Reorganizing Congress and the Executive In Response to Focusing Events: Lessons of the Past, Portents for the Future

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Introduction

At a May 19, 2003, hearing on organizing the House for homeland security, Congressman Lincoln Diaz-Balart (R-Fla.), chairman of the House Select Committee on Homeland Security's Subcommittee on Rules, held up a book titled, *Congress Against Itself* [1] -- a copy of which had been provided to each member--and urged his colleagues to read it.

The chairman was obviously following Santayana's admonition that "those who cannot remember the past are condemned to repeat it."[2] None of the subcommittee members present that day had been in Congress during the 1974 debate over a comprehensive proposal to overhaul the House committee system. Consequently, the book would have to serve as their memory if they hoped to avoid the same fate as the Bolling-Martin Select Committee on Committees three decades earlier. In the 1974 attempt to realign committee jurisdictions, the bipartisan select committee's package was trumped by a Democratic Caucus substitute that left existing turf arrangements virtually intact, while at the same time authorizing for the first time the referral of bills to more than one committee.

However, members of the subcommittee who participated in the hearing on that day in 2003 were upbeat about the prospects of converting their select committee into a permanent, standing House committee in the next Congress. Many felt that the Speaker had already committed to doing so, and that was more than half the battle in the new era of party government in which the majority leadership called the procedural shots. Whether a deterministic historical force or a determined leadership will shape the outcome is unknown at this writing. The select committee is not required to make a recommendation on its successor until September 30, 2004, and the House may not vote on it until the beginning of the 109th Congress in January 2005.[3]

The purpose of this paper is to look at the current homeland security organizational challenge in the House in the context of three other focusing events that led to major proposals for national policy and structural changes in Congress and the executive branch. The three events are: the launching of the Sputnik satellite by the Soviet Union in 1957; and the twin energy shocks of 1973 and 1979. In each instance, executive reorganization and new policy

directions were eventually agreed upon. In the case of the energy crisis, however, the House was not persuaded that urgency or necessity dictated that it make corresponding structural changes, though the Senate did create a new Energy and Resources Committee in 1977.

It is the thesis of this paper that congressional reorganization is less successful in such cases than executive restructuring. This is true in part because the internal organization and operation of the legislative branch are less visible to the public and thus are not seen by the people as vital to addressing the problem. Moreover, members of Congress jealously guard their prerogatives and power bases and are reluctant to alter or relinquish them unless congressional leadership, the threat of executive dominance, and public pressures combine with the prospect of greater rewards, power, and prestige, to overcome the inertia. Ultimately this depends on the intensity and duration of public sentiment about the seriousness of the problem.

Representative democracy usually faces its biggest tests when sudden, major events thrust new policy and structural challenges onto a system not built for efficiency or efficacy. The immediate reaction of both the executive and legislative branches is to move forward with immediate policy fixes while resisting more permanent structural changes that could disrupt, destabilize, and even destroy the systems' equilibria.

Explanations for Institutional Change

Abraham Lincoln once noted, with his trademark sardonic wit, that history sometimes does repeat itself: "What once happened will invariably happen again, when the same circumstances which combined to produce it, shall again combine in the same manner."[4] Obviously, the more the variables vary, the more difficult it is to predict the extent to which the past will repeat itself. Nevertheless, that has not stopped those in the social sciences from attempting to bring some scientific order and understanding to seemingly chaotic social relationships and occurrences.

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.[5]

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.[6]

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.

The goals of members, according to David Mayhew, as modified by Richard Fenno, are reelection, policy influence, and institutional respect and power.[7] 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.[8] 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."[9] 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.[10]

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...."[11]

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 the 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."[12]

With these perspectives on agenda-setting and institutional change in mind, we will proceed to look at the three focusing events mentioned in the introduction and determine to what extent they succeeded or failed in producing major policy and structural changes in the government.

The Sputnik Shock

On October 4, 1957, the Soviet Union successfully launched Sputnik --the world's first man-made satellite to orbit the earth. The 184-pound, black steel ball, blasted skyward in the space shot heard round the world, had the symbolic thrust of a bullet ripping a hole in America's inflated self-confidence. The technological triumph was seen by many not only as a propaganda victory for the Soviets in their competition with America at the height of the Cold War, but as a

serious threat to U.S. military supremacy. Nuclear scientist Edward Teller claimed of the launch that the U.S. had lost "a battle more important and greater than Pearl Harbor."[13]

It is little wonder, then, given such expert opinion, that the public reaction to the Soviet space shot was variously described as one of panic, shock, hysteria, and fear. MIT President James R. Killian, soon to become the White House science adviser, wrote that Sputnik caused "a crisis of confidence" among the American people.[14]

By contrast, President Dwight D. Eisenhower was apparently nonplused by the event, continuing a golf holiday in Gettysburg that he had begun the previous day. His press spokesman, James Hagerty, briefed the press, telling them that the Soviet feat had not come as a surprise to the administration, and that the president was being kept informed of it as a matter of "great scientific interest."[15]

At his first press conference after the launch, on October 9, Eisenhower conceded that Sputnik gave the Soviets a psychological advantage around the world, and perhaps, in hindsight, the U.S. should have tried harder to be the first into space, though we had never viewed ourselves in a race with the Soviets to be first. And, in response to further questioning, the president conceded that the Soviet launch demonstrated they had rockets powerful enough to send warheads thousands of miles across the earth, though problems of re-entry and accuracy had not yet been resolved. He said the U.S. program was moving forward as planned, with a test launch planned in December, and the first fully instrumented satellite shot scheduled for the following March.[16]

Eisenhower was genuinely puzzled by the strong public reaction to Sputnik: "I can't understand why the American people have got so worked up over this thing," he told his Science Advisory Committee (SAC) on October 15. "It's certainly not going to drop on their heads." His science advisor, James Killian, said the President had no idea that the American public was "so psychologically vulnerable." In a speech to a NATO group on October 11, the president said, in reference to Sputnik, "We must have faith not to get hysterical, and we must not get complacent." Above all, Eisenhower wanted to prepare the American people to support programs for the long haul ("for years, even decades") instead of succumbing to "hasty or

extraordinary effort under the impetus of sudden fear." As he wrote to one correspondent, "We face, not a temporary emergency, such as a war, but a long term responsibility."[17]

Members of Congress, though, were not reassured by the president's reactions to Sputnik. Like their constituents, they were more visceral in their responses to the event. Senator Henry "Scoop" Jackson (D-Wash.) called Sputnik "a devastating blow to the prestige of the United States as the leader in the scientific and technical world." Senator Stuart Symington (D-Mo.) asked the president to call a special session of Congress, saying that the Soviet launch was "proof of growing Communist superiority in the all-important missile field." Senate Armed Services Committee Chairman Richard Russell (D-Ga.) told his constituents on October 5, "We now know beyond a doubt that the Russians have the ultimate weapon–a long-range missile capable of delivering atomic and hydrogen explosives across continents and oceans."[18]

