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978-0-521-68127-8 - On Capitol Hill: The Struggle to Reform Congress and Its
Consequences, 1948–2000

Julian E. Zelizer

Excerpt

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Transforming Congress

Senators John McCain (R-AZ) and Russell Feingold (D-WI) were an odd couple. McCain, an acerbic and explosive Vietnam veteran with a solid conservative voting record, and Feingold, a plainspoken midwestern progressive who was educated at Harvard, seemed to have little in common other than their willingness to act as mavericks. Yet they shared a passionate concern for government reform. The two men teamed up in 2001 and 2002 to push through Congress a widely celebrated reform that closed “soft money” loopholes in the campaign finance system and limited the amount that interest groups could spend on candidates. McCain, Feingold, and their supporters promised that the legislation would restore citizens’ faith in the federal government and allow for fairer policy making. Although the spirit of reform that surrounded the bill dissipated amid intensification of “the war on terrorism,” Senators McCain and Feingold joined a long list of elected officials who had wrestled with one of the most enduring challenges in American politics: Barring a wholesale revolution, how can we improve our representative democracy so as to best fulfill the promises of the Constitution? Given the tenacity of institutions, the answers to this question are far more complex than the rhetoric of politicians or reformers usually suggests.

The achievement of sweeping government reforms and the problems that emerge from such efforts are no artifacts of the distant past. To understand more about the history of government reforms we can look to the important period of the 1970s, a decade usually remembered for disco dancing, great movies, and swingers.¹ Government reforms were a central part of the 1970s as the federal government moved from the relatively insulated, hierarchical, and stable governing structures that had existed since the Progressive Era into a polity that was uncertain, fragmented, partisan, and highly conflictual. At the turn of the twentieth century, during what Richard Hofstadter called the “Age of Reform,”² politicians, business, good-government reformers, experts, and social movements introduced a period characterized by interest-group and congressional committee politics, a newspaper-based media committed to objectivity, and institutions and norms that nurtured bipartisan negotiation and constrained scandal.

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A second wave of reform hit in the 1960s and 1970s when the institutional structures of the Progressive Era became the targets of change. In almost every political arena, a widespread consensus emerged that new leadership and policies required reconstructing the political process. Reformers changed the nomination procedures for presidential candidates to break the remaining hold of party elites. Access to information became easier to obtain in every arm of the government. Reformers also secured permanent rights for public interest groups in the administrative process, and the federal government embraced a proactive role in protecting the voting rights of citizens. At the same time, an Office of the Independent Counsel, grand juries, and the FBI institutionalized the investigation of political corruption. The result was a new era defined by strong partisanship without secure party leaders; a television-centered media with a 24-hour news cycle; scandal warfare and the criminalization of politics; a dependence on polling; and codified rules of ethics. By moving beyond the textbook depiction of 1970s institutional reforms and the current political atmosphere as a product of Watergate, this book demonstrates that reform has a much longer and more complex history. The reforms signaled a historic shift in eras.³

The government reforms of the 1970s helped create the Congress that we know today, one where political parties drive the institution with unprecedented force and vigor. In today's Congress, fierce partisanship erodes the kind of professional trust that is essential to bipartisan compromise. Party leaders find that they have a large number of institutional tools at their disposal. Yet these party leaders must remain highly responsive to their membership, contending with codified ethics rules, bold mavericks and junior members, committee and subcommittee chairs, and specialized caucuses. The external constraints on Congress that took hold after the 1960s have been equally severe. Legislators struggle under the 24-hour light of an adversarial media. They confront a fragmented universe of interest groups, think tanks, and activists that make it difficult to sustain coalitions. Notwithstanding promises of a resurgent Congress in the early 1970s, the executive and judicial branches have remained formidable adversaries on almost every issue.

