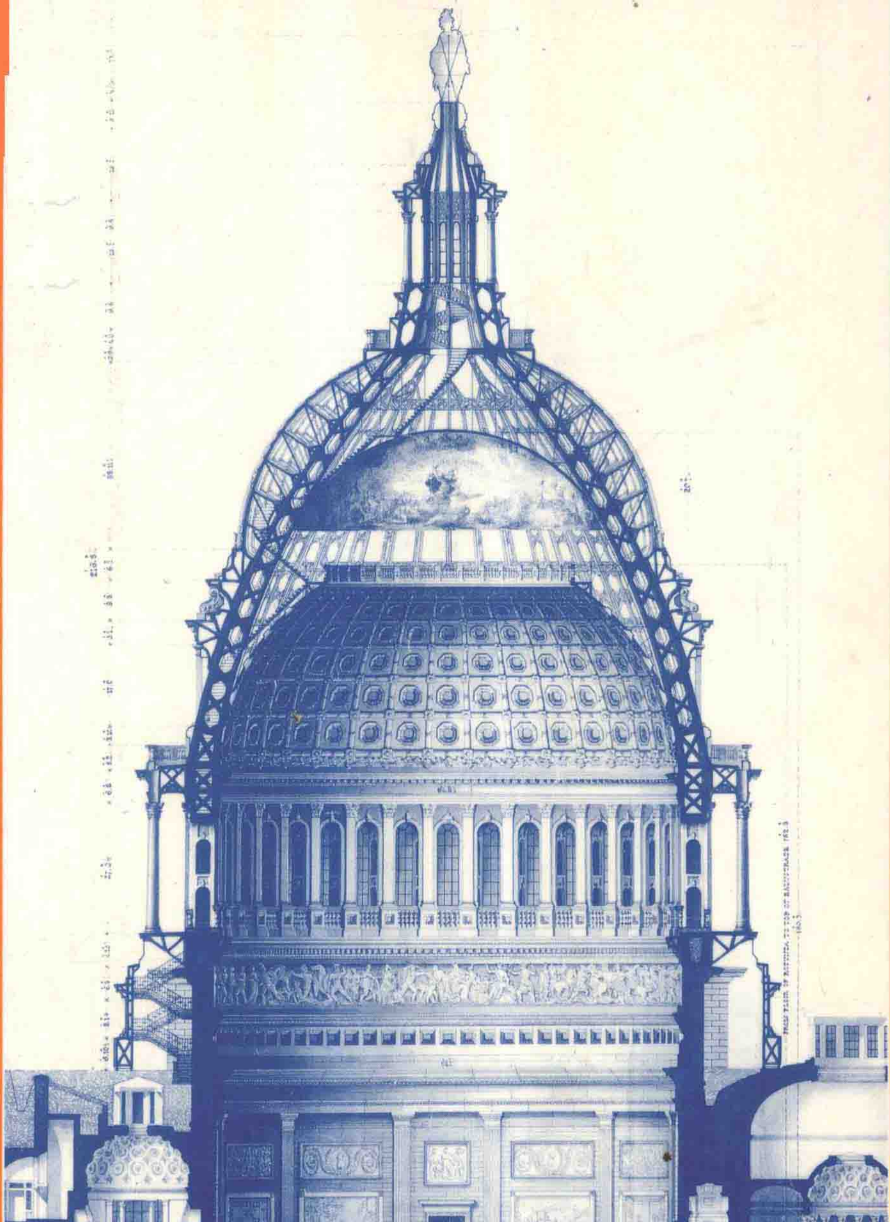
THE POSTREFORM CONGRESS



ROGER H. DAVIDSON

The
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Congress

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To
Richard W. Bolling
Morris K. Udall

