Herbert Döring (Editor):

Parliaments and Majority Rule in Western Europe

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List of Country Abbreviations

AUT = Austria
BEL = Belgium
DEN = Denmark
FIN = Finland
FRA = France
GER = Germany
GRE = Greece
IRE = Ireland
ITA = Italy
LUX = Luxembourg
NET = Netherlands
NOR = Norway
POR = Portugal
SPA = Spain
SWE = Sweden
SWI = Switzerland
UK = United Kingdom
EP = European Parliament

Introduction

Herbert Döring

This comprehensive cross-national account of organisational features and procedural rules of parliaments in Western Europe as they were typically in operation during the 1980s serves not only as a reference compendium, but also gives in Part I an exposition of the main tenets of contemporary "institutional theory" in legislative studies. It then proceeds in Parts II to IV to map institutional structures and procedural rules cross-nationally. Here the focus will be on devices that, on the one hand, favour majoritarian decision making and, on the other, give protection to the rights of minority parties and individual deputies, both at the government-opposition and at the cross-party level.

Both parliamentary practitioners and political theorists alike will find the reading rewarding for two reasons. Firstly, all descriptions study not just a few well-known cases but document the pattern of variation across all eighteen countries of Western Europe. Secondly, these descriptive cross-national accounts serve a more ambitious purpose. Assuming that - contrary to conventional wisdom but in keeping with recent theorising - parliamentary procedures may indeed affect political outcomes, some generalisations about possible correlations between parliamentary structures and the average number and type of bills passed per country are empirically checked in aggregate analysis across countries.

It has become quite customary to think lowly of the importance of parliaments. Ever since Lord Bryce coined the influential catchphrase of the "decline of parliaments" in "Modern Democracies" ([1921] 1990) most textbooks on comparative politics have tended to give short shrift to the analysis of legislative organisation across contemporary democracies. This standard neglect of the "interna corporis" of parliaments, i.e. of their organisational forms and procedural rules, stands in marked contrast to the more recent findings of parliamentary researchers, who, in a new generation of area studies on parliaments in Western Europe (Arter 1984; Damgaard 1992, Liebert and Cotta 1990; Wiberg 1994), all found parliament to matter. These empirical findings may not, however, impress those who still consider parliament to be quite unimportant in the making and shaping of policies. These sceptics may suspect that, with beauty being in the

eye of the beholder, it is not surprising that parliamentary researchers have discovered a new importance for their own particular subject of interest.

Comparative case studies of parliaments abound (Loewenberg and Patterson 1979; Norton 1990b, Olson and Mezey 1991). But there are still only a few truly cross-national accounts documenting the empirical pattern not just for selected cases but across all countries of a given time and area (Blondel 1973; von Beyme 1973; Mezey 1979; Shugart and Carey 1992). Interest in the somewhat neglected cross-national study of contemporary parliaments has recently been stimulated from an angle perhaps least expected by traditional legislative scholars: rational choice theory.

Rational choice theorists are normally renowned for their determined concentration on model platonism free of real-world institutions. Yet, in a seminal article on "Institutionalising Majority Rule" initiating the institutional turn of rational choice in legislative studies, Shepsle and Weingast urged in their conclusion that, "general theories [should] not abstract away relevant institutional details concerning agenda access and admissibility" (Shepsle and Weingast 1982:371). Admittedly, such "features of legislative structure and process as the committee system, bicameralism, and parliamentary procedures, emphasized so much in the accounts of substantive scholars, figured hardly at all in first-generation formal models" (Shepsle and Weingast 1994:151).

But from the second and third generation rational choice writings on legislatures, as guest editors of the May 1994 issue of Legislative Studies Quarterly, Shepsle and Weingast heralded what also forms the basis of this volume: "we believe that formal models can best advance our understanding of legislatures when they are enriched with institutional detail" (Shepsle and Weingast 1994:145). In the meantime, a new generation of students of rational choice in comparative politics have paid heed to this rediscovery of institutional constraint on rational behaviour and studied the impact of legislative organisation on policy outcomes (Cox and McCubbins 1993; Crain and Tollison 1990; Krehbiel 1992; Shepsle and Weingast 1994; Tsebelis 1990).

Indeed, the "idea that structure influences collective decision making is intrinsically comparative because all legislatures are collective decision-making bodies" (Mezey 1993:356). This new concern with institutions will contribute, for Western Europe, to meeting an as yet unresolved challenge advanced by Mogens Pedersen over a decade ago. He confidently expressed the conviction, taken up by this present volume, that it would "only require a relatively modest boundary-transgressing effort to take the comparative study of parliaments a long step toward a more general and theoretical understanding" (Pedersen 1984:528).

If parliamentary procedures affect outcomes, it becomes desirable for both practical scholars and political theorists alike to have at their command a thoroughly researched manual of the key organisational features and rules of procedure employed in parliaments. Both have been studied from time to time by practitioners of parliamentary research assembled in both the Inter-Parliamentary Union and the Association of Secretaries-General of Parliaments. But these descriptive materials (Campion and Lidderdale 1953 and newer contributions published biannually in the periodical "Constitutional and Parliamentary Information") were collected without theoretical focus. They were driven by the practical wishes asserted in the following. "It may well be that another country might indicate by its procedure some remedy for a problem of which one has had experience and which had remained unsolved" (Campion and Lidderdale 1953:VI). The two communities - parliamentary practitioners, studying cross-national patterns of institutional variation; and the rational choice theorists, predicting patterns of individual behaviour and collective choice from universally applicable general theories - have lived (at least in Europe) far too long in isolation from each other. Here they are brought together to the benefit of all social scientists.

At the heart of "new institutionalism" lies the assumption that policies are shaped by the institutions through which they are processed. If procedures affect outcomes, it is important to try and link parliamentary structures to legislative output. How does the procedure for passing legislation influence the number and type of bills passed? Part I will provide empirically testable theoretical predictions. But in order to be able to assess them empirically, we must first know in a matter-of-fact way what the differences in legislative organisation and parliamentary procedure really are. Thus, the project follows a two-pronged approach. The descriptive classifications stand not only in their own right, they also serve the purpose of checking theoretical generalisations. Combining the two aims we may begin to redress a much bemoaned "twin deficit" of parliamentary research, its lack of theoretical depth encompassing comparative validity (Davidson and Thaysen 1990:13 f.)

Yet, even the elementary descriptive task of establishing empirically measurable classifications across all eighteen countries of Western Europe is far easier said than done. Given the diversity of languages and cultural contexts in which the same words may take on different meanings, completing the task was clearly beyond one single person's capacity. But, since we nevertheless need these empirically validated classification for neo-institutional analysis, the solution for us was a mutual exchange of theoretically important empirical information by the country specialists listed at the end of the acknowledgements. This book, therefore, is different from most other edited volumes on comparative politics. It is not a collection of country monographs written by eminent specialists. Instead,

these scholars were requested to write cross-national chapters covering all 18 countries, including those with which they were not all too familiar. The necessary information for each chapter was provided by a mutual exchange of data collection.

In doing cross-national work one must, however, be wary of the pitfalls of superficial information and misleading interpretations. This book therefore developed in several iterations. Firstly, prospective chapter authors designed questionnaires asking all the other country specialists to provide specific information in writing that was pertinent to their hypothetical understanding of the questions at issue. Secondly, upon receipt of all the country-specific materials, cross-national chapters were drafted and circulated to all participants. Thirdly, all country specialists checked the chapters subsequently published in this volume to ensure a correct understanding of the information taken from various languages and different contexts. In writing their cross-national chapters all participants followed the same rules. Chapters should aim at building classifications meeting the basic logic that they should "order a given universe into classes that are mutually exclusive and jointly exhaustive" (Sartori 1991:246). Step by step, a series of theoretically inspired cross-classifications should be constructed using these analytic descriptive classifications.

These cross-tabulations should examine by simple comparative checking whether or not some of the hypothesised relations hold true for many or only a few countries. All these cross-classifications should be demonstrated by way of scattergrams. This elementary device showing the distribution of all 18 countries satisfies the stern request of Charles Ragin (1987) who demands that statistics should not be used too early, so as not to forego the chance of spotting interesting "outliers". There is only one chapter in this book that is not specifically cross-national. As the book deals with variations across all the eighteen national parliaments of Western Europe, we felt it appropriate to include a research note on the development of the European Parliament. Apart from the much talked about "democratic deficit", the European Parliament has been moving toward the pattern of majority rule and minority rights typical in the national parliaments of Western Europe.

Various chapters of this volume focus on the procedure for passing legislation. Budgetary procedure which is quite different from legislative procedures (von Hagen 1992, 1995) will not be addressed at this stage of this project. Only a few of the many other tasks parliaments perform will be studied here: their role in government formation and resignation and in providing a forum for scrutiny and debate. These aspects will only be selectively covered by chapters on relations between ministers and MPs and on the forms of parliamentary questioning. The ability to get legislative initiatives enacted by parliament is one of the cru-

cial policy resources at the disposal of government (Rose 1984:63 ff. chapter 3). According to conventional wisdom legislation is not seen as an important function of parliament today, a view that was reiterated when Western scholars briefed East European researchers on parliaments with this advice: "Comparative research leads us [...] to expect that legislatures will *not* have decisive legislative power and that our attention should be focussed more broadly than simply upon the contribution of parliaments to law-making" (Judge 1994:29). This present volume takes exception to such views and proceeds on the assumption that it can be shown that even with respect to this least plausible and much neglected domain of legislatures, i.e. law making, procedures do indeed influence legislative output, and that parliament does matter.

The first task of the project was to get the characteristic picture of procedures for the 1980s. Our descriptions are pretty highly aggregated, i.e. one typical rule for the whole of the decade. The minor changes will not be studied before the next phase of the project. (For comparative studies of developments over time, see Liebert and Cotta 1990; Damgaard 1992; Wiberg 1994; Copeland and Patterson 1994.) We know that there were some important changes in the 1970s and 1990s. For example, the new British select committees were established in 1979; and in Switzerland, where prior to 1991 all important bills went to ad hoc commissions (Ochsner 1987), there is now a system of permanent legislative committees specialising in policy areas (Lüthi 1993). But the rules of the game in our period of study, i.e. the 1980s, were fairly stable. In this first stage of the project we thus proceed to document the "average" institutions as they were in operation for the 1980s. Limiting our analysis to all West European countries will close a lacuna in the "institutional" theory of legislative analysis. For, although up to now there has been a preponderance of studies focusing upon the USA, the U.S. Congress, whilst "continuing to be the most studied legislature, is also surely the most untypical example of the legislative institution" (Shepsle and Weingast 1994:147).

The cross-national method, as employed by Blondel (1973), Blondel and Thiébault (1991) and Lijphart (1984) demands a certain sacrifice from scholars more attached to in-depth studies of parliaments in particular countries. Given that the same word - for example "tabling" a motion - may mean quite the opposite in two similar languages - as is the case for American and British English (Norton 1990b:2) - parliamentary researchers more often than not subscribe to the widespread prejudice that "the values, cultures and political structures of countries are so different that attempts to generalise across national boundaries are worse than useless - they are perilous - for what appears to work in one context is likely to be disastrous in another" (Noll 1987:462 f.). This mental barrier appeared to lie at the root of what eminent reviewers have time and again

claimed to be the shortcomings of the study of parliament in comparative politics: "a broad range of methods [...] employed, and a variety of data [...] collected by a variety of different means" (Olson and Mezey 1991:20 f.).

This book is intended as part of a longer-term research programme. Any such "scientific", i.e. empirically refutable, research programme in the social sciences and humanities does not normally "emerge fully armed like Athene from the head of Zeus. It develops slowly, by a long, preliminary process of trial and error" (Lakatos 1970:133 note 4). The original proposal for the project, upon which this book is based, was devised and initiated by the editor. Over the last two years many inspiring suggestions have been made by members of the research group to improve and polish the work presented here.

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All participants, and not just the Mannheim staff, would like to express their appreciation for the ever-skilful research assistance, data management and project organisation provided by senior research assistant Evi Scholz. All are agreed that political science should not only be sound in theoretical design and empirical analysis but also pleasant to read. Should this research publication, indeed, also prove to be a good read, then it is thanks to the judicious copy editing of Mark Williams, an English-born junior researcher at the Mannheim Centre for European Social Research. The final layout was produced by Angelika Scheuer, a senior research assistant at Mannheim, who after layouting several scientific books has now become a professional in desk-top publishing. All graphs drafted by the authors were patiently and skilfully reproduced by Sene Boucounta at the Mannheim Centre and by Martin Weiß at the University of Potsdam. Bibliographic management of the references to all chapters was taken care of by Mark Williams, collating the books and articles mentioned by all authors in a machine-readable database and transforming them into one homogeneous style. Lieven De Winter generously supported the editor in proof reading and assuring consistency between the chapters.

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Part I

Comparing Parliaments:

Key Concepts and Core Questions

Introduction

Concentrating on the advantages and shortcomings of majority rule, as the title of the book implies, this first part outlines the key concepts used in the various "institutional" strands of rational choice theory in legislative research. This is done with the intent of eventually being able to derive empirically testable predictions about the correlation between parliamentary structures and legislative output which may then explain a part of the existing variation in a novel way.

Institutionally enriched rational choice theory is now a long way from first-generation models of rational choice in legislative studies. As late as 1985 an article on "Formal Models of the Legislative Process" still emphasised a "puzzling contrast between extant theory and reality ... [resting] ... upon the mistaken belief that extant theory is widely applicable" (Panning 1985:686). But since then real-world institutions, notably legislative assemblies, have been added.

With the institutional turn of formal theorising "important differences of opinion [...] have emerged within the rational choice camp" (Shepsle and Weingast 1994:150). Therefore, it will be an interesting task to outline these rivalling yet methodologically consistent predictions. The "new institutionalism" develops empirically falsifiable hypotheses from three long-standing theoretical traditions most likely to inspire legislative research. It "draws upon analytic tools from microeconomics, game theory, and social choice as a way to understand how the design of institutions conditions political outcomes" (Shugart and Carey 1992:14). All three approaches are subsequently taken up and discussed from the broadest possible angle in the following three chapters.

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1

Institutions and Policies: Why We Need Cross-National Analysis[1]

Herbert Döring

Conventional wisdom holds that, guided by a sophisticated whipping system, parliaments are more often than not willing to ratify any proposal submitted to them by government. One textbook on West European politics states boldly: "In the last [...] decades politicians and analysts alike have charted a decline in the capacity of parliamentary institutions in Western Europe, and elsewhere" to carry out their functions (Roberts and Lovecy 1988:126). This sweeping contention, to which parliamentary researchers take exception, implies that parliaments are nothing more than a "rubber stamp", approving legislation initiated elsewhere and laid before them by government for ratification.

What Lovecy and Roberts assume to be true for Western Europe at large, is even assumed by Richardson and Jordan (1979) to hold true for a traditional parliamentary democracy such as Britain. Here, as in other countries, many legislative initiatives come from the administration working through the executive, or even from forces outside Parliament. Not only does the cover of their book therefore show the Palace of Westminster crumbling under the impact of the ever-tightening gigantic thumbscrews of outside forces, but even the title refers quite bluntly to the policy process in a "post-parliamentary democracy".

In spite of this gloomy picture, a comparative study on neo-corporatist patterns of incomes policies across Western Europe in the 1970s nevertheless found that if extra-parliamentary package deals failed, they did so because the parlia-

1 I received a great deal of inspiration from an exchange of views within the research group over the last two years. My thanks go to all participants and in particular to Thomas Saalfeld and George Tsebelis, who both continually sharpened my understanding. Christian Henning at the University of Mannheim and Martin Weiß at the University of Potsdam, my new academic home, also helped to clarify my theoretical ideas. Mark Williams' insistence on linguistic clarity also contributed to an intellectual sharpening of the argument.

mentary majorities required to give the pre-parliamentary deal legislative approval were not forthcoming (Armingeon 1983). Parliament, thought by many to be a declining and negligible institution, is apparently not so unimportant.

1. Why Should the Procedure for Passing Legislation Influence Legislative Policy Output?

Any research programme steeped in the basic assumptions of "new institutionalism" in legislative studies provokes a positive affirmation of the question implicitly hypothesised in the preceding heading. Institutionalism sets about analysing to what extent policy outcomes are shaped by the institutions in which they are processed. Bills enacted by parliament are one of the policy resources available to any democratically elected government. The legislation most likely to be enacted is, of course, initiated by government and not by parliament. This basic fact, already well-known for selected countries (Oberreuter 1994:323 f., 328 with tables 1 to 4), is confirmed even more extensively across Western Europe by the cross-national documentation of Rudy Andeweg and Lia Nijzink in Chapter 5, and by Ingvar Mattson in Chapter 14 of the present volume. In the parliamentary systems of contemporary Western Europe, parliament is no longer a counterpart of government. Instead, governments are more often than not recruited from the ranks of seasoned parliamentarians (see Chapter 4 by Lieven De Winter in this book).

1.1 Transaction Costs: Crucial for Shaping Actors' Behaviour

How, then, may parliamentary procedure shape the quantity and the contents of bills enacted by parliament even if they are submitted to it from outside the chamber? No matter how varied the different approaches to institutional economics that will be reviewed here, they all exhibit the common link of focusing on the transaction costs involved in steering a bill through parliament. As the process of legislative decision making involves costs it would be erroneous to assume that the seal of approval given by the chamber, even on government proposals, is cost-free. In first-generation models of rational choice, parliamentary procedure hardly figured at all; and even in second-generation rational choice analyses of legislatures, the view still prevailed "that rights allocated within the legislature are costlessly enforced" (Shepsle and Weingast 1994:157). It is only in the new institutional economics that emphasis is put on institutions as solutions to dilemmas arising from transaction costs (Shepsle and Weingast 1994:166). In this view, it is of no concern whether parliaments actually initiate policies themselves or not. What counts are the actual costs involved in parliamentary procedure.

Having emphasised the bewildering variety of contemporary parliaments, extending to the name, size and functions of legislatures, Philip Norton pinpoints "one core-defining function" of all legislatures no matter how considerably they differ: "what such bodies have in common is that they are constitutionally designated institutions for giving assent to binding measures of public policy [...]" (Norton 1990a:1). The procedure for passing legislation is a suitable reference point for cross-national comparisons, i.e. a *tertium comparationis* of all parliaments.

As parliamentary procedure gives collectively binding assent to measures of public policy, stark variations in this process of legitimisation should leave their mark on the shape of the bills transacted in predictable ways. This approach is in keeping with what the foremost scholars of new institutionalism in legislative research succinctly formulate, namely that the "view of legislative institutions as agenda formation processes implies policy consequences consonant with observed features of legislatures" (Shepsle and Weingast 1982:369).

1.2 More Cross-National than Diachronic Intra-Country Variation in Procedures

Just a quick glimpse at the already available comparative evidence on the procedure for passing legislation (Grey 1982; Parliaments of the World 1986) is enough to reveal large variations between the different countries. There is presumably far more cross-national than diachronic variation within countries during the 1980s in parliamentary procedures. Hypotheses linking institutional structures to legislative output may only be empirically assessed if there is sufficient variation in both parliamentary procedures and the number of bills passed per country. Due to parliamentary reform, institutions have changed over time in the individual countries under study (for a recent overview and assessment of parliamentary reforms see Huber 1994). But it is only every now and then in the contemporary history of parliamentary democracies that these changes were so spectacular as to constitute drastic institutional variation.[2]

For a study of the impact of institutional variation on legislative output it therefore appeared advisable to focus on cross-national rather than intra-country variation in parliamentary procedure over time. This was a strategic decision spelt out under heuristic considerations in the research proposal by the editor

2 Examples are provided by the new British select committees in 1979 (Drewry 1988) or the new permanent committee system in Switzerland in 1991 (Lüthi 1993). Other examples of these exceptional occurrences are the abolition of second chambers in Denmark in 1953 and in Sweden in 1970 (Longley and Olson 1991).

and, indeed, subsequently vindicated by the stark differences between the eighteen parliaments of Western Europe documented in the chapters of Parts II to IV.

2. Advantages and Shortcomings of Majority Rule as Seen from Institutional Economics

"At the deeper level of political culture" Western democracies rest upon the assumption that "the majority has the 'right' to overrule a dissident minority after a period of 'debate'" (Lijphart 1994:14). Indeed, for most political scientists the principle of majority rule is tantamount to the principle of democracy (Dahl 1956:34). The advantages of majority rule are well-known. Decisions by majority are cost-saving devices to make change possible at all which is legitimately binding as long as it is on the statute book. Without majority rule "abolition of slavery is blocked by the slave owners, the redistribution of income by the rich" (Mueller 1989:108).

Undisputed as the advantage of majority rule is in economising on transaction costs, institutional economists analysing legislatures have highlighted four less widely-known side-effects to which the economics literature has drawn our attention. This theoretical reasoning should not be neglected by political scientists when analysing parliaments empirically.

1. The speed with which a decision can be achieved by a majority vote comes at the expense of increased external risks for the collectivity at large. On the one hand, majority rule enables quick and legitimate change. On the other hand, "the use of a less than unanimity rule can be said to impose a cost on those made worse off by the issue's passage, a cost that could be avoided through the expenditure of the additional time and effort required to redefine the issue so that its passage benefits all" (Mueller 1989:53).
2. In theory, all majority rule is predicated on the assumption that all votes are equal and the preferences of all those voting are of equal intensity (Dahl 1956:48). But in reality deputies and the minorities they represent value different issues such as religious freedom or protection of different languages in the same country with highly variable intensities of feelings. If minority interests, for which feelings run high, are consistently overruled by the majority, the principle of majority rule assuming each vote to be equal is liable to break down.
3. The economics literature derives the generalisation from formal modelling that there is a tendency for majority rule to oversupply particularistic legislation of a (re-)distributional kind. If goods and services are provided by government and parliament via majority rule, a distributional side-effect seems inevitable (for formal proof, see Mueller 1989:81 figure 5.2). Even legislative researchers such

as Krehbiel, who take exception to the conventional wisdom that all politics is mainly about distribution, admit that much of majority rule is, indeed, aimed at distribution (Krehbiel 1992:265).

4. By means of formal modelling, social choice literature showed that majority rule decisions over a legislative term are likely to lead to ever-shifting changing coalitions in widely fluctuating cycles to anywhere (McKelvey 1976; Schofield 1985). That this prediction rarely, if ever, materialises in present-day parliaments is, in fact, due to institutional devices of agenda control and other instruments deployed by the chambers.

The point to be made here is that parliamentary procedure may be seen as a set of skilful devices containing some, if not all, of the dangers predicted by the social choice and public choice literature. An answer to the pertinent question put by Krehbiel: "why do legislators collectively choose to zip their lips and tie their hands?" (Krehbiel 1992:91) may be found in the working hypothesis along which this project is structured. Parliamentary procedures that restrict individual members' rights by voluntary agreement of the deputies; and confer special prerogatives on the party leadership and government may be interpreted as skilful devices to exploit the advantages of majority rule, whilst alleviating its shortcomings by the use of specific institutional features.

2.1 Can Sharply Divided Feelings Be Circumvented by Allowing Committees to Predetermine Plenary Decisions?

As already stated, decisions by majority rule are thought to be the embodiment of democracy as all votes are treated equally. "Implicit in much of the discussion of majority rule has been the idea that individual votes *should* be treated as reflecting equal intensities of preference [...]. This idea in turn, probably stems from the more fundamental norm of democratic organisation - that of political equality" (Buchanan and Tullock 1962:126). But as the social choice literature has pointed out time and again, the advantage of considering all votes as equal comes at the expense of neglecting different intensities of preferences when making a decision (Laver 1983:151 f., 166 ff., 185 ff.). "If minorities feel more strongly on particular issues than majorities, then any rule short of unanimity may lead to policies that will produce net 'harm' even if the comparability of utilities among several persons is still accepted as legitimate" (Buchanan and Tullock [1962] 1987:127).

Allowing small committees instead of the larger plenary parent body of parliament to predetermine decisions which are still formally adopted by majority rule but prearranged in consensual committee deliberations, also works in the direction of defusing sharply divided feelings about contentious issues. Sartori's "Decision-Making Theory of Democracy" claims that decisions by committee complement majority rule by the advantages of decisions by unanimity. This con-

tention, still awaiting empirical checking, according to Sartori holds true on the three preconditions that committees are, firstly, small face-to-face groups, secondly, that they act as a durable group over an extended period of time and, thirdly, that they are confronted with a constant flow of decisions. In other words, only permanent committees of small size, appointed for a full legislative term and specialising in a particular policy field may be expected to act in the way envisaged by Sartori. He assumes committees "generally end up with unanimous agreement because each component of the group expects that what he concedes on one issue will be given back, or reciprocated, on some other issue" (Sartori 1987:229).

Sartori thus justifies his contradistinction of conflictual decisions by plenary majorities and consensual decisions by committees striving to achieve unanimity in terms of compensating payments by logrolling. Peter Bernholz (1978) conceptualised the same phenomenon as a "prisoners' dilemma supergame". If the "same constellations of issues come up time and again", he shows "that the likelihood of a stable prisoners' dilemma supergame emerging is positively related to both the net potential gains from cooperation and the probability that the same players reappear in each successive game" and he also notes that this supergame "is plausible for a legislative assembly, whose members continually represent the same interests and have reasonably long tenure" (quoted by Mueller 1989:93).

2.2 Containment of the Dangers of Ever-Shifting Majorities by Agenda Control

One of the core concerns of social choice analyses of majority rule is the possible occurrence of ever-shifting transient majorities of changing coalitions over a session of parliament. Discussing this phenomenon under the heading of "cycling across issues", McKelvey (1976) and Schofield (1985) demonstrated by formal modelling that the passing of contradictory issues by shifting majorities over a legislative cycle may, by the logical properties of majority rule, lead the policy outcome to anywhere. (For a textbook exposition of this danger of majority rule, see Mueller 1989:63-65, 81-89; see also Table 2.1 in Chapter 2 by Kaare Strøm in this volume.) However, whilst normatively predicted by formal modelling, the fear of "cycling" is, in reality, hardly ever observable in present-day legislatures.

