



Legislative Control over Administration: Congress and the W. P. A.

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AMERICAN GOVERNMENT AND POLITICS

Legislative Control over Administration: Congress and the W.P.A. Under our Constitution, the national administration is an agent of the people acting through the Congress and the President. The legislature determines policies, establishes or authorizes the creation of administrative agencies, appropriates funds for their work, and attempts to control their operations by directions and limitations before and checks after the administration acts. But the establishment of controls at once effective and not unduly restrictive has become increasingly difficult as the business of government, legislative as well as administrative, has expanded and become more technical. Consultation with and advice to administrative agencies by citizens and their organizations are important, but they supplement rather than supplant legislative control, which remains the principal means for supervising the administration. The standard works on public administration discuss methods of control, but do not deal in detail with this relation between legislatures and particular agencies. The present analysis of congressional control of the Work Projects Administration has been undertaken in the belief that "case studies" may be useful for verification, modification, or contradiction of general propositions about legislative control of administration.¹

W.P.A. was set up in 1935 to provide work on useful public projects for destitute employables; and by the end of its fifth year "the largest single administrative operation of civilian employment ever undertaken by this . . . government" had supplied jobs for more than eight million different people on over 250,000 projects at a cost of more than eight billion dollars. The law under which this agency was established was written largely by administrative officers and provided virtual *carte blanche* for expenditure of the original four-billion-dollar appropriation. Congressional willingness to allow broad administrative discretion was the result both of the prestige and political influence of the President and of the novelty and complexity of federal work relief. The more "liberal" Senate has shown greater sympathy toward W.P.A. than has the House; yet in both chambers from the beginning of the program there has been discussion of restraints upon and mandates to W.P.A. Their adoption was gradual, however, until the "militant" session of Congress in 1939. Some elaborations of law have been intended to protect the Administration from controversies with the General Accounting Office and litigation in the courts. Others have grown

¹ This is the first of what is planned as a series of such studies. It is based mainly on hearings, reports, debates, and statutes for the first ten work-relief appropriations made by Congress since 1935. On federal relief policies, see A. W. Macmahon, J. D. Millett, and G. Ogden, *The Administration of Federal Work Relief* (1941); an article in *Journal of Politics*, Vol. 2, pp. 321-335 (Aug., 1940); and a forthcoming volume by Paul Webbink.

out of political maneuvers to discredit the New Deal. Most of the statutory controls, however, have been the product of growing distrust of administrative discretion, documented by verified or alleged misuses of authority, and were adopted during the period of declining presidential influence over Congress in Mr. Roosevelt's second term. Many lawmakers felt that the passing of emergency conditions permitted closer legislative control and that accumulated experience indicated its directions. Assurances of auto-improvement by unhappy W.P.A. administrators were considered by Congress inadequate to guarantee the reforms which it felt its obligations, dignity, and self-protection demanded.

I. MACHINERY OF CONTROL

Congressmen are the principal channel of effective complaints against and demands upon the Administration which are not settled directly by W.P.A. and citizens. A congressman who is the carrier of a grievance based sometimes on personal observation, but more often on reports from friends, constituents, and newspapers, may be able to negotiate a satisfactory settlement if the matter is within the discretion of the Administration. But statutory provisions may prevent the desired adjustment, or the legislator may feel that he is being given "the run-around," or W.P.A. may simply refuse for reasons of its own to comply with the request. In such cases, the legislator may appeal to Congress itself, through the committees, which may deny him "justice," or from the floor.

The committees are the principal instruments of congressional control of W.P.A. Most agencies of the government are supervised by both legislative and appropriations committees; but, although relief bills have been legislative rather than merely appropriation measures, W.P.A. has dealt only with the deficiency subcommittees of the appropriations committees. This monopoly over W.P.A. legislation results from the failure of Congress to write details of policy into the early relief laws, which, in substance, were mere grants of money, and from the persistent belief that unemployment relief is only a temporary function. If the federal work program is continued, and if Congress exercises control to the degree it does now, it would be advantageous both to the Administration and to the legislature to establish legislative committees on relief. W.P.A. then would not have to deal only with committees which are dominated by financial considerations. At the same time, the overburdened deficiency subcommittees which are concerned with the whole range of governmental activities would be relieved of some of their burden, while the proposed committees could give more thorough consideration to relief problems.

Hearings on the appropriation bills are the chief formal contact between Congress and W.P.A. Interrogation of administrators at times is poorly organized, but the printed hearings are studied by lawmakers in

drafting legislation, and the melancholy fact remains that "there is so much you cannot remember the detail of it." The proceedings afford relief administrators an opportunity to give an "account of their stewardship" which is scrutinized by legislators expert in the subject-matter. The give and take of the hearings permits congressmen to size up the administrators, and to ask questions about and to hear explanations of the agency's work. Legislators also may use the occasion to press for revision of administrative rules. The most important function of the hearings is to educate committee members, and to supply them with the raw material, including administrative recommendations, from which legislation is prepared. The relief agency has a legitimate interest in problems of administration, and Congress has often, but not always, given heed to its suggestions on procedures to carry out policies. Recommendations of W.P.A. on matters of policy have been less influential. Frequently it has suggested the superiority of administrative discretion, which it has offered to employ in line with legislative opinion. This strategy sometimes is successful in warding off statutory controls, but a legislator is apt to feel that "it would be safer to put it in the law."

