

an institutional study

The United States House of Representatives 1790-1800

Congress Hall

INDEPENDENCE NATIONAL HISTORICAL PARK / PENNSYLVANIA

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PREFACE

The United States House of Representatives customarily finds itself at a disadvantage in the comparisons so often made thoughtlessly and ignorantly with the Senate. There are reasons for this, though they fall short of justifying it. Congressman Richard Bolling writes in explanation: "The House is different from the United States Senate. The difference can be heard and sensed. Just walk the corridors. . . . A Senator is more visible than a Representative. Reporters find the Senate more manageable, easier to cover. The Senate is better mannered and outwardly more genteel. The Senate has been a preferred route for those seeking the Presidency. Thus, the Senate has a function as a 'place to pass through'." But to this he also adds: "Consequently, the Senate has suffered legislatively. Senate snobs to the contrary, House members have generally shown themselves far more knowledgeable than Senators. George Washington . . . envisioned the Senate as a 'saucer' in which the hot tea of the House would be cooled . . ." Yet the House is the "depository of democratic principles" and the "grand inquest" of the nation. There is glory enough for both in their histories. The House need not bow to the other house where its history is known.

Historians have done far too little with the history of Congress. Less yet has been done with Congress' early years. It has taken George Galloway, practitioner of another discipline, to answer the need for a comprehensive work on the subject of the House. A work focusing on the House in Philadelphia has long been wanted at Independence National Historical Park to provide, in the words of the Resource Study Proposal, "a large and organized body of materials for use in interpreting Congress Hall." It is hoped that this study will meet the need in most particulars. The writer especially hopes that he has helped reclaim in part the reputation of that body in its formative years. He has stressed the differences between the House we know today and the House that undertook immense initiatives during the Federalist decade. He has felt it necessary to resist the temptation to treat in depth those incidents and events of the period that come most easily to mind--the Jay Treaty debate; Washington's final appearance; and Marshall's dramatic announcement--First in War, First in Peace, First in the Hearts of his Countrymen--of

the great man's death; of great legislation expanding the Union by three states. They have been made to yield to the imperative need of explaining and describing the House as it was and as it worked.

1. The House of Representatives in Philadelphia

On December 6, 1790 the third session of the first Congress under the Constitution opened in Philadelphia's new county court house on a corner of the same square occupied by Independence Hall. The first floor court room freshly fitted up for its legislative function, accommodated the House of Representatives. Their offices were located in the nearby West Wing of Independence Hall.¹ The arrival of these renowned Congressmen

1. Erected in conformance with a plan of many years standing to group state, county and local governmental and judicial bodies on Independence Square, the county building had as its stated purpose the housing of "courts and common halls." It had been in such use for eighteen months only when occupied by Congress, and thus ever afterward bore the designation "Congress Hall". Philadelphia's city and county commissioners appropriated the building to Congress' use and assumed the expense of remodelling and furnishing it. The state legislature in 1791 voted to reimburse them for their expenditures. On adjournment of the short (lame duck) session on March 3, 1791, the House of Representatives resolved unanimously, "That the Speaker communicate to the Mayor and corporation of the city, and the Commissioners of the county of Philadelphia, the thanks of this house for the elegant and convenient accommodations furnished by them for the use of Congress." Gazette of the United States, March 5, 1791.

The Representatives' chamber occupied the entire first floor of the building south of vestibule and stairhall and measured 47 by 63 feet exclusive of an eight feet deep bay on the narrow end. Opposite it was a raised gallery. In 1793, following that year's congressional reapportionment and an increase in House membership from 65 to more than 100, Congress Hall was lengthened and the house some 38 feet. A side door was introduced into the chamber and a Portico, as it was called, constructed beyond it to serve as a House lobby. It also provided covered access to House offices in the wing building next door. Physical attributes of the House chamber and associated structures are discussed in detail and documented in Historic Structures Reports Part I on Congress Hall, Independence National Historical Park, May 1959, Chapt. II, Historical Data, Sect. 1; Historic Structures Report Part II, on Congress Hall, Independence National Historical Park, Feb. 1960, Chapt. II, Historical Data Sect. 1; Furnishing Plan for the First Floor of Congress Hall, Mar. 1961, Parts C-E; Historic Structures Report Part II on Congress Hall, Independence National Historical Park, Par. 1960, Chapt. III, Architectural Data Section; and Supplement No. 1.

created a great stir, marking as it did an accession of prestige and value to the city and an event reminiscent of those great days of the late war and the presence of the Continental Congress. Unlike the earlier Congress, this one came to stay a specified ten years after which period it would occupy a permanent home on the Potomac.² And unlike the earlier Congress, this one came organized and ready for business. The two earlier sessions in New York City had seen to that, and the unbusinesslike approach generally associated with the name of Congress was a thing of the past:

The punctuality of the members has been such that we were within one of forming a quorum of both

2. The Residence Act July 1790 came about as one move in a momentous bit of horse trading arranged by James Madison of the House and Secretary of the Treasury Alexander Hamilton. That it had been in contemplation for some time is indicated by Fisher Ames' reference in correspondence to Congress, ". . . caballing about the premanent residence of Congress. The Pennsylvanians have made, or are about making, a compact with the southern people to fix it on the Potomac . . . the terms are to remove the temporary residence of Congress to Philadelphia; . . ." Ames to George Richards Minot, Sept. 3, 1789, Seth Ames, ed., Works of Fisher Ames with a Selection from his Speeches and Correspondence (Boston, 1854), 1, 69. But cooperation had to be obtained from the northeastern states. This was not forthcoming until the southern states agreed to release enough votes to make possible passage of the Assumption bill providing for the federal government to assume responsibility for payment of certificates of indebtedness issued by the states during the war. A sore point in the south where many had been acquired of recent years by speculators from the central and northern states, only bait as tempting as the Residence Act could swing votes to the number needed. Pennsylvania residents stood to gain both ways; a parcel of the leading speculators came from Philadelphia and a temporary residency in that city would further enrich them through the normal forces of economic circumstance. Robert Morris in the Senate and Thomas Fitzsimons in the House engineered Pennsylvania's part in the deal. As the latter wrote to Miers Fisher on July 15, 1790, "Mr. Jefferson has calculated the Expenditure at the seat of Congress is near one Million dollars a year." Miers Fisher Papers, Historical Society of Pennsylvania. The Residence Act passed in July, Assumption in August, work began on Congress Hall soon thereafter, the executive offices moved in November, and Congress convened on December 6, 1790.

houses on the first day, a circumstance well worthy of note. We have got over all preparatory ceremonies and shall go seriously to work.³

Exchanging New York for Philadelphia caused some misgivings among the congressmen and inconvenienced some. With the Congress out of session when the federal offices arrived, most available space had been taken. With the city thronged by strangers, everyday articles had to be bought at a premium. Abigail Adams informed her daughter that, "If New York wanted any revenge for the removal, the citizens might be glutted if they could come here, where every article had been almost doubled in price, and where it is not possible for Congress and the appendages to be half as well accommodated for a long time."⁴ The hazards of the road took their toll as did the sea approaches at that out-of-season time:

. . . Burke was shipwrecked off the Capes; Jackson and Mathews with great difficulty landed at Cape May and travelled 160 miles in a wagon to the City. Burke got here in the same way. Gerry and Partridge were overset in the stage; the first had his head broke and made his Entree with an enormous black patch; the other had his ribs sadly bruised and was unable to stir for some days. Tucker had a dreadful passage of 16 days with perpetual storms.⁵

Once on Philadelphia's placid streets, they found much with which they might take exception. Oliver Wolcott found the people in their manners "more reserved than in New York," while Jeremiah Smith commented uncharitably, "The Philadelphians are from the highest to the lowest, from the

3. "The South Carolina Federalists," American Historical Review XIV, 779.

4. Charles Francis Adams, ed., Letters of Mrs. Adams, the Wife of John Adams (Boston, 1840), II, 207.

5. "The South Carolina Federalists," op. cit.

parson in his black gown to the fille de joie or girl of pleasure, a set of beggars."⁶ Approaching from the waterfront, congressmen, many of whom saw Philadelphia for the first time, gained an impression of "nothing . . . but confused heaps of wooden store houses, crowded upon each other," backed by Water Street at the foot of the wharves "narrow, shut in by the old bank of the river, dirty, filthy, stinking."⁷ But the main streets of Philadelphia gave quite a different impression. Regular, paved, lighted and kept clear of debris, they were lined with substantial brick row house dwellings and here and there a mansion house or public building, gardens, squares, and cleanly-kept markets presented a break in the frontage. The trees that lined Philadelphia's footways, the well-stocked shops on the first floors of houses, the public pumps offered the city's 60,000 inhabitants convenience amid crowding. Taking note of aspects such as these, Fisher Ames informed a friend, "This is a very magnificent city." He also termed the arrangements for Congress and the congressmen satisfactory: "Our accommodations to meet, &c., are good."⁸

In fact, as they settled in, members of the House with few exceptions discovered quarters to their liking. In the same way that motels today became the first homes of those on the move from one locality to another, so did Philadelphia's inns and taverns establish a Representative's first point of contact in 1790. The London Tavern on the high street, the Indian Queen halfway up Market Street on Fourth, the City Tavern a pace removed from businesses received many of them and smaller and less well known ones received others. Prominent congressmen stayed for a while by invitation at the homes, often opulent, of gentlemen. In time guests and paying guests alike settled into private rooming-houses and boarding-houses with their comfortable rooms, good table, and companionship to one's

6. "You cannot turn around without paying a dollar." Rufus W. Griswold, The Republican Court: or American Society in the Days of Washington (New York, 1867), 253.

7. Isaac Weld, Travels Through the States of North America (London, 1807), I, 5-6.

8. Ames, op. cit., 89.

liking. Often run by widows of good family, they imparted to their congressmen guests a home-like relief from the legislative chamber. Thus, after a few days at the Indian Queen, Ames "took lodgings at the house of a Mrs. Sage," where he began to "enjoy quiet, and to feel settled and at home."⁹ John Adams was put up at the home of Mr. Francis, a Frenchman who reserved a place for him at the head of table.¹⁰ Joshua Seney announced on December 9 in a letter to his wife: "Thro' the Kind offices of my Friend Captⁿ Murray, convenient and very suitable lodgings will be obtained for us, in the House of a genteel widow Lady. She has

9. Ibid., 88. Some settled a little too far into indolent habit: "It is intolerably provoking that these idle, lazy, 6 dollars per day men, can not rise in Y^e Morning, sip their coffee, & dismiss their barbers, early enough to attend Congress at 11 o'clock." William Parker Cutler and Julia Perkins Cutler, Life, Journals and Correspondence of Rev. Manasseh Cutler . . . (Cincinnati, 1888), I, 482-3.

10. One of Adams' companions reported home, "I live here My dear Polly in a French Hotel which is accounted the most elegant, and most reputable public home in the city. I breakfast in my own room alone, go the Congress mostly in a Hackney Coach at 11 Oclock, Set there Starched up like a Market Statue until half after 3 Oclock, dine at 4 Oclock retire to my own Cahmber and drink tea there at six, my time, unless when invited to dine out." John Steele to Mrs. Steele, Mar. 1, 1792, Steele Papers, No. 2, MSS, Univ. of North Carolina Library. Thomas Twining, Travels in America One Hundred Years Ago (New York, 1893), 31-4.

a daughter grown, an amiable young lady, it is said who in my absence, will be a Companion for you, very agreeable."¹¹

Philadelphia's places of entertainment and diversion were many and eye-opening compared to those of other towns and cities in the United States.

11. After a few sessions reserve appeared to melt away. George Thacher wrote to his wife that as the House assembled in December 1793, they greeted each other with "old & new all mingling hands either in token of a friendly remembrance, or of a happy acquaintance." Dec. 2, 1793 Thacher Papers, Box 1793-1798, Folder "1793", Massachusetts Historical Society. James Hillhouse's reaction to Congress' social customs was quite well-restrained: "I have finished receiving and making Card Visits from and to Members of Congress and the great Officers of State, and have attended the Levee of the President, and also of M^{rs} Washington . . . you may be assured I feel a great burthn off my hands . . . dont it seem trifeling indeed for members of the great National Council to be running about the City to leave Cards as a Visit to Persons they do not wish to find at home and contrive to take an opportunity when they think there is no probibility of finding them at home; but such is the force of that Tyrant, Custom, that we must conform or be thought rude." Hillhouse to Mrs. Rebecca Hillhouse, Dec. 3, 1792, Hillhouse Family Papers, Yale University. Some became jaded. Roger Griswold while declaring that the "novelty of Philadelphia is almost entirely fled," also admitted "we go sometimes to the Levees--sometimes to eat dinner with our acquaintances, where we eat & drink more than is . . . agreeable--I have not been at the theatre even once this winter--" Griswold to Miss Fanny Griswold, Jan. 12, Dec. 28, 1796, Griswold Family Papers, Yale University. H. G. Otis enjoyed superior lodgings: "Here I am at length my dear Sally, in the front upper chamber in market street, the arrangements of which have been made with all the neatness and precision of an inveterate old Bachelor, &c which will be tomorrow probably be discomposed & cluttered in the stile of a negligent Sloven, . . . everything has been done for my accommodation & a parlour reserved for my separate rule; but for this I shall have no occasion, as I mean to receive no visits at home, and care not how few I make abroad." Harrison Gray Otis to Mrs. Otis, Nov. 16, 1797, Otis Papers, Box No. 2, Folder "1796-1797", Massachusetts Historical Society. Joshua Seney to Mrs. Frances Seney. Dec. 9, 1790, Folder "Joshua Seney", Gratz Collection: Old Congress (S-T), Case 1, Box 11, Historical Society of Pennsylvania.

What had not yet been provided by 1790, followed very shortly as the government's presence stimulated such enterprise. The city's little, out-of-the-way theater was soon replaced by the grand Chestnut Street Theater. Across the street appeared Rickett's Amphitheater, where the enraptured crowd observed unsurpassed feats of horsemanship by the proprietor of that name. Balls at the City Tavern, strolls along the paths and over the oriental bridges of Gray's Gardens, watering at Harrowgate, gazing at the Indian delegations and uniformed representatives of other nations, browsing through Peale's Museum, or dinner at the Bingham's, Morris's, Willings, or Clymers if one were socially acceptable can be numbered among them. And for members of the House there were levees at President Washington's and occasionally dinner as well.

A conspicuous part of Philadelphia's social milieu had nothing to do with the hospitable rich. Tradesmen, mechanics, and laborers alike served the congressmen a constant reminder of the doctrine of popular sovereignty upon which their offices were based in theory. The commonality practiced the mode of direct address, and a "polite question was almost certain of an impudent answer." It has been observed that they "took the theory of equality seriously."¹² From among them were to some the foundation of the Democratic Society and the support of the Republican Party in Philadelphia in the politically troubled days ahead.

And for Mrs. Frances Seney and other congressmen's wives shopping in what had become America's center of fashion offered limitless opportunities. A rage for stylish wear, emanating under the influence of British and French soldiery during the Revolution, now swept anew through the prosperous city. Dry goods whole-salers and retail dress shopkeepers met the swelling demand for custom, the former from their harborfront townhouse-warehouses the latter in shops "remarkable for their neatness."¹³ Many

12. Claude G. Bowers, Jefferson and Hamilton, The Struggle for Democracy in America (Boston, 1925), 121.

13. J. P. Brissot de Warville, New Travels in the United States of America (Bowling Green, Ohio, 1919), 183.

shopkeepers advertised their experience in the London market, the women proprietors displaying their modish goods and gorgeous materials to canny advantage in the manner learned abroad. The five shilling a day mechanic's family doubtless had to stretch to make ends meet, but fine furnishings from Seddon's the cabinetry of the Afflecks, beautifully bound books of Bell's shop; and the handsome stringed instruments of Benjamin Carr's Musical Repository could be viewed, surveyed, and put on account by many of means who coveted them.

Presiding over all this at the head of polite society was the dazzling Mrs. Bingham, herself a Willing, America's great beauty, and earlier a stellar visitant of the salons of Paris and London. This queen of society was mistress of a famous mansion, so extravagantly furnished as to exceed anything on this side of the water.¹⁴ In the years ahead, her great drawing room, ballroom, card-rooms, library, and observatory were to see many more Federalists than Republicans.

This then was the setting, in its rudiments at least, to which the federal government came in 1790. When Clerk of the House, John Beckley, took the floor to call the roll on December 6, only a few of the Representatives had yet adjusted to Philadelphia, but their experience to date suggested few hardships ahead. And they had gained confidence in their capabilities unknown when first they gathered in New York City during March 1789. The intensity and nervous anticipation of the earlier meeting was so far behind them, that when rotund Frederick Augustus Muhlenberg occupied the chair on December 7, 1790 and the presidential message was received, the house organized, and a reply drafted, all was disposed of in a single day. Ames could on this latter occasion observe merrily: "We have had the speech from the throne, have answered, and to-morrow we are

14. The drawing room was "papered in the French taste, after the style of the Vatican in Rome." Henry Wansey, The Journal of an Excursion to the United States of North America in the Summer of 1794 (London, 1796), 136.

to present our answer. Both contain some divine molasses."¹⁵ The first working session of Congress under the Constitution was about to commence legislative processes unknown heretofore.

2. The New York Experience

Before examining in detail the character of the House of Representatives as developed in Philadelphia, it is necessary to review its origins in the House as it functioned while in New York City. Certainly, no cosmic force of a geographical nature was at work in either city. But historically speaking, the House in its initial two sessions while in that city had not yet assumed the role of a normally operating legislative body. As one noted authority has characterized it and the other organs of government of which it was a part: "As left by the Constitution, the government was externally complete, but sadly lacking within, like a motor car minus the engine."¹⁶ This governmental system, a federal one by terms of the Constitution, was not at all yet a functioning system. As explained by an eminent scholar in the field of governmental powers:

In a very proper sense the first Congress under the Constitution may be regarded as a constituent assembly. The product of the Philadelphia Convention was after all only a framework, parts of which were slender indeed, with here and there strange omissions in the structure. Consequently, the deliberations of the First Congress over the starting of the new government are suggestive of the debates of the Constitutional Convention. Questions apparently settled there are raised again and debated once more, sometimes even by the same statesmen.¹⁷

15. Ames, op. cit., 89.

16. Ralph V. Harlow, The History of Legislative Methods in the Period Before 1825 (New Haven, 1917), 122.

17. Wilfred E. Binkley, President and Congress (New York, 1937, 1947, 1962), 34.

This tentative approach to legislating appears to have been a not unexpected development. In fact, the first Congress was studded with Congressmen who had served as delegates in Philadelphia during 1787. Eighteen showed up in one of the two houses, while 26 of the 39 signers entered the new government in one capacity or another. Charles A. Beard comprehends the essence involved: "It is safe to say that four-fifths of the active, forceful leaders of the Convention helped to realize as a process of government the paper constitution they had drafted."¹⁸ And there had been some shifts of opinion here and there since 1787.

