

CHAPTER XIII

THE HOUSE OF REPRESENTATIVES

THE House of Representatives, usually called for shortness the House, represents the nation on the basis of population, as the Senate represents the States.

But even in the composition of the House the States play an important part. The Constitution provides¹ that "representatives and direct taxes shall be apportioned among the several States according to their respective numbers," and under this provision Congress allots so many members of the House to each State in proportion to its population at the last preceding decennial census, leaving the State to determine the districts within its own area for and by which the members shall be chosen. These districts are now equal or nearly equal in size; but in laying them out there is ample scope for the process called "gerrymandering,"² which the dominating party in a

¹ Constitution, Art. i. § 2, par. 3; cf. Amendment xiv. § 2.

² So called from Elbridge Gerry, a leading Democratic politician in Massachusetts (a member of the Constitutional Convention of 1787, and in 1812 elected Vice-President of the United States), who when Massachusetts was being re-districted contrived a scheme which gave one of the districts a shape like that of a lizard. Stuart, the well-known artist, entering the room of an editor who had a map of the new districts hanging on the wall over his desk observed, "Why, this district looks like a salamander," and put in the claws and eyes of the creature with his pencil. "Say rather a Gerrymander," replied the editor; and the name stuck. The aim of gerrymandering, of course, is so to lay out the one-membered districts as to secure in the greatest possible number of them a majority for the party which conducts the operation. This is done sometimes by throwing the greatest possible number of hostile voters into a district which is anyhow certain to be hostile, sometimes by adding to a district where parties are equally divided some place in which the majority of friendly voters is sufficient to turn the scale. There is a district in Mississippi (the so-called Shoe String district) 500 miles long by 40 broad, and another in Pennsylvania resembling a dumb-bell. South Carolina furnishes some beautiful recent examples. And in Missouri a district has been contrived longer, if measured along its windings, than the State itself, into which as large a number as possible of the negro voters have been thrown.

State rarely fails to apply for its own advantage. Where a State legislature has failed to redistribute the State into congressional districts, after the State has received an increase of representatives, the additional member or members are elected by the voters of the whole State on a general ticket, and are called "representatives at large." Recently one State (Maine) elected all its representatives on this plan, while another (Kansas) elected three by districts and four by general ticket. Each district, of course, lies wholly within the limits of one State. When a seat becomes vacant the governor of the State issues a writ for a new election, and when a member desires to resign his seat he does so by letter to the governor.

The original House which met in 1789 contained only sixty-five members, the idea being that there should be one member for every 30,000 persons. As population grew and new States were added, the number of members was increased. Originally Congress fixed the ratio of members to population, and the House accordingly grew; but latterly, fearing a too rapid increase, it has fixed the number of members with no regard for any precise ratio of members to population. Till the election of 1892 the number was 332: it is now, under a statute of 1891, fixed at 356, being, according to the census of 1890, one member to about 174,000 souls. Six States, Delaware, Idaho, Montana, Nevada, N. Dakota, Wyoming, have under this Act one representative each; eight have two each; while New York has thirty-four, and Pennsylvania thirty. Besides these full members there are also four Territorial delegates, one from each of the Territories, regions in the West enjoying a species of self-government, but not yet formed into States. These delegates sit and speak, but have no right to vote, being unrecognized by the Constitution. They are, in fact, merely persons whom the House under a statute admits to its floor and permits to address it.

The quorum of the House, as of the Senate, is a majority of the whole number. Till the Fifty-first Congress the custom had been to treat as absent all members who did not answer to their names on a roll-call, but in 1890, one party persistently refusing to answer in order to prevent the transaction of business, the Speaker asserted the right of counting for the purposes of a quorum all he saw present. A rule was then passed directing him so to count. This was dropped in the next

Congress, but in 1894 restored, substituting two tellers for the Speaker.

The electoral franchise on which the House is elected is for each State the same as that by which the members of the more numerous branch of the State legislature are chosen. Originally franchises varied much in different States; and this was a principal reason why the Convention of 1787 left the matter to the States to settle: now what is practically manhood suffrage prevails everywhere. A State, however, has a right of limiting the suffrage as it pleases, and many States do exclude persons convicted of crime, paupers, illiterates, etc. By the fifteenth amendment to the Constitution (passed in 1870) "the right of citizens of the United States to vote shall not be denied or abridged by any State on account of race, colour, or previous condition of servitude," while by the fourteenth amendment (passed in 1868) "the basis of representation in any State is reduced in respect of any male citizens excluded from the suffrage, save for participation in rebellion or other crimes." Each State has therefore a strong motive for keeping its suffrage wide, but the fact remains that the franchise by which the Federal legislature is chosen may differ vastly, and does in some small points actually differ in different parts of the Union.¹