Preface

The idea for *The Postreform Congress* came to me several years ago in the midst of a panel discussion at a professional meeting. Several earnest and capable scholars were presenting papers analyzing the reform-era Congress of the 1970s. They accurately detailed its decentralizing tendencies—reactions against the harsh reign of the conservative coalition that dominated the post–World War II generation. All this was well and good, I thought, but the descriptions soon exceeded the bounds of reality and took on an exaggerated quality. Terms like "fragmented," "atomistic," and "centrifugal" were tossed about with abandon. Surely, I thought, an institution such as they described would be so lacking in coherence and cohesion that it could not long survive. This was by no means the Congress I knew at close range—decentralized as always, but nonetheless elaborately structured and routinized. Indeed, it was gradually, but perceptibly, moving away from the "big bang" explosion that marked the revolt against the barons of the previous generation.

Today's Congress faces an environment that differs significantly from what has gone before. The advent of what economist Lester Thurow calls the zero-sum society—a sluggish economy combined with costly entitlements and, after 1981, tax cuts and program reallocations—no doubt lies at the root of this changed political atmosphere. Although the shift is popularly associated with Ronald Reagan's victory in 1980, it was already well under way in the late 1970s and survives into the 1990s.

Earlier congressional eras have been vividly described by scholars and journalists. What Kenneth Shepsle termed the "textbook Congress"—the conservative coalition's domination of Capitol Hill policy-making from the second Roosevelt administration through the early 1960s—was well researched and colorfully reported. Scholars such as Donald R. Matthews, Richard F. Fenno, Jr., and Charles O. Jones and journalists such as William S. White constructed a picture of the legislative process that was descriptively rich and conceptually persuasive.

The frenetic activism and structural fragmentation of the reform period (1960s and 1970s) were also well reported and still dominate most textbook treatments of the subject. Important analyses of this period include David Mayhew's provocative essay *Congress: The Electoral Connection* (1974), Thomas E. Mann's and Norman J. Ornstein's collection *The New Congress*

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(1981), and Hedrick Smith's book *The Power Game: How Washington Works* (1988).

A number of studies, reported at scholarly meetings over the past several years, reflect an emerging consensus on the nature of the contemporary postreform era. Elements that have received attention include: shifts in legislative workload; stress on the budget process; "blame-avoidance" techniques; reinvigorated partisanship; stronger party leadership, combined with weakened committee leadership; contraction of certain policy-making arenas; and tighter management of floor procedures, especially in the House. In contrast to the prior reform era, innovations of recent years represent not a concerted reform effort but rather a gradual, piecemeal adaptation to alterations in Congress's political environment and legislative agenda.

While articles on aspects of the postreform Congress have appeared in various scholarly journals, no collection has been available for a wider audience—for example, for students and nonspecialist scholars. There is nothing comparable to Mann and Ornstein's important and widely cited 1981 collection. Therefore, this volume brings together a group of leading scholars who illuminate various aspects of the postreform era in essays especially designed for a wide readership.

Such a collaborative enterprise is the product of many hands. My thanks go to my colleagues who contributed to this volume; they willingly met a demanding schedule and endured my extensive editorial intrusions. Don Reisman and his staff at St. Martin's Press were consistently helpful and supportive. Especially valuable were the contributions of Frances Jones, Suzanne Holt, and copyeditor Wendy Polhemus-Annibell, who carefully reviewed the entire manuscript and imposed stylistic consistency upon our disparate contributions. I am grateful also to those who critiqued the manuscript in substantive terms: Herbert Weisberg, Ohio State University; Linda L. Fowler, Syracuse University; and Michael L. Mezey, DePaul University.

This volume is dedicated to Richard W. Bolling and Morris K. Udall. I worked for the first of them; I admired and learned from both of them. Two more different personalities could hardly be imagined. Yet both individuals shared a passion for public policy and a commitment to legislative processes. Both shaped the reform movement on Capitol Hill during the 1960s and 1970s. Both gained formal leadership posts as the reform era ebbed, helping Congress to adapt to the demands of the postreform policy agenda. Both of them received a measure of public acclaim, and yet both failed to achieve their highest aspirations. They deserve to be remembered as among the finest lawmakers and public servants of their generation.