The situation was further exacerbated by the Soviet's launch of Sputnik II on November 3 with a dog ("Laika") aboard, and by the explosion on liftoff December 6 of a U.S. Vanguard-C rocket carrying the first American satellite. The Russian successes and the U.S. failure led to a rash of congressional inquiries. Four House and Senate subcommittees launched studies of the problems. The House Post Office and Civil Service Committee held hearings November 4-8 on the government's use of scientists and engineers. The House Defense Appropriations Subcommittee looked at defense spending in closed hearings November 20-21. The House Government Operations Subcommittee on Information held hearings November 18-19 on complaints that excessive secrecy had led to a U.S. missile lag. Senate Majority Leader Lyndon Johnson (D-Tex.), chairman of the Senate Armed Services Committee's Subcommittee on Preparedness, held hearings from November 1957 through the following January on reasons for the slow progress in American missile and space programs.[19]

The Johnson subcommittee hearings were the most extensive, revealing that the U.S. lag in missile development was caused by a failure to assign ample priorities and funds to programs for missile and satellite development, and a conflict between the armed services over missile programs. On January 23, Johnson outlined his subcommittee's findings along with 17 recommendations. The subcommittee concluded that the Soviets led the world into space, led

the U.S. in missile development, in the speed of development of new weapons, and in the rate of producing scientists and technicians. At current rates, the subcommittee concluded, the Soviets would soon surpass the U.S. in manned air power.[20]

By early February, pressures were mounting on the administration from Democrats in Congress to develop a space policy. Senators Albert Gore (D-Tenn.) and Clinton Anderson (D-N.M.) introduced bills to put all the space programs under the Atomic Energy Commission. At the time, the satellite programs were being run by the military, but separate from the IRBM and ICBM programs. Senators Hubert Humphrey (D-Minn.) and Estes Kefauver (D-Tenn.) introduced legislation to put the space program under a new Department of Science and Technology.

Creation of Select Committees on Space

On February 6, 1958, the Senate adopted a resolution introduced by Majority Leader Johnson to create a Senate Select Committee on Space and Astronautics, which the majority leader would chair.[21] The House followed suit on March 5, adopting a resolution to create a 13 member Select Committee on Astronautics and Space Exploration. As an indication of the importance he attached to the select committee, House Speaker Sam Rayburn (D-Tex.) appointed Majority Leader John McCormack (D-Mass.) to chair the panel, while ranking Armed Services Committee Democrat, Overton Brooks (D-La.) was appointed the ranking Democrat. Minority Leader Joe Martin (R-Mass.) was appointed ranking Republican, followed by Republican Whip and ranking minority member on the Armed Services Committee, Les Arends (R-Ill.). The rest of the panel reflected Rayburn's determination that it be a top caliber, blue-ribbon cross-section of the best members from key committees.

Although there was little debate on the House resolution establishing the House select committee and it was adopted by voice vote, several weeks before the House acted Representative Kenneth Keating (R-N.Y.), who would later be appointed to the select committee, offered several reasons why its creation was necessary. "Various bills have been introduced concerning the multitude of unresolved questions deriving from man's venture into space," he said, and "no single committee is now constituted to deal comprehensively and in a coordinated

fashion with these measures."[22]

In many instances, he went on, a single bill "cuts across the lines of interest of a number of our standing committees." Consequently, a number of committees want to duplicate hearings on the same subject matter, and, "we may witness the unappetizing sight of committee chairmen fighting for the first crack at a bill." Moreover, Keating concluded, department and agency heads "could well spend all their working hours trudging up to the Hill to testify before a plethora of committees considering outer space problems."[23]

The select committee was charged by its authorizing resolution "to conduct a thorough and complete study and investigation with respect to all aspects and problems relating to the exploration of outer space, and of the control, development, and use of astronautical resources, personnel, equipment, and facilities." It was given until June 1, 1958, to report its findings and recommendations by bill or otherwise.[24]

In response to the spate of space proposals in Congress, the administration made public that the secretary of defense had been working on plans since December to put all the military space programs under a newly formed Advance Research Projects Agency (ARPA), including the development of rockets, satellites, and other space-related projects. At the same time, however, the administration was considering a separate civilian agency for the nonmilitary aspects of space exploration.

At a February 3 staff level meeting, it was decided to task the President's Science Advisory Committee with conducting a study and preparing a plan for space program organization. The following day, however, Eisenhower told a group of Republican congressional leaders that he favored keeping all the space programs in the Defense Department since the only practical application in the foreseeable future would be a reconnaissance satellite. "That's military, that's the big thing," Ike said. That set off a lively discussion in which Killian and Vice President Nixon argued strongly for a civilian program, both for the sake of science and world opinion. Eisenhower grudgingly agreed to let Killian and the PSAC develop a plan for a civilian space agency, even though he saw it leading to unnecessary duplication. The decision was made public that same day, and Eisenhower confirmed it at his press conference the following day.[25]

On March 5, Killian reported back to the president with the recommendation that the existing National Advisory Committee for Aeronautics (NACA) be converted into the National Aeronautics and Space Administration (NASA), headed by a presidentially appointed director who would report directly to the White House and not to the board, which would remain strictly advisory in nature. Killian also recommended "an all-out attempt" to draft legislation in the next few weeks so that "the full civil space program...can be launched this year." Eisenhower enthusiastically embraced the plan and asked Killian to work with the Bureau of the Budget to get legislation to Congress prior to the Easter recess in April.[26]

Killian's other assignment from the president had been to develop an overall space policy. On March 6 PSAC completed its work and presented to the National Security Council its proposals for a space program grounded in the scientific value of space travel and exploration. Again, the president welcomed and endorsed the report, and on March 25 a public version, "Introduction to Outer Space," was released.[27]

Killian worked tirelessly with the Bureau of the Budget to develop the bill creating the new civilian space agency. On March 27 he circulated a final draft to other government agencies, giving them little time to suggest any final changes. Lyndon Johnson would later remark that the legislation had "whizzed through the Pentagon on a motorcycle." On April 2 the president submitted the measure to Congress, stressing his commitment to a civilian space program centered on exploring outer space and "devoted to peaceful and scientific purposes." Editors of the *New Republic* enthused that, "President Eisenhower has overtaken Lyndon Johnson in the race to outer space," arguing that the president had retaken the initiative from Johnson with a "well thought-out program."

