

Congress of the United States

House of Representatives

Washington, D.C.

FOR RELEASE

August 16, 1965

BACKGROUND INFORMATION ON THE STATEMENT OF REPRESENTATIVE THOMAS M. PELLY
(R. WASH.) BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF THE CONGRESS

In March of this year the Joint Committee on the Organization of the Congress was established.

This Committee has as Co-Chairmen Senator A. S. Mike Monroney of Oklahoma, representing the Senate and Representative Ray Madden of Indiana representing the House.

The purpose of the Committee is to make a full and complete study of the organization and operation of the Congress and to make recommendations with the view of strengthening and simplifying its operation and enabling it to better meet its responsibilities under the Constitution.

Hearings were resumed today and Congressman Pelly was asked to be the first witness to testify. His argument, he says, is simple enough, namely, that Congress has lost control over Government expenditures and that he recommends the very simple solution of placing jurisdiction over all spending and money drawn from the Treasury under single committees of the House and Senate.

Pelly's suggestion is to terminate the device called "backdoor" spending, which bypasses the normal appropriation process and foregoes the annual scrutiny of Congress and the weighing of the need and urgency of programs one as against the others.

Since 1961 Congressman Pelly has headed the unofficial Non-Partisan Committee Against Backdoor Spending.

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THOMAS M. PELLY
1ST DISTRICT
STATE OF WASHINGTON

COMMITTEES:
MERCHANT MARINE AND FISHERIES
SCIENCE AND ASTRONAUTICS

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STATEMENT OF REPRESENTATIVE THOMAS M. PELLY (R. WASH.)
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF THE CONGRESS

AUGUST 16, 1965

I appreciate this opportunity to testify before the Joint Committee on the Organization of the Congress.

At the outset I wish to identify my remarks as supporting a change in House and Senate rules, so as to place exclusive jurisdiction over appropriations and likewise over all other withdrawals of money from the Treasury, except private relief bills, under single House and Senate committees, to reinforce Congressional control over expenditures.

In any study of the organization of Congress experience of the past must constitute our best witness. Accordingly, I intend to first summarize the history of legislative procedures and practices in the House of Representatives and of the Senate and then show how Congress over the years has attempted to deal with this important Constitutional responsibility. In this connection, I will provide adequate statistics to clearly reveal how the money power is now scattered, especially so-called "backdoor spending"; and finally, I shall offer a simple - yet, I believe, effective - suggestion for reform and restoration of needed legislative control.

EARLY PRACTICE:

From 1789 until the House Committee on Appropriations was created in 1865 all appropriations bills were under the jurisdiction of the Committee on Ways and Means in the House of Representatives, which also had control of revenue measures. This dual jurisdiction of one committee over both revenue and expenditures for this 76-year period made sense from a fiscal point of view and seems to have provided a natural means of keeping spending and taxes in balance, especially as the House, under the Constitution, and by tradition, respectively, initiated both revenue and the general spending bills.

But the double responsibility by all accounts resulted in a heavy work load and with the advent of the Civil War, this burden of work was greatly increased and the need to separate the functions became apparent.

Accordingly, on March 2, 1865, in the closing days of the second session of the 38th Congress, the House adopted a resolution establishing a separate Committee on Appropriations to handle expenditures.

The purpose of the change was not only to relieve the overload in the Ways and Means Committee, but also to effect economy by affording greater opportunity to more thoroughly examine the details and weigh the urgency and need of requests for expenditures.

My recommendation, as outlined later in this presentation, will support a return to a system of single committees of the House and Senate, giving them sole power to report bills with language appropriating money and, as I said, sole power, also, to report bills authorizing the withdrawing of other funds from the U. S. Treasury.

In these views, in this connection, I should like to quote from the argument of Mr. Cox of Ohio, in the House, in favor of a resolution, at the time the House Committee on Appropriations was created. He said:

"The proposed Committee on Appropriations have, under this amendment, the examination of the estimates of the departments and exclusively the consideration of all appropriations. I need not relate upon the importance of having hereafter one committee to investigate with nicest need all matters connected with economy. The tendency of this time is to extravagance in private and in public. We require of this new committee their whole labor in the restraint of extravagance and illegal appropriations."

It appears the new committee after it was created proved worthy of the hopes of its proponents, and certainly the record shows the effectiveness of the single committee system. In fiscal 1867, the National Debt was \$2,650 million - \$71 per capita. During the ensuing 26 years there was a series, almost unbroken, of debt reduction, so that by fiscal 1893, the debt was down to \$961 million - about \$14 per capita.

However, year after year, the limitations and restrictions and program retrenchments contained in appropriation bills produced increasing resentment of members of other legislative committees and likewise in the executive departments. As a result, 12 years after the House Committee on Appropriations was created, a process was begun of suspending the rules and passing bills without their being referred to the Committee on Appropriations.

