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FROM

Becoming an Effective Political Executive:
7 Lessons from Experienced Appointees

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Essays on Working in Washington by:

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Part II

Essays on Working in Washington

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By John H. Trattner

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Working with the Congress

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(Adapted from *The 2000 Prune Book: How to Succeed in Washington's Top Jobs*)

*(The italicized quotes below are drawn from interviews of presidential appointees for **The Prune Book** and from panelists who took part in orientation conferences for new appointees conducted by The Council and the White House from 1997 to 1999.)*

If you're a presidential appointee who deals regularly with the Congress, you may already recognize some of the striking contrasts, obvious and not so obvious, between the Hill and your own branch of government.

Unlike the executive branch, with defined, stated objectives set by its political leadership, the Congress is an arena where two parties push legislative agendas that are often in direct, open conflict. Further, a political party running the executive branch normally has no problem controlling it or getting its various elements to pull in the same general direction. In the Congress, however, neither party—whether in the majority or minority—can always count on such order within its ranks.

A majority's ability to control the decision on a given bill may only be nominal.

The congressional operating schedule offers another useful comparison. Increasingly hostage to the demands of fund-raising and fence mending, the Congress's work on substance is nowhere near as orderly, nor its progress as straight-line, as that of the executive branch. Its irregular pace and rhythm, its fractionated processes, can skew the timing and legislative hopes of any administration.

The Congress is now basically a Tuesday-to-Thursday club. What you have is a lot of members of the House and Senate who come in Tuesday morning, leave Thursday night, and are not here a lot.

Over time, such factors have widened the inherent differences in approach and attitude between the two branches. That makes it harder for people in either place to understand, and allow for, the work habits, tactics, strategy, and

outlook typical of the other. It's true as much for relationships between career staffs as between executive branch appointees and members of Congress. How well you can manage across these divides has a lot to do with the impact you can make in your job—how far you can go toward your objectives.

A Few Critical Generalities

You shouldn't plunge into the congressional dimension of your job without some overall appreciation of the Congress as probably the strongest, certainly the most contentious, power center in a city with several of them. A sense of this emerges from several comments by veteran observers, first about the job of the Congress:

The framers really had in mind making Congress a formidable power, the first branch of government, giving it powers to legislate, appropriate, investigate; giving them their own single constituencies to pay attention to; terms of office distinct from the president; a bicam-

eral legislature that ensures substantial conflict between the House and the Senate—a natural tension that develops between politicians’ need to represent their constituents and to engage in serious deliberation and policy making. It’s a body remarkable for its division of labor and specialization and the importance of congressional staff. Remember the framers had in mind to make it a complex, personal, explicitly political process.

The source of its prerogative:

Article I of the Constitution is the Congress. It is not the executive branch, it is not the judicial branch, it is the Congress. The founding fathers felt that was the seminal force for democracy—where the people had the direct authority to influence their lives in a pluralistic system. The fact is, regardless of what we think about individual members, everything emanates from that source of power.

Its personality:

People from Will Rogers on have tried to diagnose and explain Congress. Some see it as an august deliberative body. One woman member of the House of Representatives referred to it as an unruly day-care center. Let me suggest another option: It suffers from attention deficit disorder.

The way it operates:

Simple majorities don’t matter anymore. You either have unanimous consent to get something done, or you need a committed super majority of 60 or more. That puts a big burden on anybody doing business from the White House or from the agencies—the burden either to build unanimous

consent for your issue or to activate a very committed super majority. The power the Constitution gives to the minority is still very evident. There are continued attempts to take away that power, but it’s still a very important one in that it protects the minority.

Its members’ sense of independence within their own parties:

People in the executive branch make the mistake, in terms of what they expect of the Congress, to assume that members of their own party there are supposed to carry out the president’s will. Supposed to be the floor leaders for the president, supposed to be the point men and women for the president’s programs. It is important to remember that members of Congress, even of your party, are only loosely part of the same team. And the reason is that they are part of a separate branch of government that takes its role as a separate branch of government very seriously.

Nor can you expect to work well with the Hill without mastering at least a few other fundamentals. It helps to know something about the House and Senate rules and about parliamentary procedures. It’s almost mandatory to be familiar with structure and function—especially in the design and funding of executive branch programs.

On that front, a senior White House staffer with congressional experience recommends that appointees “know the difference between the appropriations and authorization committees.” That may sound pretty elementary. But “those

are different processes on the Hill that people sometimes don’t distinguish from each other.”