The ball was now in Congress's court. The May 15, 1958 Soviet launch of Sputnik III gave further impetus to Congress's moving the president's space policy and organization legislation. The latest satellite was a large, cone-shaped object that weighed one and one-half tons, and had been boosted into orbit by a rocket with over a half-million pounds of thrust–far more than anything the U.S. had under development.[28]

By May both the House and Senate select space committees were in full swing at revising

the legislation sent to the Hill in early April. The two sticking points were how much of the military space programs should come under NASA control, and the second was over the size and power of the governing board of the new agency. Lyndon Johnson favored revising the administration's draft to give the Pentagon full freedom to develop all military uses of space, separate from the civilian agency's purview. Senate Republican leaders told Eisenhower they backed Johnson's position on Pentagon freedom from NASA. The division of authority between ARPA and NASA made critical the issue of who would determine space policy. The House committee favored the administration's plan of a 17 member advisory committee, while the Senate favored a smaller board with responsibility for actually developing overall space policy. Notwithstanding the president's efforts to strike a compromise, the House and Senate proceeded to pass bills very different in nature.[29]

The House committee reported its bill on May 24, and on June 2 the House passed the measure after only two hours of debate. The bill emphasized civilian control over space policy and sharply limited the military role. The Senate committee's bill, reported on June 11, passed by voice vote on June 16. It exempted all space related weapons and military applications from NASA's authority, and created a smaller, seven member policy board charged with overseeing all aspects of the nation's space ventures. The policy board was to serve as a coordinating mechanism between the civilian and military aspects of space activity. Killian and other advocates of civilian control were worried about this attempt to place a high-level body between the director of NASA and the president. The president thought it would be a "tragedy" if the president could not have the power to decide who handles what subject.[30]

In the conference committee between the two houses, it was a face off between the two Democratic majority leaders who had chaired their respective select committees. Eisenhower met with McCormack to reaffirm their mutual support for civilian control. Johnson was equally adamant in wanting to preserve a separate military role in space. The impasse was broken when the president invited LBJ to a private dinner at the White House on July 7. Ike said he would accept the Senate's policy board if it were renamed, the Space Council, but only if it were modeled after the National Security Council, with the president as chairman. Johnson agreed to

the arrangement if the council was expanded to nine members, with three from outside the government. At the same time, the conference report would retain Senate language exempting military space ventures from NASA control, and would give the president the power to transfer space projects between government agencies without congressional approval prior to December 31, 1958.[31]

Once these differences were worked out to the satisfaction of the president and Johnson, the conference committee moved quickly to approve the final version on July 15, and on July 16 it was adopted by voice vote in both houses. Historian Robert Divine notes of the achievement that, "President Eisenhower had every right to take satisfaction in the final shape of the space legislation. He had proved far more skillful at parliamentary maneuvering than on defense reorganization [which passed in August 1958], playing off the House against the Senate to get a measure that delegated surprisingly broad powers to the president in this new field." Despite the lack of public attention to the creation of NASA, just a few months after the uproar over Sputnik, Lyndon Johnson said that, "In the long view of history," the creation of an agency to guide America's effort in the exploration of space, was "possibly the most important step we took during this session...."[32]

From Select to Standing Space Committees

Another matter to be ironed out in the conference committee on the NASA bill was how Congress would organize itself in the future for dealing with outer space issues. Both select committees had recommended the creation of a Joint Committee on Aeronautics and Outer Space, drawing on the demonstrated expertise and experience of the Joint Committee on Atomic Energy. Although it was known that Speaker Sam Rayburn opposed a joint committee, it was written into all the early drafts of the space legislation, and was reported as part of the final House bill on May 24 with a glowing committee report endorsement. However, before the bill was taken up on the floor on June 2, a resolution introduced by Democratic Whip Carl Albert on May 27, to create a standing House Committee on Science and Astronautics (H. Res. 580), sailed through the Rules Committee two days later. As McCormack explained on the House floor in taking up the space bill on June 2, because the Rules Committee had reported a resolution

creating a standing House Committee on Science and Astronautics, “which gives it a broad base of legislative action,” he was going to move to strike the joint committee provision from his bill.[33]

As House Science Committee historian and former member Ken Hechler (D-W.Va.) observes, “There was some speculation that the early House support for a joint committee stemmed from the feeling that it might be easier to wrest new jurisdiction away from existing committees toward a joint committee rather than toward a new standing committee.” However, looming larger, says Hechler, “Was the fact that many House members feared the Senators on a joint committee might ‘hog’ the limelight.”[34]

In any event, when the matter was brought up in conference committee, and, when Majority Leader Johnson said he assumed everyone was agreed on the need to have a joint committee, he looked around and saw McCormack was just sitting there shaking his head. “We’re not going to have a joint committee?,” Johnson asked. “No.” “Why not?” “Mr. Sam says so.” McCormack added, “If you want to negotiate further, you’ll have to settle that at the Texas level.”[35] The joint committee idea was dropped.

On July 21, 1958, just five days after the NASA conference report cleared the Congress, the House adopted the Albert resolution creating a permanent, 25- member Committee on Science and Astronautics, and three days later the Senate followed suit by creating its own, 15-member Committee on Aeronautical and Space Sciences.

The House resolution and report had been drafted by Rules Committee member Thomas P. “Tip” O’Neill, Jr. (D-Mass.) and was managed on the floor by the more junior committee member, Richard Bolling (D-Mo.). The resolution amended House rules by establishing the new, 25 member committee, laying out its jurisdiction, and reconfiguring the jurisdiction of the Interstate and Foreign Commerce Committee to reflect matters transferred to the new committee. The primary purpose of the new committee was to oversee NASA and the non-military national space program. It was also given jurisdiction over the Bureau of Standards, the National Science Foundation, science scholarships, and scientific research and development–much broader than its Senate counterpart committee’s jurisdiction.

The reason for the broader jurisdictional mandate, according to Hechler's account, is that the leadership wanted it to be a major committee. In order to appease Armed Services Committee Chairman Carl Vinson (D-Ga.), Speaker Rayburn had agreed to appoint Representative Overton Brooks as chair of the new science committee, instead of his first choice, Carl Albert. Vinson did not want Brooks to succeed him as chairman of Armed Services under any circumstances, because, "He's a troublemaker, a griper, and a groucher." Only by making Brooks chair of a major committee could Rayburn remove Brooks from the Armed Services Committee.[36]

After calling up the resolution, Bolling offered an amendment that added to the specified jurisdiction both NASA and the space council, explaining the changes were made to reflect the agency names designated in the National Aeronautics and Space Act which was about to be signed into law. He also explained that certain functions were being transferred from the Interstate and Foreign Commerce and Armed Services committees, including the Bureau of Standards, the National Advisory Committee for Aeronautics, and the National Science Foundation, but that these transfers had been agreed to by the chairmen of the two committees.[37]

According to Hechler's account, Rayburn had commissioned Albert to button-hole Commerce Committee Chairman Orren Harris (D-Ark.) about giving up some of his jurisdiction to the new Science Committee. "He gave in," recalled Albert, "but he didn't do it very easily. He twitched around a little bit about it, but he had Rayburn and McCormack on his neck so he had to do it."[38] Armed Services did not require further pressure, in part because it retained jurisdiction over the military applications of space; but also in part because Chairman Vinson had received a side-payment from Rayburn in return supporting the new committee–kicking of Brooks upstairs to be its chairman.

