

The American Congress: Its Troubled Role in the 1980's

N E I L M A C N E I L

THE THEME OF THIS essay is a grim one—the American Congress. These are troubled times, times of great doubt and insecurity. In international and military terms, these are dangerous times. Equally dangerous, perhaps, is the state of the national economy, threatened with runaway inflation, threatened perhaps even with paralysis, if our oil imports are cut off. In Congress, these dread questions are the daily fare—and I wish to speak about the adequacy of Congress to meet these emergencies and set the nation's priorities in the decade ahead.

In 1980 Congress is not a happy place. Its workload is overwhelming. It seems incapable of dealing with these great questions of the hour...with inflation, with the energy crisis, with all the other difficult questions, foreign and domestic, that torment the nation's councils. The members of Congress seem caught in their own moils and dissensions, frustrated and handicapped. And this is happening now after a series of reforms in recent years that have recaptured for Congress much of its old powers—over the budget and national priorities, over the question of peace and war. Congress has opened up itself as never before in modern times to the talents of all

its members. It has never had more intelligent, more educated members in its ranks, and they work long and trying hours. They are trying—and yet they are denounced from coast to coast with a now familiar barrage of criticism from almost all quarters.

A recent *New York Times*-CBS News poll reported that only 18 percent of the American people have confidence in this Congress. That's less than one out of five. In that same poll, 58 percent of those questioned believed that their congressman, if offered a bribe, would "probably" reject it. Twenty-one percent thought their congressman would probably accept it. The poll was taken just after the disclosure of the FBI's bizarre operation that implicated eight members of Congress in allegedly taking bribes from a fabricated Arab oil sheik. The FBI's so-called "Abscam" has tarnished anew the public image of Congress—an institutional hurt that will not soon go away.

This sort of thing strikes a respondent chord in many Americans, Americans prepared to believe the worst. In March the *New York Times* published a letter from a reader who described Congress as "replete with frauds, liars and embezzlers, men who

hire prostitutes and pursue strippers, men who take bribes and become outraged when they are caught." That's a cynical view, and it's used too frequently to tar every member of Congress.

The frustrations inherent in their work have prompted some of the most talented members of Congress in recent years simply to give up and quit. That is still going on, and this year again a new batch of the ablest members are retiring prematurely. When you ask them why, they tell you it's just not worth the effort; they'd rather spend their time and energies in a more satisfying way.

It is no new thing, of course, to decry the existing state of the sitting Congress. From the earliest days of the Republic, Congress and its members have borne the brunt of almost incessant criticism. Since the memory of living man runneth not, Americans have abused and laughed at politicians in general—and Congressmen in particular. That abuse and criticism normally has been a mix of mockery, scorn, contempt, ridicule and anger, and there has been so much of it over the years that it almost amounts to a special American art form.

It was Mark Twain who said, years ago, that "there is no distinctly native American criminal class except Congress." Will Rogers said we have the best politicians—that money can buy. Simon Cameron, a senator from Pennsylvania in the last century, and a renowned political spoilsman, defined an honest politician as one who, when he was bought, stayed bought.

In his *Devil's Dictionary*, Ambrose Bierce defined the United States Senate as "a body of elderly gentlemen charged with high duties and misdemeanors." Peter Finley Dunne's Mr. Dooley, with a gentler wit, wrote that the Senate is ruled by courtesy—like the longshoreman's union. H. L. Mencken, the sage of Baltimore, remarked that the first U.S. senator he ever saw was in the acrobatic stages of delirium tremens—and that forever tempered his attitude toward the Senate.

Henry Adams, who had a caustic wit, described the leaders of Congress as more grotesque than ridicule could make them, and he added that a Congressman is a hog—"You must take a stick and hit him on the snout." President Carter has his own frustrations and annoyance with Congress, and from time to time he has sought to blame Congress for the inability of the government to deal effectively with the agonizing problems of our time. He is not the first President to suffer such frustrations. For example, Woodrow Wilson had bitter quarrels with the Senate, and he once said acidly that U.S. senators had no use for their brains except as knots to keep their bodies from unravelling.