Decisions on Money and Programs

So let’s look at that for a minute. According to House and Senate rules, here’s basically how the Congress is supposed to provide money for government programs. The power to authorize funds belongs to legislative committees that have jurisdiction over the various areas of government responsibility—health, labor, science, defense, and so on—and over executive branch agencies and programs in those areas. They are the authorizing committees. The power actually to make the money available resides with the appropriations committees and their various subcommittees. As they move toward these decisions, committees conduct hearings where executive branch agency leaders or senior political managers make their case for the new or existing programs and money requests laid out in the president’s annual budget message to the Congress.

Each year, the Congress divides its funding task into 13 regular money bills that cover all government agencies and functions (plus the District of Columbia). The rules prescribe an annual two-step procedure. In step one, an authorizing committee enacts a measure that can create, continue, or modify a program (or an agency) for a set or indefinite amount of time and approve the appropriation of money for it. The measure may specify the duties and functions of the program, its structure, and the responsibilities of the executive branch officials involved.

In step two, the appropriations committees, after getting the recommendations of their 13 subcommittees, allocate funds to the programs that have been authorized. These decisions then come to the floor of each house for approval. Differences between House and Senate versions of these decisions go to joint conference committees for resolution; the results of that go back to each floor for approval. Once that is in hand—and the president signs the measure—the programs or agencies affected finally have budget authority to incur obligations and spend the money. If unanticipated needs arise within a program during the fiscal year, the Congress can and often does provide supplemental funding in a separate measure.

Keep firmly in mind that there are two kinds of spending for federal programs—discretionary and direct. Generally, discretionary funding takes the two-step route outlined above. But direct spending is funded by the authorizing process alone and today accounts for about two-thirds of all outlays. Most direct spending goes into entitlement programs where the level of funding is already fixed by previously enacted law. Social Security, for example, gets its funding through permanent appropriations in the program's authorizing law. Other direct spending, like that for Medicaid, is an "appropriated entitlement"; it is funded each year by the appropriations committees, but the authorizing legislation controls the amount.

Those are the rules. How do they work in practice? As individual appropriations, the 13 money bills are supposed to go through the painstaking pro-

cess outlined above and be adopted by October 1, the beginning of the fiscal year in which they apply. These years, it rarely happens. The reality is that only a handful of bills might get through on time. The Congress, with the deadline looming, hastily wraps the rest into one large "omnibus" bill for quick passage, which critics say is also largely unexamined passage. For any bills that still don't make it, legislators must enact what is called a continuing resolution. This makes stop-gap funding available for the affected agencies and programs until the appropriations can be made. (Sometimes agencies have gone through an entire fiscal year on continuing resolutions.) In cases of extensive deadlock, where agreement on most appropriations is still absent at the October 1 mark, the Congress has been known simply to stop the clock, postponing the deadline for a few days.

Appropriators Vs. Authorizers

Further, many observers believe the whip hand in making funding decisions for executive branch agencies increasingly belongs to the appropriators.

There are three political parties in Washington: the Republicans, the Democrats and the appropriators. And the appropriators operate at a different beat from everybody else.

"My own experience," says a political consultant with a lot of it, "is that the appropriations committees are quickly becoming the only committees in the sense that more and more stuff is getting done at the last minute." That refers to the habit in both Houses over the last decade or more to put off most individual funding for agencies or groups of agencies during a legislative ses-

sion, then fold them all into monster "omnibus" bills enacted in the last few days. As this individual points out, "the number of what would ordinarily be called authorizing pieces of legislation that are rolled into the omnibus bills is quite long."

"The authorizers do have a lot of impact on appropriations committee language," adds a former congressman. "They are by no means irrelevant to the process. But if you look over the last several decades, you've seen a very sharp decline in the power of the authorizing committees and a very sharp increase in the power of the appropriations committees." It's understandable, he says, that the executive branch might think it is wasting time dealing with authorizing committees and decide "just to focus on the appropriations committee, where the decision is probably going to be made that will really count." He notes the development of a new science—drafting language that is really authorizing language to put into an appropriations bill.

Why is this happening? It shouldn't, according to the House and Senate rules that enforce the separation of the authorization and appropriations processes. Among other transgressions, they forbid the inclusion of legislative language in appropriations bills. Yet to enforce these provisions, it's necessary to raise a point of order—formally invoke the rules. And the rules can also be waived by suspending them.