The precedents indicate that the Bolling amendment and resolution were adopted after a brief discussion. The same precedent also indicates that, "After the new standing committee was created, no members were elected to it nor were any bills referred to it during the remainder of the second session of the 85th Congress. The members appointed to the select committee continued to serve on that committee until the end of the session."[39] This would seem to indicate

that the leadership wanted to firmly establish its strong support for a standing committee in the immediate aftermath of the passage of the NASA law, and not risk losing momentum by waiting to include it in the resolution adopting House rules for the new Congress the following January. Moreover, the separate vote to establish the standing committee helped to highlight for the public and the administration the House's intention to be an active partner in the development of America's space policy.

When viewed from the perspective of theories for institutional change, it is clear that there was both an institutional and partisan motivation at work in creating both the select committees and their successor standing committee, and leaders are both responsible for institutional maintenance and party maintenance. For the institution of Congress, the space challenge was a largely new issue, though growing out of the decade running Cold War. Neither the Congress nor the Executive were properly organized to meet this new challenge. The Sputnik shock would force both branches to reexamine their priorities and reorganize their structures both to catch-up with the Soviets scientifically and technologically, and to recapture lost prestige around the world.

But there was obviously a political dimension as well that would affect partisan politics because the Soviet success had traumatized the American people, and politicians were quick to sense this and respond. The Democrats wisely used the occasion to highlight the lag in U.S. missile development through the Johnson preparedness subcommittee and other venues in Congress. Republican leaders meantime were prodding the president to take the challenge more seriously and take decisive action to reposition the U.S. militarily and in space. It is not surprising in retrospect that both parties placed their top leaders on both the select committee and its successor. Johnson appointed himself chairman of the new Senate standing Committee on Aeronautical and Space Sciences, and House majority and minority leaders McCormack and Martin remained for another Congress on the new House Science and Astronautics Committees (though Martin was deposed as minority leader by Charles Halleck of Indiana shortly after his appointment to the committee).

An October 1, 1958, the Gallup Poll asked Americans what they thought was the most

important problem facing the country. Whereas a March 23 poll revealed that 40 percent of the people thought the economy was most important, with keeping peace second at 17 percent, and "Sputniks [and] other space problems" third at 7 percent, by the October poll, a month before the elections, the "East-West fight, keeping peace" ranked first in concern at 42 percent, unemployment, integration, and cost of living came in as the next, three most important at 11, 9, and 8 percent respectively. The difference may have been the refocusing event in April of the Soviets putting the first man into space and successfully bringing him back to earth.[40]

While the economy was still a major factor in the 1958 elections (even though the recession was receding), the Cold War competition was still a powerful factor in the minds of voters, and the Democrats used the "missile gap" issue to clobber the administration and its Republican cohorts in Congress (just as Democratic presidential candidate John F. Kennedy would against Republican nominee Richard Nixon in the 1960 presidential elections). The Democrats picked up 48 seats in the House in 1958, to command a 282 to 154 majority over Republicans, and picked up 15 seats in the Senate for a new, 64 to 34 margin over Republicans. The partisan rationale for change had paid off for the Democrats.

Other Sputnik Spinoffs

While this paper is primarily about congressional and executive reorganizations that take place in response to focusing events, it should be kept in mind that just as significant, if not more so, are the large policy changes that result. Not only did the U.S. make a new commitment to the exploration of outer space through a new civilian agency, but it also made a major new commitment to science education. In a special message to Congress on January 28, 1958, President Eisenhower put forward a limited program of federal assistance to education that included 10,000 scholarships a year over a four-year period to encourage gifted high school graduates to attend college, graduate fellowships in science, engineering and foreign language to train more teachers in these fields, and matching grants to the states to improve math and science teaching. Democrats in Congress responded by calling for much larger federal expenditures than the president thought prudent–40,000 scholarships a year over six years, plus a student loan fund

to provide loans of up to $1,000 a year for college students. The loan program alone would break the $1-billion ceiling the president had set for his entire education initiative.[41]

The impasse between the branches over education funding coincided with a drop in public attention to the "education crisis" in early 1958 and the successful launch of Explorer II on January 31. However, the mood was punctured again by a five-part series in *Life* magazine on "The Crisis in Education" that ran in March and April. "The schools are in terrible shape," the editors opined. "What has long been an ignored national problem, Sputnik has made a recognizable crisis." Pointing to a lack of agreement on a national curriculum, the magazine concluded, "Most appalling, the standards of education are shockingly low."[42]

The series set off a lively debate in the country in the spring of 1958. In June the Rockefeller Brothers Fund released a report which further contributed to the debate by calling for excellence in American education in all fields, not just in science and technology. The President's Science Advisory Committee panel on education agreed on the need to use the Sputnik crisis to work for broad reform of American schools by creating higher national standards and greater quality in education. By early July the logjam in Congress began to break as key legislators worked closely with the Department of Health, Education and Welfare (HEW) in shaping a bill that would be acceptable to the president's more limited objectives. The president gave some by agreeing to the loan fund he had earlier opposed, but only if the number of scholarships were reduced and the loans required "high scholastic competence and good standing." By the end of July it was clear the president had full control of the fate of education legislation. The matter was resolved in conference committee, by removing the scholarship provisions and instead setting up a $295 million loan fund for individual loans to be granted primarily on the basis of a student's financial need. As finally passed by Congress in late August, the "National Defense Education Act" authorized an expenditure of slightly less than $1 billion a year over a four-year period. The president signed it into law on September 2, 1958.[43]

The other significant spin-off from the Sputnik crisis was reorganization of the military. In his January 9, 1958, state of the Union address, the president pointed out that the new technology cut across the traditional dividing lines between the three armed services, and called

for giving more authority to the secretary of defense by consolidating all development and deployment of missiles and satellites in the Defense Department itself. He made clear that it was inter-service disputes that had hampered the missile program. Long before Sputnik, Eisenhower had sought to reduce inter-service rivalry and strengthen the role of the president and secretary of defense. In 1953 he had tried to streamline the Defense Department but ran into stiff opposition in Congress, and had to settle instead for only modest changes. The public uproar over Sputnik allowed the president to re-frame the issue by putting a new sense of national urgency on it given the Soviet success. The Johnson preparedness subcommittee hearings reinforced the case by revealing the high cost of inter-service rivalry that had produced not one but three intermediate range ballistic missiles (IRBMs).[44]

