Organizing Congress and the Executive
In Response to the Twin Oil Shocks of the Seventies
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For the Congress Project Seminar on
"Congress and the Politics of Energy Policy"
Woodrow Wilson International Center for Scholars
Monday, May 16, 2005

There are three competing explanations of why institutional change occurs in Congress (or doesn't). There is the *clientele* (or distributive) rationale that holds that internal procedures and structures are designed to assist important clientele groups and constituencies achieve their policy aims. There is the *partisan* rationale that holds that Congress's rules and procedures are designed to enable the majority party accomplish its legislative agenda. And, finally, there is the *institutional* rationale that holds that the Congress's procedures and structures are designed primarily to promote the collective needs of the institution as a whole, for instance, in fostering its capacity for informed deliberation or for acting as a counterweight to the executive branch.[1]

Despite the sometimes fierce debate and competition among the proponents of these institutional change theories, common sense should tell us that there is probably some validity in each, and that it depends on the time, the circumstances, and the needs of the institution and its members as to which explanation is the most compelling. Others, like political scientist Eric Schickler, argue that change can be driven by a combination of factors flowing from these theories, and, because they are often contradictory in purpose and desired effect, the resulting change falls short of everyone's expectations and can even lead to unintended consequences.[2]

The new institutionalist school argues that it is wrong to separate process from policy in studying Congress's policymaking role. Congress shapes its rules, processes, and structures in order to achieve the preferences of its members. Moreover, it often imposes statutory procedures and processes on the executive branch to promote its compliance with congressional intent.

Note: This essay is adapted from, "Organizing Congress and the Executive in Response to Focusing Events: Lessons of the Past, Portents for the Future," by Donald R. Wolfensberger, presented at the Southern Political Science Association Meeting, New Orleans Louisiana, January 8-10, 2004.

The goals of members, according to David Mayhew, as modified by Richard Fenno, are reelection, policy influence, and institutional respect and power.[3] Members choose their committees, in part, to achieve these goals. By the same token, members often view proposed changes in the committee system as a potential threat to goal achievement because they would disrupt existing intra- and inter-institutional and clientele arrangements.

Conversely, members may support certain changes if they enhance, rather than undermine, their ability to realize their desired preferences. E. Scott Adler argues that in the modern era, Congress has not undertaken system-wide jurisdictional changes in its committee system because the electoral imperative that depends on existing arrangements, is too strong to overcome with appeals to strengthening institutional capacity or making more rational and coherent policy choices.[4] The committee reform efforts of 1946, 1974, and 1993-94, and even the Republican committee changes of 1995, did not result in systemic change, according to Adler.

The purpose of this paper is not so much to look at the conditions under which system-wide changes can or have occurred, but rather, as mentioned above, to focus on proposals for changes in the organization of Congress and the Executive Branch in the wake of focusing events, and what factors contribute to or detract from accomplishing such reorganization.

The term "focusing event" is taken from John Kingdon's *Agendas, Alternatives, and Public Policies*, in which the author says that problems are not always self-evident and sometimes need a push to get the attention of people in and around government. "That push," he goes on, "is sometimes provided by a focusing event like a crisis or disaster that comes along....Sometimes crises come along that simply bowl over everything standing in the way of prominence on the agenda."[5]

Crises, disasters, and other focusing events rarely carry a subject to policy agenda prominence by themselves, continues Kingdon, but must be accompanied by something else. They may reinforce a preexisting perception of a problem that was already in the back of people's minds. They may serve as an early warning of something that could be considered a problem if subsequent attention reveals there was a widespread condition that needs to be addressed. And third, they may affect problem definition in combination with similar events. As an example of the latter, Kingdon cites the issue of energy in which there was a flurry of interest after the 1973 Arab oil embargo, but a waning of interest in the mid-1970s when President Carter was trying to sell his energy program.

Then, in the spring of 1979, interest suddenly reappeared with the focusing event of long gas lines resulting from the cutoff of Iranian oil in the wake of its revolution and taking of U.S. hostages.[6]

Kingdon views policy innovation as an almost random coming together of separate streams of problems, politics, and solutions, abetted by policy entrepreneurs adept at exploiting narrow windows of opportunity before they slam shut again. Crises or focusing events are one factor that help to propel the problem onto the policy agenda.

Building on Kingdon's model of agenda setting, Frank Baumgartner and Bryan Jones develop the theory of "punctuated equilibrium" to explain how and why policy issues sometimes suddenly appear on the policy agenda and result in significant policy and structural changes in political subsystems--sometimes becoming a system-wide disruption. The crux of their theory of agenda setting is that the generation of new ideas make many policy monopolies unstable as disadvantaged policy entrepreneurs succeed in convincing others that their view of an issue is more accurate than the views of their opponents. Sometimes their success is rapid in altering public policy arrangements, even if they have been in place for decade. "In the end," they write, "we depict a political system that displays considerable stability with regard to the manner in which it processes issues, but the stability is punctuated with periods of volatile change." Any study of the dynamics of American political institutions, they conclude, "must be able to account for both long periods of stability and short, violent periods of change...."[7]

But critical to the success of moving an issue onto the policy agenda is getting the attention of the public, which in turn gets the attention of public officials. "Issues have a way of grabbing headlines and dominating the schedules of public officials when they were virtually ignored only weeks or months before," write Baumgartner and Jones. "Focusing events, chance occurrences, public-opinion campaigns by organized interests, and speeches by public officials are seen to cause issues to shoot high onto the agenda in a short period....The intermittent nature of high-level attention to a given problem builds into our system of government the possibility not only of incrementalism, but also of periodic punctuations to these temporary periods of equilibrium." The result of all this, the authors conclude, is that the American political system "lurches from one point of apparent equilibrium to another, as policymakers establish new institutions to support the policies they favor or alter existing ones to give themselves greater advantage."[8]

With these perspectives on agenda-setting and institutional change in mind, we will proceed to revisit in greater detail the example cited by Kingdon of Congress and energy policy as bookended by the twin oil shocks of the 1970s to determine to what extent the policy process succeeded or failed in producing an energy policy and structural changes in the executive and legislative branches.