"The cycling problem has haunted public choice literature since its inception. Cycling introduces a degree of indeterminacy and inconsistency into the political process that hampers the observer's ability to predict outcomes, and clouds the normative properties of the outcomes achieved" (Mueller 1989:196). Against these theoretical expectations and predictions that failed to materialise, Kaare Strøm, in his broad assessment of the literature on neo-institutional rational choice observes in Chapter 2 of the present volume that, overwhelming as these theoretical results about "cycling" were for reasons of formal modelling, decision

making in legislatures and other political organisations appeared a lot more stable and predictable than the chaos results would have us believe. This apparent mismatch, as Kaare Strøm emphasises, provided much of the initial stimulus for the "new institutionalism".

Indeed, "institutionalism" in legislative studies may in fact be seen as having been invented in the social choice literature to explain why, anomalous to the normative expectations and formal predictions of the theory, so much stability in legislatures is actually to be found. Social choice thus hit upon the importance of agenda control. One "solution to the cycling problem" is for a decision-making body like a parliamentary committee or the plenary to "rely on a particular institution like the agenda setter to structure the voting sequence such as to avoid cycles" (Mueller 1989:89). This discovery of the importance of agenda control in the research programme of social choice constitutes, in terms of the methodology of scientific research programmes set out by Imre Lakatos, a "little revolution" in the "protective belt" of its assumptions. Agenda control is a way to "confront the cycling problem" in that "some person, group, precedence or law decides what will be acted on, and by implication what will not be acted upon" (Stevens 1993:145).

However, agenda control may take various forms across the many parliaments under study. The agenda setter may, or may not, command over a high degree of control instruments enshrined in the rules of procedure. In national parliaments, procedural rules for controlling the parliamentary agenda are normally inherited at the beginning of the legislative term. But, whilst agenda control is almost a constant over a legislative term in a single legislature, this constant shows a high degree of variation across countries at a given point in time. This variability will be explored by many chapters of this book in cross-national classifications. The cross-nationally variable forms of agenda control should lead to different predictable policy outcomes; and this impact should show far more strongly cross-nationally than is observable within single countries over time.

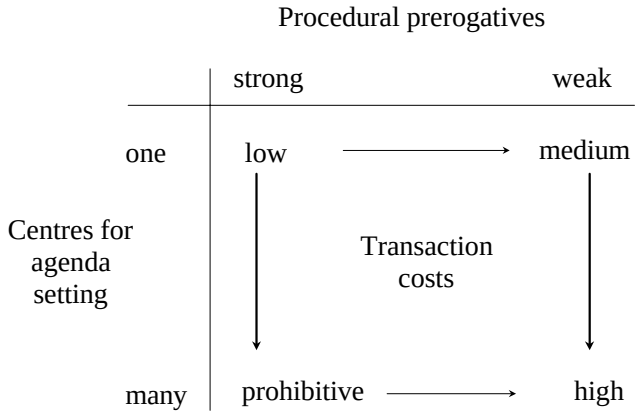
2.3 Variable Transaction Costs of Different Forms of Agenda Control

Not only may agenda control take on different forms. It also may be exercised by different centres. Agenda control may be vested in a single collective actor such as government or it may be divided up between different agenda setters. In the US House of Representatives, for example, decisions may be made by the Speaker, the Rules Committee, and by legislative committees if and when they are given special jurisdiction over a policy field. In the latter case, they may kill a bill by withholding a report to the plenary. Furthermore, a supermajority in the plenary is an additional agenda setter as any rule may be suspended by a two-thirds majority in the plenary (Bach 1989). Agenda control in the U.S. is there-

fore fragmented. In the parliamentary systems, however, agenda control is usually coordinated by a more or less disciplined party, or coalition of parties, forming the government. As the majority necessary to keep the government in office and the legislative majority necessary to pass bills coincide, there is likely to be a unitary agenda setter, i.e. the government in command of a majority in parliament.

Agenda control exhibits a high variability across different countries. Indeed, it is not the least achievement of this volume to show the surprisingly wide variation of procedural rules across all eighteen West European countries. Nevertheless, in spite of this wide variation, a graded assessment of the level of transaction costs resulting from agenda control may be best derived from a cross-tabulation of two dimensions. The first dimension is the number of agenda-setting centres (ranging from one unitary centre to quite a few) that are given special jurisdiction in the procedure for passing legislation. The second dimension is the level of detailed procedural prerogatives (ordinally coded from strong to weak) possessed by each of these agenda-setting centres.

Figure 1.1: The Number and Procedural Prerogatives of Agenda Setters as Determinants of the Level of Transaction Costs



The analytical distinction between the number of centres and the actual rules of procedure at their command as laid down in the standing or sessional orders approved at the beginning of each legislative term is more than academic. This will become apparent in the course of this book. It meets our requirements here to illustrate each dimension with one suitable example. Let us first look at the number of agenda-setting centres. If, as in Britain with the exception of a few Opposition and Private Member Days, the government can determine what is to be debated and voted on, then there is only one unitary agenda-setting centre controlling the

agenda in both the plenary and in the legislative committees. In Italy, there are different agenda-setting centres. It is the conference of party spokesmen acting as the collective directing authority of the plenary and committees that must reach unanimity in order to determine the agenda. Failing that, it is up to the President of the Chamber. Although he is constitutionally required to take government priorities into consideration, almost every week some decision of the President goes against the government's intentions (information supplied by Ulrike Liebert).

Turning to the second dimension, the procedural prerogatives at the command of the single unitary and/or multiple agenda-setting centres may be either strong or weak. In Britain, for example, the majority needed by the government to impose its will on the House by requesting that a final vote be taken on a bill within a specified period of time imposed by the "guillotine" is only a relative majority of those voting in favour over those against, with abstentions not being counted (see Chapter 7). In Italy, however, the majority necessary to overrule the President's decision is prescribed in the standing orders as a supermajority of three-quarters. From just these two examples we can see the analytical sense in distinguishing between the two dimensions cross-tabulated in Figure 1.1.

If a unitary agenda setter commands only weakly procedural prerogatives, the transaction costs will not be so low, and should be graded as medium (the upper-right cell in Figure 1.1). Any addition of more agenda-setting centres raises the transaction costs. Thus, if many centres share rights to settle the agenda, but all have no more than weak prerogatives, then, all else being equal, transaction costs should be higher than if there was only one centre with weak prerogatives (the lower-right cell in Figure 1.1). If, however, there are quite a few agenda-setting centres, each commanding strong procedural prerogatives, the costs of passing legislation should be very high and almost to the point of being prohibitive to getting contentious matters enacted (the lower-left cell in Figure 1.1).

Agenda-setting centres may be unitary or multicomponent. In the procedure for passing legislation it is not only the collective directing authority and/or the president as well as the plenary majority, that may or may not possess the right to reverse a decision (for more details see Chapter 7), which may be considered as different agenda-setting centres. The powers of a second chamber to impose a suspensive or absolute veto on the decision of the first chamber (for details see Chapter 11) and in some (but not all) cases also a joint committee of the two chambers may equally command agenda-setting powers. Nowhere in contemporary Europe, however, does the model of agenda setting as envisaged by Shepsle and Weingast appear to apply. (For a probing examination of traces of this model in West European parliamentary systems, see Chapter 8 by Ingvar Mattson and Kaare Strøm and Chapter 9 by Erik Damgaard in this book). In Shepsle and Weingast's version of agenda control preventing cycling across issues, exclusive

jurisdiction is given to parliamentary committees which "possess complete and exclusive agenda power to offer bills within their policy jurisdiction" (Shepsle and Weingast 1982:369). In Western Europe, such a powerful right not only to initiate bills but also of definitely being able to "kill" a bill by refusing to report it to the plenary was only enjoyed in the French Fourth Republic (Kimmel 1983:83).

Although the idea of parliamentary government based on a majority in the chamber implies that the government could change and interpret the rules of procedure as it thinks fit by way of its own majority, changing the rules of the game may nevertheless be a costly and time-consuming process. In six out of sixteen chambers, any change to the rules of procedure requires a supermajority which is difficult for the government to obtain and at the same time gives the opposition parties a minority veto (see Döring 1994:table 1). It therefore makes sense to grade the many different aspects of procedural prerogatives at the command of parliamentary governments in the subsequent chapters of Part II of this volume on ordinal scales ranging from very strong to weak control.

These wide variations will not only be shown with respect to who settles the order of the day in the plenary (Chapter 7) and what possible rights permanent legislative committees may have independent of the plenary (Chapter 8 by Strøm and Mattson). They will also be shown in terms of the control of committee members (Chapter 9 by Damgaard), the majority's influence on the president of parliament (Chapter 10 by Jenny and Müller), the powers of second chambers to veto legislation (Chapter 11 by Tsebelis and Rasch), restrictions on private members' initiatives and amendments (Chapter 14 by Mattson), the power of the whips to monitor their backbenchers' voting behaviour by recorded votes (Chapter 16 by Saalfeld) and with respect to agenda-setting parliamentary voting procedures (Chapter 15 by Rasch).

3. Theoretical Predictions About the Impact of Agenda Control on Law Production

Having established descriptive cross-national classifications in Parts II to IV of the present volume, these will be employed again in Part V for a preliminary empirical assessment of some theoretical predictions put forward in Part I. One such exciting prediction by Landes and Posner (1975) is based on the public choice "Interest-Group Theory of Government". A fully-fledged examination of their empirical plausibility will, however, only be undertaken in the next phase of this project.

3.1 Do Difficult Procedures for Passing Legislation Paradoxically Raise the Demand for Bills?

In their seminal article on "The Independent Judiciary in an Interest-Group Perspective" (1975), William M. Landes and Richard A. Posner became known for making provocative statements about the role the judiciary plays in the strategic behaviour of interest groups. Equally important, if less well-known, are their striking conjectures about the importance of the procedures for passing legislation as part of the transaction costs in forming an element shaping the behaviour of the demanders of legislation.

Radically focusing on the "demand side" of legislation, Landes and Posner, starting out from Stigler's "Interest-Group Theory of Government" (Stigler 1971), assume that "public policy emerges from the struggle of interest groups to redistribute the wealth of the society in their favour" (Landes and Posner 1975:876). Neglecting the possibility that on the "supply side" legislation is initiated by parties and governments to further the public good and/or to win elections, they exclusively operate under the radical assumption that "legislation is 'sold' by the legislature and 'bought' by the beneficiaries of the legislation" paying campaign contributions, other favours and "sometimes outright bribes" for getting special-interest legislation (Landes and Posner 1975:877).

Although their whole argument is refuted by the circumstantial evidence mustered in Chapter 22 below, it is worth pursuing because it brings out sharply the advantages and shortcomings of a one-sided public choice perspective which exclusively focuses on the demanders of legislation at the neglect of parties and government who supply legislative policies as a means of winning elections. The question at issue for Landes and Posner is how to make it difficult for subsequent legislatures to amend or repeal legislation made by its predecessors. The "demand curve of various groups for special-interest legislation (such as protective tariffs, import quotas, or minimum rate regulation)" is seen as being dependent on whether "the benefits from such legislation will be limited to a single period, namely the term of the enacting legislature", or whether "the gains from special-interest legislation extend beyond the period of the enacting legislature" (Landes and Posner 1975:880).

Now, if interest organisations may assume that the legislation will never be repealed due to high transaction costs of passing or repealing a bill, high procedural costs of enacting bills will paradoxically, though logically, contribute to increasing the demand for "more special-interest legislation [...], since some legislation that was not profitable to enact when the return was received for only one period is now profitable" (Landes and Posner 1975:881). Landes and Posner identify two complementary methods of "increasing the permanency of legislation. The first involves establishing procedures for the enactment of legislation

that increase the cost of repealing it; the second, the creation of an independent judiciary to enforce legislation in accordance with the intentions of the enacting legislature" (Landes and Posner 1975:882). Notwithstanding the fact that Landes and Posner have become notoriously famous with respect to the second argument concerning the independent judiciary, only their first point will be studied further because of its relevance to agenda control.

How is agenda control related to the hypothesised rationale of interest groups' self-interest behaviour in this theory? The answer is radically different for the various types of agenda control. If agenda control is divided between different agenda setters such as the committee commanding an exclusive jurisdiction to report a bill to plenary, or to withhold it for good, and other agenda setters such as the plenary majority, the transaction costs of getting legislation eventually passed are very high (see Figure 1.1). If, however, agenda control is vested in, and exercised by, a single collective actor such as a party commanding a secure majority in the house, the costs of passing legislation are substantially reduced.

Any increase of centralised agenda control must, by the logic of Landes and Posner, substantially reduce the transaction costs of passing and repealing legislation. As a corollary, legislation is more likely to be repealed after a change of government. As a further corollary, interest groups will change their behaviour and be more reluctant in lobbying for special-interest legislation because of the likelihood of quick repeal by a new incoming government in the following legislative term. Thus, Landes and Posner explicitly state that: "[...] a modest increase in the cost of enacting legislation could multiply many-fold the length of the period in which the legislation was expected to remain in force" (Landes and Posner 1975:869).

Therefore the accrued interest that lobbyists would get from the special privilege over many more legislative terms contributes to whetting their appetite to lobby for special-interest legislation. This demand, in turn, contributes to raising total legislative output because Landes and Posner see legislation as exclusively driven by the "demand side", i.e. the ever-present pull from well-organised groups lobbying for particular material benefits or special regulatory privileges. Thus, the prediction follows that a rise in transaction costs - for example by a lowering of agenda control - will, via increased demand, push up legislative output.

To an economist this argument may appear singularly counter-intuitive, i.e. that an increase in costs should raise the demand for the commodity sought by the buyer, in this case by well-organised interest groups pressing governments and legislatures to pass special-interest bills. No matter how counter-intuitive the argument is in terms of economic theory, two economists have recently rediscovered and adapted Landes and Posner to the study of legislatures across the states

of the USA (Crain and Tollison 1990:20 ff., 99 ff., 101 ff.). First-generation public choice theories of the legislative process such as the "Interest-Group Theory of Government" focused exclusively on the demand side of the legislative process. They assumed all legislation was driven by demands from well-organised small interest organisations being able to overcome their own free-riding problems of collective organisation. Later versions of the interest-group theory of government such as that of Sam Peltzman (1989) also included supply-side considerations of governments and parties reacting to anticipated voter responses when initiating legislation. It is to the "supply side" theories of law production that we now turn.

3.2 Why Legislatures Are Organised as Firms and not as Markets

"Traditional rational-choice theories of legislatures", Saalfeld summarises, "have viewed the chamber as a market in votes. Deputies are in constant search for exchange partners and engage in *vote-trading*, also known as logrolling. Vote trading works because deputies' preferences are not equally intensive on each issue. They may give away votes on issues that have little impact on their constituency in exchange for votes on issues having a larger impact. Yet this model is marred by several problematic implications. It is inadequate to explain the working of parliamentary systems of government with strong parties" (Saalfeld 1995:51). Seen from the "supply side" of law production, legislation is not "sold" to well-organised interests offering money, but deliberately launched as a vote-winning device by reelection-seeking individual legislators and/or legislative parties. If the logic of collective action by Olson (1965) is applied to law production, it reveals a collective action dilemma.

3.2.1 Are Individual Legislators Predisposed Towards Oversupplying Particular Legislation?

Even if individual legislators are not seen as acting as the puppets of demands by interest organisations but are looked on as initiating bills to be enacted by parliament on their own volition, they may, for theoretical reasons, nevertheless be expected to oversupply particular legislation serving specific groups at the expense of general legislation geared towards the whole nation. Collective action assumptions were discussed by Cox and McCubbins (1993) in a specific study of party behaviour in the U.S. House of Representatives, but their reasoning and findings also have a far more universal theoretical significance.

In terms of Olson's (1965) theory of collective action, they extended the "free riding" problem to law production. In a nutshell, the logic runs as follows: "Because individual reputations [...] are essentially private goods, it is not difficult to explain why legislators undertake activities [...] that enhance their own reputa-

tions. In contrast, the party's reputation [...] is a public good for all legislators in the party"; and since "bills are enacted by majority vote in a large assembly, no individual legislator can credibly claim personal responsibility for providing the benefit" (Cox and McCubbins 1993:123). Therefore "unorganized groups of re-election-seeking legislators might overproduce particularistic-benefits legislation and underproduce collective-benefits legislation" (Cox and McCubbins 1993:125). Hence, the logic of free riding, a basic dilemma of collective choice, applies to law production.

If this theory is correct, any increase in the lawmaking facilities possessed by individual members of parliament without agenda control by party leadership would contribute not to an increase in control and oversight but to an inflationary increase of particular bills conferring special benefits to narrow constituencies. In the theoretical literature, this tendency, inherent in legislative institutions unconstrained by party discipline, has been referred to as the "law of the hammer" (La Spina 1987; Müller 1984:139 note 14). Institutional theory in legislative studies holds that similar to the child who, when given a hammer suddenly discovers that everything needs pounding, individual legislators will make use of the instruments for lawmaking given them in their best-considered rational self-interest by initiating a great many particular bills if the rules of procedure allow it.

Of course, as we all know, legislators may not be "single-minded" in their pursuit of reelection. "The possible goals of rational legislators are many, including re-election, internal advancement, 'good' policy, social prestige, advancement in the hierarchy of political offices, and so forth. Many studies, however, concentrate on the re-election goal, noting that re-election is typically necessary to satisfy other plausible goals" (Cox and McCubbins 1993:109). Hence, legislators may be modelled as actors pursuing re-election goals and eventually compromising on the other goals they might have.

As a collective dilemma, the possibility of conflict arises between self-interest (as postulated by rational choice theories) and collective interest, a tension that occurs whenever human beings join forces to produce a "collective good". No matter how publicly motivated by "good" policy, self-interest is finally likely to rule supreme as envisaged in the spirit of the intellectual forerunners of contemporary rational choice: "Les vertus se perdent dans l'intérêt comme les fleuves se perdent dans la mer" ("Virtues become lost to self-interest like rivers that vanish into the sea") (De La Rochefoucauld [1665] 1969:maxim CLXXI).

3.2.2 Will Party Leaders Acting as a "Legislative Leviathan" Promote the Supply of General Legislation?

Governing parties, seen in analogy to the economic theory of the firm, do not so much launch legislative policies to extract money from interest organisations as

they are teams producing laws for reelection purposes. The theory of the firm upon which Cox and McCubbins base their theory of legislative parties explains how collective action dilemmas, notably "shirking" and "free riding" can be alleviated by establishing a monitor as a political entrepreneur in analogy to economic production. Legislatures, like business firms, are not organised as markets but as a single firm engaged in team production and economising on transaction costs (Weingast and Marshall 1988). This theory of the firm is much better suited to explaining observable behaviour in law production based on rational choice premises than the market model of the interest group theory of government.

Analogous to the theory of the firm, political parties can help to overcome collective action dilemmas by acting as "privileged groups" in Olson's sense (Cox and McCubbins 1993:134 f.). Mancur Olson calls those groups where at least some members have an incentive to see that the collective good is provided, even if they have to bear the full burden of providing it themselves, "privileged groups" (Olson 1965:49-51, 35). Olson's logic of a "privileged group" can be applied to the leaders of parliamentary parties. Thomas Saalfeld aptly summarises this argument: "As party leaders need to appeal to a relatively heterogeneous constituency in the country as well as in the party, they are interested in securing collective-benefit legislation which increases the party's overall popularity" (Saalfeld 1995:54).

Firms are established to monitor members engaged in team production to prevent opportunistic behaviour. In Thomas Saalfeld's words:

> In analogy to these economic theories of the firm and political entrepreneurship, Cox and McCubbins argue that the party leadership is such a "monitor". In the economic theory of the firm, monitors make sure that team production will be increased and 'shirking' reduced. The central authority prevents free riding on the party's popularity and, as a corollary, an underproduction of acts providing collective benefits as well as an overproduction of narrow regional or special-interest benefits through the legislature. The overall efficiency of the law-making firm will, therefore, be increased (Saalfeld 1995:54 f.)

This agent, aptly called a "leviathan" by Cox and McCubbins, differs from the leviathan envisaged by Hobbes in that its monopolistic decision-making power is liable to a periodic voluntary renewal. Full advantage of law production by a legislative firm monitored by an elected agent can, however, only be taken if the crucial influence of agenda control is introduced into law production.

3.3 Procedural Agenda Control: A Key for Law Production

Cox and McCubbins assume that a party leadership striving for elective office gears its reelection motives not to narrow constituency or functional groups but

to broadly encompassing general interests. Existence of such a monitor as a "privileged group" in the sense of Olson, acting as a "legislative leviathan" to solve collective action dilemmas, is, however, only a necessary, and not yet a sufficient condition for more collective-benefit than particularistic-benefit legislation to be produced. The argument will be made here that, firstly, a "legislative leviathan" may best be conceived as a "natural monopoly" in law production and that, secondly, procedural agenda control reduces the transaction costs strongly enough so as to induce this monopolist to produce laws that are both general and conflictual.

3.3.1 Parliamentary Government Acting as a Natural Monopoly

Monopoly aspects of government behaviour have been emphasised in the political economy literature by various authors (Breton 1974; Anderson and Tollison 1988; Crain, Holcombe and Tollison 1979). If the government majority and the legislative majority (meaning the legislators acting cohesively to pass bills) are identical, as they usually are in parliamentary systems, this majority "is the single producer of political decisions. This majority coalition is analogous to the single firm in a natural monopoly" (Crain, Holcombe and Tollison 1979:54). A legislature is likely to act as a firm engaged in team production to produce laws and not as a market where individual bills are "sold" to interested groups for particular support or outright bribes.

Anderson and Tollison (1988) who talk in an essayistic mood about monopoly law production think in terms of the "demand side" of law production and do not therefore really apply the calculus of monopoly production by a single firm to their argument. Substituting the seeking of electoral support for monetary remuneration in exchange for bills therefore is an important qualification suggested by Christian Henning in his application of monopoly theory to law production (see Chapter 19 of this book).

To make the standard model of the production of goods under monopoly conditions applicable to law production at least three modifications must be included:

1. The costs for the monopolist of producing additional bills over the legislative term, i.e. the marginal costs, increase towards the end of the legislative term.

In parliament, which is constantly pressed for time, the marginal costs of producing additional laws, even for a monopolist, can not be modelled as remaining constant over time, but are bound to rise as the legislative term progresses. This is an important qualification of the argument made by Crain and Tollison, who, contrary even to standard economic theory, assume marginal costs to be constant rather than increasing (1979:54 f.). Time is always a scarce resource in the procedure for passing legislation. In the large majority of political systems, pending

bills lapse at the end of the session or legislative term if not passed (see Table 7.7). As a result they must be reintroduced all the way back at the start of the "legislative obstacles course" (Olson 1980:350 f.). With time running out as the legislative term proceeds, the marginal costs of producing additional laws should increase.

2. The marginal costs for producing additional laws differ widely for conflictual and for nonconflictual bills.

There is a lot opposition parties can do in some but not in all systems to delay or even "kill" bills if they are not passed before the end of the legislative term. Only if there is consensus between government and opposition are the transaction costs of passing bills low. Opposition parties may, for example, extend debate over a conflictual bill by occasional filibustering which is possible in Finland (Arter 1984:280). They may delay final voting and prolong publicity-rousing debates in parliament by putting up amendment proposals that have to be debated under the watchful eye of a sensitive public.

3. Agenda control provides the monopolist with an incentive to consider producing bills that are both important and conflictual.

We have to distinguish analytically between two forms of agenda control: the one political and the other structural. Relying on party discipline over its supporters in parliament, a government may politically speed up procedures by interpreting the rules and by voting down procedural obstacles set up by opposition parties. However, even if a government can rely on party discipline ruling its backbench members, there are structural differences in the extent of minority rights and suspensive veto powers possessed by the opposition in the legislative game. Even if the government may, in principle, vote down opposition objections, there is still much that the parliamentary opposition in some countries - but not in all, and highly variable across countries - can do to slow down, or even forestall, the passage of government legislation. Due to wide variations in agenda-setting prerogatives not all governments may control the procedures for passing legislation equally. In practice these variations show up far more across countries than they do as changes within a single country over time.

Most legislation in all parliaments will be of a routine administrative nature, being passed consensually with the tacit or open consent of the opposition parties. Agenda control matters for only a minor part of all bills, i.e. for contentious legislation that really changes the status quo in a decisive way. It is rational for parliament and government, both constantly pressed for time, to delegate routine technocratic solutions to extra-parliamentary commissions and to approve such an arrangement "on the nod" in the chamber without party conflict. Indeed, it was Schumpeter, the mastermind behind a rational choice theory of party competition, who suggested that political democracy did not require all decisions to be made

by the political method of party competition and majority rule (Schumpeter [1942] 1950:292). This rationale, however, only applies to those instances when technocratic consensus prevails.

In cases where even the best possible knowledge of the time may not offer a solution and academic schools of thought are widely split, it is up to the "political method" of majority rule to arrive at a decision rather than wavering with no decision at all. If experts disagree about the likely impact of new technology as they usually do, then decisions about future policies must be made under uncertainty. In the absence of secure knowledge about the cause and effects, it can not be foreseen for sure whether the process of destruction of the status quo will cause irreparable damage or be "creative" as envisaged by Schumpeter. This situation, where politics has to make a decision without perfect information on the likely effects, has been described by Fritz Scharpf as "cognitive conflict" among the best possible experts in a field (Scharpf 1987, 1991:53 f.)