Since 1826 the Rivers and Harbors Bill was handled separately. Then, in 1880, the House Committee on Agriculture was given authority to report its own appropriation bill. Finally, in turn, in 1885, a major change in rules transferred six more of the 14 appropriation bills to their appropriate legislative committees, leaving only six of the 14 bills with the Committee on Appropriations. It was said that this dismemberment was motivated by revenge against this Committee's chairman for helping defeat his own party on a major tariff bill; but be that as it may, the ill effects of the realignment during the next 35 years are evident, and history records there followed great confusion, duplication, waste, and indulgence in deficiency appropriating and deficit spending.

As for the Senate Committee on Appropriations, it was created March 6, 1867, during the 40th Congress, when it was assigned, under Senate Rule XXV(b), responsibility for all proposed legislation relating to appropriation of the revenue for the support of the Government.

Similar to the experience in the House, the Senate Committee, over an extended period, lost jurisdiction for funding several programs. In 1877, the Rivers and Harbors Appropriation Bill was assigned to the Committee on Commerce, and several years later, in 1899, six of the most important supply bills were assigned to other committees.

In time, however, this unsatisfactory and unbusinesslike divided manner of conducting the affairs of Government lead to a growing public demand for better budgetary control, and in 1911, the Taft Commission on Economy and Efficiency was

created to make an exhaustive study on the need for a budgetary control system.

The public sentiment for fiscal reform was best reflected, perhaps, when, in 1916, both political parties had planks in their political platforms in support of a return to the former practice of initiating and preparing all appropriation bills under a single committee system. The Democratic plank, for example, in calling for this system, recited its objectives as follows:

".....In order that responsibility may be centered, expenditures standardized and made uniform and waste and duplication in the public service as much as possible avoided."

This was intended to be a practical first step toward a budget system. In the remarks of Mr. Mahon, the present able and distinguished Chairman of the House Committee on Appropriations, in observing the 100th Anniversary of his Committee, tells in the March 2, 1965 issue of the Congressional Record of this period from 1885 to 1920 under appropriation dismemberment. Mr. Mahon cites a prominent observer in 1920 on the subject of divided appropriations authority as saying:

"One committee is working one way and another committee is working another way. The right hand does not know what the left hand doeth, and we find through all of our appropriation bills duplications in the service; we find waste and extravagance. We see great departments going to one committee for an appropriation, and if the funds are not granted they go to another and they not infrequently succeed."

THE 1920 REFORM:

Mr Chairman finally, on June 1 1920 Rule XXI(4) of the House Rules was adopted, to provide for reconsolidation of all appropriation jurisdiction in a single committee. This change in the House Rules provided, as the House Rules still provide today, that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations. Nor, under this rule, shall an amendment proposing an appropriation be in order during consideration of any such measure not reported by such a committee. In other words, the intention was to give one committee absolute jurisdiction over spending in accordance with previously adopted planks of both political parties. This single committee system was tied in

with a second reform, one of requiring the Chief Executive to submit a budget to the Congress each year, reflecting his judgment of necessary sums to carry on the Government.

In the debate on these proposals, it was frankly stated that a legislative committee was appointed to guard the interests of the particular departments of Government committed to its care. Meanwhile, the framers of the 1920 change had in mind - and so stated - that centralization of appropriations jurisdiction would enable Congress to pass on various components of the President's budget as one picture.

This single committee, it was said, would stand as an important arbiter over all the legislative committees, so far as appropriations were concerned. This one committee, when retrenchment was necessary, could lay down the rule by which such retrenchment could be brought about. It could exercise over-all control.

On a record vote, the single committee resolution passed 200 to 117. It was not easy then - any more than it is today - for members of legislative committees to yield the authority many committees had enjoyed for a long time. Once again, however, a single House committee had the heavy responsibility of weighing the needs of each Government department as against other departments, and to evaluate all expenditures against the condition of the Federal Treasury and its income.

On March 6, 1922, conforming with the similar House action, this system of distributed financial control was reversed in the Senate, which returned to a consolidated jurisdiction over general supply bills under amended Rule XVI of the Senate Rules.

Over the years, this jurisdiction in the Senate has been somewhat circumscribed by amendments to this Rule XVI, restricting the Committee's authority to increase the appropriated amounts or number of items already in a bill, forbidding amendments proposing new or general legislation, insisting that amendments contain only germane and relevant subject matter, and barring private claims from general appropriation bills.

At this point, Mr. Chairman, let me say that while I support the single committee system, I do not accede a monopoly in wisdom to members of any particular committee. Ability and integrity are qualities of Members of Congress that, in my observation, are pretty freely distributed among all committees. Not being a member of the Appropriations Committee myself, I can testify that we do have high caliber and experienced members on the appropriations committees, but certainly no more so than the legislative committees of the Senate and House.

