hearings before the Senate Committee on Rules and Administration, 80 Cong., 1 sess (1947).

¹²⁷ Dalmas H. Nelson, “the Omnibus Appropriations Act of 1950,” *Journal of Politics*, vol 15 (1953), pp. 277-79.

¹²⁸ *Ibid.*, p. 281.

¹²⁹ *New York Times*, January 30, 1951, p. 16; John Phillips, The Hadacol of the Budget Makers,” *National Tax Journal*, vol. 4 (1951), p. 255. For a rebuttal by Congressman Cannon of Philips’ critique, see *Congressional Record* (1951) vol. 97, pp. 764-68.

Hearings were held on the omnibus appropriations concept in 1951 and 1953.¹³⁰ Although Congress has not again attempted an omnibus appropriations bill—in the same form and procedure as tried in 1950—in the late 1980s it passed “continuing resolutions” that were the functional equivalents of an omnibus appropriations bill. However, on October 18, 1986, Congress enacted a continuing resolution that covered all of FY 1987 and include the full text of the appropriations bill. Because of printing errors the bill had to be reenacted on October 30, 1986.¹³¹

The same procedure was followed a year later to cover FY 1988.¹³² However, on this occasion the continuing resolution marked a response to a “budget summit” agreement between President Reagan and the joint leadership of Congress on November 20, 1987. Part 5 of the agreement stated: “For FY 1988 Congress shall present reconciliation and the continuing resolution (or other appropriations legislation) to the President concurrently.” To expedite the summit agreement, Congress would present two large bills to the President. Congressman William Gray (D., PA), Chairman of the House Budget Committee, explained that the summit agreement called for specific deficit reductions: “These savings were to be achieved through two pieces of legislation: the reconciliation bill and the continuing resolution.”¹³³

IMPOUNDMENT OF FUNDS

Presidents had long been in the habit of impounding appropriated funds (spending less than Congress provided) to achieve managerial savings. Occasionally impoundment was used for political and partisan purposes to cancel or abbreviate programs the administration had not asked to be funded in the President’s budget. These collisions between the two branches were eventually resolved by compromise and accommodation.¹³⁴

During the Nixon administration, impoundment took a decisive turn. The level of funds withheld was unprecedented in scope and severity. Never before had congressional priorities and prerogatives been so altered and jeopardized. During December 1972 and January 1973 the administration announced major spending cancellations and cutbacks. Frequently the actions were defended on the theory that Congress had filed to enact mandatory language for the programs. In other words, the mere existence of discretionary authority, which had been granted by congress to enable executive officials to administer the programs more effectively, was used as an excuse to deny the programs in their entirety.¹³⁵

DEFICIT CONTROL FROM 1974 TO 1994

The impoundment crisis was a major impetus for passing a budget reform bill in 1974. Legislation in 1972 created a Joint Study Committee on Budget Control, composed of the chairmen and ranking members of the House and Senate Appropriations Committee, House Ways and Means, and Senate Finance. The joint committee also included four Members At

¹³⁰ “Consolidated Appropriation Bill,” Hearings before the Senate Committee on Rules and Administration, 82 Cong., 1 sess. (1951); “Consolidated General Appropriation Act,” hearings before the Senate Committee on Rules and Administration, 83 Cong., 1 sess. (1953).

¹³¹ 100 Stat. 1783 (P.L. 99-500); 100 Stat. 3341 (P.L. 99-591).

¹³² 101 Stat. 1329 (P.L. 100-202).

¹³³ *Congressional Record* daily edition (December 21, 1987), vol. 133, p. H11967.

¹³⁴ Louis Fisher, *Presidential Spending Power* (Princeton University Press, 1975), pp. 147-74.

¹³⁵ *Ibid.*, pp. 175-201.

Large. A number of the proposals by the joint committee related to appropriations, especially (1) the need for Congress to examine the budget from an overall point of view and (2) ways of preventing further splintering of control by the Appropriations Committees.

BUDGET ACT OF 1974

The recommendations of the Joint Committee led to enactment of the Congressional Budget and Impoundment Control Act of 1974. Title IV placed new controls on backdoors. New forms of contract or borrowing authority would function as ordinary authorizations, requiring an appropriation before agencies could enter into obligations. However, Title IV did not apply to certain types of spending authority which were exempted, such as 90 percent self-financed trust funds or outlays of government corporations. Entitlements, then, were given preferred treatment, even through the drafters of the Budget Act recognized that entitlements represented the most explosive growth area of the federal budget.¹³⁶

The Budget Act created the Congressional Budget Office as a legislative agency capable of performing nonpartisan analyses. The statute also changed the fiscal year to begin October 1 rather than July 1, to give Congress additional time to pass all appropriations bills before the fiscal year begins and avoid reliance on continuing resolutions. Despite these extra months, Congress was generally unable to enact appropriations bills on time. From FY 1968 through FY 1975, only two appropriations bills operated under a continuing resolution for an entire fiscal year. From FY 1976 through FY 1985, that figure jumped to twenty-seven. For both FY 1986 and FY 1987, the fiscal year began without a single appropriations bill being enacted into law.

