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THE HISTORY OF THE
CONGRESSIONAL APPROPRIATIONS PROCESS: 1789–2014

David W. Casazza
&
Greg Schmidt

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I. CONSTITUTIONAL AUTHORIZATION:

Nestled among the limitations of Federal Power found in Section 9 of Article I of the Constitution that stands out from its peers. The seventh clause of that section reads:

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.¹

This clause, innocuous as it seems, is the foundation of Congress's greatest power—the power of the purse. The various clauses of Art I. sec. 8 describe *what* the Federal Government may spend money to accomplish while this, sec. 8's natural counterpart, describes *how* it may spend money to achieve those ends. The Appropriations Clause requires that all expenditures from the Treasury (meaning nearly all expenditures made by the Federal Government) be made pursuant to direct statutory authorization.

The power wielded by the Government through its expenditures is enormous; James Madison described it 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.”² By placing the clause in section 9, rather than section 8, and by phrasing the clause in the negative, the drafters of the Constitution placed the appropriations among the limitations on Federal Government. Furthermore, by allowing expenditures only through

¹ U.S. CONST. art. I, sec. 9, cl. 7.

² FEDERALIST NO. 58, (James Madison) (C. Rossiter Ed. 1961) at 359.

“Appropriations *made by law*”,³ the Constitution limited the President and placed the Congress, the branch most directly accountable to the people, in primary control over expenditures. The Constitution ensured that Congress:

has, and must have, a controlling influence over the executive power, since it holds at its own command all the resources by which a chief magistrate could make himself formidable. It possesses the power over the purse of the nation and the property of the people. It can grant or withhold supplies; it can levy or withdraw taxes; it can unnerve the power of the sword by striking down the arm that wields it.⁴

In large part, the story of Congress’s power in our Republic is the story of Congressional Appropriations. This article will present a brief tour of the means by which Congress has exercised its appropriations power since the founding, touching on the apparatus of appropriations within Congress, on the hierarchy created within the Congress by that apparatus and on the influence the appropriations process has had on relations between Congress and the President.⁵

³ U.S. CONST. art. I, sec. 9, cl. 7.

⁴ JOSEPH STORY, III COMMENTARIES ON THE CONSTITUTION, ch. 7, § 530 (1833). The Supreme Court has adopted Justice Story’s view of the clause as a limitation on executive authority. See *Cincinnati Soap Co. v. United States* 301 U.S. 308 (1937) (“[the clause] was intended as a restriction upon the disbursing authority of the Executive department”); *United States v. MacCollom*, 426 U.S. 317, 320 (noting an “established rule [] that the expenditure of public funds is proper only when authorized by Congress, not that public funds may be expended unless prohibited by Congress.”).

⁵ The article will focus predominantly on the Appropriations process in the House rather than in the Senate. While the Constitution requires that revenue bills originate in the House, it is silent on the procedures for considering spending bills. By tradition, influenced heavily by the revenue requirement, appropriations bills originate in the House before moving to the Senate. House appropriators, unlike their Senate colleagues, rarely serve on authorizing committees and become highly expert specialists in appropriations and the appropriations process. The Senate committee historically made only minor modifications to the appropriations bills that came to it from the House. Only in the past two decades has the Senate Appropriations committee passed its bills before the House—this trend is discussed in section IV. To the extent that there are battles within Congress over control of the appropriations process, they are waged between party leadership in the

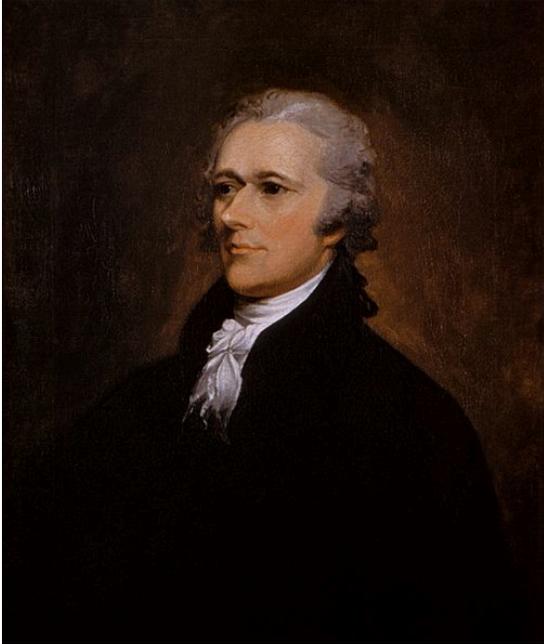
Two general themes will emerge appear at several points in this story. The first is the struggle for control between committees and party leadership in Congress. At different times and in different contexts both have been dominant over the other. The dynamic is not a strictly binary relationship; Appropriators have often found themselves in a three-way struggle with leadership and with authorizing committees for control of the spending process. The shifting alliances between these three groups have defined the changes in power within the House in particular. The periods of transition from committee-dominated organization to leadership-dominated organization (and vice versa) usually coincide with changes in the system of appropriations.

The second general theme emerges from the relationship between overall spending levels and the structure of the appropriations process. In normal periods, federal appropriations increase gradually and incrementally. Extended periods of gradual increase are then interrupted by large expansions in spending during wartime (in particular the Civil War, both World Wars, and the 1960's and '70's combination of the Vietnam War and the War on Poverty). These bursts of wartime spending in turn trigger reforms in the appropriations process itself as the old system of appropriations is found to be either ineffective or a political impediment to the necessary expansion in spending.

II. WAYS & MEANS: EARLY APPROPRIATIONS PRACTICE: 1789–1865

The First Congress was confronted with the task of assessing the condition of the nation's finances and re-ordering the system that had existed under the Articles of

House, authorizing committees, and the House Appropriations Committee rather than between the House and Senate Appropriators.



**Figure 1: Alexander Hamilton,
First Secretary of the Treasury**

Confederation. The House quickly realized this task was beyond the capabilities of the whole body and convened a committee consisting of eleven members to “prepare an estimate of supplies requisite for the service of the United States the current year, and to report thereupon.”⁶ The work of this first committee is lost in history—its report is not part of the House Journal, which merely notes

a motion by Elbridge Gerry to dismiss the committee and to refer its work to the Secretary

of the Treasury.⁷ This action placed considerable power over Federal spending in the hands of the Treasury and its secretary, Alexander Hamilton. Congress seems to have intended the Treasury Secretary to act in place of a standing committee (the bill creating the Treasury, unlike those creating the departments of War and State, directed Hamilton to report regularly to Congress and propose legislation). Hamilton used this power expansively to promote the Federal Government and begin a project of national development.⁸ Initially, Congress wholeheartedly supported Hamilton’s projects, adopting nearly all of the recommendations of his 1790 *Report on Public Credit* and implementing his revenue measures aimed at paying down the enormous federal debt accumulated during the Revolutionary War. Similarly, it adopted his recommendations

⁶ 1 ANNALS OF CONG. 670–1 (1789).

⁷ 1 ANNALS OF CONG. 894–5 (1789).

⁸ KENNON, DONALD R. & REBECCA ROGERS, *THE COMMITTEE ON WAYS AND MEANS, A BICENTENNIAL HISTORY: 1789–1989*, (1989), 27–9 [hereinafter *BICENTENNIAL HISTORY*].

on spending and passed early appropriations bills through the House as a whole without independent committee consideration. Resistance gradually grew against Hamilton's commercial vision and culminated in the Third Congress with the creation of a select committee on Ways and Means to control revenue. The committee was temporary ('select' rather than 'permanent' or 'standing') and did not reconvene for the second session of the Third Congress.⁹ It did create a precedent, however, and a new committee was convened at the opening of the Fourth Congress as a standing committee with a permanent role.¹⁰

The new Standing Committee on Ways and Means would control revenues and appropriations for the next sixty years. Congress continued the parliamentary practice of separating authorizing legislation from appropriations; while other committees (or the Committee of the Whole) would propose programs, create federal offices, and authorize expenditures in any number of areas, only the Committee on Ways and Means, from its earliest days as a standing committee, handled appropriations. The committee built its bills from proposals submitted to it by cabinet members. It demanded high levels of detail from executive officials but allowed them to take the lead. The legislation that passed through the committee was extremely detailed in directing expenditures, departing from the earliest appropriations bills which delegated most spending decisions to cabinet officials.¹¹

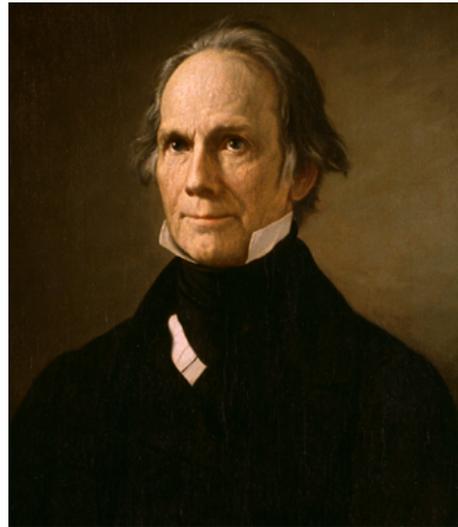
⁹ BICENTENNIAL HISTORY *supra* note 8 at 36–7.