Working from recommendations of the Advisory Committee on Government Reorganization chaired by Nelson Rockefeller, and a subsequent report from a Defense Department advisory committee headed by Boston lawyer Charles Coolidge, the president sent his defense reorganization message to Congress on April 3. It called for giving the secretary of defense authority to shift funds between the services in special cases, and to issue commands for combined operations, on the advice of the Joint Chiefs, without going through the service secretaries. Moreover, he proposed creating the new post of director of defense research and development in the Pentagon to minimize duplication and rivalry among the three services. The proposal met with the usual resistance from House and Senate Armed Services chairmen Vinson and Russell who were adamant about retaining Congress's authority to appropriate funds for the separate services.[45]

After protracted hearings and delicate negotiations involving give and take on both sides, a compromise was worked out and the bill was signed into law on August 6, 1958. Eisenhower hailed it "a major advance in our organization of defense." He was especially pleased with the reform of the Joint Chiefs. Perhaps the most significant change for the long-run, however, was the creation of a new director of defense research and engineering to stop wasteful duplication in the development of new weapons.[46] The Sputnik challenge had put defense reform back on the agenda, and this time helped to push it across the goal line, though the president got considerably

less flexibility than he had requested. Congress continued to jealously guard its constitutional powers of the purse when it came to setting the budgets of the three military services.

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.[47]

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. [48]

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.[49]

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.[50]

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.[51]

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."[52]

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."[53]

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 in the Davidson and Oleszek book referred to at the beginning of this paper, 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."[54]

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.[55]

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).[56]

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."[57]

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"[58]

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.[59]

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."[60]

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."[61]

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."[62]

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.[63]

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."[64]

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.[65]

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).[66]

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.[67]

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 but one 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.[68]

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. [69]

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.[70]

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."[71]

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.[72]

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."[73]

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."[74]

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 (30%)	151 (70%)	60 (23%)	199 (77%)
Republicans	99 (66%)	52 (44%)	51 (34%)	101 (66%)

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.

Organizing for Homeland Security

This paper began by raising the question of how Congress might organize itself in

response to the focusing event of the September 2001 terrorist attacks, especially given the creation of a new cabinet department on Homeland Security. The paper proceeded to examine previous efforts to reorganize the executive branch and Congress to deal with new challenges arising from major shocks or crises, specifically, the Soviet Sputnik launch in 1957, and the twin energy shocks of 1973-74 and 1979.

What is particularly interesting in comparing the past efforts with today's situation is the initiative taken by the Speakers in each case to form a select committee to deal with the immediate legislative needs of the institution and the country in responding to the crisis. While the 1973-74 committee reform attempt was not in direct response to the energy crisis, it did help shine a spotlight on the fragmented nature of committee jurisdictions when it comes to dealing with energy.

The failure of that reform effort and the subsequent morass into which Congress fell in trying to forge a national energy policy led the Senate in 1977 to reorganize its committee system, including the establishment of a new Energy and Resources Committee. While Speaker Tip O'Neill was initially inclined to go the same route, he was pulled back by a stampede of Old Bulls (committee chairmen) opposed to giving up any of their jurisdiction to a new committee.

O'Neill settled instead for a 40 member Ad Hoc Energy Committee, including key standing committee chairmen, for the purpose of putting together the pieces of the energy puzzle reported by five standing committees. The failure of the Carter energy program in Congress can be attributed more to the Senate and its ways than to any process or policy problems arising in the House. Speaker O'Neill delivered on his promises--on time and fairly intact. All but one of five amendments recommended by the Ad Hoc Energy Committee, on which roll call votes were demanded, were adopted by the House.

Just as President Eisenhower had not been instantly enamored of the idea of creating a separate civilian space agency after Sputnik, President George W. Bush initially resisted creating a cabinet department after the 9/11 attacks. Instead, he issued an executive order on October 8, 2001, establishing in the Executive Office of the President an Office of Homeland Security, and appointed former Pennsylvania Governor Tom Ridge as Assistant to the President for Homeland

Security. The mission of the new office would be to "develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks."[75]

Many members in Congress from both parties expressed skepticism about how effective such an office in the White House could be in redirecting the energies and efforts of numerous federal agencies. Without statutory authority or budgetary control, they argued, the new adviser to the president could not begin to get his arms around the problem.

Since March 2001, six months before the 9/11 attacks, Representative Mac Thornberry (R-Tex.) had been pushing for his legislation to create for a National Homeland Security Agency (H.R. 1158), based on one of the recommendations in the report of the of the Hart-Rudman Commission on National Security/21st Century released in February. Senator Joe Lieberman (D-Conn.) introduced the first bill in the Senate to create a National Department on Homeland Security (S. 1149) on October 11, 2001. As Chairman of the Governmental Affairs Committee, Lieberman was in a position to promote and propel his bill onto the national agenda and Senate calendar, and indeed that's what he did. After holding 14 hearings in the fall and spring of 2001 on various aspects of the homeland security problem, Lieberman introduced a new bill (S. 2452) on May 2, 2002, and on May 22 it was ordered favorably reported from the Governmental Affairs Committee on a 7 to 3 vote.[76]

By early June President Bush had changed his opinion on the need for a cabinet department. In a nationally televised address to the nation on June 6, 2002, the President explained his change of mind: "As Governor Ridge has worked with all levels of government to prepare a national strategy, and as we have learned more about the plans and capabilities of the terrorist network, we have concluded that our government must be reorganized to deal more effectively with the new threats of the 21st century." And he continued, "Right now, as many as a hundred different government agencies have some responsibilities for homeland security, and no one has final accountability.[77] The proposed new department would combine 22 Federal agencies with 170,000 employees, at an annual budget of $37 billion.

In the House, Speaker Dennis Hastert (R-Ill.) moved quickly to organize that body for

action on the president's proposal. After careful consultations with the minority leadership, the Speaker unveiled a proposal (H. Res. 449) to create a House Select Committee on Homeland Security to be composed of nine members, five from the majority and four from the minority, for the purpose of pulling together the recommendations of the various committees of jurisdiction over components of the proposed department. The resolution was careful to state that, the select committee would cease to exist after final disposition of the bill, and that, "Upon the dissolution of the Select Committee, this resolution shall not be construed to alter the jurisdiction of any standing committee."[78]

As Rules Committee Chairman David Dreier (R-Calif.) explained it during the June 19 floor consideration of the resolution, "it establishes a process for considering the President's initiative similar to one that was used a quarter of a century ago by Speaker to O'Neill in addressing the energy crisis."[79] As with the Ad Hoc Select Committee on Energy in 1977, the committees of jurisdiction would be given a deadline for reporting their recommendations. Majority Leader Dick Armey indicated during debate that the deadline would be July 12– a short, 23 day review period compared to the 60 days O'Neill allotted to standing committees on the energy policy bill. Moreover, instead of formally reporting amendments to the House on the homeland security bill, the committees were directed by the resolution to transmit their recommendations directly to the select committee. The this would mean just one committee report would be issued.