Roger H. Davidson

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PART · I

Introduction

1 / The Emergence of the Postreform Congress

ROGER H. DAVIDSON

Innovation in Congress's structures, procedures, and practices is a persistent theme in writing and commentary about the institution. Scholars, journalists, reformers, and ordinary citizens have publicly complained about how badly Congress works since even before the Progressive Era at the turn of the twentieth century. Manifestos, issued periodically, declare that various changes must be adopted to cure legislative ills (most recently, campaign finance reform). These worries have spawned an enormous literature on *congressional innovation*, typically reflecting a reformist viewpoint.

Other analysts have investigated what can be called the *mechanics of legislative innovation*. They are less interested in reforming the institution than in describing and understanding whatever changes take place within it. In the earliest days of political science as an organized discipline, scholars trained in public law naturally concentrated on formal structures: rules, precedents, and procedures. It was this legalistic and formalistic tradition that the young Woodrow Wilson sought to replace with the study of politics' "rough practice," in order to discover "the real depositories and the essential machinery of power" (1885, 30). Following Wilson's lead, succeeding generations of investigators exposed the "rough practice" of Capitol Hill politics with ingenuity, skill, and a wide range of theoretical assumptions and methodological tools.

The most recent generation of congressional scholarship has zealously explored what Hedrick Smith (1988) calls the "power earthquake" of the 1960s and 1970s: a multifaceted onslaught of changes, or reforms, that shattered the older seniority leaders' power, opened up the decision-making game to wider circles of players, and dramatically recast House and Senate rules and procedures. Political analysts have described and explained the contours of the *reform-era Congress* in enormous detail (Mann and Ornstein 1981; Rieselbach 1986). Given the rich and varied character of the era's institutional changes, it is not surprising that scholars still find in these developments material for detailed and insightful analyses (Smith 1989, especially chaps. 2, 4; Sinclair 1989c).

Increasingly, however, it is evident that Congress has embarked on a postreform period of adjustment and development. To be sure, most of the reform-era innovations remain formally in place and continue to shape the assumptions and expectations of both observers and members about how the system operates. Nonetheless, the evidence of continued change and

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adaptation is undeniable. In ways both subtle and profound, Congress has changed markedly since the reform era of the 1960s and 1970s; it is, among other things, more routinized, more partisan, and even more hierarchical (Davidson 1988b). While explicit tinkering with rules and procedures is not as pronounced as in the prior era, the postreform Congress has acted to minimize or reverse some of the central reformist trends. In the House of Representatives, this has meant stronger leadership and stricter management of floor business (Bach and Smith 1988). The Senate has undergone more subtle but still noticeable shifts in its operations.

CONGRESS AS AN ORGANIZATION

To understand innovation on Capitol Hill, it is useful to think of Congress as a complex organization responding to an equally complex environment. However, the term *Congress* is used only for convenience's sake; more precisely we mean the *House* and *Senate*, which operate as two distinct, though closely linked, organizations, jealous of their prerogatives and distinctive in their procedures.

Congress exhibits many of the attributes of other large-scale organizations. For one thing, it is large in scale. If somehow transferred into the business sector, Congress's 25,000 members and employees would rank it as a moderately large firm. In the governmental sphere, though, it resembles one of the smaller cabinet departments—the State Department, for example, is almost exactly the same size. Congress relies heavily on complicated sets of rules, procedures, precedents, and practices. It divides its work load among a variety of discrete task groups, and it contains at least a modest hierarchy of power. In the political marketplace, Congress produces distinctive "commodities" in order to satisfy public expectations or demands. In doing so, it faces competition from rival institutions.

The House and Senate, of course, differ in many respects from other complex organizations, public or private. Most importantly, they are less hierarchical in leadership and management than all but a few other organizations. And while the chambers reflect highly elaborated organization and a large measure of functional specialization, the subunits' decisions and even activities are usually known and subject to review by other participants in the system. Members tend to behave as generalists, relying on staffs or outsiders for specialized expertise. Finally, the organization's work is uncommonly exposed to intervention by outside interests, including lobbyists, constituents, executives, and the press.

