

AMERICAN GOVERNMENT AND POLITICS

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The Special Session of Congress.¹ Problems left unsolved rather than measures which were passed are the noteworthy features of the special session of the Sixty-sixth Congress—from May 19 to November 19, 1919. The senate was almost exclusively occupied with the Peace Treaty, the session ending in a deadlock over the reservations to the League of Nations covenant; and the treaty, together with the Anglo-French-American alliance and the other agreements of the Paris Conference, went over to the regular session. The appropriation bills, a resolution submitting the woman suffrage amendment to the states, the repeal of daylight saving,² and the prohibition enforcement law, constitute the most important legislation which was completed. The two latter measures were passed over the President's veto and evidenced a disposition on the part of Congress to reassert the authority which during the war had been limited by presidential control. The house of representatives approved a bill—which was badly mutilated before its

¹ For a review of the last session of the Sixty-fifth Congress, see *American Political Science Review*, XIII, 251 (1919).

² The agricultural appropriation bill (H.R. 3157) contained a rider which repealed the daylight saving law. On this account President Wilson vetoed the whole measure. The house voted on July 14, 248 to 135, to pass the bill over the President's veto, the attempt failing for want of the necessary two-thirds. A new bill was introduced with the daylight saving rider eliminated (H.R. 7413) and passed the house on July 18 (Public Law No. 22). This provision had been included in the agricultural appropriation bill by a senate amendment, since the house of representatives on January 18 had passed a special bill repealing the daylight saving law (H.R. 3854). This measure was reported in the senate on July 29, passed the senate on August 1, and was vetoed by the President on August 15. It passed the house over the veto on August 19 by a vote of 223 to 101, and the senate on August 20 by a vote of 57 to 19.

An interesting question of procedure was raised in the house of representatives on August 18, when Representative Wingo challenged the right of the Speaker to withhold the veto message from the house, making the point of order "that the veto message from the President of the United States is on the table and that under the practice and rules of the house and the constitutional provi-

passage and now satisfies nobody—providing for the return of the railroads to their owners (H. R. 10453, House Report 456), and a bill which, if it does not create a real budget system, at least shows some disposition to improve the present haphazard and wasteful method of appropriating public money (H. R. 9783, House Report 362). While the house did not have foreign problems to engross its attention, it had great difficulty in keeping a quorum and lost much time in roll calls.

Apart from the Peace Treaty, the chief interests of the special session were not legislative. They were President Wilson's continued illness, the problem of high prices, and labor troubles.

The Organization of Congress. Both houses were at once confronted by problems of organization with the Republican party in control, after eight years as the minority in the house of representatives and six years in the senate. Harmony was only on the surface in the appointment of the senate committees, and the fight between the "old guard" and "progressives" was rather bitter. At a conference of Republican senators held on May 14, Senator Cummins was chosen president *pro-tempore*—a concession to the progressives—and Senator Lodge, floor leader. The conference approved the Norris resolution which provided that no senator should be chosen chairman of more than one of the ten important committees and could not be a member of more than two of these committees: appropriations, agriculture, commerce, finance, foreign relations, interstate commerce, judiciary, military affairs, naval affairs, and post offices and post roads.³

sion the house should proceed to consider it." Speaker Gillett said it was within his discretion to lay it before the house when he pleased, but a unanimous consent agreement to take the veto message up the next day relieved him of the necessity of a more direct and official ruling. It is extremely doubtful whether the Speaker has this discretion, and it would seem that a veto message must be laid before the house at once. In the present case, there was apparently some doubt as to whether the votes necessary to override the veto could have been mustered if the message had been laid before the house immediately, and it is possible that on a more important issue such discretion on the part of the Speaker might result in a decisive partisan advantage.

³The Norris resolution, which came before the senate on November 15, 1918, (amending rule xxv of the standing rules of the senate) provided that no senator who was chairman of one of the important committees (omitting commerce and agriculture from the enumeration above) should be a member of any of the other committees. This was changed to the form in which it was adopted by the Republican conference. A number of the senators who have had long service are taken off one or more of these committees. Senator Lodge, for example, was on the finance, foreign relations, and naval affairs committees; Senator Penrose was on

Senators Borah, Johnson, Kenyon and Jones all declined to serve on the committee on committees, and Senators Gronna and McNary were appointed to give representation to the progressives. The chief fight centered on Senator Penrose and Senator Warren as chairmen of the finance and appropriations committees, respectively, but both senators were appointed.

The organization of the house of representatives was apparently more harmonious. Frederick H. Gillett, of Massachusetts, was chosen Speaker; Frank W. Mondell, of Wyoming, Republican floor leader; and ex-Speaker Champ Clark, leader of the minority. The election of Mr. Mondell came after a bitter fight against James R. Mann, of Illinois, a member of the "old guard," but an able parliamentarian. No enthusiasm has been manifested in the house or elsewhere over Mr. Mondell, and the details of this review show that his leadership has not resulted in any great amount of constructive legislation.

The President's Recommendations. The third session of the Sixty-fifth Congress ended on March 4, 1919, with seven appropriation bills not passed on account of a filibuster by certain of the Republican senators who desired to embarrass the President and force an immediate special session, during which, as a result of the November, 1918,

finance, naval affairs, and post offices and post roads; Senator Warren was on agriculture, appropriations, and military affairs. These senators have each been dropped from one committee.