With a membership of but 59, small enough to be a true deliberative assembly, the House took a month to get organized. Two months later, Madison, as much responsible as anyone for providing leadership, wrote to a friend, "We are in a wilderness without a single footstep to guide us."¹⁹ With the necessity of shaping the executive departments through acts originating with them, they could not decide conclusively what the relationship between the administrative and political powers should be. Their procedures in attacking legislation being shaky in the first instance, they were ill-prepared to proceed with any definite pace. As Madison confessed that same summer of 1789, ". . . in every step the difficulties arising from novelty are severely experienced. . . . Scarcely a day passes without some striking evidence of the delays and perplexities springing merely from the want of precedents."²⁰

Thus, the Representatives of 1789 were impressed enough by the importance of what they were doing to go slow and avoid errors. This made them dilatory and brought them criticism from those who had expected better and thought they knew what should be done, Fisher Ames particularly:

18. Charles A. Beard, The Economic Origins of Jeffersonian Democracy (New York, 1915), 105.

19. James Madison to Edmund Pendleton, Jul. 5, 1789, Madison Papers, Library of Congress.

20. Quoted in Harlow, op. cit., 126.

I felt chagrined at the yawning listlessness of many here, in regard to the great objects of government; their liableness to the impression of arguments ad populum; their states prejudices; their overrefining spirit in relation to trifles; their attachment to some very distressing formalities in business, and which will be a curse to all despatch and spirit in transacting it. I compared these with the idea I had brought here, of demi-gods and Roman Senators, or at least, of the first Congress. The objects now before us require more information, though less of the heroic qualities, than those of the first Congress.²¹

The principal factor operating to slow down progress in the House, one to be related in greater detail below, was the procedure of taking up business in the committee of the whole. Virginia's influence brought this familiar mode into the House as it reigned in that state's House of Delegates. Its effect in Congress was to leave debate virtually unrestricted and encourage those with a propensity for oratory to go unchecked. The principle involved a chance for everyone to be heard without formality in the expectation that the House's collective wisdom would enhance the product. Those decisions reached in the committee of the whole would guide the select committees in working out details and preparing bills. And, in fact, the first non-procedural legislation--that embodying the tariff (and revenue) as well as those that organized the Treasury, State, and War Departments were worked out (debated at length) in the committee of the whole.

And so the House staggered on through the remainder of its stay in New York City, still in a constituent role, making provision for the public debt, passing the bitterly contested assumption bill, and fixing the future home of the government. This settling of old chits and unfinished business constituted a last backward glance and henceforth the

²¹ Ames, op. cit., 44.

House would become a forward-looking body whose course responded to pressures of the times and demands for federal action in certain sectors-- and resistance to the same.

3. The Philadelphia Experience

The system and lack of system described above carried over to Philadelphia and the final session of the first Congress in that city. Granted favorable conditions among the membership that enable consensus to be arrived at, issues not too hot to handle face-to-face in the committee of the whole, and energetic and obliging heads of executive departments to relieve the House of Representatives of strains in legislating, it could be expected to last indefinitely. However, on all such heads the situation was to change in the next two years and with it perplexing days faced the Representatives of future congresses. Yet, as the session ended one of the local newspapers could with some justice publish this claim:

The first Congress under the new Constitution
may be called, in the language of truth.

The CONGRESS of the PEOPLE of the
UNITED STATES!

of its character,
It needs no other Eulogium, than a
recital of its own acts:
It cemented the union of the States;
It destroyed the daemon of Anarchy;

and fixed
The public confidence and tranquility,
On the firm pillars of
Liberty, Law, and Government.

It snatched from impending ruin,

PUBLIC CREDIT:

Raised the funds:

Extended Commerce;

and

Established a Revenue

Without imposing excessive burthens
on the people.

It invariably watched over

and protected
The Rights of the Individual States
and of the Citizens.
And tho' th' historic page may scan
Some errors,
On the whole,
We are warranted in this wish--
May its successors equal it
In firmness,
Integrity,
Patriotism,
Attention to Business,
and
PUBLIC CONFIDENCE.²²

Long before this, nevertheless, the seeds of future dissension had been sown. Sectional differences, divergent governmental philosophies, and economic conflict divided the opinions of Representatives on particular issues. When more sensational issues arose, these differences became exacerbated and the honeymoon ended. Lingering anti-federalist sentiment made critics for much that was done in legislation even before the second Congress under the Constitution came into being.

The year was 1791. For two years the course of the French Revolution had moved stage by stage into less responsible hands. In this country's affairs it had not yet become a source of trouble. But it exercised a fascination on those Americans who subscribed to the principles flowing from successive constituent bodies. And this country was still bound by its wartime treaties to France's destiny. The French Revolution's aggressive, evangelical nature put that great continental nation into a collision course with England, the century's great maritime power.

22. Dunlap's American Daily Advertiser, Feb. 18, 1791.

For the moment, however, domestic concerns occupied the country's attention. Trouble with the Indians of the Northwest Territory, abetted by British agents, disagreement over chartering the Bank of the United States on February 25, 1791 and applying an excise tax on spirituous liquors on March 3, 1791, the day of adjournment, stirred the populace but little although the halls of government rang with debate. The people basking in halcyon days; stability in those fields of activity that so often disturb their balance. In the spring of the year Washington toured the southern states as he had the northern states the year before, and brought to every community a sense of the Union, dramatically accented.

In the pages of history textbooks the struggle of Federalist and Republican is cast in the mold of constitutional issue. As will be shown in later discussions of the House's relationship to the other organs of government, influences far less principled and more subtle underlay much of this. <Practical considerations in the legislative process and the role of administrative agencies whose identities had to be taken into account by those who made decisions in these matters.> That the unemotional examination of early constitutional questions in an atmosphere untinged by factional bitterness should give way in a passage of two short years to every imaginable method and device for prosecuting one's viewpoints, from name-calling and journalistic ploy to demagoguery, openly and freely practiced, is a clear demonstration that the country had substituted a party system for a party-less one. Before events overtook the spirit of friendly cooperation, Fisher Ames complained "Measures are so far from being the product of caucussing and cabal, that they are not sufficiently preconcerted."²³ By the time the House of Representatives had settled down in Philadelphia, debate was characterized by "violence, personality, low wit, violation of order, and rambling from the point."²⁴ Maclay confided to his journal that the House "have certainly debased their

Handwritten note: This is not a mistake.

23. Ames, op. cit., 61-2.

24. Quoted in Harlow, op. cit., 138.

dignity, using base, invective, indecorous language; three or four up at a time manifesting signs of passion, the most disorderly wanderings in their speeches, telling stories, private anecdotes, . . ."²⁵ From out of this confusion and wastage came both the means and the need for legislative organization--and it thus befell to the first party to make an appearance, that of the Federalists.

While yet in power the Federalists perpetuated the old committee-of the whole system, continuing to rely for routine and technical legislative measures to be formulated by executive department heads, particularly Treasury secretary Hamilton. Then as opposition to the Federalist System of that administrator mounted, and the Republicans came to power in the House following their victory in the 1792 congressional election, they began a disengagement from their erstwhile secretarial associates, eventually after the 1794 election completing the break. The essential truth realized by the Federalists and never afterwards neglected by their political rivals, the Republicans, was that legislation henceforth would be shaped by the party in power:

Instead of being a forum, where every member was a peer and no man led, where great principles of government were evolved through the give and take of unrestricted discussion, Congress as such had become within two years in effect a mere ratifying body. "The real work of legislation was put in shape, not in the legislature, but in secret session of the majority party. In this organization, unknown to the Constitution and beyond the reach of the rules of either chamber, the executive could work with the party-following in Congress, and secure the adoption of a prearranged program."²⁶

25. Edgar S. Maclay, ed., The Journal of William Maclay (New York, 1890), 222.

26. Harlow, op. cit., 145.

With the country growing, commerce and navigation increasing, native capital mounting and displacing foreign investment, and finances under control through the operation of mint and funding certificates and the Bank of the United States and its branches, Federalist Rufus King in 1792 viewed the other party lightly: "The opposition that now exists, arises from other principles than those which produced an opposition to the Constitution, and proceeds from that Rivalry which always has & will prevail in a free country."²⁷

Having gained supremacy in the third and fourth Congresses, the Republicans proved disinclined and unable to legislate in a systematic, orderly way. They lacked both effective party organization and legislative machinery. Gallatin finally succeeded in establishing a ways and means committee and other standing committees to overcome these shortcomings. But even with the means now at hand the party tended to drift rather than assume responsibility to formulate plans. After they lost control of the House of Representatives during the fifth and sixth sessions, their methods were retained until 1800 when the old relationship with the Secretary of the Treasury was revived by the resurgent Federalists.

In the foreground as causative factors in these political changes that in turn affected operation of the House of Representatives, was the French Revolution, by now having reached the stage of establishing a republic and of warring with England and Spain, doing its best to embroil this country. The sympathetic understanding of many Americans in the period before Danton and Robespierre lent strength to the Republicans in their efforts to gain political control, to prevent enforcement of the Jay Treaty's accommodation with Great Britain, and to ditch the Hamiltonian System. The Federalist majorities that passes the Alien and Sedition laws in the same body late in the decade, who armed to resist the French on the high seas, and who voted more and more taxes toward

27. Rufus King to Gouverneur Morris, Sept. 1, 1792, Gouverneur Morris Papers, Special Collections, Columbia University.

the end of paying for their undeclared war may have had a gift for legislating, but lacked the quality of judging the effect of their work. And with them ends the House's experience in Philadelphia.

4. House in a Bustle

The Constitution's first article ensured regular meetings of Congress: "The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day." As the biennial election provision divided terms of office of the entire house at that interval, this requirement had the effect of establishing three sessions to each Congress until passage of the twentieth amendment in this century. Thus, it was in effect while the House was meeting in Philadelphia and accounts for the date of the initial meeting in 1790. It also guaranteed that Philadelphia would see a lot of Congress during the decade of their stay in that city.

Most of the customs and usages not covered by the House rules had already become well established by the time the Representatives departed from New York City. From the start the House earned a reputation as a noisy and bustling chamber as compared with the Senate's decorum. Though this may have resulted in part from their meetings being open to the public where the Senate's were not, there exists ample testimony to the prevailing atmosphere of din and movement to support this reputation. As the popular house, elected on the basis of population, it appears to have been expected to be freer in promoting expression; with predictable effect.

The arrangement of the House chamber had much to do with inward appearances. Until enlargement of the house in 1793, control of the situation presented fewer problems with the Representatives concentrated toward one side of the room and the gallery behind them on the other. With the lengthening of the chamber, the axis of Representative seating changed while the gallery remained where it had been. Spectators massed on the one side of the floor behind the bar and privileged spectators on the other two sides tended to blend with the members themselves, creating confusion and adding to the sense of disorganization. On one occasion

when the accuracy of a vote was questioned, the chair explained: "It arose, he supposed, from the number of strangers in the House, and from their pressing too near the members. . . . He requested strangers would not stand so near the members as to cause a similar mistake in future."²⁸

As viewed by a perceptive Polish visitor in 1797, the House shared a "suitable and commodious" building with the Senate:

The hall for the Representatives is spacious. The galleries above and below a railed area below and corresponding in size to the raised gallery⁷ could hold perhaps 400 spectators each. They are nearly always filled, which proves that there are idlers here as elsewhere. . . . The members have the privilege of introducing into the chamber itself all those whom they wish; these persons must then remain outside the bar. Four rows of chairs placed in a semi-circle and protected by a semi-circular enclosure are made ready for the members. Before these 4 rows of chairs one sees as many benches, or desks, in a semi-circle in such a way that each member has an inkstand, a sandbox, some pens, a wafer, and some paper to make notes and comments, and even for writing letters. Before the center of this circle there is a raised platform on which is the Speaker's chair, in front of him two tables on which are placed the volumes of law. Two Clerks remain there to keep the minutes or the records of the sessions and deliver aloud what is given them by the Speaker. Four great stoves warm the chamber. The members usually keep within the enclosure of the bar. They do not sit according to states but pell-mell.

28. Claypoole's American Daily Advertiser, May 31, 1797.

During the debates of little importance some indulge themselves by leaving the enclosure and warming themselves near the stoves . . . it is impossible to see a more proper and imposing assembly . . .

. . . The galleries observe the greatest silence. Members speak only one at a time; there is not even any urgency to be the first to speak; each is sure his turn will come. They speak from memory; the members have only notes on which they cast their eyes from time to time. They discuss their business thoroughly, sometimes for many days, and it is only when no one has anything further to say that they ask, Question, Question. They respond by rising or remaining seated.²⁹

If this descriptive passage seems to contradict the sense of the chamber derived by other observers, it may be explained by the contrasts to be drawn between this House and the assemblages in Poland of which he had partaken and in which the "hideous colossus of anarchy had to be overthrown." This is not to say, of course that despite criticism the House's propriety itself was at issue, except for one or two incidents of the most obtuse sort. But more of that later.

In time it became necessary to restrict the sort of floor movement by non-members that had earlier been so much a feature of the House. Important constituents, honored guests or whatever, the Speaker informed the members on June 3, 1797 that:

. . . in consequence of the inconvenience which members felt from the increased heat of the weather,

29. Julian Ursyn Niemcewicz, Under their Vine and Fig Tree, Travels through America in 1797-1799, 1805. . . (Elizabeth, N. J., 1965), 42-3.

and owing to the great number of strangers which attend the house, he had been induced to give directions, that after this day, the southern part of the House should no longer be appropriated to strangers, but that the northern end alone, and the gallery would be opened for that purpose until the House should direct to the contrary.³⁰

This fluid situation on the sacred precincts of the House also appears to have admitted lobbying in the Portico's passage in a very modern form, as James A. Bayard in debate revealed:

. . . There was scarcely a member in the House, he thought, who did not know that the House was divided into different parts; one of which was for the members, and another for strangers. The part assigned to the members was the floor and lobby; and the galleries for those who choose to attend their proceedings. With respect to the lobby, the Speaker, as the general conservator of peace and order in the House, had the same charge over it, as over other parts of the house. If any person, who is not a member were to take a member's seat, the Speaker would undoubtedly turn him out, and he had the same right to order any person out of the lobby. But the gentleman said there was no rule upon the subject. Nor can there be any; for though gentlemen sometimes introduced their friends into the Lobby of the House, which was a thing of courtesy, they certainly had no right to do so.³¹

30. The New World, June 6, 1797.

31. Claypoole's American Daily Advertiser, Mar. 23, 1798.

The seating arrangement of the House as described above ignored earlier precedent of delegation seating in the Continental Congress where votes were taken by states and the members sat together at tables. In the House of Representatives where each member had one vote and representational form had been adopted such an arrangement was unnecessary. In accepting the European form of seating on concentric rows as in a theater, facing the presiding officer, the Speaker, they followed logic and reason; the party system had not yet appeared, nor had they adopted the ministerial form of a Parliament with its facing benches indicative of a division of the house. Unlike the present-day House of Representatives, that of the 1790's had desks, a luxury their few numbers allowed. The "pell-mell" distribution of Representatives, as described above, came from the absence of party at first, and then, until emergence of highly disciplined party alignments at a much later date, following the custom so far observed. The highly valuable seating plan drawn by Rep. Philip Van Courtlandt in 1795, and presented as Illustration No. 3, shows some Federalists seated together as well as some noted Republicans grouped in like fashion. But so are some Representatives from the same state or section. Friendships doubtless explain why some are at a particular location, while acoustics, warmth and cold, drafts, relationship to the gallery and other such factors can be credited with placing other congressmen where they are shown. In other words it was then unlike today a matter entirely of personal choice to all but an intriguing few.³²

The Representative who made his way through the lobby and on to the floor of the house in the 1790's found himself the recipient of certain services and conveniences beyond those noted by the Polish visitor. Pigeon holes for incoming mail and a bag for outgoing were handily located by the lobby door. A refreshment table with drinks was situated in the vicinity of the bay.³³ They customarily met at eleven and were

32. Unlike European parliaments, of course, the House had no "left", "right", and "center".

33. James Hillhouse to Mrs. Rebecca Hillhouse, Dec. 19, 1791, Hillhouse Family Papers, Yale University.

out of the chamber by three or three-thirty, although unusual business might bring them back in the evening. Committee meetings might bring them in during the morning or even, as in one recorded instance on a Sunday.³⁴ At six dollars per day of attendance the pay was good, at least according to those observers who remarked about it: "There is outcry against the immense sums that Congress receives from the Treasury for its salaries. Certainly the work that is done is not worth the money that they receive, but if one considers the harm that they prevent by their presence, by their existence alone, one agrees that the money it costs is well spent."³⁵

In the best political tradition, members of the House never lost sight of the gallery. At one point during debate on frontier defense, "an honorable gentleman asked, whether this was a day set apart for rhetorical

34. Diary of George Nelson, 1780-81; 1790-92, Jan. 19, 1791, Historical Society of Pennsylvania. "I have been called this morning to the House at an early hour, on a little business." Roger Griswold to Miss Fanny Griswold Dec. 21, 1797. "Truly my eyes are almost useless but the pressure of business occupies every moment of my time--yesterday for instance was Sunday--necessity compelled me to meet a Comt^e at ten o'clock in the morning--we sat till three, met again at Seven & did not separate till past eleven . . ." Theodore Sedgwick to [anonymous], Feb. 25, 1799, Sedwick Papers, III, 1799-1833, Folder "1799-1800," Massachusetts Historical Society.

35. Niemcewicz, op. cit., 41. "We have passed a Law relating to pay of the members of Congress and also the Senate in which Law we have continued the pay of the representatives at six Dollars per Day as usual & have reduced the pay of the Senators from seven to six Dollars not being able to see the propriety of their receiving more than the other branch of the Government they drawing no more labours to perform." Francis Preston to Col. James Dysart, Mar. 10, 1796, Preston Papers, Virginia Historical Society.

flourishes, as the galleries were open, and he saw the shorthand writers stationed at their different posts."³⁶ Nevertheless, they were not infrequently deprived of an auditory when debate on matters considered too sensitive for the public ear were being taken up and the galleries accordingly cleared of spectators.³⁷ As the decade lengthened, resistance to closing the doors of the House stiffened and debate was held occasionally on the question:

You know I should desire that the deliberations of both houses were equal open to the Public. I believe it a requisite of a Republic that all Public business is laid open for the Public--a deviation of it is an encroachment upon and open violation of our Rights-- Let Despots enjoy their nocturnal Councils we want them not . . . ³⁸

36. Gales and Seaton, Annals of Congress (Washington, 1849), III, 342.

37. "Business of a private nature occurring, the galleries were cleared and closed." Ibid., II, 2014. "The Speaker having informed the House, that he had some private communications to make, the galleries were cleared." Ibid., 2017. "The House resolved itself into a Committee of the Whole, on the communications from the President, respecting the Western frontiers, whereupon the doors were closed." Ibid., III, 328. "The Parliamentary etiquette requiring that this should be done by the House, and not by a committee, the committee [of the whole] rose for the purpose; and, The Speaker having resumed the Chair, the motion for clearing the galleries was renewed." Ibid., 348.

38. Tobias van der Kemp to Peter van Gaasback [M.C.], Jan. 15, 1794, MSS Letters, Museum of the City of New York. "We spend much time, in eloquent discussions about opening Gallery Doors, when we are in hearing & discussing private communications from the Presed^t of the United States, so declared by him; for it is said, after we get the secret--it is ours not the Presidents,--& if we please to divulge it, we ought, & every thing ought to be made known to a free people--We are but the Voice of the people & their servants, & shall we keep anything secret from them?--& then will follow an elegant discussion about Republicanism; & the danger of our destroying the liberties of the people, &c &c -" Uriah Tracy to Simeon Baldwin, Jan. 30, 1794, Baldwin Family Papers, Yale University.