¹⁰ HOUSE J., 4TH CONG., 1ST SESS., 21 DECEMBER 1795, 385.

¹¹ The first appropriations bill was only twelve lines long. It directed \$216,000 for the civil list, \$137,000 for the War Department, \$190,000 to discharge warrants from the Confederation Congress's Board of Treasury, and \$96,000 for pensions for invalid veterans. An Act Making Appropriations for Services of the Present Year, ch. 23, 1 Stat.

Already at this early stage, the Committee of Ways and Means assumed a place of prominence within the Congress. Its membership included at least one member from each state and was often evenly divided between parties.¹² The impetus for the Committee's creation first came from Jeffersonian Republicans eager to review the activities of a Federalist administration but almost immediately upon its creation, Federalists in Congress asserted significant authority in the committee.¹³ By the Fifth Congress, the Committee was evenly divided between Federalists and Anti-Federalists and was not a locus of partisan strife in the House; rather, it soon became one of the first committees to draft legislation on its own (previously bills originated in the Committee of the Whole) and was also one of the first committees to perform active oversight of executive officials.¹⁴

The first two decades of the nineteenth century were defined by growing Congressional strength. The Committee on Ways and Means, along with the Congress as a whole, continued to develop its sense of legislative independence even after the electoral successes of the Jeffersonian Republicans ensured single party government in both the Presidency and the Congress.¹⁵ The



**Figure 2: Henry Clay,
Speaker of the House**

95; only in 1791 did Congress outline appropriations in detail. ‘An Act Making Appropriations for the Support of Government’, ch. 3, 1 STAT. 226.

¹² BICENTENNIAL HISTORY, *supra* note 8 at 49–51. Although the Fifth Congress reduced the size of the Committee (preventing each state from membership) it maintained regional balance. *Id.*

¹³ BICENTENNIAL HISTORY, *supra* note 8 at 37.

¹⁴ BICENTENNIAL HISTORY, *supra* note 8 at 48, 54.

emergence of a powerful speaker in the person of Henry Clay led to a necessary reduction in the influence of the Ways and Means chair, but the chairman retained significant influence.¹⁶ Membership on the Committee also shifted, early on in the period of Republican dominance, geographic balance gave way to political partisanship; by the 1830s however, the committee returned to geographic balance and began to give greater power to the minority party both by using predetermined majority–minority ratios and by allowing minority committee reports alongside majority reports.

Throughout the first half of the nineteenth century, the House and, within the House, the Ways and Means Committee retained its control over appropriations. Funding for the creation of the United States Navy (in response to the threats of the Barbary states), for the War of 1812, for the Louisiana Purchase, and for the normal operations of the Federal Government all passed through the committee. From 1800–1820 appropriations were increasingly consolidated in the committee. The earliest appropriations bills were drafted by the committee without totals (the dollar amounts were entered into them during consideration by the Committee of the Whole¹⁷); from the 1820s on the Committee on Ways and Means drafted the language *and* predetermined the appropriated sums.¹⁸ Around the same time, the committee began to divide appropriations into separate bills; separating out for the first time an appropriation for fortifications in 1823, for pensions in 1826, for rivers and harbors in 1828, for post

¹⁵ BICENTENNIAL HISTORY, *supra* note 8, at 57.

¹⁶ At this point, chairmen were chosen by the Speaker in consultation with the President, limiting the prospects for direct conflict between the Speaker and Chairman.

¹⁷ The Committee of the Whole consists of the entire membership of the House. Convening as the ‘Committee of the Whole’ rather than as the House significantly reduces the number of procedural barriers. It is often used to speed consideration and amendment of bills before final passage.

¹⁸ BICENTENNIAL HISTORY, *supra* note 8 at 93.

offices and post roads in 1844, for deficiencies in 1844,¹⁹ for the consular and diplomatic service in 1856 and for legislative, executive and judicial expenses in 1857.

The division into separate appropriations bills coincided with a significant increase in the costs of the Federal Government. In 1800, the Federal Government employed 3,000 non-military men; by 1860 it employed more than 50,000. Between 1830 and 1860 annual appropriations expanded from \$15.1 million to \$63.1 million.²⁰ As the demands for appropriations expanded, the appropriations process became more regularized. The Committees (in both the House and Senate) came to rely heavily upon cabinet officials to draft preliminary proposals outlining their needs. The Senate Committee on Finance²¹ also emerged, if only slightly, from the shadows of appropriations. It began to make modest amendments to House appropriations.

In the thirty years leading up to the civil war, the pendulum of power within the House swung part of the way back from the Speaker to the Appropriations committee. For the first time, in these years the Committees gained the advantage of their own professional staff. Each committee employed a committee clerk (who operated as a

¹⁹ Deficiency bills covered the expenses of an executive department that exhausted its funds before the conclusion of the fiscal year (which was the Calendar year).

²⁰ Budget figures in the modern era are often given as a fraction of GDP. Unfortunately, reliable recordings of US GDP only exist from the beginning of the twentieth century. Historians speculate about the growth and size of US GDP through the 19th century, but these figures are necessarily less precise. The growth from 1830 to 1860 represents a growth from approximately 0.9% of GDP to 1.7% of GDP. Throughout this piece, for years prior to 1929 (when federal data for GDP begins) I have used nominal GDP data compiled by Samuel Williamson of the University of Illinois. Samuel H. Williamson, "What Was the U.S. GDP Then?" MeasuringWorth, 2014, <http://www.measuringworth.org/usgdp/>, perma: <http://perma.cc/3UPQ-5ZMW>.

²¹ This Committee served, vaguely, as the Senate counterpart to the House Committee on Ways and Means. In addition to appropriations and revenue authority, it had a limited authorization power. It did not become a standing committee until 1817 and did not become exclusive manager of appropriations in the Senate until the mid-1830s. BICENTENNIAL HISTORY, *supra* note 8 at 104.

manager of committee business or as personal secretary to the chairman depending on the chair in question). The power of the Chairmen, initially minimized by the growth of the Speaker's power, returned to pre-eminence. Antebellum chairmen controlled the drafting process and managed appropriations bills on the floor, protecting them against interference by members not on the committee and ensuring swift passage.²² Throughout the period, appropriations influenced policy choices—in foreign affairs,²³ in the internal management of the Second Bank of the United States, and even in the establishment of the Smithsonian. In general, the expansive jurisdiction of the appropriations committees made it easy for policy skirmishes unrelated to expenditures to pour into appropriations bills. This influence was generally wielded in combination with, rather than in conflict with, the administration. Treasury officials, the White House, and the committee all worked in tandem over appropriations and, through appropriations, on all the business of the government.

After a relatively quiescent period in the 1850s (at least from the perspective of the appropriators), the outbreak of the Civil War confronted Congress with a crisis of a previously unimaginable scale. The Republicans, enjoying the advantage of complete control (once congressmen from secessionist states abandoned Congress) moved quickly to finance the war. Convening in special session in July 1861, Congress approved

²² Two chairmen, James Polk and Millard Fillmore, later ascended to the Presidency; a third, John Sherman (author of the Sherman Antitrust Act) served as Secretary of the Treasury and of State and as a powerful Senator after his time running the committee.

²³ In addition to managing consular offices through appropriations, appropriators were also the first in Congress to join Polk's expansionist goals in the Mexican American War. Shortly before adjourning in 1847, while the war was ongoing, Congress, at the urging of Ways and Means, appropriated some \$2 million for negotiations to end the war. Land purchases were the only possible need for such a large sum—this bill was the first congressional consideration territorial expansion through the war. BICENTENNIAL HISTORY, *supra* note 8, at 134.

Treasury Secretary Chase's request for funding. Ignoring Lincoln's illegal expenditures taken without appropriations authority in the early months of the war, Congress approved \$250 million in borrowing and appropriated \$150 million for military costs over the next twelve months.²⁴ Over the next four years, Congress appropriated over \$3.8 billion for the costs of war and the ongoing demands of Federal Government. The committee handled this enormous expansion by becoming increasingly specialized. Once again, the demands of increased expenditures drove structural adjustments (just as the increases in mid-century had triggered separated appropriations bills). New subcommittees were formed to control different aspects of revenue and appropriations. The chair of the committee, Thaddeus Stevens, assumed the role of pseudo-majority leader and began to manage the House itself while delegating responsibility within the committee to subcommittee chairmen. He focused mainly on shepherding the enormous flow of legislation from the committee through the floor and delegated the drafting to the committee's clerks and subcommittee chairs. The end of the war provided an opportunity to redesign the institutions managing appropriations to maximize the efficiency of the process, balancing the need for ongoing expenditures with the desire to return to a sustainable financial footing.²⁵

²⁴ The largest annual appropriation prior to this point had been for \$69.6 million 1856; in 1862 Congress would pass additional bills appropriating \$474.8 million, in 1864 appropriations reached \$800 million and in 1865 over \$1.3 billion. *A Concise History of the House of Representatives Committee on Appropriations*, HOUSE COMMITTEE ON APPROPRIATIONS, Dec. 2010. [hereinafter CONCISE HISTORY]. Appropriations grew from roughly 1.5% of GDP in 1860 to 15% of GDP in 1865.