The statute created Budget Committees in each House, responsible for preparing “budget resolutions” that would contain five budget aggregates: total expected revenues, total outlays, total budget authority, the deficit or surplus, and the level of the public debt. Outlays and budget authority are broken into functional categories for such broad areas as national defense, transportation, agriculture, health and energy.

The purpose of budget resolutions is to coordinate congressional consideration of appropriations, tax and entitlement measures. Initially, the Budget Act called for two budget resolutions: a tentative resolution in the spring and a final, binding resolution in the fall. After a few years Congress found it increasingly difficult to pass the second resolution. As a partial solution, Congress provided that if the second resolution was not adopted, the first resolution would automatically become binding. In 1985 Congress eliminated the second budget resolution from the budget process.

If the individual actions on appropriations bills, tax bills, and entitlement legislation did not match the targets in budget resolutions, Congress would pass a “reconciliation” bill that directed committees to report additional savings. Over time, reconciliation bills became major instruments for making broad changes in tax and entitlement legislation.

Section 302 of the Budget Act of 1974 provided for allocation of aggregate spending to committees and subdivisions of spending authority. Spending totals in the budget resolution for the upcoming fiscal year are distributed to the Appropriations Committees. Each Appropriations Committee then divides the amount allocated to it among its subcommittees. Appropriations bills in excess of allocations are subject to points of order when they are considered on the floor.

Title X of the Budget Act restricted the President’s power to impound funds. The statute recognized two types of impoundment: rescissions and deferrals. If the President wants to

¹³⁶ H. Rept. 147, 93 Cong., 1 sess. (1973), pp. 12-13.

rescind (cancel) budget authority, he must obtain the support of both Houses within 45 days of continuous session. If he wants to defer (delay) the obligation of budget authority, either House could disapprove at any time. The latter control, a one-House legislative veto, was invalidated as a result of the Supreme Court's decision in *INS v. Chadha* (1983). Subsequent litigation narrowed the President's authority to defer funds to the point where administrations may now defer only for routine administrative purposes. Presidents no longer have authority to impound because they object to particular programs.¹³⁷

GRAMM-RUDMAN-HOLLINGS ACTS

Part of the purpose of the Budget Act of 1974 was to address the problem of budget deficits. However, budget deficits increased after 1974. In the ten years from FY 1966 through FY 1975, deficits averaged \$14.8 billion a year. From FY 1976 through FY 1991 the average annual deficit increased to about \$136 billion a year. Much of that increase resulted from actions taken in 1981 to cut taxes and increase defense spending, pushing the average annual deficit to about \$200 billion a year.

Because of high deficits, political inertia, and budgetary deadlock between the executive and legislative branches, in 1985 Congress enacted the Balances Budget and Emergency Deficit Control Act (Gramm-Rudman-Hollings, or GRH). The Act established a series of declining annual deficit targets and created an automatic spending-reduction process (known as sequestration) to trigger spending cuts if the two branches failed to meet the deficit targets. If a sequester occurred, the Act provided for specific procedures and criteria to guide the cutbacks. The 1985 Act required a zero deficit by FY 1991.

The two branches failed to produce the deficit targets scheduled in Gramm-Rudman-Hollings II in 1987, advancing the goal of a zero deficit to FY 1993. Similar problems emerged. A scheduled deficit of \$100 billion for FY 1990 climbed to \$220.5 billion and the zero deficit projected for FY 1993 was actually \$255 billion. The magnitude of sequestration that would have been required in 1990 prompted Congress and the President to abandon fixed deficit targets. The result was the Budget Enforcement Act of 1990.

BUDGET ENFORCEMENT ACT OF 1990

This experience with deficit targets convinced Congress and the President to abandon them and concentrate on spending limits. The Budget Enforcement Act of 1990 relied on spending controls and tax increases to achieve a projected five-year deficit-reduction goal of \$500 billion. The Act established limits on distinct categories of discretionary spending. For FY 1991, FY 1992 and FY 1993, limits were set for budget authority and outlays for defense, international, and domestic spending. "Firewalls" prevented funds from being transferred from one category to another. For FY 1994 and FY 1995, the limit on new budget authority and outlays was established only for total discretionary spending. The 1990 Act anticipated that the deficit by 1995 would decline to \$83 billion, but the current estimate for that year is a deficit of about \$162 billion. CBO's ten-year budget outlook projects that budget deficits will be under \$200 billion from FY 1995 through FY 1998, but will then trend upward to reach \$397 billion by¹³⁸ FY 2004.