And having played to the gallery, the House found its collective self at a disadvantage when disturbances in response to events on the floor erupted above them. In an effort to prevent such occurrences, Elias Boudinot moved the resolution that "whenever in the opinion of the Speaker, or of the Chairman of the committee of the whole House, any disorderly or improper behavior shall happen in the galleries, it be a standing rule of this House, that the Speaker or chairman do order the galleries to be immediately cleared, without taking the opinion of the House of committee."³⁹ In one instance, the Speaker, anticipating trouble, tried to put the gallery on its good behaviour in advance:

He suggested to the house and the citizens in the galleries the propriety of not suffering the fervour of enthusiasm to infringe on the dignity of the representative councils of the United States, he recommended, that a respectful silence should be observed as most compatible with the true dignity of the house and the honour of the magnanimous republic that was the subject of the message.⁴⁰

And the House took its status seriously enough to punish harshly blatant transgressions of its precincts. When two promoters, Robert Randall and Charles Whitney, tried to hustle certain Representatives for a large tract of western lands, they misguidedly suggested the congressmen might "take a slice of the loaves and fishes."⁴¹ This imprudent hint earned them a trip to the bar of the House where they were interrogated and charged. Despite able counselling from leaders of the Philadelphia bar, James Tilgham and William Lewis, and the plea that though "indelicate"

39. Claypoole's American Daily Advertiser, Mar. 19, 1792.

40. Ibid., Jan. 6, 1796.

41. Roger Griswold to Mrs. Fanny Griswold, Dec. 28, 1795, Griswold Family Papers, Yale University.

the conduct had been "free from criminal motives and intentions," Randall was "adjudged to confinement until further order of the House."⁴²

At the same time the Representatives were big enough not to over-react to expressions of displeasure in the galleries held within reasonable bounds:

The people of Philadelphia, were mad when we levied the first Embargo, & then they were mad to have us continue it; after that, they were mad to have us take it off. . . . You will see by this, what an Excellent Political Barometer these folks are-- Congress has been abused more by these Philadelphians, the present session, than I supposed any body of men could or would bear, but I am convinced, our patience has had a proper effect, as I can discern, they begin to fear us, which is the only passion, which can be wrought upon us their creature; they supposed Congress their servants, have pursued our business steadily, & paid no attention to them (except turning them out of the Gallery) & they now say, 'we must coax these stubborn fellows, as they are determined not to be driven'.⁴³

Finally, the boisterousness was not all on one side. Tempers shortened at the decade's end to the point of setting one congressman on another:

42. A. B. Keith, ed., The John Gray Blount Papers (Raleigh, 1959), II, 635. John Clopton to anonymous, Jan. 16, 1796, John Clopton Papers, XIV--D & E, Duke University. Clopton felt that the House action involved a "danger that hereafter any applications to members of the Legislature [House] to interest them in support of a petition, however innocent might by Such a precedent be construed into a breach of privilege--that that is too much like the high-strained prerogatives of the British Parliament." Philadelphia Aurora, Jan. 5, 1796. Randall was detained for three weeks.

43. Uriah Tracy to Simeon Baldwin, May 13, 1794, Baldwin Family Papers, Yale University. .

"Thacher on Friday, offered Blount a personal insult in debate--Blount challenged him [to a duel]--Thacher refused to accept the challenge-- Thus it remains with a determination on Blount's part to kick him on sight."⁴⁴

A fitting, final custom made its appearance while the House remained in Congress Hall; obsequies for a fellow member deceased:

Mr. Macon, rose, and said his colleagues had laid upon him the painful task of informing the House, that their friend and colleague, Colonel Bryan . . . died this morning at nine o'clock--Mr. J. Parker hoped that a resolution of a similar kind to that which was adopted on the death of a colleague of his (Colonel Bland) when Congress sat at New York, would now be agreed to. He accordingly proposed the following: --Resolved, that the members from the state of North Carolina, be a committee to superintend the funeral of the deceased and that this House will attend the same . . .⁴⁵

In a further resolution, the House determined to "go into mourning for a month, in order to show their respect to the late Nathan Bryan, deceased from North Carolina, by wearing a piece of crape on the left arm."⁴⁶

5. Membership and Leadership

The Constitution required that a Representative should be 25 years of age, seven years a citizen of the United States, and an inhabitant of the state from whence chosen. The House could judge the elections, returns, and qualifications of its own members. It also could choose its own officers, none of them enumerated except the speaker.

44. Henry Tazewell to anonymous, June 11, 1797, Rives Collection, Madison Papers, vol. I, Library of Congress.

45. The Weekly Magazine, June 9, 1798.

46. Philadelphia Aurora, June 5, 1798.

A membership totalling 65 came to Philadelphia in 1790. This was expanded in 1793 to 106 through reapportionment and addition of new states. Altogether membership in the six Congresses, House of Representatives, totalled 298. Only long and deep study can unravel the skein of personality and interrelationship that this great number of Representatives, brought into Congress Hall over the decade of meetings. Some few can be singled out for the roles played and generalizations can be made within reasonable limits as to what they stood for in the round.

Quality of membership through this period has been judged variously, depending on the cant and knowledge of those rendering judgment. The names of quite a few stand in oversize print on the page of history--as soldiers of note during the War or presidents later, or signers at one time or another. But many, many more are unrecognizable by any but experts, if indeed by them. The House of Representatives in these Congresses cannot be evaluated by either extreme criterion. What they were charged with doing had a certain weight at the time that is perhaps enlarged by the late success and stability of the government they launched with but reasonable hopes and expectations. So, they were brilliant; and they were also far from brilliant most of the time. They were colorful and dull, serious and frivolous, and better than average most of the time. There is an old saying that every legislative body is a mirror reflecting accurately the voters. Granted the voter qualifications of the 1790's these Congresses would have been by this standard representative of the ruling class of that time. As we know them by their writings, they were no mean body of men. Nurtured and advanced by a society having few extremes and many opportunities, schooled in government in their home states, they brought to the House talents respectable in any age. As Niemcewicz observed in viewing that body of legislators "The order, the propriety, the tranquility that one notices in this assembly shows that this people has for a long time been accustomed to deliberations and to a form of representative government descendent of the English. It seems that love of order, and sangfroid are qualities innate in them; . . ."⁴⁷ St. Jean de Crevecour's American sent these men to Congress, and what they reflected is complimentary.

47. Niemcewicz, op. cit., 43.

Running a finger down the roster page of members, state-by-state, one collects a list covering a century of the nation's history:

Roger Sherman, Connecticut
Anthony Wayne, Pennsylvania-Georgia
William Pinkney, Maryland
Fisher Ames, Massachusetts
Elbridge Gerry, Massachusetts
Theodore Sedgwick, Massachusetts
Jonathan Dayton, New Jersey
Nathaniel Macon, North Carolina
Albert Gallatin, Pennsylvania
Frederick Augustus Muhlenberg, Pennsylvania
John Rutledge, South Carolina
Andrew Jackson, Tennessee
Henry Lee, Virginia
John Marshall, Virginia
Daniel Morgan, Virginia
John Randolph, Virginia
William Henry Harrison, Northwest Territory

To this list might be added those able men of the decade whose reputations faded generations ago: Roger Griswold, Connecticut; James Hillhouse, Connecticut; James A. Bayard, Delaware; Henry Dearborn, Massachusetts; Harrison Gray Otis, Massachusetts; Abraham Clark, New Jersey; John Sevier, North Carolina; Thomas Hartley, Pennsylvania; Robert Goodloe Harper, South Carolina; William B. Giles, Virginia; and Abraham B. Venable, Virginia. And it must be remembered that many of the period's most resounding names can be found on the rolls of the Senate, on the federal bench, in Washington's administration, or governor's mansions.

As is suggested by the figures above, turnover changed and diluted, or occasionally enhanced the House's makeup. Twenty-seven of the sixty-five in the first House retired in 1791.⁴⁸

48. Douglas S. Freeman, George Washington (New York, 1954), VI, 287n.

Anthony Wayne of those listed above had a short and stormy career as a representative from Georgia in the House, from March 4, 1792 until March 21, 1792. James Jackson contested his election and on the latter date the House unseated Wayne. Irregularities in the canvass and residence requirement became the points of issue during the six days of hearing.⁴⁹ Another test of the House's authority to determine its membership took place four years later when Israel Smith of Vermont retained his seat.⁵⁰

Despite the availability of able men in the House, leadership in this period was never its long suit. From today's understanding of the Speaker's office, its long previous history in England and the colonies, and its being enumerated in the Constitution, more might be expected of it than in fact showed. Not until Henry Clay's accession to the office in the next century did it become the powerful force in House leadership with which we are familiar. It would appear that the first Congress sought an arbiter when selecting Frederick Augustus Conrad Muhlenberg for the office. A Lutheran clergyman, Muhlenberg had years of political background in the Continental Congress and the Pennsylvania Assembly. The qualities that particularly recommended this corpulent giant of a man to the post were, according to one authority, "common sense and tact, about the only qualifications needed at the time, because the speakership was not originally a political office."⁵¹ Doubtless, the effort to give sectional balance to principal posts in the government played a part too. Coming from one of the middle states, he took his place with a president from the South and the Senate's presiding officer from New England (Adams). Although apparently a Federalist when he took office, he showed independence from the

49. Gales and Seaton, Annals of Congress (Wash., 1849), III, 401-2, 458-9. Nicholas Gilman to President Bartlett, Mar. 22, 1792, Gilman Papers, New Hampshire Hist. Society.

50. Theodore Sedgwick to Ephraim Williams, Feb. 16, 1796, Sedgwick Papers, III, Folder No. 1, Massachusetts Historical Society.

51. Harlow, op. cit., 123.

start and by decade's end formally joined the Republicans. A strong speechmaker, he preserved the House's decorum.

With the start of the Second Congress Muhlenberg's record came under review--and was found wanting. He had "shown signs of leaning away from administration measures."⁵² When the vote was taken Connecticut's Jonathan Trumbull had been elected Speaker.⁵³ With party spirit and politics in the air when the Third Congress convened, Muhlenberg regained the position of Speaker. Three ballots were taken before he gained a majority.⁵⁴ Jonathan Dayton, a moderate Federalist, noted for his anti-British bias, won the position in 1795 and again in 1797 despite Republican majorities in the House. Astute and statesmanlike in his maneuverings, he was less than perfect in his control of the House. In 1799 the Sixth Congress, completely in the hands of the Federalists, elected Theodore Sedgwick.⁵⁵ Sedgwick's extreme partisanship led to many instances of prejudicial conduct, the most flagrant of which involved speaking against a proposal from the chair.⁵⁶

To find the House's real leadership in the 1790's one has to look to the floor. Choosing to enter the popular chamber through preference formed by ideals, James Madison brought to the chamber his prestige as father of

52. M. P. Follett, The Speaker of the House of Representatives (New York, 1909), 65.

53. Ibid. Philadelphia General Advertiser, Oct. 24, 1791.

54. Follett, op. cit., 65-6. Philadelphia General Advertiser, Dec. 2, 1793.

55. Follett, op. cit., 67-8. "Mr. Sedgwick was 'a very classical articulation'--yet, he had difficulty in making himself understood when he delivered the Answer of the House of Representatives to the President." Philadelphia Aurora, Dec. 9, 1799.

56. Follett, op. cit., 68. When Dayton became ill during his second term as Speaker, George Dent of Maryland was elected temporary Speaker on April 20, 1798.

the Constitution and principal author of the Federalist Papers. No giant of debate, he applied an "excellent understanding" and a "sound judgment, which perceives truth with great clearness," to legislative tasks. He was also considered to be "remarkably perspicuous and methodical," and a "studious man, devoted to business, and a thorough master of almost every public question," he could be persuasive in debate.⁵⁷ Fisher Ames, like Madison a member of the First four Congresses, possessed great talent as a debator, where his reasoning outshone that of any contemporary. A promoter of the commercial and tariff interests of New England, he embraced Hamiltonianism enthusiastically, and espoused it effectively in the House.⁵⁸ Albert Gallatin, the Swiss-born Representative from Western Pennsylvania, entered the house in 1795 and took over Jeffersonian leadership after Madison's retirement in 1797. He debated effectively despite a harsh accent, and employed a special knowledge of finance with the House's problems of that time.⁵⁹ Floor leaders Robert Goodloe Harper (1797) and Roger Griswold (1800) though only in their thirties "set a high tone". The latter especially has found high favor with historians of the House: "In political knowledge, forceful eloquence, and profound legal ability, Griswold ranked among the first men of the nation. And he had spirit."⁶⁰ Indeed he did, as his involvement in a notorious incident on the floor of the House with Matthew Lyon attests.

57. But ordinarily was unimpressive: "He speaks low, his person is little, and ordinary. He speaks decently, as to manner, and no more." Ames, op. cit., 35-6. Harlow, op. cit., 123.

58. Ibid., 124. George B. Galloway, History of the House of Representatives (New York, 1961), 112.

59. Ibid.

60. De Alva Stanwood Alexander, History and Procedure of the House of Representatives (New York, 1916), 111. By 1797 Griswold was drafting House replies to presidential messages. Roger Griswold to Fanny Griswold, May 20, 1797, Grisowld Family Papers, Yale University.

In much the same manner that Gallatin succeeded Madison as the leading House Republican after 1797, so too did John Marshall succeed Fisher Ames. A debater of persuasive gifts that afforded no answer, he dominated issues much as he did men. When the Federalists needed a champion they called on Marshall.

6. House Officials and Officialdom

The House's official family during the 1790's consisted of the Clerk of the House and his assistants, a Sergeant-at-Arms, a Doorkeeper and his assistant, (or Messenger), and a Chaplain. This small body of men saw to the temporal and spiritual well-being of the membership, performed required routine functions suggested by their titles, and added to the official sense of the House some of its tone and quality.

Then as now a position of consequence, the office of Clerk of the House though titled by parliamentary precedent to conform to that of the House of Commons and colonial assemblies, from the first began to bear away from their non-partisan character. Today's clerk of the House occupies a post of great dignity and responsibility that traditionally represents the party in power with an expectation of but two years tenure. Several, of course, have served much longer owing to outstanding ability and force of personality. The importance of the Clerk's office lies not in taking responsibility for routine duties performed by himself and his staff (keeping the Journal, referring private bills, assigning bills and committee reports to calendars, affixing the House seal to documents, certifying to the Senate the passage of bills and resolutions, securing labor and supplies and paying for them, collecting various papers not reported from committees after adjournment, or even in certifying compensation for congressmen in the Speaker's absence), indispensable though his attention to them may be. It resides, significantly, in the authority prior to the opening of Congress of making up the roll preparatory to his bringing the House to order; and calling it. In the process of compiling it, the Clerk examines credentials, studies election returns, investigates contested cases, and institutes inquiries upon receipt of complaints and allegations of irregularities. This exceptional stretch of authority

confers great prestige upon the office. And it is enhanced by his presiding over the election of a Speaker. In consequence, the office has attracted the ablest men in public life.⁶¹

By selecting John Beckley of Virginia the first Clerk of the House, the membership of 1789 gives indication of understanding the direction to which the office would incline, though its logical culmination lay years in the future. An Etonian, Beckley became an original member of Phi Beta Kappa while at the College of William and Mary. He soldiered as a Lieutenant during the Revolution without receiving undue applause. That period of his life was marked more spectacularly by involvement in public affairs, particularly in posts that fitted him for roles of steerage in the years ahead: assistant clerk of the Committee of Safety at Williamsburg in 1776, assistant clerk of the House of Delegates later that year, clerk of the Senate in 1777, and clerk of the House of Delegates, succeeding Edmund Randolph, from 1779 until 1789 or beyond. He also served as alderman and then mayor of Richmond. Immediately before being elected Clerk of the House of Representatives, he served the Virginia Federal Convention of 1788 as secretary. This remarkable series of clerkships made the man Jefferson called the "ablest clerk in the US" an ideal choice for the position.⁶²

Beckley's personal attributes matched his qualifications in every respect. Free from grinding material necessity thanks to moderate wealth, he could pursue and impose his brand of Republican idealism as occasion presented without fear of consequences. His equipment in such pursuits was exceptional and calculated to give effect to his office. For one thing, he was, according to a memorialist, a "personable and able speaker" whose

61. Alexander, op. cit., 91-2. A power conferred on Secretary Thomson by the Continental Congress in 1785 and adopted by the House in 1791.

62. Philip M. Marsh, "John Beckley, Mystery Man of the Early Jeffersonians," Pennsylvania Magazine of History and Biography, LXXII, 54-5.

"elocutionary ability was . . . evident in oratory."⁶³ As witnessed in action, Washington's presidential message in hand during 1793, "Beckley's enunciation, . . . was admirably clear, giving every syllable of every word . . . he was almost the only officer whose official duty it is to read, who I ever heard read well."⁶⁴ And, as his memorialist observes, his, "niceties of enunciation were carried over into a meticulous care in writing. The Beckley letters are exactly even daintily written, perhaps the most clearly decipherable of all the letters of his time--masterpieces of penmanship and diction."

Endowed as he was with such qualities, certain to be gratefully acknowledged in a body whose meetings were open to the public, Beckley thrived: initially thought to be unaligned and assiduous, efficient, and decorative, he was rewarded by the House in 1791 by being "deemed to

63. Ibid., 56. While decrying Federalist speculation real and fancied, Beckley managed to live with himself though engaged in land speculation. In 1799 he profitted to the tune of \$12,000, gained from sale of a tract of Kentucky land. Ibid., 65.

64. Recalled by Arthur Stansbury, who was there, in his Recollections and Anecdotes of the Presidents of the United States, quoted by Marsh, Ibid., 56. Two examples of his oratorical prowess have survived--on paper at least--an inaugural speech and a Fourth of July oration, both given in 1801. On the former occasion he roused his listeners with this flourish: "Republican citizens, behold your triumph!" On the latter he exulted that a turn in the weather favored them with an omen: that having voted right, a more perfect state awaited them: ". . . the gentle zephyr refreshes the eve of our festivity, and the vaulted asure presents to our gladdened and related spirits, a serenity congenial with the happy state into which our country has passed, through a season of heat and apprehension." Ibid., 66-7.

continue in office [from Congress to Congress] until another be appointed."⁶⁵ This resolution may have constituted tacit recognition as well of the authority wielded by him at the organization of the House and the practical need of its continuance.

