

The Legislative Reorganization Act of 1970

Unlike its 1946 predecessor, the Legislative Reorganization Act of 1970 did not radically restructure the organization of Congress. Instead, it proposed remedies to some of that act's defects and dealt with a wide range of procedural and institutional problems that had emerged or become more critical since 1946. Congress later weakened or abandoned some of the act's provisions but expanded the scope of many more, especially those curbing the powers of House committee chairs. It reacted to the unforeseen consequences of the act's antisecrecy provisions in ways that have substantially negated their intent.

The safest generalization about Congress is that it is constantly changing. Most often it changes slowly and incrementally; as Woodrow Wilson described it in a Darwinian analogy: "[O]ur singular system of Congressional government" is "a living system like all other living things subject to constant subtle modifications" (Wilson [1885] 1981, 19). Occasionally, however, institutional earthquakes shake the place, as did the Legislative Reorganization Act of 1946. Never before had Congress, in a single stroke, made such broad changes in its organization, administration, procedures (both committee and floor), resources, and workload, in relations between its houses, and in its relations with the executive branch. Never before had Congress so radically restructured the committee systems in both houses, and never before had the House of Representatives and Senate done so cooperatively and simultaneously. Unprecedented also was the use of an omnibus statute for these purposes rather than simple or concurrent resolutions. These massive institutional changes, as Roger Davidson has suggested, probably inaugurated the modern history of Congress (Bibby and Davidson 1972, 251).

Inevitably, some of the 1946 act's deficiencies, omissions, and outright failures, combined with new grievances that emerged in the following years, generated another call for massive congressional re-

form. Given the successful use of an omnibus bill in 1946, the reformers favored the same vehicle and the same process for developing it. A Joint Committee on the Organization of Congress had produced the first version of what was to become the 1946 act. It therefore seemed appropriate, when the demands for further reform reached a crescendo in the mid-1960s, to create another joint committee to reexamine congressional problems comprehensively and to produce another reorganization act. The fact that Senator A. S. Mike Monroney (D.-OK) offered the proposal added to its luster; as a representative, he had been vice-chairman of the first joint committee and the act's floor manager in the House. Accordingly, Congress authorized creation of a new Joint Committee on the Organization of the Congress in March 1965 and passed a new reorganization act some five and a half years later.¹

Major and Minor Themes

In many of its provisions, the Legislative Reorganization Act of 1970 elaborated or expanded upon themes in the 1946 act. A few tried to remedy some of its defects and failures. For the most part, however, the 1970 statute addressed problems that had emerged or become more critical since 1946.

Curbing the Committee Chairs

One of these problems was the power of committee chairs, or rather the arbitrary and dictatorial use of their powers by some chairs. The 1946 act had imposed two minor curbs on those powers (Sec. 133(c)). On the other hand, the way in which the act had restructured the committee system indirectly exacerbated the problem. By reducing the number of committees and consolidating their jurisdictions, the 1946 act vastly expanded the range of policy areas controlled by many committees. These larger jurisdictions, in turn, magnified the influence of the chairs and made their abuses of power more intolerable. Moreover, the fewer the chair positions, the longer a member could expect to wait before succeeding to one under the seniority system.

Members' frustrations with these conditions led to demands, on the one hand, for abolishing or modifying the invariable custom of seniority selection of chairs and, on the other, for procedural weapons to overcome a chair's dilatory tactics and reduce the chair's control over committee decisions. Both the 1965 Joint Committee and the House Rules Select Subcommittee that drafted the bill considered by the House refused to tamper with the seniority system, concentrating instead on

what the latter called “democratic and equitable committee practices” (U.S. Congress 1966, 9–10; U.S. House of Representatives 1970, 3).

Toward this end, the 1970 act required committees to adopt written rules, so that members would know their rights and might adopt rules to curb specific abuses (Secs. 129, 130). It also prohibited general, but not specific, proxies in committee votes, to prevent their indiscriminate use by chairs and other members (Sec. 106).

Another provision considerably strengthened the procedure by which a committee’s majority could force special meetings for consideration of measures opposed and pigeonholed by the chair (Sec. 102). To foil chairs who refused to report a measure approved by the committee, the act established a specific time limit—seven days—for the filing of committee reports on such measures (Sec. 105). Finally, to deal with a House chair who might refuse to call up for floor consideration a bill reported by his committee, the act permitted the Speaker to recognize any authorized member of the committee for that purpose (Sec. 109).

Subcommittees

Another unforeseen consequence of the 1946 act was the proliferation of subcommittees. The huge jurisdictions created by consolidations virtually mandated numerous subcommittees to divide the workload. More subcommittees also meant more chair positions and influence dispersed among more members—that is, if the committee chair granted some independence to the subcommittees. Some Senate chairs did so, and by 1965 some Senate subcommittees had achieved a measure of autonomy that disturbed the members of the 1965 Joint Committee. They argued that subcommittees were never intended to gain a status equivalent to a full committee and that the full committee must be “the appropriate judge of the merit of any subcommittee’s proposed activities” (U.S. Congress 1966, 13–14). Their remedy, in the 1970 act, was a provision that reinforced Senate committees’ control over the funds of their subcommittees (Sec. 110).

When the Rules Select Subcommittee considered this question in 1969, its members saw no problem of subcommittee autonomy in the House and thought it unlikely to arise in the future. Nevertheless, to forestall the possibility, they agreed to a rule declaring each subcommittee a part of its committee and subject to its authority and direction. As a further precaution, the 1970 act explicitly made applicable to subcommittees both the Rules of the House and the rules of their parent committees (U.S. House of Representatives 1970, 8; 1970 Act, Sec. 129(a)).