In control of W.P.A. through statutes,² congressmen are inclined to follow the advice of committees. Amendments from the floor are not infrequent and are useful for overcoming possible committee antagonism or favoritism toward an administrative agency. Their value, however, is limited by the haste and restricted debate of a legislature swamped by the business of a "positive" state. Even if a congressman may secure information and opinions from administrative officers, intelligent control over administration can be exercised better by committees which can deliberate and formulate collective judgments about matters with which they have dealt intimately over a period of years.³

Hearings are the main source of legislative information about administration, but they are supplemented by periodic presidential reports to

² Administrators resort to various procedures in construing statutes. Where court litigation is involved, an administrator, of course, is bound by the decision; so, too, for practical purposes, with opinions of the Comptroller-General. Otherwise, the administrative officer is left to his own devices; but he is not entirely unguided, for there are expressions of legislative intention in the hearings, in committee reports, and in debates. Also, he may secure advice from counsel of his own agency or from the Department of Justice. A senator complains that "in order to hold down the departments you have to tie them both hands and feet, and draw an amendment containing limitations out of which they cannot wiggle."

³ "When amendments are offered on the floor . . . it is difficult to determine definitely how far-reaching and sweeping their effect may be. . . . Should we not sit down with the people who have to administer relief and find out something about the problems involved, go into it in a logical and orderly way?", 84 *Cong. Rec.* 333, 335.

Congress on the relief agency's obligations⁴ and by the annual report of W.P.A. to the Chief Executive, copies of which are sent to congressmen. These documents possibly have some utility in requiring W.P.A. to take inventory of its operations, but they have not been very useful devices to enlighten Congress, which might well consider improvement of reports on administrative activities. W.P.A. also is subject to supervision by the Comptroller-General. It should be noted, however, that most of the relief acts have contained broad statements of policy and liberal grants of administrative discretion; and internal difficulties in the General Accounting Office in recent years have reduced its effectiveness as an aid to Congress. Finally, Congress has set up special committees whose investigations into W.P.A. operations are discussed below in the section on abuses.

II. PROBLEMS OF CONTROL

Administration. W.P.A.'s uncertain existence as an organization has depended upon passage of the annual relief appropriation bills. If the federal program continues, it would seem desirable to enact a "substantive law" for work relief, so that Congress and W.P.A. could enjoy whatever advantages inhere in the stability of "permanent status"—terminable at congressional will. W.P.A. has almost complete freedom from statutory control over organization, and it has made good use of its authority in reducing the number of field offices, partly to adapt the program to the shifts in geographic distribution of relief needs, and partly to enable it to operate within the limits of sharply reduced recent authorizations for administrative expenses. In contrast, the 1940 Congress, solicitous for "efficiency," local vendors, and employees in the unclassified service, prohibited regionalization of Treasury offices which serve W.P.A.: "God made the Tennessee River, but he did not make these regional offices." The federal organization practices extensive deconcentration by providing for certification of relief workers and initiation of projects by local governments, although it reserves and exercises authority to reject both. Congress can exercise closer control and probably can get more for its money from a centralized organization than from one which is decentralized. Under the latter, it would be more difficult to maintain such uniform and improved standards of operation as W.P.A. has been able to achieve; it would not be easy to suspend grants to enforce compliance with federal requirements, since relief workers rather than officials would bear the brunt of punishment; and it is doubtful, at best, whether political abuses would decline, for W.P.A.'s principal difficulties of this sort have come from local politicians.

⁴ How detailed should reports be? The 1938 law required the report to be made on "projects." The result was a document of dimensions 16"×24"×6'. No wonder Congress reverted promptly to the earlier requirement of information merely by "classes of projects."