If the government commands strong instruments of agenda control it may pass additional conflictual bills at low marginal costs even towards the end of a parliamentary session. Failing this inducement, there are many attractive alternatives at the discretion of parliamentary government other than producing conflictual and significant legislation. As a monopolist in law production, it may take any measure it thinks fit.[3] Not only may it choose whether to produce laws or instead take recourse to government regulations. "In most systems, the choice of how many bills a parliament will consider is made by the government. The chief executive can decide whether any given matter will be submitted to parliament or would be better accomplished internally through executive decrees or agency regulations. A government will use the parliament for those matters that it considers of major importance and wishes to symbolize to the whole population. Matters of lesser importance would be handled internally by the executive branch" (Olson 1980:17 f.). We must assume that disciplined parliamentary government, when pondering the utility of producing an additional bill, will, for reelection purposes, prefer a conflictual bill to a routine administrative technical bill.

3.3.2 Predictions About the Impact of Agenda Control on Legislative Output

Predictions can be derived from Figure 1.2, which graphically represents what can be inferred from the standard model of monopoly production with respect to the above modifications.

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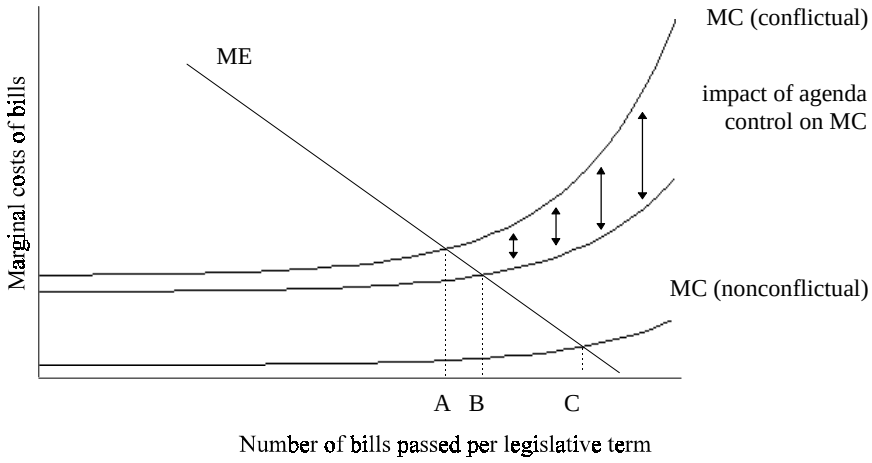
3 The wide array of amazingly varied legislative instruments that a government in monopoly position may employ is shown by comparative legal scholar, Georgios Trantas, in Chapter 20 of this book.

We must introduce two different curves for the marginal costs of producing additional bills, one for nonconflictual and one for conflictual proposals. The marginal costs of conflictual bills are far higher than those for the nonconflictual type because of the minority rights the opposition may use. However, procedural control of the agenda will substantially lower the marginal costs of these conflictual bills. In this simplified scheme, the impact of agenda control on the marginal costs of conflictual bills is graphically illustrated by the area marked by arrows. Now, if we assume that any monopolist chooses the optimal number of laws to be produced at the intersection of marginal costs and marginal utility, we should expect a government in command of procedural control of the agenda to produce more conflictual bills (at point B in the diagram) in comparison to a government, elsewhere, with far fewer procedural means of agenda control at its disposal (point A in the diagram).

Thus, a government with little or no procedural agenda control at its disposal may only pass few conflictual bills at point A, whereas a government with agenda prerogatives in parliamentary procedure will produce more conflictual bills at the point B of the diagram. The output of nonconflictual bills might still be even higher because point C of the diagram with its low marginal costs for uncontentious measures is further to the right. However, since a government

Figure 1.2: The Impact of Agenda Control on Law Production (Simplified Scheme)



MC = Marginal costs
ME = Marginal evaluation
I am indebted to Martin Weiß for suggesting and drawing this graph.

acting in monopolistic equilibrium may substitute conflictual for nonconflictual bills, a substitution effect may lead to the apparently paradoxical, though theoretically striking prediction as follows:

> *Due to its control of the agenda, the more a government can easily afford to enact bills, the fewer bills (point B in comparison to point C) it is actually likely to pass. Yet presumably the more conflictual these bills will be (point B in comparison to point A).*

From institutional economics it can be predicted here that most governments adjust their calculus of law production to the degree of agenda control the rules of procedure concede them. Given the importance of agenda control, an inverse correlation of government control of the agenda and total legislative output is not at all paradoxical, but a logical consequence of law production by government acting as a natural monopoly. Agenda-setting prerogatives as laid down in the parliamentary rules of procedure are the trigger inducing the monopolist in his own

electoral self-interest to produce a mix of bills which has a high proportion of general, significant and conflictual bills.

This logic of law production has been sketched out here as plausibly as possible. Later in Chapter 19 of this book, Christian Henning, not only a political scientist but also a trained economist and mathematician, will check by means of formal modelling whether the intuitively plausible actually holds true when subjected to stringent mathematical scrutiny. He shows by way of comparative statics in Chapter 19 that the substitution effect of conflictual for nonconflictual bills may, indeed, be triggered by agenda control. This line of reasoning that sees parliamentary government as a natural monopoly in law production stresses the crucial importance of agenda control as a key explanatory variable in a transaction cost argument. As Cox and McCubbins also use transaction cost arguments, the suggestions presented here do not quarrel with their promising theory of legislative organisation and law production but hopefully take it a stage further.[4]

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2

Parliamentary Government and Legislative Organisation[1]

Kaare Strøm

The wave of democratisation that has successively swept Southern Europe, Latin America, and Eastern and Central Europe, has renewed interest in constitutional design. In designing new democratic constitutions for existing or new states, both political scientists and politicians have focused on how to create and redistribute authority in popularly governed societies. More specifically, many have debated the merits of parliamentary versus presidential democracies. Parliamentarism, frequently called a system of "fused" powers, is the form of constitutional democracy in which executive authority emerges from and is responsible to legislative authority (Lijphart 1984). Constitutions based upon the principle of parliamentary government typically embody the principle of popular sovereignty, and the people directly elect only the legislative branch. Under presidential government, on the other hand, the legislature and the chief executive have separate elections and share legislative powers.

Parliamentary Government and Democracy

In the academic debate over these fundamental principles, parliamentary democracy has won widespread support. Students of Latin American politics have decried the inefficiencies and coup-proneness of presidential government, which they have contrasted unfavourably with parliamentarism (e.g., Linz 1990; Mainwaring 1990). Critics of United States public policy have attributed the rigidity, inefficiency, and wastefulness of the system to the separation of powers embodied in its presidential constitution (Weaver and Rockman 1993). The British civil

1 This chapter was written in part while I was a William C. Bark National Fellow at the Hoover Institution on War, Revolution and Peace. I thank Hoover for its support and Herbert Döring, Keith Krehbiel, Wolfgang C. Müller, George Tsebelis, and Mark Williams for valuable comments.

service, in comparison, seems much less hamstrung (Moe and Caldwell 1994). But while many critics of presidential government have advocated parliamentary democracy for emerging democracies, few have addressed the specific nature of their parliamentary prescription. Even a cursory glance at the real world of parliamentary democracy reveals a wide range of variation (see, for example, Lijphart 1984).

My purpose in this chapter is to shed some light on those constraints that derive from the organisation of the legislature itself. In my discussion of these effects, I shall draw on the "neo-institutional revolution" in political science (Moe 1984, Shepsle 1986 and 1989). Long frustrated by the discrepancies between appearance and reality in legislative politics, political scientists have recently returned to these issues of representation with a new and promising bag of tools. The analysis of legislative politics has in recent years been revolutionised by the application of rational choice models, and particularly by models based on the emerging neo-institutional literature in economics. The "neo-institutional revolution" in formal theories of politics holds great promise for more realistic theories of legislative behaviour, government coalitions, and parliamentary democracy in general.

My more specific objective here is to show how a neo-institutional approach to legislative organisation can help us understand the challenges that parliamentary democracy poses. I shall first discuss parliamentary democracy and then, more specifically, the functions parliaments (or legislatures) play in such systems, namely those of providing consistent policy choice and implementation. I shall also outline the analytical difficulties of dealing with these issues. The following section introduces the neo-institutional approach to legislative organisation and its rationale. I then introduce the notion of privileged groups and the conceptual framework with which I analyse them. Subsequent sections use this framework to examine the effects of legislative organisation on legislation and implementation. I conclude by briefly reconsidering the thesis of the decline of parliament.

Parliamentary Democracy

Let me at the outset clarify the concepts by which I shall address the above issues. The terms parliamentary democracy and parliamentary government are often used interchangeably. It may be useful, however, to distinguish between a narrower and a broader institutional conception. I shall use parliamentary government to refer to the institutional arrangement by which the executive is accountable, through a confidence relationship, to the parliamentary majority. By parliamentary democracy, on the other hand, I mean a system in which the popu-

lar majority, through its elected representatives in the legislative branch, effectively controls public policy. Whereas the former term, then, is more narrowly descriptive of a specific institutional arrangement, the latter is broader and arguably laden with more normative connotations. Parliamentary democracy, then, means popular sovereignty, exercised through the people's elected representatives.

In its original form, parliamentary government is majoritarian, or Westminsterian, in Lijphart's (1984) influential conception. The belief in the unfettered rule by the popularly elected majority lies at the heart of the tradition of parliamentary government.[2] The Westminster tradition of parliamentary government is at heart a tradition of parliamentary supremacy, with the legislators accountable only to the people. As Verney observes, "the political activities of parliamentary systems have their focal point in parliament. Heads of state, governments, elected representatives, political parties, interest groups, and electorates all acknowledge its supremacy" (Verney 1992: 46). Without majority (or at least plurality) elections and two-party systems, parliamentary dominance seems a much more dubious principle. Continental democracies, with rules closer to unanimity and frequent cabinet coalitions, do not always aspire to Westminsterian parliamentary government. Such constitutions may subscribe to the notion of parliamentary government as a system of fused, or unified, government, without fully endorsing parliamentary supremacy.

Let us, however, consider the implications of parliamentary democracy in its strongest form. Given such lofty ambitions, legislatures must serve several political functions. One, of course, is the crafting and passage of laws and budgetary appropriations. As Bagehot already insisted, this may not be the only or even the predominant role of parliaments: "The main function of the House of Commons is one which we know quite well, though our common constitutional speech does not recognise it. The House of Commons is an electoral chamber ..." (Bagehot [1867] 1990: 36). Thus, parliament has a critical role in selecting and overseeing the executive branch. In its pure form, parliamentary democracy means that the members of the executive branch (or at least the cabinet) must also be legisla-

2 This belief, which may today seem naive, was certainly widely held during the democracy debates many European countries experienced around the turn of the century. Norway is one example. "All power in the halls of the Storting" (the Norwegian Parliament) was the battle cry of the Norwegian Liberals, as they imposed parliamentarism. Their opponents, a Swedish king and a domestic bureaucracy, were committed to the separation of powers principles embodied in the 1814 Constitution.

tors.[3] It also implies that parliament is the locus of executive decision making (though not necessarily routine implementation and administration). As Beer puts it, "one of the oldest conceptions of the role of Parliament is that of controlling and restraining the executive" (Beer 1990: 71).

Two key factors determine the degree to which the will of the people can be expressed through the institutions of parliamentary democracy: (1) the degree to which legislators can make consistent policy choices, and (2) the degree to which they can implement these decisions once they have been made. This chapter discusses the limitations democratically elected legislatures face under parliamentary government in these respects.

Consistent Policy Choice

One of the challenges of parliamentary democracy lies in the problem of coming to joint and consistent decisions. We noted that parliamentary democracy is founded on the idea of popular sovereignty. In a populist interpretation, this means that representative bodies, such as a parliament, have the task of expressing the voice of the people, or a Rousseauean general will. As William Riker noted, medieval democrats sometimes talked of the voice of the people as the voice of God (Riker 1982:11-12). Thus, populist democrats stress the sanctity of the voice of the people.

Typically, however, the people do not and cannot speak with one voice. Or, even if the people can reach agreement, their representatives cannot. There are two challenges to the ability of legislators to express consistent preferences. One is the possibility that the legislature may be divided against itself, in that various privileged subgroups (e.g., different chambers) may have systematically different preferences (see Tsebelis and Rasch in this volume). I shall discuss the related issues of veto groups and legislative organisation below. But the problem of policy consistency may be even more severe if no privileged group exists. The more fundamental problem lies in the vagaries of preference aggregation in any group.

3 Real-world parliamentary democracies vary in the extent to which they embody the principle that cabinet members must be parliamentary representatives. In fact, some systems make memberships in both branches of government incompatible. However, such restrictions are most fruitfully considered to be modifications of the parliamentary principle (Hernes and Nergaard 1989).

Preference Aggregation

To speak of a political agent as behaving rationally is to attribute a certain consistency and reasonableness to that agent's behaviour (see, e.g., Tsebelis 1990). While many political scientists would be willing to make this assumption about individuals, it becomes much more troublesome with respect to groups. Preference aggregation problems concern the ways in which a group preference can be inferred from the preferences of individuals, such as legislators. While we may be able to speak straightforwardly of a person as having complete and transitive preferences over a set of alternative outcomes, the same may not be true with respect to groups such as legislators. The social choice literature is replete with such problems. A simple and striking illustration is the well-known Condorcet paradox, of which McLean (1982) provides the following example from legislative politics.[4]

In 1976, the Liverpool City Council was divided three ways, with none of the three parties - Labour, Liberals, and Conservatives - in possession of enough votes to control the council on its own. Yet, any coalition of two parties would have enough votes to prevail against the third. One issue facing this council was what to do with a land property that the city owned. There were three potential land uses: (1) to landscape the area and preserve it as public open space, (2) to build public (council) housing on it, and (3) to sell it off to land developers for private housing. Table 2.1 shows how each of the parties ranked these options in orders of preference. The Liberals' most preferred solution was the open space, whereas private housing development was their least preferred outcome. The Labour Party, on the other hand, would most like to see public housing and ranked the open space option last. Finally, the Conservatives' first choice was private housing and their last choice public housing.

Table 2.1: Voting Cycle in Liverpool City Council

Preference Order	*Party*		
	Liberals	*Labour*	*Conservatives*
Best	Open Space	Public Housing	Private Housing
Middle	Public Housing	Private Housing	Open Space
Worst	Private Housing	Open Space	Public Housing

Source: McLean (1982:87)

4 McLean attributes this example to Michael J. Laver.

If we pair these options off against each other in majority voting, a paradoxical outcome results. The open space option beats public housing (by the votes of the Liberals and the Conservatives), and public housing beats private housing (by the votes of the Labour-Liberal coalition). We would expect, then, that open space would also beat private housing. Oddly enough, however, private housing beats open space (because of the preferences of Labour and the Conservatives). This voting cycle shows how collectives, such as a city council, are unable to come up with a transitive preference ordering, which is a requirement of rationality. In other words, collective irrationality exists even when each individual (or at least party) is rational.

Parliaments, of course, are no different from city councils in this respect, and the voting cycle that occurred in Liverpool could just as well happen in any parliament. And the voting paradox that bears Condorcet's name represents a much larger class of preference aggregation problems. Indeed, the Condorcet paradox is a particularly strong case, since it shows that cycling, or the lack of a "Condorcet winner" (one that can defeat any other option in pairwise majority voting) can occur with as few as three players and three alternatives. Subsequent studies have shown that the likelihood of collective preference cycles increases with the number of players and with the number of ordered outcomes (Niemi and Weisberg 1968; Riker and Ordeshook 1973).

Extensive social choice research in the 1970s and 1980s established several very general "chaos" or "impossibility" results, the thrust of which is that in n-dimensional policy spaces, where there is no Condorcet winner, there is no point in policy space that cannot by majority vote be defeated by some other point (McKelvey 1976). Social choice theorists soon recognised that McKelvey's result was devastating for their conventional approach to group decision making. Absent any restrictions on the process of deliberation, such situations could produce endless voting cycles in legislatures in which any alternative could be defeated by some other option by majority vote. The upshot would seem to be endless instability, with no credible equilibrium.

Overwhelming as these theoretical results were their behavioural implications, however, seemed singularly implausible. Decision making in legislatures and other political organisations appeared a lot more stable and predictable than the chaos results would have us believe. This apparent mismatch between the map and the terrain provided much of the initial stimulus for the new institutionalism. Before we turn to those developments, however, let us consider the second critical stage of parliamentary democracy: policy implementation.

Implementation

The challenges to legislators do not end when a policy choice has been reached. Then begins the arduous task of ensuring that their joint decisions are brought to fruition. Obviously, legislators cannot personally collect taxes, enforce regulations, or funnel resources to all the ultimate recipients of government largesse. For these purposes, they need a system of implementation which leaves these specific tasks in various other hands. For the legislators, it is then imperative to designate individuals and organisations who will execute these policies effectively and in accordance with the legislative will. In other words, legislators need to delegate authority.

The hallmark of parliamentary democracy is that constitutional authority is delegated through a single chain of command. Parliament delegates authority to a prime minister (or chancellor, etc.), who in turn selects a team of cabinet members with specialised tasks. Each minister in turn leaves implementation to a bureaucracy of civil servants. Typically only the legislative branch is directly elected by the people (the ultimate principals).

All other agencies are thus responsive to the elected representatives of the people through a single command structure. In presidential regimes, on the other hand, there may be overlapping jurisdictions and mutual checks and balances. Each government agency may be accountable to multiple bodies (principals), while each of the latter institutions may in turn oversee many agents.

Parliamentary democracy reflects an optimistic view of the possibility of human self-government and popular sovereignty. Naturally, the popular will does not always seem so powerfully present in the day-to-day politics of parliamentary democracies as this picture would suggest. And, paradoxically or predictably, parliamentary democracy has come under the most severe criticism in systems where these principles have actually been practised. Lamentations over the decline of parliament (Bryce 1921; Beer 1990) have been particularly insistent here. The contrast between formal power and actual impotence seems particularly striking for legislatures built on the Westminster model of parliamentary democracy and supremacy. The people's representatives seem curiously and frustratingly constrained in their critical role as agents of the popular will.

Scholars steeped in the parliamentary tradition have often taken a dim view of the likelihood of faithful implementation. The effectiveness of parliamentary delegation has been widely doubted. According to Beer (1990), for example, legislatures have lost much of their power through the development of rigidly cohesive and disciplined political parties. The underlying cause of this development was "the increasing specificity of the essential government decision" (Beer 1990:65), which again had led to an immense increase in the quantity of delega-

tion from the legislature to the executive branch. Grosser (1963:234) similarly saw the cause of the decline of European parliaments in dependence on several outside sources of information: the executive branch, the party, and interest groups. These dependencies, he concluded, have led to a situation in which "European governments are clearly less 'parliamentary' than the government of the United States" (Grosser 1963:242). Finally, Bracher (1963:248) observed that the complexity of modern industrial society "threatened to undermine the competence and decision-making ability of the individual member of parliament, to strengthen at the cost of parliament the power of committees, experts and the bureaucracy of executives and to lead toward an undermining of the parliamentary system of government from within".

Constraints and Institutions

This is the background against which legislative scholars have once again turned their attention to political institutions, which had largely been neglected since the behavioural revolution of the 1950s and 1960s (Shepsle 1989). On the one hand, the problem was how to account for stable choices in the face of the limitless opportunities for instability. On the other, the problem was how to understand parliamentary delegation to the cabinet and the rest of the executive branch. Does it imply parliamentary abdication of policy responsibility? If so, why would rational parliamentarians so willingly emasculate themselves?

Constraints

We can approach both questions through the notion of constraint. Constraints are limitations on what legislators or their agents in the executive branch can do. More formally, a constraint is any restriction on the set of feasible outcomes that is beyond the short-term control of the players (Strøm, Budge and Laver 1994). Constraints on parliamentary behaviour may help legislators solve some of their policy instability problems. Constraints they are able to impose on agencies of implementation may enhance the prospects for effective delegation.

Not all constraints are equal. Douglass North distinguishes between informal and formal constraints. Informal constraints are "codes of conduct, norms of behaviour, and conventions ... that are part of the heritage we call culture" (North 1990:36-37). Formal constraints, on the other hand, "include political (and judicial) rules, economic rules, and contracts. The hierarchy of such rules, from constitutions, to statute and common laws, to specific bylaws, and finally to individual contracts defines constraints, from general rules to particular specifications" (North 1990:47). The difference between formal and informal constraints is one

of degree rather than kind. We can indeed see the whole family of constraints as a continuum from formal and general rules to informal and particular ones. The critical feature of constraints, however, is their enforceability. This is the criterion that best seems to separate North's formal from informal constraints and to give the former particular bite (see also Strøm, Budge and Laver 1994).

Parliamentary institutions, here meaning the structure and rules of legislative deliberation, could serve to prevent such legislative chaos or indeterminacy and thus to permit legislators to come to some closure on the issues before them. The analytical challenge was how to account for institutions in a rigorous, plausible, and systematic way that would allow us to understand their impact on legislative decision making.

The New Institutionalism

The new institutionalism in rational choice analysis emerged as a reaction to the poverty of the prevailing conceptions of social life in that tradition. The importance of political institutions, and their previous neglect, certainly have not gone unnoticed in the recent literature on legislative behaviour. Neo-institutional models share certain methodological features with all other rational choice models, namely stipulations of stable preferences, rational behaviour, and equilibrium analysis. We can think of these assumptions as the "hard core" of rational choice analysis (Lakatos 1970). Where neo-institutionalists differ from previous models is in their stress on the explanatory power of structures, rules, and procedures such as the ones regulating legislative behaviour and the relations between parliament and the executive branch. Neo-institutionalists aspire to describe the context of such behaviour in a game form which identifies the rules which (1) identify the players, (2) determine the prospective outcomes, (3) permit alternative modes of deliberation, and (4) govern the participants' revelation of preferences over allowable alternatives (Shepsle 1989:135). It is critical to neo-institutional models that the identity of individuals and the sequence of decisions matter. For example, we cannot properly understand legislative decisions by positing a body of undifferentiated and interchangeable members, any majority of whom can make a policy decision. Due to these assumptions, neo-institutional explanations increasingly employ extensive-form representations of non-cooperative games. These models allow structural features of the bargaining situation to be considered much more explicitly than previously. They also demand more reasonable accounts of individual behaviour.

The rational choice tradition has its origins in economics and much of the recent neo-institutional literature has evolved within the same disciplinary boundaries. Yet, the neo-institutional approach has gradually approached (some would say encroached on) the traditional turf of political scientists. Moreover, the theo-

retical building blocks of the economic neo-institutionalists - such as hierarchy, enforcement problems, and uncertainty - are ones that many political scientists find more familiar and plausible than the conceptual apparatus of traditional neo-classical economics.

Transaction Costs and Agency

Neo-institutional models diverge from neo-classical economics in the incorporation of transaction costs, i.e., in relaxing the assumptions of full information and costless exchange (Eggertson 1990:3-10). These assumptions can be viewed as components of the "protective belt" of the rational choice tradition. Transaction costs arise when individuals engage in exchange in situations where information and contract enforcement may be costly. According to Matthews (1986), transaction costs consist of the costs of arranging a contract ex ante and monitoring and enforcing it ex post. Whereas neo-classical economists traditionally ignored (or bracketed) transaction costs, these costs have recently been the focal point of a booming literature on the firm and industrial organisation. Transaction costs apply to many contracts between equals in economic markets and in some political settings. In politics, we are often interested in hierarchical exchange relationships involving power, similar to processes inside economic firms. A key characteristic economic and political organisations have in common is the delegation of authority from the individual or individuals in whom it was originally vested - the principal - to one or more agents (Jensen and Meckling 1976; Kiewiet and McCubbins 1991; Tirole 1986). Delegation allows such organisations to specialise and to fulfil their tasks at much reduced costs in time and money.

Agency Problems

Any delegation of authority creates the risk that the agent may not faithfully execute the intentions of the principal. This may be because the agent has interests and incentives that are not perfectly identical to those of the principal, and because the principal lacks the means (i.e., information and mechanisms of enforcement) to monitor every action the agent takes on his (or her) behalf. Delegation thus generates agency problems, driven by conflicts of interest, between those who hold the ultimate authority to make decisions and the individuals acting in their place. Agency losses, which are a form of transaction costs, take the form of omission, commonly known as "shirking", when the agent simply fails to act in the best interest of the principal, or commission, when the agent takes some positive action contrary to the will or interest of the principal. Agency problems are likely to be exacerbated under hidden action (principals cannot fully observe the actions of their agents) or hidden information (principals do not fully know

the competencies or preferences of their agents or the exact demands of the task at hand).

Containing Agency Losses

To safeguard against agency losses, principals engage in various forms of oversight of their agents. These oversight activities are costly to the principal, who therefore wants to maximise their efficiency relative to their cost. The literature on delegation identifies four major measures by which principals can contain agency losses: (1) contract design, (2) screening and selection mechanisms, (3) monitoring and reporting requirements, and (4) institutional checks (Kiewiet and McCubbins 1991). The former two are mechanisms by which principals seek to contain agency losses ex ante. Contract design typically seeks to establish shared interests, or incentive compatibility, between principals and agents, e.g., by giving the agent a cut of the principal's gain. Screening and selection represent efforts by the principal to sort out good agents from bad ones before entering into any relationship with them. The remaining mechanisms operate ex post. That is to say, they are ways to reduce agency losses after the contract has been made. Monitoring and reporting requirements force the agent to share with the principal information that the latter might not otherwise receive. Finally, institutional checks subject particularly critical agent decisions to the veto powers of other agents.

Agency relationships are highly relevant to legislative settings, as we shall see. For a variety of reasons, legislative majorities find it advantageous to delegate authority to internal and external agents. Internal agents may be such "privileged groups" (see below) as committees, party leaders, speakers, etc., whereas external agents may be found in the cabinet and throughout the various agencies of the executive branch. The resulting agency problems, and the ways legislators seek to solve them, provide a coherent and intriguing perspective in which to examine the critical issues of parliamentary democracy.

