PART TWO

THEORY AND PRACTICE: 1809–1829

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

First Reference to Executive Officers

If we again turn first to the issue of executive participation in the lawmaking process, we may remember that the original Jeffersonian position limited the role of all executive officers quite stringently on the grounds that legislative independence required it to be free of executive influence, that Congress as lawmaker should write the laws in accord with its own wishes. As a result, not only were private or personal attempts to influence legislative judgment through argument, appeals, or favors regarded as illegitimate; in addition, formal or open reliance on executive guidance was viewed in a similar fashion since policy recommendations and plans also were seen as means of swaying or shaping legislative outcomes. We have noted, however, that even Jefferson and his generation of Republicans found it impossible to adhere strictly to these principles. As early as the mid-1790's, when the Jeffersonians initially achieved majority status in the House for a brief period, they quickly found that they could not in fact do without executive assistance.107 They therefore began to make extensive use of a practice that has ever since been a hallmark of Congressional operation—use of the smaller committees as channels for executive advice and plans. Moreover, once the Jeffersonians gained continuing domination of both the House and the Presidency in 1801, their leaders in the executive branch covertly engaged in extensive management of the legislative process and party members in the House showed much greater tolerance for the direct reference of subjects to executive officers in terms that implicitly or even explicitly asked for advice and plans than had been the case when the
Federalists controlled the departments.¹² Still, the years before 1809 provided only a platform for the changes to come.

After 1809, as we shall see in greater detail in the next section of this study, the number of standing committees proliferated. Often the process of development was one in which a select committee first gained such regularity of appointment and such general jurisdiction that it became a standing committee in everything but name and only subsequently was recognized as a standing committee in the rules. Nonetheless, growth was more rapid than before 1809 and by the early 1820's the standing committees controlled almost every normal subject area in the House. As a standing committee system took shape, the existence of regular and intimate connection between smaller committees and their corresponding departments became both more widely and more firmly established.¹²¹ The result, however, was not simply an increase in the degree of interrelationship, but, as might be expected, a change in attitudes.

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

This House is independent of the Executive branch of the Government; yet in every question connected with war, as that department is best acquainted with the subject, and the resources of the country, and as it must eventually be entrusted with the execution of war measures, there was but one course, after the committees met, which common sense prescribed, and that was to apply to the Executive branch for information on this subject. It was on his motion that the Secretary of War appeared before the committee, and gave them a plan of what the Executive deemed necessary to be done, and the committee reported accordingly. And what has been the result? Without any further information from the Executive, we have changed our views on the subject... why this violent struggle against Executive wishes?²³²

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

Mr. Storrs observed that he had no objection to having this information obtained; but he doubted if it was a proper course for this House to call on one of the Heads of Departments to know if legislation is, or is not, necessary on a given subject. It was at all times proper to call on him for facts . . . but it was evidently unbecoming for the House of Representatives to ask any Head of Department how they shall perform their duty.\(^{30}\)

It might be thought that the further extension and solidification of committee-department relations after 1809 would have obviated the need for any further increase in formal or direct reference to executive officers for advice or plans. This, however, is not what occurred. Rather, the latter part of Madison's Administration (1809–1817) and the years of Monroe's Administration (1817–1824) witnessed a substantial increase in such references.\(^{31}\) Indeed, by the second session of the Sixteenth Congress (1820–1821) calls on executive officers had become so numerous that one member complained that the House was calling on the department heads to make long and involved investigations "with the same facility" that it called on its committees to inquire into the most minor topics.\(^{32}\)

