

and traffic congestion, and Congressional control and a thousand and one similar questions by an embargo on German music or by severe measures against elderly pacifist clergymen. But in times as grave as these it is worth our while perhaps to see which motive we really put first.

THE ATTITUDE OF PUBLIC OPINION TOWARDS CONGRESS

BY HENRY JONES FORD, PH.D.,
Princeton University.

It is a wise saying that criticism is easy but performance is difficult. It is always the case when difficult and important tasks are being carried on that there are opportunities for fault finding and complaint. The important thing is that means should exist by which public opinion can act intelligently on the subject. Now saying everything in favor of the press that the press would say for itself—and you will admit that is a great deal—I think that I can ask you to bear witness that pure and unsullied devotion to the truth was not always conspicuous and ever manifest in the press even before we had the censorship. And is it not the case that the very idea, the essential characteristic of constitutional government, is that we shall not be dependent upon such outside agencies but that the government itself should be so organized that it would include the function of control; that the activities of the constituted organs of authority should be sufficient to define responsibility and to apportion praise or blame where it is justly due? What is representative government except representing the interests of the people and giving to them exact and effective expression?

There is a marked disposition to speak in terms of disparagement of the behavior of Congress in this emergency and I think it is important at the outset to say that you cannot possibly reach a fair judgment on questions of this kind if you approach the matter merely from its personal aspects. The general idea seems to be that members of Congress are not fully up to their duty and responsibility and that their personal defects are the cause of trouble, whereas the true ground of criticism is the character of the system

under which they act. The Golden Rule of politics was laid down by Edmund Burke in his famous essay in which he said: "Where there is a regular scheme of operations carried on, it is the system and not any individual person who acts in it who is truly dangerous." And surely we have had sufficient experience to know that mere changes in personnel amount to little. Those who come in work in the same system and are subject to the same influences, so all we get is a fresh set of players at the same old game. If we are going to make any substantial improvement, it is necessary to make a change of system.

One feature of the case is the difficulty we are having in getting materials for intelligent judgment. The situation in which we now find ourselves was exactly described by Alexander Hamilton in the *Federalist*. He said:

It is often impossible amidst mutual accusations, to determine on whom the blame or the punishment of a pernicious measure ought really to fall. It is shifted from one to another with so much dexterity, and under such plausible appearances, that the public opinion is left in suspense about the real author. The circumstances which may have led to any national miscarriage or misfortune are sometimes so complicated, that where there are a number of actors who may have had different degrees and kinds of agency, though we may clearly see upon the whole that there has been mismanagement, yet it may be impracticable to pronounce to whose account the evil which may have been incurred is truly chargeable.

At the present juncture there can be no doubt at all as to where the responsibility is truly chargeable. It certainly is the fact that there is waste, confusion, overlapping, duplication, friction and inefficiency in the departments at Washington. This is admitted on all sides. The question is as to whose account is it truly chargeable. As a matter of fact, the war broke upon us at a time when a struggle had been going on for about ten years between the administration and Congress over that very question. Our presidents have been trying to reorganize the departments to obtain economy and efficiency. President Roosevelt appointed what was known as the Keep Commission. This commission made a thorough examination of conditions and a series of recommendations, but the only response of Congress was to pass a law which has been extremely mischievous in this emergency. It was not that Congress denied the need of reform. Very strong views upon that subject are frequently expressed in Congress but questions of privilege caused

Congress to take the position that nothing shall be done until there has been time to consider every feature of the case. So instead of making use of the information for the purpose of introducing more efficient arrangements, Congress put a rider on one of the appropriations bill in 1909 providing that:

Hereafter no part of the public moneys or of any appropriation heretofore or hereafter made by Congress shall be used for the payment of compensation or expenses of any commission, council, board or other similar body, or any members thereof, or for expenses in connection with any work or the results of any work or action of any commission, council, board, or other similar body, unless the creation of the same shall be or shall have been authorized by law.

