

Who Runs the Country?

How the United States Senate
Has Developed Into the Master
Dynamo of America's Political
Horse-power

By ^{*}Everett Kimball

George Washington once tried to negotiate a treaty with the Senate in person. He left the chamber with the remark that "he would be damned if he ever went there again"—and no President has visited the Senate to negotiate a treaty since. Dr. Kimball here explains how our upper legislative house has developed into the chief repository of the nation's political strength

"SENATE in control at Chicago." The Republican convention was called an unbossed convention, yet every newspaper ran a headline like that quoted above.

The Democratic convention at San Francisco was a free-for-all affair, they say. But was it? Senator Robinson was permanent chairman, just as Senator Lodge was chairman at Chicago. Senator Glass was chairman of the Committee on Resolutions in the Democratic convention, and the Republican platform, although reported by the Committee on Resolutions, was really decided on in secret conference by Senators Lodge, Brandegee, Borah and ex-Senator Crane.

After the Republican convention the newspapers commented on the dominating influence of the Senate as if it were something new. But is it new?

Senator Root was chairman of the Republican convention in 1912 and by "Root's rulings" made Taft's nomination certain.

Senator James of Kentucky presided over the convention which nominated Woodrow Wilson. Senator Lodge of Massachusetts has been chairman of three Republican conventions. Senator Hanna was called the president maker, and before and after him we have but to remember Quay, Platt, Penrose and Crane.

We speak of the administration of President So-and-so, but the Senators make the laws which the President administers, and frequently make the President who administers the laws the Senate makes.

Is this a new phenomenon? Is it an encroachment? Is it a usurpation, a revolution. Without doubt it was not contemplated by the framers of the Constitution, but then Washington and his contemporaries did not contemplate political parties. If it be a revolution, the present politicians are literally Sons of the Revolution, for since the middle of the nineteenth century Senators and the Senate have played a dominant part in our political life.

THE framers of the Constitution of the United States were terribly afraid of immediate manifestations of popular opinion. The direct election of the members of the House of Representatives, apportioned according to population, was as far as they dared go. Hence they constructed a second chamber, the Senate, whose members, originally chosen by the State Legislatures, should represent not mere numbers, but the State governments who chose them. The Senate was supposed to be conservative; to be, as it is said Washington quaintly expressed it, "the saucer into which the hot tea of the House of Representatives was poured to cool."

But the Senate was never content with being merely the hind wheel to the coach of state. It soon developed and became equal, then superior, to the

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House of Representatives. At first the ablest men in the political life of the nation sought seats in the House, but as the power and peculiar position of the Senate came to be appreciated, the ablest men deserted the House for the Senate. The muckraker might say that "where the carrion is, there the vultures gather." But such an explanation ill describes the development of the American Senate. It is an axiom of political life that the legislative chamber which has the greatest power will attract to itself the ablest men. Thus in England the House of Commons is superior to the House of Lords, in France the Chamber of Deputies outranks the French Senate. What is there in the composition and powers of the American Senate which makes it the more powerful body?

The President of the United States is elected for four years; the members of the House of Representatives for two years; the Senators have six-year terms. Every other year a member of the House of Representatives must get himself reelected and submit his record to the judgment of his constituents. Hardly has he taken his seat before he begins to strengthen his political fences and to prepare for the coming contest. The possible condemnation of his constituents affects his every vote.

Not so the Senator. We, the people, have short memories, and once elected, the Senator is secure through two Congressional elections and one Presidential election. He may offend us, but his term is so long that the favors he is able to perform outweigh our resentment. He can afford to defy the temporary manifestations of popular discontent, trusting in the length of his term of office either to win popular approval to his point of view, or to make us forget our dissatisfaction. His six years of office give him an opportunity to perfect his "organization," to make himself solid. This is one reason why the Senators from our States are the leaders of the party they represent or dominate.

The Senate is a continuous body. Every two years we have a new House of Representatives. Only one-third of the Senate is elected every other year, while two-thirds are holdovers, and hand down the traditions of the previous Congresses and enjoy the privileges and prerogatives their long service has given them.