Congress has been more interested in and has exercised greater control over administrative personnel than over organization of W.P.A. Administrator Harrington protested and the House has resisted, but the Senate has insisted successfully on confirmation of appointments to positions paying \$5,000 or more a year, which include nearly all the state administrators, who, in turn, appoint their subordinates. In appointments to positions which do not require senatorial approval, administrative admission is that "considerable consideration" is given to recommendations of senators, representatives, and governors if they are based on competence "and not upon the idea of getting somebody in our organization who will be answerable to the person who recommends him." Current law also requires W.P.A. to transmit to Congress at the beginning of each session a statement showing for each state "the names, addresses, positions, and compensation of all employees" paid at the rate of \$1,200 or more a year. Mr. Roosevelt attempted in 1938 to cover W.P.A. administrative employees into the classified service after non-competitive examinations, but Congress early in 1939 forbade application of his executive order to positions with salaries paid from relief appropriations and repeated this injunction in the Ramspeck Act of 1940. Congressional objections, chiefly in the House, were that the President's proposal would tend to make W.P.A. a permanent agency; that it would "blanket under civil service the personnel set-up which has been made by the Senate" and employees who "have been guilty of misconduct in many cases"; that people who might succeed in open competition would be barred from employment; and that constituents might fail to secure employment if eligible lists were made up from the whole country. Yet the House committee which opposed classified status reported that "the success and cleanness of W.P.A. must depend almost entirely upon its administrative personnel and management." Congressmen's interests are not always synonymous with good administration of Congress's policies. A merit system is preferable to current arrangements and should be established even if W.P.A. is continued only "temporarily." Its absence undermines public confidence, opens the way to political abuses, and reduces the efficiency of a program which expends huge sums of money and affects intimately the lives of millions of people.

Residence of administrative employees has been a bone of contention between congressmen and W.P.A. Senators, especially, have criticized the "vicious and inexcusable" employment of out-state people who are alleged to be less efficient than ample numbers of competent residents familiar with local conditions. They complain that "carpetbagging" has deprived states of their just dues in distribution of high-salaried positions. At one time, Congress required administrative employees to be residents of the regions and intra-state districts in which they were employed, but later it limited this condition to state residence. In all cases, however, the

law has contained the saving clause that the requirement should apply only "so far as not inconsistent with efficient administration." Legally, the provision is "merely directory . . . rather than an inhibition or a limitation," but W.P.A. takes into consideration legislative sentiment and reports that local residence is the general rule.

All the relief acts have listed the uses for which administrative expenditures may be made, but not until 1937 did Congress limit the amount which might be spent for these purposes, among which salaries, communication service, travel, and printing and binding have been subjected to a great deal of congressional criticism. The House Committee on Appropriations has recognized W.P.A.'s "success in curtailment of administrative expenses," which have run between 3.5 and 5 per cent. Yet it "has been insistent that these costs have been too high," and has reduced recent authorizations drastically, while few congressmen have defended W.P.A. on this score. The House has paid little heed to persuasive administrative protests that the limitations have endangered efficient administration, but the Senate has forced some modification of the reductions.

Appropriations. Determination of amounts to be voted for work relief has been difficult, for, in addition to the usual question of optimum distribution of limited revenues by legislatures reluctant to levy new taxes, if not to borrow, W.P.A. appropriations have been based on confused policies of federal obligation, entangled in conflicting theories of spending and budget-balancing as roads to economic recovery, affected by belief that relief money has been used for political "slush funds," and based on the imponderables of economic prediction. Given decision on the number to be employed, however, projection of fiscal estimates is comparatively simple, because unit costs of employment have become stabilized, especially since statutes now control work-relief wages and expenditures for other-than-labor costs and administration: It is a matter of multiplication—or division.

Except on two occasions when small reductions were made, Congress has finally granted the amount requested by the President for work relief. The Chief Executive's success has been due to his influence with Congress, to his compromises with legislators who have wanted to cut his estimates, to the considerable but minority sentiment for larger relief funds, and not a little to the fact that so much conjecture is involved: "We must trust somebody. I do not know." Legislators, of course, have a responsibility for determining whether administrative estimates are inadequate, as they have been more than once, or inflated as many congressmen charge. The confidence of some members in budget figures has been undermined by suspicion that they are influenced by vested interests of administrative employees, local officials, and relief workers; that "spending" theories

warp judgment; and that estimates of unexpended balances have been inaccurate. In the end, however, it becomes for most congressmen a question of whose opinion to accept: They look to and are asked to follow committee recommendations; the committees, in turn, rely heavily on the relief administrators' "best judgment." As with other estimates, intelligent legislative control of administration would be strengthened if the Appropriations Committees were staffed better with experts whose researches would reduce the dependence of Congress on data submitted by the Budget Bureau and administrators.

Congress has resorted to several devices to tighten its control over W.P.A. appropriations. Under the early laws, the President determined distribution of funds among the several work-relief agencies. This arrangement permitted a flexibility which was valuable in 1935-36 when there was indecision about the relative emphasis to be given to public works and work relief—an issue which might have been settled by Congress. Since 1938, appropriations have been made directly to the agencies involved. Administrators may be encouraged to economize if Congress reappropriates, or at least does not reduce the next appropriation request. But legislative sympathy, to be effective, need not extend to self-confusion, as it did in 1937 when funds remaining from seven earlier laws were made available to W.P.A. Since then, reappropriations have been limited to the last annual appropriation and subsequent acts. In 1939, another loophole in legislative control was plugged by the requirement that receipts from operations be covered into the Treasury instead of being used as revolving funds. This provision was directed at small income from theater admissions, but it has broader application.