My own favorite is the story about Grover Cleveland's wife awakening him one night at the White House. "There are robbers in the house," she whispered. The President was only half awake. "No, no, my dear," he said. "In the Senate perhaps, but not in the House." The criticism, the laughter, the ridicule is not the reason so many senior and talented congressmen have been voluntarily quitting. The fact is that most of them have quite safe seats and the overwhelming approval of their constituents. This is one of the great paradoxes in American political life: the great majority of Americans believe Congress and its members are not worthy of confidence or trust—but most believe that their own representatives in Congress are the exception. Their own member is fine—it's the fellows sent from other districts and states that cause the trouble.

The fact is that members of Congress tend to adjust quickly to the traditional criticism. More than a half-century ago, Congressman Nicholas Longworth of Ohio, a distinguished Speaker of the House of Representatives, put the case well. At the time he had been a member of Congress for 20 years. "During the whole of that time," he said, "we have been attacked, denounced, despised, hunted, harried, blamed, looked down upon, excoriated and flayed. I refuse to take it personally. I have looked into history," he said. "I find

that we did not start being unpopular when I became a Congressman. We were unpopular before that time. We were unpopular when Abraham Lincoln was a Congressman. We were unpopular even when Henry Clay was a Congressman. We have always been unpopular. From the beginning of the Republic," he said, "it has been the duty of every free-born voter to look down upon us, and the duty of every free-born humorist to make jokes at us."

Congressman Longworth did not take it personally. Neither do most of the members of Congress—although they grieve when one of their number runs afoul of the law. What is amiss today goes far beyond the public criticism and distrust of Congress—or whether that criticism and distrust are justified or not. Congress has gone through an extraordinary transition in the last half-dozen years, and that transition has utterly altered the place. The Congress that meets today is simply not like the Congress of only a few years ago. The real significance of the change is not just that the new circumstances have discouraged too many of the ablest to retire. Rather what's happened and is happening to Congress raises grave questions of its ability to function as a viable political institution, responsible for writing the laws and setting the priorities of the nation.

The fact is—whatever the criticism—that most congressmen take their work and responsibilities quite seriously. Yes, there are mistakes, even rascals in Congress. There always have been, and I assume there always will be. That's the natural produce, in part, of free elections with minimum qualifications. But the great majority of members are conscientious representatives of the people who send them to Congress—the essential reason why most have the full support and confidence of their constituents. They live in a special world—with norms of professional behavior that tend to make them indifferent to that outside criticism of the uninitiated—on the grounds that it is not warranted.

Parliamentary practice, like law, is bas-

ed not on logic, but experience. It is pragmatic rather than scholastic. It is sentimental rather than scientific. Congress traditionally has operated on a live-and-let-live philosophy that is not merely a vulgar and amoral indifference to ethical considerations. Involved here, rather, is a tolerance toward opposing views, a willingness to have those views voiced and voted, a recognition of the fundamental right of disagreement—which lies at the heart of a free society.

That's the way Congress has been—and in large measure continues to be. Hubert Humphrey, in whose honor this essay was originally written, I might note, was such a member of Congress, tutored in the ways of Congress, tolerant and generous to his colleagues and their views, committed to work for consensus and compromise to get things done. In a pluralistic society like ours, with so many competing and conflicting interests and ideas, this is the only way the national legislature can function effectively and well.

In this sense, Congress has been something more than the sum of its parts. Members frequently came to believe that their lives were elevated and even ennobled by their service to the Senate or the House of Representatives. I have a growing sense that Congress now is something *less* than the sum of its parts. There is certainly in the new members—many of them—a view that there are more important things in their lives, in their careers, than Congress and their work there.

Speaker of the House Thomas 'Tip' O'Neill has been at something of a loss to explain the new generation. "Old liberals are concerned," he said recently, "about the poor, the senior citizens, and the indigent—people. The new liberals are concerned about issues—clean air, clean water." That's an interesting differentiation, but there's more to it than that and there's more involved than just the liberals. The new members are also concerned about their careers, their ambitions beyond Congress. They came to Congress essentially on their own—pushing and

arguing their issues. They tend to come from outside the political parties, without working their way up through the ranks. They tend to owe nothing to political party organizations beyond the convenience of a political label necessary for nomination. They certainly have no emotional commitment to a party organization—including the party organizations in Congress. This has bred in them an extraordinary political independence that has played havoc in political Washington. In the old days—a dozen years ago—the party freshmen would get advice from the party elders on how to conduct themselves. Ohio Congressman Michael Kirwin would make it blunt and caustic: “Follow the leader and use your franking privilege.” That’s no longer possible.

