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(II)

LEGISLATIVE INTELLIGENCE AND THE COMMITTEE SYSTEM

(By Edward V. Schneier, Jr.,* Associate Professor of Political Science, The City College of the City University of New York)

In talking about the information needs and resources of the Congress, it is important to distinguish between two kinds of data which I would like to label "information" and "intelligence." Information is, in essence, raw data. It is abundant, cheap, easy to acquire, sometimes hard to avoid. Witnesses before committees such as this—and I hope I can avoid their sins—are all too willing to provide it in great quantities. Intelligence, by which I mean processed data, data that has been evaluated and given meaning, is much more difficult to acquire and much more important to have. Like most scarce commodities, intelligence has value: it confers both status and power, shapes careers, molds minds.

Information becomes intelligence when it is processed. For a legislator the problem of processing is essentially one of investing facts with their political significance, of describing who will benefit and who will lose from a given course of action. Problems of time force members of both the House and Senate to rely upon others for most information processing. Thus the quest for intelligence is in large part a quest for reliable sources. The more that information is processed the more valuable it becomes. A 5,000-page, "objective" report is by-and-large useless; the most useful intelligence is a reliable directive to vote yea or nay. But the joker in this deck is the word "reliable," because it is also true that the more information is processed the greater is the possibility of distortion.

The reason we have an intelligence crisis is simple. Congress deals with more problems of greater complexity than ever before; there is, therefore, more relevant information available than ever before; which means that there is need for more processing; which in turn means that there is likely to be more distortion.

One way to alleviate this problem would be to radically reduce the congressional workload. To some extent this has been done: problems of claims, for example, have been delegated to a special court, most tariff rates are now set by the executive. Some think, and I am one of them, that this process of workload delegation has gone too far already; few think that it should go much further. And so the problem of making uninformed decisions is likely to persist. Every member of this body will continue to cast votes on complex pieces of legislation about which he knows practically nothing.

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This is, of course, a source of some insecurity. But I don't think that many of the 435 members of this great body came here in search of security. And as long as one's intelligence is good, as long as the directives to vote yea or nay are reliable, there is no problem: intelligent decisions can be made by uninformed men. The essential problem for both the legislator and the legislature is to guarantee—as far as possible—the reliability of the cue-giving sources.

Two such cue-giving sources are of primary importance. Standing committees enable a legislature to specialize and divide the work of processing information. Committees as institutions and their members as individuals are key sources of intelligence for members of both the House and Senate. A large and probably growing proportion of the information flowing into a legislature is channelled through its committees. This, of course, was not always the case. The House, roughly until 1820, and the Senate into the 1830's, operated successfully without a fully-developed system of standing committees. Information flowed directly from constituents to individual members. There was relatively little specialization, and—although some members of congress were more powerful and influential than others—every member was potentially a source of intelligence to every other. The development of the committee system divided the workload of the House and specialized cue-giving roles. Through service on committees, certain members became recognized sources of expertise and intelligence in certain fields.

At the same time as Congress was becoming more specialized, so was the society. Increasingly citizens began to channel their petitions to Congress through specialized groups. These specialized groups, along with similarly-specialized executive agencies, have become regular, accustomed channels of legislative intelligence. And there are, of course, important parallels in the structure of these outside agencies and their congressional counterparts. Agricultural groups tend to communicate primarily with members of the Committees on Agriculture; labor groups with the Education and Labor Committee, and so on. Whether or not these "cozy little triangles," as my City University colleague Dorothy James calls them, constitute "subgovernments" (Douglas Cater's term), they do tend virtually to monopolize the intelligence process. On a few very "big" issues, and many very small ones, committee cue-givers are by-passed: individual members ignore these sources and go directly to the outside groups; committees, from time to time, conduct field trips and investigations in the hopes of supplementing or running end runs around existing sources; individual members sometimes by-pass both committees and interest groups by communicating directly with constituents, friends, or other outside sources. And there are other important cue-givers as well: party leaders, quite obviously; journalists and academics; and fellow members with "exotic" interests (e.g., John Brademas on Greece, Hugh Scott on art.) But the flow of information is basically specialized, and functionally fragmented into policy subsystems.