In time, however, the partisan in their model Clerk began to seep out and gain notice. Though son of a peer of the realm, Sir William Beckley, he had become an ardent Republican. His sympathies may have begun to shift early. To a provincial American, the fagging prevalent in 18th century English public schools may have been more influential than all the playing fields of Eton in determining character. Certainly, from the time that divisions started to appear in the government over favorites in the renewed conflict between France and Great Britain, he lent his energies and to some extent his office to political cause. Little of this was overt, earning him in the estimation of his memorialist the distinction of being "a challenging enigma," and the "undercover political strategist of his time." Not yet the subject of a biography or extensive other treatment, he is known to have been nevertheless:

. . . an intimate of the political family of Jefferson, Madison, Monroe, Taylor, Logan, Freneau, Bache, Duane, and others, and a secret power in the Republican affairs of 1790 to 1801. An implacable enemy of Hamilton, Pickering, Smith, Fenno, and the administrations of Washington and Adams, a passionate lover of France and

65. Renewed in 1793: "shall be deemed to continue in office until a successor shall be appointed." Gales and Seaton, *op. cit.*, II 2025; III, 964. His grasp of the office is illustrated by the wide authority he assumed for remodelling of the House's quarters in Congress Hall during 1793: "I take the liberty to suggest such provision in the alteration of the building for the accommodation of Congress, as, it appears to me, is indispensably necessary for the House of Representatives. Three Committee rooms, and a Lobby room, of equal size with the present Committee rooms, two rooms for the Clerks office, and one for a library wanting . . ." Beckley to unknown, Apr. 29, 1793, Stauffer Coll., Vol. XIII, folio 891, Historical Society of Pennsylvania.

hater of Britian, gatherer and distributor of extensive secret information, . . . go-between, gossip, messenger for Jefferson and his friends, the party watchdog pointing at Hamilton and the "monarchists," he covered his tracks too well. Even now, with many of his letters available, he remains elusive, ever the cautious lawyer, hard to find, pursue, or corner.⁶⁶

So self-righteous was Beckley in his convictions, that he appears to have felt no doubts and thus no scruples where political principle was involved. His position as House Clerk put him "in a position to hear and see a great deal."⁶⁷ All of this he passed along clandestinely through party channels, usually undigested. While cautious in letting things out to a less select and trusted public, he did force one matter to an unwanted conclusion--Hamilton's affair with Mrs. Reynolds. The aspersions against Hamilton's public character when exposed to full light reflected instead against his private character. The attempt to impeach his integrity unexpectedly was productive of scandal instead.⁶⁸ During the 1796 election, he managed Jefferson's campaign in Pennsylvania, still in a conspiratorial manner, but hardly suppressed to the point where nothing

66. Marsh, op. cit., 54.

67. Ibid., 58.

68. Hamilton's affair with Mrs. Reynolds early in the decade exposed him to blackmail, and becoming known forced a private acknowledgement to prevent misrepresentation before the general public. Much later, Beckley leaked certain of the Reynolds letters to James Callender, who published his Observations on Certain Documents (1797) exposing the whole unsavory relationship. Ibid., 57-8. Goodspeed's Catalogue No. 510, 43-4, item 102.

showed.⁶⁹ Also, he was seen in the company of anti-administration editor, Benjamin Franklin Bache, whose Aurora benefitted by access of its stenographers to the floor of the House to report the debates. While his office thus took on an increasingly strong partisan hue, Beckley withstood Federalist wrath, supported by Republican majorities. Finally, in the special session of Congress that met in May 1797, he came up temporarily short, and the House exercised its option to "appoint a successor," by the narrow margin of one vote, 41 to 40. Pennsylvanian Johathan W. Condry replaced Beckley.⁷⁰ Though deprived

69. He proved himself a thorough organizer, the main ingredient then as now in winning elections. Writing to a friend in west state Pennsylvania on October 17, 1796, he employed guarded reference throughout on those matters concerning identity and time factors in the campaign of that district: "I had forwarded to you a pacet with handbills. . . . You best know what characters to address them to. In a few days a select republican friend from the City, will call upon you with a parcel of tickets to be distributed in your county. . . . He is one of two republican friends who have undertaken to ride thru all the middle and lower counties on this business, and bring with them six or eight thousand tickets. . . . The great victory obtained here over the united and combined forces of the British and Aristocrats, gives us great confidence and is a presage of success in the choice of Electors; to throw out Muhlenberg, who gave the casting vote for the British treaty, and elect Blair McClenachan in his room, who recommended to kick the treaty to hell." Quoted in Bernard Fáy, "Early Party Machinery in the United States; Pennsylvania in the Election of 1796," Pennsylvania Magazine of History and Biography, LX, 386. Such vehemence in pursuit of the cause may be assumed to have surfaced in various ways however sub rosa the means of communicating it.

70. Porcupine Gazette, May 16, 1787. In an appeal for support of the public in the period ahead, Beckley explained the event as follows: "Eight years of tried and faithful services as Clerk to the House of Representatives of the United States approved by two successive unanimous reappointments to office, have been rewarded by a sudden vote of removal on Monday last. This removal obtained by a majority of one vote only has, I believe, without reference to the uncandid means used to effect it, been altogether produced by the absence of 25 members, a great majority of whom were known to be my friends, and whose distant residence most probably precluded them from an early notice of the unexpected call of Congress, and thereby prevented a punctual attendance on the first day of the session." New World, May 31, 1797.

of his stipend of \$1500 per annum plus two dollars a day allowance, Beckley took his ouster in stride, and remained in the capital city, active in politics and busy as an officeholder and attorney.⁷¹ After biding his time for four years as clerk of Philadelphia's Mayor's Court and Orphans Court, as notary public and election official, he was again elected by the House in 1801 to the clerkship, in which capacity he served his remaining years through 1807.⁷² His final achievement in a life of more than common interest was his appointment to the additional post of librarian to Congress on January 29, 1802.

71. Miscellaneous Treasury Accounts, General Accounting Office, National Archives, 5 Nov - 31 Dec 1792, No. 3435. In the aforementioned appeal for the public's patronage, Beckley asserted with indignation his needs, his qualifications, and his defense against any hint of malfeasance in office: "thus, has a large and helpless family dependent on me, and consequently on my public office, been suddenly deprived of the means of present subsistence. You, my fellow citizens, who have seen and witnessed the assiduity, fidelity, and propriety of my public conduct in office, and which I defy the tongue of malice to impeach, can best determine whether I have merited this treatment. To you I confidently appeal, and on your impartial support as confidently rely in that line of business, in law, in which I was educated. Having qualified as an Attorney and Counsel at law, in the Supreme Court of Pennsylvania, and therefore entitled to practice in all the other Courts of the State, I offer my services in such of the Courts as are held in this city, to those who may be pleased to employ me, under an assurance of the same assiduity, fidelity, and punctuality which has heretofore marked my public conduct. Present application will be received at my house, No. 90, South Eighth-street, and as soon as convenient Office Room, in a central situation, can be obtained, it shall be publicly notified."

72. Pennsylvania Archives, 9th Series, III, 1609, 1743, 1783, 1786, 1792. Philadelphia Directory, 1799. John Pollard to S. Bryan, Mar. 27, 1800 Register General, Letters Recieved, 1800, Division of Public Records, Harrisburg. While practicing law, Beckley in the summer of 1799 became William Duane's attorney in a suit against a number of militia officers who had brutally beaten the Aurora editor in his newspaper office in the print shop adjacent to Franklin Court. Marsh, op. cit., 65.

Little is known about Condry, presumably a Federalist retainer who left but a few pen scratches on the page of History.⁷³ He lasted until 1799 when John H. Oswald, also of Pennsylvania and equally obscure succeeded him.⁷⁴ Both may be regarded as interim caretakers, who, so far as is known contributed little or nothing to the honored tradition of able House Clerks.

Assisting Beckley were a principal clerk, William Lambert, and two engrossing clerks. All three were hired at a per diem rate, apparently to accord with need.⁷⁵ A Bernard Webb and William Claiborne replaced them in 1792; a Reuben Burnley helped out from time to time.⁷⁶ By 1796 the engrossing clerks were William Galt and John H. Oswald.⁷⁷ Oswald became Condry's principal clerk, and then succeeded him. Not yet the subject of exhaustive research, all are today merely faceless names.

73. Jonathan William Condry, or Condie, as the name was spelled variously, was of a Pennsylvania family and could have been sponsored by any one of a number of influential Federalists from Philadelphia. His home address, "near 35, Dock st." does not suggest prominent standing in the community. Philadelphia Directory, 1799.

74. John Holt Oswald, also the possessor of an old Philadelphia name, began his upward course with a minor appointment and reached the top when Condry resigned on December 4, 1799. The House made him third of the line of Clerks on December 9, 1799. Condry had been elected to a second clerkship on December 2, 1799. Buford Rowland, Handy B. Fant, and Harold E. Hufford, comps., Preliminary Inventory of the Records of the United States House of Representatives 1789-1946 (Wash., 1959), II, 467.

75. Miscellaneous Treasury Accounts, General Accounting Office, National Archives, No. 3435, Records of the Register's Office, Vol. 143, p. 219.

76. Ibid., No. 2593.

77. Ibid., No. 8254. And in 1800 Josias W. King and Samuel Anderson. Ibid., 11845. Official listings to the contrary, Oswald was still listed as principal clerk in 1800. Records of the Register's Office, Vol. 143, p. 219, National Archives.

The office of Sergeant-at-Arms in all its principal functions was the same during the 1790's as today. Acting under direction of the Speaker, the chairman of the Committee of the Whole, or the Clerk of the House at the beginning of a session, the Sergeant-at-Arms maintained order and security. While acting under their direction, as in detaining or returning members to the floor, he bore with him the mace of the House, the symbol of his office. In those early days, unlike recent times, he had no policemen for purpose of enforcement, nor did he need them although he made occasional use of the power of arrest. The latter day authority to act in the absence of the Clerk to prepare the roll and to exercise functions related to pay of members as a disbursing officer under bond seems not then to have materialized. From the records available Beckley and his successors seem to have covered both areas.⁷⁸ Like that of the clerkship, the office was thus an important one, and one apparently from the first demanding an incumbent of stature. It was occupied throughout the entire period from 1789 to 1807, and thus while Congress was in Philadelphia, by Joseph Wheaton. Nothing is known about his background, though exhaustive research might turn up something.⁷⁹

More than a century after the last meeting of the House of Representatives in Philadelphia, the duties of the Doorkeeper were described as "not less varied and exacting" than those of the Sergeant-at-Arms: "Besides guarding the chamber and keeping unprivileged persons from the floor, he controls the document room containing printed bills, resolutions, and reports for the immediate use of members, . . . messengers . . ., also come under his direction. To his charge is likewise committed the care of rooms

78. An instance of the application of force, taken care of personally by Wheaton was the removal of Benjamin Franklin Bache and a second reporter during March 1798 in implementation of Speaker Dayton's "exclusion of reporters" ban. Aurora, Mar. 24, 1798.

79. Gales and Seaton, op. cit., III, 142. A letter of Wheaton's to George Thacher on the subject of yellow fever, shows him to have been quite literate. Oct. 1, 1794, Thacher Papers, vol. 5, Boston Public Library.

and the custody of all property, books, and papers belonging to the House."⁸⁰ These routine and necessary duties without question had remained the same through the intervening years since 1800. A more sensitive function, demanding quick intelligence on the door-keeper's part then as later it entailed:

Admission to the floor, delivery of calling cards to members, and the responsibility of handling thousands of visitors who daily throng the galleries and corridors... . Quick and courteous recognition of persons entitled to the floor required tact and vigilance. Among the privileged ones are the President, Vice-President, justices of the Supreme Court, cabinet officers, foreign ministers, governors of States, senators, former members of the House, and those who have received the thanks of Congress. Each is expected upon his appearance at the door to present the Speaker's card, but an experienced officer would blush to stop a privileged stranger the second time.⁸¹

Substitute "hundreds" for "thousands" in the foregoing and you have encapsuled the Doorkeeper's significance; not merely the holder of doors, but the responsible official whose watchdogging could be relied on to safeguard the dignity, seemliness, and decorum of the chamber. As though underlining the Doorkeeper's role, to him fell the honorific duty of introducing "messengers from the President and the Senate, and, in the absence of the Clerk and Sergeant-at-Arms, to make up the roll of members elect and preside at the organization of a new House."⁸² This last function though doubtless anticipated during the House's earliest days had no occasion to be pressed into practice before 1800.

80. Alexander, op. cit., 96.

81. Ibid.

82. Ibid.

Occupying the office of Doorkeeper when the House first came to Philadelphia in 1790 was Gifford Dalley. He received appointment at the inception of the government in 1789 and remained in office until 1794.⁸³ Dalley came to the post well qualified: he had been keeper of the country's best hostelry in 1778 and 1779--Philadelphia's City Tavern, and in the course of his service there had been host and greeter of famous Americans as well as a select clientele from here and abroad.⁸⁴ Succeeding Dalley in 1794 was one Thomas Claxton, until then Dalley's assistant. Claxton entered office in 1789 highly recommended by Alexander Hamilton, soon to be named Secretary of the Treasury:

The bearer of this is a M^r Claxton, who is desirous of being a messenger or something equivalent. I feel an interest in his success--as he is a man of qualifications superior to his present aims. His memorial, which he will deliver you, is of his own drafting--by which you

83. Gales and Seaton, op. cit., 1, 101.

84. Dalley took over following the abandonment of Philadelphia by the British Army in 1778. The previous proprietor, Daniel Smith, a Loyalist, left with the retreating enemy and Dalley applied of the proprietors for a lease to do business there. He came at a hard time of shortages and rampant inflation, perhaps accounting for his short tenure. Unsigned agreement under Dalling, Gifford, Society Miscellaneous Collection, Historical Society of Pennsylvania. "Lease of the City Tavern to Gifford Dalling," Pennsylvania Magazine of History and Biography XLIII, 283. Pennsylvania Evening Post, Aug. 4, 1778. Dalley apparently resigned the Doorkeeper's position to go into business again as a tavern keeper: "DALLEY'S HOTEL/GIFFORD DALLY/Formerly keeper of the City Tavern and of the Merchants' Coffee House of this city/RESPECTFULLY INFORMS his Friends and the Public in general, that he has this day opened a Hotel in Shippen street, between 3d & 4th streets--at the house formerly occupied by Mr. Pimmons, which has lately been greatly improved, and is now very commodious." Philadelphia Gazette and Universal Daily Advertiser, Feb. 15, 1794. Dalley died of yellow fever during the 1798 epidemic. Gazette of the United States, Aug. 29, 1798.

will perceive that he has some literary pretension. He has followed the Printing business; but from the ill effect of it on his health is obliged to seek other employment. He is a federalist & has a wife and Children to support.⁸⁵

A former officer in the Continental Army, Claxton also offered to the fledgling House of Representatives the assurance of having an old soldier and one capable of handling himself with confidence in an emergency. It was Claxton who apprehended Randall after his affront to the congressmen in 1796.⁸⁶ Wheaton attended him and Whitney when they appeared afterward at the bar of the House.⁸⁷

Not everyone at the time appreciated all that was required of the Doorman. Claxton received a salary of \$500 per annum, which sum struck

85. James Hardie, The Philadelphia Directory and Register (Phila., 1794). "To the Honorable the Congress of the United States/ This Memorial of Thomas Claxton/ Humbly Sheweth, / That your Memorialist conceiving an Appointment of some Person to the Office of Messenger to your honorable Body will soon be made, and flattering himself that in that office he should be able to serve with due capacity and fidelity, is induce humbly to offer his Services in the same--/ That your Memorialist is anxious to provide a subsistence for a family dependent upon his industry; but is at the same time constrained by the State of his health to change his mode of life from a business that has become injurious to it, and in which he thinks his integrity has been made known to the public--/ That although your Memorialist hath not thought it becoming to importune persons well acquainted with him for a formal Recommendation, he trusts that his Character will have been stated to some Members of your honorable Body, by Gentlemen whose Representation of it will be deemed satisfactory- And therefore humbly hoping that his memorial will meet the attention of your honorable Body, he, as in duty bound, will ever pray." New York, Mar. 27, 1789, Ibid.

86. Worcester Massachusetts Spy, Jan. 6, 1796.

87. Ibid., Jan. 13, 1796.

one congressional critic as being "much too high for I conceive Congress could be at no loss to get persons proper for that Service who would be well satisfied with a Crown or at most a Dollar and quarter a day."⁸⁸ For all his devotion to duty, Claxton's take home pay varied little, though he did receive \$80 in 1793 for "extra services."⁸⁹ In 1798 he and Wheaton made an effort to get an upward readjustment in pay but without success.⁹⁰

Where latter day Doorkeepers have had at their disposal "a well-disciplined force of assistants," and have directed janitors, page boys, and messengers, Messrs. Dalley and Claxton carried out the many and varied tasks of their office with the help of but a single Assistant Doorkeeper. Claxton himself was the first to fill the position. In his time it was as widely known as that of the House "Messenger," indicating the nature of those functions apparent to the onlooker.⁹¹ When Claxton succeeded Dalley,

88. "An act for fixing the compensations of the Doorkeepers of the Senate and House of Representatives in Congress." Gales and Seaton, op. cit., III, 111. Miscellaneous Treasury Records, General Accounting Office, National Archives, No. 8270. George Read to James Read, Aug. 20, 1789, Folder F, p. 28, Judge Richard S. Rodney Collection of George Read Papers, Historical Society of Delaware.

89. Gales and Seaton, op. cit., III, 964. General Advertiser, Mar. 4, 1793. He appears to have been responsible to arrange housing for congressmen too: "Any of the Inhabitants of this City who may be disposed to accommodate a Gentleman with BOARD and LODGING for a few months will please to send their names and places of abode to the subscriber at Congress-Hall-who also wishes to hear of a well furnished PARLOUR and TWO GOOD BEDROOMS, with Board for a small Family Thos. Claxton Philadelphia Nov 12." Gazette of the United States, Nov. 14, 1796.

90. "In the House on March 19, Mr. Harper made an unfavorable report on the petition of the sergeant-at-arms and Doorkeepers for an increase of salary." Aurora, Mar. 27, 1798.

91. The Philadelphia Directory 1791, 1792, 1793.

Thomas Dunn of Maryland became Assistant Doorkeeper.⁹² He too left little to remember him by, at least for the period while the House met in Philadelphia. After years in the capacity of Claxton's assistant, he succeeded Wheaton in 1807 as Sergeant-at-Arms.⁹³ It was not until 1821 that Claxton stepped down, while Dunn lasted until 1825.⁹⁴

The first Chaplain of the House of Representatives in New York, of course remained there when the federal government moved to Philadelphia. Continuing the practice begun in New York of exchanging chaplains with the Senate every week, the house resolved on December 8, 1790 that each house should thus elect a chaplain. Two days later the House elected the Rev. Dr. Samuel Balir.⁹⁵ The representatives reelected him in 1791, but replaced him the following year with the Rev. Dr. Ashbel Green, Minister of the Second Presbyterian Church.⁹⁶ The Senate had elected the famous

92. Ibid., 1797, Worcester Massachusetts Spv., Dec. 11, 1799. Dunn was made responsible for the books and papers of Congress when the federal government moved to Washington. Statement of Account of Jonathan W. Condry, Miscellaneous Treasury Accounts, General Accounting Office, No. 11765, Oct. 1, 1836.

93. Alexander, op. cit., 393.

94. Ibid., 393, 396.

95. Gales and Seaton, op. cit., 11, 1834. Ibid., 1836.

96. Ibid., III, 143, 606. Bishop White whose house is a feature of Independence National Historical Park, needs no introduction. The Rev. Dr. Green had been a leader in the Presbyterian Church and a member of the Synod that adopted its constitution in 1788. He remained the outstanding leader of the church's Assembly, and formulated for it the historic 1818 declaration against slavery. For ten years after 1812 he served as president of Princeton University (then College of New Jersey). His devoutness led him into much difficulty as the nineteenth century advanced. He published widely on theological subjects. Honors were his but not popularity in spite of good looks and polished manner.