Finally, unlike the 40 member ad hoc energy committee, the nine member homeland security committee would not include the relevant committee chairmen as members. Instead, it was comprised *exclusively* of members of the Republican and Democratic leadership. Majority Leader Richard Armey was tapped by Hastert to chair the committee, while Minority Leader Gephardt designated Minority Whip Nancy Pelosi (D-Calif.) as the ranking minority member. The other Republican members were: Majority Whip Tom DeLay (Tex.), Conference Chairman J.C. Watts (Okla.), Conference Vice Chairman Deborah Price (Ohio), and Leadership Chairman Rob Portman (Ohio). The other Democratic members were Caucus Chairman Martin Frost (Tex.), Caucus Vice Chairman Robert Menendez (N.J.), and Assistant to the Democratic Leader

Rosa DeLauro (Conn.) It truly was more of a "super Rules Committee" than the 1977 energy panel had been.

Just as the resolution creating the select committee had been reported from the Rules Committee by voice vote, the spirit of "bipartisanship" (probably the most over-used word during debate on the resolution) carried the measure to adoption in the House by voice vote as well. The only caveat were expressions of concern about how the cabinet bill would be handled on the floor. The minority manager of the resolution, Representative Frost, expressed the hope that the homeland security bill will be considered in the House under an open amendment process. Minority Whip Pelosi, while not specifically mentioning an open rule, asked Armey whether "the rule will preserve minority rights protected by the House and will be a fair process." Armey responded that "it is the Speaker's intention that he and Democrat Leader Gephardt propose to the Committee on Rules a resolution governing the consideration of the select committee's product and jointly recommend that it be adopted."[80]

It is not the purpose of this section to recount in detail the work of the select committee or the recommendations of the 12 additional committees to which the bill was referred. Seven of the 12 voted to report recommendations to the select committee before the July 12 deadline, while the other five did not. The select committee held three days of hearings on the bill in mid-July and, on July 19 the committee ordered the bill (H.R. 5005) reported on a 5 to 4, party-line vote. The committee filed its report was at 1:50 a.m. on July 24, and the next day the measure was considered under a structured special rule (H. Res. 502) that the House adopted by voice vote.

Out of 103 amendments submitted to the Rules Committee, only 27 were cleared for floor consideration (14 sponsored by Republicans and 13 by Democrats), each with a specified time limit. Although Minority Leader Gephardt originally pressed for an open rule, the multitude of amendments forced a bipartisan compromise on a more structured approach. The House passed the bill on the evening of July 26, 295 to 132, after the surprise adoption, 318 to 110, of a minority motion to recommit with instructions offered by Representative DeLauro prohibiting the Secretary of the Department of Homeland Security from contracting with any subsidiary of a

corporation located in a tax haven country.

The Senate, with nothing comparable to the House Rules Committee and restrictive amendment procedures (other than by unanimous consent), took from July 31 to November 19, 2002, to complete action on the bill which was mainly hung-up on a filibuster over the treatment of civil service employees. The measured was finally adopted 90 to 9 after an 83 to 16 vote to invoke cloture. The president signed the measured into law on November 25.

Overseeing Homeland Security

When the 108th Congress opened, there were two significant developments on homeland security. First, both the House and Senate Appropriations committees converted their Transportation subcommittee's into a new Subcommittee on Homeland Security, and transferred the non-homeland security related transportation authority to the Subcommittee on Treasury-Postal, now called the Transportation/Treasury Subcommittee. The House had taken the initiative and the Senate had little choice but to follow along.

The other development was the creation in the resolution adopting House Rules (H. Res. 5) on the opening day of the new Congress (January 7, 2003), to establish a new Select Committee on Homeland Security with legislative jurisdiction to report to the House by bill or otherwise "on such matters that relate to the Homeland Security Act of 2002 (P.L. 107-296) as may be referred to it by the Speaker." Moreover, the select committee was given oversight responsibility "to study and review on a continuing basis laws, programs, and government activities relating to homeland security."[81] While there had been some speculation that the Speaker was anxious to move to a permanent, standing committee on homeland security, much as O'Neill in 1976 had hoped to create a standing committee energy the following year, similar objections were raised by the usual suspects, and Hastert mimicked the O'Neill ploy by creating a super select committee of 50 members (O'Neill's was 40 strong) that included eight committee chairmen.

Representative Chris Cox (R-Calif.), chairman of the GOP Policy Committee was designated chairman of the select committee, and Representative Jim Turner (D-Tex.), was named by Pelolsi as the ranking Democrat on the select committee. At this writing the

committee has reported and passed just one bill, a technical corrections measure to the 2002 Act (H.R. 1416, pending in the Senate). Cox is hoping to report early in 2004 a bill he introduced in November 2003 called the "Faster and Smarter Funding for First Responders Act" (H.R. 3266). The measure authorizes the Secretary of Homeland Security to make grants to states or regional cooperatives based on the assessed threat to the population or critical infrastructure. The measure has been sequentially referred to the committees Transportation and Infrastructure, Judiciary, and Energy and Commerce for periods to be subsequently determined by the Speaker once the select committee reports.

Meantime, the Select Committee's Subcommittee on Rules has held two hearings on what committee reorganization for homeland security should be recommended to the House, with most witnesses strongly urging some form of permanent committee. As mentioned at the outset of this paper, the select committee has until September 30, 2004, to "submit its recommendations regarding any changes in the rules of the House to the Committee on Rules." The betting is that the select committee will strongly recommend that it be reconstituted as a standing committee with its existing composition and authority. Whether this would be acceptable to the leadership and affected committee chairmen remains to be seen.

The Rules Committee will likely hold further hearings on any recommended changes, and then may either bring a rules change forward prior to the adjournment of the 108th Congress (expected in early October of an election year), or recommend to the leadership that any changes be incorporated in the resolution adopting House rules on the opening day of the 109th Congress. Or, the Rules Committee may take no action, as happened with congressional reform recommendations from a joint reform committee at the end of the 103rd Congress. Chairman Dreier half joked at one hearing in 2003 that he's opposed to increasing the number of House committees. Ultimately, though it's a leadership call as to what, if anything, to put to a House vote and when.

Back to the Future?

