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MONOGRAPH IN POLITICAL SCIENCE
THE ORIGINS OF THE STANDING COMMITTEES
AND THE DEVELOPMENT OF
THE MODERN HOUSE

JOSEPH COOPER

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CHAPTER I

INTRODUCTION

The early history of committees in the House of Representatives is a topic well worth scholarly concern. The standing committees are such a familiar and important feature of the House that reliance on them is often assumed to be as old as the Constitution. In fact, this is not the case. It took several decades of incremental growth for the standing committees to come to the forefront of the legislative process and wide gaps in our knowledge still exist concerning the process of institutional evolution by which they attained preeminence. A need for investigating the rise of the standing committees therefore exists not only because of the need to ascertain and understand what happened historically, but also because of the long-run significance of the period in which the standing committees emerged. Attitudes and events in this period have had and continue to have an immense impact on the nature and operation of the House. This has been recognized in a very general way ever since Woodrow Wilson published *Congressional Government* in 1885. Still, the depth of the House's roots in its early and formative decades, the significance of the architectonic experiences associated with the rise of the standing committees, has never been adequately explored.

The object of this study is thus both to trace the key developments in theory and practice involved in the emergence of the standing committee system and to analyze the impact of these developments on the subsequent history of the House. In so doing we shall focus on Jeffersonian attitudes and practice. We may note that it was the Republican opponents of Federalism, the members who allied themselves under Jefferson's and Madison's leadership to combat the party of Hamilton and Adams, who ultimately determined the theory and practice of committee use in the initial decades of government under the Constitution. Similarly, it was their legatees, the new generation of Republicans who dominated Congress after Jefferson left the Presidency in 1809, who presided over the transformations in theory and practice that elevated the standing committees to a position of preeminence in the legislative process.

In analyzing and tracing changes in Jeffersonian attitudes and practice with regard to committees we shall deal with the whole period from 1789
to 1829. Although this approach expands the boundaries usually prescribed for the Jeffersonian era by including the decade from 1789 to 1801, such an expansion is necessary for our purposes. It is in these years that traditional Jeffersonian attitudes toward the use of committees took shape and altered the context of operation in ways that were critical for the future triumph of the standing committee mechanism. Finally, we may note that though the scope of this study has been limited to the House, the costs of excluding the Senate are far lower than abstract mathematical calculation would indicate. Not only was the House the more important body by far in the decades of greatest concern to us; in addition, it is highly probable that the broad pattern and impact of committee development applies in most important respects to the Senate as well."}


Unlimited freedom to introduce bills and automatic reference to standing committees are so hallowed by tradition in the modern House that other methods of handling the introduction and reference of legislative business seem almost nonexistent. Yet practice and procedure were quite different originally than they are today. In the early Congresses it was not at all assumed that members ought to be free to introduce bills whenever they chose. On the contrary, the power to introduce a bill was closely guarded since a bill was seen as "law inchoate" and therefore not regarded as introducible on the responsibility of any single member. Thus, the rules adopted in the First Congress (1789–1791) provided that bills could only be introduced in a manner which involved the explicit approval of the House, i.e., by order of the House upon the report of a committee or by granting an individual member leave to bring in a bill. These provisions remained in effect throughout the Jeffersonian period, though in practice ways were found of evading their stringency from the very beginning. A similar point applies to reference. In contrast to present modes of operation reference was not strictly prescribed in the rules, but rather left to the discretion of the House.

As a consequence, the conduct of business in the early House bore little resemblance to current practice and procedure. The legislative process originated with the introduction and disposition of subjects introduced in the form of communications from members of the Executive Branch, resolutions offered by individual members, or petitions forwarded by private individuals or state legislatures. The House was under no obligation to refer the subject contained in these messages, resolutions, or petitions before it had settled the principles upon which it desired to act. Nonetheless, from the first the House preferred to refer to an agent for advice and assistance before committing itself on a subject. It is true that on occasion the House did first settle the question of whether legislative action was desirable in an area, but even in these cases much discretion was still left to the agent to whom the matter was referred. Such decisions on the part of the House merely affirmed that some form of legislative action should be taken, e.g., that a bill should be brought in with respect to a uniform system of bankruptcy.
The House's preference for avoiding definitive decisions on the floor prior to reference combined with the flexibility it possessed in reference gave rise to an issue that became a focal point of political conflict in the early Congresses as well as a vigorous catalyst of institutional development. Since the report of the agent to whom reference was initially made could be expected to play an important, even decisive, role in determining the character of action taken with regard to a subject, the agent or agents on whom the House should rely in first reference became a question of crucial significance. There were potentially four types of agents to whom reference or recourse could be made: officers in the executive branch, Committees of the Whole, select committees, and standing committees. Though no one in the early 1790's foresaw the pattern of choice among these alternatives that ultimately emerged, the future institutional character of the House hinged in large part on the manner in which it would resolve this issue.

First Reference to Executive Officers

The propriety of depending solely or directly on members of the executive branch for reports that arranged and guided the course of legislative business centered on the question of the proper nature of executive participation in the legislative process. Jeffersonian theory in this regard was not fully formed when government under the Constitution began; rather, it developed and took shape over several Congresses. What the future followers of Jefferson did share from the very beginning was not a set of precise attitudes on legislative prerogatives, but rather a general belief in legislative autonomy. They believed from the start that the legislature was the lawmaking branch and that its decisions on legislation should be the product of its own desires—that it should be free to make up its own mind without being subject to executive control. It is in terms of this assumption that the Jeffersonian position on executive reporting emerged.

Jeffersonian thinking distinguished four categories of executive involvement in the legislative process by means of reports: the reporting of information, the reporting of advice or opinion, the reporting of plans, and the reporting of bills. With regard to the first and the last of these, the position of the Jeffersonians was clear, consistent, and uniform through time. The Jeffersonians opposed the notion that an executive officer should be allowed to report to the House by bill or accompany his report with a bill. Though they might have their differences with respect to the proper bounds of executive involvement in other regards, the introduction of bills by executive officers was clearly not acceptable and as early as the second session of the First Congress (1790) future Jeffersonians supported the establishment of a precedent which has outlawed this practice, at least formally, from that time to the present. In addition, the Jeffersonians were
agreed on the propriety and indeed the necessity of securing information from executive officers and in their minds a meaningful distinction existed between reporting information to aid the legislature in its deliberations and utilizing the opportunity to report in such a way as to influence the opinion of the legislature or usurp its prerogative of originating and framing the laws. 

However, Jeffersonian thought was not entirely consistent, harmonious, or uniform through time with regard to the other two categories of executive participation mentioned—the reporting of advice or opinion and the reporting of plans of action. At the time of the First Congress (1789-1791) both Hamilton and Jefferson served in the Cabinet, the former as Secretary of the Treasury and the latter as Secretary of State. In this Congress the Annals do not record any opposition by members, who would later be known as Republicans, to the numerous references made to Hamilton for opinion and plans and, what is more, similar requests for opinion and plans were also made to Jefferson which he honored without complaint. Indeed, on the one occasion during the First Congress in which the propriety of receiving opinion and plans from executive officers was extensively discussed, two prominent future Jeffersonians, James Madison and Abraham Baldwin, even supported vesting the Secretary of the Treasury with the power to report plans of finance at his own discretion. The opposition of other future supporters of Jefferson to this provision seems to have been based as much on their feeling that the Secretary should only report when called upon as on their feeling that executive officers should not report opinion or plans, and this was the way the matter was finally settled with the adoption of a provision authorizing the Secretary to digest and prepare plans as a substitute for the provision authorizing him to digest and report plans.

Despite this initial liberalism, by the first session of the Second Congress (1791-1792) Jeffersonian thinking had hardened considerably. Alarmed and angered by Hamilton's programs and successes, sentiment crystallized along more enduring and familiar lines. The Jeffersonians came generally to a stand in opposition to both the reporting of advice or opinion and the reporting of plans by executive officers other than the President. They began to oppose not only unsolicited opinion or plans from executive officers, but also first or direct reference to executive officers for opinion or plans. On the whole, their feeling was that the rubric of information should be confined to facts and that opinion or plans should be opposed as interfering with the autonomy of the legislature and/or usurping its power to originate and frame the laws.

The Annals for the Second and Third Congresses (1791-1795) abound with statements argued on one or both of these grounds. The following
excerpts are representative. The first records the remarks of William Giles
during a debate in the second session of the Third Congress (1794–1795):

The letter had come without any call. It was an Executive comment on a Legislative
proceeding. It was a defense of a measure adopted by the Senate, and it condemned
by implication another of that House. . . . A section of a bill passed in the Senate
last session, and rejected by the House of Representatives was inserted in it, and recom-
manded. This paper might operate very materially on the deliberations of the House.
. . . Gentlemen had called the contents of this paper information. He saw in it nothing
but what the House knew without the assistance of the Secretary. He considered the
report as an effort upon the opinion of this House, as an attack upon its independence,
and that in a very indecent way. He thought the report in all respects unworthy of
the notice of the House.16

The second excerpt records the remarks of Abraham Baldwin, uttered
in the midst of a heated debate in 1792 over the propriety of requesting
Hamilton to report a plan for the reduction of the debt:

When gentlemen talk of light and information only, he would agree with them, for he
wished to obtain it from every proper source. It has been made the duty of the Executive
Departments to give information to the Legislature, but this information should relate
merely in his opinion, to statements of facts and details of business, but the laws should
be framed by the Legislature, after they had acquired this information. . . . There is
a material distinction between receiving information on which to ground a law, and a
plan of law ready formed. The latter mode he was opposed to. Gentlemen have said
that we may reject what is proposed, but in this case we will only be exercising a kind
of revisionary power, very different from a Legislative one; a very material difference
from what is contemplated in the Constitution—the difference between originating and
possessing only the right of a negative.17

Jeffersonian thought with regard to the reporting of opinion or plans
by executive officers, nonetheless, never became wholly homogeneous or
consistent. One source of difficulty concerned the ability of the President,
as distinguished from inferior officers, to report opinion or plans. This
occasioned considerable conflict between, and even within, the views held
by individual Jeffersonians. One might think that the constitutional provi-
sion authorizing the President to give information on the state of the union
and to “recommend” measures for the legislature’s consideration would
have settled the problem; but it did not, in part at least because the question
of the propriety of calling on the President for a report may be distinguished
from the question of his ability to report at his own discretion. Hence,
Jeffersonians such as William Findley and Josiah Parker supported the
propriety of asking the President for advice or opinion concerning matters
pending before the legislature, whereas John F. Mercer and William Giles
seem to have opposed it.18 Similarly, William Lyman seems to have support-
ed the President’s ability to report plans, whereas William Findley seems
to have opposed it despite the fact that he also held that the reporting
of opinion by department heads was a greater encroachment than the
reporting of plans.19 Moreover, even those Jeffersonians who were inclined
to take a sympathetic view of the President's power in these regards were faced with an implicit contradiction between such a viewpoint and their general position vis à vis legislative and executive power. For example, on one occasion James Madison defended the ability of the President to give advice to the House, noting that the "President had an undoubted right to give advice or information in any way he thought best." Yet on another occasion, speaking more generally, his remarks were recorded as follows:

Mr. Madison drew a distinction between the deliberative functions of the House and the ministerial functions of the Executive powers. The deliberative functions, he conceived, should be first exercised before the ministerial began to act . . . [he] saw some difficulty in drawing the exact line between subjects of legislative and ministerial deliberations, but still such a line most certainly existed.

A second source of difficulty related to the distinction which served as a major bulwark of Jeffersonian thinking with regard to executive reporting—the distinction between reporting in such a way as to aid the legislature in its deliberations and reporting in such a way as to interfere with the autonomy or prerogatives of the legislature. In truth, such a distinction, though useful, must to some degree be ephemeral, but the degree to which it is can vary greatly depending on the skill with which its criteria are elaborated. As applied by the Jeffersonians, the distinction became a very hazy one indeed. Though the Jeffersonians, in the early Congresses at least, were inclined to restrict the rubric of information to facts, they included both the identification of facts and findings on facts within the permissible area. Thus, even in the bitterest moments of their fight with Hamilton the Jeffersonians were willing to justify the reference of private claims to executive officers for reports concerning the satisfaction of these petitions. They regarded the investigations of executive officers in such cases as inquiries into the facts, even though such reports not infrequently involved a judgment on both the correctness of the facts and the justness of the claim. In addition, the Jeffersonians were willing to treat executive recommendations in more public areas of policy as findings properly contained within the sphere of information. For example, in the first session of the Fourth Congress (1795-1796) Thomas Claiborne introduced a resolution requesting the President to "lay before Congress a statement of the number of trading houses which would be necessary, of the different species of goods, and of the sums of money requisite to carry on intercourse with the Indian tribes." He supported his resolution on the grounds of securing necessary information, though he also added that "he wished to be guided by the President."

As the memory of the fight with Hamilton became dimmer, this tendency to treat executive findings as information increased. What occurred was a slow but perceptible expansion in the degree to which executive interpre-
tations of what was needed in particular circumstances were regarded as items that might properly be included under the rubric of information. Moreover, this development was paralleled by a decline in the hold of the rule or maxim itself. As a result, the old emphasis on restricting direct reference to information and the category of information to facts was no longer honored with the same degree of stringency as in the early and mid-1790's. During Jefferson's presidency subjects not infrequently were directly referred to department heads accompanied by requests that in effect or even explicitly solicited opinion and proposals. Similarly, department heads, such as Albert Gallatin, Jefferson's Secretary of the Treasury, did not hesitate to use the words "in my opinion" or "I suggest" in their responses to legislative requests; nor were the Jeffersonians in the House reluctant to refer to the "opinion of the Secretary" in debates.

Yet, despite these inconsistencies and disagreements, the net effect of Jeffersonian thinking was to restrict the House's ability to rely openly on the executive for the task of initially defining the nature and bases of its action and to create a need for alternative means or agencies to provide the detailed advice and direction it required. If there was some confusion over what information was and was not and even considerable backtracking, formally at least the Jeffersonian emphasis on information as the appropriate function of external sources was strong enough not only to rule out unsolicited advice or plans from department heads, but also to make first or direct reference for advice or plans to these officers on any wholesale or comprehensive basis unacceptable. If there was recognition of the President's constitutional right to provide opinion and recommendations and even some sentiment for direct reference to him for advice and plans, Jeffersonian regard for legislative autonomy served in formal terms at least to confine the President to a highly general and intermittent role in the first regard and to circumscribe and dilute reliance on him in the second. Thus, Jefferson when a member of Washington's Cabinet believed that the proper maxim for all executive officers was "to intermeddle not at all with the legislature" and as President, in deference to a strict interpretation of the requirements of legislative independence, he ended the Federalist custom of delivering the Annual Messages in person.

First Reference to Legislative Agencies

In place of executive direction and control Jeffersonian thought emphasized legislative autonomy. The alternative it proposed to reliance on executive officers for the initial delineation of the proper nature of legislative action was reliance on the legislature itself. This in turn meant reliance on committees and, for reasons that will become clear as we proceed with our analysis, the committee the Jeffersonians looked most favorably upon was the Committee of the Whole. Jeffersonian thought accordingly raised
the Committee of the Whole to preeminence as the focal point of the legislative process and it tried to establish a division of labor between the Committee of the Whole and the select and standing committees that would satisfy both its normative goals and the practical needs of legislative operation.

This theory took shape during the first four Congresses. Its development began with the convening of the House, but contrary to what is often supposed Jeffersonian thinking with regard to first reference did not mature by the end of the First Congress (1789-1791). In the period before the establishment of the executive departments, i.e., roughly the first session of the First Congress, the role of the Committee of the Whole was greatly overextended both in theory and in fact. In this period the Committee of the Whole seems to have been considered not merely as the proper arena for the initial delineation of principles in important areas, but also as the proper arena for the first determination of principles in all areas, and even as an appropriate arena for the initial delineation and consideration of detail.\textsuperscript{82} For example, in a discussion of the propriety of going into Committee of the Whole held in the early days of the First Congress (May, 1789) Elias Boudinot, a gentleman who in the future would ally himself with Hamilton, noted that although he preferred initial reference to a select committee, "it seemed to be a settled point in the House that a Committee of the Whole was the proper place for determining principles before they were sent elsewhere."\textsuperscript{83} Madison, in reply, defended the practice and argued that "it was much better to determine the outlines of all business in a Committee of the Whole."\textsuperscript{84} Similarly, the propositions establishing the tariff and the executive departments were elaborated at such length in Committee of the Whole that the task of the select committees appointed to draw up the bills became mainly clerical.\textsuperscript{85} It was with some reason that Fisher Ames complained to a friend:

\begin{quote}
Virginia is stiff and touchy against any change of the Committee of the Whole. . . . They are for watching and checking power; they see evils in embryo; are terrified with possibilities, and are eager to establish rights and to explain principles to such a degree, that you would think them enthusiasts and triflers.\textsuperscript{86}
\end{quote}

The result of the overextension of the theory of the Committee of the Whole was to blur the nature of the division of labor that ought to exist between the Committee of the Whole and the select and standing committees. Indeed, when carried to its logical conclusion, the notion that all business should first be referred to a Committee of the Whole and settled there removed the need for all other committees except those transitory ones appointed simply to draw up the decisions in the form of a bill. Yet, contrary to what Ralph Harlow implies, even in the First Congress there also seems to have been some feeling among future Jeffersonians that the role of committees less numerous than the whole properly exceeded the
mere clerical task of putting together a bill after principles and even details had already been determined. For example, George Clymer proposed that the subject of the tariff be given initially to a "subcommittee to collate the materials and bring them before the House better drafted than they are now." James Jackson proposed a similar course of action with regard to the proposition creating the executive departments:

Mr. Jackson wished the motion had been referred to a subcommittee to digest: it seemed to him that they were building the house before the plan was drawn. He wished to see the system reduced to writing, that he might leisurely judge of the necessity and propriety of each office and its particular duties.

In addition, in the first session of the First Congress a standing Committee on Elections and a Committee on Ways and Means were established, undoubtedly with the support of at least some of the men who in the future would be followers of Jefferson.

Nor, as we have already indicated, was it clear in the First Congress that the heads of the departments did not constitute proper agents for the initial delineation of principles or the elaboration and arrangement of details, that the heads of the departments did not exist as a viable alternative to reliance on committees. With the support of future Jeffersonians first reference to the Secretaries became quite common after the establishment of the departments. This, of course, was highly detrimental to the roles, actual or potential, of all forms of legislative committees. For example, it is interesting to note that the Committee on Ways and Means was dismissed only six days after Hamilton took office and its business referred to him. Moreover, even in the early days of the struggle with Hamilton, it was still thought proper, after the House had made up its collective mind on a subject, to refer to him for the arrangement of its decisions into a system.

The process by which Jeffersonian theory with regard to first reference was elaborated and developed in the succeeding years is an involved one, and by no means a wholly consistent one. However, by the Fourth Congress (1795-1797) the theory seems to have been spelled out clearly enough to form a related set of attitudes on which the Jeffersonians were generally in agreement.

In the First Congress, among other things, it had been argued that subjects ought first to be referred to a Committee of the Whole so that their principles could be determined; that subjects ought to have their features systematized before being considered by a Committee of the Whole; that matters should be referred to a smaller committee if time was lacking for discussion; and that smaller committees should be used as means of helping the House inform itself in areas in which it was ignorant. It was on these far from consistent bases that Jeffersonian thinking developed. Nonetheless, in the immediately succeeding years the Jeffersonians in Congress elicited
a set of guidelines from such notions which, to their minds at least, were both realistic and logically compatible. By the Fourth Congress (1795–1797) the following propositions seem to have won general acceptance: that principles, not details, should be discussed when a subject was first referred to a Committee of the Whole; that matters of importance had prior claim on the Committee of the Whole, with matters of routine being first referred there only if sufficient time existed and facts were clear or established; that subjects which were excessively complicated or detailed might first be referred to smaller committees for the arrangement or systematization of their features; and that subjects in which the facts could not adequately or conveniently be established by the members through their own investigations and discussions ought first to be investigated by a smaller committee.47

In terms of these guidelines a division of labor could be and was established between the Committee of the Whole and the select and standing committees with regard to first reference. Standing committees could be and were established in routine areas of policy that regularly provided topics of business (e.g., claims) or in recurrent areas of major policy in which facts typically were so complex as to require extensive investigation and/or details so elaborate as to require prior arrangement (e.g., ways and means).48 Select committees could be used to handle more erratic or irregular subjects of both major and minor importance as well as matters thought to be so important as to require handling by special committees instead of the standing committees within whose jurisdiction they belonged.49 Still, the nature of the theory was not such as to remove the Committee of the Whole from its preeminent position. If one assumes that in most important areas facts can and will be ascertained by the individual members without the assistance of committees and that details will not be so complex or so varied as to preclude a decision on principles before they are arranged, and this on the whole was exactly what the Jeffersonians did assume, then it becomes entirely feasible to regard the initial reference of most important subjects to a Committee of the Whole for a decision on principles as proper and normal procedure.50

Thus, James Madison in a debate during the first session of the Fourth Congress (1795–1796) argued for first reference to a Committee of the Whole as follows:

Mr. Madison was of opinion, that all important propositions, and especially all those of an abstract nature, should be referred, in the first place, to a Committee of the Whole House. There could only be two reasons for referring, upon any occasion, to a select committee; either when there was an absolute want of time for the House to digest the subject themselves; or when any particular papers or documents were to be examined. This case was not clearly one of those. He recommended a Committee of the Whole in the first place. The general rule of propriety required it.51

Similarly, although Albert Gallatin successfully proposed the reestablishment of a Committee on Ways and Means in the same Congress because
“no subject more required a system,” he still felt free to object to the first reference of less detailed subjects to standing committees:

... when this committee was appointed, it was not intended that it should have the power of reporting by bill. The business of the other six committees appointed at the same time, and to whom this power was given were wholly different from this. The principle of the objects upon which these committees were appointed to act had already been more or less settled in the House; but what was the business of this committee? It was no less than to report the measures proper to be taken for the protection of our commerce and the defense of our country... it did not only include arming of vessels, but also the raising of armies, building of a navy, erecting of arsenals, etc.; that so far from giving the committee further power, he thought the power already given them was too great, and that the subject should first have been discussed in a Committee of the Whole on the state of the Union. When principles of this importance were to be established, the business should be settled in the House.52

Once formed, the main lines of Jeffersonian thinking with regard to first reference persisted and continued to dominate Republican attitudes and practice throughout the presidencies of Adams and Jefferson, i.e., from the Fifth through the Tenth Congresses (1797–1809). The Jeffersonians remained partisans of the first reference of important matters to a Committee of the Whole for a decision on principles.53 Note the words of Willis Alston, quoted from the record of the first session of the Tenth Congress (1807–1808), with regard to a petition calling for the repeal of the non- importation act:

Mr. Alston said, he thought it at this time extremely improper to refer the petition as was proposed [to a standing committee]. If any steps were to be taken in regard to the prayer of the petition, it should be done in Committee of the Whole House. If the expediency of repealing the law, alluded to in the petition, was to be considered, it was a plain question, which would present itself to every member of the House, and could be decided without any previous reference to any inferior committee... In the Committee of the Whole a resolution might be brought forward which would determine the principle at once. He, therefore, moved that it be referred to a Committee of the Whole House.54

In addition, the reasons recognized for excepting some important matters from first reference to a Committee of the Whole remained broadly the same.55 For example, in a debate held in the second session of the Ninth Congress (1806–1807) over the need for amending a law regarding the writ of habeas corpus Barnabas Bidwell, one of Jefferson’s managers in the House, said:

... the necessary effect [of this motion], and of course the design, is to withdraw from the House the first decision of the main question, by referring it to a select committee for inquiry. That would be a departure from the usual and regular course of proceeding. The principle ought to be first settled in the whole House, and, if necessary, a committee afterwards appointed to report the details. I can see no useful purpose to be answered by appointing a select committee of inquiry: for such a committee could have access to no other sources of information, as to law or facts, than such as are already before us and before the public. They would possess no better means of judging, for themselves, than the same gentlemen now have in common with other members.56
In reply, Thomas Newton, like Bidwell a prominent Republican, defended reference to a smaller committee within the terms of Jeffersonian theory:

The single point, however, at issue is, whether we will commit this resolution, in order merely to obtain correct facts and information, which shall present the subject in such a form as shall enable us to act understandably upon it.

On another occasion David Thomas, in opposing John Randolph’s motion to decide the principle of arming the militia in Committee of the Whole, put the argument this way:

... every gentleman in the House would wish to see the whole militia of the country armed; but in all subjects of this nature it was invariably the case, that the House referred them to a committee, for the purpose of ascertaining all information relative to the subject, and to report a state of facts. ... In order that the subject might come before the House in such a shape that they could act upon it understandably ... he should propose another amendment, referring the resolution to the committee appointed to inquire into the militia laws.

Nor did the main lines of Jeffersonian thinking with regard to the position of the standing committee vis-à-vis the select committee undergo great change. Rather, the select committee continued to rival the standing committee as an agency for the first reference of important subjects in cases where initial reference to a Committee of the Whole was not desired. This was so both because standing committees did not exist in many important areas of policy and because support continued to exist for the notion that subjects of importance might justifiably be referred to a select committee, even if a standing committee with jurisdiction over that area existed. Still, the standing committee made some gains. Four new standing committees, Accounts, Post Office and Post Roads, Public Lands, and District of Columbia, were established in the years between 1797 and 1809, bringing the total number to nine. Moreover, respect for and emphasis on the rights of the standing committees increased. Finally, the reasons given in support of their establishment represent an advance, favorable to the standing committee, over the thinking used to justify the establishment of standing committees in the years previous to 1797. For example, with regard to the establishment of the Committee on Public Lands it was contended:

that the business of the House would, on this point, be greatly facilitated by the institution of a standing committee, whose decisions would be uniform, who would from long experience become more enlightened than a select committee, and who would be enabled to dispatch the business confided to them with great celerity.

Yet, despite the continuities in Jeffersonian attitudes, here as elsewhere the stringency and hold of traditional notions declined as the years passed. In truth, there were a number of substantial weak points and confusions in Jeffersonian thinking regarding first reference, defects which even before 1809 served to turn the theory against itself and to undermine the position of the Committee of the Whole.
Initial reference of a subject to a Committee of the Whole for a decision on principles could, to varying degrees, merely be an empty formality which masked actual first determination by select and standing committees. The most extreme example of this is what happened to subjects in the President's Message after the second session of the Fifth Congress (1797-1798). Throughout the period from 1789-1829 and beyond, this message, delivered at the very beginning of each session, was one of the most important means of raising significant subjects for legislative consideration and it was accordingly always referred first to a Committee of the Whole. Prior to 1797 the subjects contained in the message were often discussed and resolutions determining principles passed before the subjects were turned over to various smaller committees. After 1797, with the exception of the first session of the Seventh Congress (1801-1802) when the Jeffersonians tried to return to the old method, practice changed decisively and the subjects in the message upon being received by the Committee of the Whole were immediately divided up and parcelled out to appropriate select and standing committees. Nor on other occasions was reference to a Committee of the Whole necessarily decisive. Even when the House in Committee of the Whole did enter initially into a discussion of principles, the extent to which the principles established would actually be determinative of the bill could vary greatly, depending on how strongly the House really desired to grapple with the basic principles of a measure as well as on the extent to which the nature of the subject allowed decisions on principles to be controlling.

The Jeffersonians also failed to realize the full implications of their thought with regard to the exceptions that might properly be made to first reference to a Committee of the Whole. Their reasons for preferring first reference to a Committee of the Whole were based on a primary axiom of theirs, that all legislators should be equal, and on its corollary, that the legislature as a whole should direct itself. As Ralph Harlow has put it, ideally the Jeffersonians saw the legislature as a "forum where every member was a peer and no man led." Thus, first reference to a Committee of the Whole was preferred over first reference to a smaller committee because the Jeffersonians believed that the "sense of the majority" could more truly be ascertained before rather than after the report of a committee. Their reasons for believing this related both to the direct influence that the opinion and reasoning of a committee might have over the minds of the other members and the more subtle influence inherent in the ability to focus and direct the course of discussion through the presentation of a completely organized plan or measure. Hence their thought with regard to the exceptions that might properly be made to first reference to a Committee of the Whole, at least as far as it concerned matters of importance, was motivated by a desire to accommodate the need for first reference
to a smaller committee with the need for denying these committees influence over the opinion of individual members with regard to policy. The exceptions the Jeffersonians recognized were therefore framed in terms of the ascertainment of facts and the arrangement of details under the supposition that the nature of a subject might require one or both to make possible decision by the House. 70

Once it was admitted, however, that committees could properly be used to ascertain and establish facts and to arrange and systematize details before a matter had been considered in Committee of the Whole, these committees necessarily became more than impartial fact finders or ministerial detail arrangers. The ascertainment and establishment of “facts” with regard to general legislative needs and propositions, and this was the way the Jeffersonians interpreted fact finding, could not exclude opinion on what were actually discretionary matters of policy. Neither could the arrangement and systematization of details since this involved the choice of one set of alternatives over another. In short, then, the reconciliation attempted by Jeffersonian theory between the use of smaller committees in the first instance and the preservation of the ability of the legislator to make up his mind on policy entirely on his own could not be accomplished. The result was that by the Fourth Congress (1795–1797) it was generally recognized that committees were supposed to report opinion, despite the fact that this undermined the rationale that both justified and restricted first reference to these committees. 71

Another problem in Jeffersonian thought stemmed from the flexibility of the guidelines it defined to govern first reference to the Committee of the Whole. As ideal incentives were undercut and practical pressures mounted, the Jeffersonians, while still preserving the framework of their thought, tended to widen the scope of the categories of exceptions they had defined. In truth, the main bulwark underlying the belief that principles could be determined before reference was made to a smaller committee was faith in the ability of the individual members to inform themselves of facts and to make general decisions even though details had not been settled. However, as time went on there was a tendency to narrow the area in which it was thought that facts might adequately or conveniently be investigated by individual members or principles settled before details were arranged.

As a consequence, a subtle change was introduced into the original Jeffersonian insistence that, in important areas of policy, principles should be settled before reference was made to a smaller committee. As originally defined this attitude understood principles to mean the broad controlling factors in a subject and it postulated that such principles could usually be decided first even if a subject was complicated. 72 However, as the scope and range of the exceptions were widened, as faith was lost both in the ability of
the members to inform themselves through discussion and in the feasibility of determining principles before details were arranged, the meaning of a prior determination of principles tended to be transformed from a decision on principles in the original sense to a decision on principles in the sense of abstractions, i.e., to a decision on matters not much related to or dependent on facts or details. Thus, whereas originally the Jeffersonians emphasized the settlement of basic issues, whether this called for abstractions or more than abstractions, the new tendency was to restrict prior determination to subjects and decisions that were abstract, even though this limited the scope and significance of the role of the Committee of the Whole.

Finally, there were some fatal contradictions between Jeffersonian ideals with regard to legislative autonomy, which formally at least severely restricted reliance on the executive, and Jeffersonian ideals with regard to majority rule, which promoted the cause of the Committee of the Whole. When in control of the House, whether in the mid-1790's or during Jefferson's presidency, the Jeffersonians found that they could not in fact do without detailed executive guidance and assistance. In deference to their ideals, what they largely substituted for direct reference to executive officers was use of smaller committees, both select and standing, as means of maintaining contact and communication with the departments. This in many ways was a good compromise of the conflict between theory and practical need that they faced. The smaller committees possessed the singular advantage of providing a channel for executive advice and plans while still maintaining and even increasing the House's ability to criticize executive recommendations and delineate its own alternatives. However, its effect on the role and status of the Committee of the Whole was highly subversive, especially in the long run.

On the one hand, use of the smaller committees as intermediaries encouraged their stabilization in particular areas of policy, the establishment of continuing relations between them and the departments, and the carryover of personnel from session to session and Congress to Congress. As a result, the incentives to expand the scope of exceptions to first reference to a Committee of the Whole that already stemmed from the difficulty of keeping up with a large and growing workload and the difficulty of deciding principles without benefit of a detailed scheme or proposal were further reinforced. Members were increasingly confronted with entities that possessed superior access to executive information and could claim superior knowledge and wisdom. Moreover, members were increasingly confronted with a situation in which the path to maximizing their own influence lay in mutual deference to one another's claims as specialists.

On the other hand, as the difficulties of leading the House politically multiplied over time due both to growth in size and division within the Republican party, first reference to smaller committees and use of these
entities as levers of attaining policy wishes became increasingly attractive to Republican leaders both in the House and the executive branch. Needless to say, neither of these tendencies found full expression nor had a decisive impact until after 1809. Ironically enough, as this fact suggests, the role and influence of the Committee of the Whole vis-à-vis the smaller committees ultimately rested on unified and effective executive leadership of the lawmaking process which formally, as in the case of Hamilton, or informally, as in the case of Jefferson, could supply the substantive and political conditions necessary to make use of the Committee of the Whole to decide principles and aggregate majority support feasible.

Reporting By Bill

Second only in significance to the maxim that important subjects be first referred to a Committee of the Whole for a decision on principles, another maxim existed in Jeffersonian committee thought which provided a critically needed complement for its prescriptions regarding first reference. This was the notion that permission for the introduction of a bill should be given only after the subject had been discussed and determined by the whole House, preferably in a Committee of the Whole if the subject was at all important.

Full understanding of the importance of this maxim requires further analysis of a topic we have already discussed—the reasons underlying the preeminence of the Committee of the Whole in Jeffersonian thought. In approaching the proper nature of the legislative process, the Jeffersonians held fast to both the idea of the representative as the passive embodiment of the will of the people and the idea of the representative as a man actively engaged in the search for truth through discussion. Despite the apparent inconsistency of these ideas, the Jeffersonians saw the representative as obligated to represent the wishes and interests of his constituents and yet they also believed that the legislative process was properly a deliberative one in which truth issued out of the clash of opinion as long as reason and conscience ruled, that is, as long as discussion was not perverted by the evils of corruption or party.

That the Jeffersonians held both these ideas in combination is well illustrated by a number of debates in the Annals. For example, in the first session of the Fourth Congress (1795–1796) William Giles, after noting that he “adored” the will of the people, went on to say:

There could be no Legislative act without deliberation; the opinions which were to guide their decisions must be matured by deliberation; they were not to decide upon predestinated impressions; but their conduct must rest on the operations of their own minds... it [was] the duty of a legislator to exercise an opinion, and not shut his eyes against conviction, and not to receive them from extrinsic quarters. When the Constitution says, the Legislature
shall enact laws, it implies that they must be the fruits of deliberation, and not in the nature of an Executive act.\textsuperscript{86}

On another occasion, in the first session of the Second Congress (1791–1792), William Findley's remarks were recorded as follows:

Mr. Findley declared himself to be in favor of one Representative for every thirty thousand persons. The opinion of the people should be the guide of the committee; that opinion he conceived, to be in favor of the ratio he had mentioned. The representation ought as nearly as possible to express not only the will, but to participate in the wishes and interests of the people. ... As to delays occasioned by a numerous body, he observed, that the Representatives were chosen to deliberate and to mature every subject before decision.\textsuperscript{81}

It is likely then that the sharp contrast now drawn between Jefferson’s and Madison’s views on representation would not have made much sense to the Republicans in the first ten Congresses (1789–1809) for they subscribed simultaneously to both positions.\textsuperscript{82} Nor was it entirely illogical for them to do so since they had great faith in the existence of objective, unified, and rationally definable truth and in the ability of the people to recognize and accept what was right. Note the words of James Madison, William Giles, and Abraham Baldwin:

Mr. Madison said... As he had confidence in the good sense and patriotism of the people, he did not anticipate any lasting evil to result from the publications of these societies. ... In a Republic, light will prevail over darkness, truth over error: he had undoubted confidence in this principle.\textsuperscript{83}

Mr. Giles... I have said that I wish to discuss this subject with calmness. This is still my wish. I wish to take it up free from all partiality or prejudice, and to examine it on its intrinsic merits. ... I hope gentlemen will therefore agree to take up the subject, and enter upon an examination of it, not with a view to triumph, but to truth.\textsuperscript{84}

Mr. Baldwin thought the resolution... unexceptionable. ... The doctrine of publicity had been daily gaining ground in public transactions in general, and he confessed his opinions had every day more and more a greater tendency that way. ... In a free Government, he wished the arguments for and against measures to be known to the people: this would reconcile them to those founded on sound reason and policy. This he had ever found the case in the part of the country he represented. Whenever he had had an opportunity of stating the reasons that had influenced his vote on any particular question, he found those reasons had weight, and reconciled his constituents to the measure.\textsuperscript{85}

Legislators could thus represent the interests of their constituents while participating in a process of discussion which identified truth and educated both legislators and their constituents in this knowledge.\textsuperscript{86}

Nor were rational discussion and mutual enlightenment seen only as means of identifying true or right policies and harmonizing the pursuit of such policies with popular will. In a basic sense the Jeffersonians viewed majority rule in the House so that it too was dependent on rational discussion. As is implicit in our previous discussion of majority rule, the Jeffersonians did not regard it as something wholly quantitative or mechanical.
Identification of the “sense of the majority” was the problem and this was conceived to be contingent not simply on processes that preserved the equality of members over decisions, but also on processes that elicited majority decisions through rational discussion and mutual enlightenment. It was, for example, this kind of conception of majority rule, combined with belief in the identifiability and strength of truth and reason, that led Jefferson to say in his First Inaugural “that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable.” Indeed, understood in the context of contemporary assumptions, Jefferson’s statement is far less vague than it might appear. Moreover, this relation between discussion and majority rule also means that the Jeffersonian position on first reference to smaller committees had a facet or dimension that we have not adequately developed. In truth, Jeffersonian fear of the distorting effects reliance on smaller committees might have on majority rule related not simply to the manner in which such reliance could infringe equal influence over outcomes, but also to the grave infringements of discussion and mutual enlightenment that such reliance could easily involve. Note, for example, the words of John Page, a Virginian who was one of the most ardent spokesmen in the early House of the basic articles of Jeffersonian faith:

... if, instead of discussing a question fully, and collecting the sense of all the members in a Committee of the Whole, it be referred to a committee ... that committee might be unanimous in favor of a resolution, against which eighteen members from Virginia, and a proportionate number from other States, might vote; or, by the weight of that committee, the resolution might be carried, which could not have passed had it been fully and freely discussed in the House.77

Given this apprehension, we have an additional, equally fundamental, basis for understanding the preeminence of the Committee of the Whole in Republican thinking. The Committee of the Whole existed as a focal point of Jeffersonian committee thought not merely because it provided a means of avoiding structural infringement of the ability of all members to exert equal influence over decisions, but also because of the superior qualifications of the Committee of the Whole as an arena for rational discussion and deliberation. In contrast to the select and standing committees, it included the entire membership of the Congress, a group which even in 1809 was still small enough (141) to make collegiate decision making not at all a fantastic ideal.78 In contrast to action on the floor of the House, its procedure being that of a committee was less formal and debate was less limited.79 Moreover, the same qualities that distinguished the Committee of the Whole from the floor of the House or from the smaller committees enhanced its value as a dramatic platform from which to address the nation on great issues of policy. In short, then, we may conclude that Jeffersonian regard for the Committee of the Whole rested on several interrelated props. Its
advantages in terms of inclusive and untrammeled discussion as well as its advantages in terms of openness to all and lack of structure or hierarchy led the Jeffersonians to see the Committee of the Whole as the primary legislative mechanism for realizing a number of interdependent goals they cherished—majority rule, rational discussion and mutual enlightenment, the definition of true or right policies, and educating the people with regard to the issues.

On the basis of this analysis we now may more fully understand the significance of the maxim prohibiting the introduction of bills until subjects had been discussed and determined by the whole House. Interpreted strictly, it could be and was used to prohibit the introduction of bills even after principles had been determined. This could be important as a means of preserving the Committee of the Whole's control over the main features of an important measure and insuring a prior discussion of these features in cases where principles were not or could not be very controlling. For example, in the first session of the Third Congress (1793–1794) a resolution was passed declaring that adequate provision ought to be made to protect our commerce from North African pirates. This resolution was referred to a select committee which reported back a related set of resolutions concerning the number of new warships needed and the new items of taxation required to finance them. Only after these resolutions were fully discussed and approved in a Committee of the Whole was the select committee allowed to bring in a bill.90

Interpreted less strictly, i.e., simply that principles should be settled before bills were permitted, the maxim could be and was used to prevent a subject being completely defined and organized in the form of a bill before a determination on principles had been made. This could be important in cases where subjects were initially given to a select or standing committee as a means of preserving the Committee of the Whole's control over principles in important areas and the House's control in all areas. Even granting that these committees did more than merely ascertain facts or arrange complex materials so as to make possible decision by the whole, a decision on principles could still better be had, according to the norms of Jeffersonian theory, if committees merely reported their findings rather than presented a completely arranged and detailed bill. Thus, in the second session of the Fifth Congress (1797–1798), when the Federalists sought permission for a committee on the President's Message to report by bill, the Jeffersonians opposed it vigorously. Albert Gallatin argued that, though the other committees formed on the message had been given the power to report by bill, the principles of their subjects had been more or less settled before reference was made and that important subjects should first be determined in a Committee of the Whole before bills were allowed.91 He was supported
by John Nicholas, Abraham Venable, and Joseph Varnum. Of these three
John Nicholas' comments are especially noteworthy:

Mr. Nicholas thought the nature of this resolution fully justified the deviation which
had been observed in the forming of the resolution appointing this committee. It appeared
to him better to have the subject in the form of a report than a bill, in order that it
might receive full discussion.95

It was the practice of the House to have all important business first in the form of a
report, which gave time for discussion and reflection, and he thought an innovation upon
the usual order of proceeding in this respect might have a bad effect. He wished, before
any subject should be brought before them in a bill, they might discuss its principles.96

On another occasion, in the second session of the Fourth Congress
(1796–1797), the Committee on Ways and Means in order to secure a prior
decision on principles merely reported back a few simple resolutions to
the effect that a direct tax should be levied, instead of an elaborate plan.
Several prominent Federalists objected, contending that the committee
should bring in a bill before the issue was joined. The Republicans opposed
proceeding in this manner and one of their leading members, John Swan-
wick, spoke as follows:

It was absolutely necessary to decide upon one of two principles, either to support
commerce by a Navy, and thereby secure the revenue arising from it, or else call upon
agriculture to bear its full share of the public burdens. He therefore wished the principle
to be settled without regard to modification, because the more simple the light in which
the object was placed the better. The modification would properly be an after-business;
and when members had agreed upon the necessity of adopting the principle of a direct
tax, their opposition to any particular plans which might be offered would be moderated,
so that the best system which could be devised would probably be adopted.97

However, here as elsewhere, Jeffersonian thought was marked by the
defects of inconsistency in theory and retrogression in practice.98 Originally,
the notion that a bill should not be brought in until the subject had been
determined by the whole House was understood to apply to matters of
routine as well as to matters of importance. As a result, in the early Congresses
most important measures were examined first in a Committee of the Whole
before bills were allowed and less important subjects often received the
same treatment, though more frequently in the House than in Committee
of the Whole.99 Moreover, so strict was the adherence to this maxim that
bills reported by committees were closely examined to make sure they
conformed precisely to the resolutions which authorized them.97 Yet by
the Ninth Congress (1805–1807) traditional safeguards were usually not
observed with regard to routine matters and even with regard to more
important matters there was a decided tendency to allow committees to
report by bill before a Committee of the Whole had considered the subject.98
In addition, definite evidence of the existence of a new and opposing set
of attitudes with regard to reporting by bill can be found. For example,
it was claimed that it was proper for a committee to report by bill on its own discretion, if the committee accompanied its bill with a full statement presenting facts, reasons, and arguments on behalf of the adoption of the bill. Still, the old theory was far from dead even in the last years of Jefferson's second administration. Many important subjects, especially those which were most crucial, continued to be determined first in a Committee of the Whole before bills were allowed.

Internal Operation

In approaching Jeffersonian thinking with regard to internal committee organization and operation, let us again concentrate on the theory as it took shape in the first four Congresses (1789–1797) before we trace or examine later developments.

Jeffersonian attitudes in this area can be classified under four headings. In discussing these headings we shall make use of Jefferson's famous Manual of Parliamentary Practice. Although this manual was written for the Senate and not compiled until Jefferson became Vice-President under Adams, the quotations we shall employ aptly reflect both the theory and the practice of the House in the years before 1797.

In the first place, the Jeffersonians believed that when it became necessary to place resolutions or bills in the hands of smaller committees, these committees and their chairmen should be favorable to the object of the resolution or bill committed to them. They therefore supported the general practice of making the man who moved the appointment of a committee with regard to a particular resolution or bill its chairman. Indeed, it was Jefferson himself who gave the guidelines and rationale of this approach their most felicitous statement. Note the following excerpt from his Manual:

Those who take exceptions to some particulars in the bill are to be of the committee, but none who speak directly against the body of the bill; for he that would totally destroy will not amend it; or, as is said, the child is not to be put to a nurse that cares not for it. It is therefore a constant rule "that no man is to be employed in any matter who has declared himself against it." And when any member who is against the bill hears himself named of its committee, he ought to ask to be excused.

In the second place, the Jeffersonians believed that the committees ought to conduct their investigations and deliberations in a democratic manner so that the conclusions reached represented the deliberate judgment of at least a majority of the committee. Thus Jefferson's Manual states:

A committee may meet when and where they please if the House has not ordered a time and place for them, but they can only act when together and not by separate consultation and consent—nothing being the report of the committee but what has been agreed to in committee actually assembled. A majority of the committee constitutes a quorum for business.

Concomitantly, the Jeffersonians saw the chairman as a moderator of discussion and agent of the committee, not as a lord of its proceedings.
Hence, Jefferson describes his duties as presiding over the committee, putting the question to its members as he reads the paper or bill committed to the committee by paragraphs, and reporting the results of its proceedings to the House.  