All organizations have the imperative of maximizing their competitive position in the markets or arenas in which they operate. Ultimately, the question is one of institutional survival: Will the doors be open for business tomorrow morning, or next week, or next year? For an established political institution like the U.S. Congress, the challenge is more subtle. It is not one of surviving but of maintaining or even expanding its autonomy (control over its own decisions) and its scope of operations (extent or sphere of its influence).

No organization, of course, enjoys the luxury of pure autonomy or unlimited scope of influence. In our constitutional framework of blended powers, the House and Senate compete with many other power centers—among them the White House, executive agencies, the courts, state and local governments, the media, and even talk-show hosts. If Congress cannot or does not respond to the demands placed on it, other institutions are poised to take action. Congress temporized when President Harry S. Truman seized the nation's strike-bound steel mills to assure the flow of production during the Korean War. Musing on the lessons of the resulting 1952 Steel Seizure Case (*Youngstown Sheet & Tube Co. v. Sawyer*), the great constitutional scholar Edward S. Corwin noted that "just as nature abhors a vacuum, so does an age of emergency. Let Congress see to it, then, that no such vacuum occurs. The best escape from presidential autocracy in the age we inhabit is not, in short, judicial review, which can supply only a vacuum, but timely legislation" (1957, 157). Corwin's words, uttered in the context of a constitutional confrontation, are a pointed warning to institutions confronted with insistent demands for action. To put the challenge in everyday language: "Don't just stand there! Do something!"

EXTERNAL FORCES, INTERNAL TENSIONS

In order to maintain a position in the marketplace, organizations—whether a family business or the U.S. Congress—must adjust to *external demands* while at the same time coping with *internal stresses*. That is, an institution must adapt to outside demands and expectations in ways that further the discrete goals of its members or employees. As for Congress, this balance between external and internal imperatives is especially problematic because of the "two Congresses" dilemma: the fact that every legislator is recruited separately and pursues incentives largely independent of the institution as a whole.

External Demands

Social, economic, and political developments generate demands that the legislature enact laws or take other actions to meet constitutional and public expectations concerning the general welfare. Wars, economic cycles, demographic shifts, international or domestic crises, and accumulating technological developments intensify pressures on Congress. The unprecedented period of prosperity following World War II, coupled with demographic shifts (migration from farms to cities and suburbs, the rise of the baby boomers), propelled demands for government services that spilled over into the 1960s and 1970s in the form of new laws and programs. Likewise, the economic downturns since the mid-1970s have inhibited program innovation and curtailed spending increases.

Political or governmental shifts—aggressive presidential leadership, partisan realignments, scandals, and far-reaching court rulings—also drive the congressional work load. Before the upheavals of the reform era, policymaking was shaped by the peculiar tripartite division of the political parties: mainstream northern Democrats versus southern conservatives aligned with Republican stalwarts. The reform-era upheavals signaled a victory of the former over the latter. Since then, demographic and political changes have moderated the clashes between wings of the Democratic party, leading to more "coherent" two-party confrontations (see Rohde, this volume, Chapter 2).

Agenda is a shorthand way of measuring external demands on Congress. Historically, Congress has experienced long-term growth in its work-load demands. According to Galloway, "the business of Congress in modern times is as varied and multifarious as the affairs of the American people. Once relatively limited in scope, small in volume, and simple in nature, it has now become almost unlimited in subject matter, enormous in volume, and complex in character" (1962, 108). This long-term picture of Congress—accurate in general terms, though subject to numerous short-term exceptions—is buttressed by such statistics as the rising numbers of public laws and the lengthening of annual sessions. Additional testimony is provided by senior lawmakers who recount their experience with mounting legislative and nonlegislative burdens. There is little quarrel with the overall judgment that Congress today confronts a volume and variety of demands unmatched in all but the most turbulent years of its earlier history. "What is equally true, as the history of [Congress] readily demonstrates, is that the volume of output demands, as well as the degree of their complexity, uniformity, and volatility, vary greatly over time" (Cooper 1981, 332). Examining modern-day statistics on legislative proposals and legislative products casts light on the demands placed on Congress.