All of the House standing committees established in the latter half of the twentieth century, (and most of the Senate's) are the products of select committees created to address the

immediate aftermath of focusing events. As we have seen from this paper, the House and Senate science committees authorized in 1958 are the progeny of select committees established in the wake of the 1957 Soviet launch of Sputnik--the first artificial earth satellite. The Senate and House permanent ethics committees were formed in 1964 and 1968 on the heels of select committee investigations of scandals that rocked both houses during the decade. The House and Senate Budget Committees authorized in 1974 were the off-shoot of a 1972 Joint Study Committee on Budget Control, prompted in part by concern over growing deficits and in part by President Nixon's unilateral impoundment of congressionally appropriated funds. The Senate and House permanent select committees on intelligence were established in 1976 and 1977, respectively, after select investigative committees on intelligence, created in each House in 1975, uncovered serious abuses of power by the foreign and domestic intelligence agencies. In other instances, as we have seen with energy, select committees did not lead to the creation of standing committees, despite attempts to do so.

Why are some efforts successful and others not? So much comes down to the one word Chairman Patterson used repeatedly in explaining his failed attempt to create an energy committee in 1980: "Turf." Who stands to lose how much, and what offsetting benefits, if any, are provided by the reorganization proposal? In the case of the science, ethics, and intelligence committees, new entities were being created where little was being done about the issue by existing entities. With science, there was a sense of national urgency that we were falling behind the Soviets and needed both a new agency and new committees of Congress to do something. With ethics, scandals had previously been handled on an individual basis by ad hoc committees set up for specific investigations. There was no ongoing entity to advise and investigate, and to provide some sense of continuity and consistency. Relatedly, both bodies moved to adopt codes of official conduct.

Moreover, ethics and intelligence were huge embarrassments for Congress that needed to be rectified to help right the public's sinking confidence in the institution. Members know there are occasions on which a blemish on the institution can be seen by constituents as a blot on their own careers and reputations, and must be dealt with swiftly and effectively. The House post

office and bank scandals in the early 1990s led to a large number of retirements (most voluntary) when the names of check kiters were released. There followed further ethics and administrative reforms, and eventually a turnover in party control of the House in 1994. In addition, three standing committees of the House were abolished in 1995, and House committee staff were reduced by one-third--not so much for efficiency or rational reorganization purposes, but more to address the perception by some of the public that Congress had become bloated and out of control.

Reorganizing committees for rational jurisdictions and equitable workloads reasons is quite another matter, whether attempted wholesale, as in 1974, or piecemeal, as in 1980. A reorganization plan may well be the best thought-out, most institutionally equitable concept imaginable, but institutional rational choice seldom trumps individual rational choice–except in the instances of extreme embarrassment mentioned above. As has often been said, congressional reform (or committee reform) "has no constituency." The status quo of an institution has a large, internal and external constituency, so long as a majority of members are relatively comfortable with existing arrangements. They have no incentive to rearrange the deck chairs on the luxury liner. People know where they sit, they serve them there, they come and chat and do business there. Chairs are important, be they full committee or subcommittee chairs. Members don't want to have the deck moved out from under their chairs. Only occasionally will this change when a massive wave (politically or crisis generated) washes over the deck and punctuates the equilibrium. Then new arrangements must be made–some temporary, some more lasting.

Even the more lasting changes often have unintended consequences. They may not be as effective or efficient as intended; they may even lead to new problems. As Eric Schickler has pointed out in *Disjointed Pluralism*, committee reforms sometimes are compromises that actually end up layering new institutions on top of existing institutions, only exacerbating the problems of lines of authority and accountability. The budget process layered a new committee on top of the existing money committees–Ways and Means and Finance, and Appropriations. The jury is still out on delivering a final verdict on this process. The intelligence committees, presumably designed to oversee the entire intelligence community, still have run-ins, tugs of war, and turf

battles with the Armed Services, Judiciary, and International Relations and Foreign Relations committees.

If the existing House Select Committee on Homeland Security were simply converted into a standing committee with its existing jurisdiction and composition, another layering process would occur, with other standing committees having jurisdiction over aspects of homeland security retaining a share of that authority. Can such an arrangement hope to produce a coherent, well coordinated, and effective national homeland security policy? It is highly doubtful, especially if departmental officials are spending most of their time on the Hill, traipsing back and forth between over 60 committees and subcommittees claiming to have a piece of them.

If, on the other hand, a bold move is made to give a new standing committee on Homeland Security exclusive or even primary jurisdiction over all the agencies and programs under the Homeland Security Department, is there any chance the members on existing committees of jurisdiction will willingly give up that authority? Consider the fact that the seven committees listed by the House Parliamentarian as having jurisdiction over pieces of the new department have a total membership of 369 members.[82] Even assuming a 20 percent overlap in assignments, that would be 295 members or over two-thirds of the House.

Looked at another way, the committee with the most to lose is Transportation and Infrastructure which has jurisdiction over the Secret Service, the Coast Guard's maritime responsibilities, the Federal Protective Service, the Transportation Security Administration (TSA), and the Federal Emergency Management Agency (FEMA)–over half the total budget of the Homeland Security Department and nearly 60 percent of its employees. Not only does the Transportation Committee have the largest membership of any committee, 75, but a loyal following among the rest of House members who depend on special road and water projects from the committee.

A third reorganization alternative, one suggested by this author in response to a question at the Homeland Security Rules Subcommittee hearing on July 10, 2003, would be to do something similar to what Appropriations did when it took the old Transportation Subcommittee, transferred its non-homeland security transportation programs and agencies to another

subcommittee, and renamed the new panel the Subcommittee on Homeland Security. I suggested splitting the Transportation and Infrastructure Committee into two separate committees, one on homeland security and one on transportation with roughly 40 members each, but allowing for no duplicate assignments to the two committees. This too, though, would obviously meet with strong resistance from all the committees involved because it would make the new committee the exclusive or primary committee of legislative jurisdiction for all matters under the department.

When Roger Davidson and two colleagues published a book on congressio nal reform back in 1971, they quoted longtime *Time* magazine congressional correspondent Neil MacNeil to the effect that members of Congress regard their academic critics, with their high-minded reform ideas, a little like the catfish regards the fisherman who says, "Hold still catfish; I only want to gut you."[83] That vivid imagery brings to mind something Speaker Tom Foley (D-Wash.) liked to cite in explaining why he was dead set against reorganizing committee jurisdictions as part of the Legislative Reorganization Act of 1994.[84] Foley harked back to the ill-fated Bolling Committee debacle of 20-years earlier, and the heated and emotional clash within the Democratic caucus between the reformers and the stand-patters, noting, "There are still blood stains on the floor of the Democratic Cloakroom."