²⁵ BICENTENNIAL HISTORY, *supra* note 8 at 150–67.

III. THE GREAT DIVISION: 1865–1921

The demands of financing the war gradually overwhelmed the Committee on Ways and Means and resulted, in 1865, in the division of the committee into three parts: Ways and Means (controlling revenue), Appropriations, and Banking and Currency. In addition to allowing for greater specialization, the division made it easier to control federal expenditures. Importantly, it also distributed the enormous power previously held by the Ways and Means chairman to three different congressmen. Stevens, who had used his position to become the more powerful even than the Speaker, chose to move into Appropriations and become its chair.²⁶ Because Stevens dedicated most of his energies to promoting reconstruction policies (using his control over appropriations to influence those policies), most of the business of crafting appropriations fell to the other members of the committee. The bills themselves were delegated to individual members of the committee and were then marked up by the various subcommittees.²⁷

In the post-war period, the committee was extremely successful in reducing and capping federal expenditures. After a wartime peak of \$1.3 billion in appropriations in 1865, federal spending fell to \$358 million in 1867, providing the government a surplus of \$133 million.²⁸ Outlays remained essentially flat in nominal terms between 1870 and

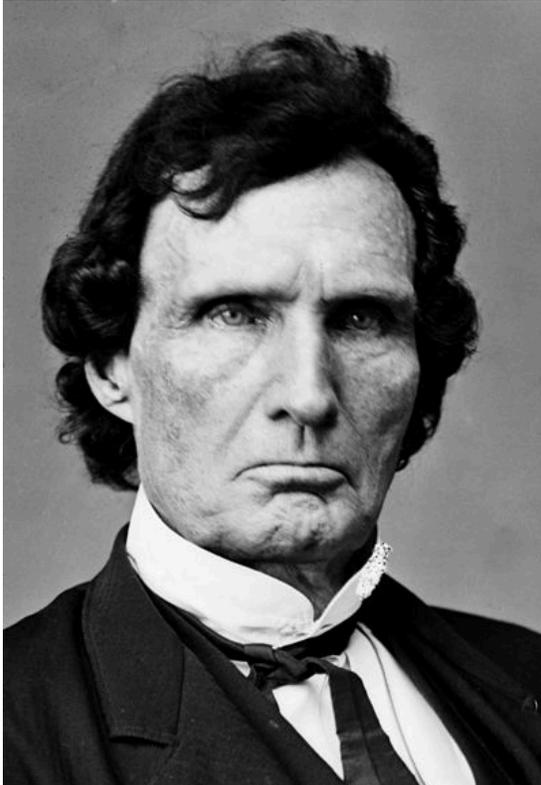
²⁶ In the person of Thaddeus Stevens passionate dedication to policy (abolitionism and victory in the war) and a masterful knowledge of the rules of procedure combined. He used his position as chair of Ways and Means (which gave him special floor privileges) to usurp the natural control that the Speaker had over the House. Throughout the War, Stevens was the most important member of the House. Raymond W. Smock, *Searching for the Political Legacy of Thaddeus Stevens*, 60 PENN. HIST. 190.

²⁷ CONCISE HISTORY, *supra* note 24 at 6–7.

²⁸ ALLEN SCHICK, *THE FEDERAL BUDGET: POLITICS, POLICY, PROCESS*, (3d. 2007), 13 [hereinafter *THE FEDERAL BUDGET*]. With spending constant in nominal dollars, spending as declined from 4.2% of GDP in 1867 to 2.8% in 1896.

1890 while the Federal Government gradually expanded (outlays that had gone to debt servicing in the immediate postwar years were shifted to programming without increasing total outlays).²⁹

Over this twenty-year period the internal power struggle returned, pitching the appropriators, who aimed to limit total outlays, against the party leadership in the House



**Figure 3: Thaddeus Stevens,
First Chairman of the House
Committee on Appropriations**

(allied with the chairmen of the authorizing committees), who wanted to increase expenditures. Initially, the appropriators had the upper hand. They forced the ‘Holman Rule’ into the House rules of procedure allowing appropriations bills (which traditionally contained no substantive legislative content) to reduce the statutory authorization for expenditures provided the reduction was germane to the subject of the appropriation.³⁰ The initial success of the appropriators triggered a backlash among both leadership and congressmen who did not

have seats on Appropriations. The backlash was magnified by the political divisions of

²⁹ In 1867, Congress appropriated \$358 million in outlays; in 1897, it appropriated only \$366 million. Between 1866 and 1900, the federal debt fell from \$2.8 billion (30% of GDP) to \$1.3 billion (6% of GDP). THE FEDERAL BUDGET, *supra* note 28 at 13.

³⁰ The Holman Rule amended Rule 120, which prohibited the addition of unauthorized riders to appropriations bills during floor consideration. CONCISE History, *supra* note 24 at 7. THE FEDERAL BUDGET, *supra* note 28 at 218; DESCHLER’S PRECEDENT, ch. 26 § 4, 5317.

the time—Republicans continued to hold the Senate and Presidency but had lost the majority in the House. Allowing House Appropriators (who remained the primary and controlling drafters of appropriations bills) to weave substantive legislation into appropriations bills gave Democrats expansive power over federal policy.

In a series of rule changes over the course of the 1890s, the Republican minority in the House succeeded in reducing the power of the appropriators by building alliances with Democrats who did not have seats on appropriations. These changes granted appropriations authority to authorizing committees, beginning in 1877 with the appropriations bill governing rivers and harbors (then one of the largest appropriations bills).³¹ The House Speaker, Samuel Randall, a former chairman of the Appropriations Committee, attempted to restore Appropriations' exclusive authority by using the Rules Committee (traditionally the particular domain of the Speaker) to raise the requirement on a vote to suspend the rules. The House responded by formally stripping Appropriations of its authority over the rivers and harbors appropriations bill and transferring the same to the Commerce Committee.³² With the dam broken, the push against Appropriations continued to grow over the next decade; in 1880 the Committee on Agriculture and Forestry gained control over agricultural appropriations. In 1885, the

³¹ The Commerce Committee gained this power through a feat of procedural skullduggery. The Commerce and Appropriations committee had reached a compromise allowing Commerce to draft the appropriations bill and then pass it to Appropriations for further consideration and amendment. After the Commerce committee drafted the bill, instead of referring it to the Appropriations Committee, the Commerce chairman reported the bill and moved to suspend the rules and pass the bill immediately. He had coordinated to ensure that his supporters were present in the chamber at that moment and the members of the Appropriations Committee, unaware of his plan, had mobilized no opposition to the maneuver. The motion to suspend the rules passed 167–66 (it required a 2/3 majority for passage) and the bill was passed without any consideration by the Appropriations Committee. CONCISE HISTORY, *supra* note 24 at 8.

³² CONCISE HISTORY, *supra* note 24 at 8.

new Speaker (John Carlisle) abandoned any effort to defend the Appropriations Committee and moved appropriations for consular and diplomatic affairs, the army, the military academy, navy, post office, rivers and harbors, agriculture, and Indian affairs to other standing committees. By 1900, only six of the fourteen appropriations bills passed through the Appropriations Committee (legislative, executive and judicial; sundry civil; fortifications; pensions; District of Columbia; deficiencies).³³ The authorizing committees reigned supreme.

The inevitable result of diffuse appropriations authority was increased expenditures. By 1894, nearly thirty years of surpluses ended and the government began running deficits. Between 1894 and 1910, Congress created deficits in eleven of seventeen years.³⁴ The Spanish American War, and, even more so, the First World War, put even more strain on federal expenditures. To finance the former, Congress appropriated \$283 million in 1898–9.³⁵ The latter required over \$20 billion in outlays. Both came on top of structural deficits present throughout the period. By 1919, the government was appropriating \$18.8 billion and running an annual deficit of \$13 billion, some twenty-five times the total outlays of 1900.³⁶

The first two decades of the twentieth century saw sporadic attempts at reform without any real success—Presidents Roosevelt and Taft both commissioned committees and studies on increasing congressional efficiency without success. The period also saw

³³ CONCISE HISTORY, *supra* note 24 at 8.

³⁴ THE FEDERAL BUDGET, *supra* note 28 at 14.

³⁵ Nearly doubling appropriations for that year.