The First Energy Shock of the 1970s

The twin energy shocks of the 1970s present a stark contrast to the Sputnik shock of 1957 as to how the Congress and Executive organize themselves for policy challenges in response to focusing events. This may be due in part to the nature of the energy shocks–in both cases imposed by artificial embargoes rather than actual resource depletion. Nevertheless, the long-gas lines were very real to the people in them, and, at least for the short duration of the shortages forced some to think about our growing dependence on foreign energy sources, what it portends for the future, and what our policy-makers in Washington were going to do about it. The shocks, though contrived, were nevertheless real wake-up calls to the dangers of high energy consumption and growing dependence on foreign oil. Why is it, then, that three decades later the government is still groping for a national energy policy? What does this tell us, if anything, about the nature of the policymaking process between the executive and legislative branches?

President Richard M. Nixon, to his credit, recognized the energy problem before it became a crisis. When Nixon took office in 1969, responsibility for federal energy programs was scattered among eight cabinet departments plus numerous agencies, offices and commissions of the executive branch. Worried about future supplies of clean energy, the president established an interdepartmental Subcommittee on the National Energy Situation in the Domestic Council in August 1970. Drawing on the work of this and other groups,, Nixon asked Congress in his 1971 state of the Union address to approve a major reorganization of executive agencies, including a consolidation of various energy and natural resource programs into a new cabinet Department of Natural Resources. Congress ignored the proposal. Undaunted, the president moved ahead in February 1973 by creating in the White House a National Energy Office, headed by a special consultant, Charles DiBona. The new office in turn reported to a newly created coordinating group called the White House Special Committee on Energy. The two units were merged in June 1973 into a new Energy Policy Office under the direction of Governor John A. Love of Colorado.[9]

Between 1971 and the Arab oil embargo in November 1973, the president continued to pressure Congress for a new energy department. In April 1973, for instance, he said that proper steps could still avert a "genuine energy crisis." And, in May he submitted a new reorganization proposal, this time calling for a Department of Energy and Natural Resources. Among the other new features were the proposed abolition of the Atomic Energy Commission, the creation of a nuclear energy regulatory body, and a new Energy Research and Development Administration (ERDA). Congress held hearings, but took no further action before the embargo. As Jones and Strahan have observed of this period, "The Democrats had large majorities in Congress and energy interests resisted the disruption reorganization could cause [and] both factors ... worked against a favorable response to the president's proposal. [10]

Relations were already chilly between the branches due to the confrontation over impoundments, the continuing war in Vietnam, and the growing Watergate scandal. Congress had enacted the War Powers Resolution over Nixon's veto in 1973, and was busy completing action on a budget reform law that would curb his impoundment authority. The Senate had concluded its Watergate hearings in 1973, and the House was moving to launch its impeachment inquiry in 1974. To say the least, Nixon was not in a position to get what he wanted on the Hill, and his defiant attitude toward Congress only worsened matters.

In October 1973 the Organization of Petroleum Exporting Countries (OPEC) announced its embargo on oil in order to drive up prices. The president addressed the nation on the energy crisis on November 7 and urged Congress to move on his energy reorganization proposals. Shortly thereafter, however, in recognizing political reality, he gave the Energy Research and Development Administration (ERDA) and Nuclear Energy Agency plans priority over his proposal for a cabinet department. Meanwhile, further bureaucratic entities were spawned to deal with the immediate crisis: a cabinet level Emergency Action Group was formed in mid-November to gather information necessary to allocate existing oil supplies, with staff support supplied by a 65-member interagency task force.[11]

When it became apparent that the Energy Policy Office could not manage the 30 emergency programs called for in pending legislation, the president's advisers recommended the creation of a new agency, the Federal Energy Administration (FEA), with responsibility for all energy policy operations and functions relating primarily to petroleum programs. The president asked Congress for legislative authority "to provide the centralized authority we must have for dealing with the energy crisis," and, in the interim, issued an executive order creating a temporary Federal Energy Office to perform these functions until Congress had acted. Deputy Treasury Secretary William E. Simon was tapped to head the FEO, and by January he had a workforce of 1,700 working on various aspects of emergency and long-range planning for energy self-sufficiency.

By the time Nixon was forced from office in August 1974, only one component of his reorganization agenda was in place: in May Congress cleared the Federal Energy Administration Act granting two year authority to transform the FEO into an independent FEA. Vice President Ford took over the reins at the White House after Nixon's resignation, including Nixon's plans for energy reorganization, and by October 1974 signed into law the Energy Reorganization Act which established ERDA and a new commission to regulate nuclear energy, the Nuclear Regulatory Commission (NRC). However, Ford did not revive Nixon's proposal for a cabinet level Department of Energy and Natural Resources. The two reorganization bills enacted in 1974 were the work of the House and Senate Government Operations committees which have legislative jurisdiction over all government reorganization plans.