In the years following World War II, overall House and Senate work-load indicators were marked first by a gradual buildup (roughly, 1951–64), then by an era of extraordinarily high legislative activity (1965–78), and most recently (since 1979) by a sudden and steep decline (Davidson 1986b).

Overall work-load demands reverberate, to a greater or lesser degree, in the committee rooms of the two houses of Congress. Here the overall pattern is equally clear, with most committees conforming to it. Committee activity and work load soared in the boom years of the 1970s, as a crowded policy agenda synchronized with a newly decentralized power structure that featured multiple channels for action. The number of measures referred to five representative House committees rose by more than 20 percent in the 1970s, even though House rules by this time allowed unlimited cosponsorship of measures (Davidson 1986a, 29–31). These committees scheduled more than twice as many hearing days in the mid-1970s as they had a decade earlier.

By the mid-1980s this frenetic activity had subsided: referrals were cut almost in half, while days of hearings were down by about one-third. Not even Representative John Dingell's Energy and Commerce Committee was immune from the work-load reversal. From 1985 to 1986 this panel, regarded as one of the most active and aggressive Capitol Hill powerhouses, spent only half as many hours in hearings, and a third as many hours in markups, as it had logged a decade earlier (Davidson 1986b, 14).

Internal Pressures

Other pressures for change emanate from forces within Congress itself—centering mainly on the goals and careers of individual members. Foremost among members' goals is reelection, a premise no less powerful because it is so obvious (Bianco, this volume, Chapter 4). However, members (like the rest of us) harbor a number of personal goals, some of them altruistic but most tinged with self-interest. They want to shape public policy, watch their ideas come to fruition, and make their mark in history; they also desire some measure of order, convenience, and comfort in their private lives. Hence, legislators make a wide variety of claims on the institution, shaping its structures and procedures to serve their own needs as well as external demands.

Sometimes the effects of external demands ricochet, causing interpersonal stresses within Congress. For example, a ballooning work load (external demand) can cause personal or committee scrambles for jurisdiction (internal stress). Other tensions flow from growth in size, shifts in personnel, factional or partisan disputes, and members' attitudes or norms. Elections and retirements alter the generational or factional balance, exerting pressure on the established ways of doing things. Such conflicts surface in recurrent debates over salaries, perquisites, committee jurisdictions, rules, scheduling, and budgetary procedures. Over time, these conflicts yield changes—obvious or subtle, profound or trivial—in the way Congress goes about its work.

Instances of innovations that serve one set of demands yet jeopardize other needs can be cited. Efforts aimed at adapting to outside legislative demands can raise the human costs for members. Increased constituency attention, for example, undeniably meets voter demands but inhibits members' ability to focus on legislative work and adds to their personal wear and tear. Likewise, arrangements that accommodate members can hinder the institution in coping with its work load or in meeting public expectations. The opening up of committee rooms and floor proceedings in the mid-1970s made it possible for more members to participate in shaping legislation, but it also jeopardized orderly processing of the legislative work load. Party and committee leaders soon fashioned new tactics for managing the legislative agenda (Weingast, this volume, Chapter 8).

Reform is an attractive label for selling proposed innovations. Reform connotes change for the better; but whether change is reform depends on where you are standing. One person's reform is another's stumbling block. Further, it is not possible to predict with any certainty whether a given innovation will resolve the problem for which it was designed or even whether it will produce positive or negative results. Change usually brings costs and benefits; intended and unintended consequences. Moreover, the passage of time may render even the most useful innovations obsolete. History is strewn with examples of one generation's reforms that exacerbated the next generation's problems.