In the third place, the Jeffersonians believed that experience or special knowledge with regard to a particular subject constituted an important basis for appointment to committees dealing with that subject. For example, in the first session of the Fourth Congress (1795-1796) it was explicitly recognized that a select committee about to be raised on the subject of protecting the Indians should include members from the Western frontier.

Similarly, in the same session when Uriah Tracy, a Federalist member from Connecticut, asked to be excused from serving as chairman of the Committee on Claims, permission was refused. In this instance William Giles seems to have expressed the opinion of both the Republicans and the House:

"Mr. Tracy was, perhaps, better qualified than any other member in the House for expediting that business. He had been at much trouble about it, for which the House were obliged to him. It was something of a systematic nature, and new members would not be able to go on it with the same degree of information and experience."

In addition, not infrequently the Republicans thought it proper to confide important subjects which concerned everyone in the nation to committees appointed so as to include one member from each state in the union.

In the fourth place, again in the words of Jefferson's Manual, the Jeffersonians in the House believed that committees should have "full power over the bill or other paper committed to them," except that in the case of bills the committee could not "erase, interline, or blot the bill itself; but must, in a paper by itself, set down the amendments, stating the words which are to be inserted or omitted." This latter clause was a reflection of their feeling that a committee on its own responsibility could not change what the House as a whole had decided or endorsed.

Plain as these ideas may seem to be, their bearing and import can nonetheless not be fully appreciated unless we remind ourselves of the context of theory and practice within which they were defined. In the case of the notion that committees should be formed of men favorable to the object of a resolution, the effect of this guideline was to give the majority which existed with regard to a particular subject control over the committee to which it was referred. Assuming the existence of few if any standing committees, and until the second session of the Third Congress (1794-1795) only one did exist, then generally committees could be created as needed with regard to particular subjects which in turn enabled men favorable to the subject to be appointed in each instance. Moreover, although House rules beginning with the second session of the First Congress (1790) vested appointment of all committees in the hands of the Speaker, the rules also...
permitted the House to elect a committee itself whenever it chose. Thus, if the House suspected with regard to any particular subject that the Speaker could not be trusted to conform to the custom of selecting men truly in favor of the resolution or bill, it could by majority vote take appointment away from the Speaker.

With regard to the notion that the committees should have full power over the papers or bills committed to them, such a maxim did not convey or involve as much actual power as it does now. If the legislative process commenced with the consideration of subjects and if principles were settled before reference was made to a smaller committee, and in the first four Congresses practice followed these lines at least with regard to important subjects, then the report or bill sent back by the committee had to conform to the decisions reached by the House and implicitly or explicitly embodied in the resolution of reference. In addition, even in those cases in which subjects were initially referred to a smaller committee, if bills were not allowed until the House had settled principles, and this was the usual practice in the first four Congresses, then again the bills reported by committees had to conform to the resolutions or orders authorizing those bills.

A similar point applies to the negative or obstructive powers of committees. They did not pose as great a problem as they do today. The committees were not seen as sifters of the business for the House but as fingers of the House. As a result, it was assumed that committees would report back, even if their report was unfavorable. Of course, the possibility of deliberate delay existed as did the problem raised by the lack of formal obligation to report back on the part of those committees which were merely instructed to inquire into a certain situation before principles had been settled. However, though their paucity indicates that there was not much need for them, motions for discharge could easily gain the floor and could be carried by a simple majority vote.

Lastly, though the Jeffersonians considered knowledge or experience as an important basis for appointment, this did not mean that they subordinated party to this criterion or equated it with seniority or prior committee service. In the latter respect they did not accord length of service the prerogatives it is now given. Past service on a committee was not regarded as something that necessarily determined one's rank or guaranteed one's place. Indeed, members were added to and removed from standing committees in large numbers quite freely. Nor was rank in a preceding session regarded as something that necessarily controlled advancement to the chairmanship. For example, the Committee on Elections in the Third Congress and the Committees on Claims and Commerce and Manufactures in the Fourth Congress had different chairmen in one session than in another and the men who succeeded to the chairmanships in these instances did not rank highest on the previous committee lists. In the former respect
it is probable that even by the mid-1790's party constituted an important limitation on other appointment criteria in Jeffersonian eyes. However, at this time negative attitudes toward vehement or open partisanship were still strong in Jeffersonian ranks, the standing committee system which involved general or continuing positions still in its infancy, and party divisions still somewhat confused. As a consequence, even when in the majority, the Jeffersonians were less insistent on partisan considerations in appointment than they would be in subsequent decades.

Yet, despite its virtues, Jeffersonian thinking with regard to the proper nature of internal functioning was less able to control practice in the years that followed 1797 than is true in the other areas we have previously examined. To a higher degree than is true with regard to first reference to a Committee of the Whole or reporting by bill, the notions of Jeffersonian theory in this area tended to become pious or outmoded precepts rather than governing norms, even in the years before 1809.

For one thing, the growth in the number of standing committees (there were nine by 1809) and the tendency through the years toward regular and general usage of the important committees on the President's Message created a situation in which the old harmony of object between a committee and a resolution or bill committed to it might well be disrupted. This could be particularly detrimental in cases where a standing committee was given a resolution or Senate bill previous to its discussion or determination in a Committee of the Whole so that it was merely instructed to inquire into a subject rather than instructed as to content.

The Jeffersonians were not unaware of the problems raised by the use of standing committees, by the use of a committee form to which all resolutions or bills in a subject area would be referred when reference was desired unless another course was moved and adopted on the floor. In the second session of the Ninth Congress (1806–1807), because it was feared that the Speaker would select the Committee on Ways and Means in such a way as to frustrate the policy wishes of the House, several leading members of the Republican majority tried to change the rules so as to require election of the standing committees by the House. They argued that the "method of appointment by ballot was much more congenial with the spirit of Republicanism." Their opponents pointed out the time-consuming inefficiency of such an approach. The motion was defeated by only two votes. In the next session, when it was clear that the majority would control the standing committees, another attempt was made to change the rules to the same effect supported largely by Republican dissidents and Federalists. In this instance the opponents of the motion based their argument on the inefficiency of election both with regard to time and securing fit men, the advantages of having one responsible agent select
the committees, and the lack of knowledge on the part of the many new members in the House. The motion was overwhelmingly defeated.

De Alva Stanwood Alexander believes that this course of events indicates that the Republicans in the House, who at various times supported the principle of election, did so only for tactical reasons. However one may decide this question, and it does seem at least somewhat unfair to Jeffersonians such as James Sloan, James Holland, John Eppes, and Thomas Blount, who were fairly consistent in their support for election, in truth election did not constitute an adequate answer to the problem of disharmony between the views of a committee and the object of the resolution or bill confided to it. Standing committees, even if elected, would nonetheless have sway over a whole subject area and on particular issues could still find themselves in opposition to a majority in the House. Moreover, as twentieth-century experience has shown, election by the House because of the forms it assumes and the secondary effects it involves is not necessarily a better vehicle for majority control of committees than selection by the Speaker.

For another thing, the position and prerogatives of the chairman were not adequately circumscribed by Jeffersonian theory. Not too many years elapsed before a key Republican legislator felt it necessary to point out to President Jefferson that one of the main barriers to effective party leadership by men informally tapped by the President was that the Speaker appointed the committees and “in the House ... more than in any other legislative body within my knowledge, the business referred to Committees and reported on by them, is, by usage and common consent, controlled by their chairman.” Chairmen, in short, readily became more than the mere “moderators” or “agents” which Jeffersonian theory had envisioned. For example, in the first session of the Seventh Congress (1801–1802), James Bayard, a Federalist, objecting to the report of a committee on which he served, complained to the House as follows:

It will be perceived by those who are accustomed to the form of proceeding upon committees, that our course has been entirely novel. It was usual heretofore for a committee to agree upon the substance of their report, and then to draw up a report in conformity to their opinion. In the present instance our opinion had not been asked, upon any point embraced by the report, before it was offered to us in its complete form. If the points and cases which the report contains had been separately brought under discussion, they would have been more fully investigated and considered, and the result might, in consequence, possibly have varied. As it regarded myself, this new mode of proceeding was a complete surprise.

To these words Joseph Nicholson, chairman of the committee, blandly replied:

He (Mr. Bayard) said it was usual to direct the chairman of committees in what way the report was to be made, and presented for acceptance. Having very little of this kind of business to do ... he was not very conversant in the precise manner, but he thought
it was usual for the chairman to make propositions to the committee, to call forth their attention. He knew of no way to facilitate business so much, as by bringing in a sketch of a report, comprehending the principal features which the papers before that committee exhibited.124

Nicholson was the victor in this instance not simply because the Republicans controlled the House, but also because the exercise of leadership or initiative by the chairman had become a matter of informal consensus. In 1804 William Plumer described the role of a committee chairman as follows: "The business of chairman of a standing committee is very arduous and attended with much labour. His duty is to call the Committee together, draw up the report in writing, which frequently is prolix and argumentative--And in the House he must support and defend the Report."125

Nor was the leadership role chairmen assumed limited to acts of commission. It is clear from the Annals that by the second term of Jefferson's presidency a point had been reached in the development of the House where deliberate delay on the part of a committee chairman could easily become a serious problem, despite the availability of an effective discharge procedure. Thus, at the close of the first session of the Ninth Congress (1805-1806) James Sloan denounced Randolph's behavior as Chairman of Ways and Means and offered two resolutions for the House approval, one requiring all the committees to be called upon to report every Monday unless dispensed with by unanimous consent and the other requiring all the standing committees to be elected by ballot and to choose their own chairman. His words have a very modern ring to them.

I offer these resolutions for the purpose hereafter of keeping the business of the House of Representatives within its own power, and to prevent in future the most important business of the nation from being retarded by a Chairman of the Committee of Ways and Means, or any other committee, from going to Baltimore or elsewhere, without leave of absence, and staying six days or more, either for his pleasure or his interest; to prevent the members of this House from being hereafter insulted by chairmen, or other members of the committees, for calling business out of their hands, after having kept it either from negligence or evil design more weeks than they ought to have done days. To prevent in future the Chairman of the Committee of Ways and Means from keeping for months the estimates for the appropriations necessary for the ensuing year in his pocket, or locked up in his desk, whereby the different appropriation bills may be kept back (as they have been this session) to the great injury of the nation, as well as individuals; and, finally, to prevent hereafter bills of importance being brought forward, and forced through the House, near the close of a session, when many members are gone home, and the minds of those who remain are necessarily turned homeward to their domestic concerns, and when there is not time for that full investigation and cool deliberation necessary to decide with propriety on important subjects, by which means laws may be passed injurious to the interests of the United States and derogatory to the character of the House of Representatives.126

Finally, while Jeffersonian regard for knowledge or experience as a criterion in committee appointment remained strong, its impact was altered
by changes in the context in which it was applied. On the one hand, the
emphasis the Jeffersonians placed on party became more firm and unyield-
ing. Though still not adverse to recognizing knowledge or ability in minority
ranks, whatever doubts they had had about party as an appointment
criterion were largely laid to rest. If still not anxious to acknowledge or
justify the importance placed on party, it is nonetheless true that by the
time the Republicans regained power in the House in 1801 they regarded
partisan considerations as dominant on all important committees and in
most instances. On the other hand, elements in both theory and practice
that had previously served to limit the deleterious effects of relying on
knowledge or experience as a criterion grew weaker. Emphasis on knowledge
is not an unmixed blessing, involving as it does the danger of turning
over a subject or subject area to the particular interests most directly
concerned. In the early Congresses this danger was mitigated by the practice
of settling principles first or before bills were brought in, by the frequent
use of select committees which dealt only with a particular subject, and
by the employment of the principle of state representation. Less emphasis
was placed on all these elements both in theory and in practice in the
years after 1797 than in the years before, particularly with regard to the
principle of state representation. As a result, when a Jeffersonian such as
John Smilie in the first session of the Tenth Congress (1807-1808) affirmed
the need for "knowledgeable" committee members the implications and
repercussions were different than they had been in 1793 or 1794. According
to Smilie:

... it was proper to select the most fit characters for each [standing committee]—on the
Committee of Commerce, for instance, there ought to be placed Commercial men; on
the Committee of Ways and Means, such as were best acquainted with subjects of finance,
etc. 125

We should note, however, by way of balance that the Jeffersonians did
make some adjustments and innovations in their approach to internal
committee operation. In the first session of the Ninth Congress (1805-1806)
a rule was passed giving any two members of a committee the right of
calling a meeting if the chairman was absent or declined to convene such
a meeting. 126 In the second session of the Eighth Congress (1804-1805)
a rule governing the selection of chairmen was adopted which permitted
committees to elect their own chairman if they so desired and this option
was taken advantage of on two occasions. 127 Nor did Jeffersonian theory
or practice change substantially with regard to the amount of deference
accorded to prior service on a committee. Committee membership continued
to be changed quite freely from session to session and members succeeded
to chairmanships without strict regard to their rank or even presence on
the previous committee list. 128 To cite an extreme example, we may note
that the final outcome of dissatisfaction over control of the Committee
on Ways and Means by Republican dissidents was reconstitution of the committee in the first session of the Tenth Congress (1807–1808) to get rid of John Randolph and his cohorts.  

**Control Over Execution**

Thus far, we have centered our attention on the role of committees in lawmaking. There is, of course, another role a legislature in a democratic system performs which is equally important—that is, the task of overseeing, supervising, controlling, call it what you may, the manner in which laws are carried out once they have passed into the statute books. In actuality, this task as performed by a legislature cannot be rigidly distinguished from the task of enacting law since oversight instructs legislation and since legislation is a prime weapon of oversight. At heart, then, the two processes are closely interrelated and over time the legislative process as a whole can be seen as a continuing interaction between these two facets of operation. However, it is useful for analytical purposes to approach the problem in terms of separate roles, distinguishing the legislature’s role in defining or making law from its role in exercising control over the process of execution.

Before we directly confront the question of Jeffersonian attitudes with regard to the role of the House in controlling execution, there are three points by way of background that must be made if these attitudes are to be seen in proper perspective. The first is that the Jeffersonians placed great emphasis on spelling out the provisions of law as concretely and specifically as possible. This is not to say that the Jeffersonians, as is sometimes supposed, made no concessions to the needs of administrative flexibility or believed that the job of the executive branch could be made completely ministerial. Though they did believe that there was a logical or abstract distinction to be made between legislative and executive power, the majority of them did not see this as an absolute or even precise basis for discrimination in lawmaking. In addition, the Jeffersonians realized that specification of details in situations in which contingencies could not adequately be foreseen would be self-defeating, resulting in the frustration of the objects the law was enacted to achieve. Nonetheless, it still remains true that strict limitation of executive discretion was a cardinal principle of Jeffersonian thought and that they believed that this was both possible and practical as a general rule. Their view that the legislature was constitutionally the primary lawmaking or policymaking body as well as their regard for the legislature as the primary representative of the people made this emphasis inevitable.

Second, the Jeffersonians believed vehemently that executive officers were responsible for adhering strictly to the letter of the law. Again this is not to say that they believed that infractions or unauthorized actions were
not permissible under any circumstances. They recognized that the highest duty of the administrator was not to the letter of the law but to the achievement of its ends and to the duties of his office. Nonetheless, they placed primary emphasis on strict adherence and they felt that only those in the highest administrative positions would ever be faced with a conflict and these men only under most unusual circumstances. Moreover, they thought that when infractions or unauthorized actions did occur it was incumbent on the violator to report to the legislature immediately so that the legislature would have the opportunity to pass on the action, so that the legislature, rather than the individual official, would have the last word.

Third, the Jeffersonians believed that the President, not the Congress, was wholly responsible for execution and that the process of carrying out the law was a process that was entirely at his command. Henry Jones Ford and Wilfred Binkley have noted that in the Republican period cabinet officials were not seen as personal representatives of the President but rather as a permanent nonpolitical bureaucracy. This is true but it is wrong to conclude from this, as Binkley does, that they were not seen as executive subordinates of the President. Thus, for example, the Jeffersonians believed that the proper way for the House to request department heads to submit formal reports was through the President and that the department heads were subject to presidential direction in preparing such reports. Indeed, under both Washington and Jefferson even departmental correspondence was cleared with the President. We may conclude, then, as Leonard White has, that "no doubt arose in the minds of the Jeffersonians concerning the administrative supremacy of the President. The department heads were responsible to him. The executive power remained where the Constitution had placed it."

Turning now to the main question we wish to consider, Jeffersonian attitudes toward the role of the House and its committees in the control of administration are marked by their restraint as compared with contemporary attitudes on this topic. To be sure, as might be expected given their emphasis on holding the executive to the letter of the law, they firmly believed that the House had a postnatal role to play. We may note that the Jeffersonians often described the House as the "inquest of the nation" and emphasized its function as an agent of the people in correcting violations and abuses of legal authority in the administrative process. The following two quotes are illustrative:

Mr. Nicholson... This House, like the Commons of England, and the most numerous branch in the State Legislatures, is the grand inquest of the nation; they are to inquire into crimes and bring offenders to justice.

Mr. Claiborne... if Mr. Pickering had departed from the directions of the law, to say so was no calumny. The committee proposed to be formed will inquire into all circumstances, and the public officers will be applauded or virtually censured. We are accountable
As for the role of committees, here as elsewhere, they were seen as agencies for establishing facts which could not as conveniently or adequately be established by members on their own initiative. However, due to the nature of the inquiries required and in contrast to the situation with regard to the first reference of legislative subjects, it did not take long before it was generally recognized that committees rather than individuals were better suited to determine facts in all cases where important violations or abuses were alleged. In addition, by the Fourth Congress (1795–1797) it was recognized both tacitly and explicitly that these committees could report opinion as well as facts. Select committees rather than standing committees were usually preferred for this work.

Nonetheless, as also might be expected given their emphasis on detailed lawmaking and the responsibility of the President for execution, the Jeffersonians did not believe that the House had any right to get involved in or interfere with the administration of the law. Moreover, to the Jeffersonians this meant not simply that the House should not attempt to direct or participate in the process of executing the law, that it was properly confined to the role of oversight or superintendence, but also that its sphere of action as overseer or guardian was limited.

If the Jeffersonians believed that the House was the grand inquest of the nation, they did not believe that it had unrestricted authority to inquire into executive operations or conduct. Rather, they believed that the right of inquiry was limited in reach and scope to objects or purposes within the circumscribed grant of power conferred by the Constitution. Note, for example, the words of James Fisk in the 1808 debate over whether the House should institute an inquiry into the conduct of James Wilkinson. Wilkinson, the commanding general of the Army, was accused of having accepted bribes from a foreign power, but as a military man he was not subject to impeachment. Despite the gravity of the charges, charges that would lead a majority in the next Congress to vote for a committee inquiry, in this last Congress of the Jefferson Administration Fisk’s opposition to legislative investigation reflected traditional Jeffersonian premises and concerns as well as the sentiments of the great majority of Republicans then in the House.

Mr. Fisk did not believe the House possessed the power to institute an inquiry... For what purpose should the inquiry be made? When made, could they effect any object by it? No. And why? Because the Constitution had reserved to this House a power to remove the superior officer, who alone could remove the inferior... While gentlemen were so extremely careful to guard the Constitution from violation, he begged they would not trespass on it themselves; while they complained of a supposed breach of trust by a public officer, he hoped not to see it realized in this House.
Similarly, if the Jeffersonians believed that the House had critical responsibilities as guardians of the rights of the people, they did not assume that the House bore sole or primary responsibility for the fate of the republic, that the functions and duties of the other branches counted for little in the preservation of our form of government. For example, in the extensive debate in 1808 over General Wilkinson, John Smilie, an old Jeffersonian who had served in the House for more than a decade, spoke as follows in arguing that Wilkinson's conduct was a matter for executive not legislative investigation:

...the gentleman supposes that, except this House can assume power to act for the public safety, there is no safety for the Republic. Surely, the patriots who framed the Constitution supposed that the distribution of power and the frame of Government it contained were sufficient to preserve the safety of the nation. But the gentleman says we must appoint a committee.... If, according to his idea, this House is left by the Constitution to roam at large without limit or restriction, and exercise its powers as the passions would lead us, independently of the Constitution, I see nothing but ruin to result; and I am not afraid in the most express language to deny that power, nor am I afraid the Constitution will not bear us through.102

Finally, if the Jeffersonians assumed that they had the right to inquire into the conduct of particular executive officers as well as operations or states of affairs, they regarded this right as limited by the President's responsibility for the conduct of subordinate officers and exercisable only for impeachable offenses over officers subject to impeachment. To illustrate the point let us quote again from the debate in 1808 over General Wilkinson. Note the words of William Findley, a Republican who had spent all but four years since 1791 in the House and had been a member of the House's first investigating committee on the St. Clair expedition:

Mr. Speaker, we can only prescribe to the Executive, or the courts of justice, civil or military, by a law of Congress; if the laws are insufficient for the detection of crimes, let Congress revise them, or make new laws. If there are not sufficient number of courts established, Congress has authority to organize other courts; but one branch of Congress alone has no right officially to inquire into, or sit in judgement on the character of Executive officers, except with a view to impeachment.103

Given Jeffersonian theory's dual assumption that the House had a significant role to play in exercising control over administration and that this role should not be performed in such a way as to infringe executive prerogatives, the topics and objects the House could concern itself with had to be circumscribed to keep the House within proper bounds. Before we proceed to define the areas of concern that Jeffersonian theory acknowledged as legitimate, however, we should note that committee investigations were not the only mechanism of administrative control that the House employed. As in the case of simple legislation, resolutions calling on the President or department heads for information were quite common. When framed so as to involve oversight or superintendence, such calls requested
information on past operations and conduct as well as on achievements and difficulties in implementing a law, e.g., difficulties under the militia law, execution of the Act regulating foreign coins, the administration of the Sinking Fund, the state of military fortifications and arsenals, etc.\textsuperscript{154}

As such, these calls were employed to secure information that was useful or needed to revise or extend existing grants of legal authority or appropriations. In addition, they were used as a prelude to committee investigation for the purpose of determining whether an extended inquiry was necessary and/or to provide a foundation on which a committee inquiry could proceed. In short, though the committee mechanism was a more effective instrument, the reliance placed on committees did not supplant the individual member as a source of inquiry or agent of control. Indeed, resolutions calling for information were employed far more frequently than resolutions authorizing committee investigations. Nonetheless, though the Jeffersonians in practice were more lax about calls for information than about committee inquiries, in normative terms the same restrictions Jeffersonian theory placed on the topics and objects of committee inquiry applied to the topics and objects of calls for information.\textsuperscript{155} The areas of legitimate concern that Jeffersonian theory recognized may be categorized as follows.

First, and foremost, were inquiries into violations and abuses in the expenditure of public funds. On the basis of Congress' legislative power over both the appropriation of funds and the structure of executive organization, the Jeffersonians saw the handling and expenditure of public money by executive officers as a topic of unquestionable legislative concern. Moreover, though the Jeffersonians did not believe that the House had to assume sole or primary responsibility for the safety of the republic, they strongly believed that the House had singular responsibilities in the area of public expenditures. Not only did the Constitution provide that revenue and by implication appropriation measures should originate in the House, but as the sole body in the national government directly representative of the people the Jeffersonians saw the House as the people's primary agent of control, as the "guardians of the public money."\textsuperscript{156}

This general attitude toward the House's role in the area of public expenditures translated into assertions of the legitimacy of a variety of objects of inquiry. Inquiries into the question of whether funds had been expended according to law were seen not only as proper but as essential. Indeed, as early as 1791 future Jeffersonians began to press for institutionalizing this form of inquiry. Note the words of Elbridge Gerry:

\begin{quote}
He wished the House would make it a rule that every Executive should, at each session, lay before the House an account of the expenditure of all the money passing through their hands. The people depended on their Representatives for a scrutiny into the expenditure of the public money. He wished, at present, that a committee should be appointed to examine into the expenditure of all former appropriations, and that a rule should
\end{quote}
be established to apply for the future, and procure regular accounts from every branch of the Executive Department. 107

On the same occasion Madison spoke and called for periodic appointment of a committee to examine accounts. It is not surprising, then, that soon after their general and conclusive triumph in the election of 1800 the Jeffersonians in the House extended the jurisdiction of the standing committee that handled appropriation measures, the Committee on Ways and Means, to include regular examination of the appropriation laws to ascertain whether funds had been spent in conformity with them. 108 We may also note that in the years from 1789 to 1809 many of the special committee inquiries into executive operations or conduct and most of the major ones were premised in large part on the legality of financial transactions, e.g., the inquiry into the state of the Treasury Department under Secretary Wolcott and the inquiry into the disbursement of public money by all departments under both Presidents Washington and Adams. 109

The emphasis the Jeffersonians placed on legality was matched by the emphasis they placed on economy. Inquiries into the economy with which funds had been expended were also regarded as appropriate and necessary. Thus, major special or select committee investigations were premised on economy as well as legality. Note the charge given to the select committee appointed to investigate the disbursement of funds by all departments in the Washington and Adams Administrations:

...to inquire and report, whether moneys drawn from the Treasury have been faithfully applied to the objects for which they were appropriated, and whether the same have been regularly accounted for; and to report likewise, whether any further arrangements are necessary to promote economy, enforce adherence to legislative restrictions, and secure the accountability of persons entrusted with the public money. 110

In addition, with regard to economy as well as legality the Jeffersonians supported regular inquiry. By the mid-1790's they became strong advocates of the view that questions of waste and actual need should be looked into as an integral aspect of the appropriations process by the committee charged with the appropriation measure or by a special or select committee. For example, the Jeffersonians resisted further appropriations for the Mint in 1796 and further appropriations for the completion of three naval frigates in 1798 on the grounds that expenses had been excessive and that inquiry by a select committee should precede appropriation. 111 On another occasion in 1796 Gallatin reported to the House that after inquiry the Committee on Ways and Means had decided that the estimate for army rations was too high and had cut it by a third. 112 Involved in such actions was not only the notion that the House was the guardian of the public money, but also an important corollary of this notion. In the words of Albert Gallatin, if the House was to avoid "endless mischief," it ought “not to
vote money because an officer of a department calls for it, however much that officer may be entitled to the confidence of the House.

Nor did inquiries into the legality and economy with which funds had been expended exhaust the recognized objects of inquiry in this area. Rather, inquiries into the structure of executive organization and salaries with a view to retrenchment as well as inquiries into the administrative arrangements governing the manner in which funds were paid out and accounted for were also seen as quite appropriate. Indeed, the latter question was a source of great anxiety for the Jeffersonians during the years of Federalist dominance and a common, though not exclusive, theme of major select committee investigations. As William Giles put it in 1794 when advocating a committee inquiry into the state of the Treasury under Hamilton, it was “the peculiar province of the Representatives, immediately chosen by the people, to superintend the contributions and distributions of all public moneys.” This in turn required “knowledge of the whole machinery of the Treasury Department” and legislative prescription of “rules of conduct” to avoid the emergence of a “species of law” defined by Treasury officers that would serve as “practical constructions of law contravening the legal constructions.” In addition, it is worth noting that when the Jeffersonians expanded the jurisdiction of the Committee on Ways and Means in the early months of Jefferson’s first Congress, they did so in such a way as to confer a general right of inquiry on the committee that explicitly encompassed retrenchment and administrative accountability as well as legality. The clauses added at this time are as follows:

To examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such law: and also to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the departments, and to the accountability of their officers.

A second area of inquiry that the Jeffersonians recognized as legitimate in exercising control over the administrative process was misconduct on the part of executive officers. On the basis of the House’s power to impeach civil officers for “treason, bribery, and other high crimes and misdemeanors,” the Jeffersonians regarded inquiries into executive misconduct as entirely proper and impeachment itself as a significant check the Constitution had conferred on the House and Senate.

It is difficult for modern observers to appreciate how much reliance the Jeffersonians placed on impeachment or why they did so. Yet the plain fact is that they saw impeachment as one of the House’s prime methods of administrative control. On the one hand, the reluctance the Jeffersonians felt for participating or interfering directly in the administrative process limited both the types of control mechanisms the House could employ and the uses that could be made of the ones that were seen as legitimate.
Impeachment therefore appealed because it was a potent corrective of executive wrongdoing if applied and because it was unassailable on grounds of interfering with the execution of the laws. For example, in the dispute over General Wilkinson in 1808, G. W. Campbell, Randolph's successor as Chairman of Ways and Means, argued that the House could not direct or instruct the President by resolution since instruction was not "a legislative act, nor intended to produce a law." In general, he stated that, "He did not know that this House could act in any other capacity than legislative, except in the single instance of prosecuting in cases of impeachment."

On the other hand, many prominent Jeffersonians believed that the offenses subject to impeachment were not limited to high crimes or illegal acts, but also included illegitimate or unethical activities, e.g., the use of patronage for political or personal gain, and even maladministration. In short, the word "misdemeanor" in the constitutional grant of power could be and was interpreted loosely as misbehavior with the result that impeachment could be and was seen as simply a legislative device for removing officials who had erred in a serious or substantial way. Such a view was not without some basis of justification and led in Republican ranks to a very expansive view of impeachment as a control weapon. The words of Joseph Nicholson in a debate in 1804 over whether a committee should be appointed to investigate Justice Chase aptly illustrate the point:

... whenever any member of the House should rise in his place and state that any officer of the Government had been guilty of official misconduct, he had no hesitation in saying, that he would consent to an inquiry. He cared not how exalted his station, or how far he was raised above the rest of the community; the very circumstance of his superior elevation would prove an additional incitement. Such, he said, was the nature of the Government, and so important the duty, in this respect, devolved upon the House of Representatives, that the conduct of the Chief Magistrate himself, as far as his vote could effect it, should be subject to an inquiry whenever it was demanded by a member. The greater responsibility, the more easy and more simple should be the means of investigation.

The failure of the Chase impeachment in 1805 seriously undercut the expansive approach advocated by such Jeffersonians as Giles, Randolph, and Nicholson. After this event views of the breadth of impeachment's reach began to contract as did confidence in its feasibility or effectiveness as a control mechanism. Moreover, another restriction existed on impeachment aside from the question of what constituted an impeachable offense and the need to depend on the Senate to convict. In contrast to the Jeffersonian attitude toward inquiry in the area of public expenditures, where a member's suspicions and desire for inquiry were accepted as adequate justification, many Jeffersonians believed that specific charges were required before inquiry into the conduct of particular executive officers could properly be authorized. A sizable number of others as well as many Federalists believed that it was also necessary to provide a foundation in fact for the
charges on the ground that to institute inquiry was itself to cast censure on the officer involved. Nonetheless, emphasis on and regard for impeachment as a control mechanism continued among Republicans even after the Chase fiasco. This was true for a variety of reasons: the disinclination to interfere with executive functions which limited other alternatives; the emphasis on spelling out the details in law which by encouraging confidence that discretion could be limited reduced the sense of need for stricter forms of oversight; and the persistence of the belief that impeachment could be applied to control or punish acts that were evil or wrong, even if not patently or clearly illegal. As a result, after 1805, as before, a common Republican response to charges of executive wrongdoing was to propose or suggest the initiation of impeachment proceedings. To cite an example, take the debate in 1809 over whether an executive officer had misconstrued or violated the laws by making certain payments to General Wilkinson. In opposing the passage of a resolution stating that the laws had been misapplied, James Holland spoke for a majority of his fellow Republicans:

Suppose this House were to resolve that the opinion of the Attorney General was incorrect, what good purpose would it answer? Would it bring back into the Treasury the money improperly applied? No. Is it consistent with the dignity of the House to pass an opinion on the subject? It is the duty of this House to make laws, and of another tribunal to decide on the laws when made; and if an incorrect decision be made, the person making it is liable to be impeached, and this House is the organ for that purpose. Why was not the matter brought forward properly?

Last, but not least, the Jeffersonians recognized a third area where inquiries into executive operations or conduct were legitimate. That is, inquiries into the fidelity and effectiveness with which legal authority conferred on executive officers had been implemented. On the basis of Congress' lawmaking power the Jeffersonians thought it quite proper for the House to inquire into the manner in which the laws had been executed in order that it might correct existing violations, abuses, or failures and/or prevent future ones through the further exercise of its legislative prerogatives.

This basis of oversight was clearly connected to an unchallengeable element of Congressional power. When called upon to legislate the House could hardly be denied the opportunity to look into need, which in turn meant that it often also had to be allowed to look into past executive performance. Nor could it be denied the opportunity of checking into violations, abuses, or failures when alleged since it was both the source of legal authority and capable as well as responsible for corrective action through further legislation. Thus, from the early Congresses on committees charged with such functions were simply appointed with little discussion or dispute. Note, for example, the following committee inquiries authorized in the Third and Fourth Congresses (1793–1797): the state of the Mint
and what is needed to render it more beneficial; the progress made under the Act to protect the frontiers; the nature and causes of the impediments to the conveyance of Southern mail; the operation of the Act for the relief and protection of American Seamen. In addition, in this area as in the other two we have identified, Republicans at times cited public exposure as a valid ground of inquiry. The claim was not only that the people had a right to know about violations or abuses in public expenditures, official conduct, or implementation of the law, but also that informing the people would provide them with guidance in exercising the potent corrective at their disposal—the vote. However, exposure was not offered as a self-sufficient or all-encompassing basis for inquiry, but rather as a complementary objective and beneficial consequence of inquiry for purposes and within areas permitted by the House’s legislative or judicial powers under the Constitution.

We may conclude, then, that Jeffersonian thought sought to balance a high regard for executive prerogatives under the Constitution with a strongly felt need to allow Congress to function as guardian or watchdog of the administrative process. It therefore endorsed oversight or superintendence, not supervision or interference, and this role only within areas of legitimate concern and for purposes or objects related to those concerns. Nonetheless, here as elsewhere, grave weaknesses existed in Jeffersonian thinking that could and did ultimately undermine its goals.

In essence, the distinction between oversight and interference is a feeble and highly relative one. All forms of checks on administration interfere with the course of execution. In a basic sense interference is unavoidable because administration or execution is an ongoing process. Interference is therefore a matter of degree and a function of the extent of involvement and the influence exercised during involvement. The prime error of the Jeffersonians, however, was not that they did not generate clear guidelines to distinguish oversight from interference. Rather, it was that they assumed the set of distinctions they did define was adequate to their purpose of insuring executive command of the administrative process.

The commitment the Jeffersonians felt to protect executive prerogatives led them to define the legitimate areas of House activity in terms of the constitutional powers of the House and to limit the objects or purposes of inquiry to matters connected with these powers: inquiries into violations and abuses in the expenditure of public money on the basis of the House’s power over executive organization and funds; inquiries into executive misconduct on the basis of the House’s power over impeachment; and inquiries into the execution of the laws on the basis of the House’s power to revise and extend them. However, the areas that were recognized to be of legitimate concern were extremely broad. In addition, since the distinction between activities that encroach on the executive and activities that do
not is an ephemeral one, the potential for expanding the extent, character, and impact of inquiry was great. To put the point another way, if one conceives the purposes or objects of inquiry as connected to or derived from the broad prerogatives of the House and combines this conception with a criterion for restricting inquiry based on the highly vague and malleable distinction between oversight and interference, the result is to circumscribe the scope and consequences of inquiry hardly at all. Rather, the reach of inquiry becomes highly elastic.

As a consequence, what Jeffersonian theory really had to rely on was not its objective power to discriminate between oversight and interference, but on its subjective power to induce discipline and restraint, on the willingness of members to restrict the number of inquiries and to confine those authorized to concretely defined matters closely connected to a definite legislative or judicial purpose within the power of the House. In the period from 1789 to 1809 such restraint did on the whole prevail. We may note that there were only about a half-dozen major committee investigations of executive behavior in these two decades and that the subpoena power was granted less than half the time even on these occasions. Nonetheless, hints that restraint was ebbing can also be found. Dependence on self-discipline, however, was not the only limitation of the Jeffersonian approach. Equally, if not more important, the lack of an adequate basis of discrimination and the absence of any developed sense of this fact meant that when commitment to restraint declined all manners of inquiry could still assume the protective coloration of the old theory. Thus, inquiries that had only a vague connection to a definite legislative or judicial purpose within the power of the House could be justified, even though they were motivated in fact by the policy advantages or political gains to be secured from inquiry rather than by a desire to revise a law or appropriation or to invoke impeachment. Similarly, though the amount of interference rises almost proportionately with the number of inquiries, whether vague or specific, Jeffersonian theory was blind to this fact since it was premised on a supposedly qualitative distinction between "encroachment" and "nonencroachment." It could therefore pose no normative barrier to the multiplication of inquiries once the appetite for them increased. As an added problem, once public exposure was raised as a ground of inquiry, a potential for virtually infinite expansion in the scope and reach of inquiry was created. In short, then, Jeffersonian thinking on the role of congressional control of the administrative process not only contained the seeds of its own destruction, but provided the actual means or instruments by which it could be accomplished. Ironically enough, as the surrounding nexus of restraint that derived from strict regard for the character of executive power under the Constitution atrophied, the very set of postulates Jeffersonian theory provided could be applied to justify
ever increasing legislative involvement in the administrative process rather than to restrict the legislature to definite and circumscribed boundaries as originally intended.
PART TWO

THEORY AND PRACTICE: 1809–1829

Our discussion of theory and practice in the decades before 1809 provides one key facet of an analysis of the nature and significance of committee development in the House. To complete this analysis it is necessary both to examine what happened to traditional Jeffersonian attitudes and practices in the remainder of the Republican period and to consider the long-run significance of attitudes and events in this period for the future operation of the House. The latter task, however, we shall leave to the next and final part of this study.

First Reference to Executive Officers

If we again turn first to the issue of executive participation in the lawmaking process, we may remember that the original Jeffersonian position limited the role of all executive officers quite stringently on the grounds that legislative independence required it to be free of executive influence, that Congress as lawmaker should write the laws in accord with its own wishes. As a result, not only were private or personal attempts to influence legislative judgment through argument, appeals, or favors regarded as illegitimate; in addition, formal or open reliance on executive guidance was viewed in a similar fashion since policy recommendations and plans also were seen as means of swaying or shaping legislative outcomes. We have noted, however, that even Jefferson and his generation of Republicans found it impossible to adhere strictly to these principles. As early as the mid-1790's, when the Jeffersonians initially achieved majority status in the House for a brief period, they quickly found that they could not in fact do without executive assistance. They therefore began to make extensive use of a practice that has ever since been a hallmark of Congressional operation—use of the smaller committees as channels for executive advice and plans. Moreover, once the Jeffersonians gained continuing domination of both the House and the Presidency in 1801, their leaders in the executive branch covertly engaged in extensive management of the legislative process and party members in the House showed much greater tolerance for the direct reference of subjects to executive officers in terms that implicitly or even explicitly asked for advice and plans than had been the case when the
Federalists controlled the departments.178 Still, the years before 1809 provided only a platform for the changes to come.

After 1809, as we shall see in greater detail in the next section of this study, the number of standing committees proliferated. Often the process of development was one in which a select committee first gained such regularity of appointment and such general jurisdiction that it became a standing committee in everything but name and only subsequently was recognized as a standing committee in the rules. Nonetheless, growth was more rapid than before 1809 and by the early 1820's the standing committees controlled almost every normal subject area in the House. As a standing committee system took shape, the existence of regular and intimate connection between smaller committees and their corresponding departments became both more widely and more firmly established.179 The result, however, was not simply an increase in the degree of interrelationship, but, as might be expected, a change in attitudes.

Note the following two quotations. The first derives from a speech John Randolph delivered to the House in 1812. It indicates that a decade before the process of spinning out a standing committee system had been completed the climate of assumptions toward the executive had taken a decisive turn. Whereas Republicans prior to 1809 had come to acknowledge committee-department contacts and to justify them in the same terms that formal or direct reference was justified, i.e., as calls for information, Randolph's words indicate that by the Twelfth Congress (1811-1813) there was little discrimination left in the original distinction between information and advice and that Republicans were now willing to admit frankly and openly that what committees secured and reported represented executive advice or "wishes."

This House is independent of the Executive branch of the Government; yet in every question connected with war, as that department is best acquainted with the subject, and the resources of the country, and as it must eventually be entrusted with the execution of war measures, there was but one course, after the committees met, which common sense prescribed, and that was to apply to the Executive branch for information on this subject. It was on his motion that the Secretary of War appeared before the committee, and gave them a plan of what the Executive deemed necessary to be done, and the committee reported accordingly. And what has been the result? Without any further information from the Executive, we have changed our views on the subject... why this violent struggle against Executive wishes?180

The second quotation derives from a controversy in 1826 over a resolution directing the Secretary of the Navy to inform the House what further legislation was necessary to preserve certain naval timber resources. It illustrates several points worth noting: the virtually unqualified acceptance that use of the smaller committees as intermediaries had achieved by the mid-1820's and the continued existence of a gap between what the House would tolerate informally as opposed to formally. On this occasion Henry
Storrs, Chairman of the Naval Affairs Committee, successfully substituted reference to his committee and won the consent of the House with the following comment:

Mr. Storrs observed that he had no objection to having this information obtained; but he doubted if it was a proper course for this House to call on one of the Heads of Departments to know if legislation is, or is not, necessary on a given subject. It was at all times proper to call on him for facts... but it was evidently unbecoming for the House of Representatives to ask any Head of Department how they shall perform their duty.101

It might be thought that the further extension and solidification of committee-department relations after 1809 would have obviated the need for any further increase in formal or direct reference to executive officers for advice or plans. This, however, is not what occurred. Rather, the latter part of Madison's Administration (1809–1817) and the years of Monroe's Administration (1817–1824) witnessed a substantial increase in such references.102 Indeed, by the second session of the Sixteenth Congress (1820–1821) calls on executive officers had become so numerous that one member complained that the House was calling on the department heads to make long and involved investigations "with the same facility" that it called on its committees to inquire into the most minor topics.103

The reasons for the revival of a practice that the Jeffersonians of the 1790's had fought against so strenuously relate in part to the decline of the Republican party as a unified entity and the decline of the presidential office under Jefferson's successors. What resulted, especially after Monroe's accession to the presidency, was government by "separate battalions"—government through the interaction of congeries of competing party factions centered around the leadership of prominent department heads, such as John Calhoun, John Quincy Adams, and William Crawford.104 In a context in which the Republican party fractionalized in the process of obliterating the Federalists and in which department heads operated independently of the President, competing for advantage and succession to the presidency by cultivating their own following in Congress and pursuing their own policies, powerful incentives were provided for direct reference.105 By making direct calls members of party factions could provide their leaders with opportunities for leverage and publicity with regard to both their policies and their prospects. Still, division into "separate battalions" was not the only source of incentive. As the size of the House and the scope of its policy concerns increased and as a new generation of Republicans entered the House with little knowledge or understanding of the degree of stringency originally intended in the norms regulating formal requests for executive assistance, direct reference became increasingly appealing to individual members and even committees.106 Formal resolutions approved by the House constituted "orders" rather than mere requests. As such, direct calls had
a number of advantages. They provided a means of inducing a department to do the laborious work of collecting and arranging all the information required for argument and appeal with regard to a specific problem when it might have preferred to employ its limited staff resources quite differently; they provided a means of inducing a department to come up with a plan for doing something it might have preferred to avoid or approach differently; and finally they provided a means of gaining publicity and leverage for a policy goal a department did not favor or accord much priority.

Nonetheless, it should not be assumed that the original Jeffersonian norm proscribing formal or direct reference to department heads for advice and plans simply disappeared. Rather, as far as advice or opinion is concerned, it continued to be honored formally for many years. To be sure, as the quote from Randolph cited above indicates, such proscriptions no longer had much restrictive effect. Even so, up through the 1820's calls or references usually did not explicitly ask for advice or opinion, but rather for basic or hard information and a determination of whether and how improvements or corrections might be made. In short, in form at least calls could still be brought under the old rubric of fact finding due to its initial lax delineation. And, indeed, calls or references were generally described and referred to in floor discussions as calls for information. In addition, explicit requests for "opinion" continued to run into objections. As late as 1818 a resolution was criticized for requesting the opinion of a Secretary and amended to request him to supply information "tending to affect the expediency" of the proposal. It is not until the very end of the period that the character of debates suggests that explicit, formal requests for "opinion" were fully accepted as legitimate. Even then the House could be quite touchy about the terms of reference. This is indicated by the 1826 naval timber case cited above as well as by a debate in 1830 over a resolution that simply asked the Secretary of War to report a plan for reducing the Army without injuring the service. This resolution was objected to on the grounds that it committed the House to the proposition and was amended to instruct the Secretary to inquire whether a reduction could be made without injury and, if so, to report a plan.

We may conclude that in the years following 1809 traditional Jeffersonian doctrine regarding executive participation in the lawmaking process was further and substantially attenuated. Indeed, the increase in the role and power of the department heads brought with it a relaxation of antipathy and suspicion of executive involvement in yet another regard. It became common during the years of Madison's presidency for Republican members to argue, on grounds of executive wisdom and knowledge, that proposals which the appropriate department head did not think necessary or expedient should not be passed and even that the department heads should be the
ones to suggest what was necessary or expedient in their various areas of concern.  

However, changes in attitude and practice after 1809 did not destroy or even supplant Republican attachment to the basic axiom or several of the key corollaries of traditional theory. Rather, these old propositions survived and managed to coexist with new strains of thought, despite the direct and indirect conflicts involved and the continuing gulf between theory and practice. Thus, Republican members never relinquished or questioned the basic axiom of traditional theory—the concept of legislative autonomy. Though they interpreted its needs less stringently, they continued to affirm that the legislature, not the executive, was the lawmaking branch, that its decisions should reflect its own wishes, and that executive attempts to control or manage outcomes were illegitimate. In addition, Republican members continued to argue with vehemence and with success in concrete and particular instances that the House should initiate its own measures and/or that the House should not defer to executive opinion but rather should decide issues on the basis of its own estimation of the merits of a question.