Now it so happens that the Keep Commission was constituted by detail made by the President of experienced and capable officials in the various departments so that it was theoretically conceivable that this work of reorganization might have been prosecuted without an appropriation. Congress took pains to stop off that possibility by putting in a provision, "nor shall there be employed by detail, hereafter or heretofore made, or otherwise, personal services from any executive department or other government establishment in connection with any such commission, council, board or similar body." In other words, the executive department was absolutely precluded by law from making any arrangements for reorganizing the departments or even looking into the matter.

When President Taft came in he was confronted by this law, and so manifest was the need of action that he appealed to Congress for specific authority to undertake the work of reorganization. He succeeded in getting an appropriation for what is known as the Economy and Efficiency Commission which made a very thorough examination of the departments and issued a series of most valuable reports which will be of great use if the time arrives when it is thought to be really desirable to put the government upon a business basis. Not only did Congress take no action upon the subject, but as soon as there was any attempt on the part of the administration to give a practical effect to these labors, Congress acted with energy and effect. President Taft on January 17 and April 4, 1912, sent in special messages pointing out improvements which could be made, incidentally saving eleven million dollars a year over and above the gain through increased efficiency of service, and he proposed to transmit the budget estimates to Congress there-

after upon a new and improved plan devised by the Economy and Efficiency Commission. The response of Congress was to strike out the appropriation for the support of the Economy and Efficiency Commission, thus practically abolishing it, and then put another rider upon an appropriation bill prohibiting the administration from making any change in the mode of transmitting the budget estimates until Congress specially authorized such a change. President Taft took the position that it was his constitutional right to make his recommendations in such manner as he saw fit, but he was not able to enforce that view on Congress and as a matter of fact the budget is still presented in the same old disorderly way.

I think it is easy to understand that when this war broke out, it was necessary to create a great many new services. This old act of 1909 was simply a great public nuisance. Most valuable time was lost from the inability of the administration to perform functions which are considered as inherent and essential to the position of any general manager in any business concern. The President did not have the legal right to assign so much as a clerk or typewriter from any of the departments for the service of the new boards and commissions called into being. It is important to bear all this in mind because there is now pending a bill which is the direct successor of those previous efforts of the administration to introduce order and efficiency into the government departments. I refer to the Overman Bill which was introduced in the middle of February. It has been under discussion ever since. The *Federalist* lays down as a principle so obvious that it is axiomatic, that the persons from whose agency any ends are expected must be allowed the means to attain those ends. How can you expect the administration to be responsible for results when it is not allowed to have the necessary organization to attain those results? So far the attitude of Congress seems to be that it will vote all the money that is needed but will not vote the organization that is needed. It is the case in all business arrangements that organization is quite as important as the necessary supply of funds. The situation to which the world is tending in every democratic country, with the United States, I regret to state, so far lagging behind, is to give plenary power in the administration subject to absolute control by the representatives of the people.

We talk about power being dangerous. It is just as absurd a

thing as to speak about force being dangerous. What is dangerous is the irresponsible exercise of power, and mere attempts to reduce power by limitation creates this very irresponsibility which is the true danger. We talk about legislation being dangerous. I do not dispute the force of the argument that the extensive powers sought to be conferred upon the President carry with them dangerous possibilities of abuse, but what power could possibly be conferred in civil life that is not necessarily involved in the power granted in waging a war? If the President can be trusted to be commander-in-chief of the army and navy, must it not necessarily be that he should be trusted with all of the civil arrangements to maintain the efficiency of the fighting organization? It is simply absurd to refuse the President powers to arrange and coördinate all the civil departments of government in connection with the military. They are really all parts of the same organization of the national resources.

These ideas which are working through the heads of our politicians so slowly have been acted upon from the first by every other country. In Canada the statute requires the administration to authorize such new things and cause such things to be done as may be deemed necessary or advisable for the security, defense, peace, order and welfare of Canada; and while there are certain schedules of principal things to be done, the act expressly declares that these particulars are to be construed not so as to restrict the generality of the foregoing terms. Is not every business man aware of the principle that if you are going to enforce responsibility you must give discretion to your agent or else you cannot hold him to account? What responsibility could be greater than is imposed by this Canadian statute? The administration having all power, and having a complete choice of things, is thereby held to a responsibility which could not possibly be enforced if there were a limitation upon the power.