The contemporary Congress looks very different than the institution that existed between the 1910s and 1960s. Most of those years were dominated by southern Democrats. Power rested on a larger infrastructure organized around autonomous, insular, seniority-based committees and congressional districts that privileged rural voters. The media usually refrained from aggressive investigative stories, technocratic expertise enjoyed unprecedented authority, and campaigns revolved around a secretive process that favored large contributors. Notwithstanding the differences between the House and Senate, there were vital consistencies that became the focus of attention for supporters of reform, including the fact that southern Democrats relied on the committee process in both chambers to achieve power.

So how did reformers bring to an end the committee era of Congress – and did the transformation satisfy their objectives? These are the questions that

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frame my examination of how Americans have and have not been able to reconfigure their democratic institutions in the second half of the twentieth century. Besides the broader significance of institutional change to post–World War II American history, the phenomenon is especially important to the trajectory of congressional history.⁴ The process in any given congressional era is more than a technical backdrop to the *real* political action. Historical periods in Congress revolve around sea changes in the legislative process. Congressional time does not follow the conventional narratives about politics. After all, the elections of legislators are staggered, the institution consists of two chambers, there is no titular head or unified leadership in a split body with up to 535 members, and Congress handles a massive number of policies that often have little to do with one another. Therefore, each congressional era gains its character from the formal and informal rules of the game by which all participants operate.⁵ In this context it is helpful to think of Congress as an automobile. While drivers of various skills can take the automobile in different directions and along various types of roads, the internal machinery of the vehicle plays a crucial role in determining how smooth the drive will be as well as how far and fast the driver can go. Each generation of legislators and their leadership becomes closely identified with the legislative process through which they worked. Struggles to reform the process have thus involved battles over the power structure of the nation's most vital representative institution.

The Story of This Book

This book places the transformation of Congress at the center of postwar American history, building on the foundation of nineteenth-century and Progressive Era historians who understood that institutional change has been as important as presidents, policies, and movements in defining political eras.⁶ In order to understand the institutional changes that shaped Congress, it is essential to look beyond the motivations of legislators – the subject that has dominated the attention of political scientists. In the most basic of terms this book posits that reforming government is much harder work than most politicians or pundits admit.

Reform is the work of the tortoise, not the hare. Whereas popular accounts often suggest that one large scandal or piece of legislation is capable of fundamentally changing how government works, reform is a thoroughly *historical* process that is messy, slow, and involves multiple institutions. Starting back in the 1930s, the story about the end of the committee-era Congress revolves around coalitions that worked for decades to obtain broad changes across the policy-making process. Congressional change depended on a slow reconfiguration of the relationship between different political institutions as well as on shifts in the national culture. Just as important was the ability of reformers to take advantage of windows of opportunity when those unexpected moments occurred. The narrative about congressional reform takes place in fits and starts. The changes were

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not inevitable or automatic; they resulted from a fierce and protracted struggle. To recapture this history we must look outside the institution and then turn inward once again.

This history carries many warnings for those who today make bold promises about reforming government. The history of Congress shows how a new political environment can radically transform the impact of government reforms, as when the conservative movement took advantage of the postcommittee era in the 1980s and 1990s during its rise to power. It shows how sometimes the solutions obtained by reformers are little better than what was replaced or don't really get to the underlying forces behind public discontent with government.

1937–1946: The Conservative Committee Era

The first stage of this story took place between 1937 and 1946. During these tumultuous years, the committee process and southern Democrats came to be seen as one.⁷ Amidst the New Deal and World War II, southern Democrats took advantage of the legislative process to defend their policies. Realizing their enormous strength in Congress, President Franklin Roosevelt's administration had crafted New Deal policies through an alliance with southern legislators. While southern Democrats supported most of the New Deal, a key condition of this alliance was to avoid southern unionization and civil rights for African-Americans. This was not problematic through most of the 1930s, since a majority of non-southern Democrats were not particularly concerned about racial inequality and focused on northern workers.