This sense of continuity makes the Senate a very different legislative body from the House. It is seen in the change that comes over a successful Representative when translated to the Senate. Thus Oscar Underwood, the floor leader of the Democratic party in the House from 1911 to 1915, occupied a very humble position when he first came to the Senate. Not until this year, just after his election for a second term, was his ability rewarded by choice of Senate leader of the Democratic party.

Not only does the Senate differ from the House in composition, but emphatically does it differ in procedure. Since the days of Speaker Reed, the House has been but a device for recording the decisions of the leaders.

Debate is of no value. Legislation is made in committees. The Speaker, the chairman of the Committee on Ways and Means, the chairman of the Committee on Appropriations, the chairman of the Committee on Rules, and, since 1911, the floor leader, dominate the House and the caucuses of the members of both parties.

What the leaders decide the House accepts. The brute force of the vote of the majority smothers all opposition, prevents all discussion. The rules of the House of Representatives make

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sure that the majority shall rule.

Not so the Senate. In the Senate every Senator is on a par with every other. There is no limitation of debate, no closure. Any member may present any project at any time. If contrary to the standing rules, unanimous consent is requested, but a single objection prevents the desired action.

A vote of the majority, however, will enable the Senate to do anything in any way the majority desires. But with this qualification: No vote may be taken until every member has expressed himself and debated the question as long as he desires.

And how long they do debate! Senator LaFollette has the record for the longest speech in recent times. In 1908 he spoke for eighteen hours. If in the House we have procedure by rules and legislation made to order, in the Senate we have procedure by unanimous consent and legislation by endless talk.

In theory, the condition described would make legislation impossible. It might in any other body than the American Senate. Here the Senators are conscious of the fact that they will have to associate with one another for better or worse for at least six years. Each one realizes that at any time he may have some project he desires adopted.

Thus captious objections are reduced to a minimum, thus filibustering is only used for vital issues and important occasions. Hence the exchange of friendly offices, based on the avowed "self-interest of the parties," is the rule. Call it log-rolling, if you please, for certainly it so seems at times; but the flexible procedure and the opportunity to hammer out a subject in unrestricted debate, to disclose its weaknesses and even to give the minority an opportunity to thwart the will of the majority temporarily, until outside public opinion could be brought to bear, has frequently worked for the good of the country.

Thus in 1891 the Democrats conducted a filibuster against the Force Bill until popular opinion was so aroused that its passage was impossible. In 1914 Senator Burton of Ohio conducted a filibuster which succeeded in reducing the appropriation for the Town and Harbor Bill from fifty-three millions to twenty millions.

This procedure of the Senate not only gives the Senate a peculiar position as a legislative body but gives to each Senator unusual powers and opportunities. It may enable him, for the sake of some project near his heart and ardently desired by his State, by the mere threat of filibustering, to force, not merely the Senate, but Congress and the President, to come to his point of view.

Senator Tillman, in 1903, by the mere threat of a filibuster in the last days of Congress, forced the Government to pay a claim of \$47,000 to the State of South Carolina—a claim which the auditing authority declared was worth exactly thirty-four cents. No wonder South Carolina was grateful to Senator Tillman and continued to elect him as long as he lived. No wonder Senator Tillman or your Senator or mine is the head of the party organization. In olden days, the feudal chiefs gave their followers rings; to-day the Senators give us post office buildings and court houses.

THE powers which the Constitution gives to the Senate make it a unique legislative body. In legislation, in theory, it is coordinate with the House; practically it is superior.

Constitutionally the House has one privilege not shared by the Senate; it originates revenue legislation. But the Senate may propose amendments to such legislation.

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See to what an extent this has been carried. In 1872 the House passed a bill reducing the tax on coffee. This the Senate transformed into a bill revising the whole tariff.

Both in 1909 and 1913 the great tariff bills were enacted by the House and amended by the Senate by striking out all after the words "Be it enacted" and substituting bills which the Senate had framed. Of what value is it that revenue bills may originate in the House when the Senate has such unrestricted power of amending?

Hamilton said, "The House of Representatives holds the purse." That may be true, but today, as has been said, the House holds the purse while the Senate dips into it.