"If I had a scale of whom you should pay attention to, I would clearly start with the appropriators," is the realistic advice of another onetime member of the House. "If you're going to spend

time and effort getting to know people, it's those in the appropriations process. You try to build a leadership program that involves the White House, that is bipartisan, that involves the appropriators, that plays off the authorizers. Usually, lesson number one, the appropriators are going to win. So take that to the bank, regardless of the issue." Or, as a former congressional staffer puts it: *When there's a fight between the appropriators and the authorizers, stick with the appropriators. They get a shot at you every single year.*

Don't let this advice unbalance your approach too much, however. The same people who offer it also warn against neglecting the authorizing committees. This is where the day-to-day oversight of what you do resides. Authorizing committees are "your champions," says one, "who have invested a lot in your bureaucracy. Don't ignore them." Make certain you don't "mess around with your authorizing committee," says another, since they "can make your life miserable. Don't work on your appropriators without letting the people you really work with, the subcommittee chairs, the ranking members, know what you're doing and why you're doing it. Don't think the appropriators are where the only action is and you can forget these other guys."

Legislators and Their Constituencies

Another factor not to overlook is the relationship between members of Congress and the people they represent. They are not just those whose votes sent the member to Congress last time around. They are individuals and groups with businesses, economic interests, issues, causes, and special situations the member is expected

to look out for. Some of them may not necessarily be confined to the member's home district or state. Together, all these constituencies come first in every member's daily thoughts—not least because they matter decisively in an objective that preoccupies every member: re-election. "People who deal with Congress deal in peril if they don't recognize the incredible interconnection that members of Congress have with their constituents," observes a former member. "It tends to be the way they learn about a lot of what they know. They learn by anecdote, by the individual case of what went wrong in a business, what went wrong for an individual, what went right at the Social Security Administration." A former colleague from the other side of the aisle agrees: "The most significant driving force for any member of the House or Senate is his or her origins—the district or the state."

Recognizing the many differences between House and Senate, smart political appointees will tailor their approaches accordingly. House members are "better prepared," but "more provincial," according to a veteran of service in that chamber. Senators are less prepared, which means their personal and committee staffers swing greater weight. "But senators have a broader view. You may have a quicker, more positive decision on your behalf with a member of the Senate because of the more reflective nature of that body." Depending on where they are in the election cycle, senators also have far more time to deal with the issues. A good rule of thumb is to think of House and Senate as almost separate entities, while never considering one more important than the other.

Relationships

"If you keep the Congress involved, there are no surprises," says an agency head. "They may not always like what you do, but at least they're not surprised. They don't read it in the paper and think, gee, I didn't know anything about that." A senior white House official makes the same point: "They feel worse about reading it in the paper than if you call and tell them that they can't get what they want. No surprises."

If you're trying to develop or strengthen relationships on the Hill, she suggests finding ways for members of the Congress "to share the credit for what you're doing." For example, invite them to events, to tour facilities, to visit programs. If you're having a press conference about something they are concerned with, ask them to join you. In other words, "give them some ownership of the issues, bring them into the process." Be sure in this that you are being bipartisan about it. Don't limit it to just members of your own party. And "look to the members of your committee and then members beyond that. Get them to help you with their expertise."

A lawyer and lobbyist who also served in the Congress recommends being proactive. *Initiate contact with them. Say "I'm working on these topics and I know they are of concern to you, your district, your committee, you personally." Say you've got scientists or engineers, social workers or nurses or doctors, whatever it is, you have people that can answer some of their questions on those subjects and they should put you down as a resource. Ultimately they need information from you about the topics*

that you deal with, so why not make it an open-ended offer to begin with? It's much better to offer the help than have somebody serve a Freedom of Information Act subpoena on you.

You can also make the same offer to staff people who work on given issues for members or committees. Do the same thing with chairs and ranking members of committees. This can have a variety of payoffs. For instance:

It could be in the waning days of one of these omnibus bills that you get a phone call and your input makes the difference in somebody being stuck or willing to bend a little bit. In the final hours of congressional sessions, bending a little bit is what it's all about.

"That doesn't mean you have to co-opt the policy of your department," says this same experienced Hill observer. "It doesn't mean that you have to turn your policy inside out. In a great many instances, it means having information available in which to make a reasoned choice. You have the key to much of the information." If you don't choose to give that key to decision makers in the Congress to use now and then, they may see you as "hiding something or unwilling to help—and that's not good for anybody."

Recently, when a big agency published certain information as required by law, it put some people on the Hill into a serious snit. Here's what happened, related by the head of the agency:

When we first implemented that by the date required, there was a huge uproar about the way

we were doing it. Some on the committees were very upset. We went over and said, "Look, we know, we see, we hear, this is not the way it should be, let's work and try to figure out how we can fix this." If we had responded very defensively, and taken sort of an arm's-length approach, I think we would have been in some kind of a war. But that wasn't our point of view. We were not trying to make this thing work badly, we just didn't quite figure it out right. So we said, "Come in and help us." And they did, and we've made it better. So I think the approach is not to be defensive when things go wrong, and to solicit help from all quarters. When you can't accommodate somebody's specific desire, be very up front about why that is. By and large, that has worked pretty well so far.