The alliance, however, started to strain toward the latter part of the 1930s as many southern Democrats found themselves in conflict with their northern colleagues. Roosevelt's court-packing plan was one of the first issues that angered southern legislators, who perceived the move as an unacceptable expansion of presidential authority and a flagrant attempt to undermine the traditional guarantor of states rights, the Supreme Court. Roosevelt's failed purge of key southern Democrats in the 1938 election locked the president into a confrontational relationship with the region. Thereafter, the decision by some northern liberals in WWII to fight for the rights of African-Americans and to encourage southern unionization exacerbated the feeling of isolation among those from Dixie.

Yet southerners were confident that they could not be pushed around. Although they lacked control of the executive branch, southerners claimed an overwhelming number of committee chairs. After 1938, they could count on an informal voting coalition with Republicans. Following the 1938 elections, southern legislators thus started to use the committee process to defend their agenda from the ambitions of pro-civil rights and pro-union Democrats. It is significant that the committee process was seen to involve a broader infrastructure than the mere power of committees (a flattened portrait that is often found in today's history books): it involved secrecy in deliberations, a particular type of campaign process, the structure of districts, seniority, norms and rules that guided behavior among legislators, and relationships with external institutions. By the start

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of the Cold War, most observers associated the committee process with southern Democrats. This identification imbued the legislative process with a distinct political character that made even the most technical procedures a subject of conflict throughout the next three decades.

1948–1970: Building a Constituency for Congressional Reform

Between 1948 and 1970, two pivotal developments propelled Congress into a new stage in its evolution: the formation of a liberal coalition that promoted congressional reform and a shift in the institutional environment surrounding Congress. These developments created an unfavorable political climate for the committee-era Congress.

Many historians have assumed that the reform tradition disappeared after the turn of the twentieth century or that the tradition survived only in rump form through groups such as Common Cause and the League of Women Voters. But the second half of the twentieth century revealed that the reform tradition was alive and well. Just as Progressive Era historians have shown that reform consisted of a far greater number of actors than the elite Yankee Protestants whom Hofstadter once described,⁸ this book claims that the second wave of reform in the twentieth century was promoted by a diverse coalition that came from within the political arena, not from outside it. The coalition began with representatives from labor, the civil rights community, national elite organizations of New Deal liberals, academia, religious associations, philanthropic foundations, and the Democratic party. At first, the coalition was driven by a desire to obtain progressive legislation for African-Americans and blue-collar workers and not by moralistic concerns about the nature of democracy. This coalition believed that the deal their senior predecessors had made with southern Democrats over civil rights was untenable. They insisted on dismantling the process that empowered their opponents so that government could be moved into new areas of society.

In the 1950s and 1960s, this liberal coalition included legislators such as Hubert Humphrey (D-MN), Eugene McCarthy (D-MN), and Richard Bolling (D-MO), as well as interest groups such as the Americans for Democratic Action, the Leadership Conference on Civil Rights, and the National Committee for an Effective Congress. Notably, organized labor and their Democratic allies in Congress were key partners in the coalition. The partnership strengthened the cause of institutional reform by connecting it to a vibrant and well-established electoral constituency that was perceived to have political clout. Yet the primary concerns of unions were not those with the biggest impact on the coalition in these formative years. Civil rights brought the disparate elements of the coalition together in the postwar decades. The issue had more influence within the coalition than any other before the 1970s, since it offered a type of ideological clarity that did not exist with alternative policies and since it united northern Democrats.

The liberal coalition in the 1950s and 1960s drew on a shared understanding about the failures of the legislative process as they pressed for institutional

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reform, acting as (what political scientist Douglas Arnold called) *instigators* that helped “reveal citizens’ stake in an outcome” on controversial issues.⁹ Interacting as a network that worked across institutions, members of the coalition developed a sense of themselves as a permanent constituency collectively focused on congressional reform.¹⁰ The coalition believed that institutions were propping up a small group of conservative politicians who did not reflect the wishes of a liberal nation. Regardless of whether their assertions were correct, this belief inspired most of them.