Members are elected for two years, and the election always takes place in the even years, 1892, 1894, and so forth. Thus the election of every second Congress coincides with that of a President; and admirers of the Constitution find in this arrangement another of their favourite "checks," because while it gives the incoming President a Congress presumably, though by no means necessarily, of the same political complexion as his own, it enables the people within two years to express their approval or disapproval of his conduct by sending up another House of Representatives which may support or oppose the policy he has followed. The House does not in the regular course of things meet until a year has elapsed from the time when it has been elected, though the President may convoke it sooner, *i.e.* a House elected in November 1892 will

¹ Rhode Island retained till 1888 a small property qualification for electors, and in some States payment of a poll tax is made a condition to the exercise of electoral rights. See Chapter XL. on State Legislatures.

not meet till December 1893, unless the President summons it in "extraordinary session" some time after March 1893, when the previous House expires. This summons has been issued ten times only since 1789; and has so often brought ill luck to the summoning President that a sort of superstition against it has now grown up.¹ The question is often mooted whether a new Congress ought not by law to meet within six months after its election, for there are inconveniences in keeping an elected House unorganized and Speakerless for a twelvemonth. But the country is not so fond of Congress as to desire more of it. It is a singular result of the present arrangement that the old House continues to sit for nearly four months after the members of the new House have been elected, and that a measure may still be pressed in the expiring Congress, against which the country has virtually pronounced at the general elections already held for its successor. In the Fifty-first Congress the House voted more than 500 millions of dollars in its appropriation bills after a new Congress had been elected, and when therefore it had in strictness no longer any constituents.

The expense of an election varies greatly from district to district. Sometimes, especially in great cities where illegitimate expenditure is more frequent and less detectable than in rural districts, it rises to a sum of \$10,000 (£2000) or more; sometimes it is trifling.² No estimate of the average can be formed, because no returns of congressional election expenses are required by law; but as a rule a seat costs less than one for a county division does in England.³ A candidate, unless very wealthy, is not expected to pay the whole expense out of his own pocket, but is aided often by the local contributions of his friends, sometimes by a subvention from the election funds of the party in the State. All the official expenses, such as for clerks, polling booths, etc., are paid by the public. Although bribery is not rare, comparatively few elections are

¹ This ill luck is supposed (says Mr. Blaine in his *Twenty Years in Congress*) to attach especially to May sessions, which reminds one of the superstition against May marriages mentioned by John Knox apropos of the marriage of Mary Queen of Scots and Darnley.

² As to bribery, see Vol. II. Chap. LXVII.

³ In England the fixing a maximum, proportioned to the number of electors, has greatly reduced the cost of elections. The average expenditure, all kinds of expense included, seems, in county constituencies, to be from £1100 to £1200, and in boroughs from £400 to £500.

impeached, for the difficulty of proof is increased by the circumstance that the House, which is the investigating and deciding authority, does not meet till a year after the election. As a member is elected for two years only, and the investigation would probably drag on during the whole of the first session, it is scarcely worth while to dispute the return for the sake of turning him out for the second session.¹ In some States, drinking places are closed on the election day.

Among the members of the House there are few young men, and still fewer old men. The immense majority are between forty and sixty. Lawyers abound, including in that term both those who in Great Britain are called barristers or advocates, and those who are called attorneys, there being in America no distinction between these two branches of the profession. An analysis of the House in the fiftieth Congress showed that two hundred and three members, or nearly two-thirds of the whole number, had been trained or had practised as lawyers, while in the fifty-second the number was two hundred. Of course many of these had practically dropped law as a business, and given themselves wholly to politics. Next in number come the men engaged in manufactures or commerce, in agriculture, or banking, or journalism, but no one of these occupations counted as many as forty members.² Ministers of religion are very rare; there were, however, two in the fifty-second Congress. No military or naval officer, and no person in the civil service of the United States, can sit. Scarcely any of the great railway men go into Congress, a fact of much significance when one considers that they are really the most powerful people in the country; and of the numerous lawyer members very few are leaders of the bar in their respective States. The reason is the same in both cases. Residence in Washington makes practice at the bar of any of the great cities impossible, and men in lucrative practice would

¹ It has been recently proposed to transfer to a judicial tribunal the trial of election cases, which are now usually decided on party lines.

² In the fifty-second Congress the number of persons stating themselves to be engaged in commerce was 49, in agriculture 39. In the forty-eighth Congress there were 205 lawyers. I take these numbers from the *Congressional Directory*, which I have carefully analyzed, but as some members do not state their occupations, the analysis is not quite complete, and there are probably more lawyers than the number I have given.

not generally sacrifice their profession in order to sit in the House, while railway managers or financiers are too much engrossed by their business to be able to undertake the duties of a member. The absence of railway men by no means implies the absence of railway influence, for it is as easy for a company to influence legislation from without Congress as from within.