The reasons for the revival of a practice that the Jeffersonians of the 1790's had fought against so strenuously relate in part to the decline of the Republican party as a unified entity and the decline of the presidential office under Jefferson's successors. What resulted, especially after Monroe's accession to the presidency, was government by "separate battalions"—government through the interaction of congeries of competing party factions centered around the leadership of prominent department heads, such as John Calhoun, John Quincy Adams, and William Crawford.\(^{33}\) In a context in which the Republican party fractionalized in the process of obliterating the Federalists and in which department heads operated independently of the President, competing for advantage and succession to the presidency by cultivating their own following in Congress and pursuing their own policies, powerful incentives were provided for direct reference.\(^{34}\) By making direct calls members of party factions could provide their leaders with opportunities for leverage and publicity with regard to both their policies and their prospects. Still, division into "separate battalions" was not the only source of incentive. As the size of the House and the scope of its policy concerns increased and as a new generation of Republicans entered the House with little knowledge or understanding of the degree of stringency originally intended in the norms regulating formal requests for executive assistance, direct reference became increasingly appealing to individual members and even committees.\(^{35}\) Formal resolutions approved by the House constituted "orders" rather than mere requests. As such, direct calls had
a number of advantages. They provided a means of inducing a department to do the laborious work of collecting and arranging all the information required for argument and appeal with regard to a specific problem when it might have preferred to employ its limited staff resources quite differently; they provided a means of inducing a department to come up with a plan for doing something it might have preferred to avoid or approach differently; and finally they provided a means of gaining publicity and leverage for a policy goal a department did not favor or accord much priority.

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

We may conclude that in the years following 1809 traditional Jeffersonian doctrine regarding executive participation in the lawmaking process was further and substantially attenuated. Indeed, the increase in the role and power of the department heads brought with it a relaxation of antipathy and suspicion of executive involvement in yet another regard. It became common during the years of Madison's presidency for Republican members to argue, on grounds of executive wisdom and knowledge, that proposals which the appropriate department head did not think necessary or expedient should not be passed and even that the department heads should be the
ones to suggest what was necessary or expedient in their various areas of concern.382

However, changes in attitude and practice after 1809 did not destroy or even supplant Republican attachment to the basic axiom or several of the key corollaries of traditional theory. Rather, these old propositions survived and managed to coexist with new strains of thought, despite the direct and indirect conflicts involved and the continuing gulf between theory and practice. Thus, Republican members never relinquished or questioned the basic axiom of traditional theory—the concept of legislative autonomy. Though they interpreted its needs less stringently, they continued to affirm that the legislature, not the executive, was the lawmaking branch, that its decisions should reflect its own wishes, and that executive attempts to control or manage outcomes were illegitimate. In addition, Republican members continued to argue with vehemence and with success in concrete and particular instances that the House should initiate its own measures and/or that the House should not defer to executive opinion but rather should decide issues on the basis of its own estimation of the merits of a question.383

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

First Reference to Legislative Agencies

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

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

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

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

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

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

The utilities possessed by smaller committees as agents of communication
with executive officers were largely indifferent to the direction or distribution
of influence. The fact that usage of smaller committees as instruments of
policy leadership modified or reversed the usual pattern of department-
committee interaction, a pattern in which the departments were dominant,
accordingly had little impact on these utilities. They were rather determined
by the extent of the need for communication. Nor was there any reason
why the respective shares of initiative and influence could not be rendered
more equal or even substantially altered in favor of a committee, if political
support for doing so could be mobilized. Indeed, this is what did occur
to an increased extent in selected but important areas of policy after 1811.39
Clay's transformation of the Speakership thus maintained and even rein-
forced the technical or adaptive factors that traditionally stimulated com-
mittee development.

Ironically enough, then, though developments regarding the Speaker and
the department heads after 1809 represented conflicting tendencies or forces,
both contributed to committee development. To a significant degree, Clay,
who occupied the Speakership most of the time between 1811 and 1823,
and his various rivals in the departments competed for leadership of the
House and all were dependent on the use of smaller committees as critical
instruments for the achievement of their program goals. This is not to
deny that Clay's attempts at program leadership were restricted to a limited
number of major policy areas or that overall the forces of disintegration
were stronger than the centralizing force of the Speakership.10 Indeed, Clay's
ability to master the legislative process itself declined precipitately after


1817 when the pace and scope of party disintegration expanded. Hence, the Clay of the Eighteenth Congress (1823–1825), his last as Speaker, is but a pale shadow of the Clay of the Twelfth Congress (1811–1813) or the Clay of the Fourteenth Congress (1815–1817). Nonetheless, Clay's importance for committee development should not be overlooked. If it is true that his success in providing a source of central leadership was far from uniform in his various terms as Speaker, it is also true that his transformation of the Speakership provided an important stimulus for further committee development. Though the changes he wrought should be seen as only one of several causal factors and were themselves dependent on a certain level of prior development in the committee system, it is still significant that the period after 1809 that correlates with Clay's assumption of the Speakership and his greatest success as Speaker, the period from 1811 to 1817, is a period of decisive change in committee theory and practice. As we shall see, it is a period marked by such events as the disappearance of any real limits on the power of smaller committees to report by bill, heightened regularization of committee usage, and explosive growth in the strength of a new system of committee norms focused on specialization and deference.  

