

Book Review

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Book Review

Who Runs Congress? The President, Big Business, Or You? By Mark J. Green, James M. Fallows, and David R. Zwick. Bantam Books: 1972. Pp. 307. \$1.95 paper.

"Congress is the great American default. . . . [It] . . . has surrendered its enormous authority and resources to special interest groups, waste, insensitivity, ignorance and bureaucracy,"¹ states Ralph Nader in his introduction to *Who Runs Congress?* "Whatever its impact, Congress has shackled itself with inadequate political campaign laws, archaic rules, the seniority system, secrecy, understaffing, and grossly deficient ways to obtain crucial information."² Mr. Nader wrote only the five introductory pages of this book, but the indictment that follows makes this criticism read like praise.

In chapter one, the authors express the view that "[f]ew congressmen would admit that they can be 'bought,' but their protest is like that of a free-living woman who decides she might as well take money for what she enjoys, but insists she is not a prostitute."³ Chapter three then declares that the committees, "Dim Dungeons of Silence," run Congress; these committees, in turn, are run by about forty chairmen and ranking members, chosen by seniority. In addition, seniority permits lobbies to zero in on chairmen and potential chairmen. "Once a chairman is theirs, he's probably theirs for life."⁴

Chapter four proceeds to tell us that the President overwhelms Congress, bypasses it with his White House staff and Executive Orders, starves it for information, initiates most of the legislation, buys votes from Congress by giving out small favors, outshines Congress in the press and on television, and refuses to spend money which Congress appropriates or spends the money on projects other than those for which Congress intended it. Throughout the book, as well as the chapter, the authors contend that Congress submits to this executive dominance because of a series of faults. Among these faults are: the failure of Congress to vote its membership adequately sized staffs; the dissipation of its energies on constituent case work; campaigning

1. M. GREEN, J. FALLOWS & D. ZWICK, *WHO RUNS CONGRESS? THE PRESIDENT, BIG BUSINESS, OR YOU?* 2, 1 (1972) [hereinafter cited as *WHO RUNS CONGRESS?*].

2. *Id.* at 2.

3. *Id.* at 25.

4. *Id.* at 61.

for reelection and junketing; and the fragmentation of its control over spending by failing to set up a legislative budget, a joint committee on the budget or a congressional budget office. "Incapable of creation . . . Congress has become a broken branch."⁵

The fifth chapter, "Lawmakers as Lawbreakers," begins with a quotation from Mark Twain that there is probably "no distinctly American criminal class except Congress."⁶ Congressmen are guilty of bribery, visits to Hong Kong, failure to reveal campaign finances, drunken driving, misuse of the frank and of committee staffs and, above all, of conflicts of interest which range from stock ownership in firms affected by legislation to exhaustive efforts to get reelected. "[E]very single member of Congress is a walking, talking embodiment of conflict of interest. On the one hand, he has an interest in staying in office, in being reelected; on the other, he has, or ought to have, an interest in serving his constituents and the nation honorably, conscientiously, and well."⁷ In the authors' opinion, "[i]t is distressing . . . that so few members of Congress are defeated when they run for reelection."⁸

Who Runs Congress? is not a serious study of Congress, of the kind made in recent years by scholars such as Richard F. Fenno⁹ and Robert Lee Peabody.¹⁰ Based on Jack Anderson-type gossip or resentful wisecracks of junior congressmen not accorded instant leadership, *Who Runs Congress?* lacks balance. Admissions that Congress as a whole may be something else than "rotten", "criminal" or in "conflict of interest" are so rare that I can recall only two. Hungry for some crumb of praise for Congress as an institution, I read that "[f]or all its flaws, Congress is still the most responsive and open branch of the government."¹¹ Did the author of these words read the later statement, probably written by a different writer, that "Congress is only rarely accountable to the people. . . . in part because congressmen . . . can cloud the issues and smother their opponents by virtue of the powers and privileges they grant themselves"?¹² Both

5. *Id.* at 129.

6. *Id.* at 131.