Despite favorable action on the president Nixon's energy reorganization proposal in 1974, his more substantive energy policy proposals met with substantial controversy and alterations in Congress which led to a presidential veto that was sustained in the Senate. In his November 7, 1973, energy address to the nation on the energy crisis, the president called on Congress not only to pass his energy reorganization proposals, but to give him emergency powers to deal with the fuel shortages including rationing, emergency conservation measures, a windfall profits tax, and a loosening of clean air standards. An emergency energy bill introduced by Senate Interior and Insular Affairs Committee Chairman Henry M. Jackson (D-Wash.) on October 18 served as the basis for Senate action on the president's proposals. House Interstate and Foreign Commerce Committee Chairman Harley O. Staggers (D-W.Va.) introduced his own bill with more restrictive limits on presidential powers on November 13. The Senate passed its bill on November 19, giving the president most of the authority he had requested–what some had called "unprecedented peacetime powers." But the House bill, passed December 15, would have required congressional approval of all emergency actions except rationing and fuel allocation programs. The conference report on the bill rain into a filibuster from oil state senators protesting the windfall profits tax, and time ran out on the bill as the session adjourned December 22.[12]

When Congress reconvened in January, a coalition of conservation-minded senators, opposed to weakening clean air laws. had the conference report recommitted to conference. A second conference report that substituted a ceiling on oil prices for the windfall profits tax passed the Senate on February 19, despite heavy opposition from the administration and oil industry. The House cleared the conference report on February 27, and the President vetoed it on March 6, saying it "solves none of the [energy] problems, threatens to undo the progress we have already made, and creates a host of new problems." The Senate override attempt on the same day fell eight votes short of the two-thirds necessary to enact the measure, with 46 Democrats and 12 Republicans voting in favor of overriding, and 11 Democrats and 29 Republicans voting against.[13]

Bolling Alone

While the energy crisis was unfolding in late1973 and early 1974, a House Select Committee on Committees was wrapping up work on a committee jurisdictional reorganization plan. Representative Richard Bolling (D-Mo.), a longtime leadership adviser and third-ranking Rules Committee member chaired the 12-member, bipartisan select committee, and Representative David Martin (R-Neb.), the ranking minority member on Rules, served as vice-chairman. The House voted 283 to 91 on January 31, 1973 to create the select committee for the purpose of conducting a "thorough and complete study"into the operation and implementation of House Rules 10 and 11, dealing with committee jurisdictions and procedures. After 37 days of hearings at which 107 witnesses testified, and after extensive deliberations thereafter during 1973, the select committee filed a unanimous report on Mach 21, 1974, recommending "a set of proposals designed to make the House and its committees more deliberative, responsive, and efficient."[14]

The proposal would have retained the overall number of standing committees at 22. Specifically, the plan called for abolishing the committees on Internal Security, and Post Office and Civil Service, splitting Education and Labor into two committees, and elevating Small Business from a select to standing committee. Moreover, the plan assumed the creation of a new Budget

Committee under the pending Budget Act. Of particular interest to this study, however, is the recommendation for replacing the existing Interior and Insular Affairs Committee with a Committee on Energy and the Environment. Energy jurisdiction would be moved primarily out of the Interstate and Foreign Commerce Committee, which would be renamed the Committee on Commerce and Health. Environmental jurisdiction would be moved from primarily Merchant Marine and Fisheries and Public Works into the new energy and environment committee.

In discussing the new Energy and Environment Committee, the select committee's report makes only passing reference to the contemporaneous energy crisis: "In the 93rd Congress most committees have attempted to engage in some energy-related activity. The interest has been stimulated by the current crisis atmosphere." The report goes on note a select committee survey finding that 14 standing committees , one select committee, and one joint committee were involved in some aspect of the energy problem during the 93rd Congress. As further justification for a separate committee on energy and the environment, the report notes that, "A congressional committee equipped with economic information, responsibility for public resources, and the ability to evaluate the effects of regulation...will be better armed to formulate energy policy."[15]

The new Energy and Environment Committee would have oversight, but not direct legislative authority, over tax policies relating to energy and the environment. And the newly named Science and Technology Committee would have primary responsibility for federal energy research and development efforts.

As is well documented by Roger Davidson and Walter Oleszek in *Congress Against Itself*, the select committee's proposals ran into a buzz-saw of opposition both from within and outside the House. Instead of being sent to the House floor in March or April, when the energy crisis and the failure to enact a comprehensive energy policy act was still fresh in the public mind, opponents persuaded Speaker Carl Albert and Caucus Chairman Olin Teague to delay a Democratic Caucus meeting on the plan originally schedule for late March. When the Caucus finally met on May 1 and 2 the proposal was subject to heated criticism and vigorous debate. On May 9 the Caucus voted 111 to 95 to refer the plan to the its Committee on Organization, Study, and Review, chaired by Representative Julia Butler Hansen (D-Wash.) for further study, with instructions to report back its recommendations in July. While Speaker Albert reportedly spoke and voted for sending the proposal directly to the House, Majority Leader Tip O'Neill remained neutral. As some Democrats saw it, he viewed Bolling as a potential rival for the speakership down the road and didn't want to add to his prestige. When asked after the vote why the caucus voted as it did, O'Neill said, "The name of the game is power, and the boys don't want to give it up."[16]