Equally important, because the bedrock of support for legislative autonomy remained deep, the changes in theory and practice that occurred did not impede further extension of the number and role of standing committees. Rather, after 1809 even more than before, the relaxation of traditional Jeffersonian maxims redounded to the advantage of smaller committees. If reliance on and deference to the executive became more open and in some ways even more pronounced, the possibility of turning the clock back to 1790, of formally reinstituting some variant of ministerial government, was not raised nor even recognized. Department heads had little choice but to use and work through the relevant select or standing committee. Indeed, with increases in size and party disunity the importance of these entities as vehicles of achieving departmental policy goals also increased. As a result, even the substantial growth in direct reference to department heads did no basic damage. The reports on receipt were generally referred directly to the appropriate smaller committee and were often initiated, formally at least, by a committee in the first place. In short, then, what occurred once presidential power declined was intensification of the long-run process of mutual reinforcement on the part of departments and smaller committees. In this continuing process departments provided committees with expert information and advice, detailed plans, and prestige in exchange for political support. This in turn made smaller committees more influential on the floor and increased the need for departments to work through them. Moreover, in the case of select committees it had the additional effect of generating pressure for regular appointment and stable, generalized jurisdiction, for conversion into standing committees.
All this, however, is not to imply that the departments simply exploited committees. Then as now department heads had to bargain for committee support. Nor is it to imply that the pattern of mutual dependence between committees and departments necessarily insured executive leadership. As we have already suggested somewhat obliquely and will expand upon shortly, the smaller committees also had the ability to use the departments as instruments of their purpose rather than vice versa, and this ability increased as committees gained regularity of appointment and jurisdiction.\textsuperscript{184} Admittedly, demonstration of this fact was infrequent before 1809 and continued to be restricted after 1809. Committee members then as now had neither the time nor the knowledge to share or seize initiative on any total or comprehensive basis. Nonetheless, in truth, the smaller committees constituted a two-edged sword that could cut both for and against executive leadership.

\textit{First Reference to Legislative Agencies}

Though we have already anticipated the outcome, let us turn now to what was perhaps the central focus of Jeffersonian committee thought—the reference of subjects within the legislature. Here, on matters of importance traditional theory postulated the first reference of subjects to a Committee of the Whole for a decision on principles and, with certain exceptions, limited the smaller committees to ministerial functions subsequent to action by a Committee of the Whole. As we noted earlier, this norm derived from the belief that to structure decision making, to give some individuals advantages or means of influence that others did not possess, was to impair deliberation and majority rule and it rested on faith in the capacity of members both to determine facts on their own and to make meaningful or controlling decisions on principle before details were arranged.

Even before 1809, however, Republican members had begun to doubt the feasibility of first reference to a Committee of the Whole and to conceive the needs of majority rule less rigidly. By the end of Jefferson's presidency first reference to this unit had declined from the level of the early and mid-1790's and interpretation of the type of subjects where principles could be settled first had grown more restrictive. In the two decades that followed 1809 this tendency intensified and culminated in the virtual elimination of the Committee of the Whole as an agency for first reference.

Before examining this development in detail, however, let us pause a moment to analyze its underlying causes. To do so it is necessary to broaden our perspective beyond the notion of department-committee reinforcement. In analyzing the expansion in the role and power of department heads after 1809 we were concerned to explain why this expansion contributed to rather than impeded committee development. Our analysis was not invalid, but incomplete. The factors identified were not the only factors
that promoted the emergence and eventual triumph of a standing committee system. Also of great significance was the impetus for committee growth that derived from internal, organizational needs. The vacuum that resulted from the decline of presidential power after 1809 was filled not simply by an increase in the power of department heads, but also by the emergence of a central or integrative leadership office within the House—the Speakership.

Before 1809 the Speaker was more than simply an impartial presiding officer, but his parliamentary importance far exceeded his political importance. Thus, for example, President Jefferson did not work through Speaker Macon but rather relied on a small and shifting group of members to serve as floor leaders on various bills at various times. Indeed, the scope and significance of the political role of the Speaker was so restricted that for a time Jefferson and his fellow partisans even tolerated Speaker Macon’s continuing allegiance to John Randolph after Randolph broke with the Administration and formed a small, but troublesome, party faction. Henry Clay, however, wrought basic and permanent changes in the role of the Speaker. Once he assumed the office in 1811 he transformed it from a weak and rather apolitical position into the focal point of leadership within the House. In contrast to his predecessors, he involved himself deeply and extensively in the decision-making process and employed his considerable talent and charm to assemble and maintain majority support for major policies that bore his personal stamp. Similarly, in the interests of his program he boldly began to exploit and even extend the various sorts of leverage the rules conferred on the Speaker. As a result, the decentralizing tendencies implicit in the decline of presidential power and the increased influence and independence of the department heads were countered to some extent by the emergence of the Speaker as a political leader who assumed responsibility for aggregating majorities behind a general policy program that was legislatively inspired. In sum, what Clay did to the Speakership was to make it a means through which the House might organize and direct itself and in so doing provide policy leadership for the whole governmental system.

The consequences for committees were substantial. Policy leadership by the House and through the Speaker significantly augmented the pressure for creating and relying on permanent and specialized smaller committees. Politically, the ability of the House to manage itself hinged on working through such units. On the one hand, reliance on specialized committees satisfied the need for a division of labor, while at the same time providing units that were open to central guidance and influence due to the manner of their appointment. On the other hand, reliance on specialized committees facilitated the task of interest accommodation and strengthened deference norms. Both of these, in turn, expanded the Speaker’s ability to aggregate
support behind controversial measures and in so doing critically augmented the meager political resources available for integration and management. Indeed, in Clay’s time, even more than in our own, the leverage the Speaker drew from the formal and party structures was so limited that any internal system of leadership premised on collegial operation by the whole would have been doomed to ineffectiveness.

In addition, Clay’s transformation of the role of the Speaker served as a positive influence on committee development for reasons quite apart from its effect on integration and management needs. Self-direction by the House did not mean freedom from executive information and advice. Rather, the House remained dependent on executive assistance and continued to need an effective and efficient means of securing such assistance. If anything, that need increased since the kind of information and advice required to provide or participate in policy initiation can well be more extensive than the kind required simply to evaluate policy proposals that originate elsewhere. As a consequence, the singular advantages smaller committees possessed as environmental links continued to generate as much, if not more, pressure for increased and regularized usage after Clay’s rise as before.

The utilities possessed by smaller committees as agents of communication with executive officers were largely indifferent to the direction or distribution of influence. The fact that usage of smaller committees as instruments of policy leadership modified or reversed the usual pattern of department-committee interaction, a pattern in which the departments were dominant, accordingly had little impact on these utilities. They were rather determined by the extent of the need for communication. Nor was there any reason why the respective shares of initiative and influence could not be rendered more equal or even substantially altered in favor of a committee, if political support for doing so could be mobilized. Indeed, this is what did occur to an increased extent in selected but important areas of policy after 1811. Clay’s transformation of the Speakership thus maintained and even reinforced the technical or adaptive factors that traditionally stimulated committee development.

Ironically enough, then, though developments regarding the Speaker and the department heads after 1809 represented conflicting tendencies or forces, both contributed to committee development. To a significant degree, Clay, who occupied the Speakership most of the time between 1811 and 1823, and his various rivals in the departments competed for leadership of the House and all were dependent on the use of smaller committees as critical instruments for the achievement of their program goals. This is not to deny that Clay’s attempts at program leadership were restricted to a limited number of major policy areas or that overall the forces of disintegration were stronger than the centralizing force of the Speakership. Indeed, Clay’s ability to master the legislative process itself declined precipitately after
1817 when the pace and scope of party disintegration expanded. Hence, the Clay of the Eighteenth Congress (1823–1825), his last as Speaker, is but a pale shadow of the Clay of the Twelfth Congress (1811–1813) or the Clay of the Fourteenth Congress (1815–1817). Nonetheless, Clay's importance for committee development should not be overlooked. If it is true that his success in providing a source of central leadership was far from uniform in his various terms as Speaker, it is also true that his transformation of the Speakership provided an important stimulus for further committee development. Though the changes he wrought should be seen as only one of several causal factors and were themselves dependent on a certain level of prior development in the committee system, it is still significant that the period after 1809 that correlates with Clay's assumption of the Speakership and his greatest success as Speaker, the period from 1811 to 1817, is a period of decisive change in committee theory and practice. As we shall see, it is a period marked by such events as the disappearance of any real limits on the power of smaller committees to report by bill, heightened regularization of committee usage, and explosive growth in the strength of a new system of committee norms focused on specialization and deference.

Finally, no analysis of the causes of committee development would be complete without recognition of the significance of expansion in the size of the House and the dimensions of its business. There is no doubt that these increased substantially in the years from 1789 to 1829 or that they had an important impact on committee development. However, what also should be recognized since these factors are often treated as the single or most important determinant of committee development is that their impact was mediated by House goals. As the history of the British Parliament indicates, there is no necessary reason for expansion in size and governmental business to spawn a specialized standing committee system. If the House had been similarly oriented, if it had not been greatly concerned over its lawmaking functions and had been willing instead to accept ministerial direction and to delegate large amounts of discretion to administrative officials, it too could have handled expansion without much committee development, assuming, of course, that executive leadership was available. It was the character of the House goals that gave the physical factors of increased size and business their impact. In a body where goals ranged from providing policy leadership for the whole governmental system at a maximum to retaining detailed control of policy in all areas at a minimum increases in size and business placed harsh limits on the possibility of combining effectiveness and collegial operation. As a result, sheer physical growth in terms of men and measures became a component of the organizational problem and helped to spur the process of internal differentiation.

In short, we may see the emergence and triumph of a standing committee
system as a product of three prime factors that were interrelated in origin and impact: department-committee reinforcement, the redefinition of the Speakership as a position of central leadership, and continuing expansion in size and business. Indeed, the degree of interrelation is such that they themselves can be subsumed as part of a more general explanation. As we noted in Part One, at heart a fundamental contradiction existed between traditional Jeffersonian attitudes with regard to legislative autonomy and traditional Jeffersonian attitudes with regard to deliberation and majority rule. Goals regarding Congress' role as lawmaker vis à vis the executive set in motion and continually stimulated processes of organizational differentiation that provided the House with capability for legislating in detail according to its own wishes and even exercising policy initiative or leadership. However, satisfaction of the need for organizational differentiation was incompatible with the maintenance of collegial and equalitarian forms of decision making and this was especially so in a context in which the size of the membership and the size of the business were continually expanding.

For all these reasons the division of labor between the Committee of the Whole and the smaller committees established by traditional theory could not be sustained indefinitely. Undermined even before 1809, it simply disintegrated in the decade that followed. By the end of the next decade first reference to a Committee of the Whole was on the verge of extinction. We may note, for example, that in the first sixty days of the first session of the Eighth Congress (1803–1804) ten subjects were first referred to a Committee of the Whole and a considerable amount of time was occupied by discussion of these subjects in Committee of the Whole. In contrast, in the first sixty days of the first session of the Twentieth Congress (1827–1828) only two subjects were first referred to a Committee of the Whole and neither was actually brought up for consideration. Understanding in context, these figures convey far more than their face value. Since the amount of business increased substantially between the Eighth and Twentieth Congress, the actual decline was far more than fivefold. Thus, whereas the ten subjects referred in 1803–1804 represented a significant portion of the major business of the first two months of the session, the impact of referring two subjects in the first two months of the session in 1827–1828 was negligible. In addition, there is good reason to suspect that by the end of the Jeffersonian period the occasional first reference of a subject to a Committee of the Whole was usually really motivated by a desire to postpone or table it, rather than to advance it.

These changes in practice were accompanied by changes in attitude, in governing norms. Indeed, as is common in successful cases of institutional change, theory and practice reinforced one another. Changes in procedure led to changes in attitude and vice versa. As a consequence,
a new set of attitudes emerged and became dominant which accorded the smaller committees the preeminence in reference they have retained to the present day.

One facet of this new set of attitudes toward the proper division of labor between the whole and the smaller committees involved a marked abridgment of the role of the Committee of the Whole. Doubt over the ability of individual members to ascertain facts on their own or to settle principles prior to the arrangement of details became deep and encompassing. Members increasingly began to believe that to refer first to a Committee of the Whole was to waste time, to provide for "useless debate."\(^{205}\) As a result, by the 1820's, if not earlier, traditional theory had been turned on its head. The exceptions recognized to permit first reference to smaller committees had become the rule. Hence, the new guidelines that emerged to govern first reference circumscribed the role of the Committee of the Whole so strictly as to eliminate it as an agency for first reference except in highly isolated cases. Note, for example, Daniel Webster's discussion of the proper conditions for first reference to a Committee of the Whole in the first session of the Nineteenth Congress (1825–1826).

Mr. Webster. . . . He did not know any usage that justified the reference of these resolutions, in the first instance, to a Committee of the Whole House. He spoke particularly in reference to the second resolution. That resolution professed to state facts, certainly not of general notoriety, and of which no evidence whatever had been furnished. If he understood it, it assumed, or asserted, that certain Courts of the United States had prescribed rules of practice, not warranted by law. But the House had no knowledge of any such rules, or of any rules, supposed or alleged to be of that character. . . . The proper subjects for discussion, in Committee of the Whole, doubtless, are general propositions, or general measures, in regard to which no investigation, as to facts and as to particulars, may probably become necessary.\(^{206}\)

Moreover, Webster's position, though extremely attenuated in its recognition of the prerogatives of the Committee of the Whole, was still a moderate or even conservative one for the mid-1820's. He at least continued to approach the problem within the framework of traditional theory and continued to recognize some role for the Committee of the Whole. Indeed, practice in the House suggests the possibility that the guidelines he endorsed had become a matter of consensus a decade or so earlier. If so, by 1826 they may well have represented the standards of the past far more than the present.\(^{207}\) In the 1830's members would simply argue that to refer first to a Committee of the Whole was equivalent to "pursuing shadows" or placing the House "at sea without rudder, chart, or compass."\(^{208}\) Such sentiments were undoubtedly present in the latter part of the Jeffersonian period and may have been dominant then as well.

A second and complementary facet of new attitudes toward the respective functions of the whole and the smaller committees involved a sharp inflation of the role and virtues of the latter. A new and positive rationale for first
reference to smaller committees emerged which did not hinge simply on the difficulties of collective decision making under circumstances in which facts were disputed or details complex. Rather, it emphasized something that had always been implicit in the case for first reference to smaller committees—the superior decision-making capabilities smaller committees derived from division of labor and specialization. In so doing this rationale produced a set of propositions that justified first reference to smaller committees generally, and implicitly and even explicitly encouraged deference to their opinions or conclusions. For example, in the first session of the Fourteenth Congress (1815-1816) Lewis Williams, a Republican member destined to serve a quarter-century in the House, felt constrained to make the following remarks before stating his differences with the Committee on Ways and Means:

I propose the amendment with diffidence again, because I am also sensible of that deference which is always due, and generally paid, to the Committee of Ways and Means. A course different from this, would hardly be practicable at any time, and frequently improper; for it is presumed the committee have examined the subjects referred to them, with a patience and scrutiny, which the House would scarcely be adequate to undergo in its corporate and legislative capacity. They have free and familiar access to facts and opinion, which the House, from its very nature and its numbers, could not have; being a small body, they perform their business with a facility and dispatch, which would be impractical to a large legislative assembly. Hence, I apprehend, the custom of referring all subjects to the committee in the first instance, of receiving their reports when made, with great deference... By no means, sir, would I object to the custom of the House. On the contrary, I think it is generally the best course to be pursued with all committees.265

Nor is it surprising that the rationale for reference to smaller committees simultaneously encouraged deference to them. To be sure, this represented a radical departure from traditional Jeffersonian theory which favored the Committee of the Whole precisely because it feared that committee initiative would shape results and thereby distort the expression of majority will. Nonetheless, the essence of traditional theory was the assumption that all members should equally participate in and be equally responsible for all legislation. In contrast, the essence of the new theory was belief in specialization and specialization is simply not viable unless norms of deference and, by implication, reciprocity are strong.266

It is, of course, difficult to pinpoint the time when attitudes, such as those expressed by Williams, became dominant in the House. Still, it may well have been within the years from 1811 to 1817. The Williams quote cited above is not only far stronger and more explicit than similar examples of such thinking before 1809; it is also far less isolated. In contrast to the years before 1809, evidence that norms of specialization and deference were widely and solidly entrenched and had profoundly affected the decision-making process is readily available by the last years of Madison's presidency. Note the following exchange in December, 1816, over a proposal
to delegate certain claims to an executive officer. After Speaker Clay
complained that in practice claims were disposed of simply on the recom-
mendation of the Claims Committee without other members knowing
anything about them or even bothering to vote, John Randolph replied:

He was content to trust the Committee of Claims—as content to trust any committee
of this House as any department of this Government. . . if the House was to give up
its power in the case of private claims because no man responded aye or no to the
Chair; . . . it might be given up in almost every case, since bills frequently passed before
the House with as little attention, exciting as little interest in this body as reports from
the Committee on Claims. 211

Whatever the status of these norms in 1817, there is little doubt that
they were dominant a decade later at the end of the Jeffersonian period.
To illustrate the point let us cite the remarks of John Weems in the first
session of the Twentieth Congress (1827–1828). Neither the member nor
the debate were of any lasting importance. What is significant is rather
the manner in which the norms of specialization and deference are treated
as simple axioms.

And is it not, Sir, the universal usage of this House to refer every subject introduced
here, to that particular committee, which has charge of such matter, or to a special
committee, whose report, with the documents and vouchers, etc. when of sufficient
importance, are ordered to be printed? And why, Sir? That the House may, thereafter,
be enabled to take up the subject, and at once act upon it, as we do nine times out
of ten, without much further inquiry; depending, as we are compelled, by way of
getting through the business of Congress, upon the wisdom, justice and impartiality
of our committees. 212

It is not surprising, then, that Thomas Hamilton, an Englishman who
authored an important two-volume work on life in the United States in
the early 1830’s, could write of the committee system in a manner that
fits easily into any modern textbook. He noted that “the various interests
of the country” are considered by “permanent committees” and “no bill”
possessed “the smallest prospect of success which had not previously re-
ceived the approval of these committees.” 213

Once again, however, it should not be thought that traditional attitudes
simply disappeared. As was the case with regard to direct reference to
executive officers, the death of Jeffersonian notions regarding the propriety
of first reference to a Committee of the Whole was exceedingly prolonged.
Arguments for such references in highly traditional terms continued to be
made from time to time throughout the Jeffersonian period and beyond. 214

More important, several key aspects of Jeffersonian theory regarding the
role of smaller committees vis à vis the whole body and individual members
survived. If belief that the shaping of subjects by smaller committees under-
mined the possibility of eliciting a true sense of the majority atrophied,
belief that these committees constituted a potential threat to majority rule
and should not be allowed to obstruct it endured. If deference to smaller committees increased as the norm and practice of specialization took hold, the notion that the individual member was responsible for informing himself and for making up his own mind continued to attract substantial support. Finally, if by the 1820's members had long believed it necessary and proper for smaller committees to report opinion, reasoning or argument, and detailed recommendations when subjects were referred to them, the traditional view of these committees as mere agents of the whole which prepared subjects for decision by settling facts and arranging details continued to figure prominently in conceptualization and discussion of their role. In short, here as elsewhere elements of traditional theory continued to coexist with new attitudes despite the incompatibilities or contradictions involved and such coexistence has persisted to the present day.

It remains true, nonetheless, that both theory and practice changed decisively. Well before the end of the Jeffersonian period the Committee of the Whole had been transformed into a reviewer and even ratifier of the decisions of smaller committees. Moreover, this transformation was accompanied by another that was equally vital to the division of labor in the reference and handling of subjects that now emerged. As should not surprise us, given the interrelations and dependencies that exist in organizational systems, theory and practice also changed with regard to the role of the standing vis à vis the select committee. Indeed, the main beneficiary of the demise of the Committee of the Whole was the standing committee mechanism.

In the decades that followed 1809 a comprehensive standing committee system emerged in the House. Indeed, though it is difficult to identify a turning point in an incremental process, such a system had substantially come into existence within a decade after 1809. Thus, though overall the process of committee development was slow and haphazard rather than rapid or uniform, it intensified after 1809 and the cumulative results were impressive. In the years from 1789 to 1809 nine standing committees were created. Of these nine, however, only Ways and Means, Commerce and Manufactures, and possibly Public Lands handled subjects of major importance. Nonetheless, developments in this period provided the foundation for future expansion. When Madison left office in 1817 ten new standing committees had been added, and a number of the select committees on the President's Message had gained such regular appointment and wide jurisdiction that they had become standing committees in everything but name, e.g., Military Affairs, Naval Affairs, Indian Affairs, and Foreign Affairs. Indeed, for these years this development was even more important than the official creation of standing committees since seven of the new standing committees were on expenditures of various forms and only one of the remaining three, Judiciary, was of major importance. In the next
eight years the four select committees mentioned above were recognized in the rules as standing and two standing committees were established in other areas so that when Monroe left office in 1825 six standing committees had been added. By the end of the period two additional standing committees had been created bringing the total to twenty-seven and two select committees on the President's Message, Roads and Canals and Militia, had become standing in everything but name. As a result, in contrast to the situation in 1789, 1801, or even 1809, when the Jeffersonian period ended a system of standing committees existed which provided comprehensive coverage of the variety of general subject areas dealt with by the House.

The emergence of a standing committee system, however, was not simply a matter of an increase in number. Rather, the increase in number was itself a reflection of change both in attitude toward and use of the standing committee mechanism. In truth, the reason the development of a standing committee system was slow and haphazard was not simply the important role initially accorded to the Committee of the Whole, but also the fact that no general presumption originally existed in favor of standing committees vis-à-vis select committees. As a consequence, though such a presumption finally developed, it required several decades to grow and gather strength and did so in an incremental and disjointed fashion.

By the 1820's, however, the standing committee had clearly triumphed over its single remaining rival. The establishment of standing committees in the various areas of business was now generally regarded as essential for efficient operation and sound legislation. Furthermore, though the rules at this point did not make reference to the standing committees automatic, but rather permitted reference to select committees to be moved and adopted, a decided preference existed in favor of the standing committees. This is not to say that exceptions were not recognized or made. Members could and did argue successfully that the distinctive character of a subject, the strain of the workload on a particular standing committee, the unusual importance of a subject, and/or the need for a friendly committee required the creation and use of a select committee. Overall, however, members felt that subjects should be referred to standing committees because they saw these committees as units which took a general or impartial view, possessed intimate knowledge of their subject areas, and proceeded in a deliberate manner with concern for consistency, precision, and past experience. Given these assumptions, it is not surprising that it became common for members to refer to the standing committees as "tribunals," i.e., to analogize committee decision making and judicial decision making.

In contrast, select committees were downgraded and their use generally opposed. This was true not simply because members had become convinced that select committees had serious deficiencies in terms of knowledge or experience. It was also true because members now believed both that select
committees would take a "biased" or "ex parte" view since they were after all by tradition composed of friends of the measure proposed and that select committees "were likely to be influenced in their decisions by considerations ... arising from the excitement of the moment." In brief, the virtues members now found in smaller committees they ascribed almost exclusively to the standing committee form. Nor was the triumph of the standing committee form simply a matter of theory. Favorable attitudes toward these committees resulted in heavy reliance on them in practice.

We may note, for example, that in the first month of the Eighth Congress select committees competed on roughly equal terms with standing committees in public areas of business. In the first month of the Twentieth Congress, however, out of more than two hundred referrals of subjects in public areas of business only a half-dozen went to select committees.

Reporting By Bill

So much then for developments after 1809 with regard to first reference. Developments after 1809 with regard to the three remaining areas or categories of Jeffersonian committee thought were tied largely to the changes in theory and practice that brought the standing committees to the forefront.

If we turn first to the traditional Jeffersonian position that bills should not be allowed until principles had been settled by the whole House, we may remember that this proposition existed as a critical corollary to the proposition that important subjects should first be referred to a Committee of the Whole. Based on the assumption that first reference to smaller committees would be necessary at times in major areas of business as well as in minor areas, it sought to insure that principles would still be settled by the whole House before an actual bill was drawn. We have noted, however, that the concept of a prior determination of principles did not and indeed could not establish any firm or sustained control of practice in minor areas of business and that even in major areas it had been significantly undermined by 1809. Nor did it survive as a viable or operative maxim much past Jefferson's departure from office. By 1815 probably and by 1820 without a doubt the standing committees had been given permanent and general authority to report by bill at their own discretion. Similarly, by 1815 it became common practice to give the select committees on the President's Message general authority to report by bill.

That restriction of the ability of smaller committees to report by bill disappeared so quickly and so easily seems surprising at first glance. Abstractly, it might be thought that such restriction would have been regarded as a second line of resistance to be defended stoutly in lieu of seeking to oppose the irresistible movement toward first reference to smaller committees. In fact, however, the notion that smaller committees should not have the freedom to report bills before they had secured the approval
of the whole on principles disappeared several decades before the full or complete demise of the Committee of the Whole as an agency for first reference. What is more, it did so without any discussion or even any objections being raised. Nonetheless, the reasons for this course of events are not difficult to understand if we review the attitudes, practices, and needs that had become dominant in the House by 1815.

By 1815 the House initially referred the bulk of its business in major as well as minor areas to standing committees or to select committees that had become or were in the process of becoming standing committees in everything but name. This change, in turn, involved changes in attitude and procedure which combined to overwhelm the traditional desire for prior discussion by the whole before bills were permitted.

In terms of procedure a new mode of reference evolved and became dominant. In the early Congresses major and even minor subjects were often referred to smaller committees through resolutions that stated or affirmed a proposition or decision. This bound the House to the substance of the resolution, but it was an appropriate mode of reference when the favored or preferred method of proceeding was to settle principles before permitting bills. However, even in the early Congresses the House in major as well as minor areas often wished to refer without committing itself. Several modes of referring to a smaller committee simply for inquiry thus developed, including one that instructed a committee “to inquire into the expediency” of a particular proposal or action. As first reference to smaller committees became more pervasive, so did resolutions for inquiry and especially the type framed in terms of the expediency formula. By 1815 the House had become quite reluctant to decide any but highly abstract questions prior to reference to a smaller committee for inquiry. Reference resolutions that stated or affirmed a proposition were therefore looked upon with hostility and encountered great resistance, whereas resolutions instructing a committee to inquire into the expediency of a certain action had become and were regarded as the “usual” or “regular” way of proceeding.

In terms of attitude the basis of denying smaller committees power to bring in bills before principles had been settled was the belief that to allow smaller committees to structure or direct the decision-making process would be to impede the kind of free and untrammeled discussion that was essential to realize the House’s potential for rational deliberation and to elicit a true sense of majority will. This belief, in turn, also involved the assumption that smaller committees, even when charged initially with a subject, served simply to perform ministerial functions, that they prepared subjects for decision by the whole by determining facts and arranging details. By 1815, however, allegiance to this system of notions and assumptions had dwindled almost to the vanishing point in response both to the pattern of events and rapid turnover in the House. In addition, new norms of specialization
and deference had taken hold and were rapidly becoming firmly entrenched. The result was not that belief in or concern over rational deliberation and majority rule disappeared. It did, however, mean that they were not interpreted within the same restrictive framework of egalitarian and atomistic assumptions and that a new theoretical perspective had been added which imposed new and at times contradictory attachments and demands. Nor did members cease to believe that the committee were mere agents of the House. Rather, members continued to see the smaller committees as factfinders and detail arrangers, but they also recognized and desired that the committees report opinion and reasoning as well as facts, that the committees make detailed recommendations as well as arrange details.

Given all this, the relatively quick surrender of control over the power of committees to report by bill can easily be explained. On the one hand, the extension and standardization of simple resolutions of inquiry gave the House a customary and convenient mode of referring subjects without committing itself. As a result, the House could confer power to report by bill before principles were settled in particular instances and finally even generally without feeling any need to insure that the bill or bills reported reflected the will of the House. On the other hand, members simply ceased to believe that rational deliberation and majority rule were dependent on a free or unstructured process of interchange among roughly equal members, that differential distributions of influence stemming from structural or institutional arrangements were evil. In sum, as is evident by the dominance smaller committees were attaining over first reference, members now scorned the notion that committees necessarily distorted the decision-making process by structuring it through their opinions and recommendations. On the contrary, the new norms of specialization and deference led them to believe that this was both desirable and necessary if the House was to handle its expanding workload efficiently and wisely. Moreover, if first reference to smaller committees was to be the rule rather than the exception even in major areas, it was patently obvious that a substantial degree of structuring could not be avoided in any event. In such a context members became convinced that a distinct and involved stage of proceeding prior to the consideration of bills was simply "superfluous." But by 1815 the House no longer guarded the power to report by bill jealously. Rather, the opposite was true. It conferred this power freely upon reference or upon the request of a committee. The adoption between 1815–1820 of a rule conferring the power generally on the standing committees as well as the adoption of annual resolutions conferring it generally on select committees on the President’s Message accordingly merely confirmed and simplified existing practice instead of introducing and legitimizing something new. It is not surprising, then, that these actions gave rise neither to objection nor discussion. By 1815 the theory and practice of specialization
had crushed the traditional Jeffersonian maxim that bills should not be reported until principles had been settled. If first reference to the Committee of the Whole continued to be supported on occasion for several decades more, in truth its fate was also sealed. Its ability to linger was simply a by-product of the fact that the new politics of specialization and deference could easily be accommodated with continuance of the practice of referring subjects on the floor, whereas any attempt to have made reference to standing committees fully automatic would have violated both the long practice of the House and the interest members had in preserving some maneuverability in reference. As a consequence, the possibility of moving to refer initially to the Committee of the Whole was preserved, though primarily because of the effect systemic factors and inertia had in keeping change incremental than because of any inherent strength of its own.

**Internal Operation**

With regard to developments in theory and practice concerning the internal operations of committees, no single or consistent pattern of events occurred. Still, important changes did take place in response to three broader developments of importance: the growth in the power and position of the standing committees; the emergence of a new set of attitudes toward the proper character of smaller committees; and the emergence of the Speakership as the prime office of political leadership in the House.

We have dealt in detail with the growth in the power and position of the standing committees and need say no more. Both of the other factors, however, require some further comment. With regard to the emergence of the Speakership, it is necessary to recapitulate our argument and extend it somewhat. As noted above, after 1811 Henry Clay transformed the Speakership into a position of central or integrative leadership and in so doing provided the House with a capacity for self-direction and a basis for independence that it had not formerly possessed. It is no accident, of course, that this occurred at a time of declining presidential power. Nonetheless, though the balance of power between Presidents and Speakers did not remain stable or, to put the point another way, though the degree of independence particular Speakers manifested with regard to particular Presidents varied, the Speakership emerged and remained as the dominant source of central or integrative leadership in the organizational structure of the House. As a result, although their degree of success also varied, Speakers with isolated exceptions served from 1811 on as the prime mobilizers and instruments of majority will within the House. Indeed, the Speakership itself during the course of the nineteenth century became the prime beneficiary of changes in the rules that were designed to enhance the ability of that will to govern.

As for attitudes toward the proper character of smaller committees, we
have discussed the manner in which standing committees were perceived in the 1820's as opposed to select committees, but we have not put the point in perspective. We may recall that before 1809 the virtues of standing committees vis-à-vis select committees were perceived as much in terms of uniform decision making as in terms of knowledge or experience. By 1820, however, their qualities as impartial, knowledgeable, and deliberate tribunals received primary attention. Uniformity was not neglected, but was now included as one aspect or consequence of deliberateness along with concern for precedent, imperviousness to temporary excitements, etc.

The significance of this change in the character of perception should not be overlooked. The traditional view of committees was that they should be favorably disposed to matters confided to them. To be sure, this view was not completely consistent with contemporary notions of the role of smaller committees which emphasized their functions as fact finders and detail arrangers. Even so, it was useful and appropriate within the organizational context predicated by Jeffersonian theory, a context in which principles were to be settled before reference to smaller committees or at least before bills were permitted. However, it was highly dysfunctional in a context in which smaller committees were to serve as miniature legislatures in and of themselves. The increase in regard for impartiality, knowledge, and deliberateness as committee attributes and the conferral of these attributes on the standing committees is therefore not surprising. Rather, this development was of great functional utility for a body that now wished to organize decision making in terms of the preeminence of specialized units and reciprocity among these units. What resulted was a rationale for deference which was grounded in part at least in empirical reality itself and which met a need that traditional theory could not serve, but rather undermined.

Note, for example, the words of Joel Sutherland who served in the House from 1827 to 1837 and ran unsuccessfully for the Speakership in the 1830's. Though derived from the Congressional Manual he published in 1841, his words aptly express what was dominant House sentiment by the late 1820's and illustrate House understanding of the need for and justification of deference:

Standing committees, unconnected with political questions, are, after all, much better than what are called select committees. They are usually selected on account of their kind feeling towards the object referred to them. A standing committee looks at a subject with an investigating eye; they need not be for a subject, nor against it: but in that just position that enables them fairly to examine it. I know it is said that gentlemen, friendly to a subject, should be appointed on it. If that was the unvariable rule, committees would be utterly useless, as they would always report favourably, and no one would have any faith in their reports.

Nor was impartiality the only basis for deference. Knowledge or experi-
ence and deliberateness buttressed the argument based on impartiality. Thus, Sutherland continued,

with the exception of political questions, I should rely with great confidence on the reports of a standing committee. They keep regular minutes of their proceedings, record all their reports, and look back, for a series of years, for authorities, in making up their judgments upon any case; whereas a select committee is chosen for a particular occasion. . . . From the necessity of the case, congress must have great faith in its standing committees. The members cannot examine minutely and individually for themselves, every thing that may come before them; they therefore leave much, and I think with great propriety, to standing committees. Even new members have the old committee book of reports to guide them, and the experience of old members on the committees to refer them to what has been said and done before, on many subjects that yearly come before them.245

Now then, if we see growth in the power and position of the standing committees, the rise of the Speaker, and change in the perception of desirable committee attributes as key factors that defined or structured the environment, we have a basis for analyzing and understanding events after 1809 with regard to internal operation or functioning.

Perhaps the best place to begin is with certain developments that were direct consequences of the growth of a standing committee system. In 1803 the House voted down a proposal to appoint two committee clerks to serve its various committees and in 1815 it did not pass a proposal to give every standing committee a clerk.246 However, some House committees probably employed clerks on a per diem basis before the end of the Jeffersonian period and possibly before 1815. By 1838 the employment of clerks by committees had apparently become so widespread that it aroused considerable anxiety. In that year the House passed a rule requiring committees to secure formal permission or authorization before hiring clerks.247 Similarly, by the mid-1820's House committees had been given their own rooms in the Capitol and precedents had been established that legitimized the holding of hearings and calls for witnesses and papers with regard to ordinary legislative as well as investigative subjects or matters.248 In addition, by the 1820's the records of debates include references to jurisdictional conflicts and minority reports as well as evidence that multiple committee assignments had become a problem for the individual member.249

A second aspect of internal operation after 1809 that deserves notice is the disappearance or alleviation of concerns that were strongly felt as late as Jefferson's second term in office. Thus, concern over the Speaker's prerogatives in appointment virtually disappeared. His right to appoint the standing committees became sacrosanct and was not seriously challenged for a century.250 Similarly, there was a substantial reduction in concern over irresponsible or arbitrary behavior on the part of the chairmen or committees. For example, both the rule giving the standing committees the option of electing their chairmen and the rule authorizing two committee members to call a meeting were allowed to lapse.251 Once again these events
may seem difficult to understand. Given the greater power of committees, it might be supposed that such concerns would have intensified rather than diminished. This, however, was not the case for reasons that can readily be explained.

The rise and politicization of the Speakership had great significance for internal operation. Once Clay transformed the Speaker into the key political leader in the House, his prerogatives over committee appointment assumed crucial functional significance. The Speaker became the prime agent for aggregating support across particular subject areas behind a general legislative program, for realizing whatever potential for coherence existed in the factions of his party. In this task committee assignments furnished both a crucial resource in factional bargaining, a critical incentive and reward for individual members, and a command and communications link in the organizational structure. To have denied the Speaker this authority in an age when the other prime agents of integration in the Congress, i.e., party and President, were weak and declining would have been to place the House completely at the mercy of powerful centrifugal forces that had already seriously impaired the operation of the legislative and executive branches. Indeed, even when party and President reemerged on a far firmer basis subsequent to 1829, the need to rely on the centralizing effects of appointment by the Speaker continued. The other sources of integration remained too limited and this was appreciated by partisans in both the House and the executive. Nor were the costs in terms of integration the only ones involved in any attack on the Speaker’s right to appoint the committees. The politicization of the Speaker’s role both by enhancing his freedom to act and by leading to accretions in his power significantly raised the personal costs of any attack on his prerogatives.

The newly enhanced position of the Speaker also served to increase the limits on the arbitrary behavior of chairmen or committees. To a greater extent than in the past, the Speaker now used his powers of appointment to secure and maintain office and political leadership. Moreover, as we shall see shortly, after 1809 as before, seniority provided scant protection for individual chairmen or members. One result was that the tie between flouting widespread sentiment in the House and swift loss of position became more firm. Equally important, to a greater extent than in the past the Speaker’s control of appointment served to lessen the potential for conflict between committees and the House. The coalition that elected a Speaker was now a highly political creation of the Speaker and his key lieutenants and represented an effort to integrate various party factions in part at least on the basis of common policy views. Within limits set by the existing degree of cohesiveness, the key committees could therefore be staffed more consistently with an eye to the program desires of the most durable majority coalition in the House. Similarly, though some committee
positions had to be used simply to cement support, the Speaker not only retained considerable discretion, but could use the credits he built up among members by giving them desirable assignments as an instrument of central leadership, as a means of tempering dissidence. In short, though limited by the cohesiveness and durability of the coalition that elected him, the manner in which the Speaker now exploited his prerogatives over appointment increased their importance as a basis for insuring committee responsibility.

Nonetheless, the new role of the Speaker was not the only factor responsible for a decline in concern over aspects of internal committee operation. As in the past, the formal rules also played a part by making instruction and discharge easy for anyone who could command a majority on the floor. Of greater importance, however, were the other two contextual factors we have identified. The rise of the standing committees to preeminence and the associated increase in allegiance to the norms of specialization and reciprocity placed a premium on the performance of selective functions by committees for the House. As a consequence, cases in which committees did not report became cloudy and difficult situations to evaluate and objection to or interference with internal operation became both suspect and potentially dangerous to system maintenance. In addition, change in the perception of standing committee attributes provided substantial reinforcement for avoiding or neglecting political aspects of internal functioning. To see the standing committees as “tribunals,” albeit impartial, knowledgeable, and deliberate ones, was to recognize that their decision making was discretionary. Still, this manner of viewing committees, which now became common, had substantial circumscribing effects. By analogizing committee decision making to judicial decision making it served to cloak the former with an aura of objectivity and expertise. It accordingly undercut not only objection to particular facets of internal operation but even attention to their character.

The final aspect of internal operation after 1809 that bears examination is the influence of structural change on appointment to committee positions. In this regard the growth in the power and position of the standing committees and the rise of the Speakership produced the broad outlines of a set of priorities that were to prevail in the House until 1911.

As we have previously noted, in the years before 1809 party was a critical determinant of appointment. Though it was not uncommon for the Speaker to make a knowledgeable minority member chairman of a committee charged with a large amount of minor business, it became common practice for the Speaker to reserve important chairmanships and the control of standing and important select committees to his fellow partisans. In the years after 1809 the party system disintegrated with the result that by the time of the Monroe Administration congeries of factional groupings or-
organized around prominent governmental figures dominated the scene. Nonetheless, political standing or connection remained a key appointment criterion during the heyday of factional politics and when a new party system began to take shape during the Adams Administration party again emerged, strengthened and renewed, as the prime basis of appointment.

The reasons for this result relate both to the growth in the power and position of the standing committees and the rise of the Speakership. On the one hand, the increase in the prerogatives and influence of the smaller committees made their collective control vital to any coalition of interests with a program to enact. On the other hand, the rise of the Speaker placed him, as we have noted, in the position of central or integrative leader; made him director, agent, and to varying extents, depending on how readily partisan distinctions provided the majority necessary for election to the Speakership, even assembler of the most broad-based coalition in the House. As a result, the functional connection between committee appointments and leadership of the House became highly articulated and the Speakership as the pivotal office in the House provided a focus for determining political standing or connection even in the days of extreme factionalism. In short, then, the combined effect of an emerging highly specialized and influential standing committee system and a politicized Speakership was to preserve and ultimately strengthen party as the prime basis of committee appointment.

A brief review of important committee appointments in four key Congresses after 1809 will illustrate and substantiate our point. As noted above, Henry Clay assumed the Speakership for the first time in the Twelfth Congress (1811–1813). Once elected he organized the committees to serve the interests of the highly nationalistic and war-minded coalition that he represented. Peter Porter was made Chairman of Foreign Affairs, though he had not previously served on the committee, and several other War Hawks were either added or reappointed. Another supporter, Ezekiel Bacon, was made Chairman of Ways and Means. Bacon was the ranking Republican member, but only because a Republican member listed ahead of Bacon in the previous committee list had not been reappointed. In addition, two other War Hawks, David Williams and Langdon Cheves, were placed at the heads of Military and Naval Affairs respectively, though each was new to his committee.

In the Fourteenth Congress (1815–1817) Clay returned from serving as Peace Commissioner at Ghent and was reelected Speaker. His program again was highly nationalistic and included a protective tariff, a National Bank, federal aid for internal improvements, strengthening the Armed Forces, maintenance of direct taxes, and aid to South America. Clay’s two principal lieutenants at this point were William Lowndes and John Calhoun. To Lowndes Clay gave the Chairmanship of Ways and Means, though
he was new to the committee. To Calhoun Clay gave the chairmanship of the select committee charged with bringing in a bank bill in the first session and the chairmanship of the select committee charged with bringing in an internal improvements bill in the second session. In addition, Clay continued John Forsyth and James Pleasants as Chairmen of Foreign Affairs and Naval Affairs respectively and advanced Richard Johnson from second ranking to Chairman of Military Affairs on the departure of the incumbent chairman. In each case, however, the basis of appointment was not seniority, but rather policy and political considerations, e.g., Forsyth's "broad nationalism." Indeed, each of these men had attained his committee position in the previous session out of order.

In the Eighteenth Congress (1823–1825) Clay returned to the House after a brief retirement and was again elected Speaker. At this point factional tendencies were at flood tide and Clay's personal charm and reputation as an effective leader played a dominant role in his election. Nonetheless, Clay had a program the two main items of which were a new and higher protective tariff and federal aid for internal improvements. Thus, he continued John Tod as Chairman of Manufactures. Again, however, the basis of appointment was the Pennsylvanian's strong protectionist views. Tod, like Forsyth, had been made chairman out of order in the previous session. In addition, Clay placed an ardent supporter of internal improvements at the head of the Select Committee on Roads and Canals.

In the Twentieth Congress (1827–1829) pro-Jackson forces seized control of the House from Adams partisans and elected Andrew Stevenson to the Speakership. Stevenson overhauled the standing committees and put a pro-Jackson majority in command of every one. In addition, he placed pro-Jackson men at the head of most of the key committees. For example, George McDuffie and Phillip Barbour were made Chairmen of Ways and Means and Judiciary respectively, though McDuffie was new to Ways and Means and Barbour had not served on Judiciary in the previous Congress. Such behavior occasioned a great deal of comment on the part of Adams supporters. It was not simply the extent of the reorganization that gave rise to hard feeling, but also the fact that all the standing committees, as well as the few remaining select committees that were standing in fact if not in form, had been organized clearly and decisively in opposition to the incumbent Administration for the first time in our history. Nonetheless, even the Adams supporters did not basically believe partisan control of the committees to be illegitimate. For example, one minority member appraised the chairmanship appointments that had been made as follows:

I do not think, after two parties have been struggling for power, and one of them succeeds, it can reasonably be expected, that, in the distribution of honorable stations in this House, the victorious party shall select their adversaries. This ought not to be required. . . . If the party which has now the majority here, has placed its friends in stations where they
can be useful to the country, while they do honor to themselves, I hope we who are of the minority, will never complain of it. If they have the honor, they have the responsibility too.\textsuperscript{256}

In short, the doctrine enunciated by Speaker Hunter a decade later represented what most members believed in essence even at this time: "The party upon which it naturally devolves to propose a question ought to have the power, it would seem, to present the proposition in the shape for which it is willing to be responsible."\textsuperscript{257}

Yet, despite the entrenchment of party as a governing factor in appointment, it did not become inviolate. The practice of giving the chairmanships of minor or routine standing committees to minority members who were highly knowledgeable or experienced did not disappear after 1809.\textsuperscript{258} Rather, it continued throughout the period from 1809 to 1829, though with decreased regularity especially in comparison with practice before 1801.\textsuperscript{259}

Nor, given the broad basis of discrimination it establishes and the variety of needs required to be served by committee appointments, did party become the sole determinant of appointment. As in the past, it continued to be supplemented and even modified by several other criteria. However, the character and impact of these criteria changed in several important respects in response to the transformation of the role of the Speaker and the growth of a standing committee system.