³⁶ Outlays in 1919 amounted to 24% of GDP. Outlays fell to \$6.35 billion in 1920 (7.6% of GDP), with a surplus of \$291 million. The burden of war debt was, nevertheless, substantial. CONCISE HISTORY, *supra* note 24 at 9; THE FEDERAL BUDGET, *supra* note 28 at 13.

some of the first sustained scholarly criticism of Congress and of the appropriations process particularly. Then Professor Woodrow Wilson rose to national prominence through the publication of his doctoral dissertation, *Congressional Government*.³⁷ Wilson was thoroughly critical of the government by committee system that developed was growing in power as spending authority was spread over an ever increasing number of committees. By drawing frequent and unfavorable comparisons to the British House of Commons, Wilson made clear that he thought the dispersal of power disenfranchised the people and unnecessarily obstructed the legislative process. Although he stopped short of making explicit recommendations for reform, Wilson was not reserved in his relaying his particular disdain for the independence and willfulness of committee chairmen and for the inability of the President to better control and organize the legislative process in Congress. Despite the popularity of Wilson's writings and his own ascent to the Presidency, the institutional barriers to reform were too great for structural change in the early 1900s. It was not until the end of the Great War (replicating the reforming spirit that led to the division of revenues and appropriations after the Civil War) that the momentum for holistic reform of the budget and appropriations process became irresistible.

IV. CARDINALS OF CONGRESS: 1922–1974

Since the beginning of the Committee on Ways and Means, cabinet departments had submitted appropriations requests directly to Congress. Between 1800 and 1877 those requests were centrally managed by the Committee on Ways and Means and its successor, the Appropriations Committee. The diffusion of appropriations power in the

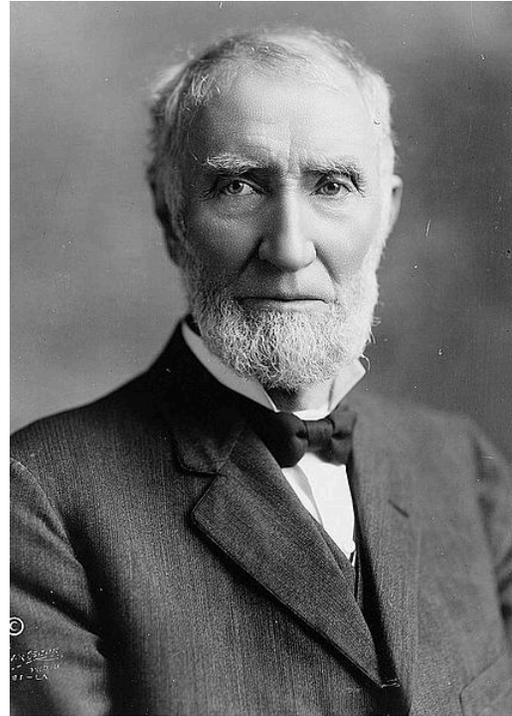
³⁷ WOODROW WILSON, *CONGRESSIONAL GOVERNMENT*, 1900.

last quarter of the nineteenth century spread appropriations across a number of committees. Throughout the period, there was no calculation of a unified federal budget. What little universal management had existed by virtue of the Appropriations Committee's exclusive jurisdiction decayed with the spread of appropriations authority across a wide number of committees.

Despite the absence of unified budgeting, the system was not entirely unmanaged because, up until 1910, the Speaker of the House chaired the Rules Committee (which controlled every step of the consideration of legislation in the House) and personally selected the chairmen of appropriations and the other standing committees. In 1910, however, Democrats and progressive Republicans organized a revolt against the Speaker, Illinois Republican Joseph Cannon. Over the preceding decade, Cannon, the leader of the conservative faction in the Republican Party, had used his authority to stifle the reform agenda that the Progressive Republicans (supporters of Teddy Roosevelt) desired. The struggle boiled over in 1910. The rebels proposed a rule change to remove the Speaker from the Rules Committee and remove his power over committee assignments. After twenty-six hours of procedural delays and stalling tactics the Speaker was unable to marshal sufficient support to defeat the proposal. The resolution succeeded and the tyranny of the speaker came to an end.³⁸ With the fall of 'Uncle Joe' Cannon, the authorizing committee chairs reigned over their own fiefdoms. Absent control either by the Speaker or the chairman of Appropriations, outlays grew even more quickly in the run up to the First World War.

³⁸ Charles O. Jones, "Joseph G. Cannon and Howard W. Smith", *CONGRESS: STRUCTURE AND POLICY* (Matthew D. McCubbins & Terry Sullivan eds.), 265–76.

Taken together, the changes in the governance of the House resulting from Cannon's fall in 1910 and the changes in the federal government's fiscal position brought on by the Great War required serious reconsideration of the Appropriations process. In midsummer 1919, the House established a Select Committee on the Budget to reassess the budget and appropriations mechanisms then in place. The Committee was chaired by the chairman of the Appropriations Committee; the minority was led by the Ranking member of the



**Figure 4: Joseph Cannon,
Speaker of the House, 1903–1911**

Appropriations Committee. The committee proposed a number of changes, including expansion of the executive budget apparatus and restoration of the Appropriation Committee's exclusive jurisdiction over outlays. The proposal passed both houses of Congress but fell to a veto by President Wilson (over an unrelated provision). Undeterred, the House altered its own rules to restore exclusive spending authority in Appropriations. Members of the disfranchised standing committees were mollified by an expansion of Appropriations from twenty-one to thirty-five members and the creation of six new subcommittees within Appropriations (bringing the total to thirteen, one for each

appropriations bill). The Senate followed suit in 1922, reorganizing its committee system to mirror that of the House.³⁹

In 1921, Congress also succeeded in passing the Budget Act, containing many of the proposals that President Wilson had vetoed in 1919. This Act established executive management of the budgeting process (by creating the Bureau of the Budget and requiring central budgeting for the first time). The new processes succeeded in controlling spending by combining Presidential management with centralized appropriating authority. In 1920, Congress ran a surplus of \$291 million that grew to \$509 million in 1921 (the first year of appropriations under the Budget Act's new structures) and to \$1.5 billion in 1927.⁴⁰

The newly restored Appropriations Committee quickly returned to its prior place of preeminence among congressional committees. The chairs of the various subcommittees gained almost exclusive authority over their appropriations and became, in the words of one staffer, "the lords of their fiefs and their duchies[,] each with power over his own area of appropriations."⁴¹ The pendulum of power had swung firmly back

³⁹ CONCISE HISTORY, *supra* note 24 at 11. The relative absence of the Senate from this story results from the secondary role taken by the Senate on Appropriations matters throughout the period. Structurally, the Senate consistently trailed the House by several years (in the rule change in the early 1920s, in division of Appropriations from Ways and Means after the Civil War and in the formation of Ways and Means in early 19th century). House appropriators were specialists in spending—Appropriations would often be their only committee assignment and would receive the vast majority of their attention. Senators had more diverse demands on their time and were less specialized. This, combined with the tradition of allowing the House to move first on all spending bills, put the House in the driver's seat for appropriations.

⁴⁰ CONCISE HISTORY, *supra* note 24 at 11. Total Federal outlays fell from \$18.8 billion (24% GDP) in 1919 to \$6.8 billion in 1920 (7.6% GDP) and \$5.5 billion in 1921 (7.4% GDP).

⁴¹ Quoted in RICHARD FENNO, THE POWER OF THE PURSE: APPROPRIATIONS POLITICS IN CONGRESS, 125, [hereinafter POWER OF THE PURSE].

into the Appropriations Committee—the era of the “College of Cardinals” had begun. Appropriations subcommittee chairmen gained influence comparable to the chairmen of the other standing committees. Liberated from the power of the Speaker by the revolt against Cannon and reinvigorated by centralized appropriations, the subcommittee chairmen were immensely powerful figures.

The Great Depression led to renewed deficits, as expanded appropriations coincided with declining receipts. In 1935, the Appropriations Committee passed the largest domestic appropriation in history, allotting \$4.8 billion (6.5% of GDP) to economic relief measures. Spending expanded even further during the Second World War. In 1940, the War Department’s appropriations totaled \$500 million with the Navy receiving an additional \$773 million. In 1943 the Army appropriations bill contained \$59 billion in outlays, the Navy’s contained \$27 billion.⁴² Total wartime outlays peaked at \$92.7 billion in 1945 (40% of GDP). In the immediate post-war period, appropriations fell off dramatically, falling to \$34.5 billion in 1947 (17% of GDP).⁴³ Even this reduced level, however, far exceeded pre-war appropriations and allowed for considerably expanded federal programs.

In the post-war period, Presidents increasingly used their budgeting and spending authority as tools to implement domestic policies. In the 1950s and 60s the Presidents’ budget proposals (and his annual messages accompanying the budget proposal) began to include substantial legislative proposals, directing federal funds toward preferred programs. Economic growth, coupled with the rising revenues and the gradual decline of

⁴² CONCISE HISTORY, *supra* note 24 at 12–13.