Presumably a key external factor in not combining energy and environment in the same committee was opposition to it by environmental groups and Ralph Nader's Congress Watch, who feared energy industry interests would come to dominate such a committee at the expense of environmental concerns. Instead, write Davidson and Oleszek, the caucus committee split energy among several different committees, "an example of where the Hansen Committees failed to facilitate coherent policy making. On July 17 the Hansen Committee reported its alternative in the form of a House resolution (H. Res. 1248)–something unprecedented since the days of "King Caucus." In most instances, the Hansen Committee left most existing committee jurisdictions where they had been, though it did retain the Bolling-Martin provision for referring the same bill to multiple committees. After the caucus discussed the two plans on July 17 and 23 it voted in favor of directing the Rules Committee to make the Hansen alternative in order as the first substitute for the Bolling resolution.[17] The measure was further delayed in the Rules Committee where scheduled hearings on July 23 and August 20 were cancelled. The Rules Committee finally convened a hearing on September 12, with only about a month remaining before the scheduled adjournment. As the witness list of House members grew, three more hearings were held over the next two weeks before the Rules Committee finally reported an open rule on September 25. After six days of debate and votes on countless amendments, the House finally adopted the Hansen substitute, 203 to 165, and then the Bolling resolution as amended by Hansen, 359 to 7.

On the key vote (on the Hansen substitute), 152 Democrat and 52 Republicans supported Hansen, while 64 Democrats and 101 Democrats supported Bolling. It was a bipartisan triumph for the status quo. Of the Democratic Leadership, Speaker Albert did not vote, while Majority Leader O'Neill and Majority Whip McFall supported the Hansen substitute, as did the four deputy whips and 16 of the 20 zone whips. Of the top Republican leadership, Minority Leader Rhodes did not vote, while Whip Arends and Conference Chairman Anderson voted against Hansen, as did 13 of the 20 Policy Committee members. Conference Vice Chairman Sam Devine (R-Ohio) supported

Hansen as did four of the eight members of the Research Committee. The Hansen plan was generally supported by the more senior and more conservative members of both parties, but it also received support from 59 percent of the freshman Democrats. Obviously those holding committee and subcommittee chairmanships were most likely to vote against the Bolling plan, including 13 of 22 committee chairmen (two voted for it, and seven did not vote); and 77 subcommittee chairmen (with 25 voting for and 16 not voting).[18]

As Davidson and Oleszek conclude of the vote:

> Those who were worried about immediate preservation of their committee domains had ample reason for resisting the reorganization; those who looked forward to gains, or who had little to lose, or who simply could afford to take the institutional "long view," tended to favor the reorganization. To induce power holders to accept changes, it is necessary to convince them that even greater evils will occur if they cling to the status quo. In spite of external pressures and internal turmoil affecting the House, it appeared that Bolling and his colleagues had not been able to overcome the inertia favoring the status quo.

However, it's important to keep in mind that all this was unfolding at the height of the congressional reform era which can hardly be characterized by terms like "status quo" and "inertia." As Jones and Strahan point out, there was a high degree of turnover in membership and committee and subcommittee chairs, a greater degree of openness and democracy, and an increase in the number of subcommittees and their autonomy. While the "oil shocks of the 1970s clearly threatened the 'firmly established mode of energy policy making' through 'relatively self-contained decision-making communities,' and administrations sought to integrate and consolidate decision making procedurally and structurally, the congressional response was more like "the Oklahoma land rush." "The proliferation of committees and subcommittees claiming jurisdiction over energy policy," write Jones and Strahan, "dramatically expanded the number of members, congressional staff, and lobbyists participating in the issue area."[19]

The reform era, stretching roughly from 1965 to 1975, had punctuated the old equilibrium of the "textbook Congress" in which committees and their chairmen ruled the roost. Now, everybody wanted a piece of the action and power, from individual policy entrepreneurs to newly minted subcommittee chairs. It is little wonder, then, that while the Administration was looking to centralize powers, authority, and structures in addressing the energy crisis, the House was moving in the opposite direction.

Davidson and Oleszek concede, in their section on "The Lessons of Hindsight," that the select committee and its staff "perhaps made a fundamental conceptual miscalculation" in thinking they were dealing with a decision-making structure of standing committees, "rather than one whose power had passed in large measure to the subcommittees." Because subcommittees gained more legislative authority and independence at the expense of standing committees and their chairmen, they go on, "the dispersal of power bestowed upon more legislators a power base to nurture and protect," thereby making committee realignment "a more dangerous minefield than ever before"[20]

This proliferation of subcommittees and jurisdiction, together with the new mechanism of bill referrals to multiple committees, would only exacerbate the problem of dealing with big picture issues like energy in succeeding Congresses. In the 94th Congress (1975-77), "jurisdictional disputes and procedural entanglements" in such areas as energy and the environment, write Davidson and Oleszek, compounded tangible political controversies to the point that congressional Democrats were often compelled to concede that little or no action was possible." Senate Majority Leader Mansfield said Congress was unlikely to grapple with the energy question until jurisdictions had been consolidated.[21]

In the House, the Ways and Means Committee originated the Energy Conservation and Conversion Act because the committee had some aspects of the president's energy program under its jurisdiction, while at the same time seven other House committees were dealing with various aspects of the problem. Interstate and Foreign Commerce Committee member Robert Eckhardt (D-Tex.) said he would have to revise his opposition on committee reform given what's happening here on energy legislation, And Thomas Rees (D-Calif.) said, "One reason [the House] made a disaster out of the energy field, both in the petroleum bill last year and the natural gas bill this year, is the problem of overlapping jurisdiction."[22]

Big 'D' Democratic Government and Energy

In fairness to the Ford and Nixon administrations, and to Congress, some progress had been made on the energy front with approval of the Alaska pipeline, the creation of the strategic petroleum reserve, and the imposition of increased fuel efficiency standards. But Congress was still unable to get its arms around a comprehensive, national energy program. Something had to give, and it began to in 1977 with the inauguration of a new president, Democrat Jimmy Carter of Georgia, and the election of a new House Speaker, Thomas P. "Tip" O'Neill, Jr., at the beginning of the 97th Congress (1977-79). The arrival of unified party government placed a new burden of responsibility on the Democrats to produce where divided party government had been a convenient excuse in the past for inaction on pressing national problems.