Perhaps the most important change stemmed from the politicization of the Speakership which made cohesion or integration a far more critical consideration in appointment than had formerly been the case. Members desiring to attain or retain the Speakership began to rely on appointment as a prime resource in building or maintaining coalitions that could secure their election or reelection and promote the policy objectives they wished to advance. To be sure, use of the Speaker's appointment powers as a bargaining resource was undoubtedly not entirely absent before 1809. Nonetheless, the emergence of the Speaker as prime political leader joined personal ambition, party policy objectives, and party integration far more tightly together than had formerly been the case and altered the entire functional significance of appointments. Indeed, before 1809 the lack of linkage between the Speaker and party leadership not only impeded the use of appointments as an integrating mechanism, but even complicated and impeded their use as a means of securing leadership control of key committee positions.\textsuperscript{259}

The effect of this development on party as a factor in appointment was significant. The period at the beginning of each Congress during which the Speaker was elected and the standing committees appointed became intense periods of intraparty bargaining and coalition building. Moreover, whereas the party criterion simply applied entails that choices be made in accord with loyalty or allegiance to the leadership, use of appointments
as an integrating mechanism made its application far more complex. Use of appointments as a means of countering centrifugal pressure on wavering or dissident party elements whose support was critical for party success became as rational under appropriate circumstances as use to reward loyal members and insure leadership control of key organizational positions. It is true, of course, that these trends did not reach full fruition until after 1829 when a two-party system again emerged. Nonetheless, in the years from 1811 to 1829 the contours of future practice are clear. We may note, for example, that Clay in the Fourteenth Congress seems quite deliberately to have distributed appointments among various party factions in an effort to build support for himself and his program.

The growth in the power and position of the standing committees also had important effects on appointment criteria. Before 1809 interest not only influenced appointment in practice, but also had been advanced as a legitimate basis for selection, e.g., the argument that commercial men should sit on the Commerce Committee. Still, its claims to a large degree were tied to knowledge or familiarity with a subject area. After 1809, as might be expected given the increasing importance of standing committees and the continuing high rate of membership turnover in the House, regard for knowledge of a particular subject area did not decline. What is noteworthy, however, is that interest in and of itself began to be asserted and defended as a basis for committee membership. This was true in two senses that were not wholly consistent. First, members began to assert that standing committees should be favorable, or not unfavorable, to the interests with which they dealt. For example, the Committee on Commerce and Manufactures was split in 1819 on grounds of the antipathy of commercial men to the manufacturing interest. Second, although balancing the composition of important committees so as to provide the major opposing interests with representation was nothing new, it now began to receive open acknowledgement and support. Thus, Speaker Stevenson's action in putting an anti-high-tariff majority on Manufactures in the Twentieth Congress was defended not only in terms of the prerogatives of party, but also in terms of the fact that he had given the high-tariff forces both representation and the chairmanship. To add a further element of inconsistency it may be noted that neither of these guidelines was fully compatible with the concept of the standing committee as impartial judge, though in truth this concept played a critical part in rationalizing the enhanced role and power of the standing committee mechanism. Indeed, the first one clearly derived from the old and opposing Jeffersonian notion that committees should be favorable to matters put in their charge. Nonetheless, here as elsewhere traditional lines of theory did not simply die when newer lines emerged, but rather persisted if needed despite the inconsistencies.

Finally, growth in the power and position of the standing committees
combined with high turnover in the House led to an increased premium on prior service in the selection of chairmen. This trend, however, expressed itself primarily with regard to committees that dealt with large amounts of minor or routine business. We may note, for example, that in sessions between 1789 and 1801 the average number of consecutive sessions Chairmen on Claims, Elections, and Commerce and Manufacturing had served as committee members was 3.9, 3.4, and 2.2 sessions respectively.\(^{203}\) In sessions between 1801 and 1809 the average was 5.1, 2.9, and 5 sessions respectively. Corresponding figures for 1819 to 1829 are 7.5, 5, and 18.3. In contrast, the average for Ways and Means is 2.3 sessions for 1789 to 1801, 3 sessions for 1801 to 1809, and 3.9 sessions for 1819 to 1829.

The increased importance of prior service, however, did not mean that seniority had emerged as a decisive or even weighty criterion. For seniority to have either status members must first be ranked on committee lists strictly in terms of length of service on the committee and party affiliation. Equally important, such ranking must have a decisive or sizeable impact on both the retention of a committee seat and advancement to the chairmanship.

Neither condition prevailed before 1829. In the first regard men were listed as named by the Speaker and the Speaker did not arrange the lists so that members were ranked strictly in terms of party or necessarily in terms of prior committee service. In short, rank order was not a precise measure of prior service or party status. In part, this was simply a result of tradition and the state of the party system. We may note, for example, that as late as 1835 the filling of a mid-session vacancy in the Chairmanship on Foreign Affairs occasioned considerable confusion and embarrassment. The practice of the House was to fill such vacancies by advancing the second ranking member, but in this case he was a minority member. The committee therefore elected a majority member in his place.\(^{205}\) In part, however, seniority’s lack of precise operational meaning was simply reflective of the fact that prior service was not that important a consideration with the result that rank order was subject to control by other factors—the Speaker’s political preferences, respect for knowledge in a subject area, etc.

In the second regard prior service did not offer much protection against removal nor did it control advancement to the chairmanship. The high degree of turnover in the House clouds the situation regarding a possible increase in the influence of prior service on the reappointment of ordinary members. What is clear, however, is that the Speaker’s discretion was not narrowly restricted by past appointments. The notion that a member had a right or claim to his committee seat commanded little, if any, support. Similarly, prior service counted for little in advancement to the chairmanship as opposed to party, knowledge, or interest. Even if we treat rank order as a precise measure of prior service for purposes of simplicity, violations
of seniority in advancement to chairmanships were common. We may note, for example, that in the period from 1819 to 1829 eight new chairmanship appointments were made on Judiciary and Foreign Affairs. Yet in no case was the man who ranked highest on the previous list appointed.\textsuperscript{258}

In citing this example we do not wish to imply that the highest ranking member was invariably passed over. Nonetheless, if, as both this example and our discussion of appointments under Speakers Clay and Stevenson indicate, violations were common, the existence of some appointments in which rank order was followed does not provide any substantial evidence that seniority was in fact a highly influential factor. In all probability such appointments were either determined by other factors or were permitted because other factors were neutral. Nor do we wish to deny our previous assertion that the influence of prior service on chairmanship appointments on minor committees increased. However, it did so primarily as a factor governing continuing reappointment rather than advancement to a chairmanship. Thus, if between 1819 and 1829 we average the number of consecutive committee sessions served by members when they attained the chairmanship of a minor committee and also average the number of consecutive committee sessions the chairman in each session of the period had served, the former figure in general turns out to be considerably smaller than the latter. In short, members spent more time as chairmen than in becoming chairmen. Of four committees selected to be surveyed because of the amount of minor business they handled, only Claims fails to sustain the point.\textsuperscript{260} The figures in sessions for Elections, Commerce, District of Columbia, and Claims are 2 and 5, 5.5 and 18.3, 2.5 and 4.3, and 12 and 7.5, respectively.\textsuperscript{270}

We may conclude, then, that seniority did not become a controlling factor in advancement to chairmanships or the reappointment of ordinary committee members, even though a standing committee system emerged. The reasons are varied but relate primarily to the role of the Speaker and the high degree of turnover in the House which provided little anchorage for any strict adherence to seniority. This, however, should not surprise us if we remember that the current dominance of seniority as an appointment criterion is highly related to the events of 1910-1911 and if we note that in another even more basic sense seniority was associated with the rise of the standing committee system.\textsuperscript{271}

Though seniority did not attain the dominance over advancement or reappointment that it presently enjoys, our analysis indicates that prior service was nonetheless a factor that was taken into account at least in a residual sense. This in turn suggests that, if seniority did not attain precise operational meaning as an appointment criterion, it did attain some form of meaning and positive valuation. And, indeed, this is the case. By 1815 seniority was used and understood in a general sense as a description of
a valued quality or condition. "Senior" members were those with special wisdom or knowledge derived from legislative experience and/or age and were entitled to deference. The functional implications of such recognition are substantial. If, as Richard Fenno has wisely cautioned us, we view seniority not narrowly as an appointment criterion but rather as a broad concept involving a set of apprenticeship norms that contribute significantly to system maintenance by restraining conflict, we cannot dismiss it as an insignificant force even in the Jeffersonian period.

On the contrary, strong evidence exists that the emergence of specialization and deference norms was accompanied by the emergence of apprenticeship norms and that the entrenchment of these norms did not lag much behind the entrenchment of the other norms basic to the new system of operation. We may note, for example, that in 1828 a senior member admonished a freshman member for stirring up an extensive debate by telling him "that young doctors are not called upon for their medicine; raw hands who have just signed the portage bill, must learn to follow the directions of others, but must not pretend to lead or direct in any thing." On this occasion some members objected to the senior member's attempt to squelch a junior member. The moderate and restrained tenor of these objections, however, suggests that in fact apprenticeship norms were dominant. In any event a mere four years later another freshman member under attack for his aggressiveness defended himself in a way that leaves little doubt that apprenticeship norms had primacy over traditional Jeffersonian notions of equal membership standing and free discussion:

I arrived here, Mr. Speaker, on the 20th of January, and found the subject of the bank in the care and keeping of the Committee of Ways and Means, and there it remained until the 10th of February. In all time, it would have been very indecorous in me to agitate a question that was then under the consideration of a standing committee of this House, whose report, whether favorable or not to the bank, could not well be known.... So it was, I thought it my duty to wait for the report. And this was the more necessary and proper in me, for, strange as it may appear, I heard it whispered about, that, for a new member, I had taken rather an early start in the way of debate.... I wish to show my constituents the aristocratic and monopolizing spirit of the times.... I presume this is a part of the American system, and new members are to have no share in the discussions of the House until they have served a regular apprenticeship! From this monopoly I also choose to dissent.

Control Over Execution

As in the first part of this study, let us end our analysis of developments in the years from 1809 to 1829 by turning our attention to Congressional control of the administrative process. Here, as elsewhere, some benchmarks of older Jeffersonian thought remained quite stable. The traditional emphasis on comprehensive and detailed lawmaking retained its hold. Republican members of all varieties continued to take a strict view of their constitutional prerogatives as lawmakers and remained aware that their ability
to control governmental policy and action rested fundamentally on the concreteness and specificity with which the laws were framed.

This is not to say that Republicans after 1809 any more than Republicans before 1809 believed that executive discretion could be eliminated or that they could not be flexible when considerations of policy or efficiency required it. We may note, for example, that despite their regard for specific appropriations the Jeffersonians continued the Federalist practice of broad or general appropriation categories in the Army and Navy Appropriation Acts. Nor, as Leonard White has pointed out, did any Republican assertions of legislative supremacy go so far as to exclude some statutory delegations of rule-making power to executive officers. Moreover, Republicans were aware, as one House committee report in 1824 put it, that “in all legislation, much must necessarily be left to construction, and the sound discretion of those charged with the administration of the laws.”

Still, on the whole, the new Republicans who entered and controlled the House after 1809 remained quite jealous of their lawmakers prerogatives. James Hart, in his review of delegations of rule-making power, concludes that in the period from 1789 to 1815, “Congress granted to the Chief Executive little discretionary power” except in connection with the protection of neutral commerce, and that in the period from 1815 to 1861 “delegations were not especially frequent or broad or centered around any single problem.”

Similarly, the traditional Jeffersonian emphasis on holding executive officers responsible for adhering strictly to the letter of the law remained strong. No institutional problem in the years between 1809 and 1829 aroused more complaint and grief among Republicans than that of constructing a system to govern transfers among appropriation accounts that would preserve House control while still providing for economy and efficiency in executive operations. In addition, Republican desire to insure adherence to law was involved in the expansion after 1809 in the number of annual reports required of executive officers. It was also involved in the creation of a standing committee with general jurisdiction over public expenditures in 1814 and six standing departmental expenditure committees in 1816, all of which were charged among other things with checking to insure that expenditures were made in conformity with law.

Nonetheless, despite these continuities, it is also true that marked discontinuities separate the years after 1809 from earlier decades. The Republicans who sat in the House after 1809 were far less willing than their forebears to accept or defer to presidential command or direction of the administrative process. They were, in short, far less willing to read in the constitutional grant of executive power to the President either presidential supremacy vis à vis the department heads or limits on the ability of Congress to check
or control administrative decision making. Proof of the former change can be seen, especially after 1817, in the increased independence of department heads and in the increased tendency of Congress to call on department heads directly for information, advice, or plans rather than channeling such requests through the President.\textsuperscript{264} Evidence of the latter change as well as detailed analysis of its dimensions is the main task of this section.

Before turning to it, however, some remarks on the agents or mechanisms of House control are necessary. As in the years before 1809, resolutions calling on executive officers for information on past operations, conduct, or achievements continued to be moved by individual members and to have substantial significance as a control technique. Used to search out abuses, to publicize suspected abuses, and to stimulate more extensive inquiries by committees, such resolutions greatly enhanced the ability of individual members to play a role in oversight on their own. They also could be and were used by committee chairmen to secure information for inquiries in which their committees were interested or engaged.

Equally important, in contrast to the situation with regard to the reference and handling of legislative subjects, reliance on select committees remained high. In the area of expenditures the House, as we have noted, did choose to create and rely on a corps of standing committees to provide close and continuing scrutiny of the legality and economy with which funds were spent. In addition, Ways and Means was charged, formally at least, with similar functions.\textsuperscript{265} In other areas, however, House committees, engaged in scrutinizing executive performance or conduct apart from the examinations involved in the regular processes of considering and framing bills, were typically select committees. This was especially true in instances of major importance. We may note that the subpoena power was given to committees charged with investigating some aspect of executive operations or conduct on more than a dozen occasions between 1809 and 1829. In all but one of these instances the committee vested with the conduct of the investigation was a select committee.\textsuperscript{266} Indeed, even in the case of expenditures, major investigations were usually confided to select committees.\textsuperscript{267}

The reasons for the continued popularity of select committees were several. First, there was doubt, at least in the minds of some, whether the jurisdiction conferred on most standing committees included or extended to investigations of executive performance or conduct as well as reluctance on constitutional grounds to endow standing or permanent committees with wide-ranging or continuing investigatory powers.\textsuperscript{268} Second, there was great resistance to referring investigations to standing committees because of their heavy workloads. Members commonly feared that the consequence of referring an investigation to a standing committee would be, as the contemporary phrase went, "to put it to sleep" and thus they were prone to opt
for a select committee. Finally, and perhaps most important, use of select committees allowed the House to tailor the committee to the investigation. Insofar as investigating committees were concerned, the traditional Jeffersonian notion that committees should be favorable to their topics continued to attract strong support throughout the Jeffersonian period and after. Its persistence here probably stemmed from the desire of members to insure that investigations the House wanted to pursue would be undertaken by committed and interested committees.

All this is not to say that the role of the standing committees was insignificant. As we shall see in more detail later, a substantial portion of the House's involvement in administration derives from the overlap between legislation and administration and the standing committees came to dominate and broaden this overlap. In addition, as the number and prestige of the standing committees increased, the extent to which standing committees were charged with investigations increased as did the intensity with which their claims for preferment on grounds of expertise were pressed. Nonetheless, the limits of time, plus the desire of proponents of investigation for a committee favorable to inquiry, usually resulted in the use of select committees. They, rather than the standing committees, continued to carry the major burden of formal investigations into executive operations or conduct.

If we now return to the question of the character of the limits on House involvement in the administrative process, we may remember that the traditional Republican position was quite circumspect. The old Republicans did not assume that the House was solely responsible for the fate of the nation or republic, but rather that this responsibility was shared by all the branches and allocated in terms of the division of labor established by the Constitution. They did see the House as the "grand inquest of the nation." But they believed that its role in this regard was nonetheless limited by the Constitution: that the President was responsible for operations and conduct in the executive branch and that the House's right of inquiry was accordingly restricted in reach and scope to objects and purposes within the grant of power conferred on it by the Constitution. They believed, in short, that House concern or involvement had to be linked to House prerogatives, that the House could only inquire into executive operations or conduct for the purpose of exercising its lawmaking or impeachment powers. As a result, in areas other than expenditures, where they thought the House had special responsibilities, they usually appraised proposals for inquiry in terms of whether the object or purpose was clearly related to a valid legislative purpose and whether the charges or topic of inquiry was specific and backed by some foundation in fact.

In the years that followed 1809 regard for the President's prerogatives under the Constitution and strict interpretation of those of the House
substantially declined. The results in theory and practice were significant. As we have noted, the restrictive effect of the traditional Jeffersonian position flowed primarily from the self-discipline of the old Republicans rather than from its substance or guidelines drawn from its substance. The most critical guideline, relation to a valid legislative purpose, was highly elastic. Indeed, in the area of expenditures the Jeffersonians themselves assumed that the House's prerogatives over appropriations conferred implied or incidental powers, and they advocated and engaged in inquiries that were not closely tied to passing on appropriation items or provisions of law governing or affecting expenditures. Similarly, whether the object of inquiry was specific and a foundation in fact provided were also guidelines whose limits were pliable and, what is more, limits the old Jeffersonians also ignored in the area of expenditures. Still, what occurred after 1809 in terms of theory was not simply a less restrictive interpretation of the traditional position. Rather, greater laxity in interpretation prompted and was accompanied by substantive additions which clarified and rationalized emerging doctrine. The product of both was a reformulation of traditional attitudes of such proportions as to constitute a new and distinguishable position, despite its continued encasement in the husk of a traditional separation-of-powers framework.

The process by which this new set of attitudes governing House involvement in executive operations emerged was a haphazard, piecemeal, and disorderly one. It is therefore not one that can be described with great precision. Typically, the kernels of various features of the new position are present by the time of the controversy over General Wilkinson and can be found in one or more of the three debates from 1808 to 1810 in which inquiry into his conduct was argued. In the decade following 1810 further theoretical development occurs, and by the early 1820's the critical features of the new position have won general acceptance. Nonetheless, assertions of various elements of traditional Jeffersonian doctrine remain common, though they are usually not successfully argued after 1815. Finally, during the 1820's further elaboration and rationalization of new attitudes occurs with the result that by 1829, or the mid-1830's at the latest, the new position has fully crystallized and enjoys overwhelming support. To pin down the character of change and the contours of new doctrine, let us trace developments with regard to three critical and persistent facets of theory: the character of House responsibility for the safety or maintenance of the nation; the essential character of House power to inquire into operations or conduct in the executive branch; and the necessary preconditions to inquiry.

It is not surprising that the first time inquiry into the conduct of General Wilkinson was proposed the most vociferous advocate of committee inquiry also adopted a more expansive view of the character of House responsibility for the nation than was prevalent among his fellow Republicans. Thus,
John Rowan argued that the House should institute a committee inquiry because the “interest of the Nation and their duty to their constituents required it.” The fact that the President had already instituted a court martial “was no argument with him at all.” Rather, he argued that “the people will not expect us to surrender the National rights,” that the people “were jealous of their rights, and however confident in the Executive would not abandon it [inquiry] to his direction.” Similarly, the fact that committee inquiry might injure Wilkinson without according him the protections of a trial did not deter him. He “respected private character; but when placed in competition with the great interests of the nation he would not be so squeamishly delicate about it.”

If Rowan’s position in 1808 exceeded that of his Republican colleagues, his claims regarding House responsibility for the safety of the nation were still largely implicit. By the 1820’s, however, such assertions had become far more explicit. Note, for example, the manner in which Ezekiel Whitman in 1822 supported inquiry into a dispute between the Governor of the Florida territory and a Federal Judge. The matter was politically sensitive since the Governor, recently retired, was Andrew Jackson; but the argument is nonetheless instructive. After alluding to certain reports of misbehavior, Whitman spoke as follows:

If those reports were true, the Governor had not only restrained the liberty of an individual, but when the Constitutional remedy by habeus corpus was applied, was about to lay his hand upon the judge himself. He thought it was a dangerous precedent to sanction, and, if allowed in one case, it might be in another. When, therefore, the subject was brought before the House in the Executive Message, he thought it their duty, as the grand inquest of the nation, to institute an inquiry, and not to suffer it to pass sub silentio. It was the duty of the House to watch over the liberties of the people—to guard against the approach of tyranny, under whatever form it may appear.

Yet, Whitman’s statement, though far more explicit and assertive than Rowan’s, is still more conservative than statements in subsequent years. The full development of doctrine is rather reflected in statements such as the one made in 1837 by James Garland, a Jacksonian Democrat. Though he did not believe the charges to be true, he readily agreed to modify a resolution he had introduced to provide for a committee inquiry into the possibility of a corrupt connection between the Secretary of the Treasury and certain agents of the deposit banks. In advocating his modified resolution, which passed easily, he appealed to the House in part on the following grounds:

Let the House reflect on the consequences of such charges remaining unanswered. To them was intrusted the preservation of our free institutions, and the protection of the liberties of the American people; and upon the purity with which the laws were administered depended their perpetuity. The Government, and those who governed, should, like Caesar’s wife, be not only innocent, but unsuspected; and when even a suspicion of impropriety was thrown upon them, if substantiated, let them be driven back as the gloom of night is driven before the rays of the rising sun.
The assertion of unqualified House responsibility for the preservation of the nation constituted one facet of new and emerging attitudes. It was important both per se and because of its implications with regard to the question of whether the House's power to inquire into executive operations and conduct was essentially a general or a limited one. The case for strict construction, as we have noted, rested on the view that the Constitution charged the President with responsibility for the executive branch and limited the House to action within its constitutional prerogatives, i.e., to legislation or impeachment. The concept of House responsibility for the nation thus provided a foundation for broadly interpreting the duty or responsibility of Congressmen as agents of the people and in so doing for sidestepping, without explicitly denying, the principle of presidential responsibility for the administrative process. This, combined with the notion that House prerogatives with regard to legislation and impeachment contained implied or incidental powers, provided a basis for the doctrine that the investigative power of the House was general and broadly exercisable, rather than limited and exercisable only in close conjunction with legislative or impeachment efforts.

Once again the beginnings of new doctrine can be found in the debates over General Wilkinson. Those Republicans who supported committee inquiry contended that the House could investigate Wilkinson even if it could not impeach him because of the implied or incidental powers it derived from its constitutional prerogatives. For example, particularly in the two debates in 1810, Republican members favorable to inquiry argued that since the House had power over the size, structure, rules, and funds of the Army, it could inquire into all matters that might affect or influence future legislation, including the conduct of its commanding general. Similarly, they also argued that since the House could impeach the President, it could inquire into the conduct of all executive officers whose actions or behavior could affect or influence a determination of whether to bring charges against the President.298

Nor did the argument of implied or incidental powers exhaust the arguments offered in favor of committee inquiry into Wilkinson's conduct. In the debates in 1810 notions of the House's status and responsibility as agent of the people also were brought to bear to supplement the argument based on implied power. A second term Republican member asserted that "the right to inquire into the conduct of any officer Constitutionally inheres in and appertains to this House, as the immediate delegates and agents of the people, who expect from their Representatives a vigilant superintendence over all their public concerns."299 In addition, though he still restricted himself to the area of expenditures, a young Federalist member saw the tie between the notion of the House as agent of the people and exposure as a ground for inquiry and brought exposure forward as a
corollary of the more general argument. Thus, he stated that the House had the power to inquire simply “to inform ourselves and the nation,” that it is “a right of this House, and of the people, to know how their money is expended, and to whom it is given.”

Though still subject to attack, by the Fifteenth Congress (1817–1819) the arguments concerning the implied power of the House and the responsibility of the House as agent of the people had won wide acceptance. As a consequence, the arguments themselves were generalized and their thrust extended with the result that claims regarding the House's power of inquiry were now often stated in succinct and sweeping language. For example, when charges of bribery were brought against certain clerks in the first session of the Fifteenth Congress, the House passed a resolution authorizing a committee inquiry into whether any clerks or other officers in any office in Washington had conducted their official duties improperly. Though the broadness of the resolution was criticized, it passed easily and was defended on the ground “that this House ought to have a general inquisitorial power to examine and detect abuses.”

In the next session, in a debate in which the House’s ability to censure the conduct of General Jackson during the Seminole War was at issue, one young Republican member justified the initial committee inquiry by asserting the doctrine of implied power as follows: “The existence of a power of legislation implies the auxiliary authority to inquire into all those abuses or defects of the laws which may, by any possibility, call for its exercise.” In the same debate William Lowndes, a former Chairman of Ways and Means, defended the House’s power to censure executive conduct by stating that it was “strictly within the powers of the House, as agents of the people, appointed to investigate all public matters.”

The weakening of restrictive attitudes toward the scope and reach of committee inquiries was also accompanied by the emergence of highly permissive doctrines toward calls for information with regard to executive operations or conduct. In truth, the House traditionally had treated such calls with greater laxity than proposals for committee inquiry, though theoretically the same strictures regarding valid legislative purpose applied to both. Still, the new doctrines that became popular in the decade after 1810 justified virtually unlimited tolerance of such requests. For example, in the first session of the Sixteenth Congress (1819–1820) in a case involving executions in the United States Army, William Lowndes reflected general House sentiment when he stated that, even though an executive inquiry had begun, “he considered it sufficient to justify this House in making a call on the Executive for information that any member of the House declared that he desired that information.” Similarly, two years later, during the first session of the Seventeenth Congress (1821–1822), the House passed a resolution for a call for information on a subject opponents of
the call described as “peculiarly within Executive cognizance.” On this occasion a member put forward as a guideline the notion that members should “vote against no call for information that was not either palpably useless, or flagrantly improper,” a guideline that also was quite expressive of the general feeling of the House.303

In the 1820's the hold of new attitudes regarding the scope of the House’s power to inquire further solidified. Objections to particular inquiries based on restrictive notions of House prerogatives under the Constitution declined in both number and depth of belief. As a result, by the end of the Jeffersonian period the doctrine that the House’s power to inquire into executive operations or conduct was general and broadly exercisable, rather than limited and restricted to close conjunction with the exercise of a granted power, had won overwhelming theoretical supremacy. Simply put, it now dominated the thinking of the House and was exceedingly difficult to challenge successfully.304

To illustrate the point, note the character of the assertions and arguments made in the last great debate of the Jeffersonian period that focused on House control of the executive—the lengthy debate in 1828 over the appointment of a select committee to investigate retrenchment in the executive departments. In this debate a member could argue, in reply to the objection that inquiry would be frustrated by an unfriendly executive, that the “keys of every Department are in the hands of this House” and that the House possessed “an unlimited power to enter, examine, and inquire.”305 Similarly, another member could enumerate the functions or powers of the House in a manner quite at variance with traditional theory as follows: “make laws, correct abuses, and impeach offenders.”306 In addition, other members could and did broaden or extend the notion that inquiry simply for purposes of exposure was justified, though the rationale remained tied to expenditures.307

Yet, despite the fact that the doctrine of general investigative power had become a matter of consensus by the end of the Jeffersonian period, the full elaboration and rationalization of the doctrine did not occur until the 1830’s. The reason appears to be that the full implications of the doctrine were not faced until the conflicts of the Jacksonian period sparked additional dispute over the character of investigative power. To decide that the investigative power of the House was general and not limited by the need to be exercised in close conjunction with the exercise of some valid legislative prerogative did not necessarily mean that the power was entirely unlimited. It was this question of the limits or boundaries of implied power that the House began to face in the 1830’s. In so doing what emerged or crystallized was a fully elaborated statement of the doctrine, a statement that involved a merging of all the underlying themes of implied power, agent of the people, and exposure.
The final doctrinal product or outcome can be seen in a classic debate that occurred in the closing months of the Jackson Administration. In December, 1836, an opponent of Jackson moved a resolution for the creation of a select committee to investigate the condition of the executive departments and the integrity with which executive business had been conducted. The object was to embarrass Jackson and inflict political damage on the incoming Van Buren Administration. In response, a partisan of Jackson moved an amendment to the original resolution calling for the appointment of a select committee to hear and investigate any specific causes of complaint that might be alleged against the departments.

Thus, the matter at issue was not whether the House’s power to investigate was essentially general or limited, not whether inquiry could be based on a broad relationship to some valid legislative purpose. Both sides assumed that the investigative power was general in this basic sense and neither proposition was founded on any clear connection to a concrete legislative purpose. Rather, the debate turned on the question of whether the topic or object of investigation in addition could be broadly defined and broadly explored, whether the concept of general investigative power also included a right of general search. In the course of the debate there were many assertions of the doctrine of general investigative power that are worth quoting to illustrate the doctrine as fully developed. One of the best is the following excerpt from the remarks of Joseph Underwood, an opponent of Jackson from Kentucky:

The idea that there is something wrong in a general commission or warrant to search and examine the political movements and official conduct of the departments of this Government seems to me totally at variance with the genius of all our institutions. What are the departments of this Government? Nothing but executive trusts, confided to agents, to be exercised according to the will and for the benefit of the people. The trustee or agent is amenable and responsible to the people; and how can that responsibility be enforced unless the people, whenever they choose, and at all times, can look into and examine as they please the records and official acts of every public functionary? And how, sir, can the people do this, unless it be through their representatives on this floor? I demand it as a right, in the name of my constituents; and in their behalf I call for the practical exercise of that right, which will enable a committee of this House to lay before them the official correspondence of every Secretary, the condition of their offices, and the whole evidences of their official conduct, whether it be good or whether it be evil. If such examination be not legitimate, if we have no such power, then indeed are the officers of Government placed above the reach of the people, and from nominal servants have become practical masters.

Underwood’s words, it may be noted, contain no direct mention of implied power. The explanation, however, is not that he rejected or ignored this concept, but rather that it was so well accepted he simply assumed it. As a consequence, if the notion of general search can be sustained on grounds such as Underwood offers, it is automatically included as part of the investigative power as an aspect of the implied scope of this power. Hence,
Underwood summed up his argument by asserting that the House had "the power to make a general examination into the condition of the departments, without stating beforehand any specific abuse or malfeasance as the object of inquiry"; that "such power necessarily results from the legislative powers vested in us by the Constitution, and from the power of impeachment." 301

As might be expected, most Jacksonian speakers argued against the adoption of the original resolution. Among the objections they raised were that the resolution implied that the Jackson Administration was corrupt, that it was of unprecedented broadness, and that it created an exploratory committee that could rove at will over the whole executive branch in search of abuses. Yet, the Jacksonians could not make their opposition stick despite the fact that they had almost a three-to-two majority in the House. Rather, the original resolution ultimately passed by a heavy majority. 302 The reasons for this outcome testify eloquently to both the theoretical strength and practical consequences of the doctrine of general investigative power.

On the one hand, though several Jacksonians objected to a committee with power to make a general search, this was not true of all Jacksonians. The House had for several decades authorized departmental investigating committees in very sweeping terms. 303 Equally important, in the disputes over investigation of the United States Bank in the immediately preceding Congresses, many Jacksonians themselves had maintained that the investigative power included the right of general search. 304 As a result, a number of Jacksonians supported broad inquiry and either argued that investigation would vindicate Jackson or objected primarily to the implication of corruption in the original resolution. Indeed, one Jacksonian strongly affirmed the doctrine of general investigative power as expounded by Underwood and another Jacksonian late in the debate offered a compromise amendment which authorized the select committee to investigate the manner in which the departments had performed their duties and all abuses alleged to exist. 305

On the other hand, the Jacksonians were embarrassed by opposition to investigation in any form. They found it difficult to make credible their opposition in a context in which it was assumed by all that the power to investigate was general, rather than subject to strict construction in terms of Congress' prerogatives under the Constitution. In a basic sense the notion that the object of investigation should be specific was connected or linked to the notion that inquiry should bear a clear relation to a valid legislative purpose. To assume that the conjunction between inquiry and the exercise of a granted power need not be close and still to argue for restrictions in scope accordingly took on the appearance of having something to hide, of being fearful of investigation. Jacksonian opponents of the original resolution therefore often ended their speeches by stating that they would, if nec-
necessary, vote for the resolution rather than oppose investigation entirely. Nor is the dilemma the Jacksonians found themselves in surprising. Once admit that investigative power is general and, except as it invades private rights, it is difficult to find some firm and non-arbitrary point at which to circumscribe it. What has been said with regard to the necessary-and-proper clause applies as well to executive investigation—implied power is a bottomless well.

As in the case of the first two facets of theory we have examined, too traditional concepts of the preconditions to inquiry did not escape unscathed in the decades that followed 1810. Rather, the hold of the traditional notion that a foundation in fact should be established to substantiate the need for inquiry, that a probable cause or ground for inquiry should be shown to protect the individuals involved from damage to their reputations, eroded and new, far less restrictive doctrines emerged.

Once again the origins of new doctrine can be found in the Wilkinson debates. In these debates the notion that a foundation in fact ought to be provided as a basis for inquiry was a matter of prevailing belief and never questioned. Moreover, in Wilkinson’s case there were sufficient facts to indicate a need for inquiry; the question at issue concerned the propriety of inquiry by the House. Still, in the course of the debates arguments were advanced that could and later did provide a means of undermining traditional doctrine. We have already noted that at one point in the 1808 debate Rowan noted that he would not be “squeamishly delicate” about private rights “when placed in competition with the great interests of the nation.” In the same debate another Republican member concluded his argument for inquiry with the following statement:

Truth never ought to be stifled. This inquiry is due to the individual and to the nation. In a Government like this the conduct of every person holding a high office should always be subject to investigation.

Similarly, in the first of the two debates in 1810 the same Federalist member who cited exposure as a justification for inquiry also contended that “inquiry, in a free country, how and in what manner its affairs had been conducted, could never be productive of injury.” And he added that “no virtuous and no honest man could fear inquiry before impartial men delegated by the people, who can have no interest to serve in proving a man to be corrupt and dishonest.”

In the Wilkinson debates, statements such as these were mere obiter dicta. After 1815, however, traditional doctrine concerning a foundation in fact lost its hold and the concepts suggested in the Wilkinson debates emerged as popular and effective rationalizations for inquiry, quite apart from whether an adequate case for inquiry had been made or not. Note, for example, the debate in the first session of the Fifteenth Congress (1817–1818) over the appointment of a select committee to investigate the
conduct of clerks in the departments. On this occasion the mover of the resolution, John Holmes, was asked to provide a foundation for inquiry by stating that he personally "had probable cause to believe in malpractices by the clerks." In terms of contemporary standards such testimony was accepted as a sufficient foundation for inquiry. Holmes' response, however, was only to remark that "he did not say the fact was so, but the rumor offered a fit occasion for inquiry." When admonished by another member of the broadness of the inquiry he wished to found on "mere rumor," he simply replied: "Let us not be too delicate in our inquiries; if the officer be an honest man, if he be a faithful agent, he will court this inquiry; if otherwise, it is no reason for our shrinking from it, that it will be disagreeable to him."

Holmes was not the only one to argue on this occasion that rumor or suspicion provided a sufficient warrant for inquiry and, as we may remember, the resolution passed easily. Indeed, even the member who objected to the broadness of the inquiry supported inquiry of some sort.

Doctrinal elements also began to emerge that went beyond concepts rooted in the Wilkinson debates. For example, during the first session of the Sixteenth Congress (1819-1820) in a debate over a call for information with regard to military executions, a member noted that the foundation for inquiry rested on "mere newspaper publications" which were "fabrications, perhaps, and utterly unworthy of being made the ground for any proceedings in this House." Nonetheless, he supported inquiry because it was due to the department involved; or, as he put it, for the purpose "of wiping off an imputed stain from the character of a department of this Government."

Similarly, in the debate in the first session of the Seventeenth Congress (1821-1822) over a call for information with regard to a dispute between federal officers in the Florida Territory, a member objected that no probable cause had been established either by complaint or by the testimony of a member of Congress. Ezekiel Whitman, who had moved the resolution, replied as follows:

It has been said that an inquest can act only on complaint or personal knowledge. But could this apply to the grand inquest of the nation? . . . Are the technical rules of legal process to fetter inquiry by the representatives of the people? Or are we to shut our eyes against the light, unless it is introduced to us through the medium of complaint and legal evidence? If the great public protection of our liberty has been transgressed, (which there was but too much reason to fear) it was our bounden duty to institute an inquiry; and the more elevated the offender, the more imperious did that duty become.

Finally, by the first session of the Twentieth Congress (1827-1828) one of the most effective new rationalizations of all for circumventing the need for a foundation in fact had emerged. Note the words of William Rives in the debate over the creation of a select committee on retrenchment:

. . . the gentleman from Pennsylvania (Mr. Sergeant) said, that some basis ought to be
la~d for the inquiry. What, sir! does the gentleman require actual proof of the existence of abuses? This proof cannot be had without inquiry. If, then, we can take no initiatory measure, for the correction of abuses, without previous proof of their existence; as that proof cannot be had without inquiry, and as, according to the doctrine of the gentleman from Pennsylvania, no inquiry on the subject ought to be made without proof, abuses must ever remain uncorrected. The effect of the doctrine is to shelter the abuses of Government with an inviolable sanctuary.

That allegiance to traditional doctrine regarding a foundation in fact or probable cause weakened substantially in the decades following 1810 is not surprising. On mere prima facie grounds its decline might well have been expected to accompany a decline in restrictive notions regarding the nature of investigative power. This is all the more true if the underlying rationale of the concept of a foundation in fact or probable cause is considered. As Whitman suggested, such concepts were legal concepts borrowed from the realm of grand juries and criminal law. Their application to Congressional procedure testified to the original restricted view of investigative power, a view that saw Congressional power over executive behavior confined to the kind of malfeasance that would lead to impeachment. Once, however, notions of investigative power expanded to give Congress a broad role in exposing and correcting abuses as agent of the people, the type of restrictions contained in traditional doctrine were both outmoded and dysfunctional.

Nonetheless, here again the full implications and liberating effect of new doctrine did not emerge until the party conflicts of the 1830’s, despite the deep contradiction that existed between the traditional conception of the proper preconditions to inquiry and the notion that investigative power was general. Two debates especially are worth citing to illustrate the point.

One involved a lengthy dispute in the first session of the Twenty-Second Congress (1831-1832) over a proposed investigation of the United States Bank. The initial response of opponents of the proposal was to ask for a foundation in fact—for facts “sufficient to raise a presumption against the bank,” for “facts reasonably vouched.” Supporters met this claim with a barrage of arguments: that proof could not precede inquiry; that to resist inquiry was to arouse suspicion; that allegations “well-founded or not” should be met promptly to repel suspicion; and that inquiry was due both the country and the bank. In the face of such arguments opponents of investigation found their position untenable and quickly retreated to acknowledging the propriety of inquiry, but favoring election of the select committee by the House as a substitute for appointment by the Speaker. The vote on this issue was a 100 to 100 tie, which is a good indication of the strength of the forces which bowed to an inquiry they would have preferred to avoid. The tie was broken by the Speaker in favor of his prerogatives and a Jacksonian committee hostile to the bank appointed.
The other debate involved the discussion in the second session of the Twenty-Fourth Congress (1836-1837) concerning inquiry into the possibility of a corrupt connection between the Secretary of the Treasury and certain agents of the deposit banks. We may remember that on this occasion Garland, though a Jacksonian, readily agreed to modify a resolution he had introduced so as to institute such an inquiry and that the resolution passed easily. What we wish now to point out is that in agreeing to and defending a committee inquiry, Garland both reasoned from and extended the doctrines that had emerged to circumvent the necessity of providing a foundation in fact as a basis for inquiry. If we reread the quote cited above, it is clear that he not only argued that suspicion was an adequate ground for inquiry, but that the least suspicion was an adequate ground for inquiry. Equally important, he extended the rationalizations underlying the claim that investigation could do executive officers no injury. Note the following excerpt from his remarks:

And, if the investigation was allowed, what wrong would thereby be done? There was no fear of the innocent being made guilty by investigation. Virtue, honesty, and integrity, sought and desired no concealment. Truth, when unadorned, was most adorned. He believed that no such improper connection existed; it was, however, a matter of opinion. Still, when an investigation was urged on this floor, when it was urged from all quarters of the country, it was due to the Government, to the people, and to the Secretary of the Treasury himself, that the inquiry should not be withheld. If any one was guilty, and if any improper connection existed, it would then be exposed to public view; fraud or corruption, if any, should be exposed, and the officer guilty of it removed from public trust. But if the persons charged should be found innocent, the responsibility would rest on the accusers.

So much, then, for the emergence of new doctrine. The decline of the traditional notions which limited inquiry to specific topics or objects closely related to the exercise of a valid legislative power and required a foundation in fact as a prelude to inquiry was not merely of theoretical significance. Rather, as these notions gave way to a set of notions which understood the power of investigation to be exercisable without any prior presumption of wrongdoing and regarded this power as general in its relation both to the House's constitutional prerogatives and the objects to which it might be directed, practice also changed. Here, as elsewhere, doctrinal change and change in actual practice were highly related and mutually reinforcing. Each stimulated and was in turn stimulated by the other. Thus, in the decades after 1810 and especially after 1815, the House became more involved in and began to exercise more control over the administrative process than had been the case in previous decades.

Several reasons for this expansion in Congressional power, aside from the liberating effect of new doctrine, can be identified without much difficulty. Though the development of a standing committee system did not reach full fruition until the early 1820's, it was substantially operative, in
fact if not in form, in the preceding half-dozen years. We may remember, for example, that when Monroe assumed the Presidency in 1817 a corps of standing committees existed and a number of the select committees on the President's Message had become standing in everything but name. Similarly, in the years between 1815 and 1820 the standing committees won general power to report by bill. Moreover, as we have also noted earlier, the more important of these committees enjoyed continued, if intermittent, contact with the department and department head whose business they handled.

The emergence of this system of permanent committees played a critical role in the expansion of Congressional involvement and influence in administration. This is true, however, for reasons other than their direct participation in formal investigative activity. As we have pointed out, the select committees carried most of the burden here outside of the area of reviewing ordinary expenditures. Nonetheless, as we have also noted earlier, a significant portion of House involvement in administration comes from the overlap between legislation and administration. As we might expect and will expand on shortly, the proportions and consequences of this overlap increased as the standing committee system emerged and consolidated its position. Nor was this the only major impact of the emergence of a standing committee system. In a broader sense the manner in which the standing committees structured the lawmaking process and the knowledge members gained from service on them also had significant consequences. In contrast, if the Committee of the Whole had remained the primary mechanism for handling legislative business, the House would have had far less time and far less capacity to increase its role in the process of execution.

Equally important, after 1809 and especially after 1817, the political context altered so as both to relax the restraints against and increase the incentives for interference in the administrative process. As has been pointed out, the years between Jefferson's retirement from the Presidency and the election of John Quincy Adams are on the whole years of declining presidential power and party cohesion and increasing fractionalization in both the legislative and executive branches. With reference to legislative control of the executive as in other areas, these basic environmental factors had an effect, especially after Monroe became President. The weakened position of the President, the increased interdependence between committees and departments, the rise of blocs in the House tied to leading executive and legislative officers, and the shaping of Congressional politics by conflict over succession to the Presidency all contributed to creating an atmosphere favorable to increasing Congressional involvement and influence in administration, to Congressional aggrandizement of what formerly had been thought of as executive prerogatives.

The expansion of Congressional involvement in the administrative process
encompassed a number of different dimensions. We have already cited the increase in the number of annual reports required of department heads and other executive officers; the creation of a general and six departmental standing committees on expenditures; and the renewed and intensified effort to limit and control transfers among appropriation items. To these activities we may now add several others of equal, if not greater, importance.

First, involvement by House members in the administrative process increased as a consequence of handling constituent business. By 1815 the task of representing constituents before executive clerks or officers had come to occupy such a significant portion of the time of House members that it emerged as a topic of comment and complaint. For example, Leonard White quotes the letter of one member who wrote in 1815 that "I have been constantly engaged in attending to some private business for my constituents and friends, who think they have a right to call on me for that purpose." Similarly, he quotes the words of another member who stated a year later that

during the last winter, I never was more industriously engaged than in attending to the private business of others, when the House was not in session. There were three western mails a week, by which my principal letters were received—these often amounted to between 30 and 40, generally on business, which required my attention at the different offices."

As added evidence of the significance of constituent business even in these early decades as well as an indication of another way in which such business involved the House in administrative matters, we may note that members began to take a deep interest in the character of service executive offices provided. For example, in the debate in 1818 over inquiry into the behavior of clerks in the executive offices one member supported investigation not because he was convinced fraud existed, but because he was generally dissatisfied with the services clerks provided. His remarks were recorded as follows:

Having had considerable business to do for his constituents with the public offices, he had found it invariably the case that the heads of the offices were there attending to business before the clerks belonging to them. There were clerks, he said, who were for days together not at their office. This, he said, was a subject of some interest to the public, and ought to be inquired into. At present the clerks came when they please, and turn the key and go when they please."