Episcopalian cleric, Bishop William White, and returned him repeatedly to the post, prompting the Aurora to observe facetiously in 1799; "Congress appear to be still attached to their favorite colors Bishop White is chosen chaplain to the Seanate, and Dr. Green to the house of representatives."⁹⁷ When White took his turn in the House he offered a special order of prayer:

My practice, in the presence of each house of congress, was in the following series: the Lord's prayer, the collect for Ash Wednesday; that for peace; that for grace; the prayer for the President of the United States; the prayer for Congress; the prayer for all conditions of men; the general thanksgiving; the St. Chrysostom's prayer; the grace of our Lord Jesus Christ, &c.⁹⁸

7. Committees of the House

Writing to a friend about his experiences in Congress, Elizur Goodrich, a Connecticut representative, observed in 1800, "The business of the house is always matured & prepared in Committees, . . ."⁹⁹ Earlier newspaperman John Fenno, noting that the session beginning in December 1795 had been in motion for two weeks and could not be expected to get much done for one more, explained to a correspondent that, "the principal part of the time has been taken up in reading & referring petitions--the number of which

97. Porcupine's Gazette, May 18, 1797. Aurora, Dec. 18, 1799.

98. William White to Rev. Henry V. D. Johns, Dec. 29, 1830, quoted in Bird Wilson, Memoir of the Life of Bishop White (Phila., 1839), p. 312.

99. Goodrich to [D. Davenport], Feb. 13, 1800, Davenport Letterbooks, Rare Book Room, Yale University.

is great--in arranging, sorting & committing the business of the Session--there is scarcely a member of the house who is not on a committee . . ."¹⁰⁰ Fenno's observation was echoed in 1796 by Connecticut's Roger Griswold: "Congress has not yet seriously engaged in business--the business first goes to Committees who have not yet reported--in eight or ten days we shall get to work . . ."¹⁰¹ Today's news-reading public absorbs much written matter that describes the modern workings of Congress, and conceives the prevailing committee system to be highly organized. The power of chairmen at the head of important committees, the role of seniority, the work of sub-committees, and the balance of parties in committee composition are some of the attributes of these "little legislatures," as they have been called, familiar to all and characteristic of their unique contribution to the process of legislating. But it was not always so; the committee system of today is an outgrowth of methods not jelled before 1825.¹⁰² While the diffusion of leadership apparent in Congress today was also in force during the 1790's, the day of the standing committee in all its power and glory had yet to arrive. Those operations described above were typical of the day when virtually all work of importance was done in secret committees, then as now special or temporary bodies, brought into being for limited purpose and not perpetuated beyond the session in which named.

This meant, in effect, that a perfect host of select committees came and went with successive Congresses. In the Third Congress alone, sitting in 1793 and 1794 some 305 select committees were established.¹⁰³ The long-since obsolete method of moving business was for the entire

100. Fenno to Joseph Ward, Dec. 25, 1795, Folder 5, Correspondence of John Fenno, Chicago Historical Society.

101. Griswold to Matthew Griswold, Dec. 17, 1796, Lane Coll., Yale University.

102. Galloway, op. cit., p. 99.

103. Richard Bolling, Power in the House, History of Leadership of the House of Representatives (New York, 1968), p. 33.

membership of the House, in the Committee of the Whole, to consider the business brought forward by congressmen or petition, and to formulate the principles to be observed in disposing of it. Then a select committee perfected the details of the bill or bills that would embody those principles. Customarily, the Speaker appointed these committees and usually the chairman as well, although there were instances where the committee elected its own chairman. But the House controlled their names and number. Early usage called for the Speaker to appoint as chairman the member who moved the committee in the first place. Seniority played no role in this process--long membership not having been established in the yet youthful chamber. But experience or expertise often qualified one or another member for appointment.¹⁰⁴

These committees were kept in close check. Control began with the introduction of legislation. In contrast to the freedom congressmen enjoy today of entering bills at will, members of the 1790's had to request and receive permission:

Every bill shall be introduced by motion for leave or by order of the House on the report of the committee; and in either case a committee to prepare the same shall be appointed. In cases of a general nature, one day's notice at least shall be given of the motion to bring in a bill; and every such motion may be committed.¹⁰⁵

While the committee was at work it was strictly accountable to the House, having no authority to make or entertain contacts independently. It could receive no petitions, its deliberations were not published, and it was not allowed to sit while Congress was in session. None of this

104. Galloway, op. cit., pp. 67-8, 70. In 1791 the membership ordered that "the Speaker appoint committees until the House shall determine otherwise." Gales and Seaton, op. cit., III, 142.

105. Galloway, op. cit., p. 76.

involved accountability, as the committee went about its task fully instructed. Also it was staffed by members friendly to its purpose: "the child is not to be put to a nurse that cares not for it." In actual conduct of meetings, the rules provided:

A committee meet when and where they please, if the House has not ordered 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.¹⁰⁶

As to the scope of their authority, the rules provided:

The committee have full power over the bill or other paper committed to them, except that they can not change the title or subject.

The committee may 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, and where, by reference to page, line, and word of the bill.¹⁰⁷

Committee reports were made by the chairman from his place on the House floor, and committee amendments having been read and explained, he would deliver the bill at the Clerk's table. After the Clerk had read the amendments, the bill would lie on the table until taken up by the House. This did not quite end the committee's responsibilities:

106. Ibid., p. 70.

107. Ibid., p. 75.

If a report be recommitted before agreed to in the House, what has passed in committee is of no validity: the whole question is again before the committee, and a new resolution must again be moved, as if nothing had passed.¹⁰⁸

When the report was finally made, with the possibility of recommitment past, the committee was dissolved.

The extent to which the select committee device sponged up legislative matters is reflected in a letter of Connecticut Congressman Hillhouse of later 1791 that shows only the momentous issue of congressional reapportionment subject at that time to floor debate, although many important matters were currently receiving attention:

Nothing very interesting or important has come before Congress except the ratio of Representation the issue you have in the papers which most probably be fixed at one for every Thirty Thousand Persons -most of the other business which is considered as being important is either in Bills which have not come under consideration, or referred to Select Committees who have not reported ...¹⁰⁹

108. Ibid., p. 70. "In the modern practice, most of the reports of committees are made by filing them with the Clerk without reading, and only the reports of committees having leave to report at any time are made by the chairman or other member of the committee from the floor, While privileged reports are frequently acted upon when presented, the general rule is that reports shall be placed on the calendars of the House, there to await action under the rules for the order of business." Ibid.

109. James Hillhouse to D. Doggert, Nov. 30, 1791, Doggert Letterbook, "H-Holmes," p. 56, Rare Book Room, Yale University.

While the practice of doing business through the Committee of the Whole and select committees remained the central feature of the legislative process throughout the House's stay in Philadelphia, during the second half of the decade, with the House in control of the Republicans, a system that brought the standing committees to the fore started to emerge. It was not to reach full flower until the Jeffersonian period, but the outlines had become clear before the House left Philadelphia.¹¹⁰

Standing committees date back to the House's earliest days. The Committee of Elections (until 1880 the preposition "of" appeared in committee titles) authorized on April 13, 1789 and appointed the same day was the first of the line. While the House met in Philadelphia few were to evolve, owing to the slow disengagement from the select committee system with its dependence in vital legislative spheres on the initiative of cabinet officials, the Secretary of the Treasury in particular. Judging how many there were depends on the authority consulted. Three or four according to those who have given the subject special consideration. Most authoritative of all would seem to be the staff of the National Archives who have documented five. In their order of appearance the others were the Committee of Claims, authorized on November 13, 1794; the Committee of Commerce and Manufactures, authorized on December 14, 1795 the same day as the Committee of Revision and Unfinished Business, but appointed the same day where the latter committee was not appointed until the day of adjournment, December 16; and the Committee of Ways and

110. "But with the growth of the standing committee system in 1816 and thereafter, the Committee of the Whole declined and their roles were reversed. With increasing frequency legislative subjects came to be referred initially to the smaller standing committees which grew in power and prestige. 'Thus by 1825, if not earlier,' writes Joseph Cooper, 'we may conclude that both in theory and in fact the standing committee had become predominant with regard to the first reference of legislative subjects.'" Galloway, *op. cit.*, p. 76.

Means, authorized on December 21, 1795.¹¹¹ Three of these committees, Elections, Claims, and Unfinished Business, may be viewed as either essential to the functioning of the House or of a fiscal and quasi-judicial character. The other two have common origins in what one authority terms association with "some important historical event or emerging public problem." He goes on to illustrate his point: "Thus, the increasing domestic and foreign trade of the new republic was soon followed by the creation of the Committee on Interstate and Foreign Commerce in 1795."¹¹² Through the years since 1789 a total of 68 standing committees have been set up by the House, reflecting the entire American experience in representative

111. Rowland, Fant, and Hufford, op. cit., 451-453, 460, 462. Porcupine's Gazette, May 19, 1797. DeAlva Stanwood Alexander lists Ways and Means, Elections, and Interstate Commerce as "important standing committees existing before 1801." Op. cit., 399. Galloway sets the number at four and confuses committee titles in one period with those of others. Op. cit., pp. 65, 70.

112. Ibid., p. 67. Galloway's reference under this title to a committee that did not come into existence until 1891 may be constructed to intend reference to the Committee of Commerce and Manufactures, superseded in 1819 by the Committee of Commerce that was supplanted in 1891 by the Committee on Interstate and Foreign Commerce. Rowland, Fant, and Hufford, op. cit., pp. 452, 456. Illustrative of the fumbling progress made toward the goal of standing committees as agents of the House is the fact that seniority and the continuity it provides was not yet recognized as an essential ingredient of committee makeup. Changes in membership and leadership were the rule rather than the exception: "Joseph Cooper reports that the standing Committee on Elections in the Third Congress and the standing Committees on Claims and on Commerce and Manufacturing in the Fourth Congress had different chairmen in one session than in another. The successive chairmen were not ranking members, members were not listed by party on the committee lists, and the composition of the standing committees underwent substantial changes from session to session." Galloway, op. cit., p. 70. Competence and efficiency to rival that of cabinet secretaries and their staffs could not be expected to spring whole from so unstable a base.

government. The establishment of the committees on Commerce and Manufactures and Ways and Means practically at one and the same time was a conscious effort on the part of the House to take a more active part than heretofore in the affairs of government by creating effective legislative machinery. Albert Gallatin, familiar with the Pennsylvania legislature's ways and means committee, secured appointment of a like body in the United States House of Representatives. Consideration such as it was for the "general operations of finance" before this had been undertaken by a select committee, whose operations in 1794 as described by publisher John Fenno were less than efficient:

The Committee of 15 of the House have bro't in a report on the ways & means--this report contains a land Tax, an excise on Sugar & Tobacco--a Stamp tax--a tax on Carriages and an enhancement of the Impost--every moment of the residue of this Session will be required to compromise opinions on this report . . . 113

In accord with good Republican theory at this time of ascendancy in the House, the establishment of such committees as agents of that chamber put them in the same relationship that cabinet officials bore to the

113. John Fenno to Joseph Ward, Apr. 26, 1794, Folder 5, Correspondence of John Fenno, Chicago Historical Society. After March 1796 frequent reports of the Ways and Means committee give evidence of its active part in governmental function. American State Papers, Finance, I, Passim. By 1800 the committee was questioning proposed expenditures for armament and considering measures for liquidating the expanded debt to replace the cycle of borrowing that had been public policy for ten years past. Ibid., 626. Although the Ways and Means committee gave promise of becoming an instrument of policy, its latter day prestige as the House's "committee on committees" lay far in the future. No committee today is chosen with more care than the powerful Ways and Means committee.

President. The Republicans believed themselves to be restoring the normal constitutional relationships by reasserting the legislative power. And the standing committees were to be their weapon in the contest to come. Ames, giving voice to his disapproval, wrote that as a result of this development, "committees already are the ministers"¹¹⁴ Although the Federalists while in power abandoned this system briefly in 1800, the triumphant Republicans under Jefferson reconstituted it in 1801, and it followed a course of normal expansion thereafter. In the meantime, the stimulus thus provided by operation of the new committees of the Fourth Congress, spread to select committee function, resulting later in the conversion of such likely ones as those responsible for post office and post roads into standing committees.¹¹⁵

By the custom of the day the standing committees observed certain rules and procedures. They were generally appointed at the first meeting and continued through the session, contrasting in this respect with discharge of special and select committees upon their reporting. The first member to be appointed usually assumed the chairman's role as a matter of courtesy. During their meetings, the members were to speak standing, not sitting.¹¹⁶

¹¹⁴. Harlow, op. cit., p. 158.

¹¹⁵. Ibid., p. 157. The Committee of the Post Office and Post Roads came into being in 1808. Rowland, Fant, and Hufford, op. cit., p. 459. One additional committee having certain attributes of a standing committee--continuity and functional character of a non-routine type--was the secret committee, necessitated by the emergencies of the quasi-war with France. French diplomat Letombe reported about it in 1797: "The committee will render an official account of its operations to the Congress upon its return next November . . ." 3 Fructidor, Year V (August 20, 1797), Correspondence Politique, Etats-Unis, XLII, Ministre Affaires Étrangères, Paris.

¹¹⁶. Thomas Jefferson, Manual of Parliamentary Practice, for the Use of the Senate of the United States (Wash., 1820), p. 37

During this first decade of the House's experience, its role as the "inquest of the nation" had not become firmly instituted. Although standing and select committees had delegated to them the conduct of investigations and were authorized to send for persons and papers, the extent of inquiry where administration was the subject, was often debated from conflicting viewpoints. What was called "oversight of the executive" aroused keen feelings and strong opinions in Federalist and Republican alike. Charges of misfeasance, malfeasance, and unsoundness of administration while subjects of debate were not investigated formally at this time. The Constitution said nothing about the House's investigative authority, but the body of English precedent, long applied in colonial governments, gave authority enough. The concomitant power to enforce by contempt proceeding was also regarded as a valid power, "normal and necessary attributes of a legislative assembly."¹¹⁷

The first congressional investigation in the nation's history thus took place while the House was meeting in Congress Hall. And it fell to a select committee under the committee system then in effect to make it. In the background of this venture into congressional investigation was one of the sensational events of that day, the defeat of Major General

117. Telford Taylor, Grand Inquest, The Story of Congressional Investigations (New York, 1955), pp. 12-13. Galloway, op. cit., pp. 77-8. As categorized by Joseph Cooper the debate between Federalists and Republicans covered three areas: "1. Investigations of offenses committed by executive officers to ascertain whether they are serious enough to sustain an impeachment proceeding; 2. Investigations aimed at informing the nation as to possible abuses in the administration of the law or aimed at supplying the House with sufficient information to enable it to control administration legislatively; and 3. Investigations into the use of public money to secure the information necessary to enable the House to appropriate wisely. Quoted in Galloway, op. cit., p. 78. Illustrative of the limitations on inquiry in general during this early period is the rule admitting to the questioning of witnesses only the select committee chairman. However, testimony was taken in writing for submission to the House. Ibid., p. 82.

Arthur St. Clair on November 4, 1791 at the present site of Ft. Recovery, Ohio. American casualties numbered 1,000 of which more than 600 were killed. Its consequences were grave, and the nation took years to recover:

Little Turtle's triumph on the Wabash was one of the three greatest Indian victories over white men in the history of the North American continent; St. Clair's losses matched those of Braddock and far exceeded the massacre of Custer and his men on the Little Big Horn. Pacification and settlement of the Northwest Territory were set back by several years. The British continued to maintain posts south of the Great Lakes and Little Turtle and his Miamis roamed the frontier unchecked, . . . 118

118. Taylor, op. cit., p. 19. Arthur St. Clair is believed by Taylor to have been "one of the most versatile and adventurous men of his time." Born in Scotland of an old Norman line, he came to America with a British regiment during the Seven Year's War and fought at Louisburg and Quebec. Married to the daughter of Massachusetts Governor Bowdoin, he settled before the Revolution in western Pennsylvania. During the Revolution he served with distinction at Quebec, Trenton, Saratoga, Brandywine, Valley Forge, Yorktown, and with Greene in the Carolinas. Benjamin Rush later recalled that during the Trenton-Princeton campaign when informed that the British were advancing he asked St. Clair what he intended to do. "Why fight them," the general replied, buckling on his sword. After the war St. Clair, was employed in Philadelphia in various public offices. During 1787 he was elected to the Continental Congress where he became its president. That year the Northwest Ordinance was passed, and he gained appointment as first governor of the territory. He governed ably, but during the years that followed, the British fomented trouble among the Six Nations, leading in 1791 to the recommissioning of St. Clair as a major general to head a pacification expedition. It came to grief when his ill-manned and ill-equipped ranks were surprised in battle. Ibid., pp. 19-21. George W. Corner, ed., The Autobiography of Benjamin Rush (Princeton, N. J., 1948), p. 127.

The shock of so frightful a defeat aroused strong public opinion and soon brought consideration of it to the floor of the House. There, after determining that an inquiry should be made and that it should be undertaken by the House and not the executive, the membership on March 27, 1792 appointed a select committee, "to inquire into the failure of the late expedition under General St. Clair." They also empowered the committee to call such persons, papers and records as may be necessary to assist in their inquiries."¹¹⁹

The proceedings that followed foretold the conflicts ahead under the Constitution, where congressional investigations of executive departments and their activities have been initiated. Secretary of War Henry Knox, upon receipt of the committee's request for materials from his department's files, referred the matter to President Washington and it received a full airing in the cabinet. Their unanimous opinion was that St. Clair's records contained, "not a paper which might not properly be produced."¹²⁰ But it was not rendered until after serious consideration had elicited opinions on the proper limitations of such inquiries. The close reasoning applied to the problem by the cabinet scarcely showed

119. Taylor, op. cit., p. 22. St. Clair asked Washington to appoint a military court of inquiry, but the President had to decline for want of high ranking officers enough. The first proposal entertained by the House called for the President to make the inquiry, but the membership recoiled before the prospect of breaching the constitutional separation of powers by instructing the chief executive to investigate conduct of his own branch of government. Ibid.

120. And Washington on April 4 directed Knox to present the desired records to the House committee. Ibid., p. 24.

in the reply to the committee.¹²¹ As Knox answered to the President alone, the committee was advised to apply to Washington himself. On April 4, 1792 the House passed a resolution requesting that the President "cause the proper officers" to release the needed documents.¹²² The committee's investigation was conducted, "with a decorum and dispassionateness which was all the more remarkable in that the Jeffersonians were already using the disaster as a stick with which to beat the incumbent Federalists."¹²³ Their findings exonerated St. Clair, and, indeed, found his conduct during the action itself, "marked with peculiar ability and zeal" as well as "coolness and intrepidity."¹²⁴ The War Department and the quartermaster

121. Jefferson's notes are full on the points covered. According to him, Washington convened the cabinet in appreciation of the matter's essence, "that so far as it should become a precedent, it should be rightly conducted." He conceived that, "there might be papers of so secret a nature, as that they ought not to be given up." Upon discussion, the cabinet was found to be "of one mind" that "First, . . . the House was an inquest and therefore might institute inquiries . . . that, they might call for papers generally . . . that the Executive ought to communicate such papers as the public good would permit, and ought to refuse those, the disclosure of which would endanger the public. Consequently were to exercise a discretion . . . that neither the committee nor the House had a right to call on the Head of a department, who and whose papers were under the President alone, but that the committee should instruct their chairman to move the House to address the President," Theoretically, according to Jefferson's beliefs, these determinations rested on the factor of the House's being limited by the Constitution to legislative functions as it was "a legislature and an inquest but not a council." Ibid., pp. 23-24.