Surpluses have never troubled W.P.A. Instead, Congress has enacted a law, in 1939 two laws, for additional relief funds every year except one. The root of the problem lies in the difficulty of forecasting relief needs. But Congress has sought protection against deficiencies. First, the appropriations in 1938 and 1940 were made for less than a full year. This arrangement gives the legislature an opportunity to reexamine the situation current with exhaustion of funds, and thus reduces the hazards of economic prediction. Attendant disadvantages, however, are that the labors of legislators already overburdened are multiplied, and that difficulties are added to W.P.A. negotiations with sponsors and work program planning and operation. The Senate in 1940 defeated a House proposal to establish a schedule of maximum employment for the months July through November, which was intended to prevent requests for additional funds and to guard against repetition of alleged expansion of relief rolls to influence election results. Finally, relief laws since 1937 have "called the attention" of administrators to the antideficiency statute by a section which requires that appropriations "shall be so apportioned and dis-

tributed . . . as to constitute the total amount that will be furnished during such fiscal year [eight months in two cases] for relief purposes." It was said that this provision would provide W.P.A. with "a bulwark and protection against which they might stand when high-pressure groups bore down upon them to increase certain allotments." The main object, however, was to protect a Congress "distressed" by requests for deficiency appropriations, and to increase its control of the purse by preventing W.P.A. from spending too much in the early part of the fiscal year. The relief administrators have accepted this provision without enthusiasm, but attempts to repeal it have been unsuccessful in spite of the contention that it causes them "to delay or refrain from spending the money as it is needed because [they] might be uncertain whether or not [they] would get additional money which would be needed." This, however, was the case before, and the President has not hesitated to ask additional funds since the adoption of this section.

Distribution of relief funds among the states has been a constant source of congressional irritation with W.P.A. Administrators have emphasized the advantages of discretion, but congressmen complain that administrative practice has encouraged padding of relief rolls and that it has resulted in political abuses and discriminations among states. Serious difficulties have been encountered by those who have tried to devise a statutory formula, but if a satisfactory one could be worked out, its enactment would increase control and raise confidence in relief administration. Meanwhile, Congress has adopted two other provisions to insure more equal treatment of the states. The first, with some exceptions, limits to six dollars per man per month the amount which W.P.A. may spend in a state for other-than-labor costs. The second, adopted in 1939 after several years of discussion, requires sponsors' contributions—calculated by rules set by the W.P.A. administrator rather than by the Comptroller-General—to average at least 25 per cent of the costs of projects in any state. The relief administrators argued that relief needs and financial resources are too varied to justify a formula so rigid; that administrative action (with an ear, no doubt, to congressional complaints) had raised contributions substantially and would continue to do so; that the limit on other-than-labor costs was sufficient protection to the Federal Treasury, which bears the cost of relief wages; and that numerous administrative difficulties would result. Congressmen, however, were concerned not only with the national average of sponsors' contributions (about 19 per cent in 1938-39), but also with "equal justice" for the states. They have succeeded in securing more uniform sponsors' contributions, although the increase has made it difficult for some communities to participate in the work-relief program. It was said in Congress that negotiations with project sponsors would be simplified if the statutes contained this guide or "stabilizing

influence" for the Administration. But state administrators still are faced with the problem of deciding on which particular projects less than 25 per cent shall be accepted or more required to maintain the minimum state contribution. In 1940, Congress excepted from this rule certain national defense projects and temporary projects to avert dangers from "acts of God."

Projects. Most congressional controls over W.P.A. projects have been negative rather than affirmative. Until 1939, the relief acts set a maximum for the amounts which might be spent for projects, divided first into eight, later into three, categories. This procedure was ineffective as a device to control the Administration. The "elastic" breakdown, based on W.P.A. recommendations, was not a mandate but merely an authorization—with some "moral" force; the inclusion of "the little word 'miscellaneous' " broadened discretion, though it appears not to have been abused; and the President was allowed to transfer funds among groups of projects. Congress finally abandoned this face-saving pretext of direction and contented itself with expanding and contracting a list of projects upon which relief funds might be spent. The President's insistence is partly responsible for this practice, but the basic explanation lies in the nature of the work-relief program: Nearly all W.P.A. projects are initiated, not by federal agencies, but by local and state governments, whose needs and resources vary widely; and the work must be adapted to the geographical distribution and the skills of people on relief. Obviously, flexibility is essential if the work program is to be adjusted to constantly changing relief conditions.