⁴³ THE FEDERAL BUDGET, *supra* note 28 at 13.

debt (as a portion of GDP) allowed an ever-increasing portion of outlays to flow to domestic programs without requiring new revenue streams.⁴⁴

Despite the gains made by the Appropriations Committee in the 1920–1 reforms, it did not wield complete dominion over federal expenditures. Authorizing committees occasionally permitted federal agencies to incur debts or enter contracts on the basis of anticipated appropriations, effectively forcing the Appropriations Committee to extend the outlays after the fact. The Social Security program was a much more serious diversion from the normal appropriations process. Its authorizing legislation established an independent fund within the Treasury to collect its revenues and cover the costs of Social Security payments. These payments were made pursuant to formulae established in the authorizing legislation and proceeded without annual appropriations. As the first of what would later be called ‘mandatory’ spending programs, Social Security set a pattern for the future. Major social welfare programs introduced after Social Security typically followed its design—they contained independent funding streams and were created by bills authorizing many years of appropriations at once. The introduction of Medicare and Medicaid, along with the growth of Social Security as life expectancy rose, pushed an ever-increasing portion of the budget out of the hands of the appropriators.

The post-war period also saw a number of procedural changes. The Second World War, like the Civil War and First World War before it, spurred changes in the organization of Congress. The Joint Committee on the Organization of Congress, convened in 1946, proposed a number of changes implemented in the Legislative

⁴⁴ THE FEDERAL BUDGET, *supra* note 28 at 17. The reallocation of federal outlays from debt servicing to domestic policy priorities while only modestly increasing total spending replicated the pattern following the Civil War from 1870–1890. See *supra*, §II.

Reorganization Act of 1946 (also known as the LaFollette–Monroney Act).⁴⁵ The bill consolidated the number of committees and provided for a permanently expanded committee staff, giving the committees a decisive advantage in knowledge and capability over party leadership and rank-and-file members.⁴⁶ The system established the by Act favored long apprenticeships by junior members of the committees and built up a considerable amount of institutional knowledge (and inertia) within each committee. The growth of the apprentice system paired with the triumph of the seniority system to significantly undermine the influence of party leaders in Congress.⁴⁷ With the seniority system firmly entrenched, the Appropriations Committee came under the influence of conservative members of the Democratic Party (led by Chairman Clarence Cannon, D-MO, from 1941 to 1964).⁴⁸

The LaFollette–Monroney Act attempted to address the inefficiency of the division of revenues from appropriations by creating a Joint Committee on the Legislative Budget. Composed of members of House and Senate Appropriations, House

⁴⁵ CHRISTOPHER DEERING & STEVEN S. SMITH, COMMITTEES IN CONGRESS, 29–33 [hereinafter COMMITTEES IN CONGRESS].

⁴⁶ COMMITTEES IN CONGRESS, *supra* note 45 at 31.

⁴⁷ After the fall of Speaker Cannon, the House stripped the Speaker of the power to appoint committee chairmen and determine committee assignments. Instead, a pure seniority system emerged under which the most senior member of the majority in a committee was offered the Chair. Experience and longevity became the key to power in the House. As late as the 1960s, a distinguished scholar of the Appropriations process wrote “the Senators are rather painfully aware of the House Committee’s pre-eminence in the field of appropriations and they know that they cannot hope to match the time and thoroughness that the House body devotes to screening requests.” AARON WILDAVSKY, THE POLITICS OF THE BUDGETARY PROCESS, [hereinafter BUDGETARY PROCESS] 52.

⁴⁸ Before his election to the chair, Cannon had served as House Parliamentarian and compiled the second set of House precedents. He used his expansive knowledge of procedure to defend the prerogatives of the Appropriations Committee and to manage its bills through the floor. As one member of his committee recalled, “You can’t argue with Cannon. He wrote the book.” CONCISE HISTORY, *supra* note 24 at 12.

Ways and Means and Senate Finance, the Joint Committee was asked to draft a congressional budget each year that had to come out before any of the Appropriations committees could begin their own work. The Joint Committee, reasonable in theory, collapsed in practice. In the 80th Congress, its first year of existence, the House passed the Joint Committee's budget ceiling on a party line vote after heated debate. The Senate amended the proposal substantially. The conferees could not reach a consensus between the two bills and the Congress was left to craft the 1947 budget without any statutory caps. Rep. Cannon (chair of Appropriations and ardent opponent of the consolidated congressional budget) managed to push back the Joint Committee's proposal deadline from April 15 to May 1 for 1949—even with the postponed deadline, the Joint Committee failed to produce a proposal and quietly fell into abeyance.⁴⁹

The collapse of the Joint Committee left the Appropriations Committee undisturbed as master of federal outlays. Just the committee gained a stranglehold over the appropriations process, the chairman (and Appropriations subcommittee chairmen) held sway over the committee. One congressional historian described the dominance of committee chairman in this period as follows:

Just as the standing committees control legislative action, so the chairmen are masters of their committees. ... They arrange the agenda of the committees, appoint the subcommittees, and refer bills to them. They decide what pending measures shall be considered and when, call committee meetings, and decide whether or not to hold hearings and when. They approve the lists of scheduled witnesses and authorize staff studies, and preside at committee meetings. They handle reported bills on the floor and participate as principal managers in conference committees. They are in a position to expedite measures they favor and to retard or pigeonhole those they dislike.⁵⁰

⁴⁹ CONCISE HISTORY, *supra* note 24 at 14–5.

⁵⁰ GEORGE GALLOWAY, THE LEGISLATIVE PROCESS IN CONGRESS (1953).

Chairman Cannon used his power to its fullest in extent. In 1950 he convinced Speaker Sam Rayburn to allow a single consolidated, omnibus appropriations bill. Debate on the bill took four weeks in the House, which considered each chapter individually and added a number of amendments. The Senate, unusually active in the appropriations process, added a further \$5 billion to the bill (which left the House at \$29 billion). The conference accepted the amendments and President Truman signed the bill in September, on time. Nevertheless, most members considered the experiment a failure. It did not come near to balancing the budget and failed to cover the requirements of the federal agencies (supplemental and deficiency bills passed over the course of FY1951 brought outlays to a total of \$72.3 billion, almost twice the total of the omnibus bill). As its first action in the following year, the Appropriations Committee voted to return to normal order, handling appropriations individually by subcommittee.⁵¹

Through the 1950s and 1960s, appropriations expanded gradually, with a brief expansion to accommodate the costs of the Korean War. The Appropriations subcommittees continued to dominate spending and the opaque accounting of the Appropriations bills, combined with the prickly institutional mindset of the appropriators ensured that only members of the Committee could participate in any meaningful way in appropriations.⁵² Unable to weaken the appropriators through direct assault (particularly after the failure of the LaFollette–Monroney proposal), leadership and authorizing committees moved more and more spending out of the direct purview of Appropriations. Other committees continued to authorize limited “backdoor spending” which, together with President Johnson’s Great Society programs (Medicare and Medicaid), greatly

⁵¹ CONCISE HISTORY, *supra* note 24 at 15.

⁵² THE FEDERAL BUDGET PROCESS, *supra* note 28 at 219.

expanded the portion of federal outlays spent outside the normal appropriations process. These programs, like Social Security itself, required no annual appropriations and did not fall under the power of the Appropriations Committees. Although the portion of total federal expenditures passing through the Appropriations committees waned as a result, the domination of those committees over the portion of outlays they did control continued unabated.⁵³



**Figure 5: Clarence Cannon,
Chair of Appropriations 1941–64**

In the post-war, before consolidated congressional budgeting, the Appropriations Committees acted as guardians of the federal fisc and took great pride in their spending discipline. Concerned primarily with controlling expenditures, rather than promoting federal programming, appropriators had been the primary budget hawks in Congress and had fought (with some success) to contain the spending impulses of their colleagues. In the century from 1865 to the 1974 reform, the Appropriations Committees and the rest of Congress waged a tug-of-war over federal spending. During the depression and continuing into the post-war period, the Senate gradually involved itself more actively in that tug-of-war; generally by attempting to increase funding levels set by House Appropriations in order to defend what the Senators saw as vital programs in the national

⁵³ By 1974, only 44% of total federal spending fell under the control of the Appropriations Committees. *CONCISE HISTORY*, *supra* note 24 at 17.

interest.⁵⁴ In the post-war period, despite the arrival of the Senate, House appropriators were winning the war. Annual appropriations regularly came in under the President's budget proposal but marginally above the appropriations allotted in the previous year.⁵⁵

The Cardinals, disproportionately Southern conservative Democrats, adhered to a strict pattern of gradual lockstep growth in programs. Federal programs could expect small percentage increases in their total budgets but would remain mostly constant in their relative size compared to other programs within the same department just as the total expenditures by department remained relatively constant compared to one another. The regimented year-over-year growth made it very difficult to shift funds between programs and made it difficult to introduce new spending programs (since these threatened to crowd out established programs). The result was a sclerotic appropriations process.⁵⁶ Just as Woodrow Wilson had led the criticism of the inefficiencies that resulted from divided spending authority in the 1890s, a new generation of scholars came to prominence criticizing the inefficiency of the lockstep system. Aaron Wildavsky, the leading critic, highlighted the disproportionate influence that conservative Southern Democrats had in Congress as a result of their dominance on House Appropriations.⁵⁷ He also emphasized the many distortions the system created: the tension between preserving lockstep funding levels and maximizing the utility of federal expenditures, the lack of responsibility resulting from the pre-assigned 'roles' of all the players in the appropriations process and the resistance structural resistance in the House to policy

⁵⁴ BUDGETARY PROCESS, *supra* note 47 at 51.