122. Ibid., p. 24n.

123. Ibid., p. 24.

124. Ibid., p. 25.

and his contractors they castigated for "gross and various mismanagements and neglects."¹²⁵ This unpalatable criticism Knox and Treasury Secretary Hamilton deemed unacceptable, and their influence in the House prevented a vote on the report and thus the vindication sought by St. Clair, despite Washington's assurance at the start that "General St. Clair shall have justice."¹²⁶ Although retained as governor of the Northwest Territory, a post he had occupied all along, his reputation suffered, and when finally relieved of office, he became involved in litigation over debts contracted for official purpose that at last ruined him.¹²⁷ He ended his life on a belated and niggardly pension after years of poverty in a rude log cabin. This sorry episode

125. Ibid., p. 24.

126. The case came to involve a second constitutional principle during the political phase on the House floor, when members friendly to the administration moved that Secretaries Knox and Hamilton be invited to attend debates and be available to answer questions. In Taylor's opinion the "attendance of Cabinet members in the House would have been a long step in the direction of Parliamentary government on the British model." Madison successfully opposed the motion on the ground that it would "introduce a precedent which would lead to perplexing and embarrassing consequences; as it involved a conclusion in respect to the principles of the government, which at an earlier day would have been revolted from." Ibid., p. 25.

127. Ibid., p. 26. A "Federalist of the old school," St. Clair lasted in office until 1802 when Secretary of State Madison dismissed him on "unwarranted charges". Once out of office, at sixty-nine years of age, he was mere prey for his creditors, whose court judgments soon dispossessed him.

nevertheless was productive of the information sought by Congress, and thus, despite painful other consequences, fulfilled its principal purpose.¹²⁸

What began in Philadelphia's Congress Hall on March 27, 1792 has ever since widely influenced governmental practice:

. . . the House has frequently granted the power to compel testimony, even to subcommittees, and it has been used in scores of cases down through the years in investigations of the conduct of public officials, members of Congress, election contests, and economic and social problems. The power to send for persons and papers has been upheld by the courts, within certain limits, and many contumacious and recalcitrant witnesses have been cited for contempt of the House for their refusal to answer questions or produce papers. During the nineteenth century the House of Representatives was the chief inquisitor and much American history can be gleaned from the reports of its investigating committees.¹²⁹

128. As noted by Taylor, "the legislative investigation is a piece of governmental machinery," that, "from time to time generate [s] conflicts and questions." He feels that the St. Clair investigation in its "primary purpose of informing the Congress, . . . was highly successful But Congress' attempt by means of the investigation to determine who was to blame for St. Clair's defeat was conspicuously unsuccessful." The "total paralysis of Congressional judgment" left St. Clair "accused but unjudged," preventing "even acts of simple justice." He then concludes that "legislative investigations are less than perfect devices for appraising guilt or innocence, . . . they are more suitable for the informing function than for the judicial function." *Ibid.*, pp. 28-29.

129. Galloway, *op. cit.*, p. 77. Congressional investigations have become a part of everyday existence in recent years, spurred by "authority granted each standing committee of the House in 1946 to 'exercise continuous watchfulness' of the execution of laws within its jurisdiction."

The first such instance after the St. Clair investigation was the arrest and detention in 1795 of Robert Randall for eight days on contempt charges as described above.¹³⁰ It took a hearing in 1821 for confirmation by the Supreme Court of this authority of Congress to punish contempts.¹³¹

During the first half of the nineteenth century few executive departments escaped House investigative scrutiny at one time or another. This authority became so essential an element of House function that it assumed the full status of an American institution:

The history of Congressional investigations is in large part the history of American politics. From the earliest times, the burning issues of the day were frequently drawn into the investigative vortex, and there is scarcely a well-remembered name in our political history that does not have some prominent association with the inquiries of the period.¹³²

130. See page 22 above.

131. Frequent challenge to the right to punish for contempt arose in House debate, and finally was put to the test in the federal courts: ". . . one John Anderson, who had been arrested and reprimanded by the House of Representatives for attempting to bribe a member, sued the Sergeant-at-Arms for assault and false imprisonment, and carried his suit all the way to the Supreme Court. The Court's decision, announced in 1821, upheld the authority of Congress to punish contempts, and thus laid the question to rest." Taylor, *op. cit.*, p. 33.

132. *Ibid.*, p. 28. As the House became emboldened, it more and more often investigated the civil and military operations of the executive branch: ". . . the Treasury Department (1800 and 1824), the territorial government of Mississippi (1800), the War Department (1809 and 1832), the conduct of General James Wilkinson (1810), government 'clerks' generally (1818), the Post Office (1820 and 1822). . ." *Ibid.*, 33. Thus, no momentum was lost after the initial thrust.

The necessity of conference over legislation to iron out differences between House and Senate versions was evident to members of both houses from the beginning of government under the Constitution. The second day of Senate meetings, on April 7, 1789 to be exact, that house appointed a committee to prepare rules for government of the two houses when the question of proceeding to conference should arise. Oliver Ellsworth, chairman of this committee wrote to Speaker Muhlenberg, informing him of its existence. The House in response appointed one of their own to meet the Senate's, consisting of Elias Boudinot, New Jersey; Roger Sherman, Connecticut; Thomas Tucker, South Carolina; and James Madison and Theodorick Bland, Virginia. Thus was the first joint committee formed and the first joint rule for conference formulated:

Resolved, that in every case of an amendment to a bill agreed to in one house and dissented to in the other, if either house shall request a conference, and appoint a committee for that purpose, and the other house shall also appoint a committee to confer, such committee shall, at a convenient time, to be agreed on by their chairmen, meet in the conference chamber, and state to each other verbally, or in writing, as either shall choose, the reasons of their respective houses for and against the amendment and confer freely thereon.¹³³

Despite this promising start, application of the rule made a less auspicious beginning, the first conference being held not on some bill of momentous import to the nation but rather on a matter of etiquette--how the two houses should address the President of the United States (and

133. Other joint committees had not yet made an appearance. In time they proliferated as matters of joint interest brought them into being. Most have been standing committees though special joint committees are appointed from time to time. Ada C. McCown, The Congressional Conference Committee (New York, 1927), p. 39.

agreeing to refrain from titles).¹³⁴ They fared better as the first session went along, important conferences being necessitated by subjects on which disagreement was likely. In the procedures followed, as seen above, free (as against simple) conference was adopted, leaving the "managers", as they were called then as now, opportunity to "discuss viva voce and freely, and interchange propositions for such modifications as may be made in a parliamentary way, and may bring the sense of the two houses together."¹³⁵ Unlike today's practice, however, the conference report could be amended and adopted in part by either house.¹³⁶ Membership too tended to be renewable, seniority not having been established, those who had attained notable success in such meetings were appointed again and again to conference committees. As the purpose then, unlike today, was that of reaching agreement, and reaching agreement alone, the palm went to those who might be expected to succeed in that goal. In an age of stiff posturing and marked sensitivity, conciliators were due their honors.¹³⁷

134. The Senate agreed on the title "Excellency", but the House refused in good Republican style to accept any elaboration of the title of office. The Senate at last receded from its position after vexatious delays that prevented putting the government into motion. *Ibid.*, p. 41.

135. Jefferson, *op. cit.*, p. 146. "At a conference simply, written reasons are prepared by the house asking it, and they are read and delivered without debate, to the managers of the other house at the conference; but are not then to be answered. . . . The other house, then, if satisfied, vote the reasons satisfactory, or say nothing: if not satisfied, they resolve them not satisfactory, and ask for a conference on the subject of the last conference, where they read and deliver in like manner written answers to those reasons. . . . They are meant chiefly to record justification of each house to the nation at large, and to posterity, and in proof that the miscarriage of a necessary measure is not imputable to them." *Ibid.*, pp. 145-146.

136. Either house might strike down additions by the conference managers that displeased the membership. McCown, *op. cit.*, p. 40.

137. *Ibid.*, pp. 40-41.

The novelty of the first conference to be held over legislative disagreement was so great and the subject of such interest (the principle of discrimination in tariffs) that the meeting was opened to the members of House and Senate.¹³⁸ Right away the conferees learned that action should not be taken until the papers were in the house receiving the report. Senate conference committee chairman Robert Morris attempted to acquire the papers, reluctant as he was to act last for fear of incurring blame of rejection should the bill be lost.¹³⁹ A rule to that effect was adopted.

By the time Congress came to Philadelphia, a solid body of experience had developed on the subject. The first conference committee meetings in Congress Hall took place between February 23 and 26, 1791.¹⁴⁰ Subsequently, there were others. In every case on the House side a procedure was followed not unlike that employed when no conference was held: adoption of some or all the conferees' suggestions followed by exchanges of messages of recession, insistence, or adherence.¹⁴¹ Not until the nineteenth

^{138.} Such an open conference is not known to the record again until 1911 when Senator LaFollette opened tariff hearings to members of the press. *Ibid.*, pp. 42-43.

^{139.} "So strong was this feeling that some Senators wanted to act on the report of the managers even if the bills were not in the Senate, but it was decided at length to let the reports lie for consideration." *Ibid.*, p. 43.

^{140.} In this case the House receded from its position on certain impost changes. *Ibid.*, p. 48.

^{141.} As witness the following procedure: "a message from the Senate, by Mr. Secretary Otis, informing the House that the Senate have agreed to all the amendments proposed by the House to the bill relative to the election of a President and vice-President of the United States, &c. except the last, to which they disagree:

"This amendment was to strike out the 9th section, and to substitute a clause which provides that the double vacancy in the office of President and vice-President, shall be filled by the Secretary of state for the time being." *Philadelphia National Gazette*, Feb. 23, 1792.

century did they adopt the attributes of the modern conference system.¹⁴² Although the Senate as early as 1796 took the primary step in that direction by first approving the committee's report and then modifying the legislation accordingly, three decades were to pass before the House followed suit and cleared the way for an effective system.¹⁴³

The heads of the House's standing committees of that early period deserve some special consideration though they are not to be confused with their powerful successors of today. Perhaps in the final analysis it was the strength of character and personality they brought to these committees that blazed a trail for their counterparts of today whatever the limitations on power and support they could then command.

At the head of the Committee of Elections from 1789 until 1791 was Pennsylvania's George Clymer, that indefatigable public servant of the Revolutionary and post-Revolutionary periods. Nearly at the end of his skein of public offices, Clymer brought to his chairmanship attentive experience in governmental matters that made him a natural choice for the

142. The modern conference committee system had shaped a body of methods and customs into a piece of legislative machinery that meets certain imperative needs. The time-consuming and clumsy way of accommodating bicameralism in the 1790's, though inheriting English precedent (one even then superfluous to the ministerial system in that country), could hardly expect to run the legislative side of modern government. These methods included: acceptance of the bill as a whole, secrecy in conference, delay in reporting to force favorable consideration and prevent recommitment, a privilege of precedence enabling displacement of all other legislation, seniority in the managers, and simplification in the method of bringing bills to conference. McCown, op. cit., pp. 49-50.

143. In 1796 a motion to modify the conference report on the Seaman's Relief Bill was ruled out of order. The Senate next accepted the report. Then they altered the bill to accord with suggestions embodied in the report. In 1826 the Speaker ruled that a conference committee report could not be amended. Precedence for conference reports was established in the House in 1850. Ibid., p. 255.

post. Although this period of office was uneventful, he undertook his duties with the deep integrity and rigid republicanism that had always marked his course. Perhaps Clymer's having distinguished himself in the debate over titles during Congress' first days in session brought him the chairmanship of the House's first standing committee.¹⁴⁴ Consistent with his philosophy on the role of House members was the historic position taken in Congress on the proposed amendment for having congressmen instructed by their constituents, and it was one he backed with all his strength.¹⁴⁵

Following the unaligned Mr. Clymer in the chairmanship in 1791 was the equally unaligned Samuel Livermore of New Hampshire.¹⁴⁶ Like his predecessor,

144. "After adverting to the high and lofty titles assumed by the most impotent potentates, and proving by experience that so far from conferring power, they frequently made their possessors ridiculous, he proceeded to reprove this growing predilection of his countrymen. Titular distinctions, . . . are said to be unpopular in the United States, yet a person would be led to think otherwise, from the vast number of honourable gentlemen we have in America. . . . He wished to check a propensity so notoriously evidenced in favour of distinctions, and hoped the example of the house might prevail, to extinguish the predilection . . . in favour of titles." Quoted from John Sanderson, Biography of the Signers (Phila., 1823), IIII, pp. 206-207.

145. "It was a saying of Mr. Clymer's, that 'a representative of the people is appointed to think for and not with his constituents,' . . . Mr. Clymer warmly opposed the proposition introducing a clause in the constitution, which conferred upon the people the unalienable right of instructing their representatives The language of his objections was at once nervous and conclusive. Do gentlemen, said he, foresee the extent of these words? This is a most dangerous principle, utterly destructive of all ideas of an independent and deliberative body, which are essential requisites in the legislatures of free governments: they prevent men of abilities and experience from rendering those services to the community that are in their power, destroying the object contemplated by establishing an efficient general government, and rendering congress a mere passive machine." Ibid., pp. 209-210.

146. The writer relies on DeAlva Stanwood Alexander's work, op. cit., p. 399 (Appendix E) for the chairmanships listed.

Livermore had long experience in the Continental Congress, where he became known as a homely man, brusque of speech, but kind-hearted, frank, and honest. He could be expected to find common sense answers to problems though he was not always consistent.

Continuing the string of one-term occupants of this important post in 1793 was the very much aligned Federalist, William Loughton Smith of South Carolina. His appointment at this juncture reflects a growing polarization of the House. Although not then often in the public's view, he was one of the Hamiltonians' indispensable men in the lower chamber, "a workhorse, rather than a public idol," according to his biographer, who also calls him "a Federalist's Federalist."¹⁴⁷ The Charleston electoral district sent him to the House five times, and by 1793 he had emerged by dint of hard work as one of the body's principal parliamentarians. In February 1793, he headed the committee of James Madison, John Laurance of New York, and himself that met with the Senate committee to count the votes for President and Vice President, and upon convening of the meeting was chosen teller.¹⁴⁸

Smith's successor in 1795, Abraham B. Venable of Virginia, a planter who later served in the Senate, left no impression on the office pro or con, but may be considered of the moderate cast desired in a nearly evenly divided House. The same may be said of 1797's chairman, Joshua Coit of Connecticut, who fancied himself a "child of the enlightenment," and styled his station in politics that of an independent Federalist.¹⁴⁹ Having previously had experience on the elections committee of the state

147. George C. Rogers, Jr., Evolution of a Federalist, William Loughton Smith of Charleston (1758-1812) (Columbia, S. C., 1962), p. 305.

148. Ibid., p. 240.

149. See chapter entitled, "A Liberal Federalist at Washington's Court," Chester McArthur Destler, Joshua Coit, American Federalist 1758-1798 (Middleton, Conn., 1962), pp. 54-69.

legislature, he was qualified though young for this assignment. A Freemason, an agrarian along physiocratic lines, a believer in female emancipation, a seeker in several fields of philosophical thought, he opposed doctrinaire policy in the House, and occupied a position closer to the middle than any of his colleagues.¹⁵⁰ The last chairman of the Philadelphia period, Samuel W. Dana, also hailed from Connecticut and not surprisingly also preferred not to take sides in matters of national significance. Nominally a Federalist, he never occupied a position of leadership in the House, and proved acceptable to both sides. Serving from 1799, he supported administration policy, including the notorious Sedition Act, but did not share his fellow Federalist's distrust of the people.

DeAlva Stanwood Alexander's History dates the House Ways and Means Committee from 1789, although as shown on page 46, above it was authorized first as a standing committee in December 1795.¹⁵¹ Accepting Alexander's dates, we discover that for the first three sessions of Congress Thomas Fitzsimons of Pennsylvania served as chairman. A leading Catholic layman, Fitzsimons more than anyone in public life was identified with the early republic's economic nationalism. Long a businessman, he understood the country's economy as well as any statesman

150. Coit refused to partake of the sentiment for war with Great Britain in 1793-1794 and actively opposed war with France in 1798-1799. He was of a small band of bipartisan moderates who held the balance on critical votes. To the orthodox of each party he seemed a mass of contradictions, opposing defense measures, embracing non-involvement, defeating war Federalists in caucus while scorning Republicans as Jacobins, and in general making a virtue publicly of moderation. He sought always in foreign affairs to keep the door open to negotiations. He cultivated no interest groups and while intriguing some, satisfied no one. Though now forgotten, he was at one time a figure of considerable importance in the House. Granted this, it comes as no surprise that he was instrumental in securing authorization of the standing Committee of Revision and Unfinished Business. Ibid., p. 94.

151. Alexander, op. cit. p. 399.

and its trade as an established authority. He evolved from experience and necessity the policy of a protective tariff. An intimate of Hamilton, he was ideally equipped to occupy the committee chairmanship in a period of important national measures. His advocacy of such policies made him a special target of the Republicans, and they finally brought him down in 1795.

Following him to the chairmanship in that year, fresh from the Committee of Elections, was William Loughton Smith. That worthy and his successor, Robert Goodloe Harper, both strong men, doubtless initiated the movement that brought the committee to its later day position of prominence and power in government. As has been seen Smith had already earned a reputation for untiring effort in the House, always "present on the first day of a session and at the end . . . called upon to tidy up the loose ends of legislation."¹⁵² In his new and important chairmanship he exerted a companion talent for leadership in directing legislation that made him deserving of Fitzsimons' mantle. Not only did he provide steerage but proved himself to be an effective though caustic defender of the administration. His retort to William Branch Giles' resolutions of censure of treasury secretary Hamilton brought him celebrity. His newfound status as a parliamentarian of merit often brought him to the presiding officer's chair when the House met in the Committee of the Whole and the Speaker stepped down.¹⁵³ He starred again during the Jay Treaty debate. Yet, Smith had to be contained within the limits of assignments consistent with his talents because of personal unpopularity. Hamilton while acknowledging his "abilities, information, industry, and integrity," cautioned against his "uncomfortable temper:"

He is popular with no description of men, from a certain hardness of character; and he, more than

152. Rogers, op. cit., p. 240.

153. Ibid., p. 241.

most other men is considered as tinctured with prejudice toward the British. . . . It may suit party views to say much of other men but more in this respect is believed with regard to Smith.¹⁵⁴

In Robert Goodloe Harper of South Carolina, the next in line, the House found a natural leader and one of the most picturesque men in public life at that time. A social lion and a dandy in his dress, Harper affected a pompous manner. He was the most frequent and voluble debater among the Federalists, and through a combination of these qualities and habits acquired a reputation as "the most insolent man in the House." Entering Congress as a nominal Republican in 1795 he lost no time in shifting to a hard-line Federalist position on issues, and in time received general recognition as the leader of that party in the House. Appointed chairman in 1797, he initiated or forwarded the harsh measures with which the Federalists met the crises of the quasi-war period.¹⁵⁵

The last of the Ways and Means committee heads, Roger Griswold, had been in Congress from Connecticut since 1794. In his outlook and mentality a "common Federalist," he rose to prominence as a defender of Washington and Adams. A leading debater who spoke frequently with eloquence and analytical skill, he could be dogmatic and intolerant at times. Appointed chairman in 1799, he provided energetic leadership for a while, but later became disaffected as the party split between the Adams and Hamilton factions.