Legislative Organisation

In the great majority of modern legislatures, members are elected equal. That is to say, all members, regardless of, say, the pluralities by which they gained election, have the same rights and privileges as legislators. With rare exceptions, voting rules in legislatures are egalitarian and "undifferentiated", and each legislator's vote counts as much as that of any other. One person, one vote. Such egalitarian principles commonly go far beyond the final act of voting, and they are often enshrined in the constitution. For our purposes, though, what really matters is

that when the chips are down, on final votes, no member's vote is worth more than anybody else's. Fundamentally, then, legislatures are collegial, rather than hierarchical, organisations. They are unlike bureaucracies or military services, in which some individuals have the authority to give commands to others.

Yet, anyone with the slightest knowledge of actual legislatures could point out that in reality there are all kinds of differences between members. Such differences take two general forms: hierarchy (vertical differentiation) and specialisation (functional or horizontal differentiation). These forms of differentiation are rarely laid down in the constitution, yet they can be found with amazing regularity and in intricate detail. We can think of them generally as forms of legislative organisation. Krehbiel (1991:2) defines legislative organisation as "the allocation of resources and assignment of parliamentary rights to individual legislators or groups of legislators". Legislative organisation defines a set of privileged groups, that is, subgroups of parliamentarians with specific powers, and a set of procedures that specifies the powers of these subgroups with respect to the functions that legislatures perform.

Privileged Groups

I noted above that legislators are in general elected equal, with undifferentiated voting rights. Any organisational rule that violates this equality, or anonymity, essentially defines one or several privileged groups. But the magnitude of these privileges varies greatly. Let us first consider the most general strong forms of privileged groups, which are dictators, decisive groups, and veto groups. Weaker and more complex forms of privilege can then be derived from these pure types.

Dictators are groups that can unilaterally impose their will on the legislature. They can make legislative policy at will, and they can similarly prevent any change in the status quo. In other words, their consent is both necessary and sufficient for a legislative decision. Decisive groups have the votes or authority to produce legislative action, but they cannot necessarily prevent other groups from effecting action they do not like. Their consent, therefore, is sufficient but not necessary. Finally, veto groups can block any decision of which they do not approve but lack the power to impose their own preferences. Thus, their approval is necessary, but not sufficient. In legislatures as in many other social systems, veto groups are probably the most common type of privileged group.

Most privileged groups in legislatures have weaker powers than these. Standing committees, for example, can be overridden by a determined floor majority even under the decentralised procedure of the United States Congress. Party leaders can be defeated by their own backbenchers. But the powers vested in committees and parties make these undertakings costly, risky, and cumbersome.

The fascinating details of legislative organisation give rise to two kinds of questions, namely what their causes might be and what consequences they bring. In Shepsle's (1986) terminology, these are questions of equilibrium institutions and institutional equilibrium, respectively. Here, as in much of the literature on parliaments, we shall focus on the latter question, on the effects of legislative institutions. First, however, let us make a brief excursion to the former territory and consider why privileged groups exist in the first place.

First of all, however, a note of caution is in order. Neo-institutional analysis holds two important lessons for the study of privileged groups in legislatures. One is that, in the analysis of institutional equilibrium, it forces us to take seriously the rules under which legislative politics is played out. In other words, if we wish to claim that a particular privileged group has dictatorial or veto powers, we need to identify the rules that allow this group such influence. Moreover, these rules must be enforceable. That is to say, the threats upon which such powers rest must be credible. For example, if we wish to argue that the threat of parliamentary dissolution gives a majority party prime minister dictatorial powers, then we need to show that a prime minister would actually rationally exercise this power if challenged. If, instead, the prime minister might back off from such a threat, e.g., because of unfavourable polls, then we cannot ascribe dictatorial powers to him (or her).

Secondly, the neo-institutional approach teaches us to search for equilibrium institutions. That is to say, we should seek to understand the rationale of the rules from which privileged groups derive their powers. In the larger picture of parliamentary government and legislative organisation, rules and structures are themselves endogenous, something to be explained. That does not mean, however, that we can infer that whatever rules we observe must be majority-preferred for whatever choice situation we are considering. Rather, it means that we should expect all rules adopted by a majority of the legislators themselves to serve some anticipated, past or present, collective purpose.

The Rationale for Legislative Organisation

Most forms of legislative organisation are not constitutionally mandated. Some forms of it may be embedded in ordinary statute law, but typically most features of legislative organisation are simply rules the assembly has adopted for itself, and which it may terminate at will. How do we explain such forms of discretionary legislative organisation?

As Krehbiel (1991) points out, there are two main classes of theory about legislative organisation: distributive perspectives on the one hand, and informational ones on the other. Distributive explanations of legislative organisation focus on gains that legislators can have from trades with one another. This literature de-

picts legislators as involved in collective choices that involve both conflict of interest and some prospective gains from "trade" or cooperation. In other words, legislators typically find themselves in situations that are neither purely conflictual ("constant-sum") or "win-win". Hence, they often have an individual interest in logrolling, and frequently reach agreements that are collectively inefficient, so-called "pork-barrel" projects (see Baron 1991 for a survey).

The second perspective on legislative organisation is informational and highlights the limited knowledge with which parliamentarians approach their tasks. Many factors in the environment affect the relationship between parliamentary decisions and policy outcomes. Legislative initiatives frequently produce unintended and possibly undesirable consequences. But legislators can prevent some such effects through policy specialisation. If they coordinate their efforts for the purpose of gaining information, parliamentarians can sometimes all make themselves better off. The informational perspective thus stresses the possibility of mutual gain in parliamentary life.

Though the distributive and informational perspectives generate a number of conflicting hypotheses, they are by no means mutually exclusive. Indeed, we can more fruitfully view them as complementary ways of understanding legislative organisation. They highlight different, but not contradictory realities of parliamentary decision making. Whether the predominant motive is distributive or informational, the gains to legislators from cooperation lead them to devise the institutions we generically call legislative organisation. Let us now take a closer look at these institutions.

Parliamentary Structure and Privileges

All the different forms of privilege are embodied in familiar legislative procedures. Legislative deliberations are heavily institutionalised and subdivided, as even the casual student of such processes well knows. The most significant internal subdivisions that generate privileged subgroups of legislators are (1) divisions into separate chambers, (2) specialised committees, (3) party caucuses, and (4) leadership bodies such as presidents, speakers, and the like. These internal structures represent potential vehicles for legislative division of labour, although that, of course, may not be their only task.

Chambers

Modern parliaments are typically unicameral or bicameral, although before the introduction of universal adult suffrage tricameral legislatures were common, and Sweden and Finland even had parliaments with four chambers. Bicameral legisla-

tures may be symmetrical or asymmetrical, depending on whether the powers of the upper (and normally smaller) chamber equal those of the lower house (Lijphart 1984). In extremely asymmetrical legislatures, such as the British Parliament, the powers of the upper house are sufficiently insignificant that it poses no serious constraint on legislative decisions. The powerful chamber, then (in the British case, the House of Commons), is for all practical purposes a dictator, at least in financial matters. In more symmetrical cases, such as the Italian Parliament or the United States Congress, however, each chamber is effectively a veto group.[5]

Committees

Of all the features of internal legislative organisation, standing committees have surely received the most intensive and painstaking scholarly attention. In parliaments of the Westminster tradition, committees are in many ways microcosms of the larger legislature. The majority party/parties in the legislatures as a whole is also the committee majority, and it often controls all committee chairmanships. Committee members are a more or less random sample of parliamentarians who may have no particular expertise or interest in the policy area in which they deliberate. In continental European legislatures, however, committee chairmanships may be proportionately distributed among the parties, and committees may deviate significantly from the floor in terms of partisanship, expertise, and preferences. The latter practice makes it more likely that the preferences of these subunits will systematically differ from those of the parent body. The United States Congress is a hybrid of these two forms. It exhibits majority partisanship, but devolves authority extensively and fosters extraordinary specialisation and expertise.

There is a great deal of variety in the tenure, membership, and functions of legislative committees (see Mattson and Strøm in this volume). Some committees have permanent memberships and jurisdictions for an entire parliamentary term or more, whereas others are appointed on an ad hoc basis and dissolve after completing their tasks. Some committees have jurisdictions that closely reflect those of the various departments of the executive branch, whereas other parliaments structure their committees along very different lines. Some committees have purely legislative tasks, whereas others have budgetary, investigatory, administrative, and/or oversight functions as well. An unusual feature of the Italian parliament makes it possible for standing committees to legislate in their own right,

5 Each chamber need not, however, be a veto group on all sorts of legislative decisions. On cabinet and judicial appointments, for example, the United States Senate is a veto group, but the House of Representatives is not.

without having to report to the floor. This right is limited to legislation that is presumed to be unimportant, and thus explicitly exempts international treaties and constitutional amendments. Nonetheless, within the bounds of these rules, Italian committees are actually decisive groups within their respective jurisdictions.

Committees may perform a number of valuable functions for the parliamentarians themselves. There is general agreement that they provide a division of labour. Overwhelmed by the demands of policy making, legislators enter contracts with one another to divide up the necessary labour that goes into the various legislative functions. Early neo-institutionalist students of legislatures tended to take a demand-driven perspective on committees (Shepsle and Weingast 1994). Legislators, they argued, seek committee assignments that reflect their heterogeneous policy preferences, which in turn may derive from constituency differences. Members from farming areas would, for example, self-select for seats on the agriculture committee. Each committee would then obtain "property rights" over its jurisdiction. Committees would effectively divide the policy space into distinct and well-nigh exhaustive and mutually exclusive jurisdictions. In his analysis of Structure Induced Equilibrium (SIE), Shepsle (1986) shows how this arrangement may generate gains from trade and avoid preference cycles.

These distributive perspectives have been challenged by authors who have stressed informational aspects of the legislative process. Gilligan and Krehbiel, in particular, have reminded us that the legislative majority routinely chooses all committees powers and voting rules and similarly approves all committee assignments. If these powers and assignments systematically thwarted the majority's will, then rational members should not adopt them. Gilligan and Krehbiel see the benefits of committees primarily in terms of information. Even the most well-intentioned legislation occasionally leads to results that no one anticipated, and worse, that no one wanted. But legislators can mitigate some of these side-effects through policy specialisation. The members can reduce their uncertainty by allowing subgroups, such as committees, to specialise in particular policy areas. Specialised legislative committees can thus "capture informational efficiencies" and reap collective benefits. From the informational perspective, deference to committees on such matters as seniority privileges and restrictive rules does not reflect established "property rights", but rather inducements that the floor majority is willing to provide in exchange for useful information (Gilligan and Krehbiel 1989; Krehbiel 1991).

Parties

Committees are commonly one of the loci of power in legislatures. Political parties are typically the other. Even though the "evils of faction" are still widely de-

cried, few parliaments are truly non-partisan, and parties often play a dominant role in the parliamentary process. Though party cohesion varies cross-nationally, it is almost universally very high in parliamentary democracies.

Yet, the formal basis of party power is often very weak. Political parties typically have few formal powers in legislatures, unless they make up the legislative majority. They do not enjoy the same veto powers and agenda control as committees. They have no entrenched jurisdictions, and they typically have few informational advantages. Yet, legislative standing orders commonly give their leaders significant control of the legislative calendar and floor debate time. In the German Bundestag, party (Fraktion) members enjoy advantages compared with non-partisans with respect to legislation, and in many countries they reap the benefits of public party finance schemes.

Political parties have long been a curiously understudied feature of legislative organisation. The relatively scant attention the analytical literature has given to parties must at least in part be attributable to the Americanist biases of the neo-institutional political science community. Cox and McCubbins (1993) rectify this picture, however, in their analysis of American congressional parties as procedural and floor voting coalitions. Parties arise to solve various "collective dilemmas" legislators face, such as coordination problems, public goods, and externalities. Following Mayhew (1974), Cox and McCubbins see reelection as a particularly critical collective dilemma for legislators. Since voters often rely on party identification, legislators can benefit from the collective reputation their party label provides. At the same time, each legislator seeks to improve his or her prospects by tailoring the party line to local interests and by delivering particularistic (often "pork-barrel") benefits that the constituents value. The collective dilemma is that, collectively, such compromises debase the party label. The legislators seek to resolve this problem by delegating authority to party leaders empowered to enforce discipline on the members ("whip" them) to protect the party reputation.

Political entrepreneurs, such as party leaders, have three essential features: (1) they bear the direct cost of monitoring the legislators and enforcing cooperative behaviour (e.g., by "whipping" them), (2) they control selective incentives (individually targeted punishments and rewards) with which they can reward cooperative members and punish "defectors", and (3) they are paid, or rewarded for their services, perhaps through a residual claim to the benefits and perquisites the party can gain through elections and legislative decisions. The selective incentives party leaders have at their disposal may include private information, staff support, favourable committee assignments, access to the mass media, junkets, and various other perquisites.

Leadership Bodies: Speakers and Presidents

Like all other hierarchical bodies, parliaments must have leaders. Such individuals typically function as presiding officers of their legislatures, and they may enjoy many other significant or honorary responsibilities. Presiding officers are most commonly known as speakers or presidents. Legislative leadership offices may be individual or collective.

Leadership offices are sometimes defined by constitution, in which case they may play an exalted role, at least formally. Thus, the Speaker of the United States House of Representatives is second in succession to the presidency (after the vice president), and the president pro tempore of the Senate follows next. In Norway, the president of the Storting outshines the prime minister in formal protocol. In Sweden, the speaker of the Riksdag is constitutionally responsible for nominating the prime minister.

But these constitutional roles are rarely the key functions of the presiding officers of parliaments. The more pressing everyday obligation is to control the parliamentary agenda. That is to say, the speaker or president is typically in charge of scheduling bills for deliberation and otherwise arranging the parliamentary calendar. He or she may also be involved in other important coordination functions, such as (1) assigning members to committees, (2) assigning bills to committees, (3) discharging bills from committees, (4) selecting rules for floor debate, (5) administering the parliamentary staff, and (6) communicating with the executive branch (see Jenny and Müller in this volume for an empirical survey). During floor debate, the speaker (as presiding officer) is responsible for recognising members who wish to speak and for keeping members within their time limitations and within the bounds of parliamentary decorum.

The president/speaker may or may not exercise these powers in a partisan fashion (see Jenny and Müller in this volume). One extreme in this regard is the United States House of Representatives, where the speaker is the recognised leader of the majority party. At the other extreme lies the British House of Commons, where upon taking office speakers immediately renounce all partisan ties. Partisan speakers, of course, can be very important cogs in the party machinery discussed above (see Cox and McCubbins 1993). Non-partisan speakers must be understood differently, and their functions are often more modest. On the whole, however, we are only beginning to develop a good theoretical and empirical understanding of the role of legislative leaders.

Legislative Choice

Let us now examine how parliamentary institutions constrain legislators in their legislative choices and in the implementation of those choices. We shall see how the various institutional rules might, by design or otherwise, alleviate preference aggregation problems or transaction costs. I discuss these functions successively, beginning with legislative choice (including budgeting) and proceeding to implementation.

Parliaments, as we have seen, are divided internally into various subgroups, such as chambers, committees, parties, and leadership bodies. Legislative output depends on the powers vested in these subunits of parliamentarians. Legislative organisation is not simply a matter of what such substructures exist; what ultimately matters are the rights or authorities given to these units. Moreover, these rights are tied up with the sometimes arcane and complex rules by which the legislature does its work. We call these rules legislative procedure or process. We now turn our attention to these embodiments of the rights of privileged subgroups and other legislators.

Legislative Timetable and Calendar

It may be instructive to begin with the schedule parliaments keep. Even in this age of parliamentary professionalisation, there is no such thing as a full-time parliamentarian. Before the advent of mass politics, this was even less the case. Parliaments used to be in session for only a few months or weeks during the year, and they might not even have annual sessions. Today, annual sessions are the rule, and parliamentary life can be hectic and high-pressured. Yet, most parliaments are in recess for very considerable periods every year, typically during the summer. As Laver and Shepsle (1995) pointedly note, during the summer recess, parliamentary democracies are not, strictly speaking, even democracies. Certainly, their ability to effectively oversee the executive is severely reduced. When it is in session, parliament typically devotes certain times of the year to specific activities. The most notable of these regular occurrences, of course, is the budgetary process, for which parliaments generally never seem to have enough time.

While in session, parliament must allocate its time between floor debates, question time, committee deliberation, hearings, and other business. For each of these activities and subunits, there will be a more or less elaborate calendar. Floor debate in the United States Congress, for example, operates on a highly complex set of rotating calendars. The various legislative calendars may be more or less decentralised, and they may be more or less under the control of the majority or governing parties (see Döring in this volume). The effects of legislative calendars and timetables have so far been a seriously understudied topic.

Plenary Decisions

If we focus in on the legislative process that takes place within these parameters, it is useful to begin with the end of the legislative process, with the rules by which parliaments make binding final decisions on laws, appropriations, revenues, nominations, and whatever else comes under their jurisdiction. The general rule is that on final votes, members' votes are undifferentiated, which is to say that the principle of "one person, one vote" applies. Except for inter-chamber distinctions, otherwise influential groups (such as committees) are typically not privileged on final floor votes. Decision rules can then be defined numerically, that is, according to the number or proportion needed to make an authoritative decision (change the status quo).

Some form of simple majority vote is the norm, but this rule can be coupled with a quorum requirement. Parliaments vary as to whether they allow members to abstain and, if so, how abstentions are counted (see Bergman 1993). In some circumstances, absolute majorities are required, as in the constructive vote of no confidence in Germany and Spain. Most legislatures also employ qualified majority voting rules for some purposes, such as constitutional amendments or in some cases, rule suspensions (as with respect to clôture in the United States Senate). The legislative process in the Finnish Eduskunta was until 1992 another example[6]. The more restrictive the decision rules, the more legislators are constrained in their choices.

Symmetrical bicameral legislatures impose even tighter constraints, which have spawned a substantial theoretical literature, much of which grows out of social choice theory. Typically both houses have to agree for legislation to be enacted. The more the members of the houses differ in their preferences, e.g., because of different electoral systems, the more severe the effects of symmetrical bicameralism should be. One consequence might be to induce stable decisions in

6 Prior to 1992 minority groups had very powerful means to delay or - in practice - to stop government proposals or bills. Namely, before 1992 one third of all MPs could leave an adopted bill in abeyance until after the next parliamentary elections; or, more recently after 26 June 1987, the next parliamentary session; or, if a legislative proposal was left in abeyance during the last regular session of an electoral period, until the first regular session of Parliament following the election. This possibility applied in principle to all laws except constitutional amendments and certain exceptions expressively laid down in the Parliament Act. A bill left in abeyance could only become law if it was adopted unchanged by the new Parliament. After 1992 (28 August 1992), however, a legislative proposal can be left in abeyance only if "the proposal concerns a law which will reduce the statutory legal protection of incomes", as Section 66 of the Parliamentary Acts puts it. It remains to be seen how this is interpreted in practice. The (majority of the) Committee for Constitutional Law is the key actor here.

the face of voting cycles. Hammond and Miller (1987) claim that this was the intent of the American founding fathers, and specifically Madison. They show that for a two-dimensional issue space, bicameralism does indeed generate greater preference stability than unicameralism. Adding more institutional constraints, such as an executive veto power, lends even more stability to legislative decisions. Tsebelis (1993, 1995) shows that although Hammond and Miller's results do not easily generalise to more than two dimensions, policy stability does increase with the number of chambers (or veto players), with policy differences between chambers, and with policy agreement within chambers.

The precise effects of bicameralism depend on the institutional rules for resolving differences between the chambers. As Money and Tsebelis (1992) show, the most common way of resolving inter-cameral differences is the navette (shuttle) system, which means that bills are sent from one chamber to the other until agreement is reached. To keep this shuttling from going on indefinitely, constitutions typically impose some stopping rule, such as a conference committee or decision by a joint session. The precise nature of this stopping rule may have consequences for the power distribution between the chambers and consequently for the stability of legislative outcomes.

Debate and Amendments

Before they reach their final decisions, legislators typically debate bills in a plenary forum. The legislature must subsequently narrow down the set of possible options so that the decision rule it adopts can be applied in a sensible way. The main purpose of such voting rules is to aggregate preferences in a consistent, predictable, and non-perverse way. This may mean narrowing the options down to a binary choice, which in the final event may put a single proposal up against the status quo. This is the American amendment procedure, which has become highly codified. Consequently, legislators can anticipate its effects and engage in strategic manipulation. Other legislatures have more fluid and ambiguous voting procedures. In such cases, it may be more difficult for individual members to vote strategically, but the president/speaker, or whoever sets the agenda, may have greater opportunities for manipulation (see Rasch in this volume)

Legislatures again vary as to the options that get to be considered. In some systems, the government can insist on a reading of its bill, even against committee preferences. Under closed rules, no amendments may be offered. Other rules may privilege larger parties by allowing them to make amendments where smaller parties or individual members may not.

Deliberation and Mark-Up

Before legislators can make final decisions, bills must be reported to the floor, typically from one or several permanent or ad hoc committees involved in preparing the agenda. The most critical feature of committee deliberation is probably the stage at which it takes place. In the British tradition, committee deliberation follows the second reading in parliament, which is the major plenary debate on the bill's merits. Apart from the British Parliament, Denmark and Ireland currently follow this tradition (see Döring in this volume). In most other legislatures, committee deliberation precedes the plenary stage. Cooper (1970) details how the United States House of Representatives abandoned the British practice and in the process entrenched a system of standing committees. The main effect of the Westminster procedure is to favour any bill that can defeat the status quo. Where most bills are government bills, this gives the government firmer control of the legislative agenda.

As we noted above, both the distributive and the informational perspective recognise the influence of legislative committees in their respective areas of specialisation. Shepsle's structure-induced equilibrium analysis, however, makes the strongest claim. Committees, he argues, enable members to make credible commitments because these bodies gain "property rights" over specific policy areas. The members of the agriculture committee control farm supports, whereas the members of the national security committee are empowered to choose weapons programs. There are a variety of ways in which committees secure their legislative property rights. Their prerogatives include (1) exclusive power to propose policies within their jurisdictions ("proposal power"), (2) control over whether bills get reported to the floor for final deliberation ("gatekeeping power"), and (3) the power to make take-it-or-leave-it offers at the last stage of deliberation, such as a conference committee ("ex post veto power"). Each of these rights is a veto power, and their combination greatly constrains legislators.

Shepsle uses his SIE analysis to show how legislative decisions tend to converge to the ideal point of the median committee member in each policy area. If legislators with extreme preferences (e.g., "high spenders") self-select for committee memberships, then the dimension-by-dimension median may poorly represent the collective preferences of the legislature.

Krehbiel (1991), Kiewiet and McCubbins (1991), and Cox and McCubbins (1993) have, however, challenged these bleak analytical results, arguing that there are restraints on the self-selection of "preference outliers". Also, in reality the floor majority can circumvent committee veto powers by discharging bills from committee, refusing to assign bills to them in the first, changing the committee structure, etc. The degree to which floor majorities can credibly threaten to impose such sanctions is a question that has not yet been extensively studied.

Implementation

More than a hundred years ago, Bagehot already identified executive selection as the most important function of the British Parliament (Bagehot 1990; see also Cox 1987). The modern literature on parliamentary democracy reflects a similar emphasis on cabinet formation, or executive selection by the legislature, as a critical link in the democratic chain of command (see, e.g., Dodd 1976). Yet, this is only the beginning of the story of policy implementation, of carrying out the choices of the parliamentary majority. More specifically, it is the initial step of external delegation.

Delegation of authority through a single chain of command is a central feature of any parliamentary democracy. Parliament delegates authority to a prime minister (or chancellor, etc.), who in turn selects a team of cabinet members with specialised tasks. Each minister in turn leaves implementation to a bureaucracy of civil servants. Typically, the people (the ultimate principals) directly elect only the legislative branch. All other agencies are thus responsive to the elected representatives of the people through a single command structure. In presidential regimes, on the other hand, there may be overlapping jurisdictions and mutual checks and balances (see Shugart and Carey 1992). Each agent frequently serves multiple principals, while each principal may employ many agents. The critical challenge of parliamentary democracy is therefore to minimise agency losses in each chain of the delegation scheme. Different delegation regimes engender different agency problems.

As previously noted, the parliamentary principal has two forms of ex ante control: contract design and screening and selection, and two forms of ex post control: monitoring and institutional checks. We shall discuss these control mechanisms successively and focus on the direct relationship between parliament and the cabinet, at the regrettable expenses of the indirect relationship between parliamentarians and civil servants.

Contract Design

The "contract" in which we are interested here, is the set of terms on which the cabinet is allowed to take office, similar in a sense to the charters to which many incoming kings had to submit in the middle ages. The most critical features of the contract between legislators and cabinet members are typically embedded in the constitution or other fundamental rules regarding these agencies. According to the agency-theoretic literature, the purpose of contract design is to establish shared interests, or incentive compatibility, between principals and agents. In the economic realm, such incentive compatibilities may rest on profit-sharing schemes. Another solution, which offers a more direct analogy in politics, is

bonding, whereby the agent offers the principal some collateral as security against opportunistic behaviour (Eggertsson 1990:42).

Politically, incentive compatibility is in large part established through common membership in political parties. Cabinet members then know that their fate is tied up with that of the backbenchers who support them. If the voters reject their party, they all go down together. The stronger the requirements of partisanship on the part of cabinet members, the more effective this bond. Though cabinet member partisanship appears to be the rule rather than the exception in parliamentary democracies, there is interesting cross-national variation. Some regimes, such as Finland, more frequently experience non-partisan ministers than others, such as Britain.