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

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

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

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

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

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

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

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

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

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

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

He was content to trust the Committee of Claims—as content to trust any committee of this House as any department of this Government. . . . if the House was to give up its power in the case of private claims because no man responded aye or no to the Chair, . . . it might be given up in almost every case, since bills frequently passed before the House with as little attention, exciting as little interest in this body as reports from the Committee on Claims. 301

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

And is it not, Sir, the universal usage of this House to refer every subject introduced here, to that particular committee, which has charge of such matter, or to a special committee, whose report, with the documents and vouchers, etc. when of sufficient importance, are ordered to be printed? And why, Sir? That the House may, thereafter, be enabled to take up the subject, and at once act upon it, as we do nine times out of ten, without much further inquiry; depending, as we are compelled, by way of getting through the business of Congress, upon the wisdom, justice and impartiality of our committees. 302

It is not surprising, then, that Thomas Hamilton, an Englishman who authored an important two-volume work on life in the United States in the early 1830's, could write of the committee system in a manner that fits easily into any modern textbook. He noted that "the various interests of the country" are considered by "permanent committees" and "no bill" possessed "the smallest prospect of success which had not previously received the approbation of these committees. 303

Once again, however, it should not be thought that traditional attitudes simply disappeared. As was the case with regard to direct reference to executive officers, the death of Jeffersonian notions regarding the propriety of first reference to a Committee of the Whole was exceedingly prolonged. Arguments for such references in highly traditional terms continued to be made from time to time throughout the Jeffersonian period and beyond. 304 More important, several key aspects of Jeffersonian theory regarding the role of smaller committees vis-à-vis the whole body and individual members survived. If belief that the shaping of subjects by smaller committees undermined the possibility of eliciting a true sense of the majority atrophied, belief that these committees constituted a potential threat to majority rule
and should not be allowed to obstruct it endured. If deference to smaller committees increased as the norm and practice of specialization took hold, the notion that the individual member was responsible for informing himself and for making up his own mind continued to attract substantial support. Finally, if by the 1820's members had long believed it necessary and proper for smaller committees to report opinion, reasoning or argument, and detailed recommendations when subjects were referred to them, the traditional view of these committees as mere agents of the whole which prepared subjects for decision by settling facts and arranging details continued to figure prominently in conceptualization and discussion of their role. In short, here as elsewhere elements of traditional theory continued to coexist with new attitudes despite the incompatibilities or contradictions involved and such coexistence has persisted to the present day.

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

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

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

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

In contrast, select committees were downgraded and their use generally opposed. This was true not simply because members had become convinced that select committees had serious deficiencies in terms of knowledge or experience. It was also true because members now believed both that select
committees would take a "biased" or "ex parte" view since they were after all by tradition composed of friends of the measure proposed and that select committees "were likely to be influenced in their decisions by considerations ... arising from the excitement of the moment." In brief, the virtues members now found in smaller committees they ascribed almost exclusively to the standing committee form. Nor was the triumph of the standing committee form simply a matter of theory. Favorable attitudes toward these committees resulted in heavy reliance on them in practice. We may note, for example, that in the first month of the Eighth Congress select committees competed on roughly equal terms with standing committees in public areas of business. In the first month of the Twentieth Congress, however, out of more than two hundred referrals of subjects in public areas of business only a half-dozen went to select committees.