The Committee of Commerce and Manufactures simply did not command chairmen of the same stamp as the other two. Its first head, Benjamin

154. To which Hamilton added: ". . . it is very important that he should not now be removed from the House of Representatives." Washington had Smith under consideration for Secretary of State. Ibid., 305.

155. According to volume I of American State Papers, Finance, (p. 626) Harper still chaired the Ways and Means committee in 1800. On February 21 of that year he reported the "estimates for the public service" to the House.

Goodhue of Massachusetts, a Salem-bred merchant who had also been in business in Philadelphia, doubtless knew the subject of trade very thoroughly and provided competent leadership. A committed Federalist, he could also be relied on to hew the line on measures affecting that party's economic policies. After Goodhue left Congress, following the 1797 election, John Swanwick of Pennsylvania succeeded him in 1797 as chairman. A former partner of Willing and Morris in Philadelphia, Swanwick was also competent in the field of trade. A Republican in his sentiments, he presumably received the appointment out of deference to his knowledge and experience despite his political associations.¹⁵⁶ In 1798 Swanwick died and was succeeded by Samuel Smith of Maryland. One of Baltimore's wealthiest merchants and a factor in the pre-Revolutionary struggle in that city, he served with great distinction as a field commander during the war; most notably in his epic forty day defense of Ft. Mifflin in 1777. Impressive physically--tall, handsome, of proud bearing--he proved to be a natural-born intriguer. Behind scenes as well as on the floor of the House he was effective. What he began as committee chairman at century's end continued through cabal and machination the remainder of his forty years in Congress.

The busiest of all the standing committees was that of Claims. Set up at high tide in settlement of those arising from the Revolutionary War (debts incurred on behalf of the Congress, back pay, widows and orphans claims, invalid pensions, etc.), at a time when the House was receiving a great many petitions praying reimbursement, it was empowered to, "take into consideration all such petitions . . . referred to them by the House, and to report their opinion thereupon, together with such propositions for relief therein, as to them shall

156. It was Swanwick, a silk-stockings Philadelphian, who defeated Fitzsimons at the polls, to the great joy of Republicans everywhere.

seem expedient."¹⁵⁷ Having experienced nothing but drudgery, Uriah Tracy of Connecticut, the first chairman, tried his best to avoid reappointment in 1795, but was kept on until the bulk of claims had been met that year. Tracy was one of his state's best lawyers, a clever politician, whose oratory featured satire and impetuous address. He was long influential in Federalist councils.

8. The House in Session

As described by a House historian of some years ago, that body gets by with as little fuss and feathers as possible, taking a certain pride in the absence of ceremony that in itself makes dramatic what ceremony there is: "The Speaker of the House of Representatives, unaccompanied and unannounced, enters the great chamber promptly at twelve o'clock, quickly ascends to the desk, gives one sharp rap with the gavel, proclaims 'the House will be in order,' and in a softer, lower tone asks the chaplain, already waiting at the clerk's desk, to offer prayer."¹⁵⁸ This brisk approach to business is as republican as it is American, and the Speaker in conducting it bears on his person no distinguishing raiment out of harmony with his straightforward manner: "the American rejoices in the Speaker's ordinary dress and the absence of the spectacular."

157. The impecuniousness of the Continental Congress under the Confederation delayed payment of these claims and necessitated repeated suspensions of the statute of limitations on them. Acts respecting specific classes of claims were passed in 1785 and 1787, but administration dragged on into the 1790's. An effort to involve the federal courts came to grief. Their screening efforts lacked direction and sound judgment. The final major report on claims antedating 1789 was not made until February 24, 1797. Leonard D. White, The Federalists, A Study in Administrative History (New York, 1948), pp. 355-357. Tracy complained that he ". . . had been extremely hard employed . . . , and had undergone much trouble about this business of claims."

158. Alexander, op. cit., p. 37.

The procedure has not varied from the day the above was written to the present, and, indeed, but little from 1789 until now. This routine conforms closely to paragraph one of the first rule of the House adopted in that year for the conduct of business, entitled "Touching the duty of the Speaker:"

He shall take the chair every day at the hour to which the House shall have adjourned on the preceding day; shall immediately call the members to order, and, on the appearance of a quorum, shall cause the journal of the preceding day to be read.¹⁵⁹

Running through procedure of the early years was the grey thread of decorum, a subject of special emphasis to that rougher day, reflecting perhaps the insecurity felt from less happy experience in government in the recent past than in the hoped for future. To a discerning observer, after the passage of several years the House had achieved what its 1789 architects so strongly desired:

The duties prescribed for the Speaker and the rules for the conduct of the Chamber are observed with the greatest fidelity and it is uniquely to this strict adherence that one must attribute the order that reigns. The Speaker gives the floor to the members, calls them to order when they digress from the subject or use some improper expressions. Each member may speak only twice on the same subject, but when the chamber meets as a committee of the whole, each speaks in his turn as many times as he wants, those who have not spoken having always the preference. During the committee of the whole they remove the fasces surmounted by an eagle [House mace] which is fixed at the barrier opposite the Chairman. The Speaker then

159. Gales and Scaton, op. cit., I, p. 103.

leaves. The messages of the President and the Senate are received only when the House is in full representation. The President sends his message by his secretary; the Senate by the Clerk. They bow, read it, and deliver the contents to the usher /Sergeant-at-Arms/ who, carrying the fasces, gives it to the Speaker.¹⁶⁰

As elaborate as those observances may appear, they were carried out by unadorned officials and attendants, and the House made itself was the only embellished symbol employed throughout. It imparted, nevertheless, an air of gravity, dignity, and significance sufficient to impress any audience, and the above witness noted that the "galleries observe the greatest silence."

The Constitution had provided that each house of the Congress should determine its own rules of proceedings. Three of the country's most distinguished parliamentarians, Elias Boudinot of New Jersey, James Madison of Virginia, and Roger Sherman of Connecticut were included in the committee of eleven that was appointed to draft the first House rules. Sherman, the only man in Congress who had attended every important general meeting or assembly since the Stamp Act Congress and had added his mite to everything of importance done from Declaration to Constitution, had the respect of all present. Madison, fresh from drafting the Constitution and writing most of the Federalist Papers, was one of the age's wonders. Elias Boudinot (who knows that name today?) had been president of the Continental Congress and occupied high posts and taken on weighty responsibilities during the entire Revolutionary era. Invariably in the chair when the House met in Committee of the Whole in years ahead, he found himself in 1789 made chairman of this committee. They hammered out a short code of four rules adopted on April 7, 1789. A week later they added six more rules.¹⁶¹ Though others were added

¹⁶⁰. Niemcewicz, op. cit., p. 43.

¹⁶¹. Galloway, op. cit., p. 49. By 1858 the number had increased to more than 150 and a special committee of five had to be appointed to consider what might be done about the situation.

from time to time, these were the ones that governed the House while it met in Philadelphia.

Boudinot's rules achieved two ends. They made the House a body that worked, that could proceed to its great tasks with the assurance of completing them. Thus, the first rule outlined the duties of the Speaker; in addition to the first paragraph quoted above, they obliged him to preserve decorum and order, put questions, decide points of order, announce the results of divisions and teller votes, appoint committees of not more than three members, and himself vote when a ballot was taken.¹⁶² Decorum, motions, debate, and balloting were

162. Ibid., p. 10. The Speaker was to take up points of order "rising in his seat" to do so. He had to rise to put a question but might state it sitting. The form for putting questions was " 'As many as are of opinion that--(as the question may be) say Aye:' And after the affirmative voice is expressed--'As many as are of a contrary opinion, say No.' " Doubt about the count or call for a division necessitated the membership's leaving their seats with those in the affirmative going to the right of the Speaker's chair and those in the negative to the left. In stating his decision on the tally, the Speaker had to rise again. When the chamber adjourned the members were to remain seated until after the Speaker left. Gales and Seaton, op. cit., I. 103-106.

covered by the second rule.¹⁶³ The third prescribed procedures for legislating.¹⁶⁴ Rule four laid down the vital procedures to be followed in the Committee of the Whole for control of legislation.¹⁶⁵

163. The second rule required 26 paragraphs of one or more lines, the gist of which as given by Galloway was: "No member could speak more than twice to the same questions without leave of the House. No member could vote on any question in the result of which he was immediately and particularly interested; or in any other case where he was not present when the question was put. Every member present in the House when a question was put was required to vote for or against it, unless excused. The previous question was to be admitted upon demand of five members and its form was defined. Committees of more than three members were to be chosen by ballot. And any fifteen members could compel the attendance of 'absentees'". op. cit., p. 11. One of the paragraphs provided that "whilst the Speaker is putting any question, or addressing the House, none shall walk out of or across the House; nor either in such case, or when a member is speaking, shall entertain private discourse, or read any printed book or paper; nor whilst a member is speaking, shall pass between him and the chair." Ibid. This appears to have been loosely enforced where breaches were not obvious. One member, refusing to be so deterred informed a correspondent that while Hillhouse of Connecticut was orating, "He once in a while Speaks so loud as to Interrupt me for a moment but on reflecting that he is on the right side I compose myself again & go to writing." Nathaniel Smith to David Daggett, April 1796, D. Daggett Letterbook, Rare Book Room, Yale University.

164. As explained by Galloway (p. 11), ". . . a committee was to be appointed to prepare every bill which should receive three readings; but no bill could be read twice on the same day without special order of the House. After second reading a bill was to be engrossed or committed either to a select committee or to a Committee of the Whole House. After commitment and report, a bill could be re-committed at any time before its passage. But no bill amended by the Senate could be Committed."

165. Galloway again (p. 11): "The fourth rule adopted April 7, 1789, prescribed the procedure of Committees of the Whole House in which bills were twice read, debated by clauses, and subjected to amendment." It also specified that the ". . . rules of proceeding in the House shall be observed in committee so far as they may be applicable, except that limiting the times of speaking." Gales and Seaton, op. cit., p. 106.

Boudinot's second end, that secured by a man viewed in retrospect as a "far-seeing, benevolent, dictator, whose patriotic words acted as a tonic," was of eliminating unwanted propositions at the point of introduction by procedural means. As noted on pages 47 and 48 above, Congressmen had no leave to introduce bills on their own; only the report of a committee, acted on by the House or a motion for leave to introduce could get a bill into the hopper. Boudinot was personally responsible for this procedure: "To him a bill was an inchoate law, and his scrutiny of it resembled the suspicion with which a vidette regards the advance of an unrecognized troop." Even the way of putting the question when a bill was opposed applied negative force ("Shall it be rejected?").¹⁶⁶

The place of the Committee of the Whole and select committees in the legislative system has been discussed on pages 47-49 above for its historical significance. This was, of course, the entire house membership in open debate on great issues, such as were common enough at the beginning. Its cumbersome character is made clear by the following description by the House's most eminent historian:

After a problem such as the location of the permanent seat of the Federal Government had been discussed from every angle, in Committee of the Whole House on the State of the Union, it would be referred by House resolution to an ad hoc select committee with instructions to prepare and report a bill on the subject. Some days later, the select committee would present its bill to the House, according to order, and after second reading the bill would be ordered committed to

166. Alexander, op. cit., p. 181. Alexander notes that the, ". . . custom of re-adopting the Boudinot Rules, supplemented by Jefferson's Parliamentary Practice, left little to a Committee on Rules. For many years it never made a report. Indeed, so slightly was it regarded that Speakers, during five Congresses, neglected to appoint such a committee. Whenever it became necessary to expedite business the House, . . . usually adopted a rule intended to fit the case in hand. Ibid., p. 182.

a Committee of the Whole House. The House would then resolve itself into a Committee of the Whole House, the Speaker would leave the chair, another member would take the chair, and the Committee of the Whole House would consider and probably adopt amendments to the bill. Then the Speaker would resume the chair and the chairman of the Committee of the Whole would report its action to the House and deliver the proposed amendments at the Clerk's table, where they would be read twice and usually agreed to by the House. The House would then order the bill, with the amendments, to be engrossed and read the third time the next day. After third reading, the House would adopt a resolution that the bill pass and be entitled. Finally, the Clerk of the House would be directed to carry the bill to the Senate and request their concurrence.¹⁶⁷

Much of the time spent by the House in Philadelphia's Congress Hall was thus occupied. That standing committees would one day take over most of this activity was inherent in the system itself.¹⁶⁸

167. Galloway, *op. cit.*, pp. 11-12. In comment on all this, Griswold wrote, ". . . it is utterly impossible for a Person who has not seen the proceedings of Congress to imagine the delays & procrastinations which continually retard all Legislative business." Roger Griswold to Fanny Griswold, Feb. 16, 1796, Grisowld Family Collection, Yale University.

168. The balance of the House rules represented refinements and revisions of the first four that expanded procedure and in other ways allowed for matters concerning the organization of the House. Passed on April 13 and 14, 1789 they related to committee service, leaves of absence, the appointment of a Standing Committee of Elections, and the appointment, symbol of office, and fees of the Sergeant-at-Arms. These cleared the way for consideration of the credentials of members and the handling of contested elections in South Carolina and New Jersey preparatory to undertaking the business of the first session. Galloway, *op. cit.*, p. 10.

With this machinery in operation, the House busied itself to meet the demands for measures that arose within its authority. Few expected at the start that so much lay in store for the Congress. In the minds of many there would be little for Congress to do outside of the conduct of external affairs. The state and local government would handle internal affairs, and once the obligations of the recent war had been tidied up and a federal code enacted the business of Congress would be modest and fairly static. But they reckoned without the dynamics of growth. This nation of four million people possessing a vast public domain and unlimited ambitions could not be expected to stand still. A spiraling population, westward expansion, and extension of commerce and industry soon confronted the House with more than enough legislative situations to claim their attention full time. Three sessions of the first Congress met for a total of 519 days, composed 155 committee reports, and approved 108 public laws.¹⁶⁹ Compared with today's congressional output this is miniscule. Given the primitive means of communications, the laborious method of doing business, and the lack of precedent for a federal system in a new world, and it may be regarded as a notable achievement.

"When not voting the House is talking," historian of the House Alexander has written. The many parliamentary devices--points of order, appeals, motions, methods of procedure, questions of privilege, consideration of reports, bills, and resolutions--arouse opinion and lead to debate.¹⁷⁰ From the beginning the nation's popular forum has conducted debate under definite and well-practiced rules. The clear distinction between the Speaker's area of control by points of order and the House's through appeals to the chair and the like shapes debating procedure and makes orderly conduct possible. Limited debate under suspension of rules, with both sides allowed time for a hearing, provides a safety valve. But it is in general debate that the traditions have taken form. Most of the time it is dreary; but it has its moments.

169. Galloway, op. cit., pp. 15, 119-121.

170. Alexander, op. cit., p. 288.

Knowledge of the House's early debates is fragmentary and what is known about them can be misleading. What the congressmen committed to paper or print themselves contrasts strongly with the fugitive extracts of their speeches that have survived through agency of Gales and Seaton's Annals of Congress published half a century later from newspaper accounts. The official system of Congressional reporting in effect while the House met in Congress Hall, concentrated its attention on the Journal, a record of the official proceedings, and the finished copies of the laws themselves. Clerk of the House Beckley took minutes only for the Journal. Non-current or non-continuing records were destroyed after the clerks in Beckley's office, under his guidance copied carefully selected documents believed to have lasting value.¹⁷¹ These very specifically did not include the debates. Such supposedly transitory mouthings were left to the mercies of a corps of newspaper reporters, or stenographers as they were called, to be captured as best they could or would, depending on their political cant. A number of these reporters, Beckley's Republican intimates among them enjoyed the privilege of the House floor. This had the effect of bringing to the scene a number of the age's most colorful and controversial figures. Most of them were men of education, background, and experience equal to the best that time could offer. Their presence thus enriched the proceedings and added to the impact of high moments. Benjamin Franklin Bache, grandson of the great American, and now reporting for his newspaper, the Aurora, had been educated abroad and at the college in Philadelphia. William Duane, his successor had edited newspapers in London and Calcutta. James Thomson Callender, a former Edinburgh journalist, Thomas Lloyd, Joseph Gales, and Thomas Carpenter occupied places along the side of the House chamber behind the Speaker's

171. J. H. Powell, The Books of a New Nation, United States Government Publications, 1774-1814 (Phila., 1957), p. 84. By 1790 John Fenno, Federalist editor and recipient of much patronage from the administration, began publishing the Journals of the Congress. John Fenno to Joseph Ward, Jan. 31, 1790, Correspondence of John Fenno, Folder 4, Chicago Historical Society.

rostrum.¹⁷² William Cobbett, yet another former London journalist with a strong pro-British and anti-Republican bias, chose to remain apart from the others, and took a seat on a bench in the raised gallery looking down on the Speaker. Their work was considered by many to be far from satisfactory. Inaccuracies took their toll, and most were suspected of being politically inspired--in fact, some of them left no doubt whatsoever of it.¹⁷³ Also, coverage was uneven; in slack season few showed up, leaving less for newspaper readers to choose from among.¹⁷⁴ In 1792 and again in 1795 and 1796 the lack of a verbatim record of debates led the House to consider engaging official stenographers, but owing to doubts about

172. On the conduct of Bache during testimony on the Lyons-Griswold affair; "When this was concluded, he returned to his usual place (back of the Speaker's chair) on the 12th . . ." Aurora, Feb. 24, 1798.

173. According to Alexander (p. 101), the work of early reporters ". . . occasioned much complaint. They were characterized as incorrect and often offensively partisan, with arguments favorable to the newspaper side fully set out, and those adverse maimed, misstated, and confused. Moreover, dull or inconspicuous members rarely got a line." William Loughton Smith made capital of the slip in reporting that substituted the word "barbers" for "harbors" in reporting an act for regulation of the latter: "I could hardly believe that the Legislature of the Union would, at so early a day, attempt to usurp an authority not vested in them by the Constitution, and that, too, over a body of men, who could at any time put an end to the tyranny with the edge of the razor." White, op. cit., p. 499. Joseph Gales admitted having to "abridge . . . very materially" to meet his editor's deadline. To H. G. Otis, Mar. 29, 1793, Otis Papers, Massachusetts Historical Society.

174. "I am sorry that our Short Hand Writers have almost deserted the House of Representatives--which is the reason that you see so little of our proceedings of late in Congress." Jonathan Trumbull to William Williams, May 3, 1794, Jonathan Trumbull Papers, Correspondence with Congressmen, Vol. I, 1790-1801, Connecticut Historical Society.

the effectiveness of stenographic methods, abandoned the idea.¹⁷⁵ As partisanship developed at the end of the decade, Bache and Duane were expelled from the floor of the House, and the presence of the shorthand reporters became an issue in the House itself.¹⁷⁶ This served in the end only to exacerbate already existing political feelings and led to no improvements in the methods of reporting debates.