¹³⁷ *City of New Haven v. United States*, 809 F.2d 900 (D.C. Cir. 1987).

¹³⁸ Congressional Budget Office, *The Economic and Budget Outlook: An Update* (August 1994), p. 31.

PENDING BUDGET REFORMS

A number of reforms have been proposed to alter congressional budget procedures (biennial budgeting), expand presidential control over spending (line-item veto and expedited rescission), and to control the deficit (the balanced budget amendment.) Action has occurred on all of these proposals in the House or the Senate, but as of 1994 none has been enacted into law or submitted to the states for ratification of a constitutional amendment.

Under proposed biennial budgeting, Congress would follow a two-year cycle for authorization bills, appropriations bills, and budget resolutions. Advocates for this change claim that Congress could do a more effective job in the off-year in monitoring federal programs and executive officials would have more time for management and execution. They further argue that many state governments adhere to biennial budgeting, but they did that because most state legislatures only met every other year. Congress has always met on an annual basis. As state legislatures go in the direction of annual sessions, states are moving from biennial budgeting to annual budgeting. The major opposition to biennial budgeting comes from those who believe that a switch from an annual to a two-year cycle would require heavy reliance on supplemental appropriations in the off-year and less congressional scrutiny of agency activities.

Proposals to increase presidential control over spending include various versions of a line-item veto. Some of these proposals would require an amendment to the Constitution; others rely on statutory action. All would grant the President authority to delete individual projects and dollar amounts from a general appropriations bill. Some would even permit the President to strike provisos, conditions, and legislative language from bills presented to him. Proponents argue that Congress adds too many "pork barrel" projects to legislation, intended to satisfy local needs, and that Presidents need discretion to eliminate wasteful spending. Although there have been many hearings and much floor activity on the item veto, this type of authority has not been granted. Opponents regard an item veto as transferring too much of the power of the purse from Congress to the President. They contend that a President could use the threat of an item veto as leverage for obtaining other goals desired in nominations, treaties, and general legislative interests. A President, or his assistants, could notify a Member of Congress that, unless the legislator supports a White House initiative, a project in the Member's district or state will be eliminated through the item veto. Thus a procedural change in the item veto could have major implications for separation of powers and checks and balances.

Congress has shown greater interest in strengthening the President's power through the rescission process. Under the current system, if a President wants to rescind appropriated funds he must obtain the support of Congress within a fixed number of days. Otherwise, the funds must be released for obligation. Neither house is required to act on the President's recommendations. A proposal for "expedited rescission" would alter this process by requiring Congress to vote on the President's plan within a specified period. In 1993 and 1994 the House of Representatives passed legislation for expedited rescission, but the Senate has yet to act on this proposal.

Both houses of Congress have been active in considering different types of language to add a balanced-budget amendment to the Constitution. The general idea, borrowed from the states, is to prohibit outlays from exceeding anticipated revenues. Proponents claim that the balanced budget amendment has forced states to be fiscally prudent and responsible. The parallel with the states is not exact because the states, unlike the federal government, adopt two

budgets—not one. The states’ “operating budget” is balanced; the “capital budget” (for long-term investments) is not. State borrowing and state indebtedness are quite high. If Congress adopted a balanced budget along the lines of the state model, Congress might create two budgets and conceal the deficit in a capital budget. Other techniques to avoid the strictures of a balanced-budget requirement could be borrowed from the states, including the creation of special borrowing authorities and the use of nonguaranteed bonds (with only guaranteed bonds, backed by the government, counted toward long-term debt). State balanced-budget requirements typically exclude money spent on highway construction and maintenance, school construction, pension benefits, and capital activities.

A balanced-budget amendment could produce substantial changes in the allocation of power among the branches of government. If states are a model, a President would probably gain additional authority in impounding funds, exercising a line-item veto, and transferring funds from one year to the next—all techniques used by state governors to maintain a balanced budget. Also, a balanced-budget amendment would involve federal judges in delicate questions of fiscal and budget policy. They would have to decide whether governmental practices are permitted or prohibited by the amendment. State judges, actively monitoring balanced-budget amendments, have been criticized as intruding into fundamental questions of governmental funding.

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