The Norris resolution was aimed at a system of interlocking memberships on senate committees, under which a few men control legislation in the senate. The work of the system is seen at its worst advantage in the conference committees—composed of the chairman, ranking majority member, and ranking minority member. During the Sixty-fifth Congress, 105 conference committees were appointed, and five senators served on 82 of these, the number for each being as follows: Smoot 33, Warren 23, Nelson 11, Lodge 9, and Penrose 6. (*The Searchlight*, June, 1919.) On March 1, 1919, Senator La Follette made a lengthy speech in the senate which resulted in the defeat of the coal and oil bill. Part of this speech was taken up with an interesting analysis of the functions of these conference committees. He showed that in spite of rules denying conferees the authority to legislate, new provisions were frequently inserted in bills, and that the summary action in many cases taken on the reports of the conference committees deprived Congress of its legislative authority and handed it over to the small groups who were appointed to reconcile the ideas of the senate and house of representatives. He suggested that a new rule requiring that, during the short session, all bills originating in either house be sent to the other house not later than January 10 would be necessary in order to do away with the practice of approving eleventh-hour conference reports in order to get something accomplished.

election, the Republicans would be in control. Throughout the country there was a considerable demand for the convening of the new Congress; it was urged that Mr. Wilson, who had returned from Paris to sign the bills passed during the closing days of the session, should not return to the Peace Conference, but that his paramount duty was to stay in the United States and, with congressional assistance, attempt to solve the very pressing domestic problems of the transition period from war to peace. At the same time it was urged that Congress should reassert the authority which it had lost during the war. There was also a general feeling, irrespective of party, that with certain executive departments handicapped by a lack of funds and with an enormous mass of business awaiting legislative settlement, Congress should be called in special session.

This was done by the President from Paris, and Congress met on May 19. The committees which under the rules are appointed to notify the President that Congress has been organized and is awaiting his message communicated with him by cable, and for the first time in the history of the government the President addressed Congress by the same method. His message dealt only with domestic problems and contained a number of definite recommendations. It will be worth while to enumerate the problems on which Mr. Wilson asked congressional action and to state summarily the legislative results, reserving several problems for more detailed discussion. The President recommended:

1. "A genuine coöperation and partnership, based upon a real community of interest and participation in control" and a "genuine democratization of industry." Legislation to help in this would be a measure coördinating the several agencies of conciliation and adjustment already in existence and the development of the unemployment organization of the department of labor. Except for the compulsory arbitration features of the Cummins railroad bill (S. 3288) and the section of the Food Control Act (H. R. 8624), which was used to justify the injunction against the miners, no action was taken.

2. The passage of a measure permitting returning soldiers to find and take up land in the hitherto undeveloped regions of the country. The Mondell soldiers' settlement bill (H. R. 487) was reported to the house on August 1, 1919, but no further action was taken. The reason for this is that, in the form reported, its passage is doubtful, since it seems to be adapted chiefly to benefit western states containing arid

and cutover land; provides only for colony projects and not individual farms; discriminates in favor of soldiers seeking farm homes, and requires capital on the part of the soldier (\$1500 to \$2000) to secure the benefits of the act.

3. Legislation friendly to the plans and purposes of American merchants and providing a constructive merchant marine policy. A bill repealing certain war legislation and providing for the development of the merchant marine (H. R. 10378) passed the house on November 8, but it relates to the disposition and regulation of government-built ships rather than to the expansion of the carrying trade.

4. A reconsideration of taxes in order to simplify them and to repeal certain minor taxes provided for in the acts of 1917 and 1918. The house passed a bill construing fruit-juice beverages as not being soft drinks (H. R. 7840), and passed a measure repealing the luxury tax (H. R. 2021). This, however, was recommitted to the committee on ways and means (July 12, 1919). A bill repealing the soft drink section passed the house on July 28 (H. R. 2837).

5. No departure from the Tariff Act of 1913, but special consideration to the industries manufacturing dyestuffs and related chemicals. A joint resolution (Public, No. 21) prolongs the war time restrictions on the importation of dyes and coal tar products, as provided in the Trading with the Enemy Act. The house passed an act creating a dye licensing commission (H. R. 8078) and amended the provisions of the Tariff Act of 1913 respecting shell and pearl buttons (H. R. 7705), but neither of these measures was passed by the senate.

6. The passage of the equal suffrage resolution. This was done by Congress almost immediately.

7. The return of the telegraph and telephone lines. A measure relinquishing wire control was approved on July 11 (S. 120, Public Law No. 9).

8. The return of the railroads. The Esch bill (H. R. 10453) was reported in the house on November 10 (House Report No. 456) and was passed on November 17. The Cummins bill (S. 3288) was reported in the senate on October 23 and a new report was filed on November 10 (Senate Report No. 304). The Peace Treaty delayed consideration of this until the regular session. A bill restoring rate-making powers to the interstate commerce commission (S. 641) was vetoed by the President on November 18 (Senate Document No. 155).