⁵⁵ ALLEN SCHICK, CONGRESS AND MONEY: BUDGETING, SPENDING AND TAXING 419 [hereinafter CONGRESS AND MONEY].

⁵⁶ BUDGETARY PROCESS, *supra* note 47 at 101–123.

⁵⁷ BUDGETARY PROCESS, *supra* note 47 at 53.

reform driven by the President.⁵⁸ As with Wilson's project, Wildavsky's was slow to gain traction. It would be another ten years before reform altered the appropriations process.

V. MODERN PRACTICE: 1974–2014

Once again, the combination of rapidly growing expenditures (now with the added fear of presidential control of outlays) drove Congress to radically reform the appropriations process. President Nixon began his term in office by taking an assertive stance in the budget process and vetoing five appropriations bills.⁵⁹ He also reorganized the Bureau of the Budget as the Office of Management and Budget and brought it under more direct White House supervision by appointing party loyalists to key positions within OMB. In 1970, President Nixon moved to a higher plane of conflict with the appropriators by impounded appropriated funds (refusing to spend up to the appropriated totals). Impoundment had a long history in the republic but was generally limited to small sums left in accounts at the close of each year. President Nixon used the power instead to realize policy goals, for example, by defunding the Office of Economic Opportunity, one of the centerpieces of President Johnson's Great Society program.⁶⁰

By 1974, congressional leadership recognized two significant weaknesses in the appropriations process: first, the lockstep methods of the Appropriations Committees limited the ability of Congress to adapt to new policy proposals and, second, the impoundment process exposed federal outlays to what they saw as undue presidential interference. Congress responded to both problems in one fell swoop. In a series of

⁵⁸ BUDGETARY PROCESS, *supra* note 47 *passim*.

⁵⁹ CONCISE HISTORY, *supra* note 24 at 17.

⁶⁰ MAEVA MARCUS, TRUMAN AND THE STEEL SEIZURE CASE: THE LIMITS OF PRESIDENTIAL POWER, 239 (1994).

procedural adjustments, congressional leadership broke the power of the appropriators and of the subcommittee process they dominated. They accomplished this goal by limiting subcommittee chairmanships (one per member), by amending rules of proceeding on the floor, and by selecting committee chairmen by a secret ballot. Under these new procedures, the House Democratic caucus swept the chairmen of the Agriculture, Armed Services and Banking Committees from power. Although the Appropriations Chair was not removed, the writing was on the wall—chairmen would bend to the will of the caucus (and leadership) or face the previously unthinkable prospect of removal.⁶¹

Alongside these procedural changes, the House (through a Joint Study Committee on Budget Control) considered restructuring the appropriations process once again. The committee returned a proposal that ultimately became the modern budgeting process. The new procedures lay atop the existing processes and guided the calendar of appropriations rather than wholly displacing the old system. The newly created Budget Committees began the process by issuing spending totals for each department for the given year. The newly created Congressional Budget office (a congressional counterpart to the President's OMB) analyzed the fiscal impact of the Budget proposal. After the Budget Committees introduced their budget resolutions, the Appropriations Committees turned to the business of appropriating funds. When this process was nearly completed (at the close of the summer) the Budget Committees would issue a final budget resolution. The Budget Act amended the rules of procedure to restrict the ability of the Appropriations Committees to stray from the budget resolution's caps. Finally, the Act created a

⁶¹ COMMITTEES IN CONGRESS, *supra* note 45 at 36–8.

reconciliation process to reconcile the Appropriations bills with the second budget resolution.⁶² The process this system created was a more rigorous effort to revive the congressional budgeting process first introduced by the 1947 Joint Committee on the budget. The 1974 Act aimed to avoid the failure of that effort by limiting the ability of appropriators to ignore the budget resolution when setting outlays and tied the President into the congressional budget process by using a Joint Resolution (requiring Presidential signature) in place of a Concurrent Resolution (requiring only passage through both houses).

By creating a rigorous apparatus of budgeting with the Congress, the Congressional Budget and Impoundment Control Act completely transformed the authority and incentives of the Appropriations Committees. Before the reform, these committees derived substantial political glory by resisting the President's budgetary requests.⁶³ Appropriations below budget requests (even if higher than the previous year's outlays) allowed members to present themselves as fiscally responsible and resistant to reckless executive profligacy. Once the budget process became internal to Congress, the Appropriations Committees received no political request for coming in 'under budget'. Rather than opposing the President, 'under budget' appropriations merely irritated their colleagues on the Budget Committees and resulted in amendments on the floor filling each Appropriations bill up to the budget resolution's prescribed level. Furthermore, the ban on impoundment forced executive departments to spend their full budgetary allotments. Appropriators lost the incentive to cut outlays at the same time that the

⁶² COMMITTEES IN CONGRESS, *supra* note 45 at 39–40; CONCISE HISTORY *supra* note 24 at 18.

⁶³ BUDGETARY PROCESS, *supra* note 47, at 52.

executive lost the ability to realize savings through efficiency gains or policy alterations. The result, unsurprisingly, was the death of the balanced budget.⁶⁴

After the Committee Chairmen and the seniority system that empowered them were attacked in the 1970s, it was only natural that the 1980s and 1990s were a period of increasingly centralized power. Beginning with Speaker Tip O'Neil, and continuing in the speakerships of Jim Wright, Tom Foley, and Newt Gingrich, party leadership expanded their control over the legislative process to the detriment of committee chairmen. The 1970–4 reforms had stripped chairmen of exclusive control over subcommittee assignments. Further reforms in both the House and Senate expanded minority staffing and reduced the number of subcommittee chairs that any one member could hold, making the consolidation of power difficult for anyone other than party leaders.⁶⁵ The revitalized Steering and Rules Committees allowed the speakers, for the first time since Cannon's day, to wrest control of the floor away from committee chairmen. The result was an even greater decline in the influence of the Appropriations Committees. The chairmen sorely felt the loss of power. In 1998, in an unprecedented public backlash against party leadership, Appropriations Chairman Robert Livingston (R—La) issued an open letter to Speaker Gingrich demanding the restoration of his and his committee's authority in federal expenditures. Although the Speaker resigned the next day (following his party's indifferent showing in the 1998 elections), Chairman Livingston's demands were not satisfied.⁶⁶ Today the Appropriations Committees and

⁶⁴ CONCISE HISTORY, *supra* note 24 at 20.

⁶⁵ COMMITTEES IN CONGRESS, *supra* note 45 at 46–8.

⁶⁶ Livingston's letter, in addition to voicing sincere grievances, was also part of a campaign to win support in the Republican caucus for a leadership challenge against Speaker Gingrich. Although Livingston succeeded in driving Gingrich from power and

their chairmen remain among the most powerful in Congress but they have not re-established their independence from leadership, rather the chairmen (Hal Rogers and Jerry Lewis) have learned to work in tandem with leadership to achieve their goals. The result is both greater unity within the party caucus and greater partisanship in the Congress as a whole.⁶⁷

Freed of sole responsibility for managing outlays, appropriators no longer took the initiative to control federal spending. In most years, the subcommittees failed even to meet their target dates. Last minute omnibus appropriations bills (packaging together multiple unfinished appropriations bills) and continuing resolutions became the norm in Congress. Continuing Resolutions were an even more slapdash solution to missed deadlines than omnibus bills.⁶⁸ These bills merely extended the previous year's appropriations levels for a given period of time (anywhere from a few days or weeks to a full year) with minor adjustments (a given percentage increase or decrease). Substantive appropriations changes were even more rare in CRs than they were in appropriations bills. The resulting uncertainty and inflexibility severely limited the ability of executive agencies to provide good governance.⁶⁹ The new process with its hard deadlines, rather

winning selection as speaker-elect, his bid for the speakership collapsed amidst allegations of person improprieties that led to his resignation prior to officially taking over the gavel. Juliet Eilperin and Guy Gugliotta, *House Leaders Line Up Behind Livingston*, WASH. POST Nov. 8, 1998; Eric Pianin, *Livingston Quits as Speaker-Designate*, WASH. POST Dec. 20, 1998.

⁶⁷ THE FEDERAL BUDGET PROCESS, 220–4.

⁶⁸ Tollestrup, Jessica, *The Congressional Appropriations Process: An Introduction*, CONGRESSIONAL RESEARCH SERVICE, Feb. 23, 2012, 10–13.