While Carter had not made energy a major issue during his campaign, he had promised to lift price controls on oil and natural gas and to push for the establishment of a Department of Energy. He made no mention of the energy issue in his inaugural address, but the cold winter of 1976-77 and attendant shortages of natural gas helped to focus and force the issue back onto the national agenda. The problem was really a continuing one of dwindling domestic energy production, increasing consumption, and increasing dependence on foreign oil (up from 25 percent to 50 percent). In his first televised address to the nation on February 2, 1977, the president donned a cardigan sweater and made solving the energy crisis his top priority. He called on the American people to demonstrate a sense of sacrifice and discipline by enlisting in a cause that was the "moral equivalent of war." Carter promised to deliver a comprehensive energy package to the Congress within the next three months.

In the interim, Carter sent Congress his reorganization plan for a new energy department in early March. Unlike Nixon's proposed department of Energy and Natural Resources, Carter proposed a department that consolidated the energy agencies created in the wake of the 1973 embargo–FEA and ERDA–as well as energy components from the departments of Commerce, Defense, Housing and Urban Development and Interior, and several independent regulatory commissions. As Jones and Strahan note, "The renewed crisis atmosphere and the willingness of congressional Democrats to support a president of their own party provided a favorable climate for approval of the Department of Energy."[23]

Helping to facilitate passage was the fact that the energy department proposal was handled primarily by just one committee in each house–the House Government Operations Committee and the Senate Governmental Affairs Committee–though the House Post Office and Civil Service Committee had a sequential referral to consider the civil service provisions of the bill. The Senate bill was reported from the Governmental Affairs Committee on May 15, while the House bill cleared

Government Operations and Post Office and Civil Service on May 18 and 24, respectively.

The Senate took up the bill on the floor on May 18 and wrapped up its work that same day after considering 17 amendments, 14 of which were adopted by voice vote. The bill then passed the Senate, 74 to 10. The House took a little longer–debating the bill and some 33 amendments over two days on June 2 and 3, with 22 of the 33 adopted by voice vote, and three others by roll call vote. The measure then passed the House, 310 to 20.

While the expeditious handling of the bill can be explained in part to the nature of the energy crisis and the need to put new policy making structures in place as soon as possible, it is also clear, according to one account, that "the swift and overwhelming approval also appeared to reflect a determination by Democratic congressional leaders to work with the President in tackling the nation's energy problems."[24]

The main sticking point in conference between the two versions was the issue of energy pricing. The House-passed version called for creation of a five-member Federal Energy Regulatory Commission (FERC) within the Department with price setting authority over natural gas and electricity, while leaving the Secretary with power over oil and allocation. The Senate version put the decision making powers for oil, allocation, gas, electricity in an independent three-member Energy Regulatory Board, with the President having veto power over any pricing decision, and Congress having veto power over oil pricing and allocation, but not gas and electricity. The final version cleared by Congress combined the two approaches, creating the 5-member Federal Energy Regulatory Commission with power to set oil, gas and electricity prices. The Secretary would have authority to circumvent a FERC decision on oil prices if the President declared the existence of a national emergency, but either house of Congress could still veto an oil pricing decision with 15 days. The House adopted the conference report by a vote of 353 to 57 on August 2 and the Senate followed suit a few hours later on a 76 to 14 vote. The president signed the bill on August 4.

The president's energy policy program, sent to the Hill on April 20, had a much longer and harder slog ahead of it, notwithstanding the supposed advantage of "unified party government." The proposed bill contained 113 interrelated provisions aimed at raising prices, encouraging conservation, and capturing excess profits through a series of energy taxes.

The new Speaker, Tip O'Neill, had been making plans long before Carter's address, to take the necessary internal steps to address the energy problem. He told the Democratic Caucus in 1975, that "Nobody ever had the courage to bite the bullet," on the energy problem. All the presidents, the Congress, and all the people of America–"it was like the ostriches sticking their heads in the sand." In December 1976, O'Neill told a group of incoming freshmen Democrats of his plan to create an energy committee to pull together the disparate strands of jurisdiction into a coherent whole.[25]

This promise to the freshmen did not go down well with the "Old Bulls" who chaired the standing committees with pieces of energy jurisdiction. Rather than give a new energy committee primary jurisdiction over the president's energy proposal, the Bulls worked out a compromise with the Speaker to create a select committee for appeals, coordination, and final review, with secondary jurisdiction over the energy package once the relevant standing committees had reported their respective parts. Representative John Dingell (D-Mich.) called the proposed entity, an "umbrella committee" or "a super Rules Committee," and Representative Mo Udall (D-Utah) referred to it as "a council of elders."[26]