This centralization of power in House and Senate for over-all review, and the power, in particular, of legislative retrenchment, under the so-called Holman Rule of the House, has never been popular, but the system did contribute, especially during the next ten years, to Congressional control and fiscal responsibility. Surpluses each year except one during the next decade amounted to approximately \$7.5 billion, as shown by the following table:

<u>Fiscal Year</u>	<u>Gross Public Debt at Fiscal Year End</u>	<u>Change in Public Debt from Previous Fiscal Year End</u>	
(Dollar amounts in millions)			
		<u>Amount</u>	<u>Percent</u>
1920	\$24,299	\$ (1,186)	(4.9)
1921	23,977	(322)	(1.3)
1922	22,963	(1,014)	(4.4)
1923	22,350	(613)	(2.7)
1924	21,251	(1,099)	(5.2)
1925	20,516	(735)	(3.6)
1926	19,643	(873)	(4.4)
1927	18,512	(1,131)	(6.1)
1928	17,604	(908)	(5.2)
1929	16,931	(673)	(4.0)
1930	16,185	(746)	(4.6)
1931	16,801	616	3.8
Change 1920 to 1931		7,498	

Amounts shown in parentheses represent reductions in the gross United States Government public debt.

Source: U. S. Treasury Department

BACKDOOR FINANCING:

However, with the creation by Congress of the Reconstruction Finance Corporation, in 1932, a device to provide funds for government agencies in authorization legislation reported by legislative committees of both the House and Senate was instituted. Instead of a regular appropriation, a bill containing language to authorize an executive agency to borrow from the Federal Treasury to finance programs was used, thus bypassing the normal legislative procedure. As a result, a means of avoiding the scrutiny of the House and Senate Committees on Appropriations was initiated.

Over the ensuing more than 30 years this device commonly called "backdoor" spending has been freely used as shown by the chart which follows entitled "Authorizations to Expend From Public Debt Receipts 1932 Through 1964."

It will be noted that this chart of the status of borrowings handled as Public Debt Transactions shows advances since 1932 by the Treasury through June 30, 1964 of more than \$146 billion. Repayments not shown during this period totaled \$93 billion leaving a balance of agency notes and bonds held by the Treasury of \$36 billion. This is after cancelling or forgiving more than \$16 billion by Act of Congress.

The enormity of these public debt transactions over the years since 1932 and their continuing use partially, but not completely, illuminate the extent of the bypassing of the Committees on Appropriations and of the dispersal of control by the Legislative Branch over the public purse. The column in the table showing the unused borrowing authority indicates the vast source of funds available to the Executive Branch at any time without further approval or review of the Appropriations Committees. Here, let me stress that public debt transactions, as shown by the following tables, only represent a part of the problem of control. I would say that in many respects, advance contract authority contributes equally, or even to a greater degree, to fiscal irresponsibility and lack of legislative control.

AUTHORIZATION TO EXPEND FROM PUBLIC DEBT TRANSACTIONS FROM
JUNE 30, 1932 TO JUNE 30, 1964

<u>FISCAL YEAR</u>	<u>BORROWINGS, ETC</u>	(In Millions)		<u>DUE TREASURY YEAR END</u>
		<u>UNUSED</u>	<u>AUTHORIZED</u>	
		<u>BALANCE</u>	<u>YEAR END</u>	
1932	\$ 350.0	\$ 1,150.0		\$ 350.0
1933	1,235.0	2,537.4		1,585.0
1934	1,670.0	7,570.7		3,255.0
1935	825.0	5,590.4		3,655.0
1936	865.0	4,586.9		4,030.0
1937	227.0	4,847.8		3,630.0
1938	345.0	5,783.8		882.7
1939	426.3	6,235.2		273.3
1940	641.8	6,874.3		104.3
1941	798.2	9,374.4		301.7
1942	4,178.3	18,868.4		4,078.7
1943	6,969.0	15,774.7		7,519.1
1944	7,615.0	15,156.8		10,717.3
1945	4,149.0	16,810.0		12,168.7
1946	3,553.1	24,527.1		12,504.9
1947	7,346.6	21,206.2		16,579.8
1948	5,505.0	15,166.8		9,122.7
1949	5,851.0	13,473.8		13,184.3
1950	4,031.7	16,991.4		14,756.8
1951	3,780.6	17,604.9		15,360.7
1952	2,739.2	21,326.7		15,854.1
1953	4,420.4	20,006.2		18,369.3
1954	5,398.4	20,738.4		19,067.4
1955	6,224.0	19,245.2		22,347.6
1956	5,273.1	17,979.9		26,172.8
1957	6,077.7	19,834.4		28,887.9
1958	7,301.7	25,197.4		28,019.2
1959	9,958.7	25,185.7		32,827.7
1960	6,733.6	25,134.0		33,068.4
1961	7,553.5	28,244.2		33,406.4
1962	8,323.6	26,944.2		35,975.7
1963	8,456.4	26,692.0		36,458.1
1964	7,197.9	26,945.7		36,415.5

\$146,021.0

The principal devices which are commonly referred to as backdoor approaches to the Treasury are (1) public debt transaction, (2) note cancellation, (3) revolving fund, and (4) contract authority.