Congressional attempts to earmark relief funds in order, *inter alia*, to avoid appropriations that are "a pig in a poke" have been highly unsuccessful. The President's defense of vagueness in 1935 was that "it is only because of the current emergency of unemployment and because of the physical impossibility of surveying, weighing, and testing each and every project that a segregation of items is clearly impossible at the moment."⁵ Other considerations which smoothed the way to victory for the Executive were the fear of delay in, or impossibility of, detailed earmarking; the citation of precedents for lump sum appropriations; the confidence in the President of a Congress fresh from the overwhelmingly Democratic elections of 1934; and probably the use of patronage. Another serious controversy occurred in 1937 when congressmen sought to do as well as possible by their constituents in the face of revenues below expectations and a rare call from President Roosevelt for economy. The

⁵ 79 *Cong. Rec.* 907. The "bob-tail" House hearings covered 48 pages, the Senate's 190 pages. "What a committee! Abdicating all questioning as to expenditure of \$4,000,000,000 and then subjecting all other officials to the very minutiae of their expenditures" down to lead pencils! *Ibid.* 928.

House earmarked for flood control, roads, and P.W.A. projects one-third of the appropriation intended for W.P.A. It was argued that the emergency which justified earlier delegations of authority had passed, and that Congress ought to resume closer control over expenditures; that the relief administration could not be trusted with such large sums (though a billion remained unearmarked); that legislators should not have to plead with administrators to get funds for their districts; and that congressmen from the "grass roots" know how money can be spent to best advantage. The chief objections to earmarking were that diversion of money already inadequate would mean less work for needy employables; that it would inject undesirable rigidity into the work-relief program; and that the bill would become a "pork barrel" measure. Legislative leaders persuaded representatives to delay final action until they could negotiate a compromise with the President. The House "cooled off" while the "heat was turned on," and the pleas of leaders, coupled with the Administration's prestige, political pressure, and promises that administrative action would supply the substance of what was sought by statute, induced congressmen to "de-earmark" the relief bill.

As a result of specific abuses, or as insurance against them, Congress has clarified statutory language to include some projects and to limit or prohibit others. Much discussion has centered on federal projects which employ relief labor with funds transferred from W.P.A. It is to the advantage of the national government to use its revenues on its own work; but congressmen complain that federal agencies escape legislative control through scrutiny of requests for funds, since W.P.A. acts, in effect, as an appropriating agency. In defense, the relief administrators have testified that W.P.A. undertakes no project expressly or impliedly disapproved by Congress; that the Budget Bureau considers money other agencies receive through W.P.A.; and W.P.A. has informed the Appropriations Committees about federal work relief projects. A related problem is commitment of the government to long-term obligations as a result of construction financed with relief funds. This involves costs of maintenance and of project completion. The latter difficulty came to a head in 1936 after the President had allocated funds to begin construction of the Florida Ship Canal and the Passamaquoddy Dam, which Congress disapproved. To protect the legislature against recurrence of such cases, subsequent laws have contained "a rather comforting provision" that "no federal project shall be undertaken or prosecuted under the foregoing appropriation unless and until an amount sufficient for its completion has been allocated and irrevocably set aside." A similar provision applies to state and local projects. Several of the laws since 1935 have forbidden expenditure of relief appropriations for armaments and munitions. About 275 million dollars of the 1933 public works appropriation had been allocated

to the Navy, and there were reports that the Army would receive 400 million dollars of the 1935 relief fund. Congressmen argued: "If we are going to appropriate money to build warships, let us do it out in the open so that we will know where it is being spent." Other statutory provisions are directed against competition with private industries, to pressures from which, especially building contractors and trade unions, congressmen have been sensitive. Also, since 1939 theater projects have been banned despite administrative promises of reform and support of actors and drama critics. Congressmen believed they were too expensive and "subversive" and engaged in propaganda against opponents of the New Deal: "The W.P.A. permits persons to ridicule certain senators . . . It is not the right thing to do . . . It is a very short-sighted policy"—which proved, indeed, to be the case.

Employment. In order to correct administrative practices which it has disapproved and in response to demands of pressure groups, Congress gradually has restricted W.P.A.'s earlier broad discretion by establishing several statutory criteria for admission to and removal from relief employment rolls. It prohibited employment of aliens despite Administrator Hopkins' opposition; but it was more responsive to his recommendations on methods of administering the provision. A section which forbids payment of compensation to persons who advocate overthrow of the government was directed at alleged employment by W.P.A. of "subversive elements"—an unfair criticism, since the relief laws prohibited political discrimination. Dissatisfied with Administrator Harrington's conclusion that he could name no organization which came within this restriction, Congress revised the language to ban by name Communists and members of Nazi Bund organizations. On another occasion, W.P.A. thought congressional policies warranted an administrative rule that people eligible for benefits under the Social Security Act should not be employed on work relief. Congress disagreed with this interpretation of its intentions and overruled W.P.A. by forbidding application of the rule. Over Mr. Hopkins' objection to the policy, veterans have been given preference in relief employment; and despite administrative difficulties, this advantage has been extended to their widows and to wives of destitute unemployable veterans. W.P.A. also is directed to employ people according to their "relative need." In order to simplify execution of the policy, the relief administration, with the apparent approval of Congress, has set up only two categories of need.