⁶⁹ Brass, Clinton, *Interim Continuing Resolutions: Potential Impacts on Agency Operations*, CONGRESSIONAL RESEARCH SERVICE, Nov. 19, 2010.

than freeing up the rigid lockstep system that Wildavsky decried, unintentionally reinstated it through the system of budget impasses and continuing resolutions.⁷⁰

Without any spending restraint from the appropriators, the late 1970s and 1980s saw an ongoing series of deficits. Congress attempted to eliminate these by once again altering the appropriations process in 1985. The Gramm—Rudman—Hollings Act amended the Budget Control Act to set budget caps for the next five years. The Act instituted predetermined spending cuts (called ‘sequestration’) based on calculations of the projected deficit determined by GAO.⁷¹ The caps did not work. A second budget summit between congressional leadership and the White House in 1987 reached an agreement to push the ‘zero deficit’ year back from 1990 to 1993. Congressional leadership and the President continued to conference over new budget procedures aimed at reducing the deficit even as Congress passed and the President signed appropriations well in excess of revenues year after year. In 1990, an impasse over the budget led to the passage of the Budget Enforcement Act of 1990. This Act amended Graham—Rudman—Hollings by setting budget caps based on total outlays rather than deficit projections (which had proven highly manipulable). It also instituted pay-go rules for discretionary spending, severely curtailing the ability of Appropriations Committees to set outlays above the budget targets while restricting the ability of the Ways and Means Committees to pass tax reductions.⁷²

⁷⁰ Streeter, Sandy, *Continuing Resolutions: Latest Action and Brief Overview of Recent Practices*, CONGRESSIONAL RESEARCH SERVICE, Apr. 26, 2011; Greg Schmidt & Justin Dews, “The Rise of Continuing Resolutions”, Briefing Paper No. ____, May 2014.

⁷¹ After *Bowsher v. Synar*, the Act was amended to give the deficit projecting authority to the OMB director.

⁷² Ellen Bradford & Matthew Scogin, “PAYGO Rules and Sequestration Procedures”, Briefing Paper No. 2.

In the mid-1990s budget showdowns returned to political center-stage. President Clinton and Speaker Gingrich's inability to reach a budget consensus in 1996 led to two extended government shutdowns. The resulting compromise appropriations bills, in combination with considerable economic growth and the tax increases of 1990–4, finally brought the government back into surplus at the end of the twentieth century.⁷³ The administrations of George Bush and Barack Obama saw few structural changes in the appropriations process. Rather, the process implemented by the Budget and Impoundment Act of 1974, as amended by the Budget Act of 1990, continued to function or fail to do so depending on political circumstances. During the early years of the Bush Administration, and again in 2008–10, appropriations bills passed more or less in regular order. In periods of divided government, and particularly since the recapture of House by Republicans in 2010, the normal appropriations process broke down entirely. From 2010 until 2014, the Senate failed to pass a budget resolution, preventing either House from formally complying with the Budget Act's procedures. The greatest challenge, however, has been the inability of House appropriators and the White House to agree on appropriate spending levels. The ongoing threat of government shutdowns and debt ceiling limits led to a series of compromises over total appropriations including, most notably, the 2011 agreement that took budget authority out of the Budget committees and temporarily empowered a budget 'super-committee' and the budget compromise of December 2013 which repealed in part the sequestration put in place by the 2011 agreement.⁷⁴

⁷³ CONCISE HISTORY, *supra* note 24 at 22.

⁷⁴ For a more detailed discussion of the dynamics between appropriators, the Budget Committees, congressional leadership and the White House during President Obama's

VI. CONCLUSION

The evolution of appropriations over the past two centuries has been a three-man play featuring the President, the Appropriations Committees and party leadership in Congress. At various points each party has had moments of predominance and moments of comparative weakness. At the moment, the power of the Appropriations Committees is at comparatively low ebb, with the majority of topline budget decisions negotiated between party leadership and the White House. To the extent a committee chairman has been involved in these negotiations, it has been the Budget Chair rather than the Appropriations Chair. Given the ebbs and flows of the past two centuries, it is safe to assume that the current system will continue to change. In recent years, House leaders have begun, gradually, to turn back toward regular order. If this trend continues, particularly if the Senate and House are able to conference more effectively than at present, appropriators could experience a resurgence in status and in influence over the process of appropriations.

The general trend in budgeting over the past century has been increasingly formalized budget and appropriations processes; these, however, have not succeeded in keeping federal outlays below tax receipts. In the past two decades, the deficit has widened substantially and the federal debt has reached levels unseen since the Second World War. The growth of outlays beyond receipts is a result of a great number of factors including the nation's economic condition, the expansion of the role of the federal government, and the genuine political disagreement between different voting constituencies over the appropriate levels of taxation and expenditure. In the past, periods

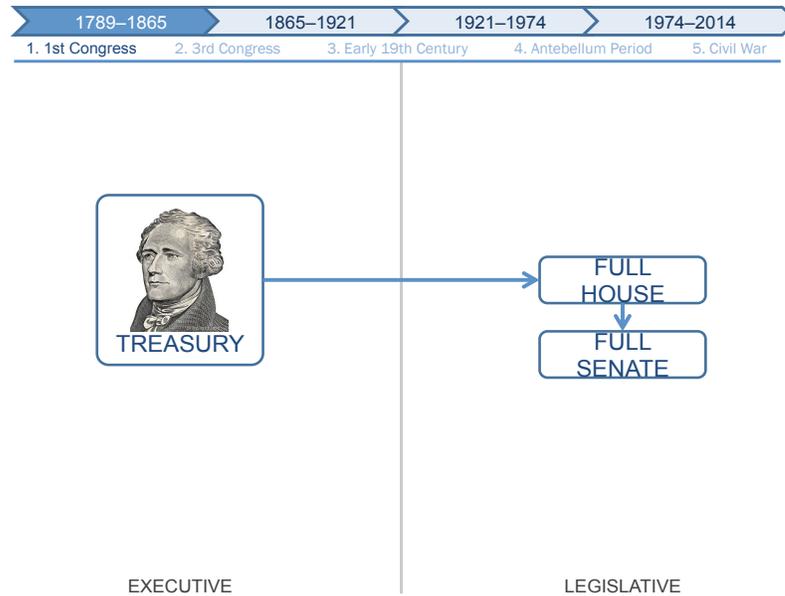
administration, see Katie Johnson & David Casazza, "The Obama Budget Cycles: FY2011–FY2014", Briefing Paper No. ____.

of high deficits induced by large spending increases (usually but not always the result of wartime spending) have led to serious structural reform of the appropriations process. As old systems prove inappropriate to current circumstances, Congress has shown surprising, if somewhat slow-moving, structural flexibility. It may well be that the current combination of high deficits and limited legislative compromise will trigger another round of structural appropriations reform at some point in the coming decade. The history of congressional appropriations suggests that such reform is certainly possible.