Unable to control the legislative process, this coalition relied on alternative tactics. At certain moments they made dramatic attention-getting gestures by ignoring political traditions or turning to sympathetic ears in the national media. Other times they tried to trigger congressional investigations and reached out to the membership bases of the affiliated organizations. Often, their goal was not so much specific legislation or procedures as it was to mobilize public opinion.¹¹ In order to obtain incremental measures, they formed voting coalitions in committee and on the House and Senate floors with other legislators and organizations who supported reform for different objectives, such as younger moderate Republicans who sought to improve the electoral fortunes of their party or civil liberties organizations who were horrified by Senator Joseph McCarthy’s (R-WI) use of committees in Cold War investigations. Despite these alliances, the liberal coalition did more than any other faction to *politicize* congressional reform by linking procedure to the interests of burgeoning social movements and by placing the issue on the national agenda. Although the liberal coalition was influenced by political calculations, its members were also driven by a desire to promote ideological liberalism, to strengthen Congress as an institution and make it more efficient, and to make all legislators more accountable to their parties and more trusted by their constituents. Committee leaders who articulated their own ideas about Congress failed to sell their response as effectively.¹² For instance, senior members in the 1950s warned that opening the institution to the public and allowing the media to monitor legislative deliberations would result in a chaotic atmosphere where members played to reporters and the cameras instead of engaging in serious deliberation. In the end, however, these arguments failed to persuade in the face of overwhelming demands for democratic accountability and media access.

This coalition was not a tightly orchestrated network. Rather, at the same moment in history, this diverse group agreed that the committee process was at the root of their various dissatisfactions, and they drew from a common package of solutions. When the coalition broadened its membership in the 1960s, its character changed as it turned into a full-fledged “reform coalition” upon being joined by new Washington-based organizations and activists who believed that the process protected an entire class of elites – not just southern Democrats – whose power was untouchable barring a fundamental reconstruction of institutions. During these decades, the coalition absorbed more individuals and organizations who focused on what they saw as rampant corruption and the endemic

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weakness of Congress to shape policies that would benefit the suburban middle class. Common Cause, Ralph Nader, and younger suburban Democrats elected after 1968 embodied this newer faction.

Urban, labor, and civil rights forces were now sharing space in the coalition with those who were more concerned about protecting suburban consumers by wresting power away from all government officials. These latter groups, who displayed little interest in mass mobilization, wanted to reform the legislative and bureaucratic institutions of government in order to increase access for a larger number of Washington-based organizations. Although conservative southern Democrats were still a primary concern throughout the coalition, they were no longer the sole focus. Since these were organizations whose members generally exercised minimal influence and that received much of their funding from wealthy donors and foundations, they were willing to take controversial stands on reform that threatened major liberal interest groups, especially organized labor. The potential for internal conflict had increased as the unifying issue of civil rights diminished in intensity following the legislation of 1964 and 1965. The newer arrivals believed that *all* political power had to be reined in by using mechanisms beyond those specified in the Constitution. Although this fear of corruption stemmed from a tradition dating back to the Revolution, the sentiment intensified amidst Vietnam and Watergate.

Yet the newcomers were different from the mugwumps and good-government progressives in that this hardened generation of middle-class activists wanted to get its hands dirty through elected office, journalism, and interest groups. Entering into politics after federal institutions had become entrenched, these reformers did not share the idealistic visions of government that many of their predecessors once expressed before the federal government had ossified. Instead, the new generation believed that reformers needed to institutionalize themselves and their ideas because the flaws of government were systemic.