Recent statutes have regulated removal from relief rolls, about which earlier laws were silent. To distribute more widely the limited work-relief appropriations and to remove "career" workers from W.P.A. rolls, Congress has imposed a system of rotation in employment which is somewhat disruptive of efficient operation of projects and is more rigid than one

suggested by W.P.A. in anticipation of legislative demands. Legislators believed that W.P.A. workers were making a career of the dubious security of relief and that the Administration had been lax in weeding out undeserving employees. So Congress has incorporated into statutes, and perhaps has strengthened, an administrative rule that relief workers must accept bona fide offers of private employment under reasonable working conditions. Also, Congress became dissatisfied with the occasional checks made by W.P.A. of relief workers' economic status. It now requires W.P.A. to make periodic reëxamination of the case of each relief worker and to remove those not found to be in actual need.

Earnings. Complaints that work-relief earnings have not kept pace with rising costs of living would be directed more appropriately to Congress than to W.P.A., since limited appropriations have meant that wages could be increased only by reducing the number of workers employed, and recently Congress has controlled earnings directly. W.P.A. workers receive a "security wage" which varies with their skill, the geographic section in which they live, and the degree of urbanization of their community. In the earlier laws, Congress authorized the President or the Administrator to fix wages; but later it "froze" the wage schedule so that it should "not substantially affect the current national average labor cost per person," about \$55 a month. W.P.A. still may revise earnings of relief workers within this limitation. Criticism of geographical differentials led Congress to direct increase of earnings of Southern workers, though substantial differences remain. Threat of presidential veto in 1935 caused the Senate to reverse its vote in favor of a prevailing wage requirement which it had adopted at the insistence of organized labor that the decision should not be left to administrative discretion. Legislative leaders expressed faith in the President, and he in business men, but others preferred the comfort of statutory language. In 1936, Administrator Hopkins said that "you change your point of view in a thing like this as a result of a year's experience," and Congress made the prevailing wage mandatory, though not without criticisms of the Administration's inconsistency which had embarrassed some of its legislative supporters in their relations with trade union constituents. Then, in 1939, on Colonel Harrington's recommendation, Congress repealed the prevailing wage and required W.P.A. employees to work 130 hours a month for their security wage. This change simplified administration and increased efficiency of the work program, which had suffered from the earlier practice of employing workers of different skills for varying numbers of hours each month, so that it was difficult to dove-tail their employment.

Abuses. The persistence of demands for investigations of W.P.A. since 1936 is evidence of congressional dissatisfaction with ordinary methods for control of administration. Intervention in the administrative process by members, the appropriations committees, statutory restrictions and direc-

tions, reports and audits all have seemed inadequate for dealing with problems of policy-making and charges of political abuse and administrative mismanagement. Legislators have been skeptical of self-scrutiny by W.P.A.'s division of investigation, whose work one of them likened to "sending 'Baby Face' Nelson to investigate Dillinger." Nor have the committees on expenditures been effective as instruments of control. Republicans charge that the House committee "has not been permitted to function. . . . It is not a policy of this Administration to have expenditures investigated." The chairman of the committee replies that it is inactive because it has no investigators, no funds, and no authority to require anyone but government employees to testify—which, however, might have been employed. On the theory that "any representative government ought to live in a bird cage," two special committees have been set up by the Senate and another by the House to investigate W.P.A. The Committee on Unemployment and Relief, headed by Senator Byrnes, was concerned with broad questions of policy and "studiously refrained from entering into any investigation or discussion of irregularities [or] misuse of relief funds."⁶ Some of the committee's recommendations were adopted, others ignored, and most of them have been discussed above.

Political abuses rank first among complaints against W.P.A. administration, not only in congressional, but also in public, opinion. These charges were well summarized in the report of a committee of which Senator Sheppard was chairman.⁷ It concluded that "there has been in several states, and in many forms, unjustifiable political activity" in the W.P.A. program. Its findings weighed heavily in the balance against blanket denials and minimizations of political abuses by officials of W.P.A. and its friends in Congress. It should be added, however, that high-ranking W.P.A. administrators have not been implicated directly, and that a large share of the trouble must be attributed to people outside the organization—including congressmen. Even so, the need for remedial measures was obvious. The relief laws have dealt from the beginning with problems such as fraud and discrimination. In 1938, when New Dealers were trying to "purge" conservative congressmen, senators waxed very indignant over Administrator Hopkins' political speeches⁸ and came within a few

⁶ Special Senate Committee to Investigate Unemployment and Relief, S. Res. 36, 75th Cong., 1st Sess.; three volumes of hearings, 1938 and 1939, and two reports, Sen. Rep. No. 1625, 75th Cong., 3d Sess., and Sen. Rep. No. 2, 76th Cong., 1st Sess.