In the so-called honeymoon with Congress when President Carter was first in the White House, Speaker O’Neill simply could not understand the Georgia delegation. Vote after vote came up, and O’Neill could not wrench a single vote from the Georgians for Carter’s bills. That’s not the way O’Neill understands political life. When John Kennedy became President, he asked Congress to enact a farm bill that O’Neill knew Kennedy would never have voted for when he was a senator. He went to see President Kennedy. “It’s a new ball game,” Kennedy said, and that was enough for O’Neill. He doesn’t have a farmer in his Boston district—but he voted for that farm bill. It was a matter of political loyalty to his President, and he doesn’t really understand why the new members don’t have it.

This is at least in part a reflection of the modern distrust of political institutions and in part the fruit of the breakdown of the major political parties. Many members of Congress now run *for* Congress by campaigning *against* Congress—in institutional terms, an obviously pernicious practice. Jimmy Carter was not the first or last—to run successfully for national office by running against Washington. A disquieting number of congressmen do precisely the same thing.

The problem, of course, is a great deal more complicated than merely the attitudes of the newer members toward their jobs. I might say that in the past three elections, going back to 1974, the membership of both the House of Representatives and the Senate has been radically changed. The turnover has been enormous. Of the pre-1980 election Senate’s 100 members, 48 have served less than a single term. Of the House’s 435 members, 213 came to Washington only five years ago or less. That’s almost half of each chamber. There are today 36 senators and 138 representatives who have never known any other President than Jimmy Carter. They tend to be less than deeply concerned about the institutional integrity of the Senate or the House of Representatives. Only a little while ago, a new senator bluntly said that knowing how to get to the men’s room is the only experience a senator needs. That said more of him than of the Senate.

This indifference and independence makes these members less than responsive to political leadership. They are part of the reason President Carter has no real influence with Congress. His own campaign against Congress did not help either, but Carter clearly is a far cry from the last Democratic President, Lyndon Johnson, who could cajol and intimidate even senior senators. Senator Abraham Ribicoff of Connecticut once explained why he switched positions on a vote: “What do you do when the President calls you up on the phone and eats your hide off. He told me what a low-life bastard I was and how I’d better get right with God.” That’s how LBJ worked. Carter has no such ability to deal with members of Congress. The new members came post-Vietnam and post-Watergate—the “Watergate babies,” the first crop was called. The independence they brought with them tended to permeate up into the more senior ranks, and they provided the impulse and the votes for many of the recent reforms within Congress. The Watergate scandal and the Vietnam War, however, had a larger im-

pact on Congress than this new political independence.

By 1972-1973, for practical purposes, Congress had become nearly superfluous in the management of the federal government. It had clearly lost the constitutional power to declare war. It had lost control of the budget. It did not set national priorities—a major function of the budget. The long erosion of Congress' powers had begun a generation before, when Franklin Roosevelt took charge of the federal government, and it reached its culmination in the final years of Richard Nixon's administration. It was the Vietnam War and the Watergate scandal that induced Congress to try to restore its own lost powers. Congress passed the War Powers Act to limit the President's ability to wage war on his own. It passed the Budget Act and made Congress again responsible for making the basic national decisions. Congress opened up its own processes. It reformed its once brittle seniority system; it dispersed power away from the committee chairmen and party leaders, making both subject to secret party caucus votes. It created a host of new subcommittees and gave each an independent life, with its own payroll and staff. It gave the rank and file members larger personal staffs, thereby tending to enhance their party independence. Today every member of the House may have as many as 18 persons on his or her staff. The average senator has 68. Both chambers enacted stringent codes of ethics binding on their members. All of this was done to restrengthen Congress institutionally and enhance its national image and power. It has not entirely worked out that way.

A dozen years ago, particularly in the House of Representatives, a committee chairman had such influence over the legislation in his jurisdiction that his colleagues tended to approve whatever bills came from his committee. When the bells rang in the House, announcing a vote, the leaders merely had clerks standing at the doorways to cry to the congressmen pouring into the chamber: "The vote is aye...

the vote is aye" or "The vote is no... the vote is no." That normally was enough. Not now. The rank-and-file congressmen have already been briefed on each vote by their own staffs, by many others, and they don't vote with the party leaders just because the party leaders ask them to.

