

Good Legislation Has Nothing To Do With It

by Walter Shapiro

Most books about Congress tend to do little more than reinforce stereotypes about life on Capitol Hill. That's why a little-noticed essay by David R. Mayhew, *Congress: The Electoral Connection*,* is such a joy. Mayhew is a political scientist at Yale and his book is an example of a largely abandoned academic genre—a tightly written theoretical essay, designed to be suggestive, rather than conclusive, and presented to the reader without the methodological crutches of modern political science. His method of analysis is deceptively simple: “I shall conjure up a vision of United States congressmen as single-minded seekers of reelection... and then speculate about how congressmen so motivated are likely to go about... making policy.”

The quick objection is that Mayhew ignores the hundreds of legislators who represent “safe” districts with loyal constituencies. Mayhew contends that few congressional in-

cumbents are truly free from reelection fears. Even the most secure congressmen can't ignore the voters back home. Take the case of Kansas Republican Chester Mize, who was elected to the House in 1968 with almost 68 per cent of the vote. Two years later he was unemployed, after polling only 45 per cent of the vote in a bid for reelection.

Mayhew identifies the activities that can help a congressman win reelection. It is significant that the author can find only two ways in which work in Congress can be translated into votes at home: *credit-claiming*—doing something that can be cited as a personal accomplishment in office—and *position-taking*—articulating popular views on public issues.

The problem is that much of the basic work of Congress is ignored by the voters. Mayhew argues that performing the day-to-day legislative chores can be regarded as a form of altruism—almost as selfless as ladling out broth at a Salvation Army soup

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**Congress: The Electoral Connection*. David R. Mayhew. Yale University Press, \$7.95.

kitchen. As any organizational theorist can testify, altruism is a slender reed on which to build the framework of an institution. It would be as if General Electric only paid its employees for making speeches about free enterprise, but hoped that they would build appliances in their spare time for the fun of it.

Congress is a place where almost no one works harder than he wants to. There is little to prevent a congressman from leaving the constituent work to his staff and spending most of the day working out in the House gym. An illustration of the flexibility of the congressional workday is the ease with which senators can conduct presidential campaigns without taking a leave of absence from their legislative duties.

Going Through the Motions

Mayhew's 180-page essay builds a theoretical framework which can explain events that seem baffling

when viewed from other perspectives. There is, for example, the mystery of why the large numbers of antiwar senators were so ineffectual in their efforts to end our military involvement in Vietnam. Not only were there only token efforts to block war appropriations, but, until the very end, Congress couldn't even pass innocuous resolutions setting withdrawal dates.

The failure of the doves is related to Mayhew's contention that members of Congress are not overly concerned with whether they support the winning position on roll-call votes, so there is little incentive for a minority to do the persuading and the arm-twisting necessary to become a majority. History is filled with examples of legislators who were defeated because they took an unpopular stand, but Mayhew asks rhetorically, "Who can think of one where a member got into trouble for being on the *losing* side?"

Mayhew argues that the dove senators lacked a political incentive to do more than just talk. They received so much credit for their antiwar speeches that they had little to gain by actually stopping the war. A similar example is the recent spate of anti-busing legislation. The Detroit area legislators who led the anti-integration efforts were acclaimed back home, but they were under no obligation "to worry about what was passed or was implemented."

Obviously, it is possible to exaggerate Mayhew's argument to the point of parody. Many antiwar senators were quite sincere in their desire to see the war ended. But Mayhew contends that it was not in their direct interest to devote much time to organizing against it. Such activity would have meant neglecting other matters that had a greater bearing on reelection—"making speeches, meeting constituents, looking into casework."

There is just one major exception to this rule—the roll-call votes on measures that provide tangible benefits for specific congressional districts,



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such as a new post office or grants to local programs. Outside of such pork-barrel bills, a legislator knows that even if he is defeated on a piece of major legislation, he will get credit for having been brave enough to "fight the good fight." The Right-to-Life movement is grateful to James Buckley for introducing a constitutional amendment outlawing abortion, but they don't blame him when it isn't ratified. Liberals have always been especially willing to reward politicians for grand but futile gestures. Wayne Morse and Ernest Gruening were revered for having voted against the Gulf of Tonkin Resolution, but no one wondered why they couldn't attract any supporters. This kind of liberal mind-set encourages speechmakers and ideologues but provides congressmen with absolutely no incentive to do substantive legislative work.

Although never explicitly stated, Mayhew's major concern is accountability, the problem of assigning responsibility for the actions of Congress. Because Congress has 535 members, voters do not generally hold their individual representatives responsible for the failures of the institution. Other than voting records and public statements, it is hard for outsiders to judge the legislative performance of individual congressmen. As Mayhew notes, "Congressional processes are so complicated that it is very difficult for outsiders to tell what's going on." The erratic quality of the profiles which Ralph Nader's Congress Project produced in 1972 illustrates this problem. Similarly, *The Almanac of American Politics* tells far more about the demography and political history of each congressional district than it does about the legislative record of the incumbent.