Most members, including nearly all western men, have received their early education in the common schools, but about one half of the whole number have also graduated in a university or college. This does not necessarily mean what it would mean in Europe, for some of the smaller colleges are no better than English grammar schools and not as good as German gymnasia. It is noticeable that in the accounts of their career which members prepare for the pages of the *Congressional Directory*, they usually dwell upon the fact of their graduation, or state that they have "received an academic education."¹ A good many, but apparently not the majority, have served in the legislature of their own State. Comparatively few are wealthy, and few are very poor, while scarcely any were at the time of their election working men. Of course no one could be a working man while he sits, for he would have no time to spare for his trade, and the salary would more than meet his wants. Nothing prevents an artisan from being returned to Congress, but there seems little disposition among the working classes to send one of themselves.

A member of the House enjoys the title of Honourable, which is given to him not merely within the House (as in England), but in the world at large, as for instance in the addresses of his letters. As he shares it with members of State senates, all the higher officials, both Federal and State, and judges, the distinction is not deemed a high one.

The House has no share in the executive functions of the Senate, nothing to do with confirming appointments or approving treaties. On the other hand, it has the exclusive right of initiating revenue bills and of impeaching officials, features borrowed, through the State Constitutions, from the English

¹ In the *Congressional Directory* for the fiftieth Congress I find 209 members claiming to have received a "collegiate" or "academic" education, 84 owing to an elementary or common school education, and the remainder silent on the subject. In the fifty-second the numbers were 188 collegiate and 68 elementary.

House of Commons, and of choosing a President in case there should be no absolute majority of presidential electors for any one candidate. This very important power it exercised in 1801 and 1825.¹

Setting extraordinary sessions aside, every Congress has two sessions, distinguished as the First or Long and the Second or Short. The long session begins in the fall of the year after the election of a Congress, and continues, with a recess at Christmas, till the July or August following. The short session begins in the December after the July adjournment, and lasts till the 4th of March following. The whole working life of a House is thus from ten to twelve months. Bills do not, as in the English Parliament, expire at the end of each session; they run on from the long session to the short one. All however that have not been passed when the fatal 4th March arrives perish forthwith, for the session being fixed by statute cannot be extended at pleasure.² There is consequently a terrible scramble to get business pushed through in the last week or two of a Congress.

The House usually meets at noon, and sits till four or six o'clock, though towards the close of a session these hours are lengthened. Occasionally when obstruction occurs, or when at the very end of a session messages are going backwards and forwards between the House, the Senate, and the President, it sits all night long.

The usages and rules of procedure of the House, which differ in many respects from those of the Senate, are too numerous to be described here. I will advert only to a few points of special interest, choosing those which illustrate American political ideas or bring out the points of likeness and unlikeness between Congress and the English Parliament.

An oath or affirmation of fidelity to the Constitution of the United States is (as prescribed by the Constitution) taken by all members;³ also by the clerk, the sergeant-at-arms, the door-keeper, and the post-master.

¹ See above, Chapter V.

² Senate bills also expire at the end of a Congress.

A proposal was recently made, but has not yet been adopted, to extend the session till April and have the President inaugurated then.

³ The oath is administered by the Speaker, and in the form following: "I do solemnly swear (or affirm) that I will support the Constitution of the

The sergeant-at-arms is the treasurer of the House, and pays to each member his salary and mileage (travelling expenses). He has the custody of the mace, and the duty of keeping order, which in extreme cases he performs by carrying the mace into a throng of disorderly members. This symbol of authority, which (as in the House of Commons) is moved from its place when the House goes into committee, consists of the Roman *fusces*, in ebony, bound with silver bands in the middle and at the ends, each rod ending in a spear head, at the other end a globe of silver, and on the globe a silver eagle ready for flight. English precedent suggests the mace, but as it could not be surmounted by a crown, Rome has prescribed its design.

The proceedings each day begin with prayers, which are conducted by a chaplain who is appointed by the House, not (as in England) by the Speaker, and who may, of course, be selected from any religious denomination. Lots are drawn for seats at the beginning of the session, each member selecting the place he pleases according as his turn arrives. Although the Democrats are to the Speaker's right hand, members cannot, owing to the arrangement of the chairs, sit in masses palpably divided according to party, a circumstance which deprives invective of much of its dramatic effect. One cannot, as in England, point the finger of scorn at "hon. gentlemen opposite." Every member is required to remain uncovered in the House.

A member addresses the Speaker and the Speaker only, and refers to another member not by name but as the "gentleman from Pennsylvania," or as the case may be, without any particular indication of the district which the person referred to represents. As there are twenty-eight gentlemen from Pennsylvania, and the descriptives used in the English House of Commons (learned, gallant, right honourable) are not in use, facilities for distinguishing the member intended are not perfect. A member usually speaks from his seat, but may speak

United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God." "Allegiance" to a legal instrument would have seemed an odd expression to those ages in which the notion of allegiance arose; yet it fairly conveys the idea that obedience is due to the will of the people, which has taken tangible and permanent shape in the document they have enacted.