**Reporting By Bill**

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

If we turn first to the traditional Jeffersonian position that bills should not be allowed until principles had been settled by the whole House, we may remember that this proposition existed as a critical corollary to the proposition that important subjects should first be referred to a Committee of the Whole. Based on the assumption that first reference to smaller committees would be necessary at times in major areas of business as well as in minor areas, it sought to insure that principles would still be settled by the whole House before an actual bill was drawn. We have noted, however, that the concept of a prior determination of principles did not and indeed could not establish any firm or sustained control of practice in minor areas of business and that even in major areas it had been significantly undermined by 1809. Nor did it survive as a viable or operative maxim much past Jefferson's departure from office. By 1815 probably and by 1820 without a doubt the standing committees had been given permanent and general authority to report by bill at their own discretion. Similarly, by 1815 it became common practice to give the select committees on the President's Message general authority to report by bill. That restriction of the ability of smaller committees to report by bill disappeared so quickly and so easily seems surprising at first glance. Abstractly, it might be thought that such restriction would have been regarded as a second line of resistance to be defended stoutly in lieu of seeking to oppose the irresistible movement toward first reference to smaller committees. In fact, however, the notion that smaller committees should not have the freedom to report bills before they had secured the approval
of the whole on principles disappeared several decades before the full or complete demise of the Committee of the Whole as an agency for first reference. What is more, it did so without any discussion or even any objections being raised. Nonetheless, the reasons for this course of events are not difficult to understand if we review the attitudes, practices, and needs that had become dominant in the House by 1815.

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

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

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

Given all this, the relatively quick surrender of control over the power of committees to report by bill can easily be explained. On the one hand, the extension and standardization of simple resolutions of inquiry gave the House a customary and convenient mode of referring subjects without committing itself. As a result, the House could confer power to report by bill before principles were settled in particular instances and finally even generally without feeling any need to insure that the bill or bills reported reflected the will of the House. On the other hand, members simply ceased to believe that rational deliberation and majority rule were dependent on a free or unstructured process of interchange among roughly equal members, that differential distributions of influence stemming from structural or institutional arrangements were evil. In sum, as is evident by the dominance smaller committees were attaining over first reference, members now scorned the notion that committees necessarily distorted the decision-making process by structuring it through their opinions and recommendations. On the contrary, the new norms of specialization and deference led them to believe that this was both desirable and necessary if the House was to handle its expanding workload efficiently and wisely. Moreover, if first reference to smaller committees was to be the rule rather than the exception even in major areas, it was patently obvious that a substantial degree of structuring could not be avoided in any event. In such a context members became convinced that a distinct and involved stage of proceeding prior to the consideration of bills was simply "superfluous."

Thus, by 1815 the House no longer guarded the power to report by bill jealously. Rather, the opposite was true. It conferred this power freely upon reference or upon the request of a committee. The adoption between 1815–1820 of a rule conferring the power generally on the standing committees as well as the adoption of annual resolutions conferring it generally on select committees on the President's Message accordingly merely confirmed and simplified existing practice instead of introducing and legitimizing something new. It is not surprising, then, that these actions gave rise neither to objection nor discussion. By 1815 the theory and practice of specialization
had crushed the traditional Jeffersonian maxim that bills should not be reported until principles had been settled. If first reference to the Committee of the Whole continued to be supported on occasion for several decades more, in truth its fate was also sealed. Its ability to linger was simply a by-product of the fact that the new politics of specialization and deference could easily be accommodated with continuance of the practice of referring subjects on the floor, whereas any attempt to have made reference to standing committees fully automatic would have violated both the long practice of the House and the interest members had in preserving some maneuverability in reference.289 As a consequence, the possibility of moving to refer initially to the Committee of the Whole was preserved, though primarily because of the effect systemic factors and inertia had in keeping change incremental than because of any inherent strength of its own.