That is a situation which is peculiar to this country, and it is becoming intolerable. I do not suppose any one doubts the fact that it is a chronic disease with us. And yet the Constitution of the United States would seem to be very clear as to the power of the President to propose to Congress whatever measures he deems necessary or expedient, and in that case, of course, responsibility would be promptly defined, because then either the President would

obtain the measures he desires, or else their inadequacy would be shown by criticism and the necessary amendments would have to be made. A situation would then be created which would make it an inconvenient and undesirable thing for members to waste their time in introducing their own little bills. They could achieve distinction and perform public service better by studying questions and by acting as critics of the administration's proposals. The way it works out in practice is in this wise. I have been inquiring recently into comparative legislative statistics as between Great Britain and this country. The latest that I have been able to find were those of the British Parliament which began its sessions November 11, 1914. The session lasted until January 27, 1916, a little over fourteen months, and during that period 182 bills were introduced in the House of Commons, and 49 came over from the House of Lords, making 231 altogether. With a calendar of only 231 bills to consider, it is quite likely that there would be time and opportunity to form an intelligent idea of their merits and to discuss them with deliberation and knowledge.

We will now consider the situation which exists in our Congress. The session of Congress which began on December 6, 1915, and extended to December 8, 1916—nine months and two days, which is the latest session that I could compare with the British session—in that time, nine months as against fourteen months in England, 17,798 bills were introduced in the House, and 7,020 in the Senate, or a total of 24,818. In addition, there were 477 joint resolutions and 86 concurrent resolutions, making over 25,000 on the calendars to be considered. I have seen a computation made by an inquisitive member of Congress, in which he figured out that allowing an average of one minute to each member to debate each measure it would require over sixty-six years to go through the calendars in their regular order for one session of Congress.

The effect of that situation is, of course, to cause business to be done in irregular order—by special orders; by the reports of the committee of rules; by conferring special privileges upon particular committees to report at any time. The show of deliberation is mere legislative camouflage. The supreme object is to handle measures so that they can be referred to a conference committee where they may be put in such shape as is acceptable to the various interests which occupy positions of advantage. Our President, the man who is responsible for the results, who is carrying the heavy

burden of this war, is kept in a position in which he has to act, not in his constitutional capacity as chief executive, but as a lobbyist and promoter, having to make use of secret influences and private interviews in order to accomplish his proper official purposes. That is the only way in which he is allowed to act under the methods and rules of Congress.

If I should say that the committee system of government which has been developed in Congress is our greatest public enemy, I fear one would think I was using rather strong language, and yet that is exactly what a calm, well-informed and judicious critic of our institutions, Justice Story of the Supreme Court, has said. In his *Commentaries* he expressed the opinion that, if ever the Constitution of the United States is overthrown, it will be owing to that fact—that the President, instead of being allowed his proper constitutional opportunity of presenting and defining his policy to the Houses of Congress, is compelled to resort to secret influences and to private arrangements. The encroachment of Congress upon the presidential function begets in its turn an encroachment of the President upon congressional functions, and it is just in that way and in no other way all through history that dictatorship has been erected upon the ruins of a free constitution.

So then, it is not merely the war we have to consider. We have to consider what really in many respects is a more serious situation still—what is going to happen when the war is over? What is going to be done with the millions of men who have been taken away from homes and occupations and put on the fighting line? Are they to be simply dumped upon the community when the war is over? Enormous tasks of government will devolve upon every civilized nation as a result of this war. Do you think they can be performed by such clumsy, ill-contrived methods as prevail at Washington today? That is a point to which we all ought to give our most serious attention. We talk about making the world safe for democracy, which is certainly a grand ideal, but there is another ideal which is associated with it, and that is the importance of making democracy safe for the world. The point upon which public opinion should concentrate now is to make Congress safe for democracy. That is the weak spot in our institutions, and that is the place which has to be strengthened to enable this nation to rise to its full stature. We must exert all our forces and throw all our energies into this tremendous contest.