By 1970, the coalition had created a constituency for an issue that previously had none. The coalition made big promises about what reform could accomplish. Should they succeed, the reform coalition believed that they could create a Congress that made decisions with more efficiency and that would produce a greater number of progressive measures. According to the coalition, reform would create a Congress that the public trusted as well as a legislature that stood above the other branches of government. The challenges of containing multiple constituencies and objectives within a single coalition were usually overcome.¹³ What was remarkable was that members of the coalition continued to agree on a similar target (committee chairs) and drew on the same package of solutions (empowering party caucuses, easing filibuster rules, strengthening subcommittees, codifying ethics, opening proceedings, creating fairer districts, etc.). Besides placing reform on the agenda, initial victories such as the expansion of the House Rules Committee in 1961 generated instability in an institution that was protective of its traditions and created the impression among politicians that the issue could matter electorally.

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While the coalition mobilized and fought for incremental changes between 1948 and 1970, the institutional environment surrounding Congress turned hostile to the status quo. Although electoral competition would quickly diminish, the Supreme Court redistricting decisions between 1962 and 1964 had a powerful short-term effect. The Court openly attacked the legitimacy of the existing legislative process and placed conservative southern Democrats on the defensive. In 1969 the Supreme Court ruled that, under the Voting Rights Act, the Department of Justice was responsible for ending “vote dilution.” In the long term, redistricting accelerated the liberalization of the Democratic Caucus and diminished the number of legislators who were wedded to the committee process. Moreover, the popularization of adversarial reporting that grew out of Vietnam and civil rights created a journalistic culture that was more willing to criticize legislators. This change was evident in press coverage of Senators Thomas Dodd (D-CT) and Adam Clayton Powell (D-NY). Opinion makers also devoted many scholarly pages to documenting how the committee system actually worked and prescribing ways to alter it. Finally, President Nixon’s war with the Democratic Congress created an arms race of institutional attacks that focused national attention on the flaws of government.

1970–1979: The End of the Committee Era and the Start of the Contemporary Era

The third stage of reform took place between 1970 and 1979, when political conditions were ripe for the coalition to attack directly the legislative process and the senior legislators who were in power. During these critical years, the committee process was gradually undermined by multiple forces, and the contemporary congressional era slowly took hold.

The construction of a new congressional process began while the remnants of its predecessor remained. Between 1970 and the election of 1974, the reform coalition laid the foundation for an alternative to the committee process. Although electoral self-interest was an obstacle to institutional reform, it was not insurmountable. Incumbents were susceptible to reforms that did not appear to have any immediate impact on them. When reformers were able to separate their proposals from the committee chairs who benefitted from the existing system, they often found enough support to enact a measure. The coalition obtained institutional reforms before November 1974, when congressional leaders believed that smaller changes would “buy off” those who were mounting pressure for reform and when they felt that – based on their short-term electoral calculations – the existing leadership would prevent the new procedures from being used against them. For instance, in 1971 the Democratic Caucus heeded the coalition’s demand to do something about seniority by agreeing to select chairs on the basis of other criteria if a sufficient number of Democrats stood up publicly and demanded a vote on a chair. At the time, most senior members believed that junior legislators would be too intimidated to call publicly for such bold

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action. The coalition thus obtained reforms that did not appear threatening to those in power but that laid the foundation for long-term change.

Another critical factor to their success, which was most evident in campaign finance battles, was the coalition's ability to overcome growing internal divisions. The inclusion of organized labor in the reform coalition, a factor that had been so instrumental to its success at gaining attention and incremental reforms, became increasingly problematic over time. Some members of the expanded coalition wanted to tackle issues that threatened labor's needs. When the coalition found workable compromises, such as abandoning efforts to regulate political action committees, they moved forward with their proposals. When they failed to reach internal compromise, as with the battle over committee jurisdictions in the House, the coalition found that it did not have the strength to defeat opponents.