*Internal Operation*

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

We have dealt in detail with the growth in the power and position of the standing committees and need say no more. Both of the other factors, however, require some further comment. With regard to the emergence of the Speakership, it is necessary to recapitulate our argument and extend it somewhat. As noted above, after 1811 Henry Clay transformed the Speakership into a position of central or integrative leadership and in so doing provided the House with a capacity for self-direction and a basis for independence that it had not formerly possessed.290 It is no accident, of course, that this occurred at a time of declining presidential power. Nonetheless, though the balance of power between Presidents and Speakers did not remain stable or, to put the point another way, though the degree of independence particular Speakers manifested with regard to particular Presidents varied, the Speakership emerged and remained as the dominant source of central or integrative leadership in the organizational structure of the House. As a result, although their degree of success also varied, Speakers with isolated exceptions served from 1811 on as the prime mobilizers and instruments of majority will within the House. Indeed, the Speakership itself during the course of the nineteenth century became the prime beneficiary of changes in the rules that were designed to enhance the ability of that will to govern.

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

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

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

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

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

with the exception of political questions, I should rely with great confidence on the reports of a standing committee. They keep regular minutes of their proceedings, record all their reports, and look back, for a series of years, for authorities, in making up their judgments upon any case; whereas a select committee is chosen for a particular occasion. . . . From the necessity of the case, congress must have great faith in its standing committees. The members cannot examine minutely and individually for themselves, every thing that may come before them; they therefore leave much, and I think with great propriety, to standing committees. Even new members have the old committee book of reports to guide them, and the experience of old members on the committees to refer them to what has been said and done before, on many subjects that yearly come before them.34

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

Perhaps the best place to begin is with certain developments that were direct consequences of the growth of a standing committee system. In 1803 the House voted down a proposal to appoint two committee clerks to serve its various committees and in 1815 it did not pass a proposal to give every standing committee a clerk.346 However, some House committees probably employed clerks on a per diem basis before the end of the Jeffersonian period and possibly before 1815. By 1838 the employment of clerks by committees had apparently become so widespread that it aroused considerable anxiety. In that year the House passed a rule requiring committees to secure formal permission or authorization before hiring clerks.347 Similarly, by the mid-1820's House committees had been given their own rooms in the Capitol and precedents had been established that legitimized the holding of hearings and calls for witnesses and papers with regard to ordinary legislative as well as investigative subjects or matters.348 In addition, by the 1820's the records of debates include references to jurisdictional conflicts and minority reports as well as evidence that multiple committee assignments had become a problem for the individual member.349

A second aspect of internal operation after 1809 that deserves notice is the disappearance or alleviation of concerns that were strongly felt as late as Jefferson's second term in office. Thus, concern over the Speaker's prerogatives in appointment virtually disappeared. His right to appoint the standing committees became sacrosanct and was not seriously challenged for a century.350 Similarly, there was a substantial reduction in concern over irresponsible or arbitrary behavior on the part of the chairmen or committees. For example, both the rule giving the standing committees the option of electing their chairmen and the rule authorizing three committee members to call a meeting were allowed to lapse.351 Once again these events
may seem difficult to understand. Given the greater power of committees, it might be supposed that such concerns would have intensified rather than diminished. This, however, was not the case for reasons that can readily be explained.

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

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

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

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

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

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

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

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

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

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

I do not think, after two parties have been struggling for power, and one of them succeeds, it can reasonably be expected, that, in the distribution of honorable stations in this House, the victorious party shall select their adversaries. This ought not to be required... If the party which has now the majority here, has placed its friends in stations where they
can be useful to the country, while they do honor to themselves, I hope we who are of the minority, will never complain of it. If they have the honor, they have the responsibility too.\textsuperscript{298}

In short, the doctrine enunciated by Speaker Hunter a decade later represented what most members believed in essence even at this time: “The party upon which it naturally devolves to propose a question ought to have the power, it would seem, to present the proposition in the shape for which it is willing to be responsible.”\textsuperscript{299}

Yet, despite the entrenchment of party as a governing factor in appointment, it did not become inviolate. The practice of giving the chairmanships of minor or routine standing committees to minority members who were highly knowledgeable or experienced did not disappear after 1809.\textsuperscript{300} Rather, it continued throughout the period from 1809 to 1829, though with decreased regularity especially in comparison with practice before 1801.\textsuperscript{301}