This independence has immensely complicated the legislative process. In those days, the House leaders could normally assume, for example on any important welfare-social bill, that roughly 180 members would automatically vote "aye," another 180 would vote "no." That meant they only had to count the other 75 "leaners" to calculate in advance where stood the House's majority. These counts were crucial to planning legislative strategy, and today, instead of counting only 75 members, the leaders often are uncertain how 300 members or more may stand on any given vote. This adds to the frustration and uncertainty of their leadership.

This new independence has had still another impact on the House of Representatives. For generations, the very nature of the House generated legislative specialists, for the members would follow a man thoroughly versed in his specialty. That system, in effect, let a talented member like Congressman Albert Rains of Alabama write the nation's housing laws. Congressman John Fogarty of Rhode Island funded medical research. That was a heady reward for a member who spent the time and energy to make himself a specialist. The new system discourages that, and the legislative specialists are disappearing, with none to take their places. And this, in turn, is beginning to lead to sloppy, careless legislation. Just this past winter, Congress passed a law to provide \$1.6 billion to help the poor pay their heating bills, but it was so sloppily drawn that the funds can go to pay air-conditioning bills. Right now, Congress seems intent on voting extra billions for national defense without any clear idea how this money will be spent.

Even as Congress was making these internal changes, there were other changes

coming. One of great importance was the sudden discovery by the business community of the impact on their affairs of the legislation passed by Congress in the 1960's and early 1970's—regulations, enormously complex regulations that in effect, and to their grief, made the federal government a costly partner in their businesses. They responded by fighting back. They sent their own people to Washington—and they hired Washington professionals as well—to lobby Congress and the Washington bureaucracy. They have literally changed the nation's capital. Just erecting the new office buildings needed to house their operations has dramatically altered the Washington skyline.

Meanwhile, another phenomenon took place—the proliferation of the single-issue pressure groups. Washington has never been without lobbyists—even before they were called by that name—and the city has always known single-issue groups as well. The American Medical Association has long had a powerful and influential lobby in Washington. What has happened now, however, is the growth of a vast array of such single-issue groups—each, in effect, threatening every congressman's political survival if he doesn't vote its way. They will unite their members and vote as a bloc against him—a threat to give many congressmen pause.

Congressman Charles Vanik of Ohio is a 25-year veteran of the House. "A hundred single issue groups lodge their quills into members," he said recently. "The member winds up looking more like a porcupine than a Congressman!" Vanik has had enough: he's retiring after this year.

No one really knows how many lobbyists there are in Washington. The best estimates are 15,000 or more—roughly twice the number of just a half-dozen years ago. And no one knows how much they spend. The best estimates suggest at least \$1 billion a year in direct lobbying—and another \$1 billion in indirect, grass-roots lobbying. It is an immense operation—and a great part of it is concentrated right on the members of Congress. There is no

escape for them, and these pressure groups and lobbyists are using the most sophisticated modern techniques to reach their targets. With computers, they can deluge Congress with mail—as many as 50,000 or even 100,000 letters and postcards aimed at a single congressman or senator on a single issue. One of these professional technicians is Richard Viguerie, and he operates one of the most telling of these computer-based operations. "When a Congressman gets 40,000 letters on a single issue," he has said, "he ignores that at his folly."

Even as these new hard-ball tactics were coming on Congress in unprecedented fashion, still another phenomenon has taken place: the explosion of new political action committees, each dangling substantive campaign contributions. This, too, is a major development of the last half-dozen years. Six years ago there were less than 90 corporate political action committees; now there are almost 1,000. Organized labor has tried to match the corporations and many other groups have created their own political action committees. Today they number more than 2,000 in all, and they are expected to contribute as much as \$60 million to candidates this year. This suggests anew the kind of painful choices to which members of Congress are being subjected—and why they protest that their work isn't fun anymore, why they decide to quit.