7. *Id.* at 242.

8. *Id.* at 228.

9. *E.g.*, R. Fenno, *The Internal Distribution of Influence: The House*, in *THE CONGRESS AND AMERICA'S FUTURE* 52 (D. Truman ed. 1965); R. Fenno, *THE POWER OF THE PURSE: APPROPRIATIONS POLITICS IN CONGRESS* (1966).

10. *E.g.*, R. HUITT & R. PEABODY, *CONGRESS: TWO DECADES OF ANALYSIS* (1969); *NEW PERSPECTIVES ON THE HOUSE OF REPRESENTATIVES* (R. Peabody & N. Polsby eds. 1963).

11. *WHO RUNS CONGRESS?* 95.

12. *Id.* at 245.

statements could be true, of course. If they are, what, then, are we to think of the other two branches of our government? Later, a second crumb of praise: "Across the range of ideologies, from conservatives . . . to liberals . . ., fourteen-hour days are common."¹³ Did this writer read the accusations throughout the book as to how "the proud lords of legislation . . . frolic in the pool, sleep quietly at their desks,"¹⁴ ask for quorum calls so they can play paddle ball, go to embassy and Georgetown parties, leer and engage in horseplay like high school students, spend much of their time looking at exposed thighs in the gallery, divorce their wives to marry younger women, keep call girls on their payrolls, maintain well-stocked bars in their offices or get a colleague drunk in order to swing his vote?

Who Runs Congress? is undocumented. Names are mishandled. This reviewer is referred to twice as *former* [shiver!] Representative Long¹⁵ and in one place Clarence become "Clem."¹⁶ Facts are also distorted: one of the prerequisites of office is said to be special elevators that are marked for "Members Only";¹⁷ actually, on the House side this practice is true only for roll calls. Another perquisite is said to be meals in the House and Senate that are cheap and tax free.¹⁸ The tax referred to is the District of Columbia sales tax, not the United States income tax, and although Senate meals are still cheap, House meals no longer are. Staff allowances are described here as perquisites, despite Mr. Nader's opening criticism of Congress for not voting itself adequate staffs to cope with the executive branch. Much is made of junketing trips abroad by congressmen. Some of this represents real abuse, but the total sum involved in 1971 for congressional foreign travel was 1.1 million dollars¹⁹ — one-fifth of one cent for every dollar which the upkeep of Congress costs the taxpayer. This is for two bodies which supervise the spending of about 3,500 times that much in foreign aid, and many thousands of times more for military spending in foreign lands.

It takes a while to dawn upon the reader that *Who Runs Congress?* has nothing to do with the Nader profile studies²⁰ compiled by several

13. *Id.* at 197.

14. *Id.* at 245.

15. *Id.* at 233, 235.

16. *Id.* at 235.

17. *Id.* at 186.

18. *Id.*

19. 30 CONG. Q. 1931 (1972).

20. These profiles are the product of the Nader Congress Project and consist of individual profiles of 93 senators and 391 representatives, ranging in length from twenty to forty pages each. Each profile includes, among other things, information

hundred volunteers who gathered materials on the background, voting record, legislative performance and finances of each member of Congress. Congressmen and their staff members were interviewed personally (in my case, for many hours) as were newspapermen, political supporters and opponents from these congressmen's respective districts. These profile studies were published in mid-October, just before the November 7 election, timed to inform the voters and, hopefully, to affect the outcome of the election.

Do these 484 individual profiles support the sweeping condemnation of Congress and congressmen published earlier in *Who Runs Congress?* The *New York Times* reported that "[t]o the surprise of many persons who have followed Mr. Nader's numerous investigations of governmental and business conduct the profiles contained no sensational revelations or charges."²¹ "Nader study lauds Maryland congressmen," said an Associated Press dispatch to the *Baltimore Sun*.²² "Veteran Capitol Hill newsmen found little new information in the profiles," said the *National Observer*, "but project officials contend that's not the point . . . 'while this may not be news to the Washington media, it is news to most Americans.'"²³ What was the news? When it got down to specific cases, Nader's people could find nothing damaging about most individual congressmen.