Things have changed since 1974 when the congressional reform revolution was at its peak, committee chairmen were being deposed and weakened, and members were becoming more active and involved in all manner of issues through newly autonomous subcommittees and informal caucuses. Presumably party leadership is stronger than ever today given the narrow majority margin in the House and the willingness of Republican members to empower their leaders to do the right thing. Subcommittees have been reduced in number and stripped of their independence, and chairmen have consequently regained control over their subcommittees. But members seem to be just as active and entrepreneurial as ever, both on and off committees (informal member caucuses now number 286–up from a couple of dozen in the early 1970s). Members value their committee and subcommittee assignments and policy influence as much as ever, and have grown comfortable with the working relationships they have with members on other committees who can help them with their district needs.

The reelection imperative may not be the only thing that motivates members, but it is still far ahead of whatever is second for one simple reason: without reelection, members obviously cannot continue to exercise policy influence in their committees or climb to a position of power and respect in the House as an elected party leader or committee or subcommittee chairman. All of these factors militate against jurisdictional changes that would disrupt the equilibrium on which members depend to pursue their goals in a relatively calm and stable legislative environment. It would take a measure of extraordinary leadership, public outrage, or another focusing event–or all of the above–to produce a truly rational, coherent, and effective alteration in committee jurisdictions in which the best interests of homeland security would take precedence over all other concerns.

Endnotes

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

2. George Santayana, *The Life of Reason* (1905), vol. 1, 284.

3. Sec. 1503 of the Act creating the Department of Homeland Security (Public Law 107-296) expressed "the sense of Congress that each House of Congress should review its committee structure in light of the reorganization of responsibilities within the executive branch by the establishment of the Department." Sec. 4 of H. Res. 5, adopting House rules for the 108th Congress, creating a House Select Committee on Homeland Security and, among other things, authorized and directed it "to conduct a thorough and complete study of the operation and implementation o the rules of the House...with respect to the issue of homeland security" and to "submit its recommendations regarding any changes in the rules of the House to the Committee on Rules not later than September 30, 2004."

4. Abraham Lincoln, speech on the sub-Treasury, state House of Representatives, Springfield, Illinois, December 26, 1839, from, *The Collected Works of Abraham Lincoln*, Roy P. Basler,

5. 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.

6. 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."

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

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

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

10. Ibid, 98-100.

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

12. Ibid, 10, 12.

13. Robert A. Divine, *The Sputnik Challenge* (New York: Oxford University Press, 1993), xv-xvi.

14. Ibid, xv.

15. Ibid, xiv.

16. Ibid, 7-8.

17. Ibid, 12, 17.

18. Ibid, xv.

19. *Congress and the Nation, 1945-1964* (Washington: Congressional Quarterly Service, 1965), 296, 1745. It wasn't until January 31, 1958, that the U.S. launched its first successful satellite, Explorer I, aboard a Jupiter rocket.

20. Ibid, 1745.

21. Divine, 99-100.

22. U.S. House of Representatives, Committee on Rules, Subcommittee on the Legislative Process, "Guidelines for the Establishment of Select Committees," February, 1983, 51.

23. Ibid.

24. Lewis Deschler, *Deschler's Precedents of the U.S. House of Representatives* (Washington: Government Printing Office, 1975), volume 4, chapter 17, sec. 6. The authorizing resolution, H. Res. 496, was adopted by voice vote.

25. Divine, 100-101.

26. Ibid, 104.

27. Ibid, 106.

28. Ibid, 144.

29. Ibid, 145-146.

30. Ibid, 146-147.

31. Ibid, 148.

32. Ibid, 148-49.

33. Ken Hechler, *Toward the Endless Frontier: History of the Committee on Science and Technology, 1959-79* (Washington: Government Printing Office, 1980; U.S. House of Representatives, Committee Print), 16.

34. Ibid, 17.

35. Ibid.

36. Ibid, 15.

37. Deschler, Volume 4, chapter 17, sec. 47.1. Indeed, the select committee issued two further reports on January 7, 1959, according to the Rules Committee's history of select committees, "Guidelines for the Establishment of Select Committees," February 1983, 51.

38. Hechler, 15.

39. Ibid.

40. *The Gallup Poll: Public Opinion, 1935-1971* (New York: Random House, 1972; volume two, 1949-1958), 1545-46; 1570. By a margin of 62-38 percent in the October poll, respondents thought the Democrats could best handle the problems they named; and by a margin of 40-37

percent, they thought the Russians had the lead over the U.S. in long range missiles and rockets.

41. Divine, 157.

42. Ibid, 159.

43. Ibid, 162-64.

44. Ibid, 81, 85.

45. Ibid, 130-131.

46. Ibid, 142.

47. 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.

48. Ibid, 155.

49. Ibid, 156.

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

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

52. 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.

53. Ibid, 35-37.

54. Davidson and Oleszek, 200, 203.

55. Ibid, 213-228.

56. Ibid, 252-58.

57. Jones and Strahan, 153.

58. Davidson and Olseszek, 262-63.

59. Ibid, 268.

60. Ibid, 269-70.

61. Jones and Strahan, 158.

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

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

64. Ibid, 466.

65. "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.

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

67. Ibid.

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

69. Ibid, 711.

70. Ibid, 712.

71. Farrell, 463-65.

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

73. Ibid, 333.

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

75. Executive Order 13228- "Establishing an Office of Homeland Security and the Homeland Security Council," October 8, 2001, in *Weekly Compilation of Presidential Documents*, October 15, 2001, 1434-35.

76. U.S. Senate, Committee on Governmental Affairs, "National Homeland Security and Combating Terrorism Act of 2002," Report to Accompany S. 2452, June 24, 2002.

77. Ibid. 2-3.

78. H. Res. 449, 107th Congress, 2d session, sec. 7.

79. *Congressional Record*, June 19, 2002, H 3694.

80. *Congressional Record*, June 190, 2002, H 3696.

81. H. Res. 5, 108th Congress, 1st Session, sec. 4.

82. The Honorable Charles W. Johnson, House Parliamentarian, Statement Before the Subcommittee on Rules of the House Select Committee on Homeland Security, May 19, 2003, Appendix G. The committees and number of members are as follows: Agriculture-51; Armed Services-61; Energy and Commerce-57; Judiciary-37; Science-47; Transportation and Infrastructure-75; Ways and Means-41.

83. Roger H. Davidson, David M. Kovenock, and Michael K. O'Leary, *Congress in Crisis: Politics and Congressional Reform* (Belmont, Calif.: Duxbury Press, 1971), 41.

84. Foley eventually pulled the plug on the reform bill (H.R. 3801) in the middle of a September 21, 1994, Rules Committee markup when it appeared that an amendment by Representative Anthony Beilenson (D-Calif.) making changes in committee jurisdictions, might actually be adopted by the committee and sent to the floor. Foley was also worried about another pending Beilenson amendment that would ban [proxy voting in committees (Evans and Oleszek, 74-75).