We can also think of contract design as encompassing the rules by which cabinets come to office. On the whole, this process is less formalised than lawmaking. It is also one in which the legislature frequently plays only a passive role (see De Winter in this volume). Legislative subgroups are rarely actively involved in the process, with one exception: political parties. No other feature of legislative politics affects relations with the cabinet nearly as much as parties do. Coalition theorists take this constraint so much for granted that they typically model coalition bargaining as a game between unitary parties and do not even consider the problem of uniting the supporters of each party (see Laver and Schofield 1990:chapter 2). There are good empirical reasons to do so, of course. Indeed, parliamentary government and political parties were integral parts of the same historical development (Cox 1987).

Investiture Rules. The process by which a new cabinet is formed and installed can significantly affect coalition bargaining. Some constitutions, such as the Irish Constitution, subject the prime minister to election by direct majority vote in parliament. The rules in many countries, Italy among them, require any incoming government to present itself to the legislature and pass an investiture vote before taking office. As Bergman (1993) has shown, the rules of investiture vary and matter. Some constitutions require an absolute majority, others just a plurality. If abstentions are permitted, they may count for or against the incoming cabinet. In Italy, for example, abstentions on investiture votes effectively count in the government's favour. Thus in 1976 Giulio Andreotti's famous government of non sfiducia ("non-no confidence") was supported by no more than 258 deputies out of 630. Yet Andreotti comfortably gained office, since all but 44 of the remaining members abstained. In many parliamentary democracies, particularly those

shaped by the Westminster tradition, no formal investiture vote is required and the existing government remains in office until it loses a vote of confidence.[7]

The "constructive" vote of no confidence is a significant qualification of parliamentary democracy. Under this provision, found in the German and Spanish constitutions, a successful vote of censure must simultaneously propose an alternative government. Thus, a government can only be defeated by a coalition of parties explicitly prepared to take office together. Thus, the government cannot be dislodged by a "coalition" that is no more than a disparate gang of disaffected legislators, the kind of "snipers" (franchi tiratori) that have sometimes brought down Italian governments.

Recognition Rules. Another important feature of cabinet formation is the recognition rule, which specifies who will be asked to form governments, and in what order. Few constitutions make specific provisions in this area, but in some countries relatively clear conventions have evolved, such as giving the task first to the largest party, the party recommended by the majority of party leaders, or the party most responsible for bringing about the resignation of the previous government (see Hermerén 1976; von Beyme 1970). Sometimes, legislative presidents are formally or informally empowered to suggest or recognise candidates for the prime ministership. The clearest example is Sweden, where the Speaker of the Riksdag is responsible for nominating the prime minister. Only if a parliamentary majority actively and repeatedly rejects the Speaker's candidate, does the Riksdag revert to a different procedure.

Screening and Selection

This second form of ex ante control has many of the same consequences as the first. Screening and selection procedures aim to eliminate potentially troublesome cabinet members before they ever get into office. Again, political parties typically play a major role in this process. It is common for aspiring cabinet ministers to have served in one or more minor political offices before they get a crack at the "big time". In Britain, for example, upwardly mobile politicians typically serve several stints in junior office before they get a cabinet appointment. Prime ministers often have prior experience in other major cabinet offices, such as the Home Office or the Exchequer. Since World War II, the average prime minister has had 28 years of previous parliamentary experience. In countries with more

7 Obviously, all governments implicitly face an investiture vote whenever they first expose themselves to the possibility of a parliamentary no confidence vote. Yet, when no investiture vote is required, the "burden of proof" shifts to the opposition. And some parties may find it acceptable to tacitly lend their weight to a government they could not openly support in an investiture vote.

decentralised constitutions, such as Germany, executive experience from state (Land) government is often a most valuable credential for a potential chief executive. To some extent, prior service in legislative standing committees can also serve as an important credential for cabinet members. Thus, parliamentary committees may be privileged in executive recruitment also.

These common forms of ex ante agency controls impose notable constraints on executive decision making. The promotion of the party faithful, and the concomitant hierarchical ordering of political offices, bring to the top generalists rather than specialists. They also reward risk-averse individuals. Witness the glorious career of Jim Hacker in "Yes, Minister". The drawbacks can be measured in information costs, and the consequence is that cabinet ministers are often ill-equipped for the task of supervising their respective agents, the civil servants.

Monitoring and Reporting

Monitoring and reporting are the most visible ways in which legislators ex post supervise their agents in the executive branch. Armed with the ultimate sanction of the no confidence vote, and many subtler weapons, members of parliament can insist on active oversight. Question time, of course, is a particularly delightful way of exercising oversight, but the myriad of alternative forms includes legislative hearings, audits, and the efforts of specially appointed parliamentary commissioners ("ombudsmen"), and reliance on the watchful activities of interested third parties - so-called "fire alarm oversight" (McCubbins and Schwartz 1984). Whereas question time and other floor debates privilege political parties, hearings and investigations tend to take place within the confines of standing (or, in the British case, select) committees. Indeed, committees are probably the most critical feature of legislative organisation for monitoring purposes. All such activities are of course costly in time and attention, both for the watchful legislator and for the cabinet member under scrutiny. And only the ultimate threat of dismissal gives teeth to parliamentary oversight.

Institutional Checks

Finally, institutional checks subject the decisions of cabinet ministers to the veto power or other checks exercised by other political agencies. Such ex post arrangements are of course particularly well developed in checks-and-balances systems. However, all democratic regimes have courts that at least ultimately may perform this function vis-à-vis members of the executive branch. Federalism may similarly constrain the national executive. Less obvious and perhaps more interesting are those institutional arrangements that involve checks within the cabinet or the larger executive branch, such as rules that give the prime minister or the fi-

nance minister a privileged position in intra-cabinet bargaining. Moreover, there is the plethora of coordination procedures, such as cabinet committees, that operate within cabinets in parliamentary democracies (see Mackie and Hogwood 1985). Of course, when cabinet decisions require parliamentary approval, the legislature itself becomes an institutional check.

Conclusion: The Decline of Parliaments?

Democracy is both a lofty goal and a challenging institutional project. Though its current popularity has brought us an ever-increasing menu of regimes, parliamentary government remains the most common institutionalisation of popular sovereignty. In this chapter, I have sought to confront the ideals of parliamentary democracy with the institutional challenges that face parliamentary government. If we take the notion of parliamentary government seriously, we recognise the enormous burdens this regime type places on the people's elected legislators. Parliamentary democracy implies that the will of the people is carried out through a single channel of command and delegation. Parliament, of course, is a critical link in that chain. For that chain of delegation to function, legislators have to be able to make consistent policy choices and to have these policies implemented. The different ways in which they can seek to go about this has been the major subject of this chapter.

I have examined constraints on parliamentary government from a neo-institutional rational choice perspective. The rational choice tradition, particularly in its neo-institutional variety, provides a framework in which we can understand limitations on parliamentary governance. It is by no means the only possible set of tools for such a project, but it brings to the task its typical cardinal virtues: logical coherence, falsifiability, intersubjectivity, and efficiency of explanation (Tsebelis 1990). Neo-institutionalism implies a commitment to institutional rules as explanations of political (and other) behaviour. It also presumes that institutions themselves can be explained in terms of goal-oriented human behaviour. I have argued that the vast array of institutions that surround legislative deliberations at least in part serve the purposes of aggregating individual preferences and containing transaction costs. These institutions function as constraints on legislative behaviour in several areas.

Given the plethora of constraints on legislative power, one might question the very feasibility of parliamentary democracy. And for most of this century, much has indeed been made of the decline of parliaments as vehicles of popular control. To reconsider these claims briefly, I focus on the two key challenges to parliamentary democracy: consistent policy choice and implementation. My purpose

is modest: to suggest some ways in which the framework I have outlined can help us reconsider these claims.

Consistent Policy Choice

Are legislators less consistent about what they want than they used to be? Several well-documented developments could plausibly lead to this conclusion. One would be the decline of party cohesion that has been notable in some countries (e.g., the United Kingdom). There is no doubt that parties are among the most important subgroups of legislators, and their decline could spell greater instability unless it coincided with the strengthening of other substructures, such as committees. The theoretical literature might yield diverging expectations about the likelihood of the latter scenario. A second potential factor is the increasing volatility of voter preferences. To the extent that legislators faithfully mirror those preferences, they could behave less consistently over time. A related type of inconsistency could prevail where legislative elections are effectively staggered (as in the German Bundesrat), and some members are more immediately accountable than others. Yet, these problems have not been prominent in the debate on the role of modern parliaments.

Implementation

Problems of implementation are more commonly cited as a source of parliamentary decline. These laments echo the concerns of the neo-institutional literature. Without question, an increasingly complex and technological society fosters division of labour and delegation. A number of classical scholars (see above) have seen external delegation and the internal establishment of privileged groups as threats to representative democracy. Such delegation, they realised, would variously constrain the people's representatives. With the help of new and sharper tools, political scientists can now characterise this delegation and its effects more precisely and specifically. Democratic delegation is indeed problematic, and, at the very least, oversight of executive decision making may be cumbersome and costly. Yet, parliamentarians have a variety of control instruments at their disposal, and these existing oversight mechanisms can also be perfected. Public (including media) scrutiny of potential office holders is much more penetrating than it used to be, and legislators are far more ready to employ hearings and investigations for ex post oversight.

Parliamentary government involves a complex and varied web of rules and agreements devised by legislators and the agencies with which they must interact. Some of these rules and contracts hobble the legislature in certain tasks, whereas others make their job easier. The task of harnessing the people's representatives

in the pursuit of popular sovereignty is a noble one, but by no means easy. And though a sound understanding of institutional arrangements as well as human behaviour is hardly enough, it is surely necessary.

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3

Veto Players and Law Production in Parliamentary Democracies[1]

George Tsebelis

This article presents a simple model with which one may examine the capacity of different parliamentary systems to produce policy change. In contrast to most theories in comparative politics which classify parliamentary systems by the number of parties in their party system (Duverger, Sartori, Lijphart), that is, the number of parties in parliament, this analysis comes to the conclusion that the important variable for policy change is, instead, the number of parties and the ideological composition of the government. I argue that, everything else being equal, the number of important laws passed in a country is inversely related to the number of parties in government, the ideological distances between them, and their internal cohesion. Other factors that may affect the number of important laws are the longevity of the government and the ideological distances between parties succeeding each other to government. Finally, I will argue that the number of parties in government is causally connected to the lack of executive dominance, to government instability, and to the bureaucratic features of the various countries studied.

The most frequent mode of distinguishing between different parliamentary systems is based on the number of parties in their party system, that is, the number of parties in their parliament. According to various authors of party systems literature, the number of parties in parliament affects a series of characteristics of a parliamentary democracy. For example, Lijphart (1984) makes the argument that a two-party system leads to (in fact, his argument is that it is correlated with) the dominance of government over parliament. Sartori (1976) has advanced the thesis that a large number of parties in parliament (over six) coexists with ideological extremism, anti-system parties and "polarised pluralism"; while a smaller number of parties (less than five) is correlated with more moderate politics, remi-

1 I would like to thank Monika McDermott, Neal Jesse, and Amie Kreppel for editorial and research assistance.

niscent of a two-party system. Finally, a number of authors (Laver and Schofield 1990; Dodd 1976) have made the argument that the number of parties in parliament is inversely related to government survival in parliamentary democracies.

While executive dominance, the dynamics of political competition, and the longevity of governments are important characteristics of a political system, they are not necessarily the essential ones. For example, if a political system with executive dominance produces the same economic output (as measured, for example, by economic growth) as a system with parliamentary dominance, then it is not clear why executive dominance is important. Similar arguments can be made about the other variables as well. If longevity of a government is not correlated with government output, then longevity per se may not be an important characteristic after all.

The previous paragraph makes a point that is essential to any institutional analysis. Institutions are important, and the study of institutions is therefore essential, to the extent that they affect outcomes. Since policy output is the most fundamental characteristic of a political system, other features are important to the extent that they are relevant to this output. Consequently, one can analyse political systems more accurately when policy consequences are the point of departure. Along these lines, several empirical studies of political economy have correlated economic performance with the institutional characteristics of a system. Rogowski (1984) and Katzenstein (1982) make the point that proportional representation affects trade openness and economic growth. Lange and Garrett (1985) argue that corporatist systems with left-wing governments, and market systems with right-wing governments produce higher levels of growth than "mixed" systems i.e. corporatist systems with a right-wing government or market systems with a left-wing government. However, these analyses focus on highly aggregated variables (such as inflation, unemployment, growth), they do not identify the mechanism responsible for these empirical connections, if such connections exist at all.

This paper adopts a different approach to the analyses cited thus far. Unlike the political economy literature above, this paper identifies a policy variable that is less aggregated and relatively easy to trace; and it identifies the mechanism by which a political system's structural characteristics affect this variable. Unlike the party systems literature, this analysis connects policy outcomes with other features of a parliamentary system, such as party competition, government longevity, and government dominance. Finally, and again unlike the party systems literature, I argue that the most interesting variable for understanding parliamentary systems is not the number of parties in parliament, but the number of parties in government (as well as their ideological distances).

This chapter is organised into four sections. First, I present the logic behind the arguments that expect important characteristics of the system to be correlated with the number of parties in parliament. Second, I contrast this logic with a model that focuses on one policy variable - the ability of a political system to produce significant legislative changes - and explain why this ability depends on the number of parties in government and their ideological distances[2]. Third, I focus on the relationship between government and parliament in law production and argue that scholars, studying parliamentary systems for their policy output, should focus on governments, at least in addition to, if not instead of parliaments. Finally, I connect the policy variable with other characteristics of a political system such as executive dominance and government survival.

1. The Effects of the Number of Parties in Parliament

In the current state of knowledge in comparative politics, the party system of a country plays a crucial role in understanding the politics of the country. Beginning with Duverger (1951), the party system of a country has traditionally been connected with other significant features of the country, either as a cause or as an effect. According to Duverger, the party system was both the result of a country's electoral system, and the cause of a certain type of interaction between its government and parliament.

Duverger's argument was that a plurality electoral system will generate a two-party system for two reasons: First, there is a mechanical effect that gives large parties an advantage in every electoral system. This effect is far more pronounced in plurality than in proportional electoral systems. Second, there is a psychological effect which makes voters in plurality electoral systems loathe to "waste" their vote on small parties, consequently encouraging them to vote for one of the two major ones. Once a two-party system has been established, one of the two parties will enjoy a stable majority, giving it the ability to push its program through both the government (which is composed of members of this party) and the parliament (where the party has a majority).

Duverger also made the converse[3] argument, although not as forcefully as the direct one[4]: A proportional electoral system causes a multiparty system, because

2 The model to compare across different political systems has been presented elsewhere (Tsebelis 1995).

3 Technically, he made the converse of the contrapositive conditional, which is logically equivalent. In logic a conditional proposition pq (read p implies q) is logically equivalent with its contrapositive qp (read not q implies not p). In addition, the converse proposition qp is logically equivalent with the converse of the contrapositive pq.

there are no incentives for different parties to merge. Once the party system includes many parties, none of them is assured a majority, coalitions become necessary for government formation, and the government is not assured of parliamentary support. Consequently, parliament becomes more important for both the passage of legislation and the survival of government than in a two-party system.

"Duverger's laws", which connected the electoral and the party system were widely debated and criticised on both methodological and logical grounds[5]. However, in the end they have been accepted as some of the most corroborated propositions in political science. In fact, subsequent theoretical and empirical research have both modified them only marginally, if at all[6].

With respect to the effects of the party system on coalition formation, Duverger's argument was straightforward: two-party systems give the majority to one party, and consequently produce stable governments who dominate the parliament; on the other hand, multiparty systems generate coalition governments which may lose votes in parliament (including confidence votes), and are consequently weak and unstable. From the previous discussion it should be clear that when Duverger discusses the number of parties in the party system, he is referring to the number of significant parties in a country's parliament. For example, the UK is the archetypal two-party system because the Liberals, despite their votes, do not control a significant number of seats in parliament. This is a common feature of all the analyses I will discuss: The number of parties in the party system is essentially defined as the number of parties in parliament[7].

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4 For a discussion of the relation between the direct and the converse argument, see Riker (1982) who calls the first Duverger's law, and the second Duverger's proposition.

5 The methodological criticism is that they attribute the formation of the party system to institutions, while the causal order goes in the opposite direction -- the existing parties designed the electoral system. The logical criticism is that the wasted vote argument operates at the constituency and not at the national level, so, it tells how many parties should exist in a constituency; but different parties may exist in different constituencies. Consequently, on the basis of this argument we know nothing about the national number of parties. For these discussions see Leys (1963)

6 For theoretical research see Palfrey (1989) and for a literature review see Riker (1982). For empirical research see Lijphart (1994); Rae (1967); Taagapera and Shugart (1989).

7 For example, the formula that produces the "effective number" of parties takes as input the number of seats different parties have (see Lijphart 1984). The only author in the party system literature who could count a party in a party system even if it were not represented in parliament is Sartori, but the matter is of academic significance, because there are no such parties in the countries he studies.

Sartori (1976) elaborated on Duverger's model by, among other things, refining the typology. In particular, with respect to multiparty systems, he distinguished between moderate and polarised pluralism. The dynamics of party competition in moderate pluralism are similar to two-partism: Two coalitions compete for office and one of them wins; and both coalitions are close to the ideological centre. In contrast, polarised pluralism includes a party that occupies the centre, and is opposed by bilateral oppositions on its left and its right. These oppositions are ideologically extreme and/or include anti-system parties. According to Sartori, the dividing line between moderate and extreme pluralism is "around" five parties. From his discussion, it becomes clear that the cut-off point is an empirical regularity, not a theoretical argument. Be that as it may, Sartori follows the foundations set by Duverger, and expects the number of parties in a country's party system to affect the politics of that country.

Lijphart (1984) takes a different approach and defines two different types of democratic regimes (he includes the U.S. in his sample): majoritarian and consensus democracies. In majoritarian democracies decisions are made by a majority, while in consensus democracies an effort is made to include multiple parties and interests in the decision-making process. Lijphart proceeds with an empirical analysis of 22 democracies that essentially confirms Duverger's expectations: plurality electoral systems (a variable that Lijphart calls "electoral disproportionality"), two-party systems, and dominance of the executive over parliament are correlated[8].

Finally, a series of authors (Laver and Schofield 1990; Dodd 1976) working on coalition stability in parliamentary systems have found that executive stability is inversely correlated with the number of parties in a country's party system and with the ideological distances between them. The essence of their argument is, when a government crisis occurs, parties will make calculations about how to react based on the probability of them being included in the next government coalition. Consequently, parties that stand to lose from the next coalition will have conciliatory attitudes, while the ones that stand to gain will be more aggressive. However, the probability of participating in a government depends on the configuration of the parties in parliament. In a system with multiple parties there are more possible combinations that include a particular party, which will then be

8 These are the variables of interest to us here; Lijphart (1984) finds minimum winning coalitions and one-dimensionality of the policy space also correlated with the above variables. He also examines other variables such as unicameralism, constitutional flexibility and centralisation, which, despite his theoretical expectations, he does not find correlated with the other variables. These empirical findings led him to modify his argument in subsequent publications (Lijphart 1989).

willing to change coalition partners (bring down the government) in order to improve its position.

All these findings and theories are consistent, and each adds to the other. The are also congruent with other bodies of work. For example, Almond and Verba's (1963) cultural analysis separates Anglo-Saxon Democracies from continental ones, a distinction which is empirically identical with two- versus multiparty systems. Powell (1982) found a correlation between two-party systems and executive stability, but a very weak relationship between party systems and levels of violence.

However, concerning the relationship between party systems and government dominance and stability, there are two questions that can be raised concerning the theories, even if the empirical findings corroborate expectations. First, are these clusters of characteristics theoretically related or, at least some of them, empirical correlations? For example, both cultural analysis and institutional approaches expect countries like the UK to have a stable government dominating parliament, or Italy to have an unstable government and a very important parliament. Does this empirical corroboration support the institutional or the cultural theory, or, indeed, some third theory? Second, assuming that governments are strong and stable in the UK and weak and unstable in Italy, why should voters or political scientists care about these characteristics? Do these characteristics have any impact on the decisions made by these countries' political systems? These two questions lead us to an alternative approach to parliamentary systems.

2. The Effects of the Number of Parties in Government

This approach focuses on the effects of decision-making logic in a political system on the policy output of this system. The knowledge of such effects is essential, because once a link between institutions and outcomes is established, then the selection of certain types of outcomes will become equivalent with the selection of certain types of institutions.

In Tsebelis (1995) I have argued that every political system includes a certain number of institutional or partisan actors whose agreement is necessary for a change of policy. I have called these actors "veto players". The approach permits comparisons across systems (presidential and parliamentary), across parliaments (unicameral and bicameral), and across party systems (two- and multiparty), as well as combinations of the above. In this section I will summarise the abstract

logic of the argument[9]. In the next section I will focus on the logic of law production in parliamentary systems. In the last section I will spell out the consequences for other characteristics of a parliamentary system, such as government stability, executive dominance, role of bureaucracies, and the judiciary.

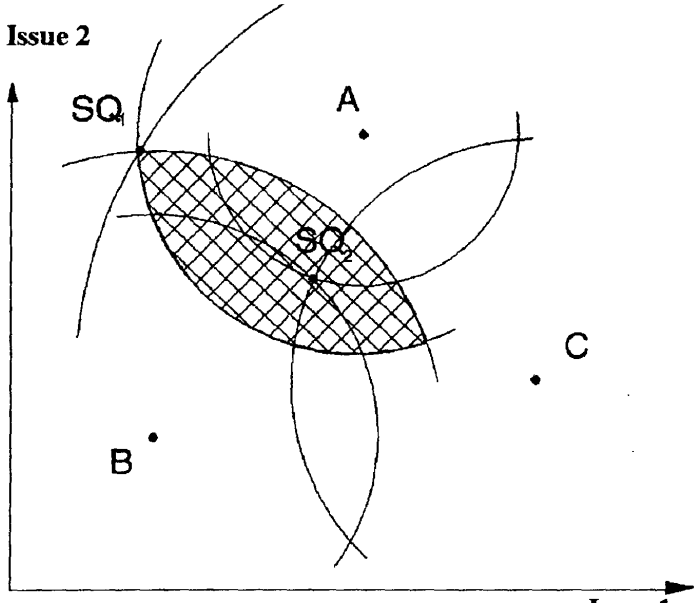
Consider the parties forming a government coalition. Each one of them is a collective player whose agreement is necessary for a change in the status quo. Of course, it is possible that the parties delegate decision-making powers in some areas to one or another of them. Even more realistically, parties may delegate decision-making powers to a minister consistent with his area of oversight[10]. However, with respect to important decisions, it is safe to assume that at least the leadership of the government coalition parties (on behalf of the parliamentary groups) is in agreement. This agreement may require a vote in the parliamentary group of each coalition partner or, alternatively, the will of the majority of the party may be taken for granted. However, it is also safe to assume that there will be no significant agency problems inside a party: Either the leadership agrees with the majority of the parliamentary group, or it does not violate the will of this majority on important issues, or if it does, a crisis inside the party results in a change of leadership. For this reason, in what follows it will be assumed that important government decisions have the agreement of concurrent majorities within each coalition partner.

How difficult is it to get diverse parliamentary groups to agree on a change of policy? For a change of policy to occur, the proposed solution must be considered as an improvement over the status quo by these concurrent majorities. Or, as I will say from now on, a necessary condition for a change in the status quo is that the new policy is in the winset of the status quo of each coalition partner. Figure 3.1 gives a graphic representation of this argument in a two-dimensional space with three government partners (or as we will say from now on, veto players). Each party is assumed to have a single ideal policy combination (we will relax this assumption in a while) and to prefer between two options, the option that is closer to its ideal point. With these assumptions, if the status quo is located outside the triangle ABC formed by the ideal points of the three coalition part-

9 This paper focuses on partisan veto players only. Institutional veto players include Presidents with veto power, as well as upper chambers that can veto legislation. For the complete analysis of the interaction of institutional and partisan veto players see Tsebelis (1995). However, the simplification introduced here does not alter the empirical analysis of existing parliamentary democracies except for two countries, Portugal before 1982 (the President had veto power), and Germany in the periods where the Bundesrat was controlled by the opposition. In both cases, there is an additional institutional veto player.

10 This is the assumption that Laver and Shepsle (1990) have made in a series of papers.

Figure 3.1: Conditions for a Change in the Status Quo



ners, there is the possibility of unanimous agreement for change. The shaded area is the unanimity set of SQ1, that is, the set of feasible outcomes. If, however, the status quo is located inside the triangle ABC, like SQ2, there is no possibility for change. Indeed, the three circles going through SQ2 (and around the points A, B, and C) do not intersect at any point other than SQ2. In terms of our initial question, the coalition ABC can change the status quo if it is located in the position SQ1 but not SQ2.

Tsebelis (1995) presents three propositions about the size of the winset of the status quo. Here I will state two of them and provide the intuition behind them.

Proposition 1:
As the number of players required to agree for a movement of the status quo increases, the winset of the status quo does not increase (i.e., policy stability does not decrease).

The argument behind proposition 1 is simple: the winset of the status quo of n+1 players is a subset of the winset of the status quo of n players. For this reason, adding one or more veto players will never increase the size of the winset of the status quo.

Proposition 2:
As the distance of players who are required to agree for a movement of the status quo increases along the same line, the winset of the status quo does not increase.

The next proposition relaxes the simplifying assumption that veto players are individuals (or if collective, that all members of the same collective player have the same ideal point) and permits collective veto players with differences of opinion between, as well as within veto players.