The concessions the Bulls extracted from O'Neill in return for their support of an ad hoc committee were that: (1) the Speaker would recommend to the Rules Committee that the standing committee chairmen of jurisdiction would manage their portions of the energy bill on the House floor; (2) the ad hoc committee would not have authority to make substantive changes in the bills reported from the standing committees–it could only make recommendations to the House in the form of amendments; and, (3) when the bill goes to conference, representatives of the standing committees would be in charge of settling differences with the Senate relating to their portions of the bill.[27]

On April 21, the day after the president sent his energy package to Congress, the House took up the O'Neill plan to create a 40 member Ad Hoc Committee on Energy, and adopted the resolution (H. Res. 508) by voice vote. The ad hoc committee would consist of 27 Democrats and 13 Republicans–essentially reflecting the party ratio in the House. The ad hoc committee would be chaired by O'Neill's longtime friend, Lud Ashley (D-Ohio), a 22-year House veteran who had never before chaired a committee. The Republican leadership designated Representative John B. Anderson (R-Ill.) as the ranking Republican on the ad hoc committee. Anderson was chairman of the House Republican Conference, and thus a member of the elected leadership himself, and had also served as ranking Republican on the Joint Committee on Atomic Energy until its abolition at the end of the previous Congress. Of the 40 members, 11 were from the Interstate and Foreign Commerce Committee, 10 from Ways and Means, and 5 from Banking. Rounding out the membership were members from the Government Operations, Public Works, Interior, and Science committees (the later two of which had not received a referral but did have energy related jurisdiction).[28]

O'Neill made sure that there was a sufficient number of Democratic members appointed to the committee who could be relied on to support the president and cooperate with the speaker, and were broadly representative of the caucus and the standing committees. A solid majority of the 27 Democrats had in the past supported higher gas taxes, continued regulation of oil and gas prices, stringent control on strip mining, and strong energy conservation measures. The Republican contingent on the ad hoc committee, by contrast, had a record of favoring an end to government regulation of energy practices, and of stimulating domestic production over stringent conservation steps.[29]

O'Neill set a July 17 deadline for the five committees of jurisdiction to report their products to the ad hoc committee. In the meantime, the ad hoc committee held a few general hearings that drew considerable media attention and helped better familiarize the committee's members and the public with the details president's energy bill. But once the standing committees began their own process of hearings and markup, the ad hoc committee yielded the spotlight to them by retreating to the sidelines. All the committees met the deadline for reporting their recommendations to the ad hoc committee, and on July 20 Ashley introduced a clean bill (H.R. 8444) incorporating the work of all five committees.

Markup of the bill began that same day and continued over the next two days, with Republican proposals soundly defeated and Democratic amendments adopted, on party-line votes. The committee voted to report the bill on July 22, and the House agreed to consider it under a structured special rule on July 29, allowing only those amendments specified in the Rules Committee report. Floor consideration began of the bill began on August 1, and continued over the next four days. Of the 15 roll call votes on amendments, nine were adopted and six rejected. Five of the roll call votes were on amendments recommended by the Ad Hoc Energy Committee, and all but one (an amendment to increase the Federal gasoline tax by four cents) were adopted.[30]

Finally, on August 5, the House passed the bill, 244 to 177. Speaker O'Neill had kept his promise to complete House action before the August recess, and he had also managed to keep most of the president's plan intact--Carter's proposed 50 cents gas tax being the biggest casualty.

The Senate is a different beast and thus was a different story. For one thing, its energy committee was new in 1977. In the Stevenson Committee Reforms, the Senate created an Energy and Resources Committee, built on is old Interior Committee–much as the Bolling Committee in 1974 had unsuccessfully recommended. But the new energy panel had never examined electric rate reform before. Its own Energy Conservation and Regulation Subcommittee acknowledged, after holding five days of hearings, its members did not know enough about the complex field to legislate responsibly. Moreover, unlike the Energy and Power Subcommittee on House Interstate and Foreign Commerce, chaired by Representative John Dingell, the Senate committee was more conservative and not as pro-consumer. Even though Dingell narrowly lost keeping price controls on natural gas in his subcommittee, the full Commerce committee reversed the subcommittee's action and brought the bill back in line with the Carter proposal. In the Senate energy committee, Carter's position lost on a 9-9 tie vote, and in the full Senate on a 50-46 vote to end federal regulation over new gas sales. The Senate Finance Committee was also different from its House counterpart Ways and Means Committee when it came to energy taxes. Senate Finance Chairman Russell Long (D-La.) favored the oil and gas industry, while House Ways and Means Chairman Al Ullman (D-Ore.) worked closely with his leadership and members to support the president. [31]

The House and Senate leadership also differed in their operating styles, which in part is a function of the difference between the bodies. Whereas O'Neill was a task master, setting deadlines, pushing, prodding, and orating when necessary, Senate Majority Leader Robert S. Byrd (D-W.Va.) was more committed to the institution of the Senate than to his party or president, and that meant letting the Senate "work its will" on the president's program rather than forcing the issue. So, even through Byrd was committed to the president's program, the Senate went its own way, breaking the plan into five bills that basically gutted it. The conferees worked from mid-October to mid-December when the house adjourned without a final compromise.[32]

It would not be until October 15, 1978, following a 15-hour filibuster in the Senate, that a conference report would finally clear for the president's signature. The five bills that finally cleared the two houses retained only remnants of the ambitious plans originally proposed by President Carter. Congress proved to be more worried about the political repercussions of forcing higher energy price increases to reduce consumption than of the dangers inherent in the country's growing dependence on foreign oil. It was a familiar story that had unfolded before and would unfold again on trying to forge an effective national energy policy.