9. The repeal of the war time restrictions on the manufacture and sale of wines and beers. Congress responded by passing a stringent enforcement law and overrode the President's veto.⁴

The Woman Suffrage Amendment. Almost the first business completed by Congress after it convened was the passage of the resolution submitting the woman suffrage amendment to the state legislatures for ratification. The resolution was approved by the house of representatives on May 21 by a vote of 304 to 89, as follows: Yeas, Republicans 200, Democrats 102, Independent 1, Prohibition 1; nays, Republicans 19, Democrats 89. The senate acted on June 4 by a majority of 56 to 25, as follows: Yeas, Republicans 36, Democrats 20; Nays, Republicans 8, Democrats 7. This result, which was accomplished practically without debate, showed a marked change in congressional sentiment with respect to woman suffrage by federal constitutional amendment. Such a proposal was first voted on in the senate in 1887, when there were 16 for and 34 against; in 1914 the senate vote was 35 to 34, and in 1918, 53 (26 Democrats and 27 Republicans) to 31 (21

⁴ War time Prohibition began with the Food Control Act of August 10, 1917 (40 Stat. at L. 276) empowering the President to restrict the foodstuffs used in the manufacture of fermented liquors and to commandeer distilled spirits in bond or in stock. The importation of distilled spirits and the use of foodstuffs in their manufacture were forbidden.

A complete war time prohibition act was approved on November 21, 1918 (40 Stat. at L. 1045). It provided that after June 30, 1919, "until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States," no liquors could be sold, and after May 1, 1919, no grains or food products could be used in the manufacture of "beer, wine or other intoxicating malt or vinous liquor for beverage purposes."

President Wilson in his message from Paris of May 20, 1919, suggested a repeal of this act so far as it applied to beers and light wines, and this recommendation was repeated in a special message of June 28. The President said that, under the opinion of the attorney-general, he had no authority to remove the ban until the demobilization of the troops was complete, and he could not say that this had been accomplished, although the emergency was past.

In spite of this recommendation, Congress proceeded to pass a stringent law enforcing war time prohibition and the constitutional amendment which was to go into effect January 16, 1920. A joint resolution adding this amendment to the Constitution was introduced in Congress in August, 1917, reintroduced at the regular session, and adopted on December 28. Three states ratified it on January 16, 1919, bringing the number up to 38, and the amendment accordingly went into effect a year later, January 16, 1920.

The prohibition enforcement bill was H. R. 6810 and had the following legislative history: House Report No. 91 (June 30); passed house July 22; Senate

Democrats and 10 Republicans), three less than the necessary two-thirds. The vote in the house of representatives in 1915 was 174 to 204, and on January 10, 1918, the house approved the amendment by a bare two-thirds, 274 to 136. In 1887 one state allowed women to vote; when the resolution passed Congress complete or partial suffrage had been granted by 28 states.

Twice in June and again in July, 1918, the President urged the submission of the resolution to the states, and in September he appeared before the senate to deliver a special address on the amendment "as a vitally necessary war measure," and "as vital to the right solution of the great problems which we must settle immediately when the war is over," but at that time the senate refused to accede to his wishes. The votes and debates when the resolution was approved by the house and senate in May and June, 1919, showed that Congress recognized the resolution to be inevitable and that each party wished to receive the credit of helping the women to be given suffrage under the federal constitution. By December 7, 1919, 21 states had ratified the amendment and action was anticipated in the near future by several others. The states which had ratified were as follows: Wisconsin, Michigan,

Report 151 (August 18); passed senate September 5; Conference Report agreed to in senate October 8 (senate Document 118) and in house October 10 (House Report 360); vetoed by President October 27 on the ground that constitutional prohibition and war time enforcement should not be coupled in the same measure; passed the house over the President's veto October 27 (176 to 55), and the senate October 28 (65 to 20).

On December 15, 1919, by a unanimous decision, the Supreme Court of the United States held the measure constitutional as applied to distilled liquors (*Hamilton v. Kentucky Distilleries & Warehouse Co.*, No. 589, October Term, 1919). On January 5, by a vote of 5 to 4, the Supreme Court sustained the power of Congress to define "intoxicating" as a content of alcohol in excess of $\frac{1}{2}$ of 1 per cent (*Ruppert v. Caffey*, No. 603, October Term, 1919). The Court by a unanimous decision held that the manufacture of 2.75 per cent beer prior to the enactment of the Volstead measure—that is, under the act of November 21, 1918, which did not define "intoxicating"—was legal (*U. S. v. Standard Brewing Co.*, No. 458, October Term, 1919).

These decisions indicate that had the President issued his proclamation as empowered by the act of November 21, 1918, liquors could have been sold up to January 16, 1920, and that there is no doubt as to the power of Congress to define "intoxicating" as a content of more than $\frac{1}{2}$ of 1 per cent of alcohol, for the enforcement of the prohibition amendment. See my article "Life, Liberty, and Liquor: A Note on the Police Power," 6 *Virginia Law Review*, 156, 179 (December, 1919). The constitutional amendment will be attacked on the ground that it infringes the rights of the states and was illegally adopted, but it is not likely that these suits will be successful.

Kansas, Ohio, New York, Illinois, Pennsylvania, Massachusetts, Texas, Iowa, Missouri, Arkansas, Montana, Nebraska, Minnesota, New Hampshire, Utah, California, Maine, North Dakota, South Dakota.