Antisecrecy Provisions

Several provisions of the 1970 act responded to demands for greater public access to congressional activities. The 1946 act had touched on this subject, requiring open committee hearings unless a committee voted otherwise—not a terribly forceful directive (Sec. 133(f)). The 1970 act strengthened the Senate rule by prohibiting closed hearings except under specified circumstances (Sec. 112). The House was not prepared to go so far, but it did agree to a rule encouraging its committees to open their business meetings. On this matter, the Senate was more conservative; business meetings were to be open but not during markups (Sec. 103).

In other provisions, both houses ordered their committees to give public notice of their hearings at least one week in advance, to publish in their report on a measure a tabulation of the roll-call vote by which the committee had approved it, and to disclose how each member had voted on every roll call in committee and whether that vote was cast in person or by proxy (Secs. 104, 111).

Another provision directed Senate committees to publish their rules each year in the *Congressional Record* (Sec. 130). And, by a margin of only three votes, the House at last authorized its committees to have their hearings broadcast by radio and television (Sec. 116). The Senate had permitted such broadcasting for decades, although by practice rather than by rule.

By far the most significant antisecrecy provision in the act dealt with disclosure of House members' votes in Committee of the Whole. The House often makes its most important policy decisions in that committee, but for 180 years its precedents had forbidden the recording of names in these votes. Under the new rule, each member's name and vote was to be recorded upon the demand of 20 or more members (Sec. 120).

Minority and Individual Rights

A classic problem of democratic legislatures, indeed of democratic societies, is how to maintain an equitable balance between majority and minority rights. Legislatures must determine the extent to which the minority should have access to institutional resources, such as staff, and—a more difficult question—how much the minority should be allowed to delay or obstruct the will of the majority. The 1970 act gave congressional minorities some new rights and codified some customary ones but it also withdrew or modified some rights.

Traditionally, congressional committees had permitted their dissenting members to file minority views to committee reports and permitted the minority party to call up witnesses of its choosing at hearings. The reorganization act elevated these customary practices to absolute rights, although within certain limits (Secs. 107, 114).

The 1946 act had authorized permanent professional and clerical staff—six of each—for all standing committees (Sec. 202(a)). These were to be assigned to the chair and to the ranking minority member “as the committee may deem advisable.” The 1970 act specifically authorized minority members to appoint two of the professionals and one of the clericals. The Senate provision gave the minority absolute hiring and firing rights over these employees, whereas the House rule subjected the appointments to a vote of the full committee (Secs. 301, 302). Minority staff were to be selected not by the ranking minority member but by vote of all minority members of the committee. This provision responded to complaints that the ranking members on some committees had kept the minority staff for their exclusive use.

Naturally, House minority members resented the rule’s subjection of their staff selections to a vote by the entire committee. As partial recompense, the act granted to each committee’s minority party one-third of the funds authorized for temporary committee staff (Sec. 110(b)). This provision infuriated many committee chairs and other senior Democrats; almost immediately they launched a campaign to rescind the grant.

In floor procedures, the 1970 act converted the custom, in both houses, of giving the minority party some debate time during consideration of conference reports into a codified right to half the time (Sec. 125).² On another matter, the act mollified not only the minority but many majority members as well. In the House, the Committee of the Whole may shut off debate on amendments by majority vote. Amendments offered after such a vote could not even be explained, much less debated. By popular demand, the 1970 act guaranteed 10 minutes of debate in such cases, equally divided for and against, if the amendments had been previously printed in the *Congressional Record* (Sec. 119).

Having conceded all this, the 1970 act retracted or weakened some obstructive opportunities previously enjoyed by all members, not only by the minority party. As of 1970, House and Senate rules forbade committees from meeting while the chamber was in session, but both houses normally gave them special leave to do so because of their heavy workloads or pressing deadlines. This special leave required unanimous consent; therefore, a single member’s objection occasionally frustrated a committee’s request to get on with its business. The reorganization act

made such obstruction more difficult, although by different means in each house. A new Senate rule permitted its committees to meet during that chamber's sessions, even over an objection, if the majority and minority leaders concurred. A new House rule gave committees the right to sit without special leave except when the chamber was considering amendments under the five-minute rule, a condition that occurs most often during Committee of the Whole proceedings (Sec. 117).

A second restriction dealt with the reading of the *House Journal*. This reading, the first substantive business of each day's session, ordinarily was dispensed with by unanimous consent, but minority members had occasionally demanded a full reading of the often lengthy *Journal*, forcing votes on dilatory amendments, on procedural motions, and on the *Journal*'s final approval. The 1970 act decreed that the *Journal* would be considered as read if the Speaker announced approval of it. To permit bona fide *Journal* corrections, the House could vote to have it read, but only one nondebatable motion to do so might be offered (Sec. 127).

The increasing use of quorum calls to delay House proceedings led to another restriction. Although the Constitution requires the presence of a quorum to transact business, in practice the House conducts much of its proceedings without one. In the 1960s some members, and not only those of the minority party, had forced quorum calls that consumed floor time and required members to leave their offices or committee meetings to attend the calls. The 1970 act permitted a nondebatable motion to dispense with the calling of names once a bare quorum was recorded (Sec. 122).

A fourth modification dealt with the motion to recommit a bill with instructions. This motion, in effect, is a proposal to amend the measure and the last opportunity to do so before the vote on final passage. Only one such motion may be offered to a bill in the House, and, by long tradition, the minority party is given preference for its offering. Before the 1970 act, the motion was not debatable, and members often had no opportunity to hear it explained or to hear arguments against it. The reorganization act provided that opportunity by permitting 10 minutes of debate equally divided between proponents and opponents (Sec. 123).

Legislative and Procedural Information

For many decades, members had complained that committees sometimes brought up bills for floor consideration without giving them enough time to study the measure, the hearings on it, or the commit-

tee's report. Especially in the House, a bill might emerge from committee one day and hurtle through the floor on the next. The committees and the leadership claimed these tactics were sometimes necessary to deal with swollen legislative agendas and pressing deadlines. Members, however, suspected other motives: to keep them in ignorance about certain provisions and give them little time for preparing amendments.

The 1946 act had gingerly bowed to these complaints by prohibiting floor consideration of appropriation bills until committee hearings and reports had been available for at least three days (Sec. 139(a)). The 1970 act extended the three-day layover rule to all bills, but required only that reports be available for that period. In the Senate, the majority and minority leaders could waive the rule by joint agreement; the House provision mentioned no waiver procedure, but neither did it prohibit such a waiver in a rule from the Rules Committee (Sec. 108). For the House only, the act also forbade floor consideration of any conference report until three days after it had been printed in the *Congressional Record* (Sec. 125). And another new House rule required that at least five copies of any proposed floor amendment should be available at the majority and minority tables, with additional copies for both cloakrooms (Sec. 124).

On the Senate side, the 1965 Joint Committee argued, members might not be adequately informed prior to the vote on a conference report because only the House printed the report and because the explanatory statement on the report was prepared solely by the House managers (U.S. Congress 1966, 25). At the Joint Committee's insistence, therefore, the 1970 act required that conference reports be printed in both houses and that the conferees of both houses jointly prepare a single explanatory statement to be printed with their report (Sec. 125(a)).

House members faced a different informational problem: the lack of an up-to-date compilation of the chamber's parliamentary precedents. In 1970, the most recent available compilation dated back to 1936. The only current source was the *House Manual*, and there only in the form of annotations that were often inadequate and sometimes terse to the point of incomprehension for anyone other than an expert. Because of the often crucial role of procedure in the legislative process, many members argued, the absence of an updated and intelligible compilation put them at a disadvantage in that process.

The House parliamentarian had been authorized to produce such a work, but blamed its meager progress on the press of his everyday duties. The Rules Committee's report on the reorganization bill declared that completion of the work was "of the utmost importance," and it urged the Appropriations Committee to provide whatever resources

the parliamentarian needed to finish it “at the earliest possible moment” (U.S. House of Representatives 1970, 21). The 1970 act itself authorized such assistance and gave the parliamentarian two additional duties: to update the compilation, when completed, at least once every five years and to produce, at the beginning of each congress, a single-volume condensed and updated version of House precedents of current use and application with appropriate explanatory text (Secs. 331, 332).

Conference Report Procedure in the House

For more than a century, the Senate had sporadically infuriated House members by its penchant for attaching nongermane amendments to House bills. House managers, in conference, sometimes accepted these riders as the price of reaching agreement with the Senate. Since conference reports must be accepted or rejected in their entirety, the House faced a painful choice in such cases. To reject the report might endanger the survival of its desirable provisions; to accept it meant agreeing to the Senate’s noxious additions. Moreover, House committees with jurisdiction over the nongermane provisions complained they had no opportunity to examine them and to give the House their expert advice. And since House debate on conference reports is limited to one hour, the parliamentary situation forecloses thorough discussion.³ Beyond all this, some House chairs were angry because bills they had bottled up in their committees for many years nevertheless became law via Senate riders.

As early as 1880, the House had adopted a rule to protect itself from these Senate amendments, but in practice the rule was largely ineffective. In 1970, the Rules Committee’s reorganization bill offered a new proposal for dealing with the problem (Bach 1976, 13–16).⁴ The House, however, substituted a less draconian procedure that permitted 40 minutes of debate on a Senate amendment (equally divided for and against) if, on a point of order, the amendment was ruled nongermane. The House would then vote on whether to accept it. In addition, House conferees were forbidden to agree to nongermane Senate amendments unless they first obtained House permission by a separate vote on each amendment (Sec. 126).

A related complaint about conference procedure centered on a provision in the 1946 act that permitted conferees faced with an amendment in the nature of a substitute to accept a substitute for it. (An amendment in the nature of a substitute is, usually, a single amendment that replaces the entire text of a bill.) The substitute had to be a germane modification of the subjects in disagreement between the two houses, but it

could not include “matter” that did not appear in either the House or Senate version of the bill (Sec. 135). On some occasions, nevertheless, the Speaker had upheld conference report substitutes containing provisions that neither house had submitted to conference. At the request of the 1970 reorganization bill’s House floor manager, the rule was revised to clarify and emphasize its original purpose (Sec. 125(b)(3)).

Oversight and Program Analysis Assistance

For the first time in rule or statute, the 1946 act had defined, and assigned to the standing committees, an implicit responsibility that it named “legislative oversight.” In general, the statute required continuing appraisal of the execution and administration of laws to determine whether changes might be necessary (Sec. 136). Both the 1965 Joint Committee and the Rules Subcommittee criticized congressional performance of this function, and several of the remedies they proposed were inserted into the 1970 act. “Legislative oversight” became “legislative review,” on the ground that this was a more accurate label. To spur committees into more extensive activities of this kind, the act required them to submit biennial reports on their reviews (Sec. 118).

Members complained to the 1965 Joint Committee that their committees lacked the resources necessary for comprehensive and continuous reviews. The 1970 act gave the General Accounting Office (GAO) new statutory authority to review and analyze the results of federal programs and activities and to produce cost-benefit studies (Sec. 204). The Legislative Reference Service of the Library of Congress—renamed the Congressional Research Service (CRS)—was charged with providing policy analysis to all committees. According to the Rules Committee’s report, this was to consist of objective, nonpartisan, in-depth analysis and appraisals to determine the advisability of enacting legislative proposals, to estimate their probable results, and to evaluate alternatives (U.S. House of Representatives 1970, 18). Furthermore, to stimulate advance planning of committee research efforts, the act directed CRS to present to each committee at the beginning of each congress a list of subjects and policy areas it might profitably pursue (Sec. 321(a) “sec. 203(d)(1),(2)”).

Other provisions strengthened committee staff resources for these purposes, one authorizing special training for professional staff (Sec. 304) and another authorizing all standing committees to hire consultants and consultative organizations on a temporary basis (Sec. 303).

The 1965 Joint Committee argued that some congressional committees had unmanageable workloads and that nonparallel jurisdictions of House and Senate committees complicated conference negotiations. It recommended jurisdictional changes for some committees in both houses, creation of a Veterans' Affairs Committee in the Senate to match the existing House committee, and division of the House Education and Labor Committee into two panels (U.S. Congress 1966, 14–18).

Not particularly popular in the Senate and anathema in the House, few of these proposals survived. The Senate did add urban affairs to the jurisdiction of its Banking and Currency Committee, renamed Banking, Housing, and Urban Affairs. It also agreed to create the Veterans' Affairs Committee with jurisdictional chunks transferred from Finance, Labor and Welfare, and Interior and Insular Affairs, a move those committees fiercely but unsuccessfully opposed (Sec. 131). The House firmly buried the proposal to split its Education and Labor Committee.

The 1970 act also addressed the distribution of Senate committee assignments and chair positions. Because the 100 senators must deal with approximately the same legislative workload as the more numerous House, each senator necessarily serves on more committees and subcommittees than the average representative (U.S. Congress 1966, 61–63). So much is inevitable unless the Senate drastically reduces the number of its committees, in which case creation of numerous additional subcommittees would undoubtedly ensue and the total number of units probably would remain about the same.

Instead of traveling this futile path, the 1970 act tried to address the fact that some senators served on far more committees than others. The 1946 act had decreed that most senators should sit on only two standing committees, with a few permitted three assignments (Sec. 102, Rule XXV–4). By 1965, however, senators were sitting on as many as five committees. The 1970 act again attempted to reduce and equalize committee assignments, this time by a far more complex formula. While some senators insisted that grandfather clauses protect them in their then-current assignments, the new rules limited each senator to two major committees and one minor committee. Additionally, no senator might sit on more than one of the big four—Appropriations, Armed Services, Finance, and Foreign Relations—again with grandfather clauses for senators who were then sitting on more than one. Finally, at the urging of junior senators, the act codified what had long been an informal Senate practice: no senator was to chair more than one

full committee. In addition, senators could chair no more than one subcommittee on any major standing committee (Sec. 132).

Fiscal Controls

Perhaps the most inglorious failure of the 1946 act had been its plan for a legislative budget, a congressionally crafted resolution fixing the maximum amount to be appropriated for all federal expenditures in the upcoming fiscal year (Sec. 138). After three unsuccessful attempts to implement the plan (1947, 1948, and 1949), Congress simply abandoned it, leaving the statutory requirement dormant until the 1970 act quietly repealed it (Sec. 242(b)).

Since sentiment for congressional budget procedure was feeble in 1966 and even in 1970, the Joint Committee and the Rules Subcommittee focused their attention on procedures, methods, and resources that would help Congress obtain and analyze budget and fiscal information.

The 1970 act therefore involved the comptroller general, as an agent of Congress, in the executive branch's development of (1) a standardized information and data processing system for federal budgetary and fiscal data and (2) a system of standard classifications for federal programs and activities (Secs. 201, 202). The act also required the president to furnish Congress with five-year cost estimates on current and proposed federal programs in his annual budget and with a midyear supplemental and updated summary of his budget, including revisions of the five-year estimates (Sec. 221). Another provision required all legislative committees to present similar estimates when they reported authorizing legislation (Sec. 252). Still another directed the secretary of the Treasury and the director of the Office of Management and Budget to supply members and committees with information on the location of program and fiscal data in federal agencies and to prepare tables of such data upon request (Sec. 203).

The act also ordered GAO to distribute its reports more widely in Congress (Secs. 231–34). And it directed federal agencies to submit statements to the Appropriations and Government Operations committees describing what actions they had taken to implement GAO recommendations (Sec. 236).

Turning to the appropriations process, the reorganization act urged all committees to insure that continuing programs were appropriated for annually, but it provided no enforcement mechanism for that purpose (Sec. 253). Finally, the act directed the House Appropriations Committee to hold annual open hearings on the budget as a whole for the purpose of examining the president's basic recommendations and budg-

etary policies and the fiscal, financial, and economic assumptions underlying his estimates of total expenditures and receipts. These hearings were to be printed and copies furnished to all members (Sec. 242).

Continuing Study of Congress

The 1965 Joint Committee argued that Congress needed continuous, or at least periodic, self-examination to help it adapt to changing conditions and new technologies. It also wanted some bicameral entity to keep an eye on the implementation of the reorganization act and to supervise some new functions involving Congress as an institution (U.S. Congress 1966, 45).

For these purposes, the 1970 act created a Joint Committee on Congressional Operations with five members from each house, its chair to alternate between the houses with each Congress. The new Joint Committee was directed to make continuing studies of congressional organization and operation and recommend improvements, provided that it proposed no changes in the rules and procedures of either house. The statute also ordered it to identify and call the attention of Congress to court actions or proceedings of vital interest to the institution and to supervise the newly created Office of Placement and Office Management, described below (Secs. 401–07).

Institutional Resources and Housekeeping

Unlike its 1946 predecessor, the 1970 act devoted a good deal of attention to institutional resources and administrative matters.

The basic statute of the renamed Congressional Research Service was comprehensively revised to emphasize the shift in its priorities toward more research and analytical support for committees, described earlier (Sec. 321(a)). According to the Rules Committee's report, these duties would require a tripling of CRS staff by 1975 (U.S. House of Representatives 1970, 19). To make the CRS more directly responsive to Congress, the revision gave it complete research independence from the Library of Congress and greater administrative independence within it. Furthermore, authority to create supergrade positions for CRS senior staff was transferred from the executive branch to the Joint Committee on the Library.

In 1970, the highest salary permitted Senate committee staff was lower than that available in the House. The reorganization act soothed senatorial dignity, and quieted staff grumblings, by establishing approximate parity between the houses (Sec. 305).

For more than half a century, the Office of the House Legislative Counsel (its bill-drafting service) had had no authorizing statute, surviving solely on appropriation line items. The 1970 act provided such a statute, including definitions of the office's purposes, functions, priorities, and administration (Secs. 501–31).

The act created a new resource, the Office of Placement and Office Management, to serve as a central clearinghouse for applicants to congressional staff positions, to assist members and committees in their search for competent employees, and to help members improve their office management practices (Sec. 406).

The act also provided free tours of the Capitol, regulated the compensation and status of congressional tour guides, pages, and employees of the Architect of the Capitol and of the House (Sec. 441–43, 243, 491–92, 471–77, 481–86) and gave officers of the House and Senate more power to screen and discipline patronage employees (Sec. 431). It authorized modernization of the House galleries (Sec. 499) and installation of electronic machinery for roll calls and quorum calls (Sec. 121), and it formalized the practice of recessing in August, although only in nonelection years (Sec. 461).

The Aftermath

The 1970 reorganization act passed both houses by impressive margins: 59 to 5 in the Senate, 325 to 19 in the House. But these huge majorities masked the reality, expressed in members' public and private remarks, that many of those who voted for the act thought some of its provisions went too far and that many others believed it did not go far enough. The resulting package reflected what a majority in Congress was then ready to accept. As the House floor manager of the measure, B. F. Sisk (D.-CA), put it, “[I]n the last analysis the noblest and finest ideas in the world for reorganizing the Congress . . . are of no more lasting importance than yesterday's weather forecast if you cannot get the votes to pass them” (*Congressional Record* 13 July 1970, H6599).

During the next several congresses flocks of new members swelled the ranks of the reformers, and, sooner than Mr. Sisk expected, the votes to go considerably further were at hand. Nevertheless, the first round went to the act's detractors.

Minority Staff

Senior House Democrats were determined to rescind the grant to the minority party of one-third of each committee's funds for tempo-

rary staff. (On many committees, the so-called temporaries considerably outnumbered the permanent staff.) In January 1971, the House Democratic Caucus took the unusual step of binding all Democrats to support the rescission on the floor. Two days later, the 1970 grant was replaced by language entitling the minority only to "fair consideration" in the appointment of such staff (H. Res. 5, 92d Cong., 1st sess.).

The House restored the one-third provision in 1974, but again nullified it the following January (H. Res. 988, 93d Cong., 2d sess.; H. Res. 5, 94th Cong., 1st sess.). Nevertheless, the minority emerged from these events with considerably more staff. The 1974 resolution expanded each committee's professional staff authorization from 6 to 18, with 6 of these allotted to the minority. Clerical staffs were also enlarged, from 6 to 12 for each committee, including 4 for the minority. Moreover, the 1975 changes also allowed subcommittee chairs and ranking minority members to hire one additional staff person each.

As usual, the Senate was more generous to its minority party and to all other senators as well. In 1975 it authorized an additional staff assistant per senator for each committee on which he or she served, up to three (S. Res. 60, 94th Cong., 1st sess.). Two years later, it decreed that committee staffs should reflect the relative number of majority and minority members on each panel (S. Res. 4, 95th Cong., 1st sess.).

Curbing Procedural Delay and Minority Rights in the House

The House, meanwhile, inexorably expanded its attack on minority party procedural rights and on procedural delay generally. Under the 1970 act, a single objection could still prevent a committee from meeting while the House considered amendments under the five-minute rule. When such objections increased during the next few years, House Democrats forced a change requiring the objections of 10 or more members to prevent such meetings (H. Res. 5, 95th Cong., 1st sess.).⁵

After studying the 1970 act's procedure for reducing the time spent in quorum calls, the House parliamentarian declared it unworkable. In 1974, therefore, the House adopted a simpler rule permitting the chair of the Committee of the Whole to halt a quorum call once a minimum quorum appeared (H. Res. 998, 93d Cong., 2d sess.). This helped, but not enough to satisfy many members. The final solution, approved in 1977, prohibited any demand for the presence of a quorum in the House except when a vote was pending or when the Speaker chose to recognize for a call of the House. For Committee of the Whole proceedings, similarly, the new rule permitted quorum calls only when a question was put to a vote, except that the chair was required to permit one

call if a committee quorum had not yet been established on that day (H. Res. 5, 95th Cong., 1st sess.). The rule was further narrowed in 1981 by giving the chair discretion on whether to permit a quorum call during general debate (H. Res. 5, 97th Cong., 1st sess.).⁶

The 1970 act permitted 10 minutes of debate in the House on a motion to recommit with instructions. A 1985 revision permitted the majority party floor manager of a bill to extend the time to one hour, equally divided and controlled (H. Res. 7, 99th Cong., 1st sess.). Republican leaders protested that their floor manager also should have the right to extend the debate time, but to no avail (*Congressional Quarterly Weekly Report* 5 January 1985, 6). In recent years, the motion to recommit with instructions has sometimes been subjected to severe limitations by the Rules Committee. It is not uncommon now for a rule to preclude such a motion, and in one recent case a rule prohibited “instructions that amend or affect the subject matter” of a specified amendment to a bill (*Congressional Record* 21 June 1989, H2922).

Expanded Attack on Committee Chairs

Perhaps the most disappointing feature of the 1970 act for many members was that it failed, in their view, to curb sufficiently the powers and influence of committee chairs. During floor debate on the bill, the House had defeated a proposal to weaken the practice of selecting chairs solely on the basis of seniority. Early in 1971, however, both party caucuses in the House adopted rules declaring that seniority need not be followed in appointing chairs and ranking minority members, and by 1973 both caucuses were permitting separate votes, by secret ballot, on each appointment. Two years later, House Democrats deposed three sitting chairs and another in 1985. They subjected the Appropriations Committee’s subcommittee chair positions to the same procedure in 1975 and unseated one of the chairs at the beginning of the next congress (Sundquist 1981, 378–89; Bibby and Davidson 1972, 168–77; *Congressional Quarterly Weekly Report* 5 January 1985, 7–9).

Meanwhile, Senate Democrats were moving in the same direction. In 1971, their caucus began to approve all committee assignments, and in 1975 it agreed to vote separately on any committee chair position upon request of 20% of the committee’s members (Sundquist 1981, 391–92).

More direct and devastating attacks on the powers of House committee chairs occurred in 1971, 1973, and 1976. Democratic Caucus rules adopted in those years stripped the chairs of their control over the creation of subcommittees, the determination of subcommittee ju-

risdictions, the appointment of subcommittee chairs and members, and the determination of subcommittee budgets and staff. The chairs also lost their discretionary authority to refer measures to subcommittees. The new regulations, in addition, limited each full committee chair to one subcommittee chair position, and that one only on the committee he or she chaired (Sundquist 1981, 379–83).

Under those conditions, subcommittee autonomy, a development the Rules subcommittee had thought so improbable in 1969, became widespread in the House, and the status of full committee chairs ebbed lower than it had been since the early history of Congress.

Antisecrecy Developments

The 1970 act's antisecrecy provisions for committees also failed to satisfy the members of the next several congresses. By rules changes in 1973, 1975, and 1977, the House required a majority vote, in open session and by roll call, for committees and subcommittees to close their business meeting or hearings. Furthermore, hearings could not be closed unless the testimony might endanger national security or defame someone's character (H. Res. 259, 93d Cong., 1st sess.; H. Res. 5, 94th Cong., 1st sess.; H. Res. 5, 95th Cong., 1st sess.).

The Senate, at first, was reluctant to go so far. A 1973 change permitted committees to open their markup sessions, if they so wished (S. Res. 69, 93d Cong., 1st sess.). In 1975, however, the chamber agreed to a so-called "sunshine" resolution that restricted closed hearings and business meetings along the same lines as in the House (S. Res. 9, 94th Cong., 1st sess.). That same resolution required conference committee meetings to be open unless a majority of House or Senate managers voted otherwise, matching a House rule adopted earlier that year (H. Res. 5, 94th Cong., 1st sess.). But in 1977, the House imposed more rigorous conditions, banning closed conference meetings unless the House itself, by roll-call vote, agreed to the closing; violations would subject the conference report, upon a point of order, to automatic rejection (H. Res. 5, 95th Cong., 1st sess.).

In another area, the 1970 act had directed Senate committees to publish their rules each year in the *Congressional Record*. The House followed suit in 1974, but required publication only at the beginning of each congress (H. Res. 988, 93d Cong., 2d sess.).⁷

Perhaps the most profound consequences of the 1970 act for the House flowed from its provision permitting recorded votes in Committee of the Whole. The implications of this innovation began to emerge in 1971 when, on a recorded vote, the committee deleted funds

for the supersonic transport from an appropriations bill, “reversing seven years’ support of federal financing of the SST” (Bibby and Davidson 1972, 276).

Shortly thereafter, Davidson predicted that the possibility of recorded votes on many amendments would bring more challenges to committee bills, perhaps reduce committee influence over legislation, and protract floor debate. Eventually, he suggested, House leaders might turn to more frequent use of closed rules to counter such a development (Bibby and Davidson 1972, 276).

As Bach and Smith (1988) have documented, this is almost precisely what happened. Far larger numbers of members did come to the floor for recorded votes, because their absence would now be a matter of public record. By denying members the anonymity they previously enjoyed, the new rule encouraged them to vote on amendments as they believed their constituents wanted them to, even if this meant defying committee leaders. Moreover, since committees were less able to protect their bills from floor amendments, members offered more of them.

Deference to committee positions eroded still further, Bach and Smith assert, as the reforms of the 1970s dismembered the powers and influence of committee chairs. The subcommittee chairs who replaced them as floor managers did not inherit that influence because many of them were less experienced leaders, with lesser procedural skills and subject expertise.

The confluence of these and other developments made floor activity and decisions more time consuming and less predictable. Party leaders fretted because the increased floor time spent on bills created a backlog of measures they were anxious to bring up. Unpredictability also made coalition building more difficult and disrupted members’ schedules. Furthermore, leaders, and members too, often had to face unanticipated amendments on controversial issues, sometimes deliberately offered to force them into politically dangerous votes.

In 1974, the Rules Committee proposed to increase the number of supporters required to obtain a recorded vote in Committee of the Whole, but a coalition of Democrats and Republicans defeated it. As the consequences of recorded votes became clearer, however, opposition to this approach declined. Five years later, the necessary support for recorded votes was increased from 20 to 25 (H. Res. 5, 96th Cong., 1st sess.).

By this time, however, party and committee leaders had turned to the Rules Committee for special rules to protect their bills from unanticipated or unpredictable dangers. That protection was provided sometimes by closed rules, but increasingly by a wide variety of restric-

tive rules that prevented unwanted proposals or manipulated the amending process in ways that gave procedural advantages to the majority party and its leaders. Perhaps the most fascinating of these is the so-called “King-of-the-Mountain” device: it permits votes on a series of versions of a measure, but if a majority votes for more than one of the options, the last version to earn a majority wins.

In this fashion, the successful antisecrecy movement of 1970 provoked a reaction that led to more frequent severe restrictions on the amendment process, precisely the opposite of what was intended. Perhaps there is some truth to Samuel Taylor Coleridge’s axiom: “Every reform, however necessary, will by weak minds be carried to an excess, that itself will need reforming.”

There is an additional measure of irony in these developments. In 1970, many Democrats hoped that recorded votes would help them amend bills controlled by conservative committee chairs. It did. Within a few years, however, the powers of committee chairs were largely dismantled and their influence dispersed among the large number of subcommittee chairs. Many of the 1970 reformers now occupied these positions, and they were the ones who now faced the hazards of floor action and sought the protection of restrictive rules against the consequences of recorded votes.

House Precedents

As of 1974, not even the first volume of an updated compilation of House precedents had yet appeared. A House resolution of that year demanded its completion by 1977, an incredibly optimistic directive (H. Res. 988, 94th Cong., 2d sess.). The first volume of *Deschler’s Precedents of the United States House of Representatives* finally arrived in 1976. Thirteen years later, 8 of the projected 13 or 14 volumes were available, and it was estimated that the project would take another two years to complete.

The 1970 act’s demand for a single-volume summary of recent precedents, on the other hand, required far less effort. The first edition of *Deschler’s Procedure in the U.S. House of Representatives* appeared in 1975. Subsequent editions updated the precedents through the 97th Congress, but after 1983 only biennial supplements were produced. In the 1975 edition, the House parliamentarian, William Holmes Brown, announced that work had begun on a handbook of House procedure containing the essentials of current practice with summaries of all precedents in current use, not only the most recent ones.

Three-Day Layover Rules

During the mid 1980s, the Senate's majority leader complained that its three-day layover rule for bills hindered the chamber's scheduling process. A 1986 amendment therefore reduced the layover period to two days (S. Res. 28, 99th Cong., 2d sess.). The House still retains its three-day rule for bills and conference reports—expanded in 1972 to include amendments in disagreement reported by conference committees (H. Res. 1153, 92d Cong., 2d sess.).

Debate on Conference Reports

Although the 1970 act equally divided the hour of House debate on conference reports between the two parties, in practice the time was controlled by the party floor managers of the report. When both managers supported the report, they sometimes gave little of that time to members of their respective parties who opposed it. In a 1985 concession to those members, the House allotted one-third of the debate time to a member who opposes the report when both managers support it (H. Res. 7, 99th Cong., 1st sess.).

Senate Nongermane Amendments

The 1970 act's House rule for dealing with Senate nongermane amendments had been hastily drafted and not very carefully thought through. Among other defects, it provided no means by which the House could vote separately on the nongermane parts of a Senate amendment in the nature of a substitute. Furthermore, the rule assumed that House managers would refuse to include nongermane amendments in the conference report, bringing them to the floor, instead, as separate amendments in disagreement on which the House could take separate votes. But House conferees, at the insistence of the Senate, sometimes did put such amendments into the conference report, thereby foreclosing separate votes. By procedural devices too complex to explain here, the House remedied these defects in 1972 and 1974 (H. Res. 1153, 92d Cong., 2d sess.; H. Res. 998, 93d Cong., 2d sess.; for details, see Bach 1976).

Oversight

Testimony received by the House Select Committee on Committees in 1973 generally supported the view that committee oversight

had not appreciably improved since 1970 (Davidson and Oleszek 1977, 96–99). At the Select Committee’s urging, the House subsequently agreed to new organizational arrangements that directed most committees to create an oversight subcommittee or require all subcommittees to perform oversight, gave seven committees special oversight responsibilities that crossed into the jurisdictions of other committees, granted the Government Operations Committee broader latitude in its investigations, instructed that committee to submit its findings and recommendations to other committees as appropriate, and directed those committees to include a summary of the Government Operations Committee’s findings in their reports, when relevant (H. Res. 988, 93d Cong., 2d sess.). Three years later, at the instance of its Temporary Select Committee to Study the Senate Committee System, the Senate gave many of its committees broad oversight jurisdictions comparable to those in the House (S. Res. 4, 97th Cong., 1st sess.). Most observers would probably agree that the increase in General Accounting Office investigative reports since 1970 has made major contributions to the oversight process.

Limitations on Senate Committee Assignments and Chair Positions

The 1970 act’s complex system of limitations on senators’ committee assignments was no sooner in place than the Senate began to erode it. Grandfather rights were continually extended, some senators were allowed to serve on more than their prescribed number of committees, and some committees were entirely exempted from the rules. The average number of committee and subcommittee assignments per senator more than tripled during the 30 years ending in 1976 (U.S. Senate 1976, 6).

Partly as a result of revisions in the assignment rules devised by the Temporary Select Committee and accepted by the Senate in 1977, the average number of senators’ assignments declined in subsequent years—from 18 in 1976 to 11 in 1988 (S. Res. 4, 97th Cong., 1st sess.; Schneider 1988, 29). Other factors contributing to the decline included the 1977 abolition of two Senate committees and three joint committees and additional indirect limitations on the number of subcommittees per committee.

These limitations stemmed from the 1970 act’s rule that no senator shall chair more than one subcommittee on any major committee. The 1977 revisions eliminated all grandfather rights and extended the prohibition to all committees. In effect, these prohibitions limit the number of a committee’s subcommittees to the number of its majority

party members (assuming no minority member is named to a chair). In addition, the 1977 revision limited each senator to three subcommittee assignments on major committees and to two on minor ones.

The decline in Senator's assignments would have been far greater after 1977 had not the Senate continued to grant exemptions from the rules. The pressure for such exemptions is almost irresistible—from senators who demand additional committee assignments to accommodate their policy interests and the concerns of their states and from the party leaderships who seek to protect party interests on some committees by juggling their sizes.

Fiscal Information

Implementation of the 1970 act's provisions for fiscal control and information was still in its early stages when the pressure of many events called forth the Congressional Budget and Impoundment Control Act of 1974. That statute fit the 1970 act's fiscal information sections into the new congressional budget process, with appropriate revisions, and there they still survive.

Continuing Study of Congress

During its brief existence, the Joint Committee on Congressional Operations produced several significant studies, including one that contributed to the debate on whether Congress should allow its floor proceedings to be broadcast. But in 1977 the Temporary Select Committee to Study the Senate Committee System persuaded the Senate to abolish virtually all joint committees, including Congressional Operations (S. Res. 4, 95th Cong., 1st sess.). It survived briefly as a House select committee, but when no funds were appropriated for it subsequent to September 30, 1977, it expired.

Congressional Research Service

Under the aegis of the 1970 act, CRS budgeted positions rapidly increased, from 323 in fiscal 1970 to a plateau of 868 in fiscal 1980, with slight variations thereafter. With its enlarged staff and duties, the CRS established closer relationships with many committees, increased its support for committees generally, and provided more assistance for individual members as well. Total requests for CRS assistance grew by about 260% between 1972 and 1988, with committee requests increasing about 460%.

The administrative independence granted to the CRS in 1970 eventually involved it in some friction with the Library of Congress. A provision in a 1985 statute required the director of the CRS to submit budget estimates to the Librarian of Congress for review and approval (Pub. L. No. 99-190, Sec. 133).

Electronic Voting in the House

The planning, purchase, and installation of electronic voting machinery in the House took a surprisingly short time. After some testing, it became officially operational on January 23, 1973.

The procedures for its use had to accommodate two opposing concerns. Since the system was supposed to reduce the time spent on votes and quorum calls, the time limit had to be something less than the half-hour or so consumed by oral calls of the roll. But too brief a time limit would inconvenience members and, perhaps more importantly, hinder party and committee leaders' efforts to influence members before a vote became final.

Consequently, the House rule gave members not less than 15 minutes to record their votes (or presence, on quorum calls) (H. Res. 1123, 92d Cong., 2d sess.). Most votes, it was assumed, probably would not take much more than that, but members who needed more time could still be accommodated. And since the chair had the authority to keep the vote open for an indefinite period, leaders would still have time for heavy persuasion when the issue was in doubt.⁸ Most votes have consumed about one-half the time usually taken under the previous system (Bach and Smith 1988). Subsequent modifications of the rule permit the chair to reduce the 15-minute minimum to 5 minutes in certain situations (H. Res. 5, 96th Cong., 1st sess.).

Conclusions

Clearly, the Legislative Reorganization Act of 1970 was a more modest affair than its 1946 predecessor. But if the 1970 act did not change the organization of Congress in any fundamental way, it did solve or alleviate a wide range of procedural and institutional problems.

It began to curb the abuse of power by committee chairs, opened committee deliberations a little more to the public, and eliminated some flagrant dilatory tactics in the House. Its procedural changes gave members and others more time to study legislation before bills came to the floor for action, protected the House from over-zealous conference com-

mittees, and took a first step toward providing the House with a method for dealing with nongermane Senate amendments.

It provided a more equitable distribution of committee assignments and chair positions in the Senate. It gave the House a time-saving mechanism for recording votes and quorum calls. It enhanced the minority party's right to committee staff. It gave Congress greater access to fiscal information, laying a foundation upon which a new congressional budget process was eventually built.

And it resolved many institutional problems little noticed by, and of little interest to, most outsiders but of considerable consequence inside the place. The Congressional Research Service was strengthened and revitalized; GAO was thrust further into valuable investigations for committees and members; the Legislative Counsel's Office in the House received a statutory base that protected its priorities; the pay system of House employees was rationalized; the administrative officers of Congress were protected from unqualified or incompetent employees, improving the institution's administrative staff support; and tourists were granted free tours of the Capitol, a modest but useful blessing of which most current visitors are unaware.

It had a questionable, but nevertheless profound, impact on committee influence and the amending process (and therefore on legislative outcomes) in the House, a development few expected. Its congressional oversight provisions evidently did little to improve that activity. Its limitations on Senate committee assignments were only partially successful. It provided an institutional mechanism for the continuing study of congressional organization that Congress nevertheless abolished, possibly to its detriment. And the House gallery was never renovated along the lines envisioned by the act.

A modest scorecard, perhaps, but not a negligible one.

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NOTES

1. The act was signed into law October 26, 1970. For a detailed description of the act's legislative odyssey, see Bibby and Davidson 1972, 272-74.

2. The equal division of debate on conference reports in the Senate applies only when that chamber limits the time for such debate.

3. For a more detailed description of the problem and House attempts to deal with it, see Bach 1976.

4. The Rules Committee's proposal was known as the Colmer rule, after its leading proponent, William Colmer, the chair of the committee. In effect, it would have required a two-thirds vote to approve a conference report containing nongermane matter.

5. The 1946 act exempted the Rules Committee from the special leave requirement. Later, Appropriations, Standards of Official Conduct, Budget, and Ways and Means were also exempted. The last of these had formerly been permitted to sit at any time by unanimous consent at the beginning of each congress.

6. The Constitution (Art. I, Sec. 5) requires the presence of a quorum to do "Business"; the new rule, in effect, narrowed the concept of business, in the House, solely to the occasion of a vote.

7. Early in its history and on its own initiative, the Joint Committee on Congressional Operations began to publish the rules of all committees in a single volume.

8. Speaker Jim Wright exercised that discretionary prerogative on October 29, 1987. At the end of 15 minutes, the vote on passage of a deficit-reduction bill stood at 205-206 and the Speaker delayed his announcement of the vote. Eventually, a Democrat who had voted nay and left the chamber returned and changed his vote. With the tally 206-205, the Speaker then closed the voting and declared the bill passed (see *Congressional Quarterly Weekly Report* 31 October 1987, 2653).

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Members' opinions and complaints described in this article were expressed to the author in private conversations or in his presence during the development of the 1970 act and in the years that followed.

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The Washington Post

WALTER KRAVITZ DIES AT 69

August 31, 1994

Walter Kravitz, 69, a retired Library of Congress official and former Capitol Hill staff member who also had taught government courses at American and Catholic universities, died Aug. 26 at Suburban Hospital after a heart attack. He lived in Bethesda.

Mr. Kravitz moved to the Washington area and joined the Library of Congress in 1951. He retired in 1980 as a senior specialist in American national government and public administration from the Library's Congressional Research Office.

He had worked on the **Legislative Reorganization Act of 1970**. Over the years, he had served several times as acting director of the Congressional Research Service. He had taken leave from the Library to serve as executive director of the then-new House Budget Committee staff from 1974 to 1975.

He was the author of the book "The American Congressional Directory," which was published in 1993 by Congressional Quarterly.