Nor did this source of annoyance soon disappear. In the closing days of the first session of the Seventeenth Congress (1821–1822) the House passed a resolution which signified both its dissatisfaction with existing office hours and the erosion of self-discipline regarding interference in operations or decisions that might logically or abstractly be regarded as executive in nature. The resolution was introduced by the Chairman of Post Offices and Post Roads and read as follows:

Resolved, that the practice which has obtained in the public offices of this City (of not
attending to business until nine or ten o'clock in the morning, and closing the offices at three o'clock in the evening) is inconvenient to those who have business to transact in them; is not such reasonable attention to the public service as should be given, nor such attention as the salaries allowed, by law, are entitled to command, and that the said practice ought to be abolished.*

Second, continued contact between department heads and committees on legislative business necessarily had a spillover effect on execution or administration. Frequent consultation and solicitation of support regarding new legislation inevitably involved the review of both past performance and future plans. Such review combined with a declining sense of restraint over interfering with “executive” matters gave committees influence over the course of administrative decision making both through the weight of their opinion or views and through the actual content of new legislation. Indeed, in one area at least, foreign affairs, the need for stable Congressional support was so great and the problems so delicate that normally the Chairman of Foreign Affairs was kept fully informed of the course of policy and closely consulted on aspects of policy that would require some direct form of Congressional support. Thus, for example, John Quincy Adams, Monroe’s Secretary of State, wrote in his diary as follows in 1817:

He [the President] told me that it was the practice of the Government to communicate in confidence to all heads of Departments every important circumstance occurring in our foreign concerns, and also to the Chairman of the Committee of Foreign Relations, and he desired me to send to Mr. Forsyth and request him to call at my office, and communicate with him very freely upon the posture of our foreign affairs. This had heretofore been the practice, and had been found very useful to the Government.**

The spillover effect of committee-department contacts was not limited in its consequences to issues or decisions initiated by the departments. Here, as elsewhere, legislative influence could not necessarily be circumscribed or controlled. The continued contact and interdependence that developed between committees and departments encouraged the committees to begin to intervene in executive decision making on their own initiative, especially in cases where local or constituency interests were involved. Similarly, the leverage Congressmen as individuals derived from the operation and power of a standing committee system encouraged them to begin to intervene as individuals in the administrative process on behalf of local or constituency interests and also encouraged executive officials to consult interested Congressmen in advance on such matters. The precise proportions of such forms of intervention in the decades from 1809 to 1829 cannot be determined without an exhaustive study. Nonetheless, some evidence that suggests that these now familiar activities had become a definite facet of the Congressional scene by the 1820’s does exist. To cite some examples, in 1827 the Indian Affairs Committee refused to approve a request for funds to locate an Indian agent at Michaels Island, Lake Superior. However, it noted that the location of an agent at another geographical point was unnecessary.
and recommended that this agent be shifted to Lake Superior. In 1828 the transfer of an Indian agency from Fort Wayne brought forth a hail of letters from Indiana Congressmen to the Secretary of War. In 1818 before determining the character of a proposal on fisheries to be submitted to Great Britain, John Quincy Adams, at the direction of the President, gathered together and consulted with about a dozen House members from districts interested in the question.

Third, the number of formal Congressional inquiries into executive operations and conduct through resolutions making calls for information and through resolutions authorizing actual committee investigations multiplied. We may note that between 1789 and 1809 there were only two occasions in which subpoena power was conferred on a committee charged with investigating executive operations or conduct. In the same period the number of major committee investigations of executive operations or conduct totaled only about a half-dozen, though the full number of committee investigations was substantially larger and totaled in excess of a dozen. In contrast, committees charged by resolution with investigating executive operations or conduct were given subpoena power three times between 1809 and 1815 and fifteen times between 1815 and 1829. The total number of investigations was in excess of thirty-five between 1809 and 1829 and in excess of thirty between 1815 and 1829. In each time period at least half can be classified as investigations of major importance. Similarly, the number of calls for information regarding executive operations or conduct also expanded in the decades that followed 1810. They appear easily to have matched and in all probability substantially to have exceeded the number of committee investigations. Indeed, during the 1820's, the number of such calls for all purposes, and these purposes included law-making, review of performance, and sheer political embarrassment of a Secretary or some other leading figure, reached such proportions that they exceeded the capacity of the departments to give full or even adequate answers in many cases.

As the House's readiness to concern itself with executive office hours suggests, the expansion in investigatory activity was not simply quantitative in its significance. On the contrary, it had qualitative significance as well. The erosion of regard for executive prerogatives and the growth in acceptance of new doctrines that countered or nullified traditional restrictions meant that virtually no aspect of executive decision making or conduct was necessarily precluded or prescribed from inquiry. Note, for example, some of the topics the House inquired into by call or by committee during the 1820's. Investigated by call were such matters as the objects of the agents of the United States to be sent to the Panama Conference; the removal of troops from certain forts; the report of the engineers on the James River Canal; and the proceedings of the court martial of Tennes-
see militiamen. Investigated by committee were such matters as loans of powder to civilians, use of troops in building fortifications, post office affairs, Army regulations, and the manner in which the land offices were examined.

The consequences of expansion of House activity along all these dimensions were to raise the degree of House involvement in administration considerably and to stabilize it on a new and higher plane. Indeed, though substantial variations in activity continued to occur from Congress to Congress, the peaks of involvement or interference could now and did at times become quite high.

The Seventeenth Congress (1821–1823), a Congress in which the subpoena power was given to investigating committees five times, provides perhaps the best example of such a peak. In this Congress an economy mood blended with the politics of presidential succession and both combined to intensify Congressional aggressiveness toward the executive. The result was a sizeable increase in the number of calls and formally authorized committee investigations as well as increased involvement by some of the standing committees informally and heightened activity by the committees on departmental expenditures.

James Buchanan described the most powerful factional alignment of the Congress as follows:

When I first entered the House of Representatives (in December, 1821), there was a party in it which was called the Radical party, in favor of cutting down the expenses of the Government to the lowest possible standard without as I supposed sufficiently considering the real necessities of the country. Its leaders were the late Governor Floyd of Virginia, Mr. Williams of North Carolina, General Cocke of Tennessee, and others. These gentlemen were all the friends of Mr. Crawford, and were peculiarly hostile to Mr. Calhoun, whose alleged extravagance as Secretary of War they denounced in no measured terms.

Calhoun, however, was not without his friends in the House. James Schouler records this as well as the crossfire that developed in the following passage:

This was his [Crawford's] Congress, and for a time his faction ramped like a band of gladiators, butchering every reputation which stood in his way. This stirred the friends of other candidates, and hence a bitter struggle of factions, every man's hand against his brother. There was the Crawford cabal on the one hand, renewing its assaults upon the War Department, and accusing Calhoun of wasting public money upon favorite contractors. There was the Calhoun cabal on the other, weaker in numbers but persevering, which charged Crawford with spreading his influence by means of appointments, and sending a senator over the west to electioneer for him at the government cost, on the pretence of engaging him to inspect the land offices.

Nor was John Quincy Adams, Crawford and Calhoun's colleague in the Cabinet and also a leading contender for the presidency, able to keep himself out of the line of fire. In 1821 he noted in his diary that an inquiry by the expenditures committee with jurisdiction over the State Department
was "a thrust in the dark at me as Secretary of State." Still, he concluded confidently that whereas "Storrs [the Chairman] seems to think he has me upon the hip for an expenditure without law," there was in fact "both law and appropriation."

Given all this, the following two assessments of the overall tenor of scrutiny and review by both houses in the Seventeenth Congress are quite understandable. The first is by James Schouler. Though not entirely fair since the House did engage in inquiries that were not merely petty, it bears eloquent testimony to what doctrine now permitted and practice could involve.

Congress surrendered its time accordingly to petty investigations. It fussed over the public expenditures, preached little economies, and brandished the knife of retrenchment with neither the courage nor skill to apply it. Committees instituted inquiries, ran the eye up and down accounts, printed out little items, snuffed about dark corners, peeped behind curtains and under beds, and explored every cupboard of the Executive household with a mousing alacrity; not so eager, it would appear, to correct abuses as to collect campaign materials for damaging some candidate, and playing the detective in preference to the judge. Inquisition was made of departments and their management, of clerks and their salaries, of office hours. It was proposed to reduce the Navy, and again to give the Army establishment and Coast Defence another cut; but the ardor for economy evaporated in talk.

The second assessment is less picturesque in language, but just as striking in effect because of its source. It derives from a letter written by President Monroe to Andrew Jackson in 1822.

I was exposed in the course of the last Session, to much embarrassment. The lessons of the late war seem to have been forgotten, and the efforts since made to put the country in a better state of defense for another, happen when it may, have been tortured into crimes, and those who have been most active treated as the greatest criminals. Every little transaction has been sifted into, in many instances under the instigation of anonymous writers, on false, or prejudiced views, and the great effort seems to have been made to pull down institutions and characters, rather than to rear them up for the support and honor of the country. It is due to Congress to observe that this effort has been confined to a small portion of its members only, by far the greater number having been spectators of the scene, believing also, as I presume, that less injury would be done by suffering the calls and scrutiny to be made than by opposing them.
PART THREE

THE IMPACT ON THE FUTURE

In concluding this study our desire is not only to summarize the character of institutional development in the House from 1789 to 1829 and to discuss the significance of Jeffersonian attitudes for this development, but also to place this experience in perspective. To do less would be to ignore the significance of the events we have spent so much time tracing and analyzing. In approaching this task, however, we have chosen not to focus simply on the emergence of a standing committee system and then to repeat the traditional Wilsonian nostrums regarding the significance of committees for the operation of the House. This indeed would be the easiest course to follow, but such an approach would not do justice to the full impact of developments in either theory or practice during the decades from 1789 to 1829. What we need instead is a theoretical framework in terms of which we can both organize this experience and give it meaning.

Framework of Analysis

In delineating such a framework we shall adopt the perspectives of systems analysis. Thus, we shall assume that the House exists as a subsystem in a wider system of units that together constitute the national political system, that the national political system functions to make and implement authoritative decisions on goals for the national society, that the subsystem relationships and dependencies that comprise and define the national political system are subject to change and breakdown, and that each subsystem of the national political system must satisfy certain functional needs to continue to survive as a unit in the suprasystem. Given these assumptions, our approach will be to identify the key functional needs of the House and then to analyze the experience of the Jeffersonian period in terms of these needs. In doing so, however, we shall for purposes of brevity and manageability limit the dimensions of the theoretical task we have set for ourselves by restricting our focus to the political system as it exists on the federal or national level, by treating the legislature alone as the legislative subsystem and the House as the legislature, and by giving legislative-executive relations primary attention.

What key functional needs may we then define? First, the House requires
a decision-making structure that confers a capacity for autonomous, effective, and efficient decision making on it. This need, to be sure, is one that all subsystems primarily concerned with decision making must satisfy to avoid dissolution or absorption. Nonetheless, as is generally true of functional needs, it assumes distinct and concrete meaning depending on the particular subsystem and suprasystem involved.

In the case of the House we are concerned with political decision making, a democratic system with a number of distinctive features, and the role of the legislative subsystem within that system. We have argued that the function of the political system is to make and implement authoritative decisions on goals on behalf of the society, to define and implement that special category of ends which are so vital to public order and/or the general welfare that their attainment is sought on a common or communal basis and backed by the ability to commit collective resources and collective instruments of physical coercion. In approaching this task the American political system as a democratic system is strongly biased in favor of basing authoritative goal decisions on consent, on citizen preferences or determinations regarding these goals. As a consequence, the prime subsystems of the system seek in various ways appropriate to the level and type of decision making involved both to base action on agreement and to balance the need for action with the need for consent. The legislative subsystem is one of these subsystems and one which the American political system in response to both its shared and distinct needs as a democratic political system assigns a critical role. It is charged with functioning as the official source of the authority and funds upon which executive action is contingent. Moreover, in contrast to some other democratic systems, it is expected in fact as well as in form to serve as the basic determiner of the concrete policies implemented by executive officers, to use its powers to make the basic or guiding policy decisions in the system on the basis of its own volition. Indeed, so intent is the American political system on securing this role for the legislature that it embodies checks and balances, separate constituency bases, and decentralized parties as well as a mere division of function between the branches.

In the American political system it is therefore not mere legalism that assigns the “lawmaking power” to the legislature and accords its decisions the status of “laws.” To be sure, in the United States as in other democratic systems the legislature cannot monopolize policy making or policy discretion. Even in the process of lawmaking its relationships with and dependencies on other subsystems subject it to external influence and thereby force it to share and even cede its discretion. In addition, it cannot hope to decide all policy questions in the lawmaking process, but rather must allow considerable discretion to be exercised by the men who actually implement the laws. Nonetheless, if the legislature cannot monopolize discretion, it
can both preserve a meaningful capacity to make its own decisions and exercise its discretion in ways that have decisive policy impact. And this is what the American political system expects of the legislature. It expects the legislature to serve as the basic determiner of the concrete policies upon which executive action proceeds, to function as basic policy maker determining the substance of policy to the extent that best harmonizes its need for control with its limitations of time and the executive's need for flexibility. Moreover, as such, the legislature's role is not and cannot be limited simply to providing administrators with instructions or directions in an a priori manner. On the contrary, its role includes and must include continuing review of administrative decision making and action to further instruct or alter it. Both because administrators may abuse their authority and because policy making is a continuing task in which much discretion must be delegated, the legislature cannot shun concern with the course, results, or even manner of administrative performance. It cannot be narrowly "legislative" if it is to serve as the primary source of policy instruction or direction in the system.

However, if the American political system assigns the legislature the role of basic policy maker and establishes certain environmental conditions favorable to its exercise by the legislature, it cannot guarantee this role to the legislature. The maintenance or continued performance of this role rather depends on the character of the legislature's relationships with other subsystems and the maintenance of a complex of input-output exchanges with these subsystems. There is, of course, a large, open range of variability in the character of these relationships and exchanges. Particular changes can simply modify the dimensions of the legislature's role as policy determiner without vitiating or destroying it. Nonetheless, a minimal threshold does exist that cannot be crossed without leading either to the breakdown of the legislature per se or to its transformation into a subsystem whose outputs are primarily or wholly non-decisional in character.

On the input side the legislature's dependence on other subsystems is a source of danger. In the case of the electoral subsystem it must be sufficiently tied to the various units of the subsystem that citizen dissatisfactions and demands are treated as prime inputs, but yet not so tied to particular units that it loses its freedom of action as an organization. As regards the executive subsystem, the legislature requires the assistance of executive officers in a variety of ways: information, advice, technical services, and even political resources or influence. These inputs, however, threaten to turn the legislature into a mere spokesman or ratifier of executive desires. This is especially so to the degree that elements of the electoral and executive subsystems combine to establish close relations and dependencies with one another. If this threshold is crossed, the suprasystem may still remain democratic. The legislature need not disappear or become a mere ceremonial institution.
It can endure as a forum for educating the populace and/or pressuring decision makers. Still, its role as policy determiner either disappears or is circumscribed to such grand issues, e.g., toppling governments, that it seldom serves as a source of decisions that control the day to day essentials of policy.

On the output side the difficulty of maintaining dependence on legislative policy outputs is a source of danger. The problem has both an effectiveness and efficiency dimension to it. In particular areas the legislature as basic policy maker must produce and oversee the implementation of policies that do in fact relieve sources of stress in the national society and maintain allegiance and support for the suprasystem. Insofar as it fails to do this, pressure builds over time to relieve the legislature of its policy role either by forcing it to assume more deferential relationships to the executive or, if unrelied dissatisfactions are sufficiently grievous, by altering the basic character of the suprasystem itself. In addition, there is an efficiency dimension to the problem as well. The legislature must not only define and oversee effective policies, it must do so in a large number of areas to maintain its overall position as basic policy maker. Deficiencies in output capacity lead inevitably to the cessation of authority and discretion to the executive either implicitly or explicitly. Thus, the sheer quantity of the legislature’s output is a variable of importance.

Now given a legislature charged with the role of basic policy maker and the problems associated with maintaining this role, one of its key functional needs is a decision-making structure that endows it with capacity to cope with the continuing threats to its position. Such a legislature, in short, needs a decision-making structure that can provide it with an organizational base for autonomous or independent decision making as well as effective and efficient decision making. Admittedly, even with such a base, the maintenance of the role of policy maker within its critical limits may not prove possible. The legislative subsystem’s relation to other subsystems may be disrupted by external forces it cannot control. Nonetheless, it remains true that legislative operation as basic policy maker will fall simply by its own weight if organizational structure and resources do not provide the forms of support this role requires.

A second prime functional need of the House concerns another type or category of decision-making need. Apart from other considerations, the House requires a decision-making structure that sustains belief in the legitimacy of its output. To a significant degree the acceptability of its output rests on more than its inherent effectiveness as rational goal achieving action. Rather, the willingness of other subsystems to render themselves dependent on this output and the continued existence of a patterned relationship based on it rest in part on broader systemic values and norms which legitimate the legislative subsystem, its operations, and its output. The ability of the
House to maintain its role therefore depends on articulation between its operating norms and structures and broader suprasystem values and norms. As a result, the House must not only produce a rational or effective output in an efficient manner, it must do so through decision-making structures and processes that are in accord with suprasystem values and norms. This need, of course, applies to all subsystems of social systems. But once again it assumes distinct and concrete meaning in the case of the House since we are dealing with the political system as opposed to other types of systems, a particular type of political system, and a particular subsystem within that system.

We have noted that the political system functions to make authoritative decisions on goals. However, the political system is itself part of a society or wider social system. It thus must embody or institutionalize core societal values and norms that have significance for politics. In fact, if a wide divergence develops between values and norms of the society that are critical to politics and the values and norms actually institutionalized in the political system, then either the political system must be altered or the political system must remake the society in its image. The reasons for this relate to the basic necessities of political systems. Assuming that a political system, a source of authoritative decision making, is necessary for social life, this broad harmony between critical societal values and norms and the values and norms institutionalized by the political system is also indispensable. It underpins the ability of the political system to function or make authoritative decisions and to persist.

Consider a political system that bases the authoritative or binding quality of its decisions preponderantly or wholly on force or the threat of force. The capacity of such systems to make binding decisions is seriously restricted both quantitatively and qualitatively by the need to make heavy investments of coercion to secure even limited forms of obedience or acquiescence. Indeed, over time if conditions do not change, such systems are prone to lose this capacity entirely, i.e., to breakdown, both because of the limits placed on their ability to act effectively to relieve dissatisfactions and because of the resentments stirred by reliance on unlegitimized or raw force.

As a consequence, what political systems need to maintain adequate capacity for authoritative decision making in addition to the ability to apply force, and even in the stabllest systems force as a means of assuring universal obedience remains a continuing necessity, is the ability to elicit obedience on moral grounds. Indeed, the reason the concept of authoritative decision making has a moral connotation to it is that in a basic sense the binding or authoritative quality of decisions rests on citizen acknowledgment of the rightness of obedience. Now in order for a political system to possess adequate capacity in this regard its mechanisms and processes must be
relatable to and justifiable in terms of broader societal values and norms. These mechanisms and processes must, in short, translate these values into their own realm of action; they must embody and be based on broad principles of operation derived from them. Then and only then is the authoritative or binding quality of decisions adequately established through the obligations that citizens feel to the values and norms institutionalized by the system and the habitual patterns of obedience that develop around these obligations once publicly or formally acknowledged. Of course, in the long run the substance of decisions also becomes important. The cumulative results or lack of results of many decisions can shake faith in the underlying values of the system, shatter habitual patterns of obedience, and add to system stress by requiring compensatory increases in the use of force. Still, all this only highlights our point concerning the significance of obligation based on shared values as a foundation for authoritative decision making and the need for harmony between core societal values and norms and the values and norms institutionalized by the political system.

In the United States as in other democratic nations the political system exists within a society where the values that are critical to politics establish individual liberty and equality as primary concerns. The political system accordingly is and must be oriented toward basing decisions on authoritative goals on consent, on citizen determinations or preferences regarding these goals. This in turn means that the various subsystems of the political system must be shaped by the exigencies of institutionalizing a system of decision making based on citizen preferences. For they all must contribute, though in ways appropriate to the level and type of decision making involved, to satisfying certain basic needs upon which democratic decision making is contingent. These needs can be sketched under three broad headings. One relates to articulation. If citizen preferences are to be relied upon as critical pieces of information regarding desirable changes or additions to authoritative goals, the various subsystems must be designed to stimulate and foster the articulation of demands among all elements of the population. Another relates to access and responsiveness. If the substance of decisions is to reflect the character of citizen preferences, the various subsystems must be designed to provide citizen demands with ample and equitable access to official structures and to insure a high degree of responsiveness to them. A final need relates to accommodation and aggregation. If the decisions that emerge are to have a high degree of acceptability in terms of citizen desires or preferences and at the same time to be effective in relieving dissatisfaction, the various subsystems must be designed to promote and encourage the accommodation and aggregation of demands without at the same time setting the requirements for reconciliation and agreement so high as to vitiate the capacity for action.
The legislature is, of course, one of the prime subsystems in a democratic suprasystem. In the American political system as in other democratic systems its existence is no accident, but is rather a direct response to the exigencies of democratic decision making. Indeed, its structures and processes are more closely shaped and constrained by these needs than is true in the case of the executive subsystem which explains perhaps why it is a more distinctive feature of a democratic system. On the one hand, its members are elected, they usually represent distinct constituencies, and they formally are accorded equal status and influence at the ultimate point of decision. These conditions proceed from the needs to encourage the articulation of demands, to provide access for a wide variety of demands on a basis that makes no arbitrary distinctions among them, and to insure responsiveness. On the other hand, the legislature engages in formal discussion and debate as one of its prime activities and makes decisions on the basis of wide but not total agreement, i.e., usually on the basis of majority rule. These conditions proceed from the need to spur accommodation and aggregation while still preserving a meaningful capacity for action.

It is by establishing structures and processes in accord with or embodying these conditions that the legislature legitimizes its output, gains a claim on other subsystems for acceptability and dependence, and that the system as a whole gains a capacity for basing the authoritative quality of its decisions on more than force. This is especially true in the American political system where the legislature plays a more important role than in many other democratic systems. Its role as basic policy maker means not only that it carries a heavier burden for meeting the system’s needs for articulation, access and responsiveness, and accommodation and aggregation than is true of other legislatures, but also that it is more dependent on the legitimizing character of its own structures and processes than in systems where it is subordinate to other subsystems. In these instances the legislature’s output is legitimized in part at least in terms of its subordination, e.g., as part of the election mandate of a disciplined majority party. In the United States this is not the case. The legislature’s ability to legitimate its output rests far more directly on the degree to which it successfully institutionalizes commonly shared notions of democratic values and norms.

Given all this, we can understand why the decision-making needs of the House encompass considerations other than autonomy, effectiveness, and efficiency. In the American political system the legislative subsystem has to do more than produce effective decisions in a variety of policy areas that reflect its own volition. To provide the system with a capacity for legitimizing its decisions, for basing the authoritative quality of its decisions on more than force, and to maintain its own role in the system the legislature’s decision-making structure must be such as to sustain belief in the legitimacy of its output. Viability, in short, both for the House and for
the suprasystem of which it is an integral part requires that its decision-making structure be constrained by the necessity of operating in a democratic manner, requires that its decision-making structure encompass and satisfy ideal as well as technical needs.

What this in turn involves is, of course, not totally or precisely fixed. Here as elsewhere, a wide, permissible range of variability exists. However, some parameters also exist. The House cannot be run like an army or even a business corporation. It cannot support high levels of formal hierarchy and still sustain belief in the legitimacy of its output. Thus, as we have already suggested, it is necessarily constrained in several broad but key regards. It must in some basic or ultimate way accord its members equal status and influence formally to avoid prejudice in favor of particular demands. It must regularize opportunities for discussion and bargaining in order to tap the potential for accommodating and aggregating conflicting demands, for basing action on high levels of agreement. Finally, it must place some reasonable limit or limits on the need for agreement, e.g., majority rule, so that a workable balance can be struck between the need to base action on high levels of agreement and the need to preserve a capacity for action. Nor are these constraints significant simply as passive products of democratic decision-making needs. Such an emphasis derives from the manner in which we have isolated them and does not do full justice to their active or positive significance. The House’s ability to sustain the legitimacy of its output and thereby maintain its role is tied or related to its ability to contribute to satisfying the basic needs of a democratic system. In truth, it is the democratic structures and processes it embodies and operates through, the limits on hierarchy inherent in it as a legislature, that permit it to serve as such an important source of articulation, access and responsiveness, and especially accommodation and aggregation, that permit it to acquit itself of the heavy responsibilities in these regards that the system places upon it by assigning it the role of basic policy maker. In sum, then, the House as a legislature in the American political system is and must be unlike other types of organizations, e.g., bureaucracies, and for good and substantial reasons. It must not only produce decisions, it must do so collegially. It must make them through discussion and by securing the positive consent of at least a majority of its members in each and every case.

A third and final functional need of the House is for maintenance of its decision-making structure. Social systems are subject to breakdown, to disintegration, for causes aside from inability to maintain role or function in relation to their environment. They are also subject to breakdown for reasons that are primarily internal. The maintenance of regularized behavior, the maintenance of the patterned sets of roles that constitute the structure of a system, is not a simple or automatic matter. Rather, patterned
human behavior is fragile and subject to disruption for a variety of reasons. One major source of disruption issues out of structure itself. The role structures which systems to varying degrees differentiate to make decisions involve unequal distributions of power over outcomes. As such, they impinge on the goals or ends particular members have for the system as well as on their desires for status and importance. These structures thus threaten continually to become sources of alienation and conflict, rather than mechanisms for resolving conflict about system ends. As a result, systems continually face the problem of coherence, of conflict management, of preserving the smooth intermeshing of their various role sets. Another major source of disruption is not structural, but personal. A system's ability to function is dependent on its role structure and this in turn is dependent on role fulfillment by the individuals who occupy particular roles. Though systems normally have sufficient inducements at their disposal to secure certain minimum levels of performance, success in obtaining their objectives requires them to secure far more than minimal performance. However, the willingness of individuals to fulfill their roles, to contribute to the system, is a contingent matter. Contribution may be limited for either negative or positive reasons: that is, simply because satisfactions are lacking, because incentives are insufficient to induce more than mechanical role performance, or because an individual's desire for social approval or career advancement leads him to temper role performance. Systems therefore must also continually face the problem of motivating performance, of overcoming resistance to role fulfillment, of inducing individuals to contribute.

If we redefine our perspective to focus on the House as an entity rather than on its external relations with other entities, we may recognize that it exists as a social system itself as well as a subsystem of a larger suprasystem. As such, it has maintenance needs as well as decision-making needs. It cannot escape continually facing and adequately resolving the problem of coherence or conflict management and the problem of motivating role performance. In the former case, it, like other social systems, is dependent on maintaining allegiance to the complex of values and norms that underlie and define its role structure. Allegiance to these values and norms counters and overcomes disappointment and alienation proceeding from loss of cherished goals or deficiencies in personal status. In the latter case it, like other social systems, must provide inducements for participation and role fulfillment that are adequate to counter the various sources of resistance that militate against them. Once again, however, the fact that the House is a particular kind of social system is a matter of consequence. Here as elsewhere, its needs assume a distinct and concrete form.

With regard to coherence or conflict management, the task of maintaining allegiance to the complex of values and norms underlying its decision-making structure is shaped by a number of considerations. The House must
adjust to certain weaknesses in the processes or mechanisms of inculcating and maintaining allegiance that many types of social systems do not possess. It has no control over recruitment and thus cannot weed out applicants who are likely to prove hard to socialize in its ways. In addition, though tenure has increased significantly since the nineteenth century, it still must deal every two years with a sizeable minority of new members. Nor are the rewards and penalties at its disposal either to aid in socialization or to control deviance decisive in their impact. The House cannot exclude members except for rare and extreme causes or lower their salaries or other benefits of office. It cannot necessarily even insure that deviants will be defeated for reelection or blocked from advancement to higher political positions, though it can influence these outcomes by penalizing such members within the House. Due to these liabilities socialization and social control in the House are far more dependent on informal social pressure and shared feelings of loyalty to the institution and its role than is true in the case of many other types of social systems. Moreover, since these feelings of loyalty are dependent in large part on general, positive societal evaluations of the institution and its role, the House is also more dependent on its broad and enduring image in the community than are many other types of social systems.

Equally important, the House must adjust to a high degree of fragility in a key portion of the complex of values and norms that underlie and define its decision-making structure. In bureaucratic bodies the features of the decision-making system can be determined largely in terms of technical needs, in terms of what conduces to effective and efficient decision making, in terms of what conduces to rational decision making. This is not because ideal needs do not exist, but rather because at least formally there is relatively high agreement on clear and stable goals which allows technical considerations of rationality to dominate questions of structure. As a result, justification of the distribution of power involved in the decision-making structure can be tied to objective factors relating to rational decision-making needs and the character of the output also justified objectively as a product of rationally determined decision-making structure. In a legislative body, such as the House, values and norms based on technical needs also underlie and define the decision-making structure and provide objective bases for justifying the distribution of power and the character of the output. Technically based or oriented norms, such as specialization, reciprocity, and apprenticeship, rest on an appreciation for the contribution qualities or conditions, such as expertise or division of labor, make to rational decision making, to providing the structural arrangements best suited to reaching decisions that will achieve desired goals. As such, technically oriented or operational norms provide an important basis for combating alienation and restraining conflict. Furthermore, since they are
rooted essentially in objective rather than subjective considerations, their ability to elicit allegiance is highly stable as long as primary definitions of technical need are not altered by changes in basic premises regarding the legislature's role in the system.

However, in legislative bodies, such as the House, decision-making structure can neither be as elaborate as in bureaucratic bodies nor based as largely on technical needs or considerations. In the House goals to a much larger extent are emergent. The area of decision making in which it operates is more discretionary, closer to the ends side of the ends-means continuum where goals have to be determined rather than interpreted or applied. Moreover, in terms of basic democratic premises each member's view of the proper nature of the goals is as worthwhile as that of any other; the degree of discretion, in short, limits the need or justification for hierarchy. Given these facts, we have an additional basis for understanding why the decision-making structure of the House must balance technical and ideal needs, why it must provide for democratic decision making as well as autonomy, effectiveness, and efficiency. In addition, we may now also understand why ideal needs are both more relevant to coherence or conflict management in the House than in bureaucratic bodies and why this makes coherence or conflict management more difficult.

If allegiance to the values and norms that underlie the decision-making structure are critical to conflict management and if in the House these values and norms to a significant extent must express ideal as well as technical considerations, then the problem of legitimacy has great internal significance in terms of conflict management as well as external significance in terms of the maintenance of the House’s role in the political system. Though up to this point we have emphasized the external dimension by focusing on the House’s need to be able to legitimate its output in the eyes of actors in other subsystems, it is also crucial that House members accept its decision-making structure as democratic. Moreover, whereas other actors are likely to be satisfied by the broader features of structure, House members are likely to weigh specific factors more heavily. This inevitably becomes a source of difficulty because the hold of specific values and norms embodied in particular structural arrangements, the hold of the precise conceptions of what majority rule requires or permits structurally, is apt to be quite fragile.

One reason for such fragility is the amount of subjectivity involved in these conceptions. We have noted that there is a large permissible range of variation within the broad parameters of democratic decision making. If the broad parameters are clear, what they require or permit in precise terms structurally is highly contingent and open to differing interpretation on the basis of a variety of basic premises regarding the role and needs of the individual representative, the significance of party, the severity of
the constraints imposed by technical needs, etc. What, for example, does majority rule require with regard to the relation between the Speaker and the Rules Committee? Or what can it permit or countenance in terms of committee power over bills? But subjectivity is not the only reason for weakness in the strength of that portion of the values and norms embodied in existing structure that express or relate to ideal needs. The degree of status and discretion accorded the individual member is an important complementary factor. Because members regard each other as basically equal, no member is assumed to have any more objective basis for determining questions of the rightness of structure than any other or any less concern or right to do so. The dominating spirit is that of a Sanhendrin rather than a factory.

As a consequence, governing interpretations of what ideal needs require or permit tend to be unstable, tend to be subject to breakdown in managing conflict. In contrast to bureaucratic bodies, frustrated House members are led much more easily and quickly to raise legitimacy questions. Discontent over outcomes, if prolonged even for a relatively short time among a particular group or party faction, soon leads these members to refuse to accept failure as a product of democratic operation and to attack portions of existing structure as undemocratic. Here as elsewhere, the House has to adjust to this element of weakness in its maintenance capability. In part, it can do so by emphasizing more stable technical norms as much as possible and by falling back on the severe constraints technical considerations pose to change for the purpose of increasing the degree of democracy within the House. It can also rely on certain norms that arise out of the distaste most members have for severe conflict and their perception of the threat it poses to them as individuals and to the institution—"to get along go along," "be satisfied with half a loaf," "treat opponents with civility," etc. In large part, however, adjustment must consist simply of enduring recurrent tinkering and on rare occasions even wholesale change in order to bolster or recreate the sense of legitimacy on which continued operation of the decision-making structure is dependent.

So much for the problem of coherence or conflict management. Though the absence of a sense of legitimacy concerning the decision-making structure drastically affects role fulfillment on the part of individual members, its presence does not necessarily solve the problem of motivating performance. Here too the House faces singular difficulties. The variety of roles House members must assume places onerous physical and psychological burdens upon them. They are expected to master the legislative fields covered by their committees, to provide constituent service, to cast informed and intelligent votes on the floor, and somehow to fulfill responsibilities to district, party, and conscience at one and the same time. A member's inclination to perform these roles is thus limited both by deficiencies in
the amount of satisfaction they provide and by conflicts between them and his career aspirations. For example, committee specialization involves not only hard work but also narrowness and isolation from the public; constituent service involves not only time but also absorption in small problems and the assumption of a petitionary role with regard to the bureaucracy. Similarly, time spent out of Washington can be much more valuable to reelection or advancement to another position than time spent on committee work; a vote for district interests can be more valuable to career advancement than sustaining the party leadership's ability to aggregate majorities and produce necessary outputs.

In contrast, the concrete or material incentives the House can provide to overcome these sources of resistance are limited in their overall or total effectiveness. This is not to imply that the rewards and penalties at the disposal of the House are few or insignificant. On the contrary, the complexity of the formal structure and the degree of hierarchy within it create a variety of rewards and penalties which the party leadership can deploy to enhance its leverage, e.g., committee appointments, access to the floor, opportunities for publicity, help in securing grants or projects, etc. In addition, regard for House norms and attention to roles, especially committee roles, is a course that leads to prestige and influence in the House. Still, in most instances the impact on members' careers of the particular rewards and penalties that can be applied is marginal. For this reason and for other reasons related to the character of party cohesion they are not applied in a harsh or demanding manner. Hence the standard or level of performance required to maintain one's standing, to qualify for rewards and escape penalties, is low or mediocre. Moreover, due to the operation of the seniority principle longevity can compensate for dedication in the climb to power in the House.

As a result, the position the House finds itself in with regard to motivating performance is comparable to its position with regard to socialization and control of deviance, if not even more accentuated. Here too the House is highly dependent on informal social pressure and shared feelings of loyalty to it as an institution. The latter especially is of great significance. It is the sense members have of the importance of the House and its role in the political system, reinforced by the development of collective or comradely spirit, that provides a critical portion of the incentives necessary to induce dedicated rather than simply mechanical role performance. Similarly, if social pressure is important as a factor that can overcome recalcitrance that would otherwise be unreachable, its strength is nonetheless highly contingent on the breadth and intensity of institutional loyalty. In short, then, the House is particularly dependent in motivating role performance on ideal incentives centered on the worth of the House and membership within it, a factor that gives functional significance to the hyperbolic rhetoric
about the House that members indulge in and even to the self-protective
norms and practices with regard to the public that an ethic of comradeship
involves.

Technical Needs

Let us now apply the analytical framework we have defined. Our problem
is to assess the long-run significance of events and attitudes in the Jeffe-
sonian period in terms of the prime functional needs of the House as a
unit or subsystem in the American political system.

The first functional category we identified concerns the aspect or dimen-
sion of decision-making need that relates to technical competence or profi-
ciency. We noted that the system assigns the legislative subsystem the role
of basic policy determiner and that to maintain this role the House requires
a decision-making structure that endows it with a capacity for autonomous,
effective, and efficient decision making. Developments in the period from
1789 to 1829 made a critical and lasting contribution to the satisfaction
of this need. This can easily be seen if we briefly review and assess the
key outcomes in theory and practice that pertain.

Of primary importance is the emergence during these years of a standing
committee system. By the early 1820's specialized standing committees had
come to dominate the initial handling and preparation of legislative propos-
als in virtually all policy areas. Their rise to dominance settled the issue
of first reference from that time to the present. The standing committee
mechanism, rather than its competitors, became the agent the House relied
upon to consider legislative proposals in depth on its behalf, to advise
it, and to put them in shape for passage.

An essential and complementary development was the emergence of a
set of technically based or oriented norms that made reliance on standing
committees feasible. We may remember that traditional Jeffersonian atti-
dudes toward smaller committees were ambivalent. The old Jeffersonians
recognized their necessity for a variety of purposes: handling minor business;
putting major business in shape for a decision on principles in cases where
facts were difficult to ascertain or details complex; and drawing up bills.
On the other hand, they saw the legislative process as one in which a
radical form of equality should prevail among members, as one in which
all members should share full responsibility for policy and no member
should exercise any influence over another not derived simply from the
force of rational argument. They therefore feared reliance on smaller com-
mittees and, as a general rule, opposed first reference to them in important
areas of business. They believed that these mechanisms undermined the
equal influence and responsibility of members and thereby undermined
the ability of the House to elicit a true sense of majority will.

Obviously, the creation and operation of a standing committee system
The impact on the future was not possible as long as the values and norms that expressed ideal needs were defined so absolutely or rigidly as to leave little leeway for satisfying technical considerations. What was needed was a relaxation or tempering of these values and norms and the emergence of a new set of values and norms that could justify and operationalize the division of labor and distribution of influence involved in reliance on a standing committee system. Both occurred as the House’s appetite for standing committees increased. Though regard for equality and majority rule as well as conceptions of what they required continued, insistence on radical egalitarianism disappeared and a new set of values and norms, focused on specialization and deference, crystallized. In place of insistence on the equal responsibility of members for policy, the House began to prize subject matter expertise and to encourage members to become specialists in their committee work. In place of insistence on equality of status and influence, the House began to value and approve deference to committee opinion and to encourage members to defer to one another in their respective committee capacities. In short, it tempered the severity of norms based on ideal considerations in exchange for the addition of technically oriented norms that conferred the benefits of a division of labor.

Another important set of developments associated with the emergence of a standing committee system concerned the internal organization and operation of these units. By the end of the Jeffersonian period the standing committees had developed certain basic and enduring structural facets. Party had emerged as the dominant appointment criterion, reinforced by interest, knowledge, and prior service. The position of Chairman had not been confined to that of mere moderator; rather it commanded sufficient initiative and leverage to confer preeminence on its holder. Rooms were assigned and clerks in all probability employed. In addition, along with specialization norms apprenticeship norms had developed.

Last, but not least, the decade from 1789 to 1829 witnessed a substantial expansion in the House’s oversight role. Initially, the House took a very restricted view of the proper scope of its concerns as reviewer and controller of executive operation and performance. The emergence of the standing committee system, however, was accompanied by far looser construction of the limits imposed by the separation of powers principle and a significant increase in the degree of House involvement in administration. The number and scope of committee investigations thus expanded in the second half of the period. Whereas traditional doctrine limited the House to investigations of executive action or conduct that were specific in object, based on a foundation in fact, and closely tied to the exercise of a valid legislative power, new doctrine permitted general investigations of any suspected problem or abuse. Nor was increased involvement confined to the multiplication of formal investigations. Decline in strict construction of “execu-
tive” prerogatives combined with the rise of standing committees enjoying continuing departmental contact also led to increased involvement in administration through the regular processes of examining proposals for legislation. Similarly, the role and influence standing committees acquired gave individual members leverage for expanding their personal involvement on matters relating to their districts and constituents. In sum, then, what occurred was increased Congressional participation and control due to both a broadening of the substantive questions the House regarded as properly within its purview and an expansion of the means of forms of involvement.

In citing these outcomes we do not wish even indirectly to exaggerate their dimensions. The House of 1829 is not the modern House, the House of the 1890's, or even the House of the 1860's. If a standing committee system had emerged and taken command of the initial handling of business, the procedures governing the introduction and references of bills and committee powers over bills remained at an early stage of development. Another half century of growth and adjustment was required before the rules and precedents provided for the introduction of bills solely on the volition of members and automatic reference off the floor to the appropriate standing committee, while simultaneously barring instruction and rendering discharge impossible except through special mechanisms. Indeed, in the case of discharge it took several additional decades for the system or approach now in use to emerge. Similarly, the various limitations on debate and dilatory motions that now prevail as well as the various special calendars and procedures that now order the access of business to the floor are products of nineteenth-century development subsequent to 1829 or, in some cases, of the early decades of the twentieth century.

The need for historical perspective applies to other areas as well. If the norms of specialization, deference, and apprenticeship had taken hold in the House by the late 1820's, their strength was undoubtedly greater at the end of the nineteenth century than in the 1820's, and still greater in the twentieth century than in the nineteenth. The greater powers over bills granted to committees during the nineteenth century, though not primarily caused by increased allegiance to these norms, nonetheless testify to it; whereas in the twentieth century the marked decline in membership turnover and the hardening of apprenticeship norms into strict seniority control of committee advancement have entrenched the norms of specialization, deference, and apprenticeship even more deeply. Nor is the status of the standing committees as organized entities comparable. The current degree of institutionalization in terms of subcommittees, staffs, internal procedures, and membership stability is far greater and appointment procedures far different than when the second Adams retired from office. Here the twentieth century rather than the nineteenth has had the major impact. Moreover, the very structure of the standing committee system in terms
of number and jurisdiction is a product of continued growth in the nineteenth century and major as well as minor reductions and amalgamations in the twentieth.\(^{537}\)

Finally, the expansion in the House’s oversight role should not be misconceived. If the boundaries of legislative involvement in administration became quite vague and plasticable, in practice the House did not push these boundaries as far as they have been pushed today. As should not be surprising given the differences in time span and policy problems, the House in 1829 still continued to be governed by a far stricter sense of the limits imposed by the grant of executive power to a separate branch than is the case today. This is true both in terms of substantive topics or questions and in terms of means or forms of control. Leonard White notes that in the Jacksonian period the ordinary flow of work through the departments was left to executive discretion within broad statutory assignments of function. In contrast, current practice recognizes fewer limits than even the late nineteenth century, by which time little of this substantive sense of restraint remained. For example, current practice permits the negotiation of contracts, a highly administrative act, to be subject either formally or informally to Congressional review and approval.\(^{538}\)

Similarly, interpretation of the forms of House action that constitute interference with executive prerogatives remained far stricter than is the case today. Exercise of the investigative function continued to be conceived as something properly special or intermittent, something to be confined to abuses. Except in the area of auditing expenditures, the notion of continuous oversight by standing committees was rejected. This attitude remained dominant throughout the nineteenth century and well into the twentieth. The emergence and acceptance of the notion of continuous oversight in the 1940’s represented a distinct break with past tradition, though this was largely obscured by the plasticity of doctrine and a century of erosion in strict interpretation of the separation of powers principle. In addition, the men of the 1820’s would regard some of the other oversight techniques now in use as improper, e.g., the legislative veto and use of language in committee reports and hearings to instruct or direct administrators.\(^{539}\) Indeed, even the weapon of appropriations was approached far more conservatively. Though the fight over the Jay Treaty in the 1790’s settled the question of the House’s power to deny funds, most members in the late 1820’s believed that the inclusion of provisos in the appropriation acts, directing how money was to be spent or not spent, constituted an infringement of executive prerogatives. Thus, the use of provisos did not become a regular occurrence until succeeding decades.\(^{530}\)

Yet, if it is important not to exaggerate the extent of institutional development in the Jeffersonian period, it is nonetheless true that events or outcomes in this period made a critical contribution to the satisfaction of the first
functional need we have identified. The emergence of a standing committee system and the developments in theory and practice associated with it provided basic and lasting foundations for a decision-making structure that could operate in an autonomous, effective, and efficient manner.

On the input side the House's problem was somehow to preserve the ability to draw on executive resources while still maintaining its capacity to make its own decisions. Both requirements, though conflicting, are essential for the House to sustain its role as basic policy determiner in the system. Reliance on specialized standing committees to handle the initial stages of business provided an ingenious, if not anticipated, solution. Such units have the singular ability to serve as an easy means of communication with executive officers, while still preserving and enhancing the House's capacity for evaluation, revision, and even initiation. And this is all the more true the greater the degree of organizational stability and elaboration in terms of tenure, structure, and resources.

On the output side the House's problem was to establish an organizational base for effective and efficient decision making so as to maintain dependence on it as basic policy determiner in the system. Here too events in the Jeffersonian period made a significant and lasting contribution. Division of labor involved advantages for effectiveness and efficiency as well as autonomy. The expertise developed by specialized standing committees provided vital underpinnings for effective or rational decision making. At the same time reliance on specialized standing committees bolstered the efficiency of House decision making and in so doing bolstered its comprehensiveness as well. Such units could and did begin to serve in a wide variety of policy areas both as sifters of the business on behalf of the House and as agents on whose judgment the House could rely in making decisions. Moreover, the additional resources in terms of time and knowledge that derived from reliance on standing committees rather than the Committee of the Whole permitted expansion of the House's oversight role.

Nor does this recital of the manner in which events in the Jeffersonian period provided basic organizational foundations for autonomy, effectiveness, and efficiency exhaust their long-run significance or impact. To a large degree what these outcomes provided as foundations was adaptive capacity and hence in many important regards they shaped the course of future development as well. Thus, if the system of introducing business and handling it at the committee stage that ultimately emerged is quite distinguishable from the system that prevailed in 1829, the changes in large part represent adaptations designed to preserve or extend the gains in terms of effectiveness and efficiency that derive from reliance on specialized standing committees. The evolution toward complete freedom in the introduction of bills represents a response to the leeway or opportunity for
The events of the Jeffersonian period also helped shape the future course of development with regard to our first category of decision-making need in yet another respect. Though the establishment of a beneficial division of labor is critical to endowing the House with a capacity for autonomous, effective, and efficient decision making, it is not fully determinative of it. Rather, the satisfaction of technical decision-making needs is also dependent on an organization's ability to integrate, to unify its various components to the extent necessary to produce decisions. The House therefore must not only provide for specialization, it must also, given the kind of organization it is, include a capacity for aggregating majorities within and across its various structural divisions.