Let's look a little more closely at the dispersal of power within Congress. The Senate in 1980 has 15 standing committees and 90 subcommittees, each with a staff, a budget and a chairman. The majority Democrats have 59 seats in the Senate, and every one of these senators, except James Exon of Nebraska, chairs one or more committees or subcommittees. Most chair two or more. Last year, nine freshmen Democrats came to the Senate, and eight of them promptly became chairmen. That's astounding. A few years ago, freshmen senators were expected to be seen and not heard—except to vote.

In the House, a similar dispersion has

taken place. Today the House has 22 standing committees, 146 subcommittees and a couple score of special committees and task forces—210 in all—each with a chairman, staff, budget and jurisdiction.

This had a profound impact on Congress. In practical terms, every one of these has to justify its existence—its budget and its staff. They must do something, come what may. The effect has been to create a tremendous new make-work psychology within Congress. I don't wish to be mistaken: the congressional committees have enormous, legitimate responsibilities that keep them busy all year long—but the proliferation of independent subcommittees has immensely complicated the proceedings of Congress—and they were immensely complicated before.

In 1979, off this sunburst of new activity, the Senate voted by formal roll call no less than 509 times. The House was even busier—672 roll call votes. That was the first session of this Congress, a normally somewhat slack period. In 1978, the House voted 834 times by formal roll call. If you calculate 15 minutes on each roll call, you can quickly find how many hours—weeks, actually—that the members of Congress spent merely answering to their names on what amounts to a mind-boggling number of questions, most of them of less than national significance.

But it's worse than that, for both houses of Congress have adopted what's called a multiple-referral system on legislation—that is, each committee or subcommittee with a jurisdictional claim on any bill receives it for its consideration. This has led to chaos in the legislative process—nowhere worse than the way Congress deals now with one of the most vital questions of this decade: the energy crisis.

In 1980, in the House of Representatives, there are 83—yes, 83—separate committees and subcommittees with some jurisdiction on the various phases of energy legislation. This has led to a nearly frightening confusion of rivalry and competition on this subject. Last year, the House passed a bill to create a synthetic

fuels program. The bill came from a subcommittee of the House Banking Committee—of all places. It did so because that subcommittee beat the rival committees and subcommittees to the punch.

In 1979, President Carter asked for legislation to provide a so-called “fast track” method to speed energy projects to completion. Two rival subcommittees went to work in a race to get its version the edge. One subcommittee, chaired by John Dingell of Michigan, proposed a bill to sweep away inhibiting state and local law. The other subcommittee, chaired by Morris Udall of Arizona, proposed a conflicting bill aimed at protecting the environment in this process. The party leaders spent weeks trying to negotiate a compromise between the two—and failed. Both bills were presented for a shoot-out on the House floor.

I might add that when the energy department submits its annual budget, that budget automatically is referred to four major House committees, and as one senior committee chairman told me, each has the right to strangle that bill.

Energy, of course, is a complex and difficult subject in itself. Someone once said that for every complex problem, there is a simple solution—and it is wrong. There are no easy solutions to the energy emergency—but the parliamentary chaos in Congress suggests at least in part why Congress has not yet acted on a comprehensive energy program for the country. The synthetic fuels and “fast track” bills are still not enacted—after a year of pulling and pushing.

Now the leaders of Congress are fully alive to these problems, and they have tried to resolve them. On the initiative of Speaker O'Neill, the House created a select committee on committees to try to eliminate the confusion and conflict in the House's committee system. That committee, chaired by California Congressman Jerry Patterson, turned its first attention to the chaos on energy and proposed creation of a House energy committee, taking jurisdiction from a number of existing

committees and subcommittees. It would not have been the powerful committee obviously needed, but it was a start. Patterson's resolution never had a chance in the House. On the key vote, his colleagues rejected the plan 300 to 111—almost a three to one margin.

Why? It was a matter of "turf." Congressmen Dingell and Udall—the two great rivals on energy—formed an alliance to defeat Patterson's plan. (Patterson called it an unholy alliance.) The two chairmen argued that if the House could do this to them—their "turf"—the House could do it to any other committee or subcommittee. Of the 22 standing committee chairmen, 19 voted against Patterson's plan.

Those votes are suggestive of the House's inability to deal with its own internal problems—not to mention national problems. Each of the committees and subcommittees has a life of its own. Each has a Democratic chairman and a Republican ranking minority member, and few are willing to surrender any of their claims over legislation. They constitute a vast bloc of inertia within Congress in this area. This is not just a new me-generation problem: it's one permeating the whole Congress.