⁷ Special Committee to Investigate Senatorial Campaign Expenditures and Use of Governmental Funds in 1938, S. Res. 283, 290, 75th Cong., 3d Sess.; Sen. Rep. No. 1, two parts, 76th Cong., 1st Sess. See also *Nomination of Harry L. Hopkins to be Secretary of Commerce*, Hearings before the Senate Committee on Commerce, 76th Cong., 1st Sess. (1939).

⁸ "We are voting them money. We stick our heads in the noose, and then beg for our lives. . . . They propose to use the money which we appropriate for the purpose of eliminating us. . . . We will meet them at Philippi. . . ." 83 *Cong. Rec.* 7704.

votes of applying to W.P.A. the civil service rules against political activity by administrative employees. After the election of 1938, Mr. Hopkins became Secretary of Commerce, to take him "out of the line of fire in the future investigations of the W.P.A.," according to Republicans; and Colonel Harrington, an army engineer who had been chief of its operations division, was appointed W.P.A. administrator. President Roosevelt, somewhat tardily, on January 5, 1939, anticipated legislative action by recommending "rigid statutory regulations and penalties" against "improper political practices." Shortly thereafter, Congress adopted a series of amendments introduced by Senator Hatch which seem to go about as far as legislation can go toward eliminating political abuses in the relief program. The matter now is one for administrative action by W.P.A. and prosecution by the Department of Justice.

Unlike the Senate committees, the House committee headed by Representative Woodrum focused its attention on problems of administrative management. Opponents of the inquiry contended that it was intended to discredit W.P.A. and the New Deal, but the House voted overwhelmingly to establish the committee. Its supporters argued that it was high time to take inventory of the uses to which W.P.A. had put its broad authority under earlier relief acts, and to prepare legislation to circumscribe its discretion if charges of mismanagement proved well-founded. On the assumption that the committee dealing regularly with an administrative agency is best qualified by background and experience to conduct an investigation into its affairs, the deficiencies subcommittee of the House was named to make the study and was given power to subpoena witnesses. It pursued its inquiry during 1939-1940, except for interruptions required for consideration of appropriation bills. Early in its proceedings, the President defended the administration of W.P.A. against critics who "seek to delude" the people into believing that "the minor exception" of a "handful of instances" is the rule, and he expressed the hope "that this investigation will be guided along constructive lines."⁹ The committee, however, concentrated on criticisms, arguing that it required no investigation to find "very many fine things" in W.P.A.

The validity, as distinguished from the influence, of an investigating committee's findings and conclusions will be affected by the mind-set and competence of its members and investigators. On this matter, contra-

⁹ 84 *Cong. Rec.* 4886-7. Representative Wigglesworth complained that Colonel Harrington did not exhibit "a spirit of contrition." According to Representative Engel, a New York W.P.A. administrator, "in order to show his contempt for the investigators and apparently for the committee, sent each of the two investigators a little silver ball with a little silver screw, indicating he thought they were screwballs. . . . When the committee got through . . . no more . . . screwballs were being sent." *Ibid.* 7228.

dictory congressional opinions cross party lines but hew closely to the division over the New Deal. Judgment may be left to lawyers, but laymen probably will agree that "investigating committees seldom commend anyone for good work." About the influence of the committee, however, there is no doubt. Representative Woodrum said that there was no question of honesty or integrity, that "our investigation has not revealed anything to the contrary," but the committee had many criticisms to make.

"Abuses," it said, "existed more pronouncedly in the earlier years of the program when it apparently seemed more necessary to give unemployed and hungry people something to do than it was to develop the program slowly and furnish general relief along with it until a sound operation could be developed. Much of the criticism of W.P.A., aside from that arising from political activity, has resulted from the precipitate inauguration of the program. Inherent weaknesses of administration, both of organization and management methods, had opportunity to become rooted and their elimination has been difficult and slow. The investigation has divulged many past misdeeds. . . . The category runs all the way from minor abuses to major offenses. The chief sources of abuse of public funds occur in the improvement of private property at public expense, the lack of proper supervision, the employment of persons not in need, the operation of projects of doubtful public utility, padded sponsors' contributions, purchase of excess of equipment and hire of equipment at excess rates, operation of projects on which a high percentage of non-relief labor is required, etc."¹⁰

In its capacity as an appropriations committee, the committee wrote into the 1939 and 1940 laws numerous restrictions and directions to "improve the efficiency of the W.P.A. organization and to protect the expenditure of funds . . . for work relief." The committee concluded, not unexpectedly, that the investigation had been worth while, and reported definite improvement in operation of the work-relief program which it attributed to the inquiry and the legislation resulting from it, Colonel Harrington's management, the anti-politics amendments, and the reorganization of 1939.