Profiteering Legislation. The rising cost of living led President Wilson to deliver a special address to Congress on August 8. He was frank to say that no immediate and complete remedy could be hoped for from legislative and executive action, and he suggested that so long as the transition period from war to peace continued there could be no readjustment of the financial and economic system so that prices would go down to a peace level. The President's concrete proposals were as follows:

The sale of surplus food and clothing in the hands of the government.

Publicity as to wholesale prices secured through the departments of commerce, agriculture, and labor, and the federal trade commission, if Congress would provide the necessary funds.

The extension of the Food Control Act, making it apply to more commodities and with a penalty for profiteering which would be "persuasive."

A cold storage law and a law requiring that "all goods destined for interstate commerce should in every case where their form or package makes it possible be plainly marked with the price at which they left the hands of the producer."

A federal license for all corporations engaged in interstate commerce.

Mr. Wilson pointed out, in his message to Congress on December 2, that Congress had acted on only one of these recommendations, and urged that the present Food Control Act (H. R. 8624, Public Law No. 63) be extended for a period of six months following the formal proclamation of peace, when it would become inoperative. Funds had been made available for investigations, but there was no law authorizing the expenditure for the purpose of making the public fully informed about the efforts of the government. A cold storage law passed the house of representatives on September 30 (H. R. 9521), but was not considered in the senate. Surplus foodstuffs were sold by the war department. Congress showed very little disposition to become excited over the high cost of living, and seemed to assume that the responsibility was largely that of the executive, since, by the legislation of the war, he had been granted enormous powers.

The Appropriation Bills. Congress did quick work with the appropriation bills left over from the short session and with necessary new

*History of appropriation bills, first session**

BILL (H. R.) NO.	TITLE	HOUSE REPORT NO.	PASSED HOUSE	SENATE REPORT NO.	PASSED SENATE	SENT TO CONFERENCE	CONFERENCE REPORT (HOUSE) NO.	CONFERENCE REPORT AGREED TO	DATE APPROVED	LAW NO.
1200	Congressional expenses.		May 23		May 29	1919		1919	June 17	2
2329	Urgent deficiency, War Risk.	3	May 22		May 23				June 5	1
2480	Indian.	4	May 26	3	June 6	June 7	27	June 10	June 30	3
3157	Agriculture (H. R. 7413 substituted).	8	June 4	16	June 18	June 20	70	June 27		†
3478	General deficiency.	11	May 29	11	June 10	June 11	97-44	July 1	July 11	5
4226	District of Columbia.	12	June 7	17	June 18	June 23	94-68	July 1	July 11	6
5227	Army.	23	June 13	24	June 25	June 26	90-99-76	July 1	July 11	7
5312	Railroads.	26	June 10		June 12				June 30	4
5608	Navy.	35	June 16	32	June 26	June 27	89-92	June 30	July 11	8
6176	Sundry civil (H. R. 7343 substituted).	48	June 21	52	June 28	June 30	93-98	July 1		†
7343	Sundry civil.	118	July 17		July 18				July 19	21
7413	Agriculture.	124	July 18		July 23				July 24	22
H.J. 147	Making supply laws retroactive.	133	July 21		July 25				July 31	P. Res. 7.
9205	First deficiency for 1920.	309	Sept. 20	273	Oct. 21	Oct. 23	424-426 S. Doc. 144	Oct. 29	Nov. 4	73

* From the *Monthly Compendium*, Sixty-sixth Congress, First Session November, 1919 (W. Ray Loomis, editor.)

† Vetoed..

Table comparing by bills estimates of regular annual appropriations for the fiscal year 1921 with the appropriations made for the fiscal year 1920, during the third session of the Sixty-fifth Congress and the first session of the Sixty-sixth Congress.*

Prepared by the clerks to the committees on appropriations of the senate and house, December 3, 1919

	ESTIMATES, 1921	APPROPRIATIONS, 1920	INCREASE, ESTIMATES 1921 OVER APPROPRIATIONS FOR 1920	DECREASE, ESTIMATES 1921 UNDER APPROPRIATIONS 1920
Agriculture.....	\$37,528,102.00	\$33,899,761.00	\$3,628,341.00	
Army.....	982,800,020.00	772,324,877.50	210,475,142.50	
Diplomatic and Consular.....	11,243,250.91	9,843,661.67	1,399,589.24	
District of Columbia.....	19,179,716.03	15,364,421.00	3,815,295.03	
Fortification.....	117,793,330.00	11,214,291.00	106,579,039.00	
Indian.....	12,994,494.27	11,131,397.03	1,863,097.24	
Legislative, etc.....	122,242,849.02	97,963,831.77	24,279,017.25	
Military Academy.....	6,778,637.20	2,277,932.20	4,500,705.00	
Navy.....	573,131,254.80	616,096,838.88		\$42,965,584.08
Pensions.....	215,030,000.00	215,030,000.00		
Post Office.....	391,713,673.00	609,466,149.00		217,752,476.00
River and harbor.....	42,841,565.00	33,378,364.00	9,463,201.00	
Sundry civil.....	906,725,387.10	607,160,207.95	299,565,179.15	
Total regular appropriations.....	\$3,440,002,279.33	\$3,035,151,733.00	\$665,568,606.41	\$260,718,060.08
Permanent annual appropriations.....	1,425,407,752.29	1,968,997,780.00		543,590,027.71
Total, annual appropriations.....	\$4,865,410,031.62†	\$5,004,149,513.00	\$665,568,606.41	\$804,308,087.79
Deficiencies.....		1,141,931,269.96		
Miscellaneous.....		1,126,478,632.41		
Grand total ‡ (p. 84).....		\$7,272,559,415.37		

* From the *Congressional Record*, December 4, 1919.