When disagreements come between the House and Senate the Senate more generally wins in conference. Here the six-year term of the Senators gives them the great advantage. The Representatives may talk of their immediate responsibility to the people, but the people generally vote as the organization decrees. Hence one Senator frankly told the truth when he said, "The organization—why, I'm it!"

But the Senate is more than a co-ordinate body with the House of Representatives sharing legislation. It is an executive body and shares important functions with the President. The President nominates and, with the advice and consent of the Senate, appoints all the important officers of the United States. Thus the President shares with the Senate the patronage which Gouverneur Morris declared to be "the loaves and fishes" and which, in modern political experience, has proved to be the motive power of a political machine.

We say the President nominates and appoints these officers with the consent of the Senate. Practically he does no such thing. He nominates the man the Senator suggests and the Senate accepts and ratifies the suggestions of its members. This is called "senatorial courtesy" and is one of the most powerful weapons in the Senate's armory.

Senatorial privilege in the distribution of patronage not only may compel a President to do the bidding of the Senate, but it also gives to the Senators the means of rewarding their followers at home and of entrenching themselves in the State organization. The Senators may not only give a city a post office; they also give their followers jobs.

The Constitution says the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." Thus the Senate has a share in determining the foreign policy of the United States, perhaps of controlling it. How does the President make a treaty and when must he obtain the advice and consent of the Senate? George Washington once presented the project of a treaty to the Senate in person, but as Adams says, "They debated it and proposed alterations so that when Washington left the Senate chamber, he said he would be damned if he ever went there again." And since that time no President in person has debated a treaty with the Senate as a body.

Some Presidents, however, have recognized that they must gain senatorial approval, and have consulted the leading Senators in advance. They have played to senatorial vanity to assure themselves of success. Thus McKinley appointed three Senators on the commission of five which negotiated the treaty with Spain in 1898, and thus Secretary Hay was forced to see the first Canal treaty rejected and only obtained his desire after he had consulted the Senators and accepted their suggestions.

President Wilson's experience over the treaty of Versailles is fresh in everyone's mind. Had he appointed as negotiators members of the Senate, the Senate would probably have ratified the treaty, but would it have been the treaty Mr. Wilson desired? Constitutionally, President Wilson was correct. Although the initiative is with the President, the final power lies with one-third of the Senators. The system will work only when the President and Senate make mutual concessions.

Who runs the country? The Senate. Why? Partly because the Senate has constitutional powers which enable it to dominate the House and thwart the President, but largely because the Senate contains the active political leaders of the country.

Take Senator Gorman of Maryland.

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He amended the Wilson Tariff Bill, a measure dear to President Cleveland's heart, so greatly that President Cleveland refused to give it his approval.

Take Platt and Quay, silent in debate in the Senate, but all powerful in leading the Republican party. To win their influence Presidents gave them the patronage of New York and Pennsylvania. They dominated the organization of those great States. They were the powerful delegates in the nominating conventions which gave us the candidates we voted for.

Take Murray Crane of Massachusetts, not a large State, and trace his influence in the Republican conventions of 1912, 1916, and even 1920. His power came not from oratory, for he never made a speech, but from sheer ability and political wisdom, and because, as United States Senator and even as an ex-Senator, he dominated the Republican organization in Massachusetts. In like manner Senators Underwood of Alabama and Swanson of Virginia controlled the organizations of their party in their States.

To be a Senator a man may be a statesman, but he must be a super-politician in the best sense of the word. To win and hold his position as Senator he must control his State, and as a Senator his constitutional prerogatives and prerequisites of patronage makes him a person to be reckoned with.

THIS was not the part designed for the Senate by the framers of the Constitution, but they failed to see, did not understand, and distrusted political parties, which we have come to see are necessities.

Parties are the means by which we, the people, govern. Parties must have leaders. Leaders will occupy the places of power, the seats of the mighty. It may be that the party leader will be the President, as in the case of Lincoln, Cleveland, Roosevelt, or Wilson. If he is, he attempts to enforce his will upon the Senate and incurs the Senate's resentment and criticism.

The phrase "executive usurpation" was not used for the first time in connection with President Wilson. It has been applied to all strong Presidents who attempted to deprive the Senate of some of its prerogatives.