Oversight

Very few high-level administration appointees in the last 50 years have not felt the thrust (some would call it the sting) of congressional oversight. A less polite term, one you'll encounter frequently, is micromanagement. Oversight means the Congress' responsibility to supervise federal agencies in their program and budget management, their progress toward stated goals, their problems and prospects, and much else. In the process, legislators are supposed to gather information to assist its decisions on designing and paying for government's efforts to run the country's public business. Onerous though it can be, federal agency political managers must learn to work in businesslike fashion with congressional exercise of the oversight function.

The oversight role normally resides in the congressional authorizing committees. It can take the form of committee hearings, field trips, official requests for information, informal inquiries, simple phone calls, and a variety of other mechanisms. Legislators quite naturally use the opportunity for related purposes—to speak for their constituents, promote a point of view, commend or criticize, uphold or undermine. Oversight is a necessary but imperfect function that depends for effectiveness on the willingness of the executive branch and the Congress to work together. Here's how a past House member views it:

There can be too much oversight, without any doubt—too much demand for information and documentation that is not looked at. But a lot of this demand arises from frustration. A member will ask an executive branch official to do this or that. The official says, "yes, that's absolutely right, Congressman, I agree with you wholeheartedly," and walks out the door and nothing ever happens. This gets very frustrating, and members feel the executive branch is not paying any attention, not consulting, not taking them seriously.

The inevitable result?

The only way to get the attention of the executive branch is (something incisive like) dropping in an amendment they don't like. In their view, that's micromanaging, and it probably is. It arises out of a frustration over the lack of serious dialogue between the two branches and the feeling that the executive branch often looks upon the Congress as an obstacle to be overcome, not as a partner in the process. If you have that frame of mind, you're in deep trouble with the Congress.

On the level of personal attitude and behavior on the Hill, a former congressman cautions executive branch managers not to “get personal at any time with arguments or issues.” That watchword advice is one of the fundamental truths about the Congress—universally recognized and applicable as much to relationships between members themselves as between members and administration officials:

Remember that today’s adversary may be tomorrow’s ally.

And some related advice:

Don’t be put off by an initial hostile attitude. Sometimes it seems hostile on the surface, but dealing with Congress and the staff is a very personal thing. Call up the staff person of the member that appears hostile and try to have a meeting. You’re sure not going to get anywhere if you don’t try to have the meeting.

One of the former congressmen quoted earlier takes this further. “Don’t grovel,” he says. “State your case, but don’t be submissive or appear to be weak. Don’t be in a situation where members think you’re their vassal.” Members are interested in you, just as you are in them, and for the same reason: because you can do something for them. “You’re part of a legislative process that’s important to them. Don’t feel that you’re the supplicant in the relationship.”

The final word on personal behavior is the old maxim, a cliché but a useful one, quoted by an agency assistant secretary, suggesting that one can “catch more flies with honey than vinegar.”

Getting Things Done

Whatever your objective with the Congress, immediate or longer term, achieving it will require a variety of strategies, tactics, or combinations of each. On this question, the best take comes from people who have been the targets of these various approaches while serving in the House and Senate.

One direct approach is lobbying—personal contact with members to enlist their support of a program, a funding request, or other desired action. Depending on what you’re seeking, this can be a tough, often frustrating, mission. Yet a former congressman of long service thinks the executive branch puts too few resources into it. “An administration cannot do an effective job if it only trusts three or four people to come to the Hill and lobby, or starts too late,” he says. He views the 1999 failure to ratify the comprehensive test ban treaty as a “classic example” of that. “You’ve got to start early and you’ve got to stay with it. You have to be flexible according to the members’ level of understanding of the issue. You have to consult very broadly, not just with a few.” In his experience, the executive branch often makes the “big-time” mistake of confining its lobbying to members of the committee with jurisdiction over the issue.

Naturally, executive branch lobbying has to fight for congressional time and attention with legions of lobbyists for commercial and other nongovernment interest groups ranged along a very long spectrum. These people are specialists in what they do, devote full time to it, and can call on experience, resources, and techniques not avail-

able to the executive branch. They are also far better paid. Comparing their objectives on the Hill with those of the executive branch risks distortion or oversimplification; often, it’s an apples-and-oranges comparison. But there are times when the interests of both coincide to a point where some form of alliance can be useful.