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

Perhaps the most important change stemmed from the politicization of the Speakership which made cohesion or integration a far more critical consideration in appointment than had formerly been the case. Members desiring to attain or retain the Speakership began to rely on appointment as a prime resource in building or maintaining coalitions that could secure their election or reelection and promote the policy objectives they wished to advance. To be sure, use of the Speaker’s appointment powers as a bargaining resource was undoubtedly not entirely absent before 1809. Nonetheless, the emergence of the Speaker as prime political leader joined personal ambition, party policy objectives, and party integration far more tightly together than had formerly been the case and altered the entire functional significance of appointments. Indeed, before 1809 the lack of linkage between the Speaker and party leadership not only impeded the use of appointments as an integrating mechanism, but even complicated and impeded their use as a means of securing leadership control of key committee positions.\textsuperscript{309}

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

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

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

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

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

In the second regard prior service did not offer much protection against removal nor did it control advancement to the chairmanship. The high degree of turnover in the House clouds the situation regarding a possible increase in the influence of prior service on the reappointment of ordinary members. What is clear, however, is that the Speaker's discretion was not narrowly restricted by past appointments. The notion that a member had a right or claim to his committee seat commanded little, if any, support. Similarly, prior service counted for little in advancement to the chairmanship as opposed to party, knowledge, or interest. Even if we treat rank order as a precise measure of prior service for purposes of simplicity, violations
of seniority in advancement to chairmanships were common. We may note, for example, that in the period from 1819 to 1829 eight new chairmanship appointments were made on Judiciary and Foreign Affairs. Yet in no case was the man who ranked highest on the previous list appointed.\footnote{259}

In citing this example we do not wish to imply that the highest ranking member was invariably passed over. Nonetheless, if, as both this example and our discussion of appointments under Speakers Clay and Stevenson indicate, violations were common, the existence of some appointments in which rank order was followed does not provide any substantial evidence that seniority was in fact a highly influential factor. In all probability such appointments were either determined by other factors or were permitted because other factors were neutral. Nor do we wish to deny our previous assertion that the influence of prior service on chairmanship appointments on minor committees increased. However, it did so primarily as a factor governing continuing reappointment rather than advancement to a chairmanship. Thus, if between 1819 and 1829 we average the number of consecutive committee sessions served by members when they attained the chairmanship of a minor committee and also average the number of consecutive committee sessions the chairman in each session of the period had served, the former figure in general turns out to be considerably smaller than the latter. In short, members spent more time as chairmen than in becoming chairmen. Of four committees selected to be surveyed because of the amount of minor business they handled, only Claims fails to sustain the point.\footnote{259} The figures in sessions for Elections, Commerce, District of Columbia, and Claims are 2 and 5, 5.5 and 18.3, 2.5 and 4.3, and 12 and 7.5, respectively.\footnote{259}

We may conclude, then, that seniority did not become a controlling factor in advancement to chairmanships or the reappointment of ordinary committee members, even though a standing committee system emerged. The reasons are varied but relate primarily to the role of the Speaker and the high degree of turnover in the House which provided little anchorage for any strict adherence to seniority. This, however, should not surprise us if we remember that the current dominance of seniority as an appointment criterion is highly related to the events of 1910–1911 and if we note that in another even more basic sense seniority was associated with the rise of the standing committee system.\footnote{251}

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

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

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

Control Over Execution

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

This is not to say that Republicans after 1809 any more than Republicans before 1809 believed that executive discretion could be eliminated or that they could not be flexible when considerations of policy or efficiency required it. We may note, for example, that despite their regard for specific appropriations the Jeffersonians continued the Federalist practice of broad or general appropriation categories in the Army and Navy Appropriation Acts.276 Nor, as Leonard White has pointed out, did any Republican assertions of legislative supremacy go so far as to exclude some statutory delegations of rule-making power to executive officers.277 Moreover, Republicans were aware, as one House committee report in 1824 put it, that “in all legislation, much must necessarily be left to construction, and the sound discretion of those charged with the administration of the laws.”278

Still, on the whole, the new Republicans who entered and controlled the House after 1809 remained quite jealous of their lawmaking prerogatives.279 James Hart, in his review of delegations of rule-making power, concludes that in the period from 1789 to 1815, “Congress granted to the Chief Executive little discretionary power” except in connection with the protection of neutral commerce, and that in the period from 1815 to 1861 “delegations were not especially frequent or broad or centered around any single problem.”280