† This sum does not include any amount for increased compensation to government employees.

appropriations. An analysis of their legislative history is given in an accompanying table. As revised during the special session, the seven appropriation bills contained nearly a billion dollars less than the figures agreed upon at the third session of the Sixty-fifth Congress. Such a reduction was practically inevitable, since the peace time needs of the government were not so great as they were during the war, or immediately after the armistice, when it seemed that demobilization might not be so speedily effected.

Very little legislation was passed in the form of riders to the appropriation laws. The General Deficiency Act prohibited the use of money authorized by Congress for propaganda to influence legislation, and amended the Alien Property Custodian Act; the army appropriation law contained a good many provisions with regard to administrative details, but did not attempt to lay down any policy with regard to organization, and so also with the Naval Appropriation Act. The sundry civil bill (H. R. 6176) was vetoed by the President on July 11, because it did not make available sufficient funds for vocational rehabilitation. A new bill was introduced and was approved July 19. The first deficiency appropriation bill for 1920 (H. R. 9205, Public Law No. 73) contained a provision exempting farm and labor organizations from prosecution under the Sherman Anti-Trust Act. When the measure was before the house of representatives this proviso was struck out by a *viva voce* vote, but when a record vote was demanded the exemption prevailed by a vote of 201 to 30. The senate retained the proviso by a vote of 31 to 28.

Statistics as to the appropriations for 1920 and the estimates for 1921 are of some interest and are given in an accompanying table (p. 83).

‡ Net increase, estimates for 1921 over appropriations for 1920, regular annual bills.....	\$404,850,546.33
Decrease, estimates for 1921 under appropriations for 1920, permanent annual appropriations.....	543,590,027.71
Net decrease of estimates for 1921 under appropriations for 1920, regular and permanent annual appropriations.....	138,739,481.38
Decrease, grand total of estimates for 1921 under grand total of appropriations for 1920.....	<u>2,407,149,383.75</u>
Amount of estimated revenues for 1921.....	5,620,350,000.00
Amount of estimated postal revenues for 1921.....	<u>415,500,000.00</u>
Total estimated revenues for 1921.....	6,035,850,000.00
Excess of estimated revenues (exclusive of deficiencies and miscellaneous) over estimate appropriations for 1921.....	1,170,439,968.38

Other Legislation. An especially large number of bills and resolutions were introduced during the special session. Many of the former were to secure German cannon or field pieces for various towns in the United States; on August 2, one representative introduced ninety-eight such proposals. The resolutions were numerous because of the desire of Congress to do a great deal of investigating. The numbers of bills and resolutions introduced during the Sixty-fifth and Sixty-sixth Congresses were as follows:⁵

Bills and joint resolutions introduced, and enacted into law

House bills and joint resolutions introduced:	
Bills, Sixty-fifth Congress.....	16,239
Bills, Sixty-sixth, special session.....	10,735
Joint resolutions, Sixty-fifth Congress.....	445
Joint resolutions, Sixty-sixth, special session.....	249
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Total House, Sixty-fifth Congress.....	16,684
Total House, Sixty-sixth, special session.....	10,984
Senate bills and joint resolutions introduced:	
Bills, Sixty-fifth Congress.....	5,680
Bills, Sixty-sixth, special session.....	3,457
Joint resolutions, Sixty-fifth Congress.....	230
Joint resolutions, Sixty-sixth, special session.....	127
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Total Senate, Sixty-fifth Congress.....	5,910
Total Senate, Sixty-sixth, special session.....	3,584
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Total bills and joint resolutions, both houses, Sixty-fifth Congress.....	22,594
Total bills and joint resolutions, both houses, Sixty-sixth Congress, special session.....	14,568
Resolutions introduced:	
Concurrent:	
House, Sixty-fifth Congress.....	73
House, Sixty-sixth, special session.....	38
Senate, Sixty-fifth Congress.....	32
Senate, Sixty-sixth, special session.....	17
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Total concurrents, Sixty-fifth Congress.....	105
Total concurrents, Sixty-sixth, special ses- sion.....	55

⁵ These figures are a revision of a table which appears in the *Monthly Compendium* for December, 1919.