As Carter's domestic policy adviser Stuart Eizenstat would later reflect on the dismantlement of the Administration's energy package in Congress, if the president had only proposed to lift controls on oil and gas, as he had pledged during the campaign, and coupled that with a windfall profits tax, he could have steered it through Congress quickly, been hailed as a miracle worker, and won a second term. Eizenstat added, "We did not realize the currents were changing." It was an "utter and tragic catastrophe. We turned out to be on the wrong side."[33]

The Incremental Approach

At the end of the turbulent decade of the 1970s, the House made another run at committee jurisdictional reform. On March 20, 1979, the House established a new, Select Committee on Committees, patterned after the 1974 Bolling Committee, "to conduct a thorough and complete study of the committee structure of the House, the number of committees and their jurisdiction, committee rules and procedures, and media coverage of committees ......"

The authorizing resolution creating the select committee (H. Res. 118) was narrowly adopted by the House on March 20, 1979, by a vote of 208 to 200. For the most part the vote was party-line, though a number of liberal Democrats and eight committee chairmen joined with Republicans in opposing the resolution. The Republican Conference and Democratic Caucus voted in January 1979 to ask the Rules committee to establish a new select committee on committees. But Republicans opposed the resolution in March, mainly because, unlike the Bolling Committee, the party ratio was two-to-one majority instead of 50-50.

In January 1979 a fundamentalist, Islamic revolution toppled the Shah of Iran and brought the Ayatollah Khomeini to power. Iran had previously defied OPEC and kept the flow of oil going to the West. Now that source was cut off, precipitating a new energy crisis in America. A few weeks later the Three-Mile Island nuclear power plant disaster in Pennsylvania called into question the future reliability of nuclear power. The price of oil surged from $13 to $34 a barrel, and motorists were soon backed up in gas lines from coast to coast in the spring and into mid-summer.

The spotlight refocused on the Carter Administration's failed efforts to cope with the energy problem. In response, Carter asked the Congress in April to lift the controls on the price of oil and pass a windfall profits tax. The lines were drawn once again in Congress between the energy producing and energy consuming states. In the House, 100 Democrats deserted the president on a standby, gas-rationing plan. They also refused Carter's request to lift price controls on oil. The president's approval rating had fallen to 25 percent. If he could have been tapped as an energy source, he could have made a contribution–he was politically radioactive.

While the new energy crisis might have provided a window of opportunity to reexamine the need for a House committee to deal exclusively with the problem, the Democratic Leadership seems to have lost any zeal for a structural fix when it knew the real problem was the inability to forge consensus in a Congress of such diverse interests on any significant policy changes. Representative Jerry Patterson (D-Calif.), a relatively junior member (he had just begun his third term), was appointed chairman of the 16 member committee of 10 Democrats and six Republicans. Representative James Cleveland (R-N.H.), a longtime reform leader in the Republican Conference, was appointed ranking minority member.

The select committee made a conscious effort to study the mistakes as well as reform successes of the past, vowing not to repeat the former. It therefore opted for an "incremental approach" to institutional improvements, bringing measures forward in smaller, more manageable bites. But even this approach proved futile for the most part. The proposal for an energy committee was the only one of the five recommendations made by the select committee to reach the House floor, and even it was gutted once it got there. As the select committee's final report put it:

> The success of the Select Committee in this strategy seems to show that substantial, internal opposition to reform will surface regardless of the scope of the reforms proposed. In short, the strategy of incremental reform seems no more likely to achieve success than have single, omnibus reorganization plans.[34]

The proposal for a new energy committee was the only jurisdictional change recommended by the select committee. As the select committee indicated in its final report, "the restructuring of House committee jurisdictions over energy matters received the highest priority of the Select Committee on Committees." Its two task forces on reform endorsed such a change, and "responses from members of the House to reorganization questionnaires indicated overwhelming bipartisan support for some degree of energy jurisdiction realignment."[35]

The jurisdictional change, as reported in a resolution (H. Res. 549), would have shifted energy jurisdictions away from the committees on Commence, Interior, and Public Works into a new House Committee on Energy. When the resolution was called up on the House floor on March 25, 1980, it was the subject of five hours of heated debate before it was gutted on a 300 to 111 vote by a substitute offered by Representative Jonathan B. Bingham (D-N.Y.) to simply change the name of Interstate and Foreign Commerce Committee to the Committee on as the Energy and Commerce. The vote on final adoption of the resolution as amended was 274 to 134. As Chairman Patterson assessed the defeat, "I think turf was the absolute overriding issue. If you want to make changes, you run into the turf wars."[36]

Table 1 below compares the party breakdown on the key jurisdictional reform votes in 1974 and 1980, i.e., on the Hansen substitute to the Bolling resolution in the former instance, and on the Bingham substitute for the Patterson Committee resolution in the latter, both of which amendments gutted the select committees' recommendations. What is most striking, of course, is the drop-off in Republican support for jurisdictional reform in the two cases, from 66 percent in 1974, to just 34 percent in 1980 (even though the latter reform was endorsed by the House GOP Policy Committee).