Admittedly, the long-run contribution of events in the Jeffersonian period to providing foundations or adaptive capacity with respect to integration was far less than in the case of division of labor. The primary sources of integrative capacity in the House are party and centralization in the formal structure and for a variety of reasons there was not much institutional development in either regard during the Jeffersonian period. Nonetheless, events in the period were not entirely without significance. Reliance on standing committees per se has implications for integration as well as specialization. Though the effects are far from uniformly favorable to integration, first reference to standing committees facilitates the process of majority construction by introducing a stage of majority building prior to floor action and by adding deference to supplement party cohesion as an aggregative force. A second contribution of events in the Jeffersonian period is of greater importance, at least historically. The solution the nineteenth century ultimately applied to the problem of integration in the
House after many decades of structural elaboration was to concentrate
great power in the Speaker as agent of the party majority. This involved
a wide variety of developments for which little or no base was laid in
the years before 1829: limitation of debate and dilatory motions, centralized
control of the agenda, emergence of the caucus as a legitimate and enduring
mechanism, etc. Still, the Jeffersonian period preserved and extended the
office of Speaker and provided this office with one of the most important
foundations of its power and potential for future growth—control over
committee assignments.

In closing our discussion of the long-run impact of the Jeffersonian period
on the satisfaction of House decision-making needs with regard to au-
tonomy, effectiveness, and efficiency, the significance of traditional Jeffer-
sonian attitudes should also be recognized. Appearances to the contrary
these attitudes were far from insignificant. To be sure, traditional doctrine
regarding reference to the Committee of the Whole lost its hold both in
theory and practice by the late 1820's and was countered and finally replaced
by new notions and practices. Nonetheless, one broad and equally basic
strand of traditional thought was highly involved in all the key outcomes
of the period—the notion that the legislature in fact as well as form should
be the lawmaking branch, should be the basic determiner of policy in the
system.

From the start this strand of Jeffersonian thought existed along with
the strand that emphasized the equality of members. Though norms were
originally determined by this latter strand, no deep conflict was assumed
to exist. It was rather assumed that all ends could be maximized simulta-
neously, that the House could rely on modes of decision making that
restricted structural distributions of influence and still maintain its position
as lawmaker or policy determiner in the system. This proved to be an
overly optimistic, if not naive, reading of the character of the constraints
that were present. In a significant sense the history of the Jeffersonian
period is a history of continued adjustment to the conflict among ends
that existed and the overall tendency was to limit pristine notions of majority
rule in terms of perceptions of what was needed to guard and extend
the House's ability to maintain its independence and its control over policy
in the system.

Thus, if the course of development in theory and practice was adverse
to traditional Jeffersonian attitudes with regard to the Committee of the
Whole, it was in accord with an equally basic strand of Jeffersonian thought.
Indeed, it is doubtful whether a standing committee system could have
developed or the oversight role of the House expanded in a context in
which Jeffersonian notions regarding the role of the legislature were not
present and highly influential. Nor has the long-run significance of Jeffer-
sonian theory in this regard been restricted to its effects in fostering or
motivating key outcomes in the Jeffersonian period. On the contrary, these attitudes continued to have a direct impact in and of themselves. Future adaptation and development of the committee system and the House's oversight role continued to be premised on strong allegiance to the traditional Jeffersonian concept of legislative policy preeminence. In sum, then, the fact that Jeffersonian theory embodied a particular view of the role of the legislature has been of immense significance both directly and indirectly. At heart, it is these basic Jeffersonian assumptions regarding role that have shaped the character of the House's technical decision-making needs. If the House throughout its history has had intense needs with regard to autonomy, effectiveness, and efficiency, it is because Jeffersonian premises have controlled both internal and environmental definitions of the broad contours of the legislature's role.

Legitimacy

The first category of decision-making need, though important, does not exhaust the decision-making requirements of the House. As we have argued above, the decision-making structure must not only endow the House with a capacity for acting in an autonomous, effective, and efficient manner; it must also be capable of inducing both members and actors in other subsystems to regard its processes and outputs as legitimate. As a consequence, the decision-making structure must provide for independent and rational decision making, but it must do so while granting each member certain essential forms of equality, according discussion a key role in the resolution of differences, and basing decisions on majority support. It must, in short, be shaped by ideal as well as technical needs, by the parameters of democratic decision making as well as considerations of technical rationality.

The traditional Jeffersonian viewpoint regarding the nature of the constraints imposed by these parameters was quite severe. In their original or pristine state Jeffersonian attitudes toward the character of democratic decision making were highly atomistic, high antithetical to structure. Up to this point we have explained such atomism solely in terms of the egalitarianism that served as the dominant motif in this strand of Jeffersonian thought. It is time now, however, to broaden our analysis. We may recall from our discussion of reporting by bill that Jeffersonian regard for the Committee of the Whole rested on more than one prop. It did derive from the belief that advice or prearrangement by smaller committees would distort the process of ascertaining the sense of the majority by giving some members more influence over and responsibility for outcomes than others. But the Jeffersonians also prized the Committee of the Whole because it offered a free or unfettered forum for discussion. Due to its virtues in this regard, they saw it as the mechanism best suited to elicit a true sense
of majority will through a process of rational deliberation among independent and responsible beings. Given this dual emphasis, the Jeffersonian ideal fully stated was free or unstructured decision making through discussion among members equal in status and responsibility for results. As such, its egalitarianism was combined with strong strains of individualism and rationalism and all three strains fed its antipathy to structure.

Nor were traditional Jeffersonian attitudes heavily influenced by technical considerations. As we have noted, traditional Jeffersonian theory assumed no basic or deep conflict between the House's technical decision-making needs and its ideal decision-making needs. Rather, the old Jeffersonians believed that the House could get along with a minimum of structure and thereby preserve the highly atomistic decision-making process that best served the cause of majority rule, while still retaining sufficient capacity to make rational or effective decisions in an efficient and autonomous manner. This is not to imply that the old Jeffersonians did not temper their ideal goals to any degree. Nonetheless, the Jeffersonian position on use of smaller committees was very guarded. Once crystallized, Jeffersonian doctrine postulated the first reference of important subjects to a Committee of the Whole except under special circumstances and prohibited the introduction of bills, especially on important subjects, until principles had been settled in a Committee of the Whole.

Yet, despite its abstract appeal, traditional Jeffersonian doctrine with regard to the Committee of the Whole could not be sustained indefinitely either in theory or practice and became a relic of the past well before the end of the Jeffersonian period. The conflict between the technical and ideal decision-making needs of the House was deeper than the old Jeffersonians realized. Jeffersonian atomism could not be accommodated with the House's need for autonomous, effective, and efficient decision-making capability even in the early decades of the nineteenth century when the constraints imposed by the size of the House and the volume and complexity of the workload were far less than they would become in the subsequent course of the nineteenth and twentieth centuries. The House simply could not be as inchoate, voluntary, or leaderless a body as traditional Jeffersonian theory assumed, a fact Jefferson himself recognized as President and sought to compensate for through the skillful injection of his personal leadership and influence.

The Jeffersonian solution to meeting the House's ideal decision-making needs thus failed because of an inadequate reading of the limits to atomistic democracy. Nonetheless, the failure of traditional Jeffersonian doctrine does not mean that events in the Jeffersonian period or that Jeffersonian attitudes toward democratic decision making no longer influenced the satisfaction of the House's ideal decision-making needs. On the contrary, both had a significant and continuing impact on future institutional development
concerned with interpreting or reinterpreting the precise requirements of the broad parameters of democratic decision making.

The decline of the Committee of the Whole and the rise of the standing committees determined that the House would contain appreciable amounts of structure and hierarchy, that it would not be atomistic and amorphous. In so doing these developments destroyed the Jeffersonian formula, lopsided though it was, for accommodating the House's technical and ideal decision-making needs. The degree of structure, the extent of the distribution of influence through formal arrangements, would henceforth be greater than Jeffersonian theory in its traditional pristine and stringent form could encompass within the boundaries of its conception of majority rule. Yet the need to establish and sustain belief in the legitimacy of the House's decision-making processes and output did not disappear because the traditional Jeffersonian interpretation of what constituted democratic decision making proved to be unrealistic. Similarly, the basic prerequisites of legitimacy, the basic contours of ideal decision-making needs, did not change because the traditional Jeffersonian formulation of their proper implementation in terms of concrete mechanisms and processes failed. Rather, the broad parameters of democratic decision making continued to govern and to require detailed interpretation in operational terms and they did so in a context that now was shorn of simplistic assumptions regarding the feasibility of keeping the degree of structure in the House minimal. As a result, events in the Jeffersonian period defined a problem which the House, due to continuing change in underlying substantive and political factors, has had to come to terms with repeatedly in different eras of its history—the problem of balancing an intense need for structure and hierarchy with an equally intense need to shape or temper structural elaboration in terms of dominant conceptions of what the broad parameters of democratic decision making permit or require.

The significance of ideal decision-making needs is often ignored and conflict over majority rule treated simply as a struggle for advantage among opposing interests. At the same time the technically based or oriented norms associated with the emergence of the committee system alone are regarded to be of true theoretical significance. To do this, however, is to take a much too narrow view of the role of conceptions of majority rule and strife over them. Technical or operational norms are of great importance. But they cannot confer justness of legitimacy on House processes or decisions. As a consequence, they cannot maintain acceptance of or dependence on House decisions by actors in other subsystems, or make House decision-making processes tolerable to members whose cherished policy desires have been frustrated, but whose active and orderly participation in the organization is still essential for its operation.

This is not to deny that struggle for advantage on the part of particular
interests is involved in conflict over the structural requirements or exigencies of majority rule. But self-interest is not the only factor involved nor is the significance of such discord confined to the gains achieved by particular interests. Clashes over majority rule rather involve disruptions in previously accepted accommodations between technical and ideal decision-making needs, disruptions that stem both from changes in the nature of the constraints imposed by specialization or integration needs and from changes in the nature of the constraints imposed by ideal conceptions. In the latter case alterations in factional alignments that transform the effects of existing structure on the capacity of majorities to form and attain their desires are usually also involved; but they serve largely as catalysts rather than as factors that dictate either the character of change in ideal conceptions or the structural modifications that flow from such changes. Thus, both the causes and significance of conflict over majority rule are broader than self-interest. Indeed, self-interest can more correctly be seen as a medium for forces and outcomes of greater functional significance than can any of these factors, including ideal conceptions, be reduced simply to self-interest.

In sum, then, the House since 1829 has repeatedly had to face a problem which the rise of the standing committee system defined or brought into focus and whose causes and significance exceed self-serving aggrandizement by particular interests—the problem of balancing the needs of structure and democracy. Nor are the events or outcomes of the Jeffersonian era the only aspects of the period that have had a long-run impact on the future course of development with regard to the House’s ideal decision-making needs. Here as elsewhere, Jeffersonian attitudes also have had a significant effect.

The failures of Jeffersonian theory should not be exaggerated. As we suggested earlier, the demise of Jeffersonian doctrine regarding the precise operational implications of democratic decision making does not mean that more general Jeffersonian notions concerning the proper role and status of the individual member and the proper character of collective decision making did not have a continuing impact. In part, this impact derived simply from the fact that Jeffersonian attitudes toward the freedom and equality of members, as well as the role of reason in decision making, embodied the broad parameters of democratic decision making as first premises with the result that they served as vehicles or mediums for these parameters after 1829 as before. This being the case, if Jeffersonian doctrine regarding first reference and reporting by bill disappeared, members nevertheless remained attached to discussion and majority rule. However, the continuing influence of Jeffersonian modes of thought exceeded simple transmission and inculcation of general principles of democratic operation. Despite its failures, Jeffersonian theory continued to have an impact on
the manner in which the more precise implications of the broad parameters of democratic decision making were interpreted. Here again, if Jeffersonian doctrine regarding reliance on the Committee of the Whole lost its hold, attachment to the egalitarian, individualistic, and rationalistic premises that underlay this doctrine remained strong. Indeed, what immediately replaced traditional Jeffersonian doctrine was not a new synthesis, but rather a weakened and compromised version of old theory. This version retained the egalitarian, individualistic, and rationalistic biases of traditional theory, but accepted reliance on standing committees as necessary and reinterpreted majority rule to require only adequate review and control by the whole House.

As a result, the basic definition of ideal decision-making needs remained unchanged, even if less stringently applied. The ideal remained free or unstructured decision making among equals through discussion. Thus, in the decades following 1829 most proposals involving further limitation of the freedom or equality of members continued to be negatively evaluated in terms of democratic decision-making needs and were only subject to justification as necessary evils on the basis of practical rather than ideal considerations. The major area of exception concerned limitation of debate which could be justified in terms of quantitative notions of majority rule common to all democratic theory, including Jeffersonian theory. Even here, however, such justifications contradicted not only the individualistic strain of Jeffersonian theory, but also its rationalistic strain, its emphasis on identifying a sense of majority will through discussion rather than equating it with sheer numerical preponderance.

Nor, as we shall see in more detail in the pages that follow, has the influence of Jeffersonian theory been limited either to obstruction or to the nineteenth century. Rather, its egalitarian and individualistic orientations, though modified and reinterpreted to fit different circumstances, have been an element in rules changes in the twentieth century designed to increase the degree of democracy in the House. In short, then, traditional Jeffersonian attitudes have continued to be influential far beyond the boundaries of the Jeffersonian period. Jeffersonian orientations toward egalitarianism, individualism, and even rationalism have had a heavy impact on the minds of House members throughout our history. If this impact has not been unrelated to the conjunction of these antihierarchical orientations and members' district as well as career interests, it is still true that the attitudinal component cannot be dismissed as mere rationalization but rather must be seen as a product of a heritage dominated on the whole by a particular point of view.

If we now extend our analysis by briefly examining actual developments in the nineteenth and twentieth centuries, we can understand far more concretely the lasting impact that attitudes and outcomes in the Jeffersonian
period have had on the satisfaction of the House's ideal decision-making needs. The broad, overall trend of development in the nineteenth century was toward a new and comprehensive resolution of the critical problem that emerged in the Jeffersonian period, the problem of accommodating both structure and democracy. This new synthesis was based on the concept of party government and in terms of its own premises it did substantially resolve the conflict between technical and ideal decision-making needs.  

Party government requires a concentration of power and in the nineteenth century House it was achieved both through centralization in the formal structure and through maturation or development of the informal or party structure. Such concentration was highly conducive to the satisfaction of technical needs. The changes in the formal structure that concentrated power in the Speaker and party majority, e.g., limitation of debate, increased committee power over bills, and centralized control of the agenda, as well as the developments in party structure that expanded the ability of the Speaker to command and deploy his partisan support, e.g., the reemergence of the caucus on a continuing and legitimate basis, the growth of the role of majority leader to its modern proportions, and the appearance of whips, all had a similar broad effect. They substantially augmented the integrative capabilities of the House without diminishing its potential for specialization. At the same time concentration of power in the hands of the Speaker and majority party could be seen as necessary and proper in ideal terms. Party government in the House was neither a child of traditional thought nor bound by its strictures. It rather involved a new theory of democratic decision making which equated majority rule with rule by the party majority and saw the Speaker as the agent of this majority.

Yet strict party control of the House through the Speakership did not easily or quickly emerge. On the contrary, development was slow and halting. Though there were intermittent sets of Congresses in which party cohesion was high and the caucus very active, it took most of the century for all the changes in structure and attitude necessary to establish party government on a secure and continuing basis to occur. As we noted earlier, such features of the formal structure as centralized control of the agenda or comprehensive ability to limit obstruction through debate or dilatory motions did not come into being in one fell swoop. They rather emerged over many decades as a cumulative result of discrete procedural changes designed to alleviate quite particular problems. Indeed, until very late in the century it is extremely doubtful that the proponents of such changes intended or anticipated the final result, though the overall trend was consistently toward change that directly or indirectly facilitated the ability of the party majority directed by the Speaker to work its will.

Though still largely shrouded in mystery due to a surprising lack of scholarly attention, the development of party mechanisms and leadership
positions also appears to have required many decades of growth to reach maturity.\textsuperscript{382} As late as the Congresses immediately following the Civil War, Congresses in which party feeling was extremely high and large numbers of caucuses were held in both House and Senate, there still seems to have been considerable disagreement over whether the caucus was a meeting of fellow partisans whose decisions served only as guidelines or a deliberative organ whose decisions were binding on all participants. In addition, though by this time the role of majority leader had emerged and become very important, the role of whip did not begin to crystallize until the final decades of the nineteenth century and a permanent and comprehensive whip position or office was not created until the late 1890's. Similarly, it took many decades for the complex of attitudes, upon which party government is equally dependent, to emerge and become dominant in the minds of most members. The key attitude here is the notion that party responsibility is essential to representative government, that it is the only way in which popular choice and control can be truly realized. However, also involved as corollaries are the following: that members run as partisans, not individuals; that they are obligated to support party positions; and that to refuse to defer to the collective judgment of one's fellow partisans arrived at in caucus is pretentious and irresponsible unless very deep feelings of conscience or explicit district pledges are involved.\textsuperscript{383}

The potential for establishing party government on a full fledged and continuing basis thus did not exist in the House until the late nineteenth century and it was not until the promulgation of the Reed rules and the full emergence of the Rules Committee in the early 1890's that the century long development toward strict party control through the Speakership finally reached fruition. A major reason for such lengthy and piecemeal development was the persistence of traditional Jeffersonian modes of thought which were highly antithetical both to increased concentration of power in the formal structure and to subordination of the individual member to party either in terms of representative status or judgment.\textsuperscript{384} Here again, this is not to deny that career and district interests were also involved as factors that obstructed the establishment of party government, but only to accord independent importance to historically entrenched attitudes.

Moreover, once achieved this new synthesis of the House's ideal and technical decision-making needs enjoyed only a brief reign of about two decades before it was shattered in the revolt against the Speaker in 1910–11.\textsuperscript{385} Here too, traditional Jeffersonian attitudes played a key, though not exclusive, role in the result. Jeffersonian orientation toward egalitarianism, individualism, and rationalism never totally disappeared, but were simply overwhelmed in the latter part of the nineteenth century. However, two decades of Czar rule, as the system of party government in the House came popularly to be called, reinvigorated them by the penalties it visited
on individual members at odds with the Speaker and the interests or policies they held dear.

The guiding assumptions of the Progressive or Insurgent Republican attack on Czar rule reflected traditional Jeffersonian attitudes toward democratic decision making. Men such as George Norris, John Nelson, and Victor Murdock objected to the mutually reinforcing sources of power the Speaker derived from his position in the formal structure and his ability to use the caucus to mobilize support. On the basis of their experiences in the House they became deeply convinced that the consequences of such centralization were pernicious; that it permitted the Speaker both to coerce individual members into obeying his will and to control outcomes in terms of what a majority of the majority party, rather than a majority of the House, favored. The repugnance they felt for Czar rule led them back to older Jeffersonian articles of faith. Their predisposition in favor of the freedom and equality of members soon hardened into the firm belief that the individual member should be free to vote his own judgment or conscience and that the House should be governed by actual majorities that formed freely on the basis of discrete individual wills and beliefs.

In addition, the Insurgent Republicans shared the rationalism of Jeffersonian thought, though to a lesser degree than its egalitarianism and individualism. They did not place much emphasis on the benefits to be derived from collective discussion or deliberation; but, in accord with their belief in the sanctity of individual judgment or conscience, they did assume that reason, as much if not more than interest, would provide the threads for uniting discrete individual wills into majorities. All this, however, is not to say that the Insurgent Republicans rejected party allegiance or combination on the basis of party. A century of party development had left its mark on them as well as the supporters of party government and they too believed that party would and should play an important role in the House. Nonetheless, their insistence that party allegiance and combination be based entirely on belief or conscience with the individual member free at any time to vote as he saw fit linked them to traditional Jeffersonian egalitarianism and individualism, rather than to later modes of thought that approached democratic decision making in terms of collective responsibility and discipline through party.

The Progressive or Insurgent Republicans, of course, were not the only group involved in the revolt against the Speaker. The senior partners in the reform coalition by virtue of their number were the Democrats. The Democrats had many motives in joining the attack on Czar rule, not the least of which was sheer political gain. Yet they too reflected the influence of traditional Jeffersonian attitudes, though they, like the regular Republicans, were and remained advocates of party government. The Democratic position on party government never accorded the Speaker the full primacy
the Republican one did. Though believers in party responsibility and discipline, they never accepted the notion that party government necessarily involved as much concentration of power in the Speaker as Republican doctrine proclaimed. As a consequence, they were not as wedded to the Speakership as the Republicans and during Cannon's terms of office became convinced on the basis of their experiences in dealing with him that the Speaker had become a high-handed oligarch who should be stripped of power. The Democratic case against Czar rule was thus also based on egalitarian and individualistic premises, though circumscribed by the concept of party government. Their contention was that to concentrate so much power in the Speaker distorted the process of democratic decision making in the House by making it impossible to determine the true sentiments of the party majority in caucus and by leading to the abuse of the rights of minority members.

The revolt this strange combination of Democrats and Insurgents accomplished reversed the broad trend of a century of development in the House and stands as one of the great turning points in its history. Yet, the long-run results involved major consequences neither group anticipated. More important, if the revolt itself constitutes the House's most cataclysmic encounter with the problem of resolving the needs of structure and democracy, no ultimate solutions were effected. Within a few decades the problem first defined or posed by the Jeffersonian period had reemerged and had done so in a context in which Jeffersonian or neo-Jeffersonian conceptions of ideal needs were again dominant but more difficult than ever before to accommodate.

A sketch of the actual outcomes of the revolt in terms of Insurgent and Democratic aims and expectations will clarify the point. Though united by a common antipathy to Czar rule that derived at least in part from shared dispositions toward egalitarianism and individualism, the basic aspirations of the two partners were quite different. The Insurgents desired nothing less than to eliminate party government and to reestablish an institutional context favorable to rule by uncoerced or freely forming majorities. As a result, their program of rules changes included both the elimination of key aspects of the Speaker's formal power, e.g., his control over committee appointments, the Rules Committee, and minor business, and the introduction of added flexibility into the formal structure through new mechanisms that would prevent persons or groups in positions of power from blocking emerging majorities, e.g., Calendar Wednesday and a new discharge procedure based on petition. Moreover, they hoped by reducing the rewards and penalties in the hands of the Speaker and by continued pressure and argument within the House to end the practice of taking binding votes in caucus. In contrast, what the Democrats desired was to destroy the oligarchical power of the Speaker, but to preserve party govern-
ment. They were therefore willing to join with the Insurgents in stripping the Speaker of key aspects of his formal power and even in attempting to create added flexibility in the formal structure. However, they were equally determined to preserve the caucus and the possibility of governing the House through it. Nor did they see any reason why party government could not be continued indefinitely as long as due care was exercised over the form of the new procedures adopted as a consequence of the revolt. They accordingly had very definite ideas about the character of new procedural arrangements and when necessary used their superior numbers to force the Insurgents to abandon versions of procedure they felt would be harmful to informal party rule through the caucus.

The belief of the Democrats that the House could continue to be ruled indefinitely on the basis of party responsibility and discipline proved to be misguided. Once the props the formal powers of the Speaker supplied to party cohesion and discipline were removed, party rule of the House through party control mechanisms could not long sustain itself. The Democrats, as they planned, did use the caucus extensively for about five years when they gained control of the House in 1911. Nonetheless, by Wilson's second term usage had become sporadic. Usage for decision-making purposes continued to be sporadic in both parties in the 1920's and 1930's and ceased entirely after 1940. Similarly, neither the attempt of the Republicans when in control of the House in the 1920's nor the Democrats when in control of the House in the 1930's to compensate for the decline of the caucus by creating and relying on a steering committee succeeded. In both cases use of this mechanism as an instrument of party rule had to be abandoned.

What progressively replaced party rule through party control mechanisms was a highly pragmatic approach to assembling the majorities needed to pass party bills and a highly permissive, personal, and informal leadership style. These combined with increased party fractionalization and the rise again to dominance of attitudes that accorded primacy to the individual member and scorned party discipline as rank coercion resulted in the modern or contemporary House of Speakers Rayburn and McCormack (1940-1970). In this House party remains the basis of organization and the most cohesive force. But it provides no basis for strict control of the body. The majority party leadership does not operate through party control mechanisms or count on a stable partisan majority to pass its bills. Though it normally can expect substantial support from its own partisans, the sources vary from issue to issue and are often insufficient to provide a majority. As a result, the leadership must construct its majorities anew from issue to issue through bargaining, appealing to party loyalty, bringing the President's influence to bear, and exploiting both the credits it has amassed from past favors and hopes for future rewards.
However, if the House moved toward the Insurgent goal of rule by freely forming majorities both in terms of ideals and practice, the Insurgents failed by a wide margin to realize this objective. Their aims and expectations, as well as those of the Democrats, were seriously thwarted by the course of events subsequent to 1910. As in the case of the old Jeffersonians, the Insurgent Republicans underestimated both the need for structure and leadership and the limits imposed by them. Over several decades the combined effects of the reduction in the Speaker’s power and the decline of party mechanisms did substantially reduce the degree of hierarchy in the House. But an inevitable result of limiting hierarchy was to reduce overhead control of the holders of key positions in the organizational structure which, in turn, enhanced their ability to block or water down measures they or the party faction they represented opposed. Thus, the great difficulties the majority party leadership has had since the late 1930’s in guiding its bills through the organizational structure of the House represent only the culmination of a trend initiated by the revolt against the Speaker. Vitiating the Speaker’s ability to rule the House on behalf of only a majority of the majority party was not the only consequence of the assault on the Speakership. Though its full impact was not felt until party division or fractionalization reached a certain level of intensity, a prime consequence of the revolt was also to impair the ability of the majority party leadership to construct and lead actual majorities to victory.

Nor did the attempt to combine the attack on the Speaker’s powers with an attack on the rigidities of organizational structure compensate for this result. Measures, such as Calendar Wednesday and discharge, which were designed to create additional flexibility in the organizational structure, to give majorities the ability to form and attain their desires without aid or sanction from the majority party leadership, floundered on the minimum specialization and integration needs of the House. On the one hand, the organizational structure of the House could not be substantially pared or altered. Attempts to create added flexibility were therefore severely limited by existing organizational forms and constraints, e.g., the need to protect committee control of the business or the complex of procedures and mechanisms for channeling business to the floor. On the other hand, the House’s necessary dependence on the majority party leadership to supervise operations and guide the course of business was also a source of constraint. If the leadership could tolerate severe reduction in its ability to push its programs through the House, it could not tolerate displacement of its role as organizer and director of the coalitions formed to pass party measures nor any substantial impairment of its ability to obstruct measures embarrassing or distasteful to a majority of its fellow partisans. As a consequence, after some tinkering with Calendar Wednesday and recurrent experimentation with discharge up through the mid-1930’s, both parties opted
to leave or make the requirements for operating these mechanisms so onerous that they could only be used by or with the cooperation of the majority party leadership and even then only with great difficulty if anything controversial was involved.  

Given these outcomes, the problem of accommodating both structure and democracy, first posed or brought into focus by the Jeffersonian period, has reemerged with new stridency in the contemporary House. The revolt against the Speaker not only decimated the synthesis based on party government; in addition, it lead, as attitudes toward party responsibility and discipline changed and party mechanisms disintegrated, to a substantial increase in the difficulty of satisfying ideal needs.

In large part, this increased difficulty has stemmed from the impediments to realizing an atomistic version of majority rule, of instituting rule by freely forming majorities, in a context in which organizational structure is and must be very elaborate to meet technical needs. To be sure, even in 1829 organizational structure had grown sufficiently elaborate to rule out the realization of any highly pristine notion of freely forming majorities. Still, it is one thing to accommodate such an ideal in a context in which majorities on the floor can easily exercise control over reference, discharge, and the agenda and quite another when such matters are closely prescribed or controlled by distinct organizational units.

It is also true that organizational forms and procedures were quite extensive at the turn of the century and the degree of hierarchy greater than it is today. Still, it is one thing to accommodate ideal needs when they are defined in collectivist terms and quite another when they are defined in egalitarian and individualistic terms. The concept of party government provides a single and stable majority in whom and/or whose leaders power can legitimately be concentrated. As a result, the needs of majority rule can be satisfied while simultaneously enhancing integrative capacity and not impairing specialization. In contrast, any attempt to combine an elaborate organizational structure and rule by freely forming or shifting majorities encounters very difficult problems.

This is the case not simply because organizational constraints and the necessary role of the party leadership vitiate the possibility of rule by freely forming majorities in the broad sense of permitting any and all majorities that can form to do so and attain their desires. In addition, as our analysis of outcomes with regard to Insurgent goals also indicated, even the possibility of rule by freely forming majorities in the more limited sense of the triumph of uncoerced and shifting majorities assembled by or under the aegis of the majority party leadership has been seriously inhibited in the highly elaborate organizational context of the contemporary House. The underlying causes or reasons are not hard to discover.

In the contemporary House the decision-making structure necessarily
involves manifold distributions of advantage to persons and groups in positions of authority, but ideal goals provide no definite locus in which to concentrate power to assure overhead control of these positions. Rather, power must be distributed with an eye both to allowing the leaders of the most stable and cohesive majority present, i.e., the majority party leadership, sufficient leverage to pass their programs when they can in fact mobilize majority support and denying them the kind of leverage that would allow them to ram their programs through the House or obstruct other bills on the basis of personal distaste. Such balances, however, cannot be struck with any high degree of precision. The components of organization are simply not that malleable and thus it is exceedingly difficult to increase the ability of the party leadership to attain its desires when acting on behalf of a majority it can or has mobilized without simultaneously enhancing its ability to control outcomes in the House generally.

As a consequence, the need of the contemporary House to realize an atomistic conception of majority rule in an elaborate organizational context forces it to lean toward substantial decentralization in the distribution of power. This is necessary to establish the basic preconditions or institutional setting required for rule by freely forming majorities. Nonetheless, the implications for majority rule are far from uniformly positive. Rather, since decentralization involves the restriction of integrative capacity, it has deleterious effects on ideal needs as well as technical needs. This is obvious when ideal needs are approached in terms of party government, but also true when they are approached in terms of Jeffersonian or neo-Jeffersonian premises. Though decentralization gives individual members greater freedom to make their own choices, it also gives persons and groups with leverage in the organizational structure great ability to obstruct the shifting and unstable majorities which the majority party leadership must construct and lead to pass its programs. The contemporary House accordingly finds itself in the exceedingly difficult and ironic situation of having both to embrace decentralization and somehow overcome it in order to serve the needs of majority rule.

The increased difficulty of satisfying ideal decision-making needs in the contemporary House, however, does not stem only from the strains an atomistic conception of majority rule involves when applied in an elaborate organizational context. Another factor has also had a significant effect. This factor, the growth of Presidential power in the lawmaking process, has its roots in broad and fundamental developments in both the economic and political systems. Nonetheless, here too the internal outcomes of the revolt against the Speaker have contributed substantially to the result. The progressive decline in the integrative capacity of the House that flowed from stripping the Speaker of many of his most important formal powers, including some he possessed even in the Jeffersonian period, and from
the decline in party control mechanisms and cohesion opened the way for an extension and solidification of presidential power. Especially since the New Deal, the House has found it necessary to compensate for the problems decentralization creates both for aggregating majorities and leading them to victory by increased dependence on presidential resources and influence. But these benefits have not been secured without cost. If the House has borrowed presidential resources and influence to augment its ability to make decisions, to put majorities together that can enact programs, the price has been to cede initiative in and overall direction of the lawmaking process to the President.

The party program thus has become far more the President’s program and the majority party leadership far more an arm of the President than was true in the nineteenth century. This, in turn, has significant implications for the problem of accommodating ideal decision-making needs. In the contemporary House grievances concerning the satisfaction of ideal needs focus on the power persons or groups in positions of authority have to obstruct the construction and triumph of majorities formed to pass key programs of the majority party. Yet, quite apart from the limits imposed by an atomistic conception of majority rule, steps to counter such obstruction are now also constrained by the need to protect and preserve the autonomy of the House. Given presidential leadership of the lawmaking process and the influence he can bring to bear on his fellow partisans, attempts to reduce the barriers the majority party leadership encounters in guiding party programs through the House can well involve substantial costs for autonomy. Nor is it possible to avoid the problem by approaching reform in terms of an immense reconcentration of power in the majority party leadership rather than merely piecemeal adjustments or additions. In contrast to the nineteenth century, the position the President now enjoys in the House and the party system as a whole has disrupted the unity that existed between steps to concentrate power in the House in order to enhance rule by the party majority and the furtherance of House autonomy. If Cannon could negotiate with President Roosevelt as an equal because of his command of the House, it is unlikely that any present or future Speaker can be much more than a lieutenant of his President. The House, in short, cannot go back to 1910 for reasons that extend beyond the manner in which ideal needs are conceived.

The increased difficulty of accommodating ideal decision-making needs in the modern or contemporary House does not mean that majorities have not been able to form and attain their desires or that no leeway exists for countering or bypassing the barriers that inhibit their ability to do so. In the former regard, many significant and controversial party programs have been passed in the House since the late 1930’s. In fact, the House of Rayburn and McCormack has produced some of the most important
social legislation in American history. In the latter regard, means of combatting the impediments to majority rule that stem from decentralization exist and can be expanded without transgressing the limits that an atomistic conception of majority rule imposes.

These opportunities derive from a number of sources. On the one hand, though special mechanisms or procedures cannot produce the kind of flexibility or openness in majority formation that the Insurgents contemplated, use of existing ones, e.g., discharge, or the creation of new ones, e.g., the 21-day rule, can add to the ability of the party leadership to form and lead majorities to victory. In addition, on occasion regular mechanisms or procedures can be altered to the same end, e.g., expansion of the size of the Rules Committee. On the other hand, the obstruction of majorities formed to pass party programs can also be combatted informally. Over time the leadership can pack an obstructive committee with loyal and cooperative partisans by using its influence with the party committee charged with making appointments to control the filling of vacancies. Moreover, steps can be taken to add to the ability of the party majority to act collectively to control outcomes in the House without reconcentrating oligarchical power in the leadership, e.g., substitution of caucus election of committee chairmen for appointment on the basis of seniority.

Nonetheless, whatever the existing or potential means of overcoming obstruction, the impediments to majority rule in the contemporary House have been weighty and troublesome. As we noted previously, this is true for reasons that extend beyond the failure to realize rule by freely forming majorities in a broad sense. Not only is majority rule in this sense inevitably restricted by structure; in addition, in the contemporary House the kinds of majorities that sought expression during Cannon’s Speakership no longer constitute the heart of the problem. At present, the frustrations and failures shifting and unstable majorities formed to pass party programs have suffered because of decentralization are both serious and central to the satisfaction of ideal needs. In contrast to 1910 it is obstruction of the majority party leadership and a majority of its fellow partisans rather than obstruction by them that exists as the main factor inhibiting majority rule. It is majorities with these elements at their core that have constituted the support for important new programs and suffered the most abuse.

The achievements and capabilities of the modern House should therefore not be permitted to obscure or minimize the difficulties decentralization has involved. If many important and controversial pieces of legislation have passed the House since the late 1930’s, this fact cannot be taken at face value. The passage of such legislation has often either involved great effort over several Congresses to break the grip of minorities entrenched in the organizational structure or been achieved when anomalies in the electoral system produced unusually large Democratic majorities. On the whole, in
cases where a committee chairman, a committee, or the Rules Committee has opposed a party program, success has been dependent not simply on the ability of the majority party leadership to mobilize a majority, but on its ability to mobilize a large and determined one. Even then, the potency of the means available for overcoming obstruction has often been so limited and the leverage of opponents in positions of authority so great that the leadership did not necessarily succeed. As a consequence, important party programs on a number of occasions during the past few decades have been delayed or watered down, even when in all probability they enjoyed majority support.\textsuperscript{372}

Similarly, if the means of countering obstruction can be expanded, the basic difficulties involved in seeking to combine an atomistic conception of majority rule and an elaborate organizational structure cannot be escaped. The character of organizational constraints is such that the occasions in which obstruction can be countered by changes in regular mechanisms or procedures, if not non-existent, are still extremely rare. Special mechanisms or procedures, to be sure, provide greater opportunities for enhancing majority rule. Nonetheless, the potential benefits of innovation in this regard are also quite limited. Analysis of the character and historical impact of organizational constraints in the twentieth-century House clearly indicates that these mechanisms must be restricted in reach and effectiveness as well as availability for use in order not to impair either the operation of regular forms of procedure or the majority party leadership’s role in the House.\textsuperscript{373} As for combating obstruction informally, changes in party structure to increase the ability of the party majority to act collectively to control outcomes in the House must also be restricted. The same obstacles that limit an approach to the problem of obstruction based on concentrating formal power in the majority party leadership limit an approach to the problem based on the party majority. Power can no more be concentrated informally in the party majority than formally in the party leadership without simultaneously enhancing the ability of a majority of the majority party and its leaders to ram their programs through the House and obstruct programs they oppose.

What limited ability to act to overcome obstruction means, in turn, is that, even with regard to the majorities that form to pass party programs, only ameliorative gains can be made. Sources of obstruction can be counterbalanced and at times even negated, but they cannot be eliminated. For example, caucus appointment of chairmen would increase their responsiveness to programs backed by the majority party leadership and a majority of their fellow partisans. Nonetheless, existing divisions within the party combined with the power of committees within the House and the power of chairmen within their committees would still induce and allow some chairmen on some issues to continue to be obstructive.
Nor is this the only barrier that restricts the possibility of enlarging the potential for majority rule. The reason leeway exists for expanding the means of combating obstruction is that particular sources of obstruction can be identified and discrete formal or informal changes designed to negate or counterbalance them without reconcentrating power in the party majority or its leaders. However, these sources of obstruction usually reflect the problems and divisions of particular periods in the House's history. Moreover, as long as decentralization continues, opportunities for obstruction cannot be eliminated. As a result, aside from the creation of special mechanisms such as discharge which introduce limited amounts of flexibility into the formal structure, discrete steps to counter obstruction that may well enhance the ability of majorities to form and attain their desires at a particular point in time can themselves become sources of obstruction at a later point in time when party issues and divisions alter. For example, just as appointment of chairmen by the Speaker varied as a factor contributing to obstruction in relation to the party issues and divisions of the day, so too could caucus appointment by a majority of the majority party become a major source of obstruction in different times and circumstances than have been prevalent in the last few decades. There are, in short, not only no comprehensive answers to the obstruction of majorities as long as an atomistic conception of majority rule is dominant, but also no lasting or enduring ones. The House is rather condemned to recurrent tinkering as changes in issues and party divisions combined with decentralization redefine the most troublesome sources of obstruction.

In summary, the revolt against the Speaker did not solve the problem of satisfying the House's ideal decision-making needs, but only set a chain of events in motion that redefined the barriers and made them more difficult than ever to overcome. The satisfaction of an atomistic conception of majority rule in a context in which organizational forms and procedures must be extensive and complex to meet technical needs dictates that power be decentralized in both the formal and party structures. This is not without great benefit for majority rule conceived in individualistic and egalitarian terms. It protects the freedom of the individual member and insures that the majorities the leadership does form to pass its programs will be based primarily on agreement and persuasion, rather than coercion. Nonetheless, decentralization also has substantial deleterious effects. It involves the conferring of power without control and thus institutionalizes obstructive capacity. The result is both frustration of majority will, though to varying degrees over time depending on the depth of party division, and recurrent tinkering on the part of the House to ameliorate sources of obstruction that have emerged and become troublesome.

There is no escape from these difficulties except through resurrecting party government and reconcentrating formal and informal power in the
majority party leadership. This alternative, however, is itself dependent on the reemergence of two highly interrelated conditions that are beyond the control of any single person or group dedicated to reform: a substantial increase in cohesion, especially in the majority party, and a return to dominance of collectivist concepts that would redefine ideal needs in terms of party responsibility and discipline. The latter is necessary because government of the House on the basis of a stable and cohesive party majority cannot be achieved without formal and informal arrangements and mechanisms that concentrate power in the leadership. This is essential to buttress party cohesion and regularize its level, despite variations in the amount of division from issue to issue and over time. But concentrated power, in turn, requires a collectivist conception of majority rule to justify it and render it acceptable. The former is necessary because there are substantial limits to the degree to which the cohesion required to run the House on the basis of party can be artificially produced. Though discipline can reinforce cohesion, it itself is dependent on a certain level or potential for cohesion. Otherwise, the amount of coercion needed to maintain the stability of the party majority will involve such great impingement on individual members and breed such great resentment as to destroy both allegiance to collectivist norms and the mechanisms of leadership power.

Yet, even if circumstances did change so as to permit a reconcentration of power in the majority party leadership, the dilemma the modern or contemporary House faces in seeking to accommodate its ideal decision-making needs would not be resolved. To be sure, the return to dominance of a collectivist conception of majority rule would, because of its compatibility with concentrated power, remedy the difficulties that the realization of an atomistic conception of majority rule in an elaborate organizational context inevitably involves. This cannot be denied, though whether the greater neatness or consistency of party government that derives from its superior ability to realize its premises is worth the price in terms of increased coercion and decreased flexibility in majority formation remains open to argument. Nonetheless, the modern or contemporary House, in contrast to the nineteenth-century House, would still have to be extremely wary of any solution based on party government. The role and power of the President in the House and the party system as a whole make this an avenue that cannot be followed to any substantial degree without great detriment to the basic autonomy of the House.

So much, then, for our examination of the highpoints of institutional development in the House subsequent to 1829. We may conclude that events and attitudes in the Jeffersonian period have left their mark on the contemporary House as on the Houses of preceding eras. Events in the Jeffersonian period defined or brought into focus the basic problem the House has grappled with ever since in seeking to satisfy its ideal decision-making
needs, the problem of providing for majority rule within a structured organizational context involving highly unequal distribution of power. Similarly, Jeffersonian or neo-Jeffersonian definitions of majority rule have been involved in attempted resolutions of the problem throughout the history of the House either by dominating conceptions of ideal needs or by obstructing the development and impact of opposing conceptions.

Nor is the influence of these factors at an end. There are signs on the horizon that the broad patterns of behavior and operation that have characterized and defined the modern or contemporary House are eroding. The highly informal, permissive, and personal leadership style that has prevailed in the House of Rayburn and McCormack is under increasing attack and showing clear evidence of senescence. Since the mid-1960's the Democrats have violated the seniority principle on several occasions for the first time in several decades and this year (1970) the Democratic caucus in response to mounting dissatisfaction appointed a party committee to study and evaluate it. In addition, again in contradiction to what has been invariable practice in the contemporary House, liberal Northern Democrats also succeeded at the beginning of the Ninety-First Congress (1969) in at least partially resuscitating the caucus. It has met regularly since that time and taken non-binding votes on policy issues. These developments are intimately related to the steady decline over the past few decades in the number and proportion of Southern Democrats in the Democratic majority as well as their degree of support for party programs. It was the increased alienation of this bloc in the late 1930's combined with the degree to which the Democratic leadership continued to be dependent on Southern chairmen and Southern votes in passing party programs that capped the long-run development toward the disintegration of leadership power and the emergence of an ad hoc, permissive leadership style.371

What all this means is difficult to discern. If the Democrats proceed to institute caucus election of chairmen, this will contribute to the alleviation of obstruction. However, whether this alleviation will only be temporary and disappear as new divisions in the majority party, be it Democratic or Republican, appear or whether a new and very different House in which power will be more concentrated is in the process of being created is not clear. The answer lies outside the House in the party system and the character of the alliances and divisions that will emerge. What is clear, however, is that events and attitudes in the Jeffersonian period will continue to have an impact. The difficulties the House now faces in seeking to accommodate both structure and democracy provide a continuing source of dissatisfaction and pressure for change. Indeed, at the present moment dissatisfaction over the realization of ideal needs is a much more potent and important stimulus for basic change than dissatisfaction arising from the frustration of technical needs.375 Similarly, the rate and character of
change will continue to be affected by Jeffersonian or neo-Jeffersonian conceptions of majority rule. As in the past, much will depend on the degree to which allegiance to an individualistic and egalitarian approach to majority rule remains strong.

Maintenance

The third and final category of functional need we have identified concerns the maintenance of decision-making structure. This need is no less important than the others. Still, our discussion of it can be much briefer both because analysis no longer requires any further development of basic concepts or historical background and because the impact of the Jeffersonian period has been less profound relative to other factors than in the case of the House's decision-making needs.

To analyze this impact, however, we must first recapitulate and extend certain points made in our abstract discussion of maintenance as a category of functional need. As noted earlier, the House has to do more than satisfy its technical and ideal decision-making needs. To be sure, it requires a decision-making structure that will endow it with a capacity for acting in an effective, efficient, and autonomous manner. In addition, it is equally crucial that this structure be shaped by considerations based on the broad parameters of democratic decision making so that it may be endowed with capacity for inducing members and actors in other subsystems to accept its processes and outputs as legitimate. Nonetheless, the House has maintenance needs as well as decision-making needs. It must also maintain its decision-making structure through time by providing it with the support it requires and by adapting it as necessary to insure the survival of decision-making capacity per se. Indeed, failure to preserve decision-making structure in some form necessarily leads to the destruction of the House itself since it is no more than the patterns of behavior or role sets that define it.

The House, thus, must confront two problems, both of which are critical to the fulfillment of maintenance needs. On the one hand, it must cope successfully with the problem of coherence or conflict management. Members continually suffer frustration in terms of policy goals and personal status because structure distributes power inequitably. Equally important, over time the magnitude of frustration can easily increase. This is true both because frustration is additive and because changes in structure, attitudes, or party divisions can occur that increase the degree of frustration individual members experience. Such frustration is dangerous and cannot be ignored. It breeds resentments and creates tensions that interfere with role performance. It therefore must be alleviated or countered before it causes such widespread alienation as to seriously disrupt the intermeshing of roles that forms the basis of decision-making structure and confers decision-making capacity. On the other hand, the House must cope success-
fully with the problem of motivating performance. Even if not alienated, members may well only make half-hearted or minimal efforts to fulfill their roles. This, in turn, is highly detrimental to the House as an entity or body since the structural patterns that constitute and define it will atrophy in relation to the degree to which its output fails to sustain its role in the larger system. The House therefore must overcome resistance to role performance that derives from conflicting goals and interests or sheer distaste for the nature and amount of work involved. Whatever the obstacles, it must succeed in motivating members to contribute as best they can to its successful operation.