Simple:	
House, Sixty-fifth Congress.....	625
House, Sixty-sixth, special session.....	397
Senate, Sixty-fifth Congress.....	487
Senate, Sixty-sixth, special session.....	234
Total simple resolutions, Sixty-fifth Congress.....	1,112
Total simple resolutions, Sixty-sixth Congress.....	631
Total, concurrent and simple, Sixty-fifth Congress.....	1,217
Total, concurrent and simple, Sixty-sixth Congress.....	686
Resolutions passed:	
Concurrent:	
House, Sixty-fifth Congress.....	26
House, Sixty-sixth, special session.....	11
Senate, Sixty-fifth Congress.....	6
Senate, Sixty-sixth, special session.....	6
Total concurrents passed, Sixty-fifth Congress.....	32
Total concurrents passed, Sixty-sixth Congress.....	17
Simple:	
House, Sixty-fifth Congress.....	228
House, Sixty-sixth, special session.....	141
Senate, Sixty-fifth Congress.....	320
Senate, Sixty-sixth, special session.....	137
Total simple resolutions passed, Sixty-fifth Congress.....	548
Total simple resolutions passed, Sixty-sixth Congress.....	278
Total all resolutions passed, Sixty-fifth Congress.....	580
Total all resolutions passed, Sixty-sixth Congress.....	295

During the special session ninety-five public laws were passed. Eleven of these were appropriation bills; thirty-six authorized the construction of bridges, and the other half, with the few exceptions mentioned in this summary, related to unimportant matters. Congress, for example, was called upon to give authority to build the Hud-

son River tunnel between New York and New Jersey; to authorize the war department to loan machine tools and instruments to trade and technical schools; to provide for the improvement of the mail service in Hawaii; to extend the cancelation stamp privilege to the Roosevelt Memorial Association; and to permit women of the Protestant Episcopal Church of the Diocese of Washington to vote and hold office.⁶

The American Legion and the Near East Relief were incorporated; the permanent rank of general was conferred on General Pershing; several amendments were adopted to the War Risk Insurance Act; the Federal Reserve Act was amended to permit banks to invest in the stocks of corporations engaged in the financing of exports; the number of officers in the army was increased to 18,000; \$17,000,000 was appropriated for the completion of the Alaskan Railway; and citizenship was conferred on Indians having military service. Joint resolutions provided for the appointment of an ambassador to Belgium, and increased the compensation of certain postal employees. Only six private laws and one private resolution were enacted during the session.

The President's Illness. President Wilson's speech-making tour on behalf of the League of Nations was begun on September 3 and came to a sudden end on September 26, when he was forced to return to Washington on account of illness. For more than a month the President was able to do only a minimum of official business and there were alarming rumors as to his condition. His direction was missed chiefly in the negotiations for the settlement of the coal strike, and the friends of the league covenant in the senate were sadly handicapped by his inability to formulate a program.

Twenty-eight bills became law owing to the failure of the President to act within ten days (exclusive of Sundays) after their receipt at the White House. He was able to veto the Prohibition Enforcement Act on October 27, but he did not approve two statutes which became law on October 22 and 25 (Public Laws Nos. 64 and 65), and he failed to sign Nos. 67 to 82 inclusive (October 28–November 18) with the exception of No. 73, the First General Deficiency Act for 1920, which was signed on November 4.⁷

⁶ The act was to amend a charter granted by Congress March 16, 1886. See *Congressional Record*, August 2, p. 3789.

⁷ The President signed four bills on October 22 (including the amendments to the Food Control Act), but failed to sign one which became law (Public No. 64) on account of the expiration of the time limit. The President approved a number of bills while he was in Paris. H. R. 2329 (war risk deficiencies) was enrolled on

In spite of the President's inability to preside over cabinet meetings or to act in the Mexican crisis, there was slight disposition to raise the constitutional question: "In case of the removal of the President from office, or his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President."⁸

The Budget Bill. In his annual address to Congress on December 4, 1917 President Wilson requested the house of representatives to "consent to return to its former practice of initiating and preparing all appropriation bills through a single committee, in order that responsibility may be centered, expenditures standardized and made uniform, and waste and duplication as much as possible avoided."

May 23, sent to the President the next day, and signed in Paris. H. R. 1200 (mileage appropriations for the house) was sent to the President on June 2 and signed in Paris June 17. The Indian appropriation bill (H. R. 2480) was sent to him June 16, and approved on June 30 on board the *George Washington*. During the short session of the Sixty-fifth Congress a number of bills were approved in Paris.

⁸ As to the meaning of "inability" and the proper authority to determine when it exists, constitutional lawyers are not very definite. Professor W. W. Willoughby simply states the problem but does not answer it. (2 Willoughby on the Constitution, 1146.) The most elaborate discussion occurred apropos of President Garfield's illness in 1881; Senator Trumbull, Judge Cooley, Professor Dwight, and Benjamin F. Butler contributed to an interesting symposium on the question in the *North American Review*, November, 1881. Of interest also is Hamlin, "The Presidential Succession Act of 1886," 18 *Harvard Law Review*, 191. Judge Cooley said that all the circumstances would have to be taken into consideration. In times of supreme trial—such as April, 1861 or April, 1917—it would be disastrous if a President withdrew himself for days, whereas at other times, a withdrawal for weeks or even months would not be too inconvenient. Judge Cooley urged that the question of "inability" was one for Congress to determine. "It is possible," he said, "for a case to arise so plain, so unmistakably determined in the public judgment, that public opinion, with unanimous concurrence, would summon the Vice-President to act. But though this would make him the acting President *de facto* he would become acting President *de jure* only after solemn recognition in some form by Congress." It is worthy of mention that the constitutional provision above quoted does not consider the possibility of the death of the President or Vice-President subsequent to the election but prior to the inauguration. Until 1886, succession vested in the President *pro tempore* of the senate and the Speaker of the house, instead of the secretary of state, etc. as at present. At that time the president *pro tempore* did not hold over from Congress to Congress until a successor was chosen; consequently if both the President and Vice-President had died during an interim between Congresses there would have been no one to succeed. Furthermore, under this arrangement succession could vest in a member of the political party which had been defeated in the election. During Cleveland's first administration and after Vice-President Hendricks died a Republican was president *pro tempore* of the Senate.