1. Public debt transaction: In essence this device involves a bill authorizing a certain government program and using language with respect to the funds to carry out the program in this way:

(a) It authorizes the head of the department or agency to issue notes or other types of obligations for sale to the Secretary of the Treasury.

(b) It authorizes and directs the Secretary to buy such notes when the agency head transmits them.

(c) It authorizes the Secretary to sell government bonds to the public to get the money with which to buy the notes from the agency head.

(b) And, finally, it authorizes or directs the Secretary to treat the purchases, sales, and redemptions of the notes as a public debt transaction. Thus the name of this technique.

This means that in the one legislative bill Congress has authorized a government program; the Treasury has raised the money to finance it and put that money in the Treasury; the Secretary has taken that money out of the Treasury and loaned it to the agency head; and the agency head can, and does, proceed to spend it to carry out the program concerned. Not once does the language of the bill use the word "appropriation." The whole transaction takes place entirely outside the established appropriations process.

(Sometimes in the past, but not often, Congress has authorized a government corporation to sell notes directly to the public. The practical, ultimate effect on the Treasury is the same as in the case of borrowing from the Treasury.)

2. Note cancellation: Congress has on a few occasions used this device to replenish the funds of an agency to continue operations. It involves a very

simple piece of language in a bill - and again it can successfully bypass the regular appropriation process.

To illustrate how it works, assume that an agency, under the public debt transaction device, has a \$1 billion authority to borrow from the Treasury. In the bill directing cancellation of the notes, Congress says nothing about wiping out the borrowing authority - it still stands. So, as soon as the Secretary marks the notes "paid" the agency head can go to the Treasury with \$1 billion of new notes and borrow another billion against the original \$1 billion authority, take the money, return to his agency, and start spending his second billion. Again, the word "appropriation" has never been used but another billion has been removed from the Treasury and put into the support of a government program.

3. Revolving fund: These funds have been established from time to time to finance a continuing cycle of operations with receipts derived from such operations available for use by the fund without further action by the Congress. Sometimes a good case can be made for handling certain types of housekeeping services in this way, and there is sometimes surface plausibility to the argument advanced, but the principal fault of this technique is that there is often no required annual review and action by the Congress. The operation can get out of hand.

Another type of backdoor approach to the Treasury is to include in a legislative bill language authorizing the use of established capital or revolving funds to finance entirely new functions or programs or enlarging existing programs, and authorizing subsequent appropriations to reimburse the revolving funds and make them "whole" again. But here again, when the appropriation request comes, its approval is essentially mandatory. No matter what the changed fiscal situation, the bill has to be paid. Annual discretion with respect to the budget is impaired. Some parts of Public Law 480 use this approach.

4. Contract authority: This is another device used in several programs in bills reported by legislative committees. It involves language authorizing the agency head to "enter into contracts" to carry out the particular program or project involved. Unlike the other devices, this does not convey authority to draw money from the Treasury. The appropriation to pay off the contracts is requested through the regular annual appropriations process, but the trouble is that at this point the role of the appropriations process is essentially ministerial. The act of appropriating to pay the contracts is essentially fore-ordained because a contract, once made, must be honored. It has the effect of insulating just that much of the budget from effective annual review.

The essence of the whole business of government is the power of the purse. And the very heart of the power of the purse is annual accountability, annual review, and annual provision of funds in the light of changing conditions, the revenue situation, and so on.

In the January 15, 1962, issue of the Washington Post, an article by former Director of the Bureau of the Budget Maurice Stans had this to say on loss of control:

"Backdoor spending is a simple process of bypassing this careful constitutional procedure. To avoid having a matter brought before the Appropriations Committees, congressional proponents of a program may be able to include, in the substantive law authorizing the program, permission for an agency to borrow funds directly from the Treasury to carry it on. The money is then spent without an appropriation. Or the substantive law may contain authority to make contracts in advance of appropriations, in which case the later appropriations are only a formality. Either way, backdoor spending provides a much easier way for an agency to obtain funds, because it need ask for them only once in each House instead of twice. The end result is that the Appropriations Committees lose their control over the budget and the Constitution is violated.

"Backdoor spending has been a growing phenomenon of the last 30 years. After observing the way in which it impaired fiscal control,

President Eisenhower directed the Bureau of the Budget in 1959 to approve no new requests of Government agencies for backdoor spending, and he included none of the subsequent budgets which he submitted to the Congress."