¹⁰ House Report No. 2187, 76th Cong., 3d Sess., p. 4. For an earlier summary of the hearings, published in four volumes, 1939 and 1940, see House Rep. No. 833, 76th Cong., 1st Sess. For debate on H. Res. 130, 75th Cong., 3d Sess., "directing the Committee on Appropriations of the House to conduct an investigation and study of the Works Progress Administration [as it was then called] as a basis for legislation," see 84 *Cong. Rec.* 3368-3375. The committee's report noted that it "still has funds available and is still authorized to pursue its investigation until the close of the present Congress. As occasion arises, it will exercise that authority." The *New York Times* reported on April 3, 1940, that some members of the committee had threatened to reopen the investigation if relief estimates exceeded the January budget figure.

Conclusion. Much of the friction between Congress and W.P.A. has been the result of defective legislation. It is a common complaint that legislatures control administration in too great detail. This is a valid criticism of some recent statutory provisions on W.P.A., but at the outset Congress did not go far enough. In most instances, the difficulties discussed above have been the result of honest differences of opinion and could have been avoided if Congress had legislated more carefully in the early stages of the work program. It is true that Congress believed that the need for unemployment relief was only temporary, but there was no real necessity for the failure of the Administration to provide legislators with specifications for the program or for the hasty, uncritical action of the House majority, especially in 1935. It is true also that it is difficult to write legislation for a new program; but there were two years of experience with work relief under F.E.R.A. and C.W.A. to which Congress might have looked for guidance. Instead, decisions were shunted to W.P.A., which was given broad discretion in spending relief funds—in which it was influenced by individual legislators. Criticisms of W.P.A. mounted. Meanwhile, the governmental center of gravity again was moving from the Chief Executive to the legislature. Then Congress began to intercede and to define more closely both policies and methods of administration. When Congress has acted, charges of deliberate violation of its intentions have been very rare. If it is agreed that it is proper for the legislature to determine policies, there can be little quarrel with congressional rather than administrative decisions on appropriations, projects, employment, and earnings. On many matters, it must be admitted, W.P.A. had been more "liberal" than Congress, but that is a possibility inherent in a democratic government which seeks to maintain a responsible administration. It is for Congress, also, to determine if it will provide the conditions conducive to good administration. As explained above, it has done so in decreasing degree in matters of organization, administrative expense authorizations, and personnel. And Congress has often, if not always, followed W.P.A.'s recommendations on administrative procedure.

The experience of Congress with W.P.A. suggests that legislative control is affected by the influence of the President with Congress and by the conceptions both entertain of the respective rôles of the legislature and the administration. Administrators are inclined to prefer discretionary authority, but they may seek legislation to protect themselves from criticism—just as legislators may try to "pass the buck." Statutory controls tend to vary inversely with the confidence of the legislature in an administrative agency. More authority is apt to be delegated in an emergency than in "normal" times, and in functions considered temporary than in those regarded as permanent. Novelty of a function tends to reduce, while experience with it tends to increase, legislative control, since practice clarifies

both policies and their execution. As the political strength of interested pressure groups increases, so do statutory controls, especially those which provide special privileges. The intervention of legislators in an agency's work varies directly with the number of its appointments not in the classified service and with the amount of funds it distributes. The attitudes of congressmen, especially of committee members, toward the policies an agency administers are significant, for fine words may conceal the crippling effects of legislation on administration. Finally, it seems easier for the legislature to impose negative prohibitions than to devise or to secure satisfactory enforcement of affirmative mandates. Enumeration of these factors suggests the complexity of considerations which enter into the determination of the extent and character of legislative controls of particular administrative agencies. It will be time enough later, after studies such as this have been made of other service as well as regulatory agencies, to generalize anew about the relationship between the legislature and the administration.

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The Personnel of the Seventy-seventh Congress. Rarely in history has a legislative body been confronted with problems, the implications of which are so far-reaching, the solutions of which are so important to civilization, as is the present American Congress. The questions with which the Seventy-seventh Congress has to cope include national defense, civil liberties in times of crisis, fundamental labor policies, forms of taxation, and possibly monetary standards.

With such problems before the country, one question becomes of tremendous importance: Who are the men responsible for solving them? What has been their past experience? What is their predisposition toward current issues? Are they representative Americans, qualified by education and training to deal with the problems before them? Will their methods of solution be in harmony with traditional policies of this country and within the framework of its government? An analysis of the background of the legislators may help to answer these questions. For purposes of such a study, a questionnaire was sent to all congressmen, and the data thus obtained were supplemented by material in current biographical dictionaries.

Age: A survey of the facts reveals, first of all, that the majority of America's national lawmakers are past middle age. Seventy per cent of them are between the ages of forty-five and sixty-nine. The average age of the representatives is fifty-two; of the senators, fifty-eight. But perhaps the median age is more significant. Half of the men in the lower house are fifty years of age or over; half of the senators, fifty-seven or over. If the