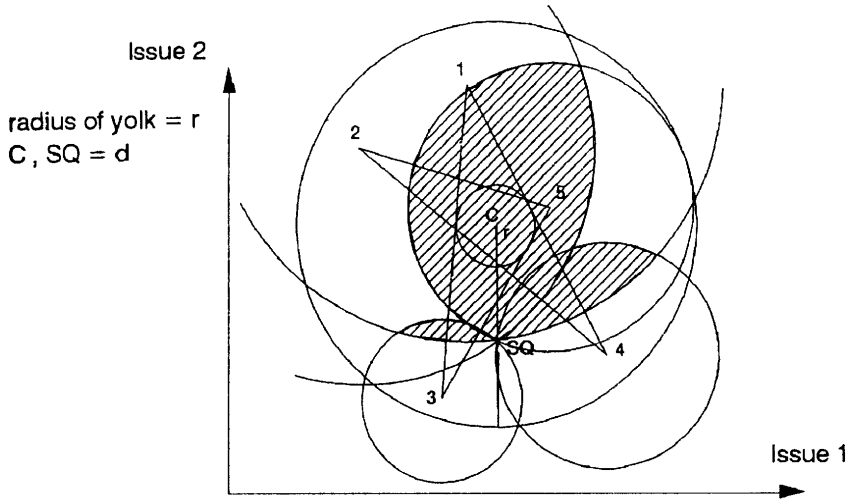
In this case, social choice theory has demonstrated that within every collective actor there is a centrally located sphere which is called the "yolk"[11]. The size r of the radius of the yolk is usually very small, and on the average it decreases with the number of individual voters with distinct positions (Koehler 1990). If one calls C the centre of the yolk of a collective actor and d the distance of the status quo (SQ) from C, the winset of SQ for this actor is included in a sphere of centre C and radius d+2r. This is an important social choice finding for our purposes here, because it allows us to replace the individual players in the previous figure with collective players.

Figure 3.2 provides a visual representation of the argument. Five individual players form a collective actor whose agreement by majority rule is required for a change in the status quo. The figure shows the yolk (centre C and radius r) of this collective actor, and the winset of the status quo. It is easy to verify that the winset of the status quo is included in the circle with centre equal to the centre of the yolk and radius d+2r, where d is the distance between the status quo and the centre C of the yolk.

Figure 3.2 can also help us understand why the relevant independent variable for policy making is the number of veto players in the government (as opposed to parliament). Here is how: Consider for the moment the textbook case where a coalition of parties controls both the government and forms a majority in parliament. We will consider the exhaustive list of alternatives in the next section. Suppose that parties 1, 2, and 3 form the government. If this is the case, the policy outcome will not be anywhere in the circle with centre C and radius d+2r, or even anywhere in the shaded area; the policy outcome will be inside the intersection of the circles around points 1, 2, and 3 (the lower left petal-like shaded area in Figure 3.2). Herein lies the reason why the number of parties in government is

11 The yolk is defined as the smallest sphere that intersects all median hyperplanes. Hyperplanes are planes in more than two dimensions. A median hyperplane is a hyperplane that divides the individual voters into two groups so that a majority of voters are on the hyperplane or on one side of it, and a majority of voters are also on it or on the other side of it. For a more complete discussion, see Ferejohn, McKelvey and Packell (1984). For a non-technical discussion of the yolk and the calculation of winsets, see Miller, Grofman and Feld (1989).

Figure 3.2: Yolk and Winset of SQ of a Collective Decision Maker



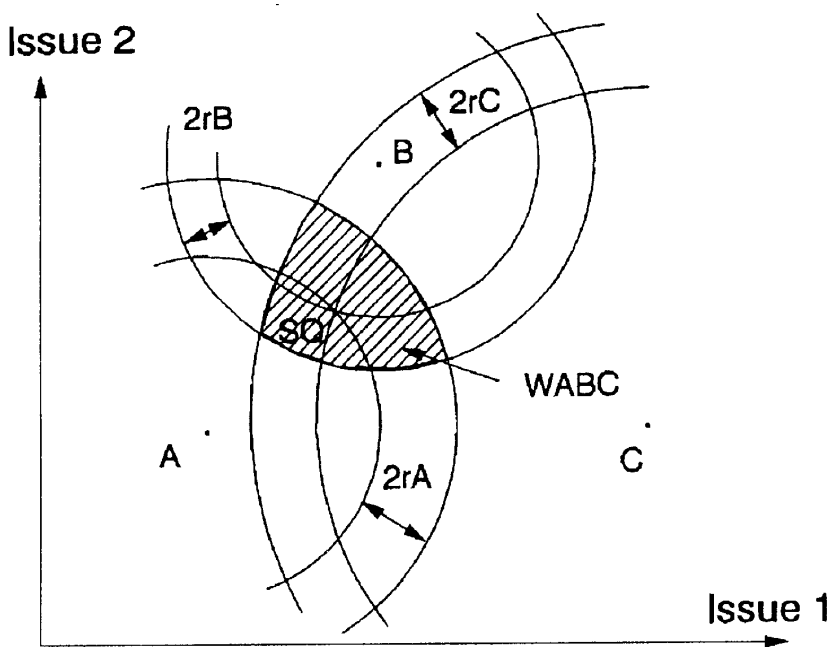
W(SQ) is included in a circle with center at the center of the yolk and radius d + 2r

W(SQ) is included in a circle with center at the center

the relevant variable concerning policy making: Government formation stabilises the majority that supports different policies by giving veto power over policy decisions to each party participating in government. Consequently, the size of the winset shrinks when the requirement be made that a policy be supported not by any parliamentary majority, but by the majority that supports the government itself.

Figure 3.3 uses the argument presented in Figure 3.2 to replace the individual players with collective players. One can think of Figure 3.3 as the extension of Figure 3.1 for the case of collective rather than individual players. I call rA, rB, and rC the radii of the yolks of the collective players A, B, and C respectively.
In this case, the winset of the status quo includes points that are at greater distance from the centres of the yolks of the collective players than the status quo itself. I have drawn the corresponding circles in Figure 3.3, and the set of points

Figure 3.3: Differences Between Individual and Collective Decision Makers for the Change of the Status Quo; Agreement of Three Players Required for a Decision



that can defeat the status quo is included inside WABC[12]. A comparison of Figures 1 and 3 indicates that when the individuals participating in a collective player do not have identical preferences, more solutions become possible. Indeed, there are more possible parliamentary majorities that will support some alternative to the status quo than when parties are monolithic in terms of preferences[13]. The next proposition follows straightforwardly.

12 In fact, one can locate the winset of the status quo in a smaller area, but while such an increase in precision would greatly complicate the exposition it would not alter the results reported here. For such an example, see Tsebelis (1993).

13 Here I speak about monolithic preferences, not behaviour. I do not refer to party discipline which obviously facilitates agreement, since it forces even members of a party that disagree to vote for policies preferred by the majority.

Proposition 3:
As the size of the yolk of collective players required to agree for a movement of the status quo increases, so the area that includes the winset of the status quo increases.

These three propositions provide a theory of policy making (or alternatively of law production) in parliamentary democracies to which we now turn.

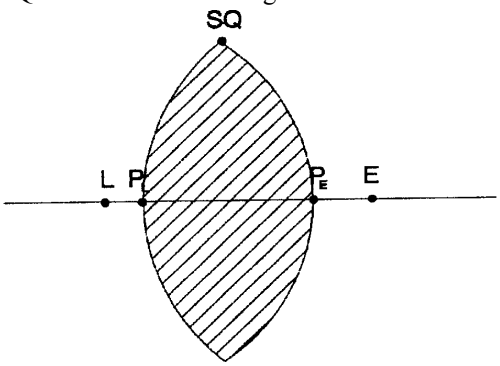
3. Law Production in Parliamentary Democracies

In the textbook example we used in the previous paragraph, government and parliamentary majority had identical composition, so there was no reason to distinguish between the two. However, this simple case does not represent the majority of empirical situations. The agreement of all coalition partners is, strictly speaking, neither necessary nor sufficient for policy change. Indeed, in parliamentary democracies, government proposals may be defeated by a parliamentary majority. This is particularly probable in the case of a minority government, which requires the support of other parties to have its policies approved. Also, if the government controls a comfortable parliamentary majority it may bypass some of its members and propose policies to which they disagree. In what follows, I argue that in its interaction with parliament, the government possesses important weapons because of its location in space (which I call positional advantages) and/or because of constitutional provisions attributing to the government agenda setting powers (which I call institutional advantages). These positional and institutional advantages guarantee that the government position will prevail in important matters.

I will first present the argument in its simplest form and then elaborate it in order to account for the rich institutional structure of existing parliamentary democracies. Consider two veto players, one called legislature (L) and the other executive (E). In most political systems of the world, a policy change requires the agreement of both the legislature and the executive to be enacted[14].

14 Exception to this statement would be presidential regimes where the President does not have legislative veto.

Figure 3.4: Status Quo and Position of Legislature and Executive



In Figure 3.4 consider the status quo, and the position of the legislature (L) and the executive (E). If they are both veto players, the feasible policy changes are represented by the shaded area. In determining which one will be selected, institutional provisions enter into play. In parliamentary democracies, the government controls the agenda and introduces legislation to the parliament. The parliament may be able to amend it (we will discuss this case in a while). In presidential systems, the parliament controls the agenda and presents the president with a package which he must accept or veto. This very simple game represents an important difference in policy making between presidential and parliamentary systems. In a presidential regime, the parliament will make a proposal PL which belongs to the feasible set and is closest to its own ideal point. Conversely, in a parliamentary system, the government will make a proposal PE which will be closest to its own ideal point. Figure 3.4 indicates that in this simple game it is better to be the agenda setter than to be the player who merely agrees or vetoes a proposal. For this reason, I submit that loss of agenda control is the reason for both the proliferation of arguments on the decline of parliaments in parliamentary democracies, and the lack of such discussions in presidential systems[15].

Some simple statistics will suggest that the general assessment that governments control the agenda in parliamentary democracies is correct. In more than 50 percent of all countries, governments introduce more than 90 percent of the bills. Moreover, the probability of success of these bills is very high: over 60 percent of bills pass with probability greater than .9, and over 85 percent of bills

15 In the US there is an ongoing debate about executive dominance, but it has to do mainly with the expansion of the areas of the executive branch like executive agencies, the role of the presidency in foreign policy or defence, not directly with legislation which is the issue that concerns us here.

pass with probability greater than .8 (Inter-Parliamentary Union 1986:Table 29)[16].

However, even if governments control the agenda, it may be that parliaments introduce significant constraints to their choices. Or, it might be that parliaments amend government proposals so that the final outcome bears little resemblance to the original bill. I argue that most of the time, neither of these scenarios is the case. Problems between government and parliament arise only when the government has a different political composition from a majority in parliament. By examining all possible cases of relationships between government and a parliamentary majority, I will demonstrate that such differences are either non-existent, or, if they do exist, the government is able to prevail because of positional or institutional weapons at its disposal.

The textbook relationship between government and parliament, where the government is supported by a minimum winning coalition, is only one of the possible configurations. The other two are oversized governments (i.e., governments that include more parties than necessary to form a majority) and minority governments (i.e., governments not supported by a majority). Let us examine each of these cases individually.

A. Minimum Winning Coalitions

This is the most frequent (if we include single party governments in two-party systems, which are by definition minimum winning coalitions) and the least interesting case for our discussion. The government coincides with the majority in parliament and, consequently, there is no disagreement between the two on important issues. As Figure 3.2 indicates, the minimum winning coalition represented in government restricts the winset of the status quo from the whole shaded area of the Figure, to the area that makes the coalition partners better off than the status quo. There is one exceptional case to consider: If the government parties are weak and include members with serious disagreements over a bill, the bill may be defeated in parliament. This, however, is only a marginal possibility because votes are public, and party leaders possess serious coercive mechanisms that pre-empt public dissent (Italy was the only exception to the rule until the government introduced open votes in 1988 and did away with the problem of franchi tiratori, that is, parliamentarians who voted to defeat and thus embarrass their own government). The most serious of these mechanisms is elimination

16 What these numbers do not specify, however, is how many amendments were made to the bills or, how many times the government may have altered the bill in anticipation of amendments.

from the list. Even in cases where a secret ballot is required, party leaderships manage to structure the ballot in a way that enables them to monitor their MPs.

A good example of such structuring comes from Germany. In 1972, Chancellor Willy Brandt was about to lose the majority supporting his coalition because of defections from both his own party, the SPD, and his coalition partner, the FDP. On April the 27th he faced a constructive vote of no-confidence in the Bundestag[17]. According to parliamentary rules, a vote of confidence is a secret ballot, and the Chancellor was afraid he might lose his majority. For that reason, he instructed the members of his coalition to stay in their places and not participate in the vote, thus effectively controlling possible defectors. The vote failed by one vote (247 out of the 496 members of the Bundestag supported the leader of the opposition, Rainer Barzel).

In general, the coalition formation process gives an important advantage to governments. Either the leadership, or the most moderate party personalities are included in the government, so when they come to an agreement it is difficult for other members of parliament to challenge or undo it. An example of the latter is the following statement from the Norwegian Prime Minister Kare Willoch regarding his coalition government: "I wanted their leading personalities in the government. It was my demand that their party leaders should be in government because I did not want to strengthen the other centres which would be in parliament. That was my absolute condition for having three parties in government." (Maor 1992:108)

B. Oversized Majority Governments

Oversized majority governments are very common in Western Europe. Laver and Schofield (1990) calculate that four percent of the time (of the 218 governments they examine), a party which forms a majority alone will ask another party to join the government; and 21 percent of the time, while there is no majority party, the coalition formed contains one or more parties more than necessary.

In such cases, some of the coalition partners can be disregarded, and policies will still be passed by a majority in parliament. Such a situation occurs frequently in Italy, where five parties participated in the governments of the 1980s. The Christian Democrats and the Socialists together had a majority of seats, making the other three partners unnecessary from a numerical point of view. However, ignoring coalition partners, while possible from a numerical point of view, imposes political costs, because if the disagreement is serious the small partner can resign, and the government formation process must begin over again. Even if

17 According to article 67 of the German Basic Law, the chancellor cannot be voted out of office unless a successor has been voted into office.

government formation costs can be avoided (by the formation of a government which includes all previous coalition partners without the disagreeing party) the argument is still valid, because the proposed reform will be introduced in parliament by a coalition that does not include the disagreeing party. Here is how Maor reports the position of a leader of the liberal party, member of the government coalition in Denmark: "We could stop everything we did not like. That is a problem with a coalition government between two parties of very different principles. If you cannot reach a compromise, then such a government has to stay away from legislation in such areas (Maor 1992:99-116)[18].

Simple arithmetic disregards the fact that there are political factors which necessitate oversized coalitions. Regardless of what these factors might be, for the coalition to remain intact, the will of the different partners must be respected. For this reason, each partner in the coalition is a veto player. Consequently, while the arithmetic of the legislative process may be different from the arithmetic of government, a departure from the status quo must usually be approved by the government before it is introduced to parliament, and, at that stage, the participants in a government coalition are veto players.

C. Minority Governments

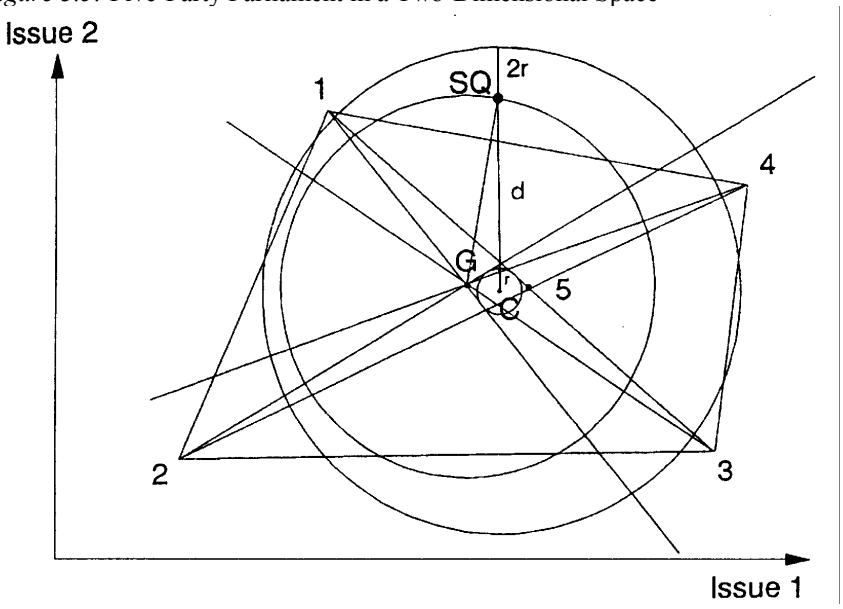
These governments are even more frequent than oversized coalitions. Strøm (1990) has analysed minority governments and found that they are common in multiparty systems (around one third of the governments in his sample). Moreover, most of them (79 out of 125) are single-party governments which resemble single-party majority governments. Laver and Schofield have argued that there is a difference between a governmental and a legislative majority. While their point is technically correct, I will argue that, for two reasons, this difference has no empirical significance. First, minority governments possess positional advantages over parliament. Second, minority governments possess institutional advantages over their respective parliaments. I will discuss each one of these issues separately.

a. Positional Advantages of Minority Governments

The party forming a minority government is usually located centrally in space. For this reason, it can lean slightly towards one or another possible partner in order to have its policies approved by parliament (Downs 1957; Laver and Schofield 1990; and Strøm 1990). In order to develop this point further, consider

18 I do not know whether the government implied here is a minimum winning or an oversized coalition, but the logic applies to both.

Figure 3.5: Five-Party Parliament in a Two-Dimensional Space



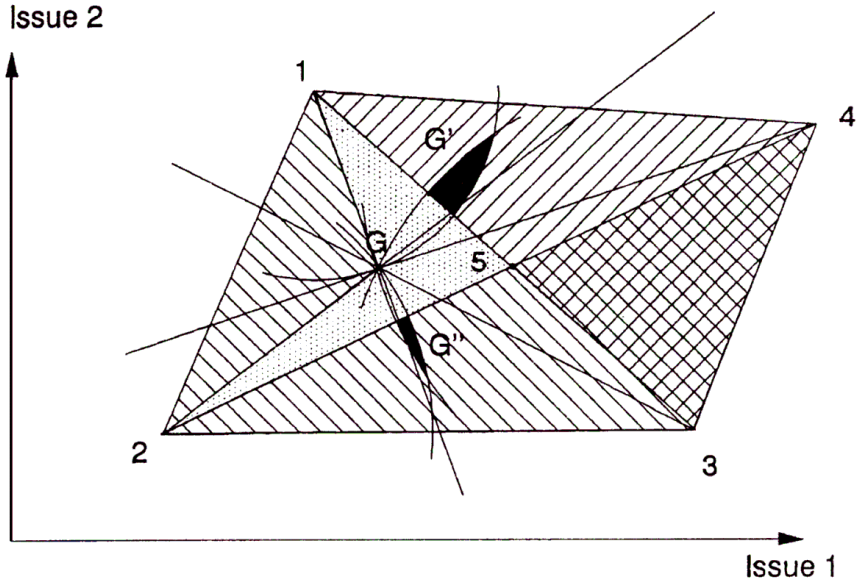
a five-party parliament in a two-dimensional space like the one in Figure 3.5. What follows is an illustration of the argument, not a formal proof.

If the centrally located party (5) is in the intersection of the two diagonals of the quadrangle 1234, there is no majority in parliament without the support of party 5. Consequently, anything that party 5 wants, it can get through the support of the appropriate majority. Technically, party 5 occupies the core of the parliament[19]. However, such a situation is of limited empirical significance, since it has a low probability of occurrence. What happens if party 5 is not exactly in the intersection of the two diagonals but still centrally located? Consider the situation depicted by Figure 3.5 with five parties 1,2,3,4, and G (the government) where G is located somewhere inside the quadrangle. In this case, there are median lines through all four angles of the quadrangle that go through G. Consequently, the centre of the yolk[20] of the parliament will be located close to G, as in the Figure. Remember that the winset of the status quo of this parliament is located inside a circle (C, (d+2r)) with centre the centre of the yolk C, and radius d+2r (d is the distance of the status quo from C and 2r is the diameter of the yolk). If the seg-

19 The core is the multidimensional equivalent of the median position in one dimension.

20 For the definition, see discussion of Proposition 3 above.

Figure 3.6: Splitting the Two-Dimensional Space into the Component Quadrants



ment GC is smaller than the diameter of the yolk 2r, what the government prefers over the status quo will be included inside (C, (d+2r)). If the distance GC is greater than 2r there will be some points in space that G prefers over the status quo which the parliament does not approve. In any case, there is a big overlap between the will of the parliament and the will of the government. This does not imply, however, that parliamentary and government preferences exactly coincide. Let us examine different cases.

Figure 3.6 divides the two-dimensional space into different quadrants. Note that G will always be located inside a triangle with 5 as one of its vertexes. In Figure 3.6 this is triangle 125. Parties 1 and/or 2 will be the most frequent allies of the government for changes of the status quo. Here are the possible cases:

1. The status quo is outside the quadrangle 1234. In this case the government can always put together a majority which will prefer G over the status quo.
2. The status quo is inside the triangle 134. In this case the possible allies of G are party 2, and at least one of parties 1 or 3. This alliance will lead to the ideal point of the government except when the status quo is located in the shaded area originating at point G'. In this case, the government cannot

achieve its own ideal point, but it can change the status quo for a point closer to its own ideal point.

3. The status quo is inside the triangle 234. In this case the possible allies of G are party 1, and at least one of parties 2 or 4. This alliance will lead to the ideal point of the government except when the status quo is located in the shaded area originating at point G". In this case, the government cannot achieve its own ideal point, but it can change the status quo for a point closer to its own ideal point.
4. The status quo is inside the triangle 12G. In this case the government can use parties 3 and 4 as allies, and move the status quo to its own ideal point.
5. The status quo is located in the area 152G. This is the only case where the Government will find itself in the minority. There are two potential coalitions, 134 and 234, that can be formed against the government and move the status quo further away from G.

To recapitulate, if a minority government is centrally located in space, it can be part of most possible parliamentary majorities and, consequently, move the status quo inside its own winset. In fact, most of the time it might not have to compromise at all, and it can locate the final outcome on its own ideal point. In only one case can a bill that comes to the floor be opposed by the government and still be accepted, if the bill is located in area 152G. How likely is it for such a bill to come to the floor of parliament? This brings us to the second category of advantages of a minority government over parliament, the institutional ones. This category of advantages is not limited to minority governments. Every parliamentary government has at its disposal some constitutional, as well as procedural or political means to impose its will on important issues on parliament.

b. Institutional Advantages of Parliamentary Governments

Several constitutions provide ruling governments with a series of agenda setting powers, such as priority of government bills, possibility of closed or restricted rules, count of abstentions in favour of government bills, possibility of introducing amendments at any point of the debate (including before the final vote), and others. The most extreme in this regard is the constitution of the French Vth Republic. In this constitution the following restrictions of parliamentary powers apply: According to article 34, the parliament legislates by exception (only in the areas specified by this article, while in all other areas the government legislates without asking for parliamentary agreement); article 38 permits legislation by ordinance (upon agreement of parliament); according to article 40, there can be no increase in expenditures or reduction in taxation without the agreement of the government; article 44.3 gives the government the right to submit votes under closed rule (no amendments accepted); article 45 permits the government to declare that a bill is urgent, thus reducing the number of rounds that the two cham-

bers will shuttle the bill[21]; finally, the most powerful weapon of all, article 49.3 permits the government to transform the vote on any bill into a question of confidence (Huber 1992; Tsebelis 1990). The picture of an impotent parliament is completed if one considers that the government controls the legislative agenda, that the parliament is in session less than half of the year (special sessions are limited to 2 weeks and must have a specified agenda)[22], that the committee structure was designed to be ineffective (six large committees cross-cutting the jurisdictions of ministries), and that discussions are based on government projects rather than on committee reports. Finally, even censure motions are difficult because they require the request by 1/10 of MPs (the right is non-reusable during the same session), and an absolute majority of votes against the government (abstentions are counted in favour of the government).

The French government is an exception in terms of the breadth, depth and variety of institutional weapons at its disposal. However, the German government possesses interesting institutional weapons as well, such as the possibility to ask for a question of confidence whenever it deems appropriate (article 68), or the possibility to declare legislative necessity and legislate with the agreement of the second chamber (the Bundesrat) for 6 months (article 81). Even the Italian government has the right to issue ordinances (Kreppel 1994). In addition, with respect to parliamentary legislation, it has the right to offer the last amendment on the floor. If one of its bills has been heavily amended, it can bring it back close to its initial position (Heller 1994).

Some of these measures can be found in this volume in the chapters by De Winter, Döring and Rasch. However, the most serious and frequent of all these agenda setting measures is the threat of government resignation, followed by dissolution of the parliament (Huber 1994). This measure exists in all parliamentary systems except Norway.

This analysis has serious consequences for law production. In order to understand policy changes in a country, we must focus on the party composition of that country's government. The existence of multiple and polarised parties in government prohibits significant changes to the status quo. This is because, with the exception of a dramatic change in public opinion, which would affect all parties the same way, at least one of the veto players (coalition partners) will disagree with any proposed change. Either the change will be aborted at the government

21 For a discussion of the navette system in France see Tsebelis and Money (1995) and Money and Tsebelis (forthcoming). Their argument is that reducing the number of rounds increases the power of the National Assembly (which has positions closer to the government).

22 The Socialists, who had a heavy reform agenda, had to use seventeen such sessions in their first term (1981-86).

level, or, if some coalition partners decide to go ahead and the measure is significant, it will fail in parliament, or lastly, the coalition will collapse.

Conversely, single-party governments (whether majority or minority) have the possibility of introducing major changes in the status quo. I say possibility because they may not desire policy change. For example, the single-party government of Japan is not particularly renowned for dramatic policy changes. However, this is because it had remained in power for a long time, and, consequently, it liked the status quo that it had put in place. However, the same government, when confronted with the 1973 energy crisis, undertook swift and dramatic policy changes (Feigenbaum et al. 1993).