Reform was often a bipartisan affair. In many cases, reform-oriented Democrats entered into voting alliances with Republicans. Although the committee process granted certain benefits to the GOP in that they were junior partners in the coalition that dominated the process, many younger and moderate Republicans felt that their party would never reclaim majority status under the current leadership. Yet these bipartisan ties were frail, since Democrats frequently renege on reforms that benefited the minority party or backed down from supporting such measures once GOP votes were no longer needed. Notwithstanding these tensions, bipartisan coalitions proved crucial to many reforms.

When election mandates and scandals created windows of opportunity between 1974 and 1976, the coalition was able to move even further by directly attacking committee chairs and the primary institutional mechanisms that they relied on. When these "focusing events" took place, the coalition was prepared to take advantage of them.¹⁴ These were complex events. On the one hand, they revealed the impact of random and unpredictable events on the evolution of government. On the other hand, the existing reform coalition and favorable institutional environment had laid the groundwork for turning these events into something bigger than they might otherwise have been. These were just the kinds of conditions that distinguish eras such as the progressive period, when elections and scandals produce concrete institutional changes, from other decades in which they just fizzle. By the mid-1970s, a strong reform coalition was in place, the procedural world of the committee-era leaders had been significantly weakened, and external institutions no longer favored the status quo. Under these conditions, a scandal such as Wilbur Mills's escapades with a stripper or the 1974 electoral victories of the "Watergate Babies" opened windows to attack the leadership directly.

There were many dramatic moments in this climactic period for the committee era. Proponents of reform undermined many of the procedures and norms that had defined Congress for almost three decades. There were fierce battles during these years over weakening committee chairs, creating campaign finance regulations, codifying ethics, centralizing the budget process, reclaiming legislative

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war power, reforming filibuster rules, strengthening party caucuses, and authorizing a televised Congress. Even with the coalition in place, most victories were hard-earned given the remaining power of those who had thrived in the committee era. The most dramatic events were the downfall of four House committee chairs in 1974 and 1975 as well as the emasculation of the powerful Ways and Means Committee. Senate reformers were finally able to lower the number of colleagues required to stop a filibuster, and the entire budget process was centralized. Party leaders were empowered in both chambers. At the same time, new rules and norms ensured that individual legislators could pursue their interests and limit party barons who were seen as having gone too far.

The battles that rocked the committee-era Congress were the logical culmination of the Sixties. The domestic turmoil over civil rights and Vietnam – as well as Richard Nixon’s presidency – had shifted attention away from long-standing problems (who had the right to vote, what kinds of policies did politicians pass) to alleged pathologies of the entire political process. This was one of those distinct moments in U.S. history when the mechanisms of our democracy came under heavy fire. It was this historical context that made the reforms in Congress so relevant beyond the institution, as they were linked to sweeping changes that reconfigured democratic government.

The Contemporary Era

The final stage of our story took full shape by the late 1970s and continues today as the contemporary era congealed and the viability of watershed reforms diminished. The changes of the 1970s had created a Congress with new institutional supports that simultaneously fostered decentralized and centralized authority. Stronger parties were in place, but there were also many tools for keeping party leaders accountable and susceptible to pressure. The same process that granted party leaders procedures to pressure members into following their agenda offered new space for independent entrepreneurs and mavericks. The institutional changes had created a Congress that was more open to public and media scrutiny, where all legislators faced more rules and regulations, and where there were more entry points into the process for a greater number of interest groups and activists. The institutional changes had removed mechanisms of the committee era that had stifled partisanship and scandal warfare. As the reform coalition disintegrated and the institutional environment around Congress came to favor the postcommittee process, there was little momentum for moving beyond the existing procedural era. Although it is difficult to fully grasp the contours of the current era from a historical perspective (since we are still living in it), it is clear that Congress has not become the dominant, progressive, highly efficient, or trusted branch of government that reformers once hoped for.

The first factor behind this turn of events was that institutional changes in the 1970s did not replace autonomous committee chairs with any single source of authority that could drive the institution with greater efficiency, speed, or vigor. Whereas Congress had vacillated between centralized and decentralized