Similarly, the traditional Jeffersonian emphasis on holding executive officers responsible for adhering strictly to the letter of the law remained strong. No institutional problem in the years between 1809 and 1829 aroused more complaint and grief among Republicans than that of constructing a system to govern transfers among appropriation accounts that would preserve House control while still providing for economy and efficiency in executive operations.281 In addition, Republican desire to insure adherence to law was involved in the expansion after 1809 in the number of annual reports required of executive officers.282 It was also involved in the creation of a standing committee with general jurisdiction over public expenditures in 1814 and six standing departmental expenditure committees in 1816, all of which were charged among other things with checking to insure that expenditures were made in conformity with law.283

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

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

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

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

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

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

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

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

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

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

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

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

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

Once again the beginnings of new doctrine can be found in the debates over General Wilkinson. Those Republicans who supported committee inquiry contended that the House could investigate Wilkinson even if it could not impeach him because of the implied or incidental powers it derived from its constitutional prerogatives. For example, particularly in the two debates in 1810, Republican members favorable to inquiry argued that since the House had power over the size, structure, rules, and funds of the Army, it could inquire into all matters that might affect or influence future legislation, including the conduct of its commanding general. Similarly, they also argued that since the House could impeach the President, it could inquire into the conduct of all executive officers whose actions or behavior could affect or influence a determination of whether to bring charges against the President. 596

Nor did the argument of implied or incidental powers exhaust the arguments offered in favor of committee inquiry into Wilkinson's conduct. In the debates in 1810 notions of the House's status and responsibility as agent of the people also were brought to bear to supplement the argument based on implied power. A second term Republican member asserted that "the right to inquire into the conduct of any officer Constitutionally inheres in and appertains to this House, as the immediate delegates and agents of the people, who expect from their Representatives a vigilant superintendence over all their public concerns." 597 In addition, though he still restricted himself to the area of expenditures, a young Federalist member saw the tie between the notion of the House as agent of the people and exposure as a ground for inquiry and brought exposure forward as a
corollary of the more general argument. Thus, he stated that the House had the power to inquire simply "to inform ourselves and the nation," that it is "a right of this House, and of the people, to know how their money is expended, and to whom it is given."

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

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

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

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

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

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

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

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

Underwood’s words, it may be noted, contain no direct mention of implied power. The explanation, however, is not that he rejected or ignored this concept, but rather that it was so well accepted he simply assumed it. As a consequence, if the notion of general search can be sustained on grounds such as Underwood offers, it is automatically included as part of the investigative power as an aspect of the implied scope of this power. Hence,
Underwood summed up his argument by asserting that the House had "the power to make a general examination into the condition of the departments, without stating beforehand any specific abuse or malfeasance as the object of inquiry"; that "such power necessarily results from the legislative powers vested in us by the Constitution, and from the power of impeachment."\textsuperscript{331}

As might be expected, most Jacksonian speakers argued against the adoption of the original resolution. Among the objections they raised were that the resolution implied that the Jackson Administration was corrupt, that it was of unprecedented broadness, and that it created an exploratory committee that could rove at will over the whole executive branch in search of abuses. Yet, the Jacksonians could not make their opposition stick despite the fact that they had almost a three-to-two majority in the House. Rather, the original resolution ultimately passed by a heavy majority.\textsuperscript{332} The reasons for this outcome testify eloquently to both the theoretical strength and practical consequences of the doctrine of general investigative power.

On the one hand, though several Jacksonians objected to a committee with power to make a general search, this was not true of all Jacksonians. The House had for several decades authorized departmental investigating committees in very sweeping terms.\textsuperscript{333} Equally important, in the disputes over investigation of the United States Bank in the immediately preceding Congresses, many Jacksonians themselves had maintained that the investigative power included the right of general search.\textsuperscript{334} As a result, a number of Jacksonians supported broad inquiry and either argued that investigation would vindicate Jackson or objected primarily to the implication of corruption in the original resolution. Indeed, one Jacksonian strongly affirmed the doctrine of general investigative power as expounded by Underwood and another Jacksonian late in the debate offered a compromise amendment which authorized the select committee to investigate the manner in which the departments had performed their duties and all abuses alleged to exist.\textsuperscript{335}