But what about Congress as the "great American default," "incapable of creation . . . a broken branch"? Are Congress's arteries too hardened by seniority? Are congressmen too busy answering quorum calls and too interested in getting reelected to bring the budget under control, perform a creative role, exercise oversight against bureaucratic waste and stop presidents from taking us into undeclared wars and monopolizing foreign policy through executive appointments, orders and agreements?

Before one attempts to answer these questions, it should be noted that the liberal attitude on this question has turned right-about-face in recent years. Time was when liberals were clamoring to bypass Congress and (in the 1930's) to pack the Supreme Court, because the legislative and judicial branches were not moving fast enough toward domestic reform and foreign intervention as these liberals, President

about the individual's positions on important issues, floor votes, votes in committee, and personal and political history. 30 CONG. Q. 2924 (1972).

21. Morris, *Nader Profiles Give Data for Evaluating Congress*, N.Y. Times, Oct. 22, 1972, at 66, col. 2.

22. *Baltimore Sun*, Oct. 22, 1972, § A, at 1, col. 1.

23. Arnold, *Raiders Rate Congress*, *National Observer*, Oct. 28, 1972, at 17, col. 1.

Roosevelt for example, were urging. Then, as the years passed there evolved President Johnson and Vietnam, followed by President Nixon and Cambodia. Suddenly, the liberal establishment developed a proper distrust of the high-flying presidential prerogative that many conservatives had been preaching against for generations. Now liberals want to build up Congress. As a congressman, I naturally hope they succeed.

Has there been a congressional default? I myself have often said so, but let's be even-handed about it. We are told it is "a Congress which does not lead, but is led . . ." ²⁴ and that it is the executive that now initiates most legislation. ²⁵ Yet, a legislative body is a debating and deliberative body, elected by vastly different constituencies to push diametrically opposed points of view. Congress is by its very nature a house divided; how can it be a consistent leader? Does it really matter who initiates legislation, as long as Congress can (and does) amend administration bills beyond recognition? We are told that Congress is incapable of creation, for example, that the Supreme Court has made the major human rights breakthroughs of the last twenty years. ²⁶ What about the most important human rights milestones of all — the statutory voting-rights amendments passed by Congress in 1960, 1964, and 1965, to say nothing of the twenty-fourth constitutional amendment forbidding the poll tax in federal elections, the twenty-sixth amendment giving the vote to youths age eighteen through twenty, passed against the President's *sub rosa* opposition, and the equal rights amendment for women, passed over the opposition of Chairman Celler of the House Judiciary Committee.

All in all, I doubt if the congressional default looks quite that clear and present from the White House. The Ninety-second Congress has been accused of being the most compliant in recent years, a Congress in which President Nixon, by means of his control over the Republican minority and with the help of sympathetic southern Democratic conservatives (more Republican than Nixon), had a working majority. The fact is that the second session of the Ninety-second Congress was less compliant with the President's wishes than any other Congress in twelve years — since the second session of the Eighty-sixth Congress completed its deliberation of President Eisenhower's programs in 1960. ²⁷ The Ninety-second Congress defeated

24. WHO RUNS CONGRESS? 2.

25. *Id.* at 94.

26. *Id.* at 224.

27. 30 CONG. Q. 3033 (1972).

Nixon's SST, rejected Nixon's multi-billion dollar guaranteed-income proposal, turned down his demand for what amounted to an item-veto over spending, overrode the President's veto of the 1972 Water Pollution Act Amendments and his veto of the twenty percent increase in railroad retirement benefits, rejected a foreign aid request loaded with military aid and enacted other measures distasteful to the President.²⁸ Many observers are predicting a growing revolt against President Nixon in the Ninety-third Congress. Some of the dire assessments of Congress' abdication of power may turn out to be a bit premature.