Table 1.
House Members For and Against
Committee Jurisdictional Reform,
93rd and 96th Congresses

	93rd Congress (1974 Vote)		**96th Congress (1980 Vote)**	
	For	**Against**	**For**	**Against**
Democrats	66	151	60	199
Republicans	99	52	51	101
Totals	165	203	111	300

All was not lost on the energy front in 1980, however. The new sense of urgency finally produced a windfall profits tax and the creation of a U.S. Synthetic Fuels Corporation, though the third leg of the president's program, an Energy Mobilization Board was killed. The president and executive branch continued to innovate in the area of energy organization while the House remained content with its existing overlapping jurisdictional structure for handling energy issues. The Senate Energy and Resources Committee in the meantime, was still on a steep learning curve since its creation in 1977.

What is clear from the ongoing struggles to forge a national energy policy in the 1970s and to reorganize the committee system accordingly is that whatever institutional imperative there may have been for a more rational and equitable consolidation of responsibilities in a single committee was never sufficiently persuasive for a House majority to make the change. The clientele (or distributive) theory of organizational change is just as valid an explanation for the refusal of an organization to change.

The longer the proposal for an energy committee was hung out for airing, the more time opponents had to mobilize forces both within the institution and outside to defeat it. The creation of an ad hoc committee in 1977 to process the president's energy policy package from other committees was a successful device from an institutional and partisan standpoint because (a) it could mitigate any of the excesses or contradictions in the work of the standing committees; and (b) it could expedite a coherent package through the House and give the new Democratic president and his party majority in the House an early victory. The partisan rationale, however, would not be successfully employed in either 1974 or 1979 because a standing committee posed quite another problem for leaders and members alike, and that was a more permanent disruption of existing relationships and arrangements among members and across committees. Neither institutional nor partisan appeals could overcome these strong forces for maintaining the status quo.

Endnotes

1. These summaries of explanations for institutional change are taken from a discussion in C. Lawrence Evans and Walter J. Oleszek, *Congress Under Fire: Reform Politics and the Republican Majority* (Boston: Houghton Mifflin Company, 1997), 7-12.

2. Eric Schickler, *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress* (Princeton: Princeton University Press, 2001), 4-5. The author argues, based on a study of four periods of institutional change in Congress, that, "many different coalitions promoting a wide range of collective interests drive processes of change," that more than one interest determines change within any period studied, and that the interactions and tensions among these competing coalitions and interests produce a disjointed result that is only partially satisfying because it leaves congressional institutions that are "ambiguous and contradictory."

3. David Mayhew, *Congress: The Electoral Connection* (New Haven: Yale University Press, 1974); Richard Fenno, *Home Style* (Boston: Little, Brown, 1978).

4. E. Scott Adler, *Why Congressional Reforms Fail.: Reelection and the House Committee System* (Chicago: University of Chicago Press, 2002), 11.

5. John W. Kingdon, *Agendas, Alternatives, and Public Policies* (Ann Arbor: University of Michigan Press, 1984; second edition, 1995), 94-96.

6. Ibid, 98-100.

7. Frank R. Baumgartner and Bryan D. Jones, *Agendas and Instability in American Politics* (Chicago: The University of Chicago Press, 1993), 4.

8. Ibid, 10, 12.

9. Charles O. Jones and Randall Strahan, "The Effect of Energy Politics on Congressional and Executive Organization in the 1970s," *Legislative Studies Quarterly,* May, 1985, 154-55.

10. Ibid, 155.

11. Ibid, 156.

12. "Emergency Energy Act: No Final Action in 1973," *Congressional Quarterly Almanac, 1973* (Washington: Congressional Quarterly, 1974), 682 *et seq.*

13. "First Emergency Energy Bill Vetoed," *Congressional Quarterly Almanac* (Washington: Congressional Quarterly, 1975), 727 *et seq*.

14. U.S. House of Representatives, Select Committee on Committees, "Committee Reform Amendments of 1974, to accompany H. Res. 988," March 21, 1974 (H. Rept. 93-916, Part II), 3, 15, 17.

15. Ibid, 35-37.

16. Roger H. Davidson and Walter J. Oleszek, *Congress Against Itself* (Bloomington: Indiana University Press, 1977), 200, 203.

17. Ibid, 213-228.

18. Ibid, 252-58.

19. Jones and Strahan, 153.

20. Davidson and Olseszek, 262-63.

21. Ibid, 268.

22. Ibid, 269-70.

23. Jones and Strahan, 158.

24. “New Department Given Wide Energy Powers,” *Congressional Quarterly Almanac, 1977* (Washington: Congressional Quarterly, Inc., 1978), 614.

25. John A. Farrell, *Tip O’Neill and the Democratic Century* (Boston: Little, Brown and Company, 2001; paperback edition, 2002), 464-65.

26. Ibid, 466.

27. “Carter Energy Bill Fails to Clear,” *Congressional Quarterly Almanac, 1977*, 721. These conditions and limitations on the ad hoc committee were contained in a “Dear Colleague” letter O’Neill sent to all House Members on April 20.

28. *Congressional Quarterly Almanac, 1977*, 721.

29. Ibid.

30. *CQ Almanac, 1977*, votes at pages 132-H, 135-H.

31. Ibid, 711.

32. Ibid, 712.

33. Farrell, 463-65.

34. U.S. House of Representatives, Select Committee on Committees, “Final Report” (H. Rept. 96-866), April 1, 1980, 2.

35. Ibid, 333.

36. “Committee Reorganization: Select Committee on Committees,” *Congressional Quarterly Almanac* (Washington: Congressional Quarterly, Inc., 1981), 562-63.