During the past decade or two, there has been considerable contention among respective Members of Congress as to the propriety of financing Federal programs by what is widely called "backdoor" spending.

The opponents of this method lost a battle on a point of order raised against it. This was by the Boggs decision of June 28, 1949, when, under a parliamentary ruling in the House, it was held that authority to borrow from the Treasury in a legislative bill was not an appropriation within the meaning of Clause 4 of Rule XXI.

To reverse this ruling and restore full jurisdiction to the Committee on Appropriations, many Members of the House, including myself, have supported a resolution to change Rule XXI of the House, so that no bill or joint resolution carrying not only appropriations, but also other language permitting withdrawal of money from the Treasury without further action by the Congress, or carrying other authority to create obligations by contract in advance of appropriations, could be reported by any committee not having jurisdiction to report appropriations.

This change in the rule would have permitted points of order - unless waived by the adoption of such a rule - against improperly reported bills with backdoor spending in them.

Likewise, in the Senate, a point of order against backdoor spending in connection with a foreign aid bill, was made in July, 1959 by the late Senator Francis Case of South Dakota. Actually, the issue was not resolved, because after Senator Case's point was overruled, he appealed this ruling to the Senate. However,

when a test vote indicated strong support for the point of order, it was withdrawn.

At the time, the newspapers said that the practice of financing Government programs with Treasury loans instead of appropriations was slated for a thorough review by the Senate Rules Committee. However, if such a review was made, I do not know of it.

A hearing on my resolution, H. Res. 115, to amend Clause 2(a) of Rule XI and Clause 4 of Rule XXI was held on February 22, 1961. One hundred thirty other Members of the House joined in support of this resolution.

In my statement, I showed that the cuts in the budget in bills coming out of the Appropriations Committee were very substantial, but meanwhile, during the same period, there were huge increases in spending obligations by the backdoor method. Also, I referred to the fact that the Comptroller General for a number of years had indicated his disapproval of backdoor spending. Joseph Campbell, Comptroller General of the United States, in a letter to Senator Willis Robertson, stated:

"Authorizations to finance programs and activities through public debt transactions are usually stated in terms of continuing maximum amounts of obligations in the Treasury which can be outstanding at any time with no annual limitation. The authorizations are contained in substantive legislation reviewed by the appropriations committees. The continuing feature of these authorizations avoids the need of annual appropriations, and thus there is less compulsion for careful evaluation by successive Congresses of the need for continuing particular programs. We believe that the financing of loan programs through public debt transactions, by combining program authority with funding, tends to perpetuate programs that might not otherwise stand the test of recurring congressional review.

"The General Accounting Office has for many years stated objections to this method of financing, and recommends that funds to finance Government activities be made available to the agency responsible for administering the program through the normal appropriation processes rather than through authorizations to finance through public debt transactions.

"As with authorizations to borrow from the Treasury we believe that revolving fund financing likewise represents a lessening of congressional

control which is justified only on a clear showing of need and benefit to the government. We believe that the need to appropriate funds supplies the best incentives and the most effective techniques for congressional control of agency activities. Consequently, if the revolving fund feature is to be retained in the bill, we suggest that the bill be revised to provide that funds may be used for the loan program only in amounts stipulated in annual appropriation acts. The related administration expenses would likewise be subject to an annual review by the Congress."

I think, Mr. Chairman, at this point I should like to simply quote what the Ranking Republican, Mr. Clarence Brown, had to say at this Rules Committee hearing about this proposal to change the Rules, and likewise, the comments of the Chairman, Judge Smith:

Commenting on H. Res. 115, Mr. Brown said:

"I think this Resolution hits at one of the most serious problems that we have confronting the Congress, not only at this time but that we had in the last Session of Congress. This legislation is of the utmost importance if we are going to make an honest endeavor to maintain some fiscal responsibility in the Government and to perhaps some day have a balanced budget and a few other things. Personally I have supported this type of legislation in the past. I feel strongly that on this particular Resolution or one like it the House should have an opportunity to work its will and it should be very beneficial to the country if a Resolution of this type is adopted. I want to congratulate you sir, on a very splendid statement and I want to assure you that a great many of your colleagues appreciate the many long hours of work and the efforts that you have put forth in assembling the material in support of this Resolution and in the way you have carried through in behalf of this type of fiscal reform that is needed so badly. I think the Congress owes you a debt of gratitude for your service."

Chairman Howard Smith of Virginia had this to say:

"After the taxing and appropriating functions were separated and the taxing function went to the Ways and Means Committee then for a long time the appropriating authority went to the Legislative Committee and they recommended whatever they wanted for that particular branch of the Government. It was done then by the Legislative Committee and that became so unsatisfactory because it took away the brakes on appropriations by groups that had some special reason, and placed it in an impartial presumably, an impartial Committee and that was the Appropriations Committee so that all appropriations are now supposed to go to the Appropriations Committee whereas in years gone by up until 1920 I think each Legislative Committee reported its own Appropriations Bill and that was found so unsatisfactory that it was changed to this method of having all of them come through one Committee so that when we got through with the Session of Congress we knew how much money had been appropriated.

"This way with this so-called backdoor spending the Appropriations Committee never knows about it and it is never reported in the ordinary report of the Appropriations Committee as to how much money has been appropriated."

Mr. Chairman, at the time of the hearing on my proposal to change the House Rules so as to provide for annual reporting and justification on the spending of billions of dollars, there were a number of questions raised regarding its effect. I made a summary of these questions and my answers, which I think should appropriately appear at this point in my testimony:

A SUMMARY OF ARGUMENTS AND ANSWERS TO THE PRINCIPLE INVOLVED
IN HOUSE RESOLUTION 115 TO STOP BACKDOOR SPENDING-----

I

Arguments and the answers to them can be summarized as follows:

It has been argued that adoption of a resolution such as House Resolution 115 would thwart orderly, long-range planning and cost money and that such programs as urban renewal, airport aid, veterans' housing, etc., cannot be operated on a year-to-year or fiscal-year basis.

House Resolution 115 would not thwart orderly long-range planning and thus cost more money because----

(a) House Resolution 115 does not require programs to be financed on an annual, year-to-year, or fiscal-year basis.

House Resolution 115 merely requires that all authorizations to spend Federal money or to create legal obligations which would subsequently require expenditures (e.g. contract authority) be subject to the normal budget controls of the House of Representatives.

Normal budget controls require spending authorizations to be subject to review and modification by the Appropriations Committee as part of its annual budget review.

(b) Normal budget procedures in Congress permit the use of no year or multiple year appropriations where orderly, long-range planning is required to accomplish a particular program. No year funds are available until expended; multiple year appropriations provide funds for a specified period in excess of one year.

The obvious fallacy in this argument is found by examining the financing of the Defense Department programs for research and development and for the procurement of weapons. Both of these programs are infinitely more complex than any domestic program, and require a high degree of orderly long-range planning. For example, in weapons

development, the Army estimates the average lead time to be 8 to 10 years. These programs are financed by no year appropriations and are subject to review and modification annually by the Appropriations Committee of the House. These programs involve expenditures of about \$17 billion annually. Furthermore, this arrangement has been extremely satisfactory to all concerned. It has been of particular benefit to the taxpayer, since it has provided for a comprehensive annual review and adjustment of these important and intricate programs without any important disruption to them.

II

It has been argued that opposition to a backdoor spending curb is justified on the basis of the programs themselves. It is argued that no action should be taken which would in any way delay the provision of needed public housing, safety aspects of airport aid, savings in human lives, or need for direct loans to veterans for housing purposes, etc.

There is no doubt that each of the programs considered or approved by Congress can be justified from one standpoint or another - particularly when justified without regard to other demands for scarce and limited fiscal resources.

House Resolution 115 merely provides for orderly procedures (closing existing loop-holes) for evaluating the distribution of Federal tax moneys among the various programs approved by Congress. It provides a "balance wheel" effect in which the Congress is asked to take a second look at each policy or program it has authorized in terms of total demands and the financial condition of the Federal Government.

III

It is argued that the requirement that programs such as housing if subject to review by the Appropriations Committee would cause delay in individual projects and programs.

No more delay would be involved for these programs than currently exists for all but a few programs which have resorted to the backdoor technique. The requirement of an annual budget review has not handicapped the defense, international and other programs of the Federal Government.

IV

It might be argued that (1) this whole attempt to pass House Resolution 115 or similar proposals involves nothing more than a struggle of power within Congress or that (2) House Resolution 115

would make a super committee out of the Appropriations Committee and would leave programs at the mercy of one man, one committee, or a few men or that, (3) it would reduce existing committees to an inferior position and involve the transfer of wholesale power to the Appropriations Committee.

To the extent that this legislation attempts to change House Rules to prevent legislative committees from bypassing normal budget controls, there is a struggle of power within Congress involved. However, it would not make a supercommittee out of the Appropriations Committee nor leave programs at the mercy of one man, one committee, or a few men. The House as a whole would still vote on each spending measure and, if it should choose, could completely ignore the recommendations of the Appropriations Committee, its chairman, or any of its members.

House Resolution 115 merely seeks to close existing procedural loop-holes and establish an orderly procedure for evaluating all Federal expenditures - something which most people in the country erroneously believe actually exists at the present time. Contrary to general belief, not all spending authorizations are considered by the Appropriations Committees and subject to the usual budgetary controls. Because of parliamentary rulings, ways have been developed to bypass the usual scrutiny given authorizations to expend Treasury funds by the Appropriations Committees. The use of this more direct route to the Treasury by special interest groups has been particularly significant in recent years and there are indications it will continue until House Resolution 115 or a similar measure is passed. This would not reduce existing committees to an inferior position but would prevent them from exploiting loop-holes which permit the authorization of spending for special interests without the necessary controls.

V

It is argued that the House, not the Appropriations Committee, regardless of House Resolution 115, would control the expenditures.

This is a specious argument. Of course, the House in all cases handles both substantive policy legislation and appropriations. The Appropriations Committee merely recommends to the House appropriate authorizations to spend based upon current economic conditions and the financial condition of the Federal Government.

VI

It is argued that the actions of Congress through the backdoor approach are not inflationary.

Although there has been no substantial rise in the price index during the last year, the threat of inflation is a major national problem. The inflationary problem must be viewed in broader perspective than one year. The impact of actions taken today upon the future value

of the dollar also must be considered. For example, since 1939 the Government has engaged in deficit spending in all but 4 fiscal years. During this same period, the value of the dollar has depreciated over 50 percent. Since 1949 the value of the dollar has depreciated about 22 percent, and since 1952, 9 percent.

The spending programs which use the backdoor approach commit the Government for long periods of time without regard to their impact upon the economy. They are not subject to an annual review and evaluated in terms of economic and fiscal requirements. They build into the annual budget excessive rigidity which can have a serious inflationary impact should the economy continue to boom, as is forecast for the next 3 or 4 years.

VII

It has been argued that the House has an opportunity to vote only once on the defense bill, and it has no second opportunity to make changes in the appropriations given the Defense Department. On the other hand, it is claimed that on legislation of the backdoor type, such as the airport construction bill, the House is given two opportunities to vote upon the spending program.

This also involves specious reasoning. Actually, defense appropriations are evaluated annually, both for the appropriations made on a 1-year basis in that Department, as well as for no-year or multiple-year appropriations. Revisions and adjustments are made as required.

In the case of the airport construction bill, the second vote of the House, cited as an example, was a completely nondiscretionary vote. All the House did on this second vote was to authorize the Treasury to issue checks to pay for the Government's legal obligations which have been incurred as a result of the House's first vote giving contract authority.

Finally, let me emphasize - as I have frequently done before - that I am not here to try to scuttle programs, but I am trying to restore fiscal responsibility to the Congress, where the Constitution intended to place it at the start.

Unfortunately - due to the fact, I feel certain, that the leadership of the House at that time was opposed to my Resolution - H. Res. 115 was not reported favorably. It failed on a 7 to 7 vote.

As to the extent to which backdoor spending has reached, the Tax Foundation, Inc., for example, in 1957 found that in certain recent years, out of the President's

budget only a third was clearly and definitely under Congressional review and control.

In 1961, for example, Executive requests to Congress for backdoor spending proposals totaling more than \$28 billion in 11 bills/^{that}were considered. In spite of much organized opposition, almost \$20 billion of such proposals were enacted into law.

If one wants to evaluate the need of control of expenditures by Congress, and a method of channeling all spending and obligational authority through single committees of both bodies, I think one should review the year by year changes that have taken place in the National Debt since the advent of backdoor spending. Therefore, at this point, I include a table showing the Gross National Debt and changes year by year from 1930 to 1965.

In this 34 year period, there has been a deficit every year except five, and the net increase in gross payable debt exceeds \$285 billion.

(FOR TABLE SEE NEXT PAGE)

**GROSS PUBLIC DEBT OF THE UNITED STATES GOVERNMENT AT
FISCAL YEAR END AND CHANGE FROM PREVIOUS YEAR**

(Dollar amounts in millions)

<u>Fiscal Year</u>	<u>Gross Public Debt at Fiscal Year End</u>	<u>Change in Public Debt from Previous Fiscal Year End</u>	
		<u>Amount</u>	<u>Percent</u>
1965	\$317,274	\$5,561	1.8%
1964	311,713	5,853	1.9
1963	305,860	7,659	2.6
1962	298,201	9,230	3.2
1961	288,971	2,640	0.9
1960	286,331	1,625	0.6
1959	284,706	8,363	3.0
1958	276,343	5,816	2.1
1957	270,527	(2,224)	(0.8)
1956	272,751	(1,623)	(0.6)
1955	274,374	3,114	1.1
1954	271,260	5,189	2.0
1953	266,071	6,966	2.7
1952	259,105	3,883	1.5
1951	255,222	(2,135)	(0.8)
1950	257,357	4,587	1.8
1949	252,770	478	0.2
1948	252,292	(5,994)	(2.4)
1947	258,286	(11,136)	(4.3)
1946	269,422	10,740	4.2
1945	258,682	57,679	28.7
1944	201,003	64,307	47.0
1943	136,696	64,274	88.7
1942	72,422	23,461	47.9
1941	48,961	5,993	13.9
1940	42,968	2,528	6.3
1939	40,440	3,275	8.8
1938	37,165	740	2.0
1937	36,425	2,646	7.8
1936	33,779	5,078	17.7
1935	28,701	1,648	6.1%
1934	27,053	4,514	20.0
1933	22,539	3,052	15.7
1932	19,487	2,686	16.0

Change - 1932 to 1965

\$285,477

Amounts shown in parentheses represent reductions in the gross U. S. Government public debt

Source: U. S. Treasury Department.

The Bipartisan Anti-Backdoor Spending Committee, which I organized, conducted a continuing and vigorous campaign then and during the following years. However, we were lulled into a condition of apathy in 1963 and 1964, when practically no backdoor spending was authorized. This year, when the Omnibus Housing Bill, containing several substantial backdoor provisions, was considered in the House, due to this lack of organization, plus changes in membership in the 89th Congress, our opposition was unsuccessful.

Both Houses, or I should say Committees of both Houses have clung stubbornly to the procedure of including backdoor funding provisions in authorization bills. One year, I believe, in 9 such instances, \$16 billion of backdoor spending was included by the Senate in bills it originated without any previous House consideration by either legislative committees or by the Appropriations Committee.

Theoretically, backdoor borrowings are to be repaid. However, as shown previously, \$16 billion owed the Treasury already has had to be cancelled or forgiven by Act of Congress, and it is certain that Congress in good faith must make good lack of repayment, or what would be called bad debts, in the future.

RECOMMENDED REFORM:

In researching the backdoor technique by which the Treasury is directed to pay out money for financing Government programs, one frequently finds where its critics argue that this device subverts the Constitutional provision in Article I, Section 9, Clause 7, that no money shall be drawn from the Treasury except in consequence of appropriations made by law.

Mr. Chairman, in all frankness, I do not personally find any real basis for this argument. Even though not reviewed by the Appropriations Committees, the direction by law to the Treasury to pay - under the Second Liberty Loan Act of 1917 -

in my opinion meets this provision of the Constitution, although I am informed that there has never been a court test of this issue.

Personally, for any remedial change, I look rather to the court of common sense and sound reason. It just makes sense to me that Congress cannot weigh the need and urgency of one expenditure as against another and against the availability of revenue unless a curb is placed on the enthusiasm and special interests of members of the respective legislative committees of the House and Senate.

In this connection, in response to an inquiry from me as to Executive practices at the time, Mr. David E. Bell, Director of the Bureau of the Budget, wrote in a letter dated April 7, 1961, from which I quote, relative to backdoor spending:

"The Bureau of the Budget believes that, generally speaking, the Congress as well as the Executive Branch should exercise close control over the provision and expenditure of Government funds. A periodic review of agency spending plans, similar to that achieved through the annual appropriation process, contributes significantly to the achievement of this objective. Congress has chosen, however, to finance certain programs by borrowing authorizations and other similar arrangements which do not require annual appropriations. Clearly in such areas any change in financing arrangements should be accomplished within the framework which will not be disruptive to basic programs or policies. In this category of programs are, of course, the housing programs to which your letter makes specific reference.

"The Bureau of the Budget supports the Congress' desire to develop improved financing arrangements which will assure attainment of program objectives and at the same time facilitate orderly and responsive financial planning. We will, of course, be glad to cooperate to this end."

In this connection, I suggest in order to assure against disruption of existing basic programs that care be exercised and that no action be taken without full safeguards to protect existing programs from abrupt action.

Finally, Mr. Chairman, I urge your Committee on the Organization of the Congress to consider recommending a means of re-asserting and re-affirming powers given by the Constitution to the Legislative Branch as they have to do with the

control of the purse strings. The practice of delegating legislative authority to executive agencies and setting up funding which otherwise might not withstand year by year scrutiny, as clearly shown by the statistics I have cited, is fiscally irresponsible.

If Congress ever desires to combat inflation, or to create confidence at home and abroad in our dollar, and furthermore, give assurance to the taxpayers that their elected representatives have a system whereby they can control the spending of tax dollars, then the need to provide a method to curb and scrutinize expenditures is essential.

Specifically, Mr. Chairman, my support is for the strengthening of the single committee system of both Houses, to include in one committee exclusive jurisdiction to report not only general appropriation bills for the support of the Government, but also bills and joint resolutions carrying language that will permit the withdrawal of money from the Treasury without further action by the Congress, or carrying authority to create obligations by contract in advance of appropriation.

Likewise, I support a change in Rules, so that no amendment will be in order proposing such appropriation or Treasury withdrawal, or such authority during consideration of bills and joint resolutions reported by any committee not having that jurisdiction.

In conclusion, I thank the Chairman and the Committee for making possible my appearance here today.

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