Even when congressmen *want* to be held responsible for their legislative actions, it is difficult for them to get their constituents to take them seriously. Mayhew believes that if a congressman went before an audience and said, "I'm responsible for the

highway program, judge me on the success or failure of that," no one would believe him. So many legislators have falsely claimed to be the authors of bills they have merely co-sponsored that voters have grown skeptical of such boasts of individual accomplishment. (Voters are swayed, however, when the same congressman takes credit for the new local post office, because they can't believe that anyone else would care.) The result is a distorted incentive system that encourages legislators to labor over the fine print of a bill to place an Army installation in their district and to gloss over the details of a more general \$10-billion federal spending program.

To buttress his point, Mayhew cites several examples where congressmen "display only a modest interest in what goes into bills or what their passage accomplishes." Although attendance is excellent at Senate Foreign Relations Committee hearings when the television cameras are present, William Fulbright, its former chairman, has complained, "This is the kind of committee that senators like to be on, because they don't have to do anything." Similarly, the armed services committees in both houses tend to pay close attention to the Pentagon's budget only when military construction legislation can provide specific projects for their own districts.

Many of the results of legislative sloth are hidden within the recesses of the federal budget, but there are times when we get clues as to the precision with which our laws are drafted. One example is the notorious WIN (Work Incentive) program that was created by the House Ways and Means Committee in 1967 as a way of getting the able-bodied off the welfare rolls through job retraining. A 1972 investigation revealed that two thirds of the welfare recipients who enrolled in the program never finished their training. Many others never found jobs. Each WIN graduate who was actually placed in a job cost the

federal government more than \$8,800. Yet little criticism of the program was directed at the Congress which had approved the program and funded it.

The problem of legislative sloppiness and congressional irresponsibility is difficult for liberals to face. Denunciations by Republican Presidents of the profligate spending habits of Democratic Congresses have become so predictable that most liberals no longer even hear them; they have become background noise like public service announcements on late night television. Yet this may be one accusation by Richard Nixon that is not entirely without foundation. If legislators are denied personal credit for writing effective legislation and are largely spared the blame for fiascos like the WIN program, it would take a Congress of almost selfless dedication to the public weal to behave in an entirely responsible fashion.

Problems More Basic Than Seniority

One reason Mayhew's essay is likely to be of lasting value is that he is concerned with structural problems which are so *basic* that they will not be alleviated by the arrival of a large and restive freshman class in Congress. In fact, there are a few indications that the problems may grow worse. Although the new congressional freshmen have been widely praised for their intelligence and their serious-mindedness, there are some disturbing hints that, for all their admirable qualities, they may not place legislative craftsmanship high on their list of personal priorities.

Take Toby Moffett of Connecticut, considered by many to be one of the brightest lights in the freshman class. "I tried to bury a few myths in my campaign," he said after a month in office, "including the one that says the most important thing a congressman does is to legislate."

One of Moffett's major priorities is to investigate the federal regulatory agencies. This is the traditional—and often neglected—oversight function of

Congress, which, if performed diligently, can have an important impact on the performance of the executive branch.

Mayhew's model reminds us, however, that such investigations will also help Moffett's reelection campaign. The problem is that Moffett would get equal electoral rewards by merely generating press releases. For example, Les Aspin gets favorable press coverage whether he has unearthed a major Pentagon scandal or merely discovered that General Haig used a NATO plane to transport his pet dog around Europe.

Because the political rewards of congressional investigations have more to do with drama than content, it is easy for House and Senate hearings to degenerate into publicity circuses. In a recent profile of Scoop Jackson, Robert Sherrill recalled how the Washington Democrat summoned seven oil company presidents before his Senate Interior Committee at the height of the gasoline crisis. Rather than letting them testify individually, Jackson insisted on questioning them as a group. It made great television as the fearless Senator confronted the oil barons, but it also ruined any chance for sustained questioning.

Cynical exercises like Jackson's hearings are an all-too-frequent by-product of presidential ambitions. What is far more destructive to the internal fabric of Congress is that well-intentioned legislators like Toby Moffett believe that making speeches is important work. When I spoke with Moffett in early February, the highlight of his legislative day had been appearing before the Armed Services Committee to read a statement expressing his outrage at military aid to Cambodia.

What mattered was not what Moffett said in his speech but that he considered such predictable rhetoric important. The fault is not his, because this is the kind of representation that issue-conscious liberals have come to demand from their legislators. Bella Abzug is now running for

the Senate largely on the basis of her four-year record as an outspoken congressional advocate of women's and peace issues. Back in 1971, when it seemed that American fighting in Vietnam would go on forever, it was symbolically important to those in the antiwar movement to have people like Bella Abzug and Ron Dellums in Congress. No one expected them to author legislation; their role was to provide primal therapy for antiwar militants.