Informed and expert opinion about the quality of the debates themselves varies. Historian Alexander valued them highly:

175. Even then the desire was voiced for a "full and impartial publication of the debates of the House." Gales and Seaton, Annals of Congress (Wash., 1849), III, col. 563. One member wanted a prohibition on newspaper publication of the debates, pending appointment of an official stenographer. Worcester Massachusetts Spy, Feb. 22, 1796. The prevailing opinion seems to have been expressed by the member who maintained that it would destroy competition: "It is customary to let those gentlemen who take debates at present come within the bar of the house. It would be very unfair to send them to the gallery. The debates were at present well done. He looked upon the whole project as entirely useless." The New World, Phila., Dec. 15, 1796. Although fountain pens had made an appearance and steel tipped pens were in common use as were pencils, the stenographic arts were still in their infancy. Edmund Randolph wrote in 1795, "Unless the logographic experiment in France has succeeded in taking down every word, which is uttered, I doubt whether such a thing has ever been accomplished." White, op. cit., pp. 499-500.

176. Bache was ordered out by Speaker Dayton for "gross indecency towards him." Porcupine Gazette, Feb. 17, 1798. Aurora, Feb. 17, 27; March 29, 1798. Dayton charged "abuses" against Duane and some insulting gesture referred to as the "Famous short-hand motion." William Claiborne to Jonathan Dayton, Aug. 29, 1799, Dayton Papers, New Jersey Historical Society. Sedgwick also considered Duane a dangerous radical whose "Seditious falsehoods intended to disgrace our country & destroy its government." Theodore Sedgwick to anonymous, Jan. 11, 1800, MSS, Massachusetts Historical Society.

The House is rarely if ever without a few effective debaters. As stated above, veteran members who talk much usually learn to talk well. But as one studies the great debates of the past century, the fact appears that speakers who have commanded the country's attention come in groups. Indeed, it may be said that the congressional firmament reveals constellations of genius as clearly as the heavens disclose brilliant star clusters. The jewels of Orion's belt never shone more brightly than did Fisher Ames of Massachusetts, the transcendent orator and profound lawyer ; Elias Boudinot, the accomplished and benevolent statesman; and James Madison, . . . while about them, like the three collinear stars clustered Elbridge Gerry, Roger Sherman, and George Clymer, the trio of distinguished "signers."¹⁷⁷

Contemporaries expressed less enthusiastic views of these "star performers," Ames excepted, but the oratory of William Loughton Smith in reply to Giles' charges against Hamilton's administration of the Treasury, Harrison Gray Otis as well as Smith in support of the Jay Treaty, and John Marshall in the Robbins case will be recalled whenever the subject comes up.

As far as other members of the House were concerned, much less yet can be said in praise of their debating prowess. Of course, any Representative making a serious contention on any point had to be accorded the respect due his constituency. But it is not to take lightly the inhabitants of sovereign states and their representatives to acknowledge lackluster performances. When the quality of debate in the Committee of the Whole sagged, it was because, to quote Galloway (p. 12), "not all the members were competent to elucidate general principles."

¹⁷⁷. Alexander, op. cit., pp. 299-300.

Not surprisingly too, most of the worthwhile debate sprang from political cause. In 1789 politics in the House as yet had no basis. Washington's admonition to "drive far away the daemon of party spirit and local reproach" seemed to be taken to heart by all and sundry. But this was merely a brief season of reprieve. Although the Constitution provided no explicit reference to political parties, they were not long in developing as "underlying sectional and philosophical differences" brought the members into conflict. As early as the first legislative proposals to regulate the slave trade and the debate over the permanent seat of government in 1789-1790, like-minded members of the House began to meet together to coordinate their efforts for maximum effect.¹⁷⁸ From such meetings before long began to come drafts of bills embodying the policies of these caucuses, and in time, it has been charged, the "real work of legislation was put in shape, not by the legislature, but in secret session of the majority party."¹⁷⁹ In this manner, the forum of peers that the House was expected to become, held sway more in theory than in fact. The Committee of the Whole continued to function normally to all outward appearances, but was being manipulated in many key situations by skillful control of debate and procedure. Ultimately, entire programs of legislation were to be preconcerted and put through in the same fashion.

None of this took place in the first instance under party banners. Such parties as had so far developed were in the states, highly organized in some and mere factional manifestation in others. The Federalism that later came into focus as an organized and disciplined force, in 1789 was more than anything a state of mind.¹⁸⁰ Holders of a sizable majority in the House for the first two sessions, those who esteemed the national measures of the early legislative program, constituted a political party, the Federalists, as early as 1790, according to certain

178. Galloway, op. cit., p. 19.

179. Ibid., p. 20.

180. John C. Miller, The Federalist Era, 1789-1801, The New American Nation Series (New York, 1960), p. 99.

authorities. It is generally agreed that the conflict of ideas and interests associated with Hamilton and Jefferson had brought two fledgling parties to the field of politics by 1792. By 1793, with Hamilton's domestic program in operation, but its forward thrust halted, and trouble brewing on the country's borders, on the high seas, and overseas, the state of the political arts had matured so far that the Federalists and Republicans were compared with military formations in their discipline.¹⁸¹

From this point on the House was pretty evenly divided. This widely accepted table of party affiliation has the House divided along these lines:¹⁸²

Congress	Representatives	Delegates	Federalists	Republicans
1	65		53	12
2	69		55	14
3	105	1	51	54
4	105		46	50
5	105		51	54
6	105	1	57	48

These represent voting effectives, and it will be noted that little allowance is made for those not actually active politically except for

181. Galloway sees 1790 as the date of the "appearance of an embryonic party organization in the House." *Op. cit.*, p. 128. Miller dates emergence as a general phenomenon to 1792. *Op. cit.*, p. 99. A world full of menacing great powers gave the Republicans a more fruitful field to work. Ames wrote in January 1793, "Virginia moves in a solid column, and the discipline of the party is as severe as the Prussian." Quoted in Galloway, *op. cit.*, p. 129. To Jefferson, the Federalists in Congress had the precision of a "squadron." Quoted in Miller, *op. cit.*, p. 123. Miller concludes "rivalry and emulation tended to stimulate party activity." *Ibid.*

182. Alexander, *op. cit.*, p. 411. Also used by Galloway, *op. cit.*, 71.

a single Congress. In fact, many voted the interests of their state or section, having little political attraction, but tended as consistent supporters of one or the other party, to be effectives quite as much as the most convinced and politically involved.¹⁸³

From this fairly definite but still somewhat undefined state of the first half decade, the parties became very much more highly organized during the second. As foreign affairs took center stage, conflict became headon. The most serious such encounter in the earlier period took place when William Branch Giles, an unyielding republican, described by one scholar of the period as a "zealous and energetic, but clumsy, leader" sought to have the House censure Hamilton for not strictly observing the laws making specific rather than lump sum appropriations.¹⁸⁴ While Giles' assault withered during the course of debate under Smith's adroit maneuvering, this was the last session for three Congresses that

183. Miller develops his own figures: "In 1796, . . . there were fifty-six Republicans and forty-nine Federalists in the House. Two years later, the Federalists had a majority of five. . . . Even as late as the Third Congress (1795-96) almost half the members of the House prided themselves upon being free of party ties and obligations." Op. cit., p. 124.

184. At issue here was the age old difference between House and Administration over "executive discretion" as against "legislative restraint" in fiscal affairs. The prevailing practice through 1792 had been to pass annually two general appropriation measures granting lump sums for the civil list and broad executive discretion. Madison regarded this as an abdication of the House's authority under the Constitution to initiate money bills and control generally the purse strings. From 1793 on, it became the policy of the Republicans to limit executive leeway by making specific rather than lump sum appropriations. Galloway, op. cit., pp. 174-75. Giles' charges were technical, and "on the whole rather captious. Their object was to prove that Hamilton had exercised his pro-English prejudices in depriving our Revolutionary savior France of prompt and generous payment of the debt owed her, his pro-speculator proclivities in neglecting to redeem portions of the national debt, and his monarchical bias in disregarding legislative instruction." Richard E. Welch, Jr., Theodore Sedgwick, Federalist: A Political Portrait (Middletown, Conn., 1965), p. 109.

the Federalists enjoyed a majority. Their defense of the Jay Treaty though successful was made arduous by the persistent Republican attack. Madison, Baldwin, Gallatin, and Macon supported Giles' debating presence to effect on the day's great issues. After the quasi-war with France began and the "X.Y.Z. Affair" broke, the resurgent Federalists unwisely undertook to stifle the opposition by passing the Alien and Sedition Laws. During the course of debate, the preponderant Federalists made use of obstructionist tactics in dealing with Republican opposition:

. . . yesterday . . . a scandalous scene in the H. of R. it was the day for taking up the Alien and Sedition laws . . . they held a Caucus and determined that not a word should be spoken on their side in answer to anything which should be said on the other. Gallatin took up the Alien & Nicholas the Seditious laws; but after a little while of common silence, they began to enter into loud conversations, laugh, cough &c so that for the last hour of these gentlemen's speaking they must have had the lungs of a vendue master to have been heard . . . it was impossible to proceed. The question was taken & carried in favor of the report 52 to 48.¹⁸⁵

By then Madison had left Congress in disgust, as much over the state of the party in the House as any reason. Weighed down by the likes of Giles and others of the stripe of Massachusetts Congressman Barnabas Bidwell, whom John Randolph of Roanoke stigmatized for his subservience Jefferson's "clerk of the watercloset," he determined to work outside.¹⁸⁶ The forum of the House had become an arena, and an arena it was to remain.

185. Thomas Jefferson to James Madison, Feb. 24, 1799, The Papers of James Madison, Vol. 21, folio 33, Library of Congress.

186. Samuel Eliot Morison, Harrison Gray Otis, 1765-1848, The Urbane Federalist (Boston, 1969), p. 85.

APPENDIX

SALARIES OF HOUSE OFFICIALS

In what one authority has termed "The Rule of Parsimony," Congress fixed salaries throughout the government service on the low side. Moonlighting was allowed where there was "no incompatibility in the nature of the work" or the "time necessary" for it with duties of office in which case "private occupations will absolutely yield." [Quoted from Leonard D. White, The Federalists, A Study in Administrative History (New York, 1948), p. 297.] The act of 1789 that fixed executive department salaries set \$500 per annum as the upper limit for clerks. In 1793 the government's chief clerks petitioned unsuccessfully for an increase in pay. The following year clerks of the War Department followed suit with as little success. But in 1795 the law was changed to allow department heads to vary compensation "as the services to be performed shall in their judgment require," and setting a maximum of \$1,000 per annum for chief clerks. Thus, members of the House's official family did not suffer by comparison. According to the 1792 Civil List, salaries paid them ran as follows:

Clerk of House	\$1,896
Principal Clerk	1,104
Engrossing Clerk	396
Engrossing Clerk	502
Chaplain	272
Sgt. at Arms	792
Doorkeeper	827
Assistant Doorkeeper	574

[J. H. Powell, The Books of a New Nation (Phila., 1957), p. 158]

SOURCES

This report is based on the usual wide range of sources available for projects concerned with the buildings of Independence National Historical Park. The Park's collections are unusually full owing to long-range and long-term research surveys undertaken in years past that have systematically gone through manuscript collections of eighteenth century institutions and personalities and copied relevant data for use in just such reports as this. It has been necessary in addition to make a corresponding effort in published materials, particularly those works by specialists in government with their non-historian oriented viewpoints on early Federal institutions. This has proved to be a particularly valuable exercise, yielding much to make manuscripts comprehensible. It was also necessary to run out the many biographical works on congressmen, and this proved to be equally valuable in adding comprehension and substance to this report.

Again the writer has dispensed with the well-known and little used bibliography usually appended to a work of this sort. Doing so saves time and expense all around. He has tried to include data enough in his footnote citations to meet the needs of those few who will want to go behind the text to the source.

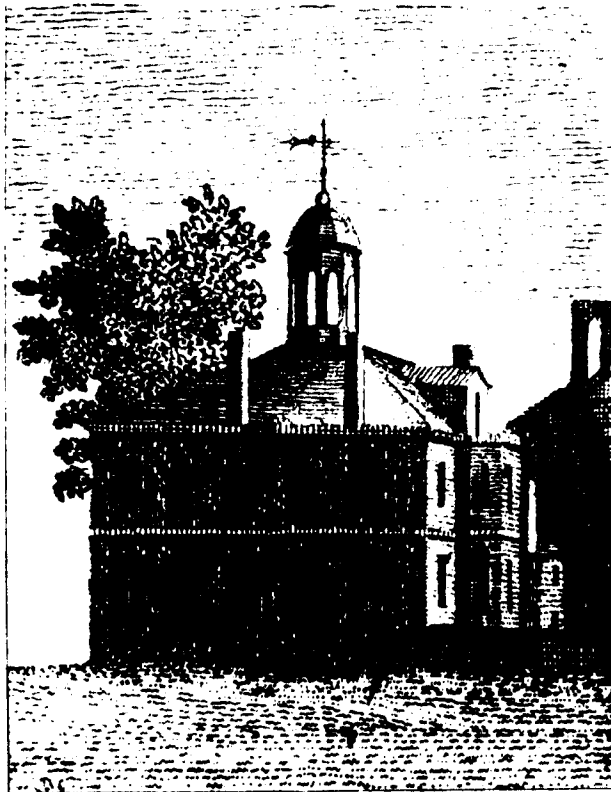
ILLUSTRATIONS

Illustration No. 1

Congress Hall, Philadelphia, as that building appeared when the House first gathered there on December 6, 1790 to open the third session of the First Congress. Drawing taken from January 1790 issue of Columbian Magazine.

Illustration No. 2

View of facade and east wall of Congress Hall from William Birch print of 1799. In background are the Chestnut Street Theater, John Dickinson's fine home, and in the distance the mansion built for the President but never occupied by him.



CONGRESS HALL, and NEW THEATRE, CHICAGO, ILL.

Illustration No. 3

Plan of House seating in 1795 drawn by Representative Philip Van Cortlandt of New York. This conforms to the description given in Galloway's History of the House of Representatives: "Up to the Twenty-ninth Congress, seats were taken on a first-come, first choice basis." (p. 48) Certain combinations are obvious, Madison seated side-by-side with agrarian democrat Macon, Griswold and Colt of Connecticut together, Sedgwick, Smith, Harper, and Goodhue in a knot, and the two Maine district representatives paired. From Van Cortlandt-Van Wyck Papers, Manuscript Division, New York Public Library.

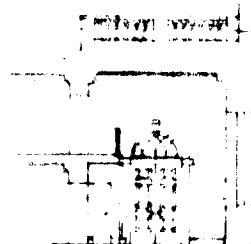
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Illustration No. 4

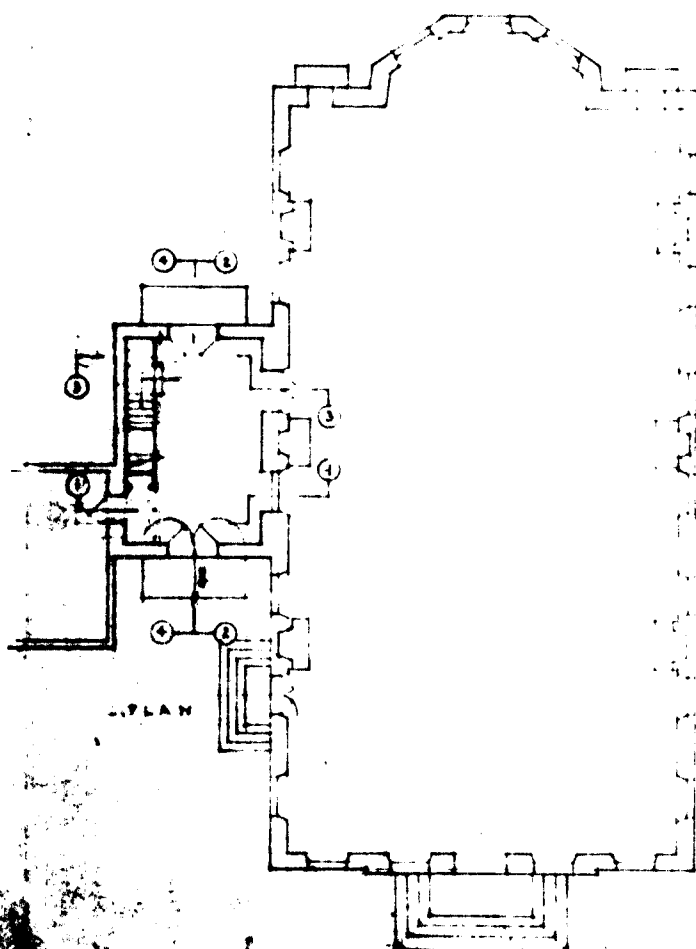
The House Lobby during Congress' stay in Philadelphia. Known as the Portico of Congress Hall, it offered members a covered entrance large enough for relaxed conversation off the floor of the House. It also provided a covered passage to the adjacent West Wing Building of Independence Hall, where the House offices were located.



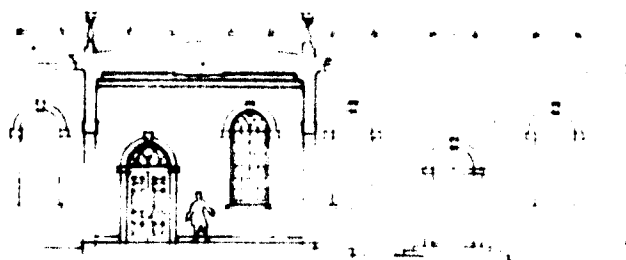
ELEVATION



SECTION 1
Looking South



PLAN



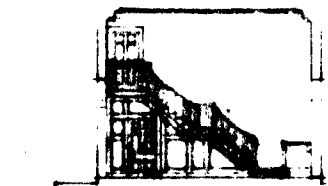
SECTION 2
Looking West



COMPASS



SECTION 3
Looking East



SECTION 4
Looking East

Scale 1/4" = 1'-0"

APPEARANCE of PORTICO between the WEST WING and CONGRESS HALL
Based on available historical evidence.

Illustration No. 5

Political cartoon of 1798 makes light of the most notorious and sensational incident to take place in the House chamber during Congress' meetings in Philadelphia--the fight on the floor between Roger Griswold of Connecticut and Matthew Lyon of Vermont. Griswold sought with a cane to make amends for an earlier encounter when Lyon spit in his face--also in the House. Lyon defended himself with fire tongs. Such occurrences were a rarity and though disgraceful did not discredit the House. Courtesy of Essex Institute, Salem Massachusetts.

Illustration No. 6

The House of Representatives chamber as restored by the National Park Service. Curtains of green fearnought cloth, in-grain carpeting, mahogany desks and arm chairs in black morocco leather, Speaker's stand, tables for Clerk of the House and Sergeant-at-Arms, refreshment table, pigeon holes for mail at left, Franklin stoves, and Trumbull print have all been authenticated although none seen here were originally in the room.

JUDGELING as by late ACT in CONGRESS, U.S.A. OF