Thus the term *reform* is used here with caution. The reform era of the 1960s and 1970s was indeed a time of massive change and structural upheaval. The innovations responded to political demands and shifting alignments, but their legacy is ambiguous. The postreform Congress, too, has adapted to its environment with mixed success, to say the least (Quirk, this volume, Chapter 15).

Types of Innovation

The stresses caused by the buildup of external and internal pressures can be moderated or relieved by *organizational innovation*, defined as a variation in the substance or structure of organizational behavior (Gawthrop 1966, 239). There is nothing foreordained or automatic about such innovation. Indeed, capacity for innovation is one of the critical variables that differentiate organizations. Pressures or strains on an organization may go unrelieved for long periods of time, or they may be mitigated by noninnovative developments (for example, changes imposed on recruitment of the organization's personnel).

Substantive accommodation is certainly the most direct and visible manifestation of change. Pressures can be relieved if the organization visibly alters its product or output. A manufacturer designs a new model, or recalls an old one, in response to consumer complaints or regulatory warnings. Lawmakers pass a bill or resolution in response to public pressure or presidential initiative; or they rewrite an act's language to shift or conceal the policy's purposes or effects; or, as in the case of the controversial 1989 pay-raise scheme, they scurry to overturn the product of a prescribed procedure (Bianco, this volume, Chapter 4).

Outside and inside pressures for change produce two distinct types of innovation: adaptation and consolidation (Davidson and Oleszek 1976, 40–41). *Adaptation* responds to conditions imposed by the external environment; it embraces structural or procedural alterations designed to satisfy or moderate the demands imposed on the organization. Adaptation may involve a highly rational process of analyzing the nature of the external challenge, diagnosing organizational weaknesses, and searching for ways of improving the organization's performance.

Major adaptive innovation is typically entrusted to a special subunit—a task force, study group, or special committee—charged with gathering information and sifting through proposed solutions. Many noteworthy reorganization efforts of the post–World War II era emerged from just such a concerted inquiry—among them the Legislative Reorganization Acts of 1946 and 1970; the House and Senate committee realignments of 1974 and 1977, respectively; and the work of the House Democrats' Committee on Organization, Study and Review, mainly in the early 1970s. Concentrated efforts like these can pinpoint institutional problems somewhat independently of established power centers or subunits. This very quality is also the prime drawback of such efforts, which in their zeal for adaptive innovations tend to underestimate the goals and needs of entrenched individuals and subgroups within the organization. In other words, such efforts elevate adaptation above consolidation. Because of their high informational costs and potential disruption of established ways of doing things, such deliberate adaptive reform efforts must be regarded as radical solutions, not as everyday occurrences.

Most adaptive changes result not from deliberate planning but from conscious or unconscious adaptive behavior on the part of the institution. Such alterations are less coordinated or coherent than planned innovation, but because they tend to emerge naturally from behavior within the institution they are more likely to meet consolidative needs. The advent of the postreform Congress reflects this type of largely unplanned adaptive behavior. Although some postreform developments entailed formal changes in rules, procedures, or statutes (for example, budgetary procedures and limits on legislative riders on the House floor), most came about in response to specific situations rather than as part of a coordinated plan for organizational change.

The second form of innovation, *consolidation*, is designed to relieve an organization's internal stresses and strains. Such innovations are normally intended to contain conflict or to conform to shifting balances of power, accommodating insofar as possible the individual participants' needs and goals. Consolidative changes imply efforts to resolve members' demands for change within existing organizational structures and traditions, if at all possible. Some such changes are hotly contested; others may be uncontroversial. Organizations are constantly engaged in making consolidative adjustments, some of them quite significant. One example of consolidative change on Capitol Hill is the curtailment of the seniority leaders' prerogatives in the 1960s and 1970s (to accommodate newer members and their career needs). Another example is the augmentation of members' resources for traveling between Washington and their home bases and for conducting constituency business. "As Congress accommodated to the needs of its members to maintain contact with their constituents," Parker explains, "it fa-

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