Among a number of indirect approaches to desired action in the Congress are those endorsed by a cabinet secretary with prior service in the House. “How do you get members’ attention? Ask their colleagues to talk to them. That is probably the best way to get their support—a neglected way, but critically important. Next best is editorials in their home state newspapers. Generate those through your public affairs office. That has strong impact. Be careful that it isn’t obvious that you’re doing it. Third: phone calls rather than written material. Phone calls from live people in interest and stakeholders groups make more of an impact than letters, computer e-mail, telegrams, or faxes.”

Also recommended is a continuous process of educating members on your issue or objective. *Go to the power centers outside of your committee, the whips, the Hispanic caucus, black caucus. If it’s a children’s issue, there are a lot of caucuses that deal with children. Go to members who belong to informal groups that might be responsive to your issue. Be creative, tenacious, and persistent.*

Many agencies have congressional liaison offices, sometimes headed by an official at the assistant secretary level. It’s their job to shepherd an

agency's legislative requests, track the progress of bills through the committee and floor processes, and maintain the agency's relationships on the Hill. They also assist in preparations for testimony by agency officials, spot opportunities to negotiate deals or compromises and do some hand-holding with individual members—committee chairs, ranking members, others with power or influence over the fate of a given issue. "Generally, they're very good," says this agency head about congressional liaison operations. "On the whole, very competent people." However, he cautions, they tend to get too tight with their key congressional contacts, to develop what in other realms might be called clientitis. "Many of them have good instincts," he says, "but if you have to err when taking their advice, be a little bolder than what they recommended."

Another cabinet secretary and onetime congressman says an appointee's job "is to carry out the policy of the president. Not to do it blindly, but with good judgment." Presidents, he observes, don't need "sycophants who just parrot everything without thinking through what will help get the message and the policy through." What they do need is the use of independent judgment and wisdom in working with the Congress. "Don't be afraid to use those qualities in the process as long as you're not working at cross purposes with what the policy objectives are." From that flows a further point: Assets like integrity, insight, and discretion in an executive branch leader earn trust on the Hill and are likely to carry that individual further.

Dealing with Individual Members

From the wealth of comment and counsel tendered by those who have served in the Congress, some common keynotes emerge when it comes to individual legislators and the do's and don'ts of working with them.

Members today, says one of their colleagues, have several roles. They are legislators, politicians, and educators. They are students who must learn quickly. They are advocates for their constituents and communities, dignitaries invited to every function in their state or district, to say nothing of many events in Washington and abroad. They are traveling fact finders. They are deal makers.

And, we can add, never forget they are fundraisers, driven to invest disproportionate time in the effort to be re-elected.

To get the most out of your one-on-one contacts with them while sidestepping the pitfalls, the following points can help:

- Understand members' relevance to your concerns. Are they on the committees that you deal with or particularly involved in your issues? When you're planning to call on a member, explore the political framework of what you are seeking. Is the issue you will discuss a plus or a minus for the member? Is it a problem to be on your side or an easy issue to help you with? How well will it play back in their district?
- For you, the most important person in a member's office is not the chief of staff, the legislative assistant, the appropriations person, or the substantive foreign policy expert. It's the scheduler. A former congressman says, "Things got so busy for me in latter years that I had to schedule an appointment with my scheduler in order to see what I was doing."
- When you visit a member, state right away why you're there. Be succinct, professional, and candid about what is in your interest. Don't ramble. Think about what tough questions might be thrown at you. Leave before your welcome runs out.
- Don't try to make the member an expert on the subject. Make short, direct points that zero in so the member understands what you're talking about. The member's staff person on whatever your issue is will be much more informed. You'll want to talk at length with that individual and perhaps provide some briefing materials (which the member won't read). But some members will know more about the issue than you. So be ready to deal with various members at various levels of comprehension.
- Members won't always object if your response to something they want is really a non-response. This is especially true if a member's request is something absurdly unreal like, "My constituent Dolly Jackson

was in Paris for three days and wants to be ambassador to France.” Members often try to deal with such problems by bucking them to the executive branch. In this case, if you answer that the lady isn’t likely to get the job because she doesn’t sound qualified for it, you’ve taken care of that member’s problem.

- Don’t assume that because members disagree heatedly in public that there is some antipathy between them. Public differences don’t necessarily mean private differences as well. Quite often, members of different parties, or those who are adversaries in public, are good friends privately.
- Don’t be afraid to say that what the member said about you or your issue was unfair and you want to explain why. Don’t appear to be totally submissive, as if you’ve been whacked and must make amends. Remember that you’re all in a political process, and in the executive branch you are dealing with the Congress on a very professional basis. It helps sometimes to put a little edge on what you need to get done.