Consequently, (again, unless there is a dramatic shift of public opinion) the necessary condition for the absence of significant policy change is the existence of multiple and polarised veto players. Now we can go one step further and substitute the words "significant policy change" with "production of significant laws." This is because what we call significant laws affect a large number of people in important ways, that is, they mark a significant departure from the status quo.

Since multiparty governments are incapable of producing significant laws (unless there is a dramatic shift in public opinion), and while single-party governments are able to undertake such changes, one would expect to find over a long time period and in a wide set of countries more significant pieces of legislation in countries with fewer veto players. In other words, significant law production should be inversely affected by the number and the ideological distances of government partners. Table 3.1 presents a crude summary of the argument. In this table I have divided government parties into three categories (one, 2-3, and more than three), and the frequency of significant laws into high, medium, and low. Obviously, the theory presented in this section generates more refined expectations: the number of significant laws declines as a function of the number of parties in government and their ideological distances.

The same argument should apply to government-enacted legislation (decrees). Indeed, the more coalition partners and the greater the ideological distance among them, the more difficult it is to enact any kind of significant legislation. However, the theory presented here leads to the expectation that decrees are easier to agree upon than laws. This is because the participants in governments are ideologically closer to each other than are the supporters of the

Table 3.1: Number of Veto Players and Quantity of Significant Bills

Number of parties in government	*Frequency of significant laws*		
	high	*medium*	*low*
1	yes	yes	yes
2-3	no	yes	yes
> 3	no	no	yes

coalition in parliament, and, consequently, they can agree on more solutions (see Proposition 2) than can members of parliament[23]. Whether governments with multiple veto players will produce less decrees than governments with few or one veto player is a matter of empirical investigation. If the need for legislation is high, and parliament cannot agree, the government can legislate by decree as long as the differences between members of government are not very significant. If intergovernmental differences of opinion are significant, the government itself might be paralysed.

Along the same lines of argument, another prediction generated by the theory is that agreements made by party leaderships will be more stable than government decisions. The reason is simple: if party officials are different from government members, they are usually more extreme (either because they are faithful representatives of the average member of the parliamentary group, or because they are closer to rank and file members of the party than the parliamentary group). Consequently, (Proposition 2) they have less room for agreement. Under these circumstances, the set of possible agreements between party leaderships is a subset of the possible agreements of the parliamentary parties, which in turn is a subset of the possible agreements of government members. It follows that while an agreement of government members can be overturned in parliament, party leadership agreements are likely to be confirmed.

Finally, the above analysis can produce expectations concerning non-significant laws. Ceteris paribus, significant and non-significant laws should vary inversely, because of time constraints. The ceteris paribus clause assumes that a parliament has limited time and uses it to pass legislation (either significant or trivial). If there are other uses of time like questions to ministers, general debates etc., or if the time of meetings is itself variable, controls must be introduced for these factors.

23 For an examination of government decrees in post-World War II Italy, see Kreppel (1994).

There are two other factors that I would expect to affect the production of significant laws. The first is the length of time that a given government stays in office. One would expect that governments take some time before they present significant laws in parliament. Consequently, short lived governments produce less significant legislative work. A second factor is the alternation of parties in government. A consequence of the argument presented in this section is that a government containing a new coalition partner would be expected to make more changes the greater the ideological distance between the parties that succeed each other in entering government.

In this section I concentrated on expectations about policy changes as a function of partners in a government coalition. Even if these expectations turn out to be correct, how can this analysis help us understand broader characteristics of parliamentary democracies, such as executive dominance, or executive survival? Also, are there any additional expectations to be formed concerning political systems on the basis of the veto players framework? This is the subject of the last section.

4. Law Production, Government Survival, Executive Dominance, and the Role of Bureaucracies

Consider a parliamentary system which exhibits policy stability (as defined in this paper). A government coalition that cannot agree on significant changes to the status quo will not be able to respond effectively to exogenous shocks to the political or economic system. For example, a sudden rise of inflation or unemployment, or an influx of immigrants will lead each one of the government partners to different analyses and different proposed solutions, so that no government response will be possible. If the shock is of sufficient magnitude, one would expect the government coalition to break down and be replaced by another government (possibly after an election). For example, economic recession prevailing at the beginning of the 1980s led to the breakdown of the coalition between Socialists and Communists in France in 1984. Mitterrand decided to apply austerity policies in order to stay inside the European Monetary System, while the Communists refused to "manage the crisis of capitalism." Similarly, the same strained economic conditions led to the collapse of the coalition between SPD and FDP in Germany in 1982, and to it being replaced by the more congruent coalition between FDP and CDU-CSU.

We can now combine the two steps of the argument. I have demonstrated that multiple veto players (government coalition partners) lead to policy stability (inability to change the status quo). I have also argued that policy stability will lead

to government instability. Consequently, multiple coalition partners will lead to the instability of the governments in which they participate. Preliminary evidence indicates that this is the case.

Warwick (1992) has found that the number of, and the ideological distances between government partners leads to government instability. In a more detailed, forthcoming study, he goes one step further: as I demonstrated in the first section while standard game-theoretic approaches of government survival expect characteristics of a parliament (number of parties in the party system, ideological distances of the parties in parliament) to affect the probability of survival, he introduces government characteristics in his model (number of parties and ideological distances of the parties in government). The result of the study is that when all variables are introduced, government characteristics are statistically significant, while parliamentary characteristics are not. This finding is a puzzle for standard game-theoretic models of coalitions, because, as we reviewed in the first section, according to these theories government survival depends on the chances of different parties to be included in a new government (that is, characteristics of the parliament). The model presented here accounts for Warwick's findings. If parties participate in government for policy reasons, then coalitions are going to break down and governments are going to be replaced whenever they cannot address an exogenous shock. This happens because the number of veto players is too large, or their ideological distances too great for them to present a common reaction.

The issue of executive dominance over the parliament remains. The analysis in section III above indicates that in any parliamentary system the government possesses significant political, positional, or institutional advantages over parliament. The government either controls parliamentary majorities, or (if it is a minority) it occupies a central position in the policy space, or controls a significant institutional arsenal (with the threat of resignation and new elections as the most frequent and significant weapon), or a combination of the above. Consequently, the real question is not whether the government can push its decisions through parliament. The answer to this question is affirmative, because in the executive parliamentary game, the government of parliamentary democracies controls the agenda (as Figure 3.2 indicates).

The real question concerning the interaction between parliament and government is whether the government knows what "it" wants. This question is directly related to how many veto players there are in the coalition, and the ideological distances between them. A single-party government can decide more quickly, and on many more issues than a multiparty government (in fact, because of its party manifesto and ideology, most of the time it has its decisions ready before the

problems arise); a multiparty government must try to find the appropriate compromises among the coalition partners.

The veto players framework can be used to generate predictions not only about law production, but also about other variables that are considered important in the comparative literature, such as executive dominance and stability. The same framework can be used to generate predictions about judicial and administrative importance and independence. If courts and bureaucracies are interested in seeing their decisions stand, and not being overruled by political actors, they will be more important and independent in systems with multiple incongruent and cohesive veto players.

With respect to the independence of bureaucracies, two seemingly contradictory arguments have been presented in the literature. Hammond and Knott (1993) use a two-dimensional model and argue that the size of the "core" (i.e. the set of points with empty winsets) increases with multiple principles of the bureaucracy, providing bureaucrats with the opportunity to select any point inside the core without fear of being overruled[24]. Their argument deals with the American political system (that is, a presidential democracy) and includes congressional committees, floors and the presidency. However, their approach is similar to the one adopted here[25].

Moe (1990), and Moe and Caldwell (1994) on the other hand, yet starting from similar premises, reach apparently opposite conclusions. They compare presidential and parliamentary regimes, using the UK and the US as archetypal systems, and argue that parliamentary regimes will have fewer bureaucratic rules and more independent bureaucracies than presidential regimes, which will have extremely detailed laws and procedures reducing the autonomy of bureaucrats.

In Tsebelis (1995) I have tried to synthesise these arguments in the following way. Single veto players do not need detailed descriptions of bureaucratic procedures written into laws. The party in power can decide how the bureaucracy is going to work, and for the bureaucracy, there is no difference whether it is written in the law or in a ministerial decision. In addition, crystallising procedures into laws for the next government makes no sense, because the new government can easily write new laws, or issue new ministerial instructions. So, single veto players will not need to restrict bureaucracies through legal procedures.

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24 This expectation is consistent with Lohmann's (1993) finding that in periods of divided government in Germany, the Bundesbank is more independent.

25 Notable differences between the Hammond and Knott model and my approach are that they are interested in the special case when the winset of the status quo is empty (while I am interested in the size of the winset), and they use two dimensions, (that can be generalised up to four; see George Tsebelis (1993) while my approach holds for any number of dimensions.

Multiple veto players on the other hand, will try to crystallise the balance of forces at the time they write a law in order to restrict bureaucracies as much as they can. How restrictive the procedures will be depends on the level of agreement among these veto players. For example, their disagreements may not only be political, but also institutional and procedural. In this case, if there is a law it, will be quite general, giving leeway to the bureaucrats. For this reason, the existence of multiple veto players does not guarantee detailed procedural descriptions written into the laws.

The argument I have just presented does not deal with just one kind of political system (presidential or parliamentary); in fact, the claim is that the veto players framework can help us compare across systems, and that it will reveal similarities between a parliamentary regime with multiple veto players, such as Italy, and a presidential regime like the US.

Restricting this argument to parliamentary systems (which is my focus here) the predictions are the following. On average, systems with multiple veto players are more likely to have cumbersome bureaucratic procedures than single veto player settings as Moe (1990) argues. On the other hand, cumbersome bureaucratic procedures should not be confounded by lack of independence. In fact, they might be a bureaucratic weapon against political interference in administrative tasks. In addition, bureaucracies are more likely to be independent when they have multiple principals (multiple veto players), than when they have a single principal. Focusing on the importance of the judiciary, my model generates the expectation that it will be important in both federal countries, as well as in countries where it adjudicates between veto players (presidential systems). Within parliamentary systems, the judiciary will be more important in countries with multiple veto players, like Germany or Italy, than in countries with single veto players, like the UK or Sweden. Similarly, supreme courts will be more important in federal than in unitary countries[26].

Further theoretical and empirical research is required to complete and validate this model. At the empirical level, while existing policy studies indicate that the number and incongruence of veto players leads to policy stability, the evidence is sparse and, for the most part, not quantifiable[27]. The sequel to this vol-

26 One variable missing from this account which should be included in a comparative study of courts is who has standing in front of the court. For example, the condition for the increase of importance of the Constitutional Court in France was the introduction of the reform (at the time it was called "reformette" because of lack of understanding of its significance) that the Court could be asked to deliberate by 60 members of Parliament.

27 The most comprehensive comparison of policies across different political systems and countries is the volume edited by Weaver and Rockman (1993). They compare three

ume will perform more systematic empirical tests. The predictions of the model concerning government and regime instability find more quantitative support, but here too, the model itself has to be tested against all of the available data.

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Part II

Government and Parliament:

Modes of Mutual Control

Introduction

In this part we address the crucial features of the relations between government and parliament. In parliamentary systems as opposed to presidential systems, the traditional division of powers between executive and legislature has been superseded by more subtle modes of mutual control. As the editor of the Economist already observed some 130 years ago: "the legislature chosen, in name, to make laws, in fact finds its principal business in making and in keeping an executive" (Bagehot [1867] 1963:66). Appropriately, Chapter 4 by Lieven De Winter deals with the role of parliament in government formation and resignation across Western Europe (except Switzerland where the government in spite of being elected by parliament cannot be ousted from office by a vote of censure).

It is no truism to say that chambers in parliamentary systems are very different from those in all other regimes. Thus, the "two-body image" of a contradistinction between executives and legislatures that still dominates conceptual thinking in comparative politics may be misleading for all those seventeen systems in Western Europe where the acting government of the day may be brought down by a vote of no confidence in the chamber. Chapter 5 by Rudy Andeweg and Lia Nijzink therefore explores the more sophisticated modes of control that exist in the area under study.

Next to the creation and the sustaining of a government in office under the omnipresent, yet rarely realised, threat of a vote of censure, Bagehot considered communication to be the most important task of parliament in parliamentary systems. As his "expressive", "teaching" and "informing" functions can be lumped together into a single comprehensive task of control by communication (Loewenberg and Patterson 1979:167 ff.; Oberreuter 1994:329 ff.), Chapter 6 by Matti Wiberg cross-nationally scrutinises important instruments of communication, i.e. the various forms of parliamentary questioning. Shifting from the parliamentary control of government to the government's control of the chamber, Chapter 7 by Herbert Döring surveys the highly variable cross-national means of government prerogatives in the setting of the timetable.

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4

The Role of Parliament in Government Formation and Resignation

Lieven De Winter

1. Introduction

This chapter focuses on the role both parliament and parliamentary actors play in the processes of government formation and resignation in West European countries. It first offers a descriptive analysis of the types of actors (party and parliamentary group, Head of State) formally and informally involved in this process, and the formal and informal rules by which it is governed. Second, it relates these rules to the duration of the formation process, and the role parliaments empirically play in government resignations. Third, we relate the degree of parliamentary involvement in formation to the presence of MPs in the cabinet (the "paradox of the vanishing MPs"). Finally, we discovered a strong relation between government control over the legislative agenda and the comprehensiveness of the government formation process.

As the fundamental principle of European parliamentary democracy is that the executive is responsible to the legislature, one would expect that the role of parliament in the formation and maintenance of governments should have attracted considerable scholarly attention. Yet, apart from the question of which parties form a coalition[1], the comparative analysis of the process of government formation as a whole has, until now, not been the subject of intense scholarly attention[2].

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1 For an overview of the literature on coalition composition see De Swaan (1973), Pridham (1986), Laver and Schofield (1990).

2 While more recently other formation outcomes have drawn attention (like the content of the governmental policy agreement and the distribution of portfolios), the emphasis remains based on outcomes, rather than on the process (see for instance Browne and Franklin (1973), Budge and Keman (1990), Laver and Schofield (1990), Laver and Budge (1992), Klingemann, Hofferbert and Budge (1994)). Particularly, the kind of

As we are used to viewing parties and party elites as rational actors pursuing policy and office goals and aiming at reaching these goals as soon as possible, we must assume that the stakes of the formation process are extremely important to the actors involved. In nearly two thirds of the countries considered, this process alone takes up more than four weeks of work - day-in-day-out - of usually extremely busy elites (Table 4.1). If the stakes were not so high, party elites would not devote such a great amount of their efforts to it. Therefore, the lack of comparative analyses of this crucial process - from an actor and process oriented approach - is quite surprising.[3]

In fact, in most West European countries, the process of government formation constitutes a quite complex decision-making process. This process usually consists of several consecutive stages, which, in the more complex systems, often last for over two months. Government formation takes place in different institutional arenas, it involves a wide variety of actors, the formal and informal rules of the game differ considerably, and also the stakes of this decision process and its general relevance to the political system are far from equal.

As far as the stakes are concerned, any formation process has to decide upon the following matters:

- Which party or parties will form the government?
- Who will become prime minister?
- What will be the general orientation of the government's policy-making agenda?
- Which parties and intraparty factions will obtain which ministerial portfolios and competences?
- Which individuals will be given these portfolios?

In some countries, other matters are also decided during the formation process, such as the size of the government[4] itself, its hierarchical structure[5], its duration[6],

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actors involved in the formation process, their goals, resources and constrains, have been neglected as a research topic. Usually, these actors are only situated at an aggregated level ("the party", "the party leadership", "the parliamentary party"), while in practice, quite a variety of party and parliamentary actors are involved, each with their own objectives, strategic calculations, resources and constraints. The most detailed comparative analysis of this process is offered by Koekkoek (1978), which included four countries. Other analyses are von Beyme (1970), Bogdanor (1983), Laver and Schofield (1990), Gallagher, Laver and Mair (1992).

3 For similar observations, see Rommetvedt (1994).

4 In many countries, the number of ministers and secondary government members is not legally restricted. The number of government members in these countries often varies considerably, according to the number of parties and party factions that are included in the coalition (see Frognier, 1993).

its methods of coordination[7], allocation of patronage resources[8], coalition building at other levels[9], type of support sought from opposition parties (in case of minority government)[10], the role of parliament in policy decision making[11].

In countries with a majoritarian electoral system, the formation of government is a relatively simple and mechanical process. The electorate decides which party will hold power for the next three to five years by allocating the majority of seats in the parliament to a specific party. The electoral leader of the winning party, who already campaigned as a candidate for prime ministerial office, heads the new government. The main principles of the governmental programme are also known beforehand, as they constitute the core of the party's electoral manifesto. Hence, the main matter which is left undecided after the voters' choice is the nomination of individuals to specific ministerial posts or responsibilities. Consequently, for many of the formation variables studied below, countries with single party majority governments will not be considered as

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5 Hierarchical relations between the PM, vice-PMs (or members of an inner-cabinet), regular ministers, junior ministers, etc. (see Andeweg, 1993; Thiébault, 1993)

6 During the formation of the Tindemans IV Government (1977), the leaders of the five coalition parties decided to maintain this particular coalition for a period of two legislative terms, i.e. eight years. Many of the constitutional reforms included in the coalition agreement could only be implemented by the present parliament, but only by the following parliament, as the constitution can only be modified with regard to those articles that the preceding parliament declared subject to modification.

7 For instance, the composition of standing cabinet committees (see Burch, 1993; Thiebault, 1993).

8 For instance, until recently Belgian governmental agreements included a secret section on the division of political patronage over public jobs between the coalition parties (De Winter, Frognier, Rihoux, 1995).

9 In Belgium, the coalitions concluded at the national and regional level are strongly intertwined as the national and regional legislatures are renewed at the same time. Hence, parties involved in the coalition building process at the national level usually also demand inclusion at the regional level, and vice versa.

10 Our checklist data suggests, that during the formation of minority governments in Denmark, Spain, Portugal, Austria and the United Kingdom, the PM-designate has formal or informal contacts with the leaders of some opposition parties in order to draft a policy programme that is likely to mobilise support from these parties.

11 In Belgium, some coalition agreements stipulate that certain delicate policy issues (like abortion or institutional reform) should be decided by parliament autonomously, without government initiatives or interference. In other issues, the government sometimes reserves itself the right of initiative and asks the majority parliamentary groups not to raise the matter until the government has introduced a relevant bill ((De Winter, Frognier, Rihoux, 1995).

Table 4.1: Formation Duration and Actors Involved in Consultation and Nomination of (In-)Formateurs

	AUT	BEL	DEN	FIN	FRA	GER	GRE	ICE	IRL	ITA	LUX	NET	NOR	POR	SPA	SWE	UK
Duration [1]	39	78	15	55	22	39	8	50	23	52	34	76	30	51	33	24	4
Formal nominator [2]	P	M	M	P	P	P	P	P	P	P	M	M	M	P	M	S	M
Consultations formal nominator	+	+	+	+	-	-	-	+	-	+	+	+	+	+	+	+	-
Formal nominator Consults whom?																	
- former (vice) PM	+	+	+	-	na	na	na	-	na	-	+	-	+	-	-	-	na
- party leader	-	+	+	-	na	na	na	+	na	+	+	+	-	+	+	-	na
- parl. party leader	-	-	-	+	na	na	na	-	na	+	-	-	-	-	-	+	na
- int. grp	-	+	-	-	na	na	na	-	na	-	-	-	-	-	-	-	na
- (vice) speaker P.	-	+	-	-	na	na	na	-	na	+	+	-	-	-	-	+	na
- judiciary	-	-	-	-	na	na	na	-	na	-	+	-	-	-	-	-	na
Use of informateur	-	+	+	-	-	-	-	-	-	-	-	+	-	-	-	-	-
Nominators [3]																	
PM designate																	
- head state	+	+	(+)	+	+	(+)	(+)	+	(+)	+	(+)	+	(+)	+	+	-	(+)
- parliament	-	-	-	-	-	+	-	-	+	-	-	-	-	-	-	-	-
- speaker	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(+)	-

"na" = not applicable

1) Duration data was drawn from Jaap Woldendorp, Hans Keman and Ian Budge (1993) "Political Data 1945-1990: Party Government in 20 Democracies", special issue of the European Journal of Political Research, 24:1; Thomas Mackie and Richard Rose (1991) The International Almanac of Electoral History (Macmillan, London); the Political Yearbook 1992 and 1993 of the European Journal of Political Research. Data concerning the years 1993 and 1994 was drawn from Keesing's Historical Archives and newspapers. All other data included in Table 4.1 was drawn from the answers of country specialists of the research group to the De Winter questionnaire.
2) M = Monarch, P = President, S = Speaker of the Lower House.
3) "(+)" = formally involved, but has no real impact; "+" = formally involved and with strong or modest impact.

most formation issues are decided on election day by the voters, rather than by a bargaining process between senior party leaders and candidates for ministerial office.[12] This analysis, thus, excludes Great Britain, Spain[13] and Greece[14].

In countries where elections do not produce a single party controlling a majority of seats in parliament, the formation process is much more complex, and usually several alternative outcomes of this decision-making process are conceivable. Or, to put it another way, in these countries, the process is determined less by electoral outcomes than by institutional constraints[15]; and by the expectations, goals and resources of all participants in the process[16], including the different types of parliamentary actors as well as parliament as a whole.

2. Formation Stages and Duration

The formation of coalition governments usually follows a number of well-defined stages. The most complex scheme would include the following stages:

- "pre-election" formal or informal agreements between certain parties with regard to the next coalition, or, on the other extreme, pre-electoral mutual vetoes of parties with a prior exclusion of any type of governmental collaboration between specific parties;
- "pre-election" drafts of parties' policy objectives (often in the form of electoral manifestos);
- "pre-election" nomination (or confirmation) of parties' candidates for governmental office (in terms of departing PM and the members of the sitting government in case of governmental parties, and the leader of the opposition

12 Switzerland is excluded as the process of formation and resignation does not occur. Since 1959, each minister is elected individually, by the principle of proportionality in terms of a party's parliamentary strength.

13 Until now, Spain has not known any genuine coalition government. Only in 1993, were there open talks between Gonzalez and the leaders of the Basque and Catalan nationalist parties in order to arrive at a majority government. In this case, party delegations were composed of ministers of the national and regional governments and parliamentary party leaders.

14 In the post 1974 period, Greece has had no genuine experience of coalition government. The Tzannetakis and Zolotas coalition governments were formed in order to prepare general elections and resigned according to schedule. In these two cases, negotiations were conducted between party leaders.

15 For a comprehensive discussion of the institutional constraints of cabinet formation, see Strøm, Budge and Laver (1994).

16 For the expectations of government formation actors, see Mershon (1994).

party (parties) and the members of the Shadow Cabinet and other 'ministrables');
- campaign events affecting the likelihood of parties to form a coalition after elections (e.g. fierce attacks against other parties or specific leaders, declarations of coalition preferences, etc.);
- legislative elections producing a particular balance of power between parties in terms of parliamentary representation, possibly facilitating some, and impeding other, types of coalitions;
- consultations on behalf of the nominator of the future government formateur with regard to the "state of the nation", affecting the direction the formation process should eventually take (usually in the form of the Head of State consulting with party and parliamentary leaders, but sometimes with the departing PM, the top judiciary, representatives of pressure groups, etc. as well);
- nomination of an *informateur* charged with clarifying the demands and objectives of potential coalition parties with regard to a governmental policy programme, preferred coalition partners, and governmental leadership;
- nomination of a government *formateur* or PM-designate, who will start formal negotiations with (a selection of) the potential coalition parties;[17]
- preliminary agreement on the question of which parties will participate in coalition talks;
- coalition negotiations on governmental policy, cabinet leadership[18], distribution of portfolios and competences between parties and individual 'ministrables';
- overall agreement on all previous matters by coalition party negotiators;
- endorsement by other bodies of coalition parties: the party executive, the parliamentary party, the national party conference, the party rank-and-file, the party's parallel organisations (such as trade unions);
- formal nomination of prime minister and other members of the government;
- formal or informal approval by parliament of the new government team and its policy programme (by formal vote of investiture, the rejection of a motion of censure, or tacit approval without any vote).

17 Or, in countries in which minority governments frequently occur, the formateur will explore whether a minority government can be formed that will not lose the confidence of parliament on key votes.

18 Government (in-)formateurs sometimes form a government for somebody else. The Eyskens IV (1968-1971) and Martens VIII Governments (1988-1991) were constructed by (in-)formateur Vandenboeynants and Dehaene respectively, whereby the future PMs only got involved in the negotiation process after an agreement on party composition and policies had already been reached.

Most 'real world' formation processes do not go through each and every stage. The informateur stage is often skipped as elections may produce such a clear-cut result, that the leader of the largest party is nominated to form a government, and will search for a minor party as a coalition partner. Secondly, the formation of a new government does not always occur in the aftermath of general elections. In between elections, governments often change as well. Also, the number of party instances that have to give their informal or formal approval to the new coalition is usually less than the instances enumerated above. This basically depends on the type of party one is dealing with in terms of certain organisational attributes such as centralisation and leadership concentration.

Furthermore, the chronological order of the stages can vary considerably. In addition, loops may occasionally occur. A government (in-)formateur may fail in his mission and a new (in-)formateur will have to be appointed. In the final stage parliament can withhold its confidence and thus force the process to start all over again.[19] Also, certain stages are sometimes split into several sub-stages. For instance, in some countries, party bodies only ratify the coalition agreement, while the matter of the distribution of portfolios is settled at a later date by the PM and the leaders of the coalition parties alone.