Despite the weaknesses of *Who Runs Congress?*, it does contain proposals for increasing the effectiveness of Congress which should not be cast aside merely because they come from a sloppy book and are not new. Seniority should be modified. For example, chairmen might be limited to fixed terms. But liberals might think again before they insist on total elimination of seniority; more and more, progressives and moderates are getting to high committee posts. On the one hand, *appointment* of committee chairmen could take us back to the days of Speaker Cannon when the House was run with an iron hand by an arrogant czar who made his own deals with the president. On the other hand, *election* of chairmen in a party caucus made up of a majority of conservatives could make it impossible for blacks, liberals, religious minorities or independent-minded moderates to get power at all. One guess is that if chairmen were elected in caucus, there would be a leadership slate of candidates, in which the chairmen would, as in the days of Cannon, be largely handpicked by the Speaker, resulting in more, rather than less, concentration of power than we have now. Would the liberals like that?

Perhaps Congress should spend more money on itself. But on what? More computers and larger staffs? I have my doubts about the increased effectiveness from such a policy. My staff is double what it was ten years ago; yet, twice as big a staff seems to make more work for me rather than freeing more of my time for creative legislation as I had hoped.

Congress is in trouble. The United States is in trouble. Not so much because of where we are now, but because of where we are headed, because the government is constantly increasing in size.

Our national government — spending one dollar in every four of our gross national product — is too big and intricate to be run firmly by the people's representatives, however well organized or pure they may be. In the face of this hugeness, Congress has delegated (abdi-

28. *Id.* at 2707, 3137.

cated?) its power — as does any sensible body which finds itself with a big job to do. The initial recipient of the delegation of power is the President, but being only one person with a White House staff in the hundreds, he must in turn delegate (abdicate?) the power to the bureaucracy. So not only Congress, but also the President, cannot always get truthful information. Consequently, we have generals running their own wars, the FBI operating its own private empire, H.E.W. unable to keep welfare or health costs under control, and the Department of Housing and Urban Development using huge housing subsidies in ways that enrich building speculators instead of providing decent homes for the poor. Remember Truman's words on President Eisenhower's taking office: "He'll sit here, . . . and he'll say, 'Do this! Do that!' *And nothing will happen.* Poor Ike — it won't be a bit like the Army. He'll find it very frustrating."²⁹ Czar Nicholas I, an absolute monarch, is quoted in the present book as saying, "Not I, but ten thousand clerks, rule Russia."³⁰

Congress is on a treadmill galloping along with the expansion of our national government. The basic reason for the frustrations of Congress is the bigness of government — something the liberal establishment is unwilling even to think about. The liberals naturally want government to keep on growing, because they have a long shopping list of areas in which they want the federal government to expand: guaranteed incomes for everybody, education for everybody, health care for everybody, improvements in all aspects of the environment, housing for the poor and elderly, expanded courts and better prisons, mass transit, consumer protection and revenue sharing. Moderates, like myself, include many of these items on their lists. Conservatives are generally for a larger national defense and more subsidies to business. But if the Congress buys all of these lists, the federal government could easily double in size.

People believe what they want to believe. Nader types, who want to remold the nation in their image, prefer to believe that the solution is not to slow down the intrusion of government into every nook and cranny of American life, but to remold Congress also in their image. Modify seniority — fine! Open up committee hearings — fine! Control campaign spending — fine! Limit conflicts of interest — fine! Defeat incumbent congressmen on a regular basis — well . . . doesn't this amount to turning over an ever more complex government to less and less experienced legislators?

29. R. NEUSTADT, *PRESIDENTIAL POWER: THE POLITICS OF LEADERSHIP* 9 (1960).

30. *WHO RUNS CONGRESS?* 197.

Congress needs drastic reform, if only to keep up with the ever multiplying problems that descend upon it. Here and there small groups of real scholars are studying the deficiencies of Congress with understanding and respect. It is too bad that Mr. Nader did not go to these experts to ask them to write *Who Runs Congress?* If he had, this shallow book — which makes no use of the rich materials gathered at so much expense and at so much dedicated effort in the Nader profiles — would never have been written.

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