The key to the problem of motivating performance is simply an adequate store of material and ideal incentives. The key to the problem of coherence or conflict management is less obvious and requires greater explanation. It lies in maintaining allegiance to the complex of values and norms embodied in the decision-making structure. Allegiance to these values and norms keeps frustration and its deleterious consequences in check by rendering decision-making processes and outcome legitimate. The maintenance of such allegiance requires socialization in terms of existing values and norms as well as social control and pressure to confine deviance within narrow limits. However, neither the House nor any other human organization can rely simply on socialization and control. Flexibility as well as stability is required. As we have intimated, the House must also adapt its decision-making structure over time in response to dissatisfactions concerning the degree to which existing values and norms are realized and the emergence of new values and norms. This aspect of maintenance overlaps our categories of technical and ideal decision-making needs. The task of managing conflict through structural adaptation is essentially a matter of creating new and viable balances in the satisfaction of technical and ideal decision-making needs in response to disruptions caused by changes in the severity of technical needs or changes in ideal conceptions themselves. Still, the balancing of technical and ideal needs is so relevant to maintenance that it deserves to be considered from this perspective as well as from the perspective of decision making.

Events and attitudes in the Jeffersonian period have significantly influenced the manner and success with which the House has coped with both these problems. In the case of conflict management it was the rise of the committee system in the Jeffersonian period that first brought the problem of unequal distribution of power into focus. Up to this point structure, though not non-existent, was rudimentary and the House accordingly functioned on a highly egalitarian basis. Thus, we have noted, it was the Jeffersonian period that first posed or defined the problem of reconciling structure and democracy. Nonetheless, if the committee system by distributing power unequally became a source of frustration for the
individual member, the broad or horizontal character of the distribution also involved important compensations. Division of labor and specialization relieve as well as create frustration by providing opportunities for ordinary members to exercise power and enjoy status. Moreover, the apprenticeship norms that arose with the committee system have made the frustrations that stem from unequal distribution of power easier to bear throughout the history of the House.

The influence of Jeffersonian attitudes has been even greater because of their effect on the management of conflict through structural adaptation. Given the fact that managing conflict by adapting structure consists essentially of balancing technical and ideal decision-making needs, this conclusion follows directly from the role Jeffersonian attitudes have played both as definers of the two poles of decision-making need and as sources of disruption. Jeffersonian conceptions of legislative role have influenced the content and determined the scope of technical needs. Hence, if increases in structural elaboration have disrupted existing balances between technical and ideal decision-making needs throughout the history of the House and thereby increased frustration and tension, this is due in large part to the continuing domination of traditional Jeffersonian regard for the legislature. It has been the desire to maintain legislative primacy in policy making combined with environmental changes that have made it more difficult to do so that have caused increases in the severity of technical needs, that have heightened the degree to which technical needs impose on the satisfaction of ideal needs.

The impact of Jeffersonian attitudes on ideal needs has been equally significant. As our examination of the highpoints of institutional development subsequent to 1829 indicates, Jeffersonian or neo-Jeffersonian conceptions of majority rule have usually dominated or exercised great influence over the definition of ideal decision-making needs. As a result, they have figured prominently throughout the House's history in determinations of the boundaries and claims of ideal needs, in determinations of the price to be paid to preserve or recreate an adequate or viable sense of legitimacy regarding processes and outputs. In addition, Jeffersonian or neo-Jeffersonian conceptions of majority rule have been important even in periods when they were out of favor as an alternative and disruptive source of values and norms, e.g., the Insurgent case against Czar rule. Nor is their influence simply historical. If there has been a great deal of turbulence in the contemporary House regarding the satisfaction of ideal needs, a great deal of dissatisfaction and conflict over majority rule, this is not attributable simply to the general factors we identified earlier that make for fragility in allegiance to the values and norms embodied in Congressional decision making structures. Rather, the degree of turbulence in the contemporary House is highly related to the continuing impact of Jeffersonian

attitudes, to the difficulties and frustrations that inevitably result from an attempt to realize an atomistic conception of majority rule in an elaborate organizational context.

What is true of conflict management applies to the problem of motivating performance as well. Here too, events and attitudes in the Jeffersonian period have had a significant impact. If the rise of the committee system increased the burdens imposed on the individual member both directly by requiring specialization and indirectly by vastly increasing the amount of business the House could handle, the significance of this event is not limited to its inhibiting effects. On the contrary, the incentives for performance that it also has provided have been substantial. Division of labor and specialization have made committee service the principal ladder to power and status within the House. In addition, from the Jeffersonian period to the present day appointment practices have provided considerable leeway for harmonizing the House’s interest in performance and the individual’s interest in career advancement by placing members on committees that would enhance their ability to service their local constituencies.

Jeffersonian attitudes have also been very influential. We may recall from our earlier discussion of maintenance that the House for a variety of reasons is highly dependent on ideal incentives in motivating performance, that it is highly dependent on feelings of institutional loyalty or allegiance in inducing members to fulfill their roles to the best of their abilities. In the House such feelings have been and remain strong. One cause is certainly the intensity and immediacy of collective or group life in the House. Nonetheless, a strong sense of the worth of a legislative body and the importance of membership in it cannot be rooted simply in its group life. It requires deep groundings in broad societal images that accord the legislature respect and importance since the orientations members have when they enter the legislature largely determine their potential for developing strong feelings of allegiance or loyalty to it. Moreover, if group life is to play a positive role in developing this potential, interaction and a sense of comradeship are not enough. Both the traditions of the body and the power it has actually exercised in the past must reinforce the notion that it is an entity of worth and importance. In short, it is not simply group life, but group life within a definite and particular historical context that is crucial.

If these conditions have been and continue to be satisfied in the case of the House, much of the credit belongs to the monopoly position the Jeffersonians and Jeffersonian belief in the primacy of the legislature gained early in our history. It is from these sources, far more than broad Constitutional pronouncements, that the societal images and the institutional past, necessary as foundations for ideal incentives, basically derive. Finally, we may at this point also recall that the House is highly dependent on a strong and widespread sense of the role and importance of the House in socializing
members to accept its ways of operating and in generating social pressure to reinforce allegiance to its norms. Thus, the contribution Jeffersonian theory has made as a source of ideal incentives has significance for conflict management as well as motivating performance.

This is not to deny that factors other than the ones that have occupied our attention have also had a critical impact on the House's ability to satisfy its maintenance needs. As we acknowledged earlier, such factors have been even more influential in the case of maintenance than in the case of the House's other functional needs. Two interrelated developments in the twentieth century are especially noteworthy in this regard: the increase in the tenure of members and the decline in movement out of the House to executive positions in the federal and state governments. These developments have combined to heighten the degree to which the House operates as a closed system relative to the careers of its members, to transform membership in the House into a profession or career. This, in turn, has had very important consequences for maintenance. The professionalization of membership in the House has reduced the difficulties of socialization and increased the value of the rewards in the hands of those in positions of authority. In addition, it has strengthened friendship patterns and the sense of shared condition or situation and thereby increased the vitality and richness of collective or group life in the House. As a result, it has facilitated conflict management by enhancing feelings of institutional loyalty or allegiance and intensifying distaste for conflict. There is accordingly nothing accidental about the fact that the entire range of conflict reducing norms, from those that enjoin compromise to those that enjoin courtesy and civility, are much stronger in the contemporary House than they were in the nineteenth century. For many of these same reasons the professionalization of membership in the House has also made a significant contribution to motivating performance, to providing the store of inducements the House needs to overcome resistance to role fulfillment. Nonetheless, whatever the influence of other factors, it remains true that events and attitudes in the Jeffersonian period have had and continue to have an important impact on maintenance. Here as elsewhere, neither the past history of the House nor its present state is fully intelligible without knowledge and understanding of their nature and significance.
NOTES


3. Asher C. Hinds, *Hinds' Precedents of the House of Representatives* (Washington, 1907), Section 3365. The predominant method of introducing bills in the period from 1789-1829 was on the report of a committee. Introduction of bills on leave, i.e., upon approval of an individual member's request for permission to introduce a bill, occurred at times in the early Congresses but declined so greatly as the years went by that by 1829 disagreement existed over what introduction by leave entailed. See *Debates*, 20 Cong. 1, pp. 823-827. This method, however, was fated for a renaissance after 1835 and for ultimate triumph.

4. Though the rules when first adopted contemplated a report on the part of a committee before authorization was given to it or another committee to bring in a bill, even in the First Congress the House was not reluctant on minor matters simply to authorize the bringing in of a bill when a subject was initially referred. Moreover, as time passed, the practice of allowing committees to report by bill grew increasingly common and within a few decades gained formal recognition in the rules. See Gales and Seaton, *Annals of Congress*, 1 Cong. 2, (Jan. 15, 1790), p. 1058 and 1 Cong. 2 (Feb. 1, 1790), p. 1106. See also Note 231 below and related text. Since the pagination of the various editions of the *Annals* differs for the First Congress, references to this Congress include dates. This is not necessary for the later Congresses.

5. Even when the House desired the full membership to be involved in the initial decision on a subject, a preference existed for use of the Committee of the Whole rather than the floor. Moreover, in contrast to modern practice, the Committee of the Whole was regarded originally as a true or valid committee of the House rather than as simply another mode of House operation—as the House working under another garb. It was not, however, seen as the proper agent or organ for the technical and mechanical job of actually drawing up a bill. See Alexander, op. cit., p. 256.


7. In point of fact, especially in the early Congresses, standing committees were hampered in this competition by the paucity of their numbers. A standing Committee on Elections was established in the first session of the First Congress (see *Annals*, 1 Cong. 1 [April 13, 1789], p. 122). In the second session of the Third Congress a standing Committee on Claims was established (see *Annals*, 3 Cong. 2, p. 879). The next year in the first session of the Fourth Congress standing Committees on Commerce and Manufactures, Ways and Means, and Revision and Unfinished Business were established (see *Annals*, 4 Cong. 1, pp. 141 and 159). It is true that the Committee on Ways and Means did not officially become a standing committee, i.e., was not listed in the rules as a standing committee, until 1802; however, it was regularly appointed in every session from the Fourth Congress through the Sixth (see *Annals*, 4 Cong. 2, p. 1672; 5 Cong. 1, p. 298; 5 Cong. 2, p. 672; 5 Cong. 3, p. 2444; 6 Cong. 1, p. 197; and 6 Cong. 2, p. 890). During Jefferson's
two administrations four more standing committees were added to the five already in existence: Accounts, Public Lands, District of Columbia, and Post Office and Post Roads (see Hinds' precedents, Sections 4328, 4194, 4276, and 4190).


10. For examples of references to Hamilton see *Annals*, 1 Cong. 1 (Sept. 21, 1789), p. 904; 1 Cong. 2 (Jan. 15, 1790), p. 1058; 1 Cong. 2 (Jan. 20, 1790), p. 1072; 1 Cong. 2 (April 15, 1790), p. 1530; and 1 Cong. 2 (April 9, 1790), p. 1522. For examples of references to Jefferson see *Annals*, 1 Cong. 2 (April 6, 1790), p. 1520; 1 Cong. 2 (April 15, 1790), p. 1530; 1 Cong. 2 (Jan. 15, 1790), p. 1058; 1 Cong. 2 (July 13, 1790), p. 1681; and 1 Cong. 3 (Feb. 14, 1791), pp. 1962–63. See also *Annals*, 3 Cong. 2, Appendix, p. 1290.


13. The fight against Hamilton brought into existence rival groups acting in concert in the Second Congress. For an analysis of the emergence of the Jeffersonian or Republican Party in the House see Nobel E. Cunningham, *The Jeffersonian Republicans, 1789–1801* (Chapel Hill, 1957), pp. 3–89. Jeffersonian strength increased in the Third Congress. Although in general neither Republicans nor Federalists had clear control of the House, the Republicans did gain ascendency at least on institutional issues relating to reference, committees, etc. In the Fourth Congress the Republicans extended their hold on the House, though their nominal majority was troubled by a small group of waverers. During the Fifth Congress the Jeffersonians lost control of the House and did not regain it until the Seventh Congress with Jefferson's election to the Presidency. However, they did not again relinquish it. See Alexander, op. cit., Appendix F; Harlow, op. cit., pp. 151–162; William N. Chambers, *Political Parties in a New Nation* (New York, 1963); and Manning J. Dauer, *The Adams Federalists* (Baltimore, 1953).

14. See *Annals*, 2 Cong. 1, pp. 438–452 (remarks of Sedgwick, Page, and Findley); 2 Cong. 2, pp. 695–723 (remarks of Findley, Mercer, Madison, White, Baldwin, and Ames); 3 Cong. 2, pp. 1072–80 (remarks of Nicholas, Giles, Madison, and Lyman); and 5 Cong. 2, pp. 723–724 (remarks of Gallatin). Jefferson expressed similar sentiments as his followers in Congress and supported their efforts. See Andrew A. Lipscomb, ed., *The Writings of Thomas Jefferson* (Washington, 1903), I (Anas), pp. 292–293 and letter to Thomas Pinckney (Dec. 3, 1792), VIII, p. 4434. See also Leonard White, *The Federalists* (New York, 1956), pp. 95–96. It is interesting to note in light of his previous position that Madison does not appear to have been in total opposition to having plans drawn up by executive departments. He did oppose referring to executive officers for such plans before the House had settled principles or having opinion or argument expressed in these plans. See *Annals*, 2 Cong. 1, p. 440 and 2 Cong. 2, pp. 696 and 698–701.

15. The Jeffersonians felt most strongly about the first reference of subjects dealing with finance to the heads of departments, but the nature of their argument directly and indirectly applied the point to the origination and framing of law generally. See *Annals*, 2 Cong. 2, pp. 695–723 (remarks of Mercer, Baldwin, Madison, and Findley). It should also be noted that what the Jeffersonians feared in referring to the departments first for reports was not only the influence of their opinion or systems over members' minds,
but also the settling of matters outside the legislature by private and secret arrangement and the inducements to pressure, patronage, and corruption that would be involved. See Anrals, 2 Cong. 1, pp. 449-450 and 2 Cong. 2, pp. 706 and 714. Jefferson also was vehement on this point. See Lipscomb, ed., Writings of Thomas Jefferson, I (Anas), pp. 271, 277-278, 302, 318-319, and 332-333.

16. Anrals, 3 Cong. 2, pp. 1072-73 and 1076.
17. Anrals, 2 Cong. 2, pp. 703-704.
18. Anrals, 2 Cong. 1, p. 450; 3 Cong. 2, p. 1121; 2 Cong. 2, pp. 706-707; and 3 Cong. 2, pp. 1072-73 and 1076.
19. Anrals, 2 Cong. 1, pp. 449-451; 2 Cong. 2, pp. 707 and 712; and 3 Cong. 2, p. 1078. See also Anrals, 3 Cong. 2, pp. 1120 and 1126 (Madison and Page), though these statements may be directed to executive rather than legislative prerogatives.
20. Anrals, 3 Cong. 2, p. 1074.
22. Anrals, 2 Cong. 1, p. 451. See also Anrals, 1 Cong. 2 (Jan. 19, 1790), pp. 1066-67 and 2 Cong. 1, pp. 192-194. Gerry and Fitzsimmons were at this time both considered opponents of reference to the executive by Jefferson, though both later in the same Congress supported Hamilton on this point. See Lipscomb, ed., Writings of Thomas Jefferson, I (Anas), p. 292. Here Gerry seems to be stating the more orthodox Republican position; moreover, he can, despite his flirtations with Federalism, be counted as a Republican.

The case of Gerry illustrates the difficulty that is sometimes encountered in establishing party standing throughout the whole period covered by this study. Since no comprehensive determinator of party standing exists, such as is accomplished by the present-day Congressional Directory, reliance has been placed on the Dictionary of American Biography, on various biographical directories of Congress, on secondary sources, and on the Anrals themselves.

24. Anrals, 4 Cong. 1, pp. 242-243. See also Anrals, 5 Cong. 2, pp. 715-716 and A.S.P., Claims, I, p. 209; Anrals, 2 Cong. 2, p. 712; 3 Cong. 2, p. 1125; 7 Cong. 2 (Appendix), pp. 1268-75; and 9 Cong. 2 (Appendix), pp. 942-943. In the early days at times the distinction was pressed. See Anrals, 3 Cong. 2, p. 1125 (Page) and 4 Cong. 1, p. 243 (Giles.)
27. See, for example, Anrals, 7 Cong. 2, pp. 303 and 644; 10 Cong. 1, pp. 1001, 1678, and 2274. See also Leonard White, The Jeffersonians (New York, 1957), p. 50.
29. Leonard White notes that "Gallatin in fact worked as closely with Congress as
Hamilton had done." White, *The Jeffersonians*, p. 50. This is true. However, what also should be noted is that a new method of calling on the secretaries for advice or plans had developed since the days of Hamilton (i.e., through the smaller committees), and that the Jeffersonians relied on this technique much more than on direct reference from the floor. Compare *Annals*, 2 Cong. 1, pp. 437–452 and 9 Cong. 2 (Appendix), pp. 942–943. Nor was this change of method or technique of merely formal significance, though admittedly it too violated previous Jeffersonian strictures against receiving executive advice or plans. Refusal to rely simply on direct reference settled once and for all the question of whether the House would be wholly dependent on the executive for direction and guidance. Similarly, by falling back on the smaller committees as intermediaries the Jeffersonians preserved and even increased the House's potential for a critical treatment of executive proposals and the delineation of alternatives. See Joseph Cooper, "Jeffersonian Attitudes Toward Executive Leadership and Committee Development in the House of Representatives," *Western Political Quarterly*, 18 (March, 1965), 47–55.

30. According to Jeffersonian theory, the President functioned most properly when he confined himself to identifying problems, furnishing information, and making general recommendations for action. In terms of this theory, due respect for the legislature as lawmaker, as originator and formulator of the laws, meant that detailed recommendations, extensive argument, or continuing involvement at the initiative of the President were clearly out-of-bounds despite his constitutional prerogatives, and were highly questionable, if not illegitimate, even at the request of the legislature. The Federalists shared this point of view and the practice of Federalist presidents was largely in accord with the theory. See Norman J. Small, *Some Presidential Interpretations of the Presidency* (Baltimore, 1932), p. 162. See also *Annals*, 5 Cong. 2, p. 863.

31. See Lynton K. Caldwell, *The Administrative Theories of Jefferson and Hamilton* (Chicago, 1944), p. 153 and White, *The Federalists*, pp. 95–96. Jefferson's practice as President was, of course, quite different. See Nobel Cunningham, *The Jeffersonian Republicans in Power* (Chapel Hill, 1963), pp. 71–100; James S. Young, *The Washington Community* (New York, 1966), pp. 160–178; and Henry Adams, *History of the United States during the First Administration of Thomas Jefferson*, 1, pp. 262–263. Nonetheless, and this is significant, the hold of theory was such that Jefferson and the lieutenants on whom he relied had to proceed privately and informally, e.g., through use of the smaller committees, personal contacts, etc. In short, Jefferson's brand of leadership or management had to work within the institutional context that Jeffersonian theory defined and consequently posed no threat to the use of legislative mechanisms or to their further elaboration and development. See Cooper, "Jeffersonian Attitudes," pp. 59–60.

32. See Note 5 above. The rules adopted in the First Congress refer both to a Committee of the Whole House on the State of the Union and a Committee of the Whole House. They also provided that it shall be a standing order of the day for the House to resolve itself into a Committee of the Whole House on the State of the Union. In the First Congress the Committee of the Whole House on the State of the Union originated its own subjects, but this was very rare, if not nonexistent, thereafter. As for the reference of matters communicated to or introduced on the floor of the House, the original intent seems to have been to use the Committee of the Whole on the State of the Union for the initial consideration of important subjects and to use plain Committees of the Whole for the consideration of bills after their second reading when commitment was desired. However, in practice, plain Committees of the Whole were used for both purposes and these committees were treated as separate entities, identified in terms of the subject or bill referred to them. Given all this, one additional point should be noted. Due to the fact
that technically a plurality of Committees of the Whole could and did exist, it will at times in the text be more appropriate and convenient to talk of “a Committee of the Whole” rather than “the Committee of the Whole,” to refer implicitly to the existence of particular Committees of the Whole rather than to talk of the committee form generally or abstractly. See *Hinds' Precedents*, Sections 4705–08; Alexander, op. cit., pp. 258–272; and *Annals*, 1 Cong. 1 (April 7, 1789), p. 101.


34. *Annals*, 1 Cong. 1 (May 19, 1789), p. 370.

35. Ibid., p. 370.


38. Harlow, op. cit., pp. 153 and 211. Whether Livermore should or should not be considered a Republican is a matter of conjecture. At any rate, his objection to a standing Committee on Elections was based on a strict reading of the words of the Constitution on this subject and did not apply to other subjects which were not specifically assigned to the “House” in the Constitution. See *Annals*, 1 Cong. 1 (June 25, 1789), p. 597. It may also be noted that Alexander White, a Virginian, served as the main defender of the proposal to appoint a standing Committee on Elections. White seems to have been a consistent advocate of Jeffersonian principles with regard to denying first reference to executive officers and emphasizing the role of the Committee of the Whole. However, policy-wise the *Dictionary of American Biography* notes that he was defeated for reelection to the Third Congress because of his conservatism. See *Annals*, 2 Cong. 1, pp. 144–145.

Harlow also seems to have misunderstood the nature of Page’s objection in the quotation cited. See *Annals*, 3 Cong. 1, p. 532 and 2 Cong. 1, pp. 312–315. See also, however, *Annals*, 4 Cong. 1, p. 248.

39. *Annals*, 1 Cong. 1 (April 11, 1789), p. 116. The fact that other committees are referred to as “subcommittees” is striking testimony to the preeminence of the Committee of the Whole in the First Congress.


42. See Note 10 above. See also Harlow, op. cit., pp. 130–135.

43. Harlow, op. cit., p. 130.

44. *Annals*, 2 Cong. 1, p. 440.

45. The Republicans first gained ascendancy in the House in the Third Congress and held control through the Fourth Congress. See Note 13 above.


It should be noted that after the fall of Hamilton some Federalists, notably William Smith of South Carolina, became vehement champions of the Committee of the Whole.

48. See Note 7 above. It is also interesting to note that as early as the Fourth Congress we have evidence of the smaller committees consuming large amounts of the members' time. Note the following words of James Callender: "It is a mistake with some people, that gentlemen have nothing to do except during the hours while they sit in a collective body. In fact, this is often but the lightest part of their duty. Mr. Venable, chairman of the Committee of Elections, obtained... leave for that committee to proceed with their separate business, while the House was convened, from the improbability of otherwise dispatching what they had to do. Mr. Tracy, chairman of the Committee of Claims, remarked in the House... that the committee had but just time enough to eat and sleep. Justice to Congress required this explanation." James T. Callender, American Annual Register for the Year 1796 (Philadelphia, 1797), p. 79. See also Annals, 4 Cong. 2, p. 1599.

49. Establishment by rule as a standing committee involved the bestowal of an area of jurisdiction. This gave the committee certain advantages with regard to reference but they were not as great as they are today. In the case of matters presented to the House, e.g., petitions, memorials, messages, etc., the rules permitted the Speaker in areas where standing committees existed simply to order a matter referred to the appropriate standing committee. However, since reference was made on the floor, alternative forms of reference could be moved and adopted. In the case of matters originating within Congress, e.g., resolutions or bills, the rules gave standing committees only the power to consider such matters within their jurisdictions that the House might refer to them. In short, here reference had to be accomplished by motion which meant that the House had the freedom to choose among its various committee forms. Thus, in truth, the ability of the standing committees to control subjects within their jurisdictions either before or after reference to a Committee of the Whole was more dependent on the character of the informal presumption in favor of reliance on them than on their formal recognition in the rules. Annals, 9 Cong. 1, pp. 290-291.

50. Annals, 1 Cong. 1 (July 21, 1789), pp. 660-665; 1 Cong. 1 (May 28, 1789), pp. 411-416; 1 Cong. 2 (Jan. 19, 1790), pp. 1062-66; 2 Cong. 1, pp. 438-452 and 490-494; 2 Cong. 2, pp. 685-689; 3 Cong. 2, pp. 892-893 and 1135-44; 4 Cong. 1, pp. 131-132, 245-249, 379-380, and 1843-73; 4 Cong. 2, pp. 1670-71; 5 Cong. 1, pp. 239-243; 5 Cong. 2, pp. 653-654, 694-701, and 802-803; and 6 Cong. 2, pp. 880-890. It should be noted that use of the executive branch as a source of information and exchange of information among members was a crucial feature in Jeffersonian thinking with regard to the ability of individual members to inform themselves of facts.

51. Annals, 4 Cong. 1, p. 246. Madison does not here mention the need for arranging details as a reason for the first reference of matters to committees other than the Committee of the Whole. However, the fact that he was named to the Committee on Ways and Means established by the Republicans earlier in the session indicates that he was not an opponent of standing committees established on this basis. See Annals, 4 Cong. 1, pp. 152-159.

52. Annals, 5 Cong. 2, p. 695.

53. The evidence at the disposal of this writer is as follows. Annals, 7 Cong. 1, pp. 354-361, 476-481, and 1003-06; 7 Cong. 2, pp. 314-321 and 427-441; 8 Cong. 1, pp. 1099-1123; 9 Cong. 1, pp. 376, 409-412, and 1023-25; 9 Cong. 2, pp. 150-151, 502-527,
and 528–590; 10 Cong. 1, pp. 961–982, 1019–38, 1064–65, 1172–88, 1383, 1466–69, 2070–80; 10 Cong. 2, pp. 474–478, 482, and 529. It is interesting to note that as the years went on many Federalists became as great, if not greater, partisans of the Committee of the Whole as the Jeffersonians.


57. Ibid., p. 570.


60. See Note 7 above. It is also true that by 1809 one of the recurrent topics in the President’s Message, foreign affairs, had given rise to a committee that was standing in everything but name. That is to say, from the last years of Jefferson’s Presidency onward a select committee was regularly appointed to handle foreign affairs questions in the message; it was appointed in terms of a similarly and generally defined subject area; and matters relating to this area, aside from the particular subjects in the message, were also referred to it. Thus, it functioned as a standing committee even though it was not formally listed in the rules as such. The disadvantage of such status was that the committee could not be established each session automatically by order of the Speaker, but had in some way to be created anew by vote of the House as a whole. This was done ordinarily through the passage of a resolution referring a subject or series of subjects to it. See *United States Gazette* (Philadelphia), Nov. 18, 1808.


64. *Hinds’ Precedents*, Sections 6621–22.


73. Annals, 7 Cong. 1, pp. 476-481 and 1003-06; 7 Cong. 2, pp. 427-441; 9 Cong. 2, pp. 150-151 and 570; 10 Cong. 1, pp. 961-982 and 1019-38. This tendency, however, was still a long way from being dominant. See Annals, 6 Cong. 2, pp. 880-890; 8 Cong. 1, pp. 1099-1123 and 1131-70; 9 Cong. 1, pp. 409-412; 10 Cong. 1, pp. 977 and 1209-12; and 10 Cong. 2, pp. 474-478.


75. Isolated complaints about the deference accorded to the reports of smaller committees can be found as early as the closing days of Jefferson's presidency. Note the following comment uttered in late 1808. "I only wish, when gentlemen bring their sacred things upon this floor, that they would 'blow a trumpet before them, as the Heathens do' on such occasions, to the end that all true believers may prepare themselves to adore and tremble, and that all unbelievers may turn aside, and not disturb their devotions." The matter at issue was a report of a select committee on foreign relations. See Annals, 10 Cong. 2, p. 754 and Note 60 above.

76. The size of the House grew from 65 in 1789 to 105 in 1801, 141 in 1811, 187 in 1821, and 213 in 1829. See Galloway, op. cit., Appendix I.

77. It is worth noting that in the British House of Commons, where principles continue to be decided before details and before reference to smaller committees, consideration proceeds on the basis of detailed proposals in the form of bills which in large part are drafted and initiated by Cabinet Ministers. See R. M. Punnett, British Government and Politics (New York, 1968), pp. 225-230 and 239-245.

78. Though the rules authorized two modes of introducing bills—by granting an individual's request that a bill be brought in and by approving a report of a committee recommending that a bill be brought in—the latter mode was by far the predominant one throughout the years from 1789-1829. See Note 3 above.

79. Annals, 1 Cong. 1 (Aug. 15, 1789), pp. 733-749; 2 Cong. 1, pp. 168-175, 178-192, and 200-204; 3 Cong. 2, pp. 895-949; 4 Cong. 1, pp. 304-307 and 426-782, especially
pp. 487 (Madison), 502 (Giles), 543 (Holland), 628 (Livingston), and 653 (Kitchell); 5 Cong. 3, pp. 2726-29; 7 Cong. 1, pp. 476-481 and 510-522; 8 Cong. 1, pp. 1099-1123 and 897; 8 Cong. 2, pp. 1022-25, 1064-65, 1085-89, 1099, 1163, 1166-67, and 1174; 9 Cong. 2, p. 542; and 10 Cong. 1, pp. 1889-95. See also Annals, 12 Cong. 1, pp. 569-581 and 14 Cong. 1, pp. 696-718. Interestingly enough, the most eloquent statement of all was made by Gaston, a Federalist, in the last Congress cited.

80. Annals, 4 Cong. 1, pp. 509-510.
81. Annals, 2 Cong. 1, p. 177.


83. Annals, 3 Cong. 2, pp. 934-935.
84. Annals, 7 Cong. 1, p. 512. See also Annals, 8 Cong. 1, pp. 1106-09; 8 Cong. 2, p. 1174; 2 Cong. 1, p. 183; 4 Cong. 1, pp. 545-546; and 5 Cong. 3, pp. 2726-29. In addition, see Jefferson's letters to George Mason (Feb. 4, 1791), John Tyler (June 28, 1804), Samuel Knox (Feb. 12, 1810), John Watson (May 17, 1814), and his Second Inaugural Address. Lipscomb, ed., Writings of Thomas Jefferson, VIII, IX, XII, XIV, and III, pp. 124, 32-35, 360-361, 136, and 381. See also Cunningham, The Jeffersonian Republicans, pp. 75-76.

85. Annals, 4 Cong. 1, pp. 435-436.
86. For evidence of the Jeffersonian emphasis on the educative function of discussion in Committee of the Whole for both legislators and their constituents see Annals, 2 Cong. 1, p. 181; 5 Cong. 3, pp. 2726-29; 7 Cong. 1, p. 517; 8 Cong. 1, pp. 1106-07; 8 Cong. 2, p. 1088; 10 Cong. 1, pp. 967-968, 1889-95, and 2073. See also White, Federalists, p. 89.

87. Annals, 3 Cong. 2, p. 1142.
88. Alexander, op. cit., Appendix F.
89. According to the original rules of the House, members could speak as often as they wished in Committee of the Whole, whereas on the floor of the House no member could speak more than once on a question until all other members had spoken and never more than twice. Annals, 1 Cong. 1 (April 7, 1789), pp. 99, 101, and 102. When these rules were changed in the Ninth Congress the Committee of the Whole still retained a relative advantage over the floor of the House with regard to the freedom of debate. Annals, 9 Cong. 1, p. 292. See also Alexander, op. cit., p. 256.

91. Annals, 5 Cong. 2, pp. 695 and 698-699.
92. Annals, 5 Cong. 2, p. 693.
94. Annals, 4 Cong. 2, p. 1854. See also Annals, 7 Cong. 2, pp. 313-314. It should be noted that in the first instance several Federalists joined the Republicans in supporting
prior discussion in a Committee of the Whole and that after 1801 they became as great, if not greater, defenders of the prerogatives of the Committee of the Whole as the Jeffersonians in this respect as in others. See, for example, Annals, 10 Cong. 1, pp. 801-802.

95. See, for example, Annals, 4 Cong. 2, pp. 1730-37. This instance well illustrates the point that when necessary the Republicans were not very hesitant to abandon their normative notions concerning the committees for purposes of policy advantage. See Annals, 7 Cong. 1, pp. 1003-14 for a similar instance with regard to first reference. These instances together with John Smille's cynical behavior in the Ninth Congress demonstrate that the determination of the Republicans to defend the prerogatives of the Committee of the Whole was much stronger when it served their policy purposes than when it did not, something which should not surprise us. See Annals, 9 Cong. 1, pp. 262, 376, and 410. Still, it would be a mistake to see Republican theory with regard to committees as mere rationalization. Jeffersonian committee theory was directly related to the most basic propositions of Jeffersonian thought with regard to the proper nature of the legislative process in general, propositions which were very dear to the hearts of most Jeffersonians. Thus, it was an independent variable of importance, though never necessarily decisive.

The more extreme changes and aberration in Federalist thinking in the years from 1789 to 1809 are somewhat more suspect since after 1801 a large part of their motivation seems to have come from the desire to frustrate or embarrass the Republican majority. Still, it should also be noted that at least some of their support for the prerogatives of the Committee of the Whole derived from the fact that the precedents favored such practices and thus there was significant Federalist support for the Committee of the Whole, especially with regard to first reference, even before 1801. See Note 47 above.

96. See, for example, Annals, 3 Cong. 1, pp. 142-143, 328, 457-458, and 468-469; 3 Cong. 1, pp. 225-226; 3 Cong. 1, pp. 168-169 and 478; 3 Cong. 1, pp. 349, 448, and 455; 3 Cong. 1, pp. 437 and 469; 3 Cong. 1, p. 479; and 3 Cong. 1, pp. 349-352. See also Annals, 3 Cong. 1, p. 739.

97. Annals, 2 Cong. 2, pp. 830-831.


101. The rules in effect throughout the period from 1789 to 1809 required that every bill undergo three readings, after the second of which the question of commitment to a committee of the House was to be put. During these years House bills, if committed, were generally committed to a Committee of the Whole. Senate bills when committed were also most often committed to a Committee of the Whole. Commitment of these bills raised the question of whether principles should be settled before reference was made to a smaller committee since the House had never before passed on them. See Annals, 7 Cong. 1, pp. 476-481.

102. Thomas Jefferson, Manual of Parliamentary Practice, Section XXVI. This manual can be found in the present House and Senate Rules Manuals issued for every Congress.
103. Ibid., Section XXVI. In the Third Congress a rule was adopted prohibiting the committees from sitting when the House was in session. However, it appears that this rule was not strictly observed. See Annals, 3 Cong. 2, p. 880 and 4 Cong. 1, pp. 135–136.


106. Annals, 4 Cong. 1, p. 130.

107. Ibid. See also Note 129 below.

108. See, for example, Annals, 3 Cong. 1, pp. 250, 466, 467, and 531. See also McConachie, op. cit., pp. 44–45.


110. Hinds states, “When the rules were adopted, on April 7, 1789, it was provided that the Speaker should appoint all committees except such as consisted of more than three Members, which were to be chosen by ballot. On January 13, 1790 this form was adopted: 'All committees shall be appointed by the Speaker, unless otherwise specially directed by the House in which case they shall be appointed by ballot.'” Hinds' Precedents, Section 4448.

111. For examples of discharge action see Annals, 4 Cong. 1, pp. 288–290 and 9 Cong. 1, pp. 409–412.

112. In the period from 1789 to 1829 the committees were appointed anew each session. See Hinds' Precedents, Section 4448. In all the cases involved in the examples cited in the text the men were Federalists or moderate Federalists.

113. For evidence regarding negative attitudes toward party see Cunningham, The Jeffersonian Republicans, pp. 75–76. As further evidence of the status of party as an appointment criterion, it may be noted that men were not listed on committee lists by party but rather in a jumble reflecting the order in which they were named by the Speaker. Moreover, though listing became more orderly as time passed, as late as 1835 the fact that men were still not listed strictly by party created difficulty. See Note 267 below and related text.

114. Another important factor contributed to Jeffersonian tolerance. Republican control of the Third Congress was tenuous and not entirely firm in the Fourth Congress. See Note 13 above. It may be no accident, then, that the Republicans did not elect one of their own partisans to the Speakership in the Fourth Congress, though it is also true that the Speakership at this time was not the partisan office it became after 1811. In any event a moderate Federalist was elected and he, of course, controlled appointments.

115. See Note 60 above. By the first session of the Fifteenth Congress the select committees on the President's Message were recognized as having general control over the subject areas given them in the message. Annals, 15 Cong. 1, pp. 519–522.

116. United States Gazette (Philadelphia), December 4, 1806. See also Annals, 9 Cong. 2, pp. 110–111.

117. United States Gazette (Philadelphia), December 4, 1806.

118. Annals, 9 Cong. 2, p. 111.

119. Annals, 10 Cong. 1, p. 793.

120. Ibid., pp. 789–793.

121. Alexander, op. cit., p. 76.

122. See Annals, 8 Cong. 2, pp. 697–699; 9 Cong. 2, p. 111; 10 Cong. 1, pp. 790–793;
and 11 Cong. 1, pp. 58-59. See also Annals, 9 Cong. 1, pp. 1120-21 and 1126 for two votes which, according to Henry Adams, identify Randolph's supporters.

123. The words are those of Barnabas Bidwell in a letter to Jefferson on July 28, 1806. It is quoted in Cunningham, The Jeffersonian Republicans in Power, pp. 90–91.

124. See Annals, 7 Cong. 1, pp. 1274 and 1282.

125. Everett S. Brown, William Plumer's Memorandum of Proceedings in the United States Senate, 1803–1807 (New York, 1923), p. 206. It may be noted that Plumer wrote the words cited in the text while discussing a conflict over the chairmanship of a standing committee in the House.


127. Annals, 10 Cong. 1, p. 789.

128. Annals, 9 Cong. 1, p. 300. See also Annals, 8 Cong. 2, pp. 872 and 984–985.

129. Annals, 8 Cong. 2, pp. 697–699. In this instance Dana was elected chairman. See also Annals, 9 Cong. 2, pp. 111, 115, and 130 for an instance in which Randolph was elected chairman. The rule was renewed in the Ninth Congress, Annals, 9 Cong. 1, pp. 300, and in the Tenth Congress, Annals, 10 Cong. 1, p. 783. For a detailed account of events in both instances see Brown, op. cit., pp. 206–208 and 525–526. It should also be noted that Dana was a Federalist.

130. Committee lists in a much more compact form than in prior years can be found in the Annals for the Seventh, Eighth, Ninth, and Tenth Congresses near the beginning of each session. We should also note that seniority was not completely without recognition. The rule adopted in the Eighth Congress which authorized a committee to elect its chairman if a vacancy occurred subsequent to appointment by the Speaker also authorized a committee to choose simply to permit the member named highest on the committee list to advance to the chairmanship. And this indeed had been the custom or practice up to this point. Still, it should not be forgotten that at this time members were not placed on committee lists in strict accord with prior committee service or party. See Note 113 and references cited in Note 129 above.

131. See Annals, 9 Cong. 2, pp. 111, 115, and 130; 10 Cong. 1, p. 794. See also Edmund Quincy, Life of Josiah Quincy (Boston, 1868), p. 116.

132. Thus, neither in office nor out were the Jeffersonians loath to confer rule-making power on the executive. Moreover, in the process of spelling out law they were not reluctant to specify the means and manner in which laws were to be put into effect, i.e., to engage in decisions which logically might be termed executive. See Annals, 2 Cong. 1, pp. 229–240; 4 Cong. 1, pp. 380–394; 5 Cong. 1, pp. 271, 283–290, and 294–297; 10 Cong. 1, pp. 2083–2245; and 10 Cong. 2, pp. 259–260. See also White, Federalists, pp. 52–54, 77–80, and 94–96; White, Jeffersonians, p. 94, fn. 19; and Norman Small, op. cit., pp. 141–146.

133. As Wilmerding has shown, the position of the Jeffersonians on the specificity of appropriations was greatly overstated by Hamilton and his followers. The Jeffersonians aimed not at total definition but only at definition as far as it could be carried without being "injurious" or impractical. See Lucius Wilmerding, Jr., The Spending Power (New Haven, 1943), pp. 56–60. See also Annals, 10 Cong. 2, pp. 259–260.


NOTES


139. White, Federalists, pp. 13–96 and White, Jeffersonians, pp. 60–89. It is true, however, that a small minority of Jeffersonians did not hold to this view but rather saw executive officers as completely independent of the President. See White, Federalists, p. 94.

140. Ford, op. cit., pp. 79–81 and Binkley, op. cit., p. 45.

141. Binkley, op. cit., p. 45.


144. White, Jeffersonians, p. 76.

145. Annals, 8 Cong. 1, p. 864.

146. Annals, 7 Cong. 1, p. 324. See also Annals, 2 Cong. 1, pp. 221–227.


151. Annals, 10 Cong. 1, pp. 1315–16.

152. Ibid., p. 1374.

153. Ibid., pp. 1377–78.


155. Annals, 10 Cong. 2, pp. 478–481 and 483.


157. Ibid., p. 224.

158. Annals, 7 Cong. 1, pp. 312 and 412. See also Annals, 10 Cong. 2, pp. 1330–31.

159. Annals, 6 Cong. 2, pp. 786–787 and 7 Cong. 1, p. 319.

160. Annals, 7 Cong. 1, p. 319.


162. Annals, 4 Cong. 1, pp. 1475–76.
163. *Annals*, 5 Cong. 2, p. 827. The Jeffersonians further believed that the House had the right to refuse to appropriate entirely, that it had full discretion over appropriations. Though they admitted that this right could not be exercised by a committee and should be restricted to "important occasions," they rejected the Federalist contention that appropriations for laws and treaties were obligatory. *Annals*, 4 Cong. 1, pp. 253-265 and 426-759.


165. *Annals*, 8 Cong. 1, p. 628. See also references cited in Note 158 above.

166. *Annals*, 10 Cong. 1, pp. 1298 and 1319.


170. *Annals*, 8 Cong. 1, pp. 805-876; 8 Cong. 2, pp. 1110-18; 9 Cong. 1, pp. 831-833; and 10 Cong. 1, pp. 1267, 1316, and 1326. For evidence of more permissive attitudes in the area of public expenditures see *Annals*, 5 Cong. 2, pp. 831-836; 7 Cong. 1, pp. 319-324; and 8 Cong. 1, pp. 625-630.


173. *Annals*, 3 Cong. 2, p. 1135; 3 Cong. 2, p. 1208; 4 Cong. 1, p. 423; and 4 Cong. 2, p. 1691.


175. The major committee investigations are as follows: the causes of failure in the St. Clair Expedition (1792); the state of the Treasury under Hamilton (1794); the state of the Treasury under Wolcott (1800); the conduct of the Governor of the Mississippi Territory (1800); the disbursement of public money in the Washington and Adams Administrations (1801); the management of the Sinking Fund (1803); and the conduct of the Postmaster General (1806). Subpoena power was given only in the St. Clair and Mississippi cases.

176. See *Annals*, 10 Cong. 1, pp. 1445 and 1458 as compared with *Annals*, 2 Cong. 1, pp. 490-494. See also *Annals*, 10 Cong. 2, pp. 478-481 and 483.

177. See Note 13 above.

178. Nonetheless, the hold of Jeffersonian theory was such and the emphasis placed on independent judgment by legislators on the merits of an issue so strong that management was not without its conflicts. Note, for example, the extreme delicacy with which Jefferson offered the post of party floor leader to Barnabas Bidwell: "I do not mean that any gentleman relinquishing his own judgment, should implicitly support all the measures of the administration; but that, where he does not disapprove of them he should not suffer them to go off in sleep, but bring them to the attention of the house." Quoted in Cunningham, *The Jeffersonian Republicans in Power*, p. 89.


180. *Annals*, 12 Cong. 1, p. 715. See also *Annals*, 15 Cong. 2, p. 1429 and Madison's letter to his Secretary of State, Robert Smith, quoted in Cooper, "Jeffersonian Attitudes," p. 56. For Jeffersonian acknowledgement and justification of committee-department contacts prior to 1809 see, for example, *Annals*, 9 Cong. 1, pp. 377-397. However, objections
to use of the committees to secure executive advice did not simply disappear. Strictly interpreted, the traditional Jeffersonian position barred informal as well as formal contacts for such purposes and thus objections continued to be voiced occasionally as late as 1819. See Letters and Writings of James Madison, III, pp. 53-54 and Annals, 15 Cong. 2, pp. 1429-30. Still, by this time, if not earlier, they had degenerated into mere ploys. See C. F. Adams, ed., Memoirs of John Quincy Adams (12 Vols., Philadelphia, 1874-1877), IV, p. 281.

181. Debates, 19 Cong. 1, pp. 1056-57. Storrs had originally been a Federalist; nonetheless, his words can be taken as generally reflective of sentiment in the House at the time.

182. See, for example, Annals, 14 Cong. 1, p. 1189; 14 Cong. 2, p. 1040; 15 Cong. 1, p. 1678; 15 Cong. 2, p. 1418; 16 Cong. 1, p. 758; 16 Cong. 2, p. 641; and 17 Cong. 1, p. 547. See also Young, op. cit., pp. 243-244.

183. Annals, 16 Cong. 2, pp. 607-608. This member proposed a change in the rules requiring calls on the departments to lay over a day. It passed the next session. Annals, 17 Cong. 1, p. 756.

184. See Young, op. cit., pp. 214-249.

185. Monroe objected to direct references to the department heads and believed that calls on executive officers should be made through the President. On occasion this form was employed. See, for example, Annals, 17 Cong. 1, pp. 547-548. However, tradition did not support exclusive reliance on this form, though there was much in Jeffersonian theory regarding the primacy of the President as chief executive to support the propriety of such reliance. Nor, in truth, was the President's political leverage such that he could have derived much advantage from an abolition of direct calls. See Young, op. cit., pp. 243-244.

186. For figures on increases in size see Note 76 above. The effects of such increases, especially insofar as they involved the infusion of new elements from the West, combined with the decreasing relevance of the politics and issues of the mid and late 1790's, contribute much to an understanding of the erosion of traditional attitudes among the political legatees of the original band of Republicans that Jefferson and Madison assembled to throw the Federalists out of office. See Chambers, op. cit., pp. 191-200. However, these factors were powerfully reinforced by another factor—the high rate of turnover in these decades which severely limited opportunities for socialization in traditional norms. Thus we may note, for example, that in the Seventh through Fifteenth Congresses (1801-1819) the percentage of new members per Congress ranged from 35.9 to 59.2 with a median of 42.5. Similarly, the average number of terms served prior to the start of each Congress ranged from .93 to 1.83, with a median of 1.36. See Stuart Rice, Quantitative Methods in Politics (New York, 1928), pp. 296-297.

187. Nor did objections to use of the committees to secure executive advice entirely disappear. See Note 180 above.

188. See, for example, Annals, 14 Cong. 1, p. 1189; 15 Cong. 2, p. 1418; and 17 Cong. 1, p. 1052. As the quote from Randolph cited in the text indicates, there was no longer any hesitancy to ask explicitly for "plans" and no notion that these could not properly be considered to be "information."


190. Annals, 15 Cong. 1, pp. 895-896. At this time it was more common for the word "necessary" rather than the word "expedient" to be used in requests to department heads to report whether legislative action should be undertaken. In the next decade, however, it became common to request department heads to "inquire into the expediency" of doing
this or that. As a result, the terms of reference to department heads became similar to the formula that had developed for the reference of subjects to the standing and select committees. Ironically enough, however, by the end of the Jeffersonian period this seemed quite logical and unobjectionable. See Note 235 below and related text.


192. See, for example, Annals, 13 Cong. 2, p. 1935; 13 Cong. 2, p. 1941; 14 Cong. 1, pp. 747–748; 15 Cong. 1, pp. 895–896; and 15 Cong. 2, pp. 468–471. See also Harlow, op. cit., p. 244 and James Schouler, History of the United States (New York, 1883), III, p. 396. In addition, it should be noted that executive initiative and deference to executive wishes were facilitated by the wide extension of a privilege that had previously been quite restricted—the preparation and submission of annual departmental reports on the general state of the business under their cognizance. See White, Jeffersonians, p. 95.

193. See also Memoirs of J. Q. Adams, IV, pp. 66 and 281.

194. See, for example, Henry Adams, The Life of Albert Gallatin (New York, 1943), pp. 450–455. See also Annals, 12 Cong. 1, p. 1141.


197. See Harlow, pp. 194–209 and Miss Follett's work as cited in Note 195 above. See also Memoirs of J. Q. Adams, IV, p. 28. Authorities, however, differ on Clay's success in providing central or integrative leadership. Follett and Harlow see him as an effective source of such leadership, whereas Young sees him as essentially a prisoner, and a rather helpless one at that, of various party factions in the House. See Young, op. cit., pp. 131–137. It is true, of course, that efforts at integration do have certain negative effects on policy outputs, that content diminishes with compromise. Nonetheless, Young's assessment of Clay is so overly harsh as to be both unrealistic and unjust. In truth, though Clay's effectiveness declined substantially after 1817, his accomplishments as leader in the Twelfth Congress (1811–1813) and Fourteenth Congress (1815–1817) are impressive. In addition, overall he compares well with modern Speakers who are not judged weak or ineffective. See Glyndon Van Deusen, The Life of Henry Clay (Boston, 1937), pp. 73–88, 109–148, and 160–178.

198. Note, for example, the role performed by John Calhoun and his Select Committee on Currency in the Fourteenth Congress. It is true that he proceeded on the basis of departmental assistance and with departmental approval. Nonetheless, he and his committee provided most of the initiative and drive needed to pass the legislation. See William Meigs, The Life of John Calhoun (New York, 1917), I, pp. 191–195, and John McMaster, A History of the People of the United States (New York, 1824), IV, pp. 309–313. In contrast, note Gallatin's use of the Committee on Ways and Means as Treasury Secretary under Jefferson. Henry Adams, Life of Gallatin, pp. 302–391. For a more mundane example of committee policy initiative see Memoirs of J. Q. Adams, IV, pp. 492, 495, 503, 504, and 509. See also Young, op. cit., pp. 244–245.

199. It should be noted, however, that Clay's impact as Speaker was not wholly integrative. In contrast to the department heads, he did seek to provide or attain integration among party factions across several important policy areas. However, insofar as
he entered into long and unresolved conflict with the President for the role of central leader, the result was to promote division. See Memoirs of J. Q. Adams, IV, pp. 28 and 66.


201. For figures on size see Note 76 above. Tying down the dimensions of the expansion in the business in any precise way is difficult. The following two sets of facts, however, are indicative. In the years between 1790 and 1820 the population of the United States more than doubled and its land area also doubled. Concomitantly, whereas the number of bills introduced in the House during the First Congress was 142, the average number per Congress in the Fifteenth through Seventeenth Congresses (1817–1823) was 306. See also Notes 229 and 230 below.

202. U.S. House Journal, 8th Congress, 1st Session. The count in the text is a count of distinct subjects, including Senate bills. Thus, instances in which more than one petition, resolution, Senate bill, etc., on the same particular topic was referred to a Committee of the Whole are counted as a single reference. Similarly, instances in which a matter was referred to a Committee of the Whole already charged with considering a committee bill on the topic are not counted as cases of first reference to a Committee of the Whole. It should also be noted that the count does not include the President’s Annual Message which was initially referred to a Committee of the Whole as a matter of form.

203. U.S. House Journal, 20th Congress, 1st Session. The count for this Congress was made under the same ground rules applied to the Eighth Congress. Of the two subjects referred to a Committee of the Whole one was rereferred within a few days to a select committee and the other simply buried by the form of reference. See ibid., pp. 45, 71, 72, 74, and Index.

204. See Notes 229 and 230 below.

205. Annals, 12 Cong. 1, pp. 334–340. See also Annals, 16 Cong. 1, p. 803; Debates, 20 Cong. 1, p. 871 and 22 Cong. 2, pp. 1083–89.


211. Annals, 14 Cong. 2, pp. 385–386. See also Annals, 14 Cong. 1, pp. 747–748; 14 Cong. 1, p. 989; 14 Cong. 2, p. 964; and 16 Cong. 1, p. 794. Deference to the Claims Committee on matters of private business had a long history in the House even in 1816. See Annals, 4 Cong. 2, p. 1821.

212. Debates, 20 Cong. 1, p. 1492. The debate was over whether a particular committee report should be printed. See also Debates, 20 Cong. 1, p. 1500 and Notes 244 and 245 below and related text.


214. See, for example, Annals, 12 Cong. 1, p. 1395; 13 Cong. 1, pp. 112–127, 13 Cong.
2, pp. 881-887; 15 Cong. 2, pp. 527-528; 17 Cong. 1, p. 716. See also Debates, 19 Cong. 1, pp. 828 and 1321; 22 Cong. 2, pp. 1083-89; and 23 Cong. 1, pp. 2170-2205.


217. For continued emphasis on the smaller committees as fact finders or detail arrangers see Annals, 12 Cong. 1, p. 1395; 13 Cong. 2, p. 1942; 14 Cong. 1, p. 454; and 15 Cong 1, p. 595; Debates, 19 Cong. 1, pp. 817-819; 20 Cong. 1, p. 871; and 23 Cong. 1, pp. 2170-2205. In contrast, see for example, Annals, 12 Cong. 1, pp. 414, 417, 803, and 1417-18.

218. See Note 7 above.


220. The remaining two were Agriculture and Manufactures. The latter was originally combined with Commerce, but after several years of agitation they were split in 1819. See Harlow, op. cit., p. 216.

221. One of the new standing committees was Territories; the other was Military Pensions which was an offshoot of the old Committee on Pensions and Revolutionary Claims. This Committee was now simply named Revolutionary Claims. Nor, it should be noted, did the proliferation of standing committees stop in 1829. The standing committee system once created continued to expand. See Galloway, op. cit., pp. 66-67.

222. Indeed, if anything, the traditional Jeffersonian emphasis on the equality and responsibility of individual members induced suspicion toward the establishment of standing committees. Thus, as late as 1805, the resolution to create a Committee on Public Lands was objected to “lest a standing committee...should gain such an ascendancy over the sentiments and decisions of the House...as to impair the salutary vigilance with which it becomes every member to attend to so interesting a subject.” Annals, 9 Cong. 1, p. 286. In addition, it should be remembered that in the period from 1789 to 1829 official recognition in the rules as a standing committee did not carry with it as great a grant of power as it does today. Though such recognition involved the definition and bestowal of an area of jurisdiction, the rules did not make reference to standing committees mandatory. See Note 49 above. Indeed, such advantages over reference as were conferred on standing committees related primarily to minor business, e.g., petitions, memorials, etc. This reflected the expectations and presumptions of the 1790’s, but nonetheless the model for establishing standing committees by rule set in the 1790’s was maintained and copied throughout the Jeffersonian period. See U.S. House Journal, 18 Cong. 1, pp. 728-730.

Nor was the lack of mandatory reference the only point of difference between the rules governing the standing committees then and now. Since in public areas of business subjects were often introduced and referred to smaller committees through resolutions, their discretion could be limited by instructions embodied in such resolutions. Indeed, even after 1809 when, in conjunction with dwindling use of the Committee of the Whole, it became common to frame such resolutions so as to instruct a committee “to inquire into the expediency” of a certain action, instructions could still be quite detailed and limiting. Moreover, these resolutions could and often did require a committee to report
and in any case discharge could be effected by a simple majority vote. All this, however, is not to say that recognition in the rules as standing was without any benefits. It made regular appointment automatic, conferred general authority to report by bill after 1815, and reinforced the competitive position of any committee so honored as the norm of specialization took hold. Nonetheless, the slow and haphazard development of a standing committee system was at least in part influenced by the limited incentives the rules furnished for the official establishment of such committees.

223. It is not surprising, then, that the actual pattern of standing committee development was varied and quite pragmatic. In some areas standing committees were established in one fell swoop to handle a large bloc of business more efficiently and/or to fulfill some special purpose or need, e.g., Claims, District of Columbia, Ways and Means, Public Lands, and Public Expenditures. In other areas, and often quite important ones, what occurred was a gradual development by which a select committee grew in regularity of appointment and dominance over a subject area until it first became a standing committee in everything but name, and then finally was officially recognized in the rules as such. Here the usual point of departure was appointment with regard to a subject raised in the President's Message. The Committees on Foreign Affairs and Military Affairs, among others, developed out of such appointments. But such development also occurred independently, e.g., the Committee on Post Offices and Post Roads. See Harlow, op. cit., p. 215.

224. See Annals, 13 Cong. 1, p. 132; 16 Cong. 1, pp. 708–710; and 18 Cong. 1, pp. 834–835. See also Debates, 22 Cong. 2, pp. 1083–89.

225. Debates, 19 Cong. 1, pp. 849–851 and 20 Cong. 1, p. 814. See also Annals, 13 Cong. 2, p. 1860; 17 Cong. 1, p. 557; and 18 Cong. 1, pp. 873–875. In addition, see Notes 49 and 222 above.

226. See, for example, Annals, 16 Cong. 1, pp. 708–710; 18 Cong. 1, p. 850; and 18 Cong. 1, pp. 873–875; Debates, 19 Cong. 1, pp. 846–851 and 20 Cong. 1, pp. 1089–92. For instances in which the merits of reference to select committees were well argued see Annals, 17 Cong. 1, pp. 711–713; Debates, 18 Cong. 2, pp. 170–186; 19 Cong. 1, pp. 1075–78; and 20 Cong. 1, pp. 914 and 925–928.

227. See Annals, 18 Cong. 1, pp. 834–835 and 18 Cong. 1, p. 850.

228. Debates, 18 Cong. 1, pp. 834–835; 19 Cong. 1, p. 851; and 20 Cong. 1, p. 814.

229. U.S. House Journal, 8th Congress, 1st Session. Approximately forty distinct subjects were referred to select and standing committees in public areas of business. If we exclude about a dozen subjects relating to post roads and contested elections, about half were referred to select committees. We may note that in 1803 the Committee on Post Offices and Post Roads was still officially select, though quite comparable to the standing committees in terms of regularity of appointment and breadth of jurisdiction. As for private business, even in 1803 the standing committees had dominated this area for almost a decade. For example, a random survey encompassing 113 private subjects referred in the first session of the Fourth Congress (1795–1796) reveals that over 90% were referred to standing committees, primarily the Committee on Claims.

230. U.S. House Journal, 20th Congress, 1st Session. The total number of referrals to select and standing committees was well over two hundred fifty. In numerous cases, however, petitions or memorials dealt with the same particular subject or topic, e.g., the duty on woolens. In addition to the half-dozen subjects referred to actual select committees, close to thirty subjects were referred to select committees that were standing in everything but name, notably Roads and Canals.
231. Asher Hinds gives 1822 as the date of the rule conferring power to report by bill on the standing committees. *Hinds’ Precedents*, Section 3365. In fact, the rules were revised in 1822 and the rule in question is included as rule #55, *House Journal*, 17th Congress, 1st Session, p. 727. Nonetheless, Hinds is incorrect and his error probably stems from the fact that the 1822 revision or recodification appears to have been the first general revision subsequent to the passage of the rule granting power to report by bill. We may note that an 1820 edition of Jefferson’s *Manual*, which contains the House rules, lists the same rule as #53. Nor does the report of the committee, charged with revising the rules in 1822, include it as a proposed amendment. See *House Report No. 56*, 17th Congress, 1st Session. We may further note that in October, 1814, when for the first time the House adopted a resolution conferring general authority to report by bill, the resolution conferred it on both the standing committees and the select committees on the President’s Message. *Annals*, 13 Cong. 3, p. 481. Thereafter, such resolutions were usually passed annually, but conferred this power on the latter type of select committee without mentioning the standing committees. A natural deduction is that the standing committees may already have possessed it by rule. See *Annals*, 14 Cong. 1, p. 377; 14 Cong. 2, p. 234; 15 Cong. 1, p. 401; 15 Cong. 2, p. 292; 16 Cong. 2, p. 439; and 17 Cong. 1, p. 527. See also *Annals*, 14 Cong. 1, p. 388. The author would like to thank Mr. George P. Perros of the Legislative Records Division of the National Archives for research assistance on this problem.

232. There is no record of discussion or objection at points where resolutions conferring general authority to report by bill were moved and passed. See references to *Annals* cited in Note 231 above. However, on one occasion John Randolph objected that discussion should be more prolonged before permission to bring in bills was granted. *Annals*, 14 Cong. 1, p. 680. In addition, objection was also raised concerning a related but tangential issue—the question of whether committees should report money bills with the blanks for the various sums involved open or filled. *Annals*, 15 Cong. 1, p. 570 and 15 Cong. 2, pp. 468-471.

233. It should be remembered that resolutions were not the only means through which subjects were introduced or referred. The presentation of petitions or memorials as well as the receipt of messages or letters from executive officers served to introduce subjects. Moreover, subjects introduced through these means could be simply referred by order to an appropriate standing committee. Nonetheless, resolutions served as the prime means of introducing and referring subjects in public areas of business. In these areas resolutions were often relied upon to bring a subject forward and simultaneously to provide for its reference to one of the various types of House committees. Moreover, subjects introduced by the President’s Message were referred through resolutions. Finally, resolutions or motions were used in cases in which a member wanted to refer a subject to the Committee of the Whole or a select committee rather than the appropriate standing committee as well as in cases in which no standing committee with jurisdiction existed. See Notes 49 and 222 above.

234. See, for example, *Annals*, 5 Cong. 1, pp. 239-243.


236. See Note 186 above.


239. See Note 222 above.

240. See Note 195 above and related text.

241. See, for example, *Annals*, 9 Cong. 1, p. 286 and 10 Cong. 2, p. 1512.

242. See references cited in Notes 224–228 above.

243. See Note 102 above and associated text.


245. Ibid. For a statement in the late 1820's providing a rationale for deference to committees in terms very similar to Sutherland's see *Debates*, 20 Cong. 1, p. 1492.


250. The last serious challenge came at the very beginning of the Madison Administration. See *Annals*, 11 Cong. 1, pp. 58–59. Motions to appoint select committees by ballot continued to be made from time to time, especially when these committees were primarily investigative. See, for example, *Annals*, 18 Cong. 1, p. 2455. See also *Hinds' Precedents*, Section 4475. Usually such motions failed, but in one crucial instance, the Missouri question, the House elected its component of the Joint Committee established by House and Senate. *Annals*, 16 Cong. 2, pp. 1219–20. In addition, a member in 1813 proposed unsuccessfully to elect the Elections Committee by lot and support for this method of selecting the standing committees appeared sporadically for several decades. See McConachie, op. cit., p. 130; Follett, “Speaker of the House,” pp. 240–241; and Alexander, op. cit., p. 76.


253. Alvin L. Duckett, *John Forsyth* (Atlanta, 1962), p. 18. Johnson was a fellow Kentuckian and at this time a close friend and supporter of Clay. Pleasants was a strong supporter of naval preparedness. See *Annals*, 14 Cong. 1, p. 1367.


255. See *Debates*, 18 Cong. 2, Appendix, pp. 79–81. It may also be noted that Speaker Barbour's appointments in the Seventeenth Congress (1821–1823) were highly motivated by political considerations and that he did not hesitate to inject his own choices into key chairmanships. See Schouler, op. cit., III, p. 245.

257. Congressional Globe, 26 Cong. 2, pp. 230–231. Thus, in defending Stevenson's appointment record as Speaker in the years from 1827 to 1831, one prominent Jacksonian simply said that "Mr. Stevenson has done what every other Speaker before him has done, and what every other after him will do—that is, he has preserved the numerical proportion of parties which exist in the House." Wayland, op. cit., p. 79.

258. Prior practice regarding the appointment of chairmen of select committees also continued. In the years up to 1829 and for many years thereafter the Speaker considered himself obligated to appoint as chairman the man whose motion or resolution created the committee. Hinds' Precedents, Sections 4514–20. Thus, minority leadership of select committees remained a possibility. Nor, at least in the case of select investigating committees, did current notions of party necessarily make such leadership unacceptable. See Note 290 below.

259. We may note, for example, that District of Columbia had a Federalist chairman in the Twelfth and Fifteenth Congresses. We may also note that Stevenson appointed a bevy of Adams partisans to committee chairmanships in the Twentieth Congress, e.g., Manufactures, Foreign Affairs, and Elections. Wayland, op. cit., pp. 78–79. However, the number and significance of minority chairmanships in this Congress represented an aberration from past and future practice and was prompted in part at least by the unease the anti-Administration majority felt in taking control of the House. After 1829, prominent minority members continued on occasion to be appointed to chairmanships. Follett, "Speaker of the House," pp. 226–227. Indeed, instances can be found as late as the 1880's. By this time, however, such appointments were confined to committees with little or no functional significance and were mainly honorific. McConachie, op. cit., p. 140.

260. See Note 123 above and text attached.


262. Young, op. cit., pp. 131–135. Clay's behavior with regard to key appointments in the Eighteenth Congress was also highly influenced by integrative considerations. See Schouler, op. cit., III, pp. 294–295, and James Hopkins, The Papers of Henry Clay (Lexington, 1963), III, pp. 530 and 546. Young argues that Clay was a weak and ineffective Speaker and that his use of committee appointments was both a cause and effect of his weakness. Ironically enough, however, he draws his data on Clay's use of committee appointments from the Fourteenth Congress, a Congress in which practically the whole program of legislation Clay advanced and supported passed. See Note 197 above.

263. In the Eighteenth Congress, for example, knowledge or competence figured significantly in Clay's bestowal of a chairmanship on Webster, Forsyth and Crowninshield, though each had not served in the previous Congress. This is not to say it was the only factor, but it was an important one. See Note 262 above. See also Annals, 14 Cong. 1, p. 989 and 16 Cong. 2, pp. 741–742.


265. Wayland, op. cit., pp. 78–79. See also Debates, 20 Cong. 1, p. 1222 and 24 Cong. 2, p. 69. As might be expected, during the whole Jeffersonian period balancing interests on committees expressed itself largely in sectional terms. We may also note that though the practice of giving each state a seat on important committees disappeared because of its unwieldiness, the practice of reserving seats on particular committees to certain states may have begun to emerge. For example, Virginia almost invariably was represent-
ed on Ways and Means. See McConachie, op. cit., pp. 44-48 for additional information on the importance of state representation.

266. Figures for consecutive committee service are in sessions because appointments were made on a sessional basis until 1860. McConachie, op. cit., p. 137. In compiling these figures the first session of committee service has been counted as one, not zero. It should also be noted that the average in the text is not an average of the amount of consecutive committee service particular chairmen attained, but an average of the amount of consecutive committee service the chairman in each session possessed. To illustrate, assume that a committee has two chairmen over a ten-year period, that the men both enter the committee the first year of the period, and that the first man leaves after five years and is succeeded by the second. In the former case the average is 7.5 (five years of service plus ten years of service divided by two). In the latter case the average is 5.5 (the sum of one plus two plus three—up to ten and divided by ten).

267. Congressional Globe, 23 Cong. 2, pp. 146-150. The rule governing such contingencies had been allowed to lapse. See Note 251 above.

268. Strictly defined seniority involves the appointment of the highest ranking majority member. Party lines, however, are exceedingly difficult to draw for much of this period. Nonetheless, the evidence of these eight cases indicates little regard for seniority even loosely defined. In six of these eight cases the chairmanship was given to a member who had not served on the committee the previous session, despite the presence of members of various political hues who had served on the committee the previous session and were still on the committee or in the House. In two cases fourth ranking members were advanced to the chairmanship above members who had outranked them and were still on the committee or in the House. In one of these cases, Foreign Affairs in the Twentieth Congress, the chairmanship was given to a member who could clearly be identified as a minority member. The custom at this time was to restrict the chairmanship of this committee to men who could enter a confidential relationship with the President. Congressional Globe, 23 Cong. 2, p. 147. See also Note 269 below.

269. See Note 266 above. The result for Claims is at least somewhat anomalous. It derives from a combination of the following circumstances: there was only one chairmanship change between 1819 and 1829 and that occurred in the last session of the period; the member advanced was in his twelfth session of consecutive service; and the chairman at the start of the period was only in his third consecutive term on the committee. Indeed, if we go back one Congress (to 1817) to include the appointment of this chairman, the average for the number of consecutive sessions served by members when advanced to the chairmanship changes drastically and the two averages come into exact parity at 6.5 sessions each.

270. Corresponding figures for three major committees, chosen as a sample, indicate that prior committee service had little impact on either advancement or reappointment to the chairmanship. The average length of consecutive service of members when they became Chairmen of Ways and Means, Judiciary, and Foreign Affairs in the period from 1819 to 1829 was 1.7, 1.3, and 1.5 sessions respectively. Similarly, the average term of consecutive committee service of chairmen on these committees in sessions in this period was 3.9, 2.1, and 2.3 sessions respectively. In addition, it should also be noted that even on minor committees reappointment was subject to the control of political considerations. We may note, for example, that Stevenson did not reappoint Sloane to the Chairmanship of Elections in the second session of the Twentieth Congress, though Sloane had served seven consecutive sessions in that post. However, Sloane, a member of the pro-Adams minority, got involved in a bitter dispute with Stevenson over the character of
the promises Stevenson made to secure his election as Speaker. See Wayland, op. cit., p. 69.

271. For a discussion of the central importance of 1910–1911 see Abram and Cooper, "The Rise of Seniority in the House of Representatives." For data on turnover from 1801 to 1819 see Note 186 above. We may note that turnover declined slightly after 1819 but nonetheless remained high. The percentage of first-term members in the Congresses between 1819 and 1829 ranged from 33.2 to 45.2 with a median of 40.8. Rice, op. cit., pp. 296–297.

272. See Annals, 14 Cong. 1, pp. 922–923. See also Annals, 8 Cong. 2, pp. 697–699 for a discussion that illustrates the difficulty of using seniority as an appointment criterion due to its lack of precise operational meaning.


274. Debates, 20 Cong. 1, p. 1242. The remarks in question were actually made at another point, but not fully recorded by the reporter (ibid., p. 1170). For a criticism of these remarks see ibid., p. 1297.


276. White, Jeffersonians, p. 111.

277. Ibid., p. 94.

278. Ibid., p. 104.

279. Indeed, some Republicans resisted even the delegation of discretionary power over claims to executive officers, despite the labor and tedium involved in handling them. See Annals, 14 Cong. 2, p. 379 and 15 Cong. 1, p. 842. See also Debates, 19 Cong. 1, p. 857.

280. James Hart, The Ordinance Making Powers of the President of the United States (Baltimore, 1925), pp. 70 and 89. See also ibid., pp. 19 and 267.


283. Ibid., pp. 101–106. For the formal jurisdiction of these committees as written in the rules see House Journal, 18 Cong. 1, pp. 730–731.


285. See Note 165 above and related text. The various expenditure committees were added in part at least because of Ways and Means' inability, given its legislative load, to acquit itself adequately of its oversight or control functions. See White, Jeffersonians, p. 101.

286. The single instance between 1809 and 1829 in which a standing committee was charged with an investigation of executive or administrative operations or conduct and given the subpoena power occurred in the Seventeenth Congress and concerned an inquiry into the conduct of the Superintendent of Indian Trade. Instances in which select committees were created for such purposes in the same period and given the subpoena power are as follows: the inquiries in the Eleventh Congress into the conduct of General Wilkinson and the condition of the Army at New Orleans; the inquiry in the Thirteenth Congress into retrenchment of the naval establishment; the inquiries in the
Fourteenth Congress into misuse of public moneys by the Quartermaster, the conduct of the Post Office Department, and the expenditure of money by General Harrison; the inquiries in the Fifteenth Congress into the conduct of clerks in the departments and the United States Bank; the inquiry in the Sixteenth Congress into the affairs of the Post Office Department; the inquiries in the Seventeenth Congress into the affairs of the Post Office Department, the sale of public lots in Washington, Army regulations, and the Mix contract; the inquiries in the Eighteenth Congress into the sale of public lots in Washington and the Edwards Memorial; the inquiry in the Nineteenth Congress into Calhoun's conduct as Secretary of War; and the inquiry in the Twentieth Congress into retrenchment in the executive departments. It should be noted that these examples do not include all the instances in which subpoena power was given, but only those within the executive or administrative category. Even here the author's list may well not be exhaustive, though it is more complete than the catalog of instances cited in the standard sources. See Ernest J. Eberling, Congressional Investigations (New York, 1928), pp. 64–102 and Marshall Dimock, Congressional Investigating Committees (Baltimore, 1929), pp. 90–93.

287. We may note, for example, that the various Post Office Department investigations cited in Note 286 above were largely or wholly concerned with finances and confided to select committees. Similarly, the retrenchment investigation in the Twentieth Congress, as well as retrenchment investigations during the Sixteenth and Seventeenth Congresses in which the committees involved were not given subpoena power, were confided to select committees.

288. We may note, for example, that in 1816 the Post Office Committee recommended that a select committee be created to investigate the conduct of the Department because "a more particular inquiry than would have been in their opinion compatible with the duties assigned to the Committee of Post Offices and Post Roads by the rules of the House" was needed. Annals, 14 Cong. 1, p. 772. See also Debates, 24 Cong. 2, pp. 1227–28 and House Report 240, 20 Cong. 1, quoted in White, Jeffersonians, p. 105.

289. See for example, Annals, 13 Cong. 2, pp. 1010–11 and 1869, and 16 Cong. 2, pp. 692–693; Debates, 20 Cong. 1, pp. 1139, 1289, and 1339.

290. In a lengthy debate in 1832 over investigation of the United States Bank it was conceded by virtually all speakers that the established and proper parliamentary usage was to compose investigating committees of members friendly to the investigation. Thus, for example, one member stated that "it was proper that inquiry should be made by those whose hostile feelings would prompt them to a rigid scrutiny." Debates, 22 Cong. 1, p. 2059. This same member added "that no public institution or public officer, would deserve to be sustained, if unable to endure the most rigid public scrutiny of such a committee." Ibid., p. 2060. Nor, did the growth of parties and partisan conflict soon eliminate this approach to investigating committees. We may note, for example, that in his often quoted remarks, Speaker Hunter did more than defend and rationalize majority control of the standing committees (see Note 257 above and related text). Although this is almost always overlooked, he went on to rationalize and advocate minority control of investigating committees. Congressional Globe, 26 Cong. 2, pp. 230–231.

291. In cases where the subpoena power was not granted use of the standing committees was somewhat more common than in cases where it was granted. For example, standing committees were charged with inquiry into the conduct of the war against the Seminoles in the Fifteenth Congress, the contract granted to James Johnson in the Sixteenth Congress, and the use of the regular army in building fortifications in the Seventeenth Congress (see Note 286 above and Note 342 below and related text). See also Debates, 20 Cong. 1, pp. 1065, 1149, 1156, and 1181 for the assertion of claims regarding the superior virtues of the standing committees as investigatory mechanisms.
292. It may be noted that lack of time and the need for a friendly committee were also grounds used to establish exceptional circumstances under which a legislative subject might properly be referred to a select committee. See Notes 225–227 and associated text.


298. *Annals*, 11 Cong. 2, p. 1743. Yet, despite the claims proponents of inquiry made, the reports of the investigating committees consisted simply of documents communicated without opinion and the House voted to transmit them directly to the President. See *Annals*, 11 Cong. 3, pp. 1030–32.


303. *Annals*, 17 Cong. 1, pp. 617–618. The matter at issue here was the dispute between two federal officials in the Florida territory. See Note 294 above and related text.

304. The doctrine of implied power was also extended for use as a justification for calls for information regarding executive operations or conduct. See *Debates*, 20 Cong. 1, p. 1044. In addition, it was used to justify the power of the House to punish for contempt. Eberling, op. cit., pp. 66–86 and Anderson v. Dunn, 6 Wheaton 204 (1821).

305. *Debates*, 20 Cong. 1, p. 1350.

306. Ibid., p. 1300.

307. Ibid., pp. 1247 and 1291.


309. Ibid., p. 1084.

310. Ibid., p. 1103.

311. Ibid., p. 1106.

312. Ibid., p. 1410. The vote on the previous question was 121 to 52 and on the main question 165 to 9.

313. Note, for example, the investigations into the conduct of clerks in the executive departments in the Fifteenth Congress, the affairs of the Post Office Department in the Sixteenth Congress, and retrenchment of expenses in the executive departments in the Twentieth Congress. Note also the progression in the breadth of the resolutions authorizing inquiry into the U.S. Bank and Post Office Department. Eberling, op. cit., pp. 102, 103–104, and 115–116; *Congressional Globe*, 23 Cong. 1, p. 474 and 23 Cong. 2, pp. 244–249.

NOTES

316. Debates, 24 Cong. 2, pp. 1293 and 1401.
317. Annals, 10 Cong. 1, pp. 1264 and 1267.
318. Ibid., p. 1371.
319. Ibid., p. 1422.
321. Annals, 15 Cong. 1, p. 784.
322. Ibid., p. 785. It may be noted that Holmes was second ranking on Foreign Affairs and became its Chairman in the next session.
324. Annals, 17 Cong. 1, p. 616.
326. Debates, 22 Cong. 1, pp. 1887 and 1917.
327. Ibid., pp. 1891, 1899–1901, and 1906.
328. Ibid., pp. 2058–59.
329. See Note 295 above and related text.
331. See Notes 219, 220, and 231 above and the text associated with these notes.
332. For Congressional recognition that the legislative branch was in fact aggrandizing its position at the expense of the executive see Annals, 17 Cong. 1, p. 613 and Debates, 20 Cong. 1, p. 2646.
333. Both quotes can be found in White, Jeffersonians, p. 101.
334. Annals, 15 Cong. 1, p. 784.
335. Annals, 17 Cong. 1, pp. 1768–69 and 1887. Adams notes that the resolution was discussed by the Cabinet. In this discussion, “the propriety of the resolution itself was questioned and the President thought it an officious meddling on the part of one branch of the Legislature with the Executive Administration.” Memoirs of J. Q. Adams, V, p. 536. In the same Congress the request for a House investigating committee to visit and inspect certain fortifications also raised doubts about Congressional meddling in Monroe’s mind. Ibid., VI, p. 119.
336. Ibid., IV, p. 31. See also Harlow, op. cit., pp. 241–242. In cases in which a member hostile to the Administration was made Chairman of Foreign Affairs grave difficulties in maintaining the traditional practice of confidential communication ensued. See Memoirs of J. Q. Adams, V, pp. 474–475. Such instances, however, were rare since Speakers usually felt obliged to appoint a member who could enjoy such communication. See Wayland, op. cit., pp. 78–79 and Congressional Globe, 23 Cong. 2, pp. 146–150.
337. House Report 86, 19 Cong. 2. See also White, Jeffersonians, p. 100.
338. Senate Document 189, 20 Cong. 1. See also White, Jeffersonians, p. 100.
340. See Note 175 above. For some additional examples of investigations see Note 173 above and associated text.
341. See Note 286 above. It should be noted that this total counts instances in which the subpoena power was conferred several times in different sessions of the same Congress with reference to the same topic as a single instance. The case in point is the Wilkinson topic in the Eleventh Congress.

342. See Note 286 above. Some examples of major committee investigations conducted without grant of subpoena power after 1815 are the inquiry into the conduct of the war against the Seminoles in the Fifteenth Congress; the inquiries into the employment of Army officers as clerks in the departments and retrenchment in the Sixteenth Congress; and the inquiries into the execution of Indian treaties and the laws prohibiting the slave trade in the Seventeenth Congress.


344. See Debates, 19 Cong. 1, p. 1301; 20 Cong. 1, p. 894; and 20 Cong. 1, p. 1048. In addition, see House Document 46, 20 Cong. 1.

345. See Annals, 16 Cong. 1, p. 1464; 16 Cong. 2, p. 1251; 17 Cong. 1, p. 1407; 17 Cong. 1, pp. 1753 and 1767; and 17 Cong. 2, p. 471.

346. Another peak was attained during the Twentieth Congress in which a pro-Jacksonian majority sought to embarrass and discredit President J. Q. Adams prior to the election of 1828. Thus, for example, Adams’ Secretary of State complained “that of these calls from committees there were now five times more than at the last session of Congress,” and that they were “harrassing and vexatious.” He further noted that “all these scrutinies are pursued, too, in a spirit of hostility to the Administration, and with purposes of factious opposition.” Memoirs of J. Q. Adams, VII, p. 402. The count of instances in which subpoena power was conferred during the Seventeenth Congress does not include the investigation of Gales and Seaton in their capacity as public printers. See Note 286 above.

347. Quoted in Meigs, op. cit., p. 263.


349. Memoirs of J. Q. Adams, V, pp. 227–228. On another occasion near the end of the Congress, Adams noted that he had been subjected to the “inquisitorial screw” for a period of four hours with regard to the question of whether he had intentionally falsified an important document. Ibid., VI, p. 127.

350. See Notes 286 and 342 above.


353. In delineating these functional needs the author has been inspired primarily by the original and highly suggestive article Richard Fenno did on the internal distribution of influence in the House for the American Assembly volume on Congress. See Note 273 above. What the analysis in the text does essentially is to revise and expand the Fenno approach in terms of a variety of points drawn from systems theorists that the author finds relevant and cogent. Of these theorists the author has relied most heavily on Talcott Parsons. See Talcott Parsons, “Suggestions for a Sociological Approach to the Theory of Organizations,” in Amitai Etzioni (ed.), Complex Organizations (New York, 1965), pp. 32–48 and Talcott Parsons, “The Political Aspect of Social Structure and Process,” in David Easton (ed.), Varieties of Political Theory (Englewood Cliffs, N. J., 1966), pp.
71–113. In addition, see David Easton, A Systems Analysis of Political Life (New York, 1965) and F. Kenneth Berrien, General and Social Systems (New Brunswick, N. J., 1968). It should also be noted that some parts of the analysis are developed more fully in Joseph Cooper, “The Importance of Congress,” Rice University Studies, 54 (Summer, 1968), 53–67.


355. For an analysis of the development of House procedure with regard to the introduction and reference of bills, committee power over bills, limitation of debate, and access of business to the floor from 1829 to the revolt against the Speaker in 1910 see Joseph Cooper, Congress and Its Committees (Ph.D. dissertation, Harvard, 1961), pp. 67–84. This analysis indicates that development in these areas between 1829 and 1910, though slow and incremental, was essentially complete by the early 1890’s. It is based largely on material found at various points in Volumes IV and V of Hinds’ Precedents. In addition, see Alexander, op. cit., and Samuel W. McCall, The Business of Congress (New York, 1911). For information on the development of House procedure in these areas since 1910 see Cooper, Congress and Its Committees, pp. 84–179; Chang-Wei Chiu, The Speaker of the House of Representatives since 1896 (New York, 1928); and Floyd Riddick, Congressional Procedure (Boston, 1941). It may be noted that major change has been confined to two of the four areas cited above: committee power over bills and access of business to the floor. See also Lewis Froman, The Congressional Process (Boston, 1967) for a readable account of procedure in the contemporary House.


357. For information on the standing committees as organized entities in the 19th century see Hinds’ Precedents, Chapters 99–101 and 104–105. See also McConachie, op. cit. It may be noted that the practice of holding committee hearings on legislative topics was undergoing its first beginnings as the Jeffersonian period ended. Debates, 20 Cong. 1, pp. 862–890. For information on the standing committees as organized entities in the 20th century see Riddick, op. cit.; George Galloway, The Legislative Process in Congress (New York, 1955); and Keefe and Ogul, op. cit.


For a study of the current use of nonstatutory language as a control technique see Michael Kirst, *Government Without Passing Laws* (Chapel Hill, 1969).


364. Note, for example, the significant role attitudes toward individual and minority rights played in inducing the House to tolerate gross procedural inefficiency and obstruction during the 1870's and 1880's. See *Congressional Record*, 46 Cong. 2, pp. 198-200 and 575-580 and 51 Cong. 1, pp. 1177-80 and 1206-67. See also William A. Robinson, *Thomas B. Reed* (New York, 1930), pp. 56-123.


367. The differences between the modern House and the House of the 1920's and 1930's are, to be sure, relative rather than absolute. Nonetheless, the 1920's and 1930's are best seen as a period of transition from the centralized House of the era of Czar rule to the decentralized House of recent decades. It was not until after the revolt of rural Southern Democrats against the New Deal in the late 1930's that the primary features of the modern House in terms of level of cohesion in the majority party, sense of party loyalty or obligation, and leadership style fully emerged. The beginnings of the modern House can thus be correlated with the career of the primary architect of
the leadership style or strategy that has prevailed in the House these past three decades—Sam Rayburn. Rayburn became majority leader in 1937 and Speaker in 1940. The Rayburn approach features avoidance of formal party mechanisms such as the caucus or steering committee; reliance on personal influence and appeals; and permissive treatment of breaches in party regularity. This style or strategy is based on the premise that the key to party success lies in avoiding any deepening or exacerbation of existing divisions between the Northern and Southern wings of the party. Though Rayburn's successor, John McCormack, has relied more on his majority leader and whip than Rayburn did, he has followed the Rayburn approach in its essentials. Leadership has become more collective, but the stress on informality, permissiveness, and personal contact and appeals remains. Nor is this surprising. McCormack rose to power in the House as a protégé of John Nance Garner and Sam Rayburn and he has throughout his career sought to foster an alliance between Northern urban Democrats and Southern Democrats. For material on the revolt of Southern Democrats in the late 1930's and the decline in Democratic cohesion see James Patterson, Congressional Conservatism and the New Deal (Lexington, 1967); Julius Turner, Party and Constituency: Pressures on Congress (Baltimore, 1951), pp. 27 and 128-143; and V. O. Key, Southern Politics (New York, 1950), pp. 369-382. For general works on the status of party and the role of the party leadership in the modern House see David Truman, The Congressional Party (New York, 1959); W. Wayne Shannon, Party, Constituency and Congressional Voting (Baton Rouge, 1968); and Ripley, Party Leaders in the House of Representatives. For material on the style or strategy of leadership employed by Rayburn and McCormack see Richard Bolling, House Out of Order (New York, 1965), pp. 65-69; Bolling, Power in the House, pp. 178, 194-196, 199, 208, and 242-244; and Clapp, op. cit., pp. 288-290, 297-301, 306-308, and 313-316. In addition, see Joseph Cooper and Gary Bombardier, "Presidential Leadership and Party Success," Journal of Politics, 30 (November, 1968), 1025; Memorial Services, Together with Remarks Presented in Eulogy of Sam Rayburn (Washington, 1962), pp. 40, 44, 48, 62, 117, 133, 315, 422, and 424; and Congressional Record, 88 Cong. 1, p. A673 and 89 Cong. 1, pp. 27855 and A992.


372. See Bolling, House Out of Order; Bolling, Power in the House; and Ivan Hindraker, "From the 86th to the 87th Congress: Controversy over 'Majority Rule,'" in Ivan Hindraker, American Government Annual, 1961-62 (New York, 1961), pp. 76-94. In addition, see Congressional Record, 86 Cong. 2, p. 19362 and 91 Cong. 1, p. 6749. The former is a reprint of a Legislative Reference Service report on the Rules Committee during the 1950's and the latter a reprint of a Democratic Study Group analysis of
the voting records of committee and subcommittee chairmen in the late 1960's. It is also worth noting that although obstruction on the part of the Rules Committee has been reduced by expanding the size of the committee and filling vacancies with men more in harmony with party programs, committee responsiveness to the majority party leadership continues to be subject to breakdown. In the closing days of the 91st Congress, for example, the Rules Committee prevented a bill on consumer protection and a bill giving enforcement power to the Equal Employment Opportunities Commission from coming to the floor. *Washington Post*, December 3 and 10, 1970.

373. This point, drawn from the history of discharge and Calendar Wednesday, is further confirmed by the history of the 21-day rule. Speaker Rayburn clearly disliked this procedure because it gave additional leverage to committee chairmen, limited the ability of the Speaker to keep bills off the floor, and interfered with the personal and informal leadership style he preferred. He, therefore, was not unhappy when the procedure was abandoned in 1951 after a brief trial of two years. In 1965 the procedure was modified to protect the Speaker's discretion in recognition and readopted. However, once again it was dropped in the following Congress. Speaker McCormack supported the adoption of the rule in 1965, as Rayburn did in 1949. Still, it is doubtful that McCormack was greatly disappointed when the rule was again eliminated in 1967 since he too preferred to operate in an informal and personal manner. It may be noted that McCormack initially resisted modification of the procedure to enhance the Speaker's control in 1965 and did not speak in support of retention of the rule in 1967. See Bolling, *House Out of Order*, pp. 202 and 207 and Bolling, *Power in the House*, p. 230. See also *Congressional Record*, 86 Cong. 2, Appendix, p. 19394.

374. See Note 367 above. In marked contrast to practice during the 1940's and 1950's, the Democrats have violated the seniority principle or rule in at least one instance in each of the past three Congresses. See Abram and Cooper, "The Rise of Seniority in the House of Representatives," p. 81 and *Congressional Quarterly Weekly Report* (Washington, D.C.), January 31, 1969, p. 203. For information on the committee appointed by the Democratic Caucus to study seniority see *Congressional Quarterly Weekly Report* (Washington, D.C.), March 20, 1970, p. 783. The Republicans in the House appointed a similar committee which in September recommended caucus election of chairmen. *Washington Post*, September 28, 1970. A proposal for regular monthly meetings of the Democratic Caucus to discuss matters of party procedure and public policy was adopted at the beginning of the Ninetieth Congress. *Congressional Quarterly Weekly Report* (Washington, D.C.), January 2, 1969, p. 2. Over the past two years caucus sessions have dealt with such matters as the handling of bills on the District of Columbia Committee, a resolution opposing a seven percent investment credit for business, a resolution calling for a revision of priorities to provide more money for urban problems, a resolution calling for a legislative program based on the party platform, a resolution attacking the Administration's tight money policies, a resolution of no confidence in the leadership, and a resolution establishing a committee to study seniority. To these events as basic indicators of change can be added the growth in the activities, organizational efficiency, and militancy of the Democratic Study Group. In explaining these trends and dissatisfactions, however, attention should not be directed simply to McCormack's personal deficiencies or failures as Speaker. As the text suggests, more basic factors are at work. The number of and degree of support provided by Southern Democrats has declined greatly since the early years of Rayburn's Speakership. The Rayburn approach is thus necessarily a less productive one and it is worth noting that Rayburn's effectiveness itself declined toward the end of his career. In addition, the number of Northern big city Democrats has also been declining. It is these factors,

375. After more than five years of study, agitation, and maneuvering the Congress this fall passed a Reorganization Act designed to enhance its effectiveness and efficiency. However, not only are the provisions affecting structure and resources less sweeping and important than in the case of the Reorganization Act of 1946; in addition, some of the most significant features of the new Act concern the reduction of secrecy in Congressional proceedings and thus relate more to political operation than technical needs. The primary case in point is the provision for recording teller votes in the House. See *Washington Post*, September 18 and October 7, 1970 and *Congressional Quarterly Weekly Report* (Washington, D.C.), September 25, 1970, pp. 2321–26. For an excellent general analysis of the need for and possibilities of Congressional reorganization see John Salama, *Congress and the New Politics* (Boston, 1969).

376. Evidence on House attitudes toward the worth and importance of the body is unfortunately very skimpy in the existing literature. See, however, Clapp, op. cit., pp. 430–438 and MacNeil, op. cit., pp. 3–16.