Still, in spite of its comprehensiveness, in several countries the scheme sketched above often represents a realistic shooting script of the average formation process. For instance, the formation of the most recent Belgian and Dutch governments (at least those formed after general elections) have usually gone through all, or nearly all, of these stages, involving many such loops as well. This basically explains why it takes a very long time before a new government emerges in these countries.

In fact, the data on the overall duration of the formation process indicates well the extent to which this process represents a vital stage in the general policy process. We calculated the number of days that lie between general elections[20]

19 For instance, in 1946 Spaak formed a Socialist minority government, was sworn in by the Regent, but failed to win confidence of parliament.

20 We decided to calculate duration only for governments formed after a general election. This type of formation is usually more time-consuming, as winning parties make new demands, losers need some time to heal electoral wounds and to psychologically overcome defeat. In addition, elections can render certain well-preferred coalition formulae mathematically impossible, thereby leaving only second choice or previously rejected formulae available to parties. The adjustment of parties, especially of the rank-and-file, to such undesirable coalitions can also consume quite some time. In principle, the breakdown of a governing coalition that does not provoke general elections does not face similar problems, unless a former coalition party refuses to enter a specific, or any government. Finally, although in some countries, the formation proc-

and the moment the new government presents itself as a whole and its subsequent installation by the Head of State (see Table 4.1).

In Great Britain and Greece, the formation of a new government always proceeds extremely fast, taking on average four and eight days respectively. This short duration in Greece is due to the constitutional provision stipulating the exploratory formation mandate given to a party leader in order to form a government is limited in time to a maximum of three days.[21] In Denmark, Sweden[22], France and Ireland, formation takes between two and four weeks. In Norway, Germany, Luxembourg, Spain, and Austria, formation takes between four to six weeks, while in Finland, Portugal, Italy and Iceland, it takes six to eight weeks. In Belgium and the Netherlands, two supposedly strong cases of consensus democracy, parties take more than eight weeks on average to reach an understanding.[23]

3. Formation Actors, Rules and Practices

The involvement of different types of actors in the various stages of the formation process is determined by formal as well as informal rules, while circumstantial factors also often determine the type of actors involved in the formation of specific governments.

A. Formal and Informal Formation Rules

The process of government formation is governed by a restricted number of formal provisions and a wide variety of informal rules. In addition, constitutional rules often do not reflect the way the formation process operates in practice.

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ess cannot formally start before a newly elected parliament has met for the first time, in practice, informal coalition talks are already conducted in the period between this meeting and the election date. Hence, this period does not have to be deducted from the overall duration figures.

21 Should all exploratory mandates fail, a meeting of all party leaders is called by the President in order to form a coalition government. Should this attempt also fail, one of the Chief Justices of the three Supreme Courts is appointed to form a "service government" that should prepare general elections within 40 days.

22 Data for Sweden refers to post-1974 rules and practices unless otherwise stated.

23 Strøm (1990) has shown that the variation in duration is related to the number of parties involved. Most likely, the size of the negotiation teams, the degree in which detailed and encompassing policy agreements are concluded, the complexity of the distribution of portfolios, and the degree to which other matters are also decided during this process (patronage, coalitions at the sub-state level, etc.) exert an additional impact.

Basically, constitutional and legal rules determining government formation and life cycles concern the role of the Head of State in the process, the requirement of a formal vote of investiture by the parliament, the obligation of a government to resign if it loses a vote of confidence, the power of the government to dissolve the legislature, and the maximum time between elections (Laver and Schofield, 1990).

Yet, as one will see below, in many cases these formal rules do not govern the formation process in practice. Some formal rules are persistently violated in the real world, as they are considered anti-democratic or impracticable. Take, for instance, the involvement of the Head of State. In all countries, some constitutional authority is charged with investing the entire government with formal constitutional authority. In most cases, the Head of State performs this task. Apart from this formal "swearing in" role, some Heads of State play an active role in certain stages of the formation process. Most Heads of State also designate a government formateur who is the potential prime minister.

This empirical involvement of Heads of State in this stage of the formation process often deviates most strongly from constitutional rules. In most parliamentary monarchies, the constitution stipulates that the monarch appoints and dismisses the members of the government. In practice, however, democratic norms have forced constitutional monarchs to transfer most of their nomination power to other actors, primarily to the leader(s) of the governing party(parties). Yet, even in constitutional monarchies (like the Netherlands, Belgium and Denmark), the "behind the scene" influence of the monarch should not be disregarded, especially with regard to the nomination of government formateurs and informateurs.[24] Moreover, in the case of republics, the real impact of presidential Heads of State on the formation process does not always correspond to constitutional rules either.[25]

In short, in order to understand the actual involvement of different sets of political actors, the dynamics of the formation process and its role within the wider decision-making process, one must focus on both the formation rules, as applied in practice, as well as the less flexible formal rules or democratic norms. In the following sections, we will present a summary of the main characteristics of the formation process in practice and the formal and informal rules that actually govern this process.

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24 For an overview of the role of constitutional monarchs in the formation process, see Bogdanor (1984) and the special issue of *Res Publica* (1991, Nr. 1).

25 While the French President has a considerable formal role in the formation process (choosing a prime minister of his liking), in situations of *cohabitation*, his influence is severely restricted.

B. Formation in Practice

1. Consultation and Informateur Stage

a. Consultation Stage

In most West European countries, after a general election is held or when a government has collapsed, some constitutional authority is charged with taking the first formal steps towards forming a new government. In most cases, it is the Head of State who performs this task.

In the constitutional monarchies of Belgium, Denmark, Luxembourg, the Netherlands, Norway, Spain and the United Kingdom, the monarch plays this role. Sweden is the only exception to this rule. Since 1974, it has been the Speaker of the *Riksdag*, rather than the King, who nominates the government formateur.[26] In all the other countries under consideration, the president is formally charged with nominating the PM designate (see Table 4.1).

Yet, prior to this decision of vital importance for the outcome of the formation process, the Head of State, in several countries, holds formal "consultations", with what can amount to a wide variety of actors. All constitutional monarchs, apart from the British Queen[27] and the Swedish King[28], try to obtain first hand information concerning the expectations, objectives and state of mind of the main actors who may potentially become involved in the formation process. Of the European countries formally headed by a president, only in Finland, Austria and Italy does the president hold such formal consultations. In the latter case, this practice reflects on the one hand the Italian President's weak institutional position, and, on the other hand, the complexity of the formation game (Calanda, 1986). The Austrian President meets the PM and deputy PM, who are usually the most prominent leaders of the outgoing coalition parties[29]. The Finnish Constitution stipulates that after consulting the various parliamentary factions, the presi-

26 Until now, in spite of the fact that the Speaker is a professional politician usually belonging to the largest party, he has not let partisan considerations affect his role in the formation process.

27 As until now, elections have always provided for a party controlling a majority of seats in the House of Commons (apart from the Wilson 1974 Government), the Head of State has not had to have been consulted. In the case of a hung parliament, the role of the monarch would become less mechanical, and would most likely require the consultation of the contenders for the position of PM.

28 The Swedish King does not hold consultations, as he has been removed from the formation process.

29 After the 1994 elections, the President not only consulted the PM and deputy PM, but also the parliamentary leader of the Greens and the chairpersons of the four other parties.

dent appoints the members of the government. On the other hand, the German, French, Portuguese and Greek Presidents do not hold preliminary consultations before nominating a PM-designate (see Table 4.1). This habit is not only the result of the absence of the need to prevent the constitutional monarch of making "unwise" moves, but also of the fact, that, in the republics under consideration, in practice, the search for a PM-designate has usually been quite easy (i.e. the leader of the party with the largest parliamentary support).

In most countries in which the Head of State holds consultations, the party leaders constitute the most prominent consultees, as they will be the main actors in the formation process (see Table 4.1). Other categories of actors that are sometimes heard are the former PM (and vice-PM), the speaker of the House(s) and leaders of the parliamentary parties. In some countries, leaders of the main socio-economic pressure groups and the head of the constitutional court are also consulted[30].

b. Informateur Stage

In the case of the constitutional monarchies, when the search for a PM-designate is less self-evident and several alternatives are available, a specific institutional device has been developed to clarify this matter, without formally involving the monarch. In the Netherlands[31], Belgium and to a lesser extent also in Denmark[32], on such occasions the monarch appoints an "informateur", usually a seasoned politician who is on good terms with all parties and candidates for potential governmental office (see Table 4.1).[33] In the name of the monarch, he or she explores the viability of different coalitions under different prime ministerial candidates. Sometimes, the monarch will give some broad indications with regard to the type of coalition that seems desirable.[34] Sometimes, the informateur is not

30 In Belgium, the main pressure groups are also consulted, and in Luxembourg, also the President of the Council of State. For a discussion of the impact of pressure groups on cabinet formation see Luebbert (1986).

31 In the post-war period (until 1993), 33 informateurs and 38 formateurs have been used in the Netherlands. (Andeweg and Irwin, 1993)

32 Use of this device by the Danish monarch is rather exceptional. This occurred in 1975 (when the Speaker acted as informateur) and in 1981 (when the outgoing PM served as informateur).

33 Note that in other countries, the role of informateur exists in a less formal way. In Norway and Sweden, the speaker of the legislature maintains informal contacts with potential formation actors. In Spain, if a coalition is to be formed, potential candidates for prime-ministerial office hold informal negotiations with leaders of other parties.

34 For instance, in 1975 the Danish monarch ordered three different informateurs to form a majority government. The Belgian King sometimes expresses preference for a government relying on a two-third majority in order to reform the constitution and solve

successful in his mission, being unable to secure a viable coalition formula. In this case, the monarch will usually appoint a new informateur.

2. Nomination of PM-Designate or Formateur

Once the informateur has sounded out the potential coalition parties, he advises the monarch on the formation of a particular type of coalition, headed by a particular government formateur. If this advice is straightforward, the monarch will, in most cases, act accordingly. Hence, the degree of freedom of the latter is very restricted. Only in the Netherlands, Spain, and Belgium, does the monarch sometimes take decisions, that, at this stage, differ from the recommendations of the informateur.[35]

Although the German, Austrian, French, Portuguese and Greek Presidents do not use informateurs, their freedom of nomination of a formateur or PM-designate is sometimes restricted by constitutional rules. For instance, the Greek constitution does not leave any leeway to the president, as it stipulates that he should first nominate the leader of the largest party in parliament as the formateur, and if he fails to form a government, the leader of the second largest party is given a chance, and so on.

In some countries, it is parliamentary actors, rather than the Head of State, who formally participate in the appointment of the PM designate. In Ireland and Germany, the PM-designate is nominated by the Head of State, but only upon proposal by the legislature. In Sweden, the Speaker of the *Riksdag*, rather than the King, nominates the government formateur.

Hence, the only countries in which the president has a real say in the nomination of the PM designate are, in decreasing order of impact, France, Finland, Portugal, occasionally Italy[36], Iceland and Austria[37]. Here, the president played more than a mere ceremonial role at this stage.

3. Formation Negotiations

Once a prospective leader of a new governmental team has been selected, the other main questions of government formation are dealt with. As far as the matter

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the country's recurrent institutional problems. Also the Dutch Queen sometimes plays an active role in this stage (Vis 1983).

35 For instance, in 1994, the Dutch Queen rejected the proposal of the first informateur to appoint a new informateur from the Liberal party. Instead, she nominated a Socialist informateur, Wim Kok, who, in the end, also became PM.

36 Since 1991, Presidents Cossiga and Scalfaro have started playing a less purely formal role in the formation of governments.

37 According to Müller (1992:108) "some presidents have had modest influence on government formation".

of the parties that will constitute the government is concerned, this issue has sometimes already been entirely resolved by the nomination of the PM-designate itself. For instance, in Germany and Ireland, the legislature, i.e. a coalition of parties holding a majority of parliamentary seats, proposes a candidate for prime ministerial office to the President. In the case of monarchical designation, when receiving his mission from the monarch, the formateur often gets a clear indication of what kind of coalition he should be striving for, or at least discern the kind of coalition he should not pursue. Yet, the question of the type of coalition is often not entirely resolved beforehand, and constitutes one of the central matters to be tackled at this stage, together with the question of an agreement on governmental policies and the distribution of portfolios.

Usually, this matter of portfolio and policies is taken on last by the negotiation teams of the parties invited to the formation talks. The data provided by Laver and Budge (1992) indicates that only in Italy is the cart put before the horse, and portfolios are decided before policy (see Table 4.2). As far as the sequence between coalition composition and policy programme is concerned, the distinction made by Laver and Budge seems rather artificial. In some cases, the decision on composition comes imperatively before a detailed agreement on policy is reached, as the former matter is decided before, or at least at the moment of the nomination of the PM designate. For instance, in Ireland, Germany and Norway, parties often conclude electoral pacts, indicating to the electorate which coalition will be formed if the prospective coalition parties obtain a viable parliamentary majority. In countries where informateurs operate, the coalition question is usually clarified entirely by the latter. Hence, the cases for which Laver and Budge indicate a precedence of policy over composition decision are ambiguous. It is true that, sometimes, more parties participate in the early stages of formation talks, when policy matters are already unavoidably evoked. Yet, the general policy direction in which these talks advance often forces initial potential candidates to withdraw from the talks, upon which the remaining parties often need considerable "extra-time" to agree upon a final policy programme. Hence in these cases too, while initially talking about policy, very soon the matter of composition has also been entirely settled, and usually long before a final decision on policy is reached. To conclude, whether decided prior to the nomination of the formateur, or during the formal coalition talks, the matter of composition of the government is always solved first, and thus before any final agreement on policy is reached.

The formation talks on the matter of the identity of the coalition partners, the policy programme they intend to implement and the distribution of portfolios constitutes the core phase in the formation of each coalition government. A large variety of actors are involved in this stage. Table 4.2 indicates that, in all coun-

tries, the leader of the party organisation and/or the leader of the parliamentary party participate. In the Netherlands the parliamentary leaders constitute, indisputably, the principal actors, rather than the leaders of the party organisations. Whereas in Belgium, France, Ireland, Sweden and Iceland, the parliamentary leaders are not involved at all. In the other countries, both the leaders of the parliamentary party and of the party organisation participate in the coalition negotiations. In about half of the countries, top party leaders - different from *the* party leader - also participate. The same holds for party experts, called upon not for their formal power position within the party, but for their technical competence (for instance as member of the party research centre[38]). Often, these experts are summoned at various moments in order to solve a particularly complicated technical matter. Once a compromise is reached, these party experts withdraw from the talks and let the main negotiators continue until they run into another complex matter for which another set of party experts must be called in.

Hence, in most countries, parliamentary actors are active and sometimes the predominant actors in formation talks. Only in Belgium, France, Ireland, Iceland and Sweden are parliamentary actors (leaders and experts), *as such*, not involved. Also, the number of actors directly participating in the negotiation talks varies strongly. In some countries, only the leaders of the respective parties are involved; in others the negotiation teams are very large and diverse. For instance, in Luxembourg, at the most recent government formation, chaired by formateur Santer (1994), each team consisted of ten members, including the party president, the leader and the secretary of the parliamentary group, several outgoing ministers, and some leading MPs.

38 In Austria and Luxembourg, experts are also recruited from amongst parliamentary specialists. In Denmark, sometimes leading MPs also participate.

Table 4.2: Formation Tasks: Stakes, Main Negotiations and Consulted Bodies

	AUT	BEL	DEN	FIN	FRA	GER	GRE	ICE	IRL	ITA	LUX	NET	NOR	POR	SPA	SWE	UK
Sequence [1)]																	
- composition	1	2	2	1	1	1	na	1	1	1	1	1	1	1	na	2	na
- polity	2	1	1	2	2	2	na	2	2	3	2	2	2	2	na	1	na
- portfolios	3	3	3	3	3	3	na	3	3	2	3	3	3	3	na	3	na
Participants negotiations																	
- leaders parl. parties	+	-	+	+	-	+	na	-	-	+	+	+	+	+	na	-	na
- leader party org.	+	+	+	+	+	+	na	+	-	+	+	-	+	+	na	-	na
- top party leaders	+	+	-	-	-	-	na	-	+	-	+	-	-	+	na	+	na
- party experts	+	+	-	+	+	+	na	-	-	-	+	+	-	+	na	-	na
Consultations																	
- parl. party	+	-	+	+	+	+	na	+	+	-	+	+	+	+	na	+	na
- party exec.	+	+	+	-	-	-	na	-	-	+	-	-	+	+	na	-	na

1) The sequence refers to what matters are dealt with first in the coalition talks: the composition of the coalition in terms of parties, the content of the policy programme or the distribution of portfolios. Data was drawn from Laver, Michael and Ian Budge (ed.) (1992), Party Policy and Government Coalitions, Macmillan, London, p. 20, and completed with information provided by country specialists of the research group. All other data included in Table 4.2 was drawn from the answers of country specialists of the research group to the De Winter questionnaire.

This brings us to the question of whom these actors represent at the talks? Are they just the "strong men" of the party, dividing the government cake amongst themselves and their following within their respective parties? Are they trustees that can make binding decisions for their party without regular feedback or debriefings, or, are they merely delegates of the party organisation or parliamentary party? The representative style of negotiation teams has neither been systematically addressed in the literature, nor in our checklist. This is, indeed, rather difficult to operationalise. Yet, the data collected does indicate that, in a majority of countries, parliamentary groups are kept informed about the progress made in coalition talks (see Table 4.2)[39]. Only in Belgium and Italy, two strong cases of party government, is the party executive, rather than the parliamentary party, kept regularly informed. In Portugal, Austria, Norway[40] and Denmark[41], too, negotiators hold regularly debriefings with the party executives, although in the latter two countries, practice varies between parties.

With regard to the specific influence of these different types of actors over the issues on the formation agenda, we have only collected data pertaining to the issue of the selection of ministers (see Table 4.3). In Norway, Denmark[42], Sweden, Finland, Belgium, Portugal, Spain, Italy, Greece, Austria, Ireland and, the United Kingdom as far as the Labour Party is concerned, the leader of the party organisation and/or the party executive are the predominant selectors. Only in the Netherlands, Iceland and the British Conservative Party, are parliamentary party actors more important selectors than party organisational actors. However, this does not mean that in the first group of countries parliamentary actors do not carry any weight. In fact, in Norway, Finland, Germany, France, Portugal, Ireland and the British Labour Party, the parliamentary party, or its leader, also has a say in the selection of ministers. In some countries, fac-

39 In Luxembourg, practice varies between parties: there is no consultation in the Parti Ouvrier Socialiste Luxembourgeois, in the Parti Chrétien Social the parliamentary party is consulted through the group leader, while in the Parti Démocratique the parliamentary group is regularly consulted. In Ireland, the parliamentary parties as a whole are not kept informed, but, individually and informally, MPs are.

40 In the Norwegian Socialist Party, the executive is more often consulted than parliamentary group. In the other parties, the parliamentary party constitutes the main body to be sound out by coalition negotiators.

41 In Denmark, only in the case of the Social Democrats is the party executive regularly consulted.

42 The situation varies between Danish parties: in the Social Democrats the party leader exerts most influence. In the other parties, the parliamentary leader has the strongest say. The PM-designate has a strong say in the selection of the ministers of his own party.

Table 4.3: Ministerial Selectorates and Backgrounds

	AUT	BEL	DEN	FIN	FRA	GER	GRE	ICE	IRL	ITA	LUX	NET	NOR	POR	SPA	SWE	UK
Selectorates [1]																	
- parl. party	-	-	-	+	+	-	-	+	+	-	+	+	-	-	-	-	+
- parl. leader	-	-	+	+	-	+	-	-	-	-	-	-	+	-	-	-	-
- party leader	+	+	+	+	-	-	+	-	+	-	+	-	-	-	+	+	-
- party exec.	+	-	-	+	+	+	-	-	+	+	+	+	+	+	-	+	+
- party org.	+	-	-	-	-	-	-	-	-	-	+	-	-	-	-	+	-
- IG/factions	+	+	-	+	+	+	-	+	+	+	-	+	+	+	+	+	+
- head state	-	-	-	+	+	-	-	-	-	-	-	-	-	-	-	-	-
- PM	+	-	+	-	+	-	-	-	-	-	+	-	-	+	+	+	+
% Ministers = MPs (% 1970-1984) [2]	66	94	79	65	70	80	--	82	94	96	88	64	61	--	--	63	99

1) Ministerial selectorates are those individuals and collective actors that exercise a significant influence on the selection of ministers at the moment when this matters is dealt with during the government formation process. All data included in Table 4.3 was drawn from the answers of country specialists of the research group to the De Winter questionnaire.

2) The percentage of ministers was recalculated for the 1970-1984 period from the data collected within the Blondel project on Cabinets in Western Europe (Bondel, Jean, and Jean-Louis Thiébault (eds.) (1991) The Profession of Government Minister in Western Europe (London, Macmillan)).

tions (usually related to interest groups like the trade unions), the wider party (national conference or sub-state party bodies), and institutional actors like the Head of State also exert some influence. Finally, the PM-designate is a principal nominator in Denmark, Luxembourg[43], Austria, Sweden, Finland, Portugal, Spain and in the U.K. However, when in coalition government, this prime ministerial nomination power does not extend beyond the PM's own party, of which he or she is usually the leader. French ministers are selected by the President, the PM and party leaders.

To conclude, only in Belgium, Spain, Portugal, Italy, Sweden, Greece and Austria do the parliamentary parties and their leaders, *as such*, not exert a significant impact on the allocation of ministerial portfolios.

4. Endorsement of Formation Outcomes

In most countries, the parliamentary parties, which, in the end, will have to secure the required parliamentary support for a government, are not presented with a *fait accompli* at the moment of investiture, but are regularly sounded out as coalition talks proceed. At the end of these negotiations, they are also frequently able to voice their opinion on the overall deal their negotiators have struck. This ratification can take two forms: during a special meeting of the parliamentary party, or at the moment when the new cabinet presents itself for the first time to parliament as a whole.

a. Endorsement by Party Bodies

Before seeking formal approval by the majority parties in parliament, the negotiating teams will seek approval of their bargain results from within each of their own parties. In most countries, the party executives have to approve the agreement reached by their negotiators (see Table 4.4)[44]. In Belgium, Luxembourg[45] and Iceland even the rank-and-file, represented by their delegates at the national party conference, have a final say, which is also the case in the

43 There are important differences between parties in Luxembourg: in the PCS, the formateur nominates the ministers of his party; in the POSL, the vice-PM proposes a candidate list to the party congress after consulting the parliamentary group and the party president; in the PD, the parliamentary party first holds a meeting with the party executive, after which the party president proposes a list to the party council.

44 The 1993 negotiations between Gonzalez and the leaders of the Basque and Catalan nationalist parties (PNV, CiU) were analysed by the party executives, but not by the parliamentary parties. As these talks did not lead to a genuine coalition government, the Spanish case has been coded as not applicable.

45 Not in the Parti Ouvrier Socialiste Luxembourgeois.

Table 4.4: Ratification of Formation by Party and Parliamentary Actors

	AUT	BEL	DEN	FIN	FRA	GER	GRE	ICE	IRL	ITA	LUX	NET	NOR	POR	SPA	SWE	UK
Ratification																	
- party exec.	+	+	-	+	-	+	na	+	+	-	+	-	+	+	na	+	na
- party conf.	-	+	-	-	-	-	na	+	-	-	+	-	-	-	na	-	na
- parl. party	-	-	+	+	-	+	na	+	-	-	+	+	-	-	na	+	na
Investit. vote																	
- needed	-	+	-	-	-	+	+	-	+	+	+	(+)	-	-	+	+	-
- abs. maj. anti	-	-	-	-	-	-	-	-	-	-	-	-	-	+	-	+	-
- rel. maj. pro	-	+	-	-	-	(+)	+	-	+	+	+	+	-	-	(+)	-	-
- abs. maj. pro	-	-	-	-	-	+	-	-	-	-	-	-	-	-	+	-	-

Data included in Table 4.4 was drawn from Bergman's (1993a) article and completed with the answers of country specialists of the research group to the De Winter questionnaire.

Dutch and Irish Labour parties[46]. Hence, it is only in Denmark[47], the Netherlands, France and Italy, that the national party executive or conference do not usually give their formal consent. As far as the respective parliamentary parties of the new majority are concerned, only in half of the countries considered do they give preliminary formal approval before the new government is presented to parliament.[48]

Thus, before the new government team seeks and receives its own approval and approval for its programme by parliament as a whole, in most countries the party executive, and to a lesser extent the rank-and-file through the national party conference, has already given the green light. In most cases, the parliamentary party gets a chance to approve or reject the agreement only at the moment of investiture by parliament as a whole.

b. Support by Parliament as a Whole

In parliamentary systems, the key constitutional devices that makes the executive responsible to the legislature are the legislative vote of confidence in the government and the vote of censure, which allows parliament to replace a government whenever a (qualified) majority of MPs chooses to do so. Yet, in some countries, the formal features and actual use of these tools of government maintenance are rather ambiguous.

In fact, no investiture vote is formally required in Norway, Denmark, Finland, France, Austria, Portugal, Great Britain, Iceland, Luxembourg and the Netherlands (see Table 4.4). The latter two countries represent a border case: although a formal investiture vote is not required, the norm is that a government should be supported, and not merely tolerated by parliament. In the case of the Netherlands, confidence is assumed unless proven otherwise by a vote of censure after the "investiture debate"[49]. In Luxembourg, the legislative usually explicitly expresses its confidence through a vote after the debate on the new governments policy program. Amongst those countries that do in fact require a formal vote, a relative

46 In Austria, only in case of very delicate political coalitions, like the 1945 Grand Coalition and the 1983 coalition with the FPÖ, did the SPÖ call for a national party conference to legitimate the new coalition.

47 In Denmark, only in the case of the Social Democrats, does the party executive ratify the formation process.

48 In Finland, Luxembourg and Germany (apart from the FDP), this approval is a mere rubber-stamping. Only in the Netherlands, Iceland and to some extent Sweden, is opposