

Fading 'Sunshine' Reforms

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The "sunshine in government" reforms of the early 1970s were fading in the late 1980s. Members were more open and markups more expeditious behind closed doors, according to committee chairmen; and so, when it came to major legislation, key panels increasingly voted to close their doors.

Most notable was the House Ways and Means Committee. Its members, pleased with the historic tax-overhaul bill that emerged from closed-door meetings in late 1985, opted to bar outsiders in 1987 when they composed major bills on trade policy (HR 3) and catastrophic health insurance (HR 2470). (*Trade bill*, p. 640; *Catastrophic insurance*, p. 493)

Many subcommittees of the House Appropriations Committee also met in private to draft the federal spending bills. Less often, the Senate Appropriations Committee and the Senate Finance Committee, counterpart to Ways and Means, also closed their doors.

In both chambers, defense and intelligence panels regularly met privately, while other committees did so only occasionally for work on controversial legislation.

Except for Ways and Means, it was unclear whether committees actually were meeting more often in private than they did a few years earlier. What was clear was that they encountered less resistance when they did close the doors from those who supported the sunshine movement in the 1970s — public-interest groups and reporters.

Some former sticklers for sunshine agreed, if grudgingly, with members who said bills were better when drafted away from lobbyists' watchful eyes. Conversely, as some of these lobbyists sensed a slippage of their influence over the bill-writing process, they became the 1980s' proponents of sunshine in Congress.

Ways and Means

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Given members' contention that a main reason for closed committee sessions was to bar lobbyists, it was no surprise that Ways and Means was the one panel that had unquestionably retreated from openness. With wide-ranging authority over taxes, trade, Social Security, health and welfare programs, it was perhaps the most heavily lobbied committee in the House.

Committee Chairman Dan Rostenkowski, D-Ill., asked critics of closed sessions, "Are you disappointed in the legislation that's come out of the Ways and Means Committee?"

Many conceded they were not. "I hate to say it, but members are more willing to make tough decisions on controversial bills in closed meetings," said Democrat Don J. Pease of Ohio, a former newspaper editor who usually cast the only vote against closing Ways and Means sessions. "In a closed meeting, you can come out and say, 'I fought like a tiger for you in there, but I lost.'"

Representatives of the self-described citizens' lobby, Common Cause, which campaigned for the open-meetings rules approved by the House in 1973 and the Senate in 1975, also recognized that closed sessions, particularly in Ways and Means, at times produced legislation less weighted with special-interest provisions. By 1987, the group had stopped monitoring committees to see which were closing meetings and had stopped protesting when they found violations.

But, said Ann McBride, a Common Cause lobbyist, "We continue to be proponents of openness.... It's an extraordinarily sad commentary on the power of special interests that members of Congress are now saying 'We have to operate in secret to hide from the special interests because they are so powerful.'"

Catastrophic Hearings Closed

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The chairman of the Health Subcommittee, Fortney H. "Pete" Stark, D-Calif., gave several reasons for closing the markup sessions on the catastrophic health insurance bill for the poor and elderly.

One reason was to save time, Stark said, by eliminating speeches and roll-call votes that members insisted on when lobbyists and reporters were present.

Another was the complexity of the issue, and a third was the issue's political sensitivity. "It was easy to talk about [health benefits and look like Good Samaritans]," Stark said. "But then you get to the question of financing them."

The answer to that question, and its implications for the health-care costs of workers and senior citizens, was of acute interest to lobbyists for the AFL-CIO and the American Association of Retired Persons (AARP).

The fact that the markup was closed was no surprise to either group. John Rother, AARP's director of legislation, research and public policy, said, "The reason you have closed doors is to close out the people who are breathing hardest down your neck, and we were clearly in that category on catastrophic."

Other Committees

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Many of the 13 House Appropriations subcommittees routinely closed their markups. Others, and the full committee, held what were jokingly called closed open meetings. Though technically open, the meetings are held in rooms too small for more than a few reporters and observers, and no documents were provided until sometimes days after a markup, making it nearly impossible to follow the action.

Mississippi Democrat Jamie L. Whitten, the full committee chairman, said markups were closed in the Agriculture Subcommittee he headed because "people will give you their opinion more honestly."

Defense Subcommittee Chairman Bill Chappell Jr., a Florida Democrat, said markups often were closed because "so much of what we consider is in the national security area."

Other subcommittees couldn't make that claim but nevertheless closed the doors during all or part of their mark-ups when deciding on spending for various public-works projects and for House operations.

Both House and Senate rules required a majority vote in open session before a committee could close a meeting. The Senate's rule said that only certain subjects could be considered in private, including national security matters, personnel issues, criminal charges, and trade or police secrets.

Senate committees generally closed less often than House panels. "I think most of us have found we can do business in the open just as well as we used to do the other way," said Florida Democrat Lawton Chiles, a leader of the 1970s' sunshine effort.

But as chairman of the Senate Budget Committee in 1987, Chiles resorted — like his counterparts at House Budget — to holding private meetings of committee Democrats to negotiate a budget proposal.

Members maintained that such caucuses by definition were private policy and strategy sessions. But sometimes, as at House Budget, the majority party's position became the committee bill and then the House's — often without substantive debate.

Few Objections from Press

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Reporters rarely objected to closed committee meetings. "I am not an advocate of closed meetings," said Albert R. Hunt, Washington bureau chief for *The Wall Street Journal*. But, he added, "Just speaking very, very selfishly, we did better when meetings were closed because we knew the Hill, we worked it hard... We got more stories."

"It gets very frustrating," said Jim Luther of the Associated Press, who did object when Ways and Means closed its tax markup in 1985. "The tax bill went through Ways and Means, the Finance Committee and conference in closed session."

"I can't recall any editorial response to this at all," Luther added. "In the past, newspapers screamed to high heaven. You had the biggest tax bill in at least a generation, with so many provisions to it, and so many people affected, and nobody seemed to care that it was all being done basically in secret."