From its establishment in 1865 until 1880 the committee on appropriations had control of all the regular appropriation bills. In that year the committee on agriculture was given the right to report the appropriations for the department of agriculture and the committee on commerce the right to report the appropriations for rivers and harbors. In 1885 the committee on appropriations lost jurisdiction over six appropriation bills which was given to five other committees of the house: the committees on military affairs (the army and the military academy bills); naval affairs, Indian affairs, foreign affairs, and post office and post roads. At the present time eight committees of the house have jurisdiction over thirteen regular appropriation bills: the committee on appropriations has charge of the deficiency measures that are necessary.

So far as the submission of the estimates is concerned the chief defects are that expenditures are not considered in connection with the revenues; Congress does not require of the President any careful financial program; the estimates submitted represent the desires of individual departments and bureaus, for which the President is not responsible, and are not harmonized with each other, and no attempt is made to prevent duplication and waste or to have the estimates conform to the condition of the treasury.

For years reform has been agitated: Garfield vigorously opposed the change to the present practice of different congressional committees; President Taft strongly indorsed the reports of his commission on economy and efficiency; and legislators like Congressmen Fitzgerald and Tawney and Senator Aldrich were in favor of a budget system. Both political parties were pledged to it in 1916, and the house passed a bill during the special session. It creates a budget bureau in the office of the President, with the responsibility of seeing that an adequate financial prospectus is presented to Congress with the estimates carefully checked. A resolution⁹ was introduced providing for a change in the rules so that all bills appropriating money should go to one enlarged appropriations committee, but this was not acted upon. Enforcing executive responsibility is not nearly so serious a matter as

⁹ H. Res. 168 which passed on July 31 created a special committee (Good, chairman) to devise a plan for a budget. The testimony in the hearings before the committee is of great interest. The bill reported (H. R. 9783; House Report 362) passed on October 21.

depriving certain committee chairmen of some of the powers which they now have in controlling funds for different departments.¹⁰

Congressional Investigations and Committee Hearings. As is natural when the political complexion of Congress changes, the majority party makes every effort to investigate the record of its opponents, but the investigating mania shown by Congress during the special session far exceeded any previous record. Nearly two hundred resolutions authorizing special inquiries or permitting regular committees to send for persons and to take testimony were introduced. Fifty-five of these were passed and their subjects ranged from those of general interest such as the investigations of the Peace Treaty leak, war department contracts and expenditures, a budget system, and war risk insurance, to the reasons for the detention in France of Robert A. Minor and the suspension of Miss Alice Wood, a Washington school teacher.

The session was marked, however, by an unusually large number of valuable hearings by various committees. The testimony on army reorganization before the senate and house committees on military affairs; Senator Kenyon's report on the steel strike; the hearings before the special house committee on the budget; the investigation of the Mexican imbroglio, and the senate and house committee hearings on the railroad question are materials of capital importance. They contain matter which is far more valuable than anything said on the floor of either house, and show that the problems before Congress have been really debated, not so much by members of Congress, as by persons appearing to present their views to the committees. The senate committee on foreign relations published hearings containing the testimony of Secretary Lansing and of the American experts on international law and the Far East; the revelations on Russia of Mr. Bullitt ("the young American" who breakfasted with Mr. Lloyd George),

¹⁰ H. Res. 324, House Report No. 373. So far as "pork" is concerned the only difference under the budget system as proposed by the house committee would be that the legislation would be framed by the rivers and harbors and public buildings committees and the appropriations would go through the single appropriation committee. Speaking of the difficulty of changing the existing committee system, Congressman Frear said: "No Hottentot king or dusky Senator in the far-off cannibal islands was ever more proud of his huge earrings . . . than are some honored members of appropriation committees who have finally reached chairmanships on these powerful committees. . . . Finally entrenched in power, they possess ordinary human attributes and cannot willingly be expected to relinquish seniority rights reached only after years of patient waiting." In the Senate a special committee was appointed to devise a budget plan (McCormick, chairman; S. Res. 58; July 14, 1919) but the committee did not begin to function until after the close of the special session.

and a record of the epoch-making conference with President Wilson at the White House.