As a rule then, the House as a whole seeks and requires information from these subsystems only when there is conflict within them. Because they are pressed for time, individual members are likely to accept without questions a consensus reached in committee and among

outside groups. When bills are reported unanimously out of committee, and when no major groups come forward to challenge such consensus, decisions, incentives to seek more information are virtually nonexistent.

Students of mass communications use the term "gatekeeper" to describe those who stand at key points in a communications process. "Gatekeeping," as Katz and Lazarsfeld define it, "means controlling a strategic portion of a channel—whether that channel is for the flow of goods, or news, or people—so as to have the power of decision over whatever is flowing through the channel will enter the group or not." So far as members of Congress are concerned, there are two important sets of gatekeepers in the intelligence system: outside groups and legislative committees. Both serve to process information and convert it into useful intelligence.

Generally, the system works rather well. Extraneous materials, and those issues about which all parties agree, are filtered out: only essential conflicts and evaluated bits of data pass through this gatekeeping network to members at large. Each member, moreover, begins to develop an implicit roster of trusted gatekeepers: members of committees, representatives of outside groups whose cue-giving he learns to trust. Combining both expertise and political judgment, these cue-givers can provide other members both with an idea of which problems and issues are important and deserve time, and with reliable directives on how to vote.

This system fails, or is inadequate, under three conditions. First: when policy subsystems are oligopic or monopolistic rather than pluralistic, intelligence tends to be hoarded rather than dispersed. A big-city congressman, for example, may find it difficult to find a reliable cue-giver on a rural-dominated agriculture committee; or the interest groups in a given policy subsystem, along with committee members in that subsystem, may have agreed among themselves on a fixed line of argument that withholds important intelligence. Under these conditions, as former Congressman Thomas Curtis once said—

Committees have usurped the prerogatives of the House and sought to make the decision themselves, each in their own little kingdoms.

This usurpation of the power to make decisions has corrupted the study and deliberative process from one of gathering as much information as possible and spreading it out on the record for the rest of Congress . . . to one of squirreling away what information the senior members of the committee have acquired . . . so that the committee's decision, made behind closed doors, becomes the decision the full Congress adopts.

A second problem is one of setting priorities, of judging the relative merits of the claims upon resources of independent subsystems. As President Nixon put it: "a momentum of extravagance is speeded by requirements created initially by legislative committees sympathetic to particular and narrow causes. These committees are encouraged by special interest groups and by some executive branch officials who are more concerned with expansion of their own program than with total federal spending and the taxes required to support that spending." I would like to add that this is not simply a fiscal problem: every member of this body is faced constantly with the problem of priorities—how does he use his time? The answer to this question, more often than

not, is determined by the structure of existing institutions—he uses his time to deal with problems assigned him by the nature of his committee responsibilities. The problem, unfortunately, is that committee jurisdictions do not always coincide with policy imperatives: environmental planning, for example, is not simply a problem of public works, of interior or insular affairs, or of any previously-defined area of work specialization.

A third problem with the present system of intelligence is that it does not deal with problems lacking organized constituencies, dealing with newly-emergent program needs, cutting across existing group boundaries, dealing with issues, particularly in the area of foreign policy, which have small publics. It is possible for Congress to create organized constituencies—it did this, I think with the Community Action Program—but there are important philosophical problems raised by this approach.

Legislative intelligence, to summarize, is best on issues where the system is pluralistic—generally those issues which could be characterized as redistributive. It is less effective on those issues where there are significant imbalances in the pressure and/or committee systems. This is particularly likely to be the case with regulatory issues and with subsidies. On issues such as these, the relationships between internal and external gatekeepers may be very close and they develop mutual interests in withholding rather than disseminating information. Legislative intelligence is at its worst where countervailing powers are non-existent. Technical issues, innovative programs, and issues of foreign policy tend to fit into this category because the outside sources of information tend to have a monopoly on the intelligence function.

If the basic outline of this analysis is correct, the most ill-advised reform proposals are those which would tend—usually under the guise of objectivity—to break down the pluralistic elements of the intelligence system. Any proposal which either adds a new layer of gatekeepers or which reinforces sympathy-interest-leniency syndromes is likely to impede rather than facilitate the flow of information. *For this reason I would look with skepticism upon proposals to more rigidly define committee jurisdictions. For intelligence purposes redundancy is a good thing.* Nor are members of the House likely to be saved by staff. Legislative Assistants in the Senate are, necessarily, generalists; but House constituencies are far more specialized. This means that staff resources will be specialized too. The Senators from New York must deal with agricultural problems, for example, but most members of New York's delegation in the House could not care less. This means that they are unlikely to devote either staff resources or their own time to agricultural problems. Thus the Senate Agriculture Committee, to extend the example, includes representatives of urban constituencies; its House counterpart does not.