There is a great deal of concern—even alarm—within Congress over these dilemmas. The reforms of recent years have not worked out—all of them—as originally intended. Chairman Robert Giaimo of the House Budget committee has said "this Congress cannot control itself." He's had enough: he's leaving after this year. Chairman Richard Bolling of the House Rules Committee has said the House is "gutless"—the Republicans merely obstructionist, the Democrats voting "the easy way."

New Jersey Congressman Frank Thompson, a senior member, has voiced contempt for the newer members: he calls them "bed-wetters" with "blow-dry hair-do's." "They just do their own thing." But even some of the new, highly independent younger members have grown fearful, and they are asking now for more party discipline. One of these said the House is

becoming a "mobocracy"; another said he wanted his arm twisted once in a while on tough votes. But so far, there are no real signs that many are willing to accept party discipline.

Some of the Democratic party leaders in Congress are talking about ways to achieve party discipline—but they have little they can offer as rewards, less as punishments. And their resolve is badly weakened by the nature of Congress today—the special interest groups, the lobbyists, the extraordinary independence of the members, the wide dispersion of power within Congress, and the immense complexity of the critical issues before Congress.

Just a year ago a vacancy occurred on the prestigious House Ways & Means Committee—an area of concern for the party leaders and one where they could have an effect. The seat was won by Marty Russo of Illinois, the very congressman whose vote had killed President Carter's hospital cost containment bill. Congressman Russo won the seat simply by lining up votes for himself in the party caucus. His success told a great deal about the leaders' will and ability to reward and punish those who stray from the party's fold.

There have been major attempts to correct some of these problems. I've already mentioned the attempt in the House to create an energy committee. The committee system will continue under study, but prospects for major improvement are bleak.

For the past three Congresses there have been serious efforts to enact a workable lobby law—one that properly discloses the lobbyists' operations without violating their Constitutional right to petition the government. They have all failed—and there is today no real lobby disclosure act in force. The existing law—enacted in 1946—as someone said, is more loophole than law.

There have been efforts to provide public financing of congressional campaigns—similar to the public financing of presidential campaigns—or at least to limit the amounts of money the political action committees can spend on congressional

candidates. That legislation has been killed this year, buried in a Senate committee.

Right now there is a genuine consensus in Congress to balance the federal budget—as a start to bringing inflation under control. The only question is how. Everyone wants the budget balanced at someone else's expense. Some are fighting for increased defense spending. Others are fighting, in their phrase, not to balance the budget on the backs of the poor. They all have legitimate claims, but the virulence of the coming struggle raises serious doubts that in the end that budget will be balanced.

The struggle over the budget is only the symptom of the real problem: there is a broad consensus that over the years the federal government has gone too far—committed too much to too many for too long. The efforts to redirect the federal government will trouble Congress, obviously, throughout this decade and beyond. I have mentioned only a few of the problems. The terrible reality is that Congress seems now unable to deal with these problems—or itself.

I would like to be able to say that rescue is on the way, that the senators and representatives are taking the correct actions and shortly will have their houses in order. I cannot do so. As I said, some of Congress' most influential and intelligent members wish to do so—but the odds they

face seem, at the moment, overwhelming.

Congressman David Obey of Wisconsin has said that Congress today is being ripped apart by "tremendous centrifugal forces." It does seem to be flying apart. Parochialism and special interests are rampant—and crippling. Obviously there must be change. There must be decisions made in Congress to direct the country through the present emergencies and those of this decade. I have no doubt that in time this will come. If nothing else, it does respond to clear national demand. A beginning has been made, and as the need becomes more evident, more will be done.

It's all very good—and easy—to denounce and ridicule Congress. As I said in starting, this is an ancient American tradition, that and laughing at Congress. But the times are perilous in this country and the world, and Congress must respond to them adequately—at least. There is no other way in our system—and that is no laughing matter.*

*This article is based on the first address of a series of Hubert H. Humphrey Lectures in Public Affairs at Louisiana State University, given on April 15, 1980. The series, established in honor of the late Vice President and former Senator who received his Master's degree from LSU in 1942 and an honorary Doctor of Laws also, in 1965, is sponsored by the department of political science, of which Ellis Sandoz serves as chairman.