It is extremely difficult, however, to secure these reports of hearings, and thus the details of the most vigorous discussion that takes place in Congress are not available for public scrutiny except so far as reported in the newspapers. Speaking of select committees in England, President Lowell says: "They summon before them people whose testimony they wish to obtain; but although a man of prominence, or a recognized authority on the subject, would, no doubt, be summoned at his own request, there is nothing in their procedure in the least corresponding to the public hearings customary throughout the United States, where anybody is at liberty to attend and express his views—a practice that deserves far more attention than it has yet received."¹¹

Congressional Procedure. Congress was in session 160 calendar days. Of these, the house was in recess fourteen days and the senate thirty-two. The average length of a day's session in the house was five hours and forty-five minutes and in the senate five hours and two minutes. To report the proceedings, 8658 pages of the *Congressional Record* were necessary.¹²

In the house, much time was lost in calling the roll. Up to the end of the thirtieth week, the house had taken 240 roll calls, more than two a day. These require an average of at least a half an hour apiece, and the total therefore amounted to 21 working days of five hours and forty-five minutes each. Many of these roll calls were on points of no quorum; others were for record votes on unimportant measures. It would seem as if, with congressional business as congested as it is, and with important problems being delayed from session to session, some method ought to be agreed upon for securing a quorum or having a record vote without a delay of thirty to forty-five minutes. But the practice does not occasion any serious objection, since it affords leisure to members of the house. On several days, however, roll calls consumed practically the whole time.¹³

¹¹ *The Government of England*, vol. I, p. 267.

¹² Much of this space was of course taken up with extensions of remarks and reprints of various kinds of documents, a majority of which, perhaps, related to the League of Nations. Many *Washington Post* editorials were made available to the country through publication in the *Record*, and the views of many American citizens on the Peace Treaty were inserted in the proceedings of the senate. The *Record* frequently seemed like the *Review of the Foreign Press*, which was published by the British government during the war. Senator Williams read to the senate a long description of what would happen if the senate undertook to debate "Now I lay me down to sleep."

¹³ See, for example, the *Congressional Record* for September 5, 1919.

One incident, however, is so significant in the light that it throws on congressional procedure that it ought to be mentioned. With the senate about to be occupied by the Peace Treaty, the house had determined upon a recess longer than three days, and a concurrent resolution providing for this had been agreed to. The four brotherhoods of railway employees on August 2 issued a peremptory demand for an immediate increase of wages, threatening a general strike in September and approving the so-called Plumb Plan for railway nationalization. President Wilson wrote to Speaker Gillett on August 1 and asked that the proposed recess of Congress might be postponed "until such time as we may know definitely the problems which confront us growing out of this critical situation." The house complied with the President's request, and the recess resolution was rescinded 235 to 4. Pending the address from the President, Mr. Mondell asked unanimous consent that the house should meet at noon on Tuesdays and Fridays, no business to be in order except the Chaplain's prayer, the reading and approval of the journal, the signing of bills and resolutions on the speaker's table, and a motion to adjourn. Members were to be notified three days before their presence was necessary, and meanwhile the house committees could continue their work.

Congressman Igoe, of Missouri, however, had pending before the committee on interstate and foreign commerce a resolution relating to the investigation by the federal trade commission of the price of shoes. He asked unanimous consent for its consideration. The majority leader refused to help him in getting it before the house, and Mr. Igoe therefore objected to Mr. Mondell's request. On Tuesday, August 5, Mr. Mondell repeated his request, and Mr. Igoe again objected. On Wednesday, upon the convening of the house, a point of no quorum was made, and Mr. Mondell moved that the house adjourn. On Thursday the point of no quorum was again made and the house adjourned. On Friday, a bare quorum was secured; the President's address was listened to, and the house adjourned.

Unsettled Problems. The Peace Treaties, the Mexican problem, and the Panama Canal Treaty, providing for a payment to Columbia, will occupy much time in the senate. The return of the railroads, industrial legislation, the development of foreign trade, budgetary reform, the extension of the war risk insurance bureau, army reorganization and compulsory military training, a shipping policy, the leasing of oil lands, soldier settlement legislation, and many other questions will keep Congress in session well into the summer.

LEGISLATIVE NOTES AND REVIEWS

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The Richards Primary. The state of South Dakota is becoming famous as a laboratory for experiments in popular government. It was the first state to adopt the initiative and referendum, those provisions being incorporated into the state constitution by the Populist legislature of 1897 and ratified by the people at the election of 1898. The Republican legislature of 1917 took a long step towards state socialism when it met the demands of the Non-Partisan League by proposing a series of amendments under which the state may now engage in almost any industry, a program which was likewise approved by the people at the succeeding election. Recently the state has attracted further attention on account of its original and peculiar—some would say “freakish”—primary law, under which South Dakota has been the first state to take any official action with regard to the selection of candidates for the coming national campaign.

The so-called “Richards Primary” is almost exclusively the work of one man, R. O. Richards of Huron, who, as a private citizen (Mr. Richards has been a defeated candidate for United States senator and governor and has served as Republican state chairman) has taken an active interest in politics, and has devoted his talents and his means to his one hobby—the securing of responsible party government. The present South Dakota primary law, of which he is the author, is but the culmination of a series of experiments in the field of primary legislation. Its adoption can only be understood when considered in relation to the initiative and referendum, to factional contests within the Republican party, and to the persistent efforts of Mr. Richards himself.

The active agitation for the direct primary in South Dakota began in 1903, largely under the leadership of Mr. Richards. In 1904 the first use was made of the constitutional initiative in drawing up a primary measure and petitioning the legislature for its submission to a vote of the people. Although the initiative petition contained about twice the required number of signatures, the “stalwart” legislature of