Finally, I am highly skeptical of “neutral” and “objective” sources. The danger of data processing systems, of specially-created bodies like the new Office of Technology Assessment (OTA) is their tendency to surround problems that are essentially political with a false aura of objectivity. We must be wary of creating a new level of gatekeepers.

How do we keep the committee system pluralistic? One method which comes to mind immediately is to require or ensure diverse memberships; but this solution is neither practical nor foolproof. I

simply do not see how we can get a Shirley Chisholm or Herman Badillo to accept and retain a seat on the Agriculture Committee; but even if they did, it might not make a difference. Joseph Resnick, for example, did accept a seat on Agriculture, advanced through seniority to a subcommittee chairmanship, investigated a sacred cow (the Farm Bureau), and was treated by his committee colleagues like a fox in a chicken coop.

It might be possible to ensure diversity by drastically reducing the number of standing committees. If, for example, we went to six committees of 70-80 members each, we might get a list something like this:

Finance.

Ways and Means.

Appropriations.

Rules, Administration, and Government Operations.

Foreign Policy and Defense.

Human Resources.

Natural Resources.

The difficulty with such a consolidation is that it might tend to accelerate the trend begun (unintentionally) in the Act of 1946: the shift of power from elected to seniority leaders. Although the committees themselves would be large enough to be diverse, the subcommittees probably would not. And as long as the chairman retained some ability to influence subcommittee assignments and bill referrals, we might wind up with a less pluralistic information network than we now have.

Another possibility—one that I think deserves very serious consideration—is to move in the opposite direction. *To create more committees and to overlap their jurisdictions would result in the kinds of power struggles that might dramatically increase the flow of legislative intelligence.* We can see the effects of such overlaps in newly-emerging areas of concern where existing jurisdictions are vague. The conflict between Senator Muskie's Public Works Committee and Senator Jackson's Interior Committee in the rush to be first with the mostest on environmental issues has brought some very useful bits of legislative and political intelligence to members of the Senate.

Another consideration which I think should inform your analyses of committee jurisdictions is that of overlaps with executive agencies. Presently, there is an extraordinary amount of structural parallelism between the legislative and executive branches. This encourages, I'm afraid, what Fenno calls "sympathy-interest-leniency syndromes," and can lead to intelligence blockages.

Mr. Chairman, I have probably gone on too long. Although it runs counter to my personal inclinations as a reformer, I think my basic point here is to urge caution: to counsel against too rigid a definition of committee jurisdictions, to raise warnings against the dangers of creating new levels of gatekeeping establishments, to caution against the view that we can find salvation in staff, hardware, or "objective" facts. If only to avoid being labelled a complete cynic, let us conclude with a short list of proposals that I think might deserve serious consideration:

1. If committee jurisdictions are redefined, it should be done in such a way as to eliminate parallelism with the structure of executive agencies.

2. Panel sessions such as these should be institutionalized: too often conflicting viewpoints never confront one another under the usual format of hearings.

3. Congress should expand its data-processing operations to include surveys of research being undertaken by state legislatures.

4. The rules should be changed to allow a minority—say of one-third—of the members of a committee to report a bill directly to the floor. Existing discharge procedures do not trust the representative quality of most committees.

5. If the current tendency to by-pass the appropriations process continues, and it probably will, some central coordinating body—similar to the Appropriations Committee—should be established. The House badly needs coordinating mechanisms. The dreary alternative is impoundment.

6. If we can get a committee bill of rights which limits the prerogatives of the chairmen, it might be wise to eliminate fixed-jurisdiction subcommittees, and to require that bills be assigned randomly to numbered subcommittees.

Let me conclude, Mr. Chairman, by thanking you for the opportunity to participate in what may be an historic endeavor. Your task is awesome and significant. I hope that you will use your mandate not to block the flow of information but to facilitate it; not to rigidly define boundaries and jurisdictions, but to make the system more open and pluralistic; not to bureaucratize the legislative process, but to make the legislature an effective counterweight to a bureaucratized society.