Many of the new House freshmen have brought variants of this "outsider" mentality with them to Washington. It doesn't matter whether this is a product of the antiwar movement or the result of watching film classics like *Mr. Smith Goes to Washington*, which featured Jimmy Stewart filibustering against evil legislation. What is important is that they tend to romanticize the non-legislative side of Congress. Since, as Mayhew demonstrates, these non-legislative activities also bring rewards at the polls, it may be difficult for Congress to devise internal incentives that will keep their noses to the legislative grindstone.

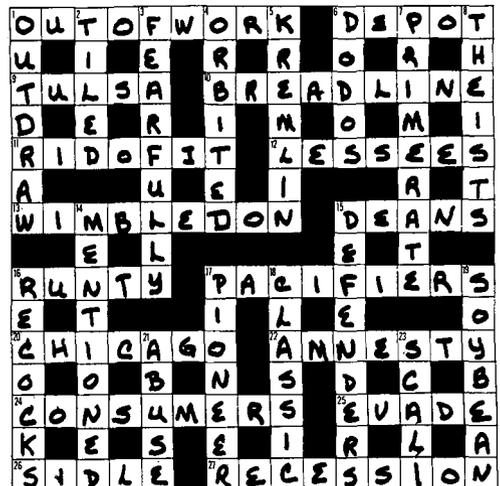
Up to now, outside efforts to evaluate congressional performance have only tended to make matters worse. By rating legislators solely on their voting records, groups like Americans for Democratic Action (ADA) have accentuated the symbolic element already inherent in congressional roll-calls. It is, obviously, ridiculous to evaluate a congressman's legislative performance solely on the basis of his voting record. But it is difficult to picture liberals opposing an incumbent with a perfect ADA rating, no matter how incompetent. Similarly, the ADA is unlikely to give a legislator credit for voting against a poverty bill, even if he knew that the legislation was badly drafted and the money would be wasted.

Without trying to romanticize the *ancien regime* in the House there are grounds for legitimate concern over the long-range effects of the "freshman revolt." It remains to be seen

how many freshmen will become obsessed with currying the favor of groups outside Congress and how many will dedicate themselves to mastering the legislative process. Part of the problem for the liberals, of course, is that the congressional "inner club" which has taken responsibility for keeping the institution functioning has always had a right-wing ideological cast. The pillars of the congressional process have always been men like Richard Russell, Sam Rayburn, Lyndon Johnson, Robert Kerr, Wilbur Mills, and the like. Too often their nurturing of the congressional machinery included accommodation with special interests and a general legislative conservatism. But there is no structural reason why things have to be this way. There is no reason why you can't have a chairman of the Ways and Means Committee who gives as meticulous attention to tax reform as Wilbur Mills gave to maintaining tax privileges.

But that kind of congressional dedication is unlikely without being encouraged by the voters. For too long too high a premium has been placed on congressional rhetoric and symbolic gestures. If we want a responsible Congress we—both the press and the public—must remind our legislators that we're following the advice of John Mitchell: watching what they do, not what they say. ■

Answers to February puzzle:



Tidbits and Outrages

ACLU Take Note

We may be carrying our concern over damaging dossiers a bit too far. *The National Observer* pointed out that the Houston office of the U.S. Equal Employment Opportunity Commission complained that it was discriminatory of the local police department to inquire into the arrest and conviction records of prospective policemen.

Project Independence

On Sunday, February 9, 1975, the front page of *The Washington Post* carried a story headlined "U.S. Dependence on Arab Oil Rising." Its author and editor must have slept late Saturday morning and missed Clayton Fritchey's report in the February 8 issue of the *Post*, under the headline, "The Growing Glut of Petroleum," which stated that Britain's North Sea oil potential was now estimated to be 22 billion barrels, cited recent oil discoveries in Israel, Mexico, India, and other countries, and quoted OCED reports that the Western industrial nations will soon be providing almost as much energy as they used.

It Runs in the Family

A recent item from the sports page of *The New York Times*:

Friday's Fight

By The Associated Press

San Diego, Calif.—Mike Nixon, 160 pounds, Glendale, Calif., and Dave Love, 156½, San Diego, fought to no decision, 9 rounds. Fight ruled no decision when Love couldn't continue after low blow by Nixon.

Homecoming Kings

Government contracting officers who deal with American universities know the secret of the decline of American business: Our best hustlers have gone into academia. This is a secret we hope the sheiks don't share, for otherwise our best chance for those petrodollars may come from the recent news of a \$5.5 million contract between the Saudis and the American Association of State Colleges and Universities and of exploratory missions to Iran from Columbia and Harvard.

Priming the Pump

President Ford's tax rebate plan has been attacked by critics who estimate that it will give only 17 per cent of taxpayers 43 per cent of the benefits. But these carpers should remember that Ford is merely following in the tradition of another great Republican, Andrew Mellon, Secretary of the Treasury under Harding and Coolidge. As reported in Gerald Colby Zilg's new book on the DuPonts, Mellon stimulated the 20s' economy by returning nearly \$2 million in tax rebates to Alfred du Pont, \$27 million to U.S. Steel (in which Mellon had large stock holdings), and \$404,000 to himself.