APPENDIX:
THE APPROPRIATIONS PROCESS GRAPHICALLY REPRESENTED

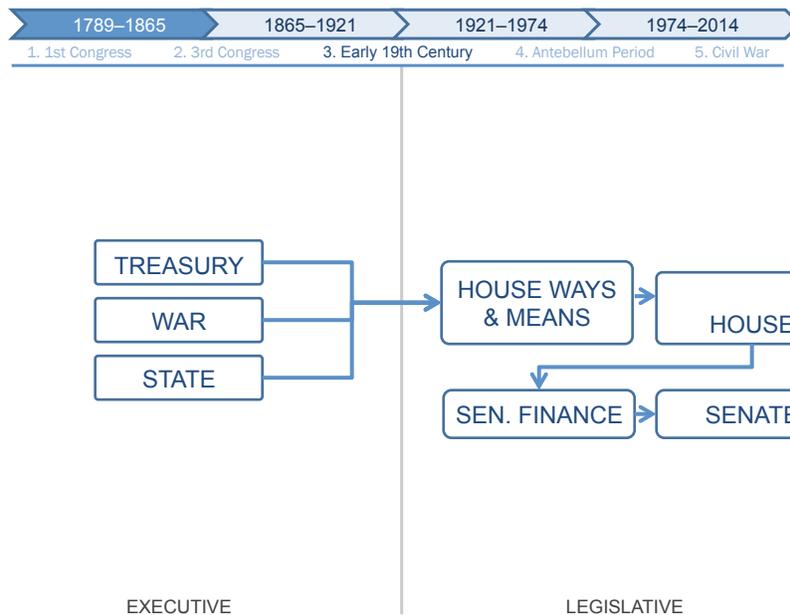
1789–1800

Ways & Means: Early Appropriations Practice

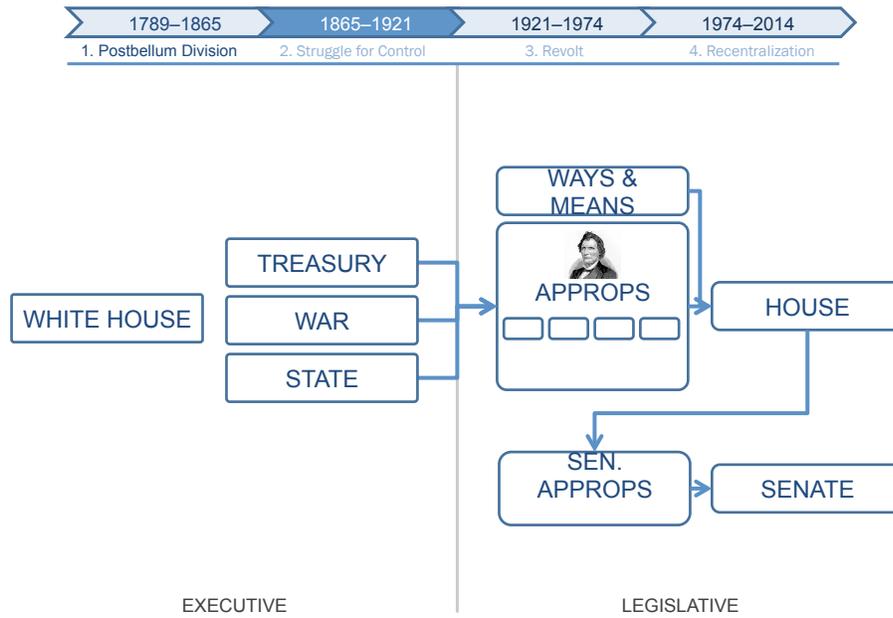


1800–1865

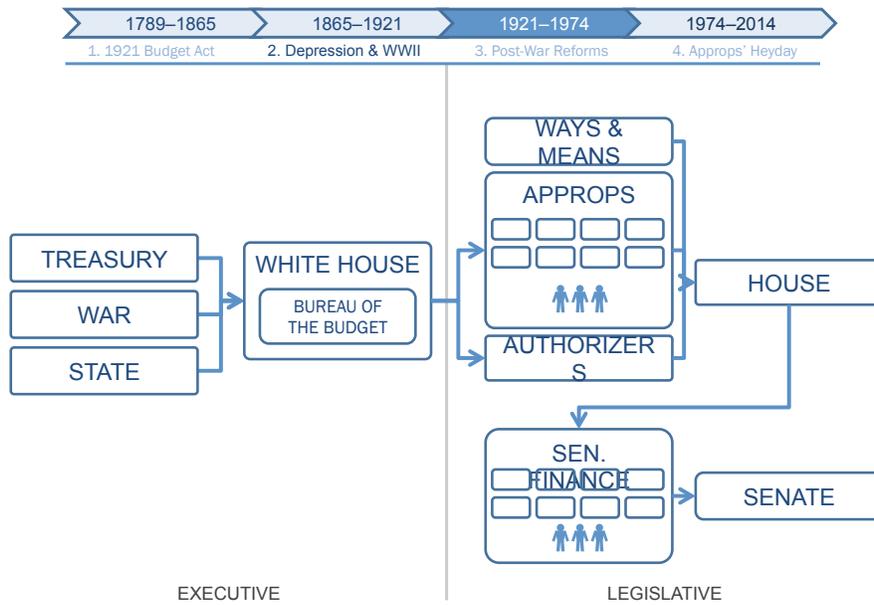
Ways & Means: Early Appropriations Practice



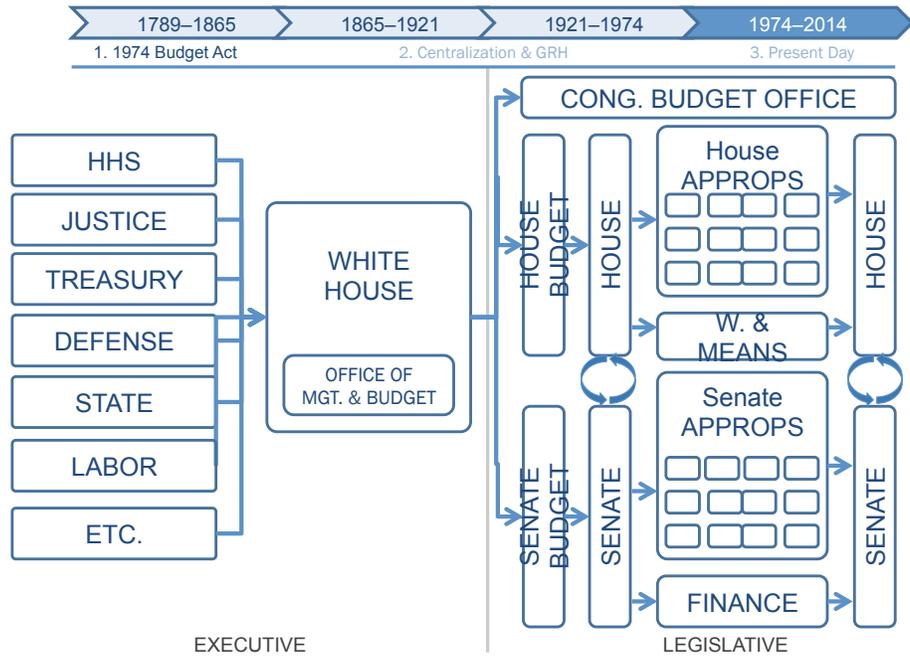
1865–1922 The Great Division



1922–1973 Cardinals of Congress



1974–2014
Modern Practice



FURTHER READING:

A Concise History of the House of Representatives Committee on Appropriations, HOUSE COMMITTEE ON APPROPRIATIONS, Dec. 2010.

Brass, Clinton, *Interim Continuing Resolutions: Potential Impacts on Agency Operations*, CONGRESSIONAL RESEARCH SERVICE, Nov. 19, 2010.

Champoux, Mark & Dan Sullivan, “Authorization and Appropriations: A Distinction Without a Difference?” (May 10, 2006) (Briefing Paper No. 15).

Davis, Christopher, *Considering Regular Appropriations Bills on the House Floor: Current Practice Regarding Comprehensive Unanimous Consent Agreements*, CONGRESSIONAL RESEARCH SERVICE, Nov. 23, 2008.

“Establishment of the Budget System” CONGRESSIONAL DIGEST, (1956).

Fenno, Richard, *The Power of the Purse: Appropriations Politics in Congress* (1966).

Heniff, Jr. *Overview of the Authorization–Appropriations Process*, CONGRESSIONAL RESEARCH SERVICE, Nov. 26, 2012.

Johnson, Katie & David Casazza “Obama Budget Cycles: FY2011–FY2014”, Briefing Paper No. ____, (updated May 2014).

Keith, Robert, *Examples of Legislative Provisions in Annual Appropriations Acts*, CONGRESSIONAL RESEARCH SERVICE, Sep. 4, 2008.

Keith, Robert & Bill Heniff Jr. *The Budget Reconciliation Process: House and Senate Procedures* CONGRESSIONAL RESEARCH SERVICE, Aug. 10, 2005.

Keith, Robert, *The Budget Reconciliation Process: The Senate’s “Byrd Rule”* CONGRESSIONAL RESEARCH SERVICE, Jul 2, 2010.

KENNON, DONALD R. & REBECCA ROGERS, THE COMMITTEE ON WAYS AND MEANS, A BICENTENNIAL HISTORY: 1789–1989, (1989).

Kepplinger, Gary, “The Appropriations Clause” THE HERITAGE GUIDE TO THE CONSTITUTION,
<http://www.heritage.org/constitution/#!/articles/1/essays/67/appropriations-clause>,
[perma: <http://perma.cc/4JG-WXMD>].

Lee, Nooree, “Congressional Budget and Impoundment Control of 1974, Reconsidered” (April 29, 2008) (Briefing Paper No. 34).

Lindblom, Derek, “The Budget Reconciliation Process” (May 11, 2008) (Briefing Paper No. 35).

Saturno, James, *The Congressional Budget Process: A Brief Overview*, CONGRESSIONAL RESEARCH SERVICE, Mar. 3, 2011.

Schick, Allen, *The Seven-Year Budget Wars*, CONGRESS AND MONEY: BUDGETING, SPENDING AND TAXING, (1980).

Schmidt, Greg & Justin Dews, “The Rise of Continuing Budget Resolutions”, Briefing Paper No. ____, (updated May 2014).

Shick, Allen *The Federal Budget: Politics, Policy, Process*, (2007).

Stewart, Charles, *Budget Reform Politics: The Design of the Appropriations Process in the House of Representatives, 1865–1921*, (1989).

Streeter, Sandy, *Continuing Resolutions: Latest Action and Brief Overview of Recent Practices*, CONGRESSIONAL RESEARCH SERVICE, Apr. 26, 2011.

KENNON, DONALD R. & REBECCA ROGERS, THE COMMITTEE ON WAYS AND MEANS, A BICENTENNIAL HISTORY: 1789–1989, (1989).

Tollestrup, Jessica, *The Congressional Appropriations Process: An Introduction*, CONGRESSIONAL RESEARCH SERVICE, Feb. 23, 2012.

Tollestrup, Jessica, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, CONGRESSIONAL RESEARCH SERVICE, Feb. 14, 2011.

Train v. City of New York, 420 U.S. 35, (1975).

WILDAVSKY, AARON, THE POLITICS OF THE BUDGETARY PROCESS, (1964).