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

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

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

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

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

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

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

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

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

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

... the gentleman from Pennsylvania (Mr. Sergeant) said, that some basis ought to be
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laid for the inquiry. What, sir! does the gentleman require actual proof of the existence
of abuses? This proof cannot be had without inquiry. If, then, we can take no initiatory
measure, for the correction of abuses, without previous proof of their existence; as that
proof cannot be had without inquiry, and as, according to the doctrine of the gentleman
from Pennsylvania, no inquiry on the subject ought to be made without proof, abuses
must ever remain uncorrected. The effect of the doctrine is to shelter the abuses of
Government with an inviolable sanctuary.285

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

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

One involved a lengthy dispute in the first session of the Twenty-Second
Congress (1831–1832) over a proposed investigation of the United States
Bank. The initial response of opponents of the proposal was to ask for
a foundation in fact—for facts “sufficient to raise a presumption against
the bank,” for “facts reasonably vouched.”286 Supporters met this claim
with a barrage of arguments: that proof could not precede inquiry; that
to resist inquiry was to arouse suspicion; that allegations “well-founded
or not” should be met promptly to repel suspicion; and that inquiry was
due both the country and the bank.287 In the face of such arguments oppo-
nents of investigation found their position untenable and quickly retreated
to acknowledging the propriety of inquiry, but favoring election of the
select committee by the House as a substitute for appointment by the
Speaker.288 The vote on this issue was a 100 to 100 tie, which is a good
indication of the strength of the forces which bowed to an inquiry they
would have preferred to avoid. The tie was broken by the Speaker in favor
of his prerogatives and a Jacksonian committee hostile to the bank appoint-
ed.
The other debate involved the discussion in the second session of the Twenty-Fourth Congress (1836-1837) concerning inquiry into the possibility of a corrupt connection between the Secretary of the Treasury and certain agents of the deposit banks. We may remember that on this occasion Garland, though a Jacksonian, readily agreed to modify a resolution he had introduced so as to institute such an inquiry and that the resolution passed easily. What we wish now to point out is that in agreeing to and defending a committee inquiry, Garland both reasoned from and extended the doctrines that had emerged to circumvent the necessity of providing a foundation in fact as a basis for inquiry. If we reread the quote cited above, it is clear that he not only argued that suspicion was an adequate ground for inquiry, but that the least suspicion was an adequate ground for inquiry. Equally important, he extended the rationalizations underlying the claim that investigation could do executive officers no injury. Note the following excerpt from his remarks:

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

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

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

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

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

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

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

during the last winter, I never was more industriously engaged than in attending to the private business of others, when the House was not in session. There were three western mails a week, by which my principal letters were received—these often amounted to between 30 and 40, generally on business, which required my attention at the different offices.\textsuperscript{88}

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

Having had considerable business to do for his constituents with the public offices, he had found it invariably the case that the heads of the offices were there attending to business before the clerks belonging to them. There were clerks, he said, who were for days together not at their office. This, he said, was a subject of some interest to the public, and ought to be inquired into. At present the clerks came when they please, and turn the key and go when they please.\textsuperscript{89}

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

Resolved, that the practice which has obtained in the public offices of this City (of not
attending to business until nine or ten o'clock in the morning, and closing the offices
at three o'clock in the evening) is inconvenient to those who have business to transact
in them; is not such reasonable attention to the public service as should be given, nor
such attention as the salaries allowed, by law, are entitled to command, and that the
said practice ought to be abolished.\textsuperscript{386}

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

He [the President] told me that it was the practice of the Government to communicate
in confidence to all heads of Departments every important circumstance occurring in
our foreign concerns, and also to the Chairman of the Committee of Foreign Relations,
and he desired me to send to Mr. Forsyth and request him to call at my office, and
communicate with him very freely upon the posture of our foreign affairs. This had
heretofore been the practice, and had been found very useful to the Government.\textsuperscript{387}

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

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

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

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

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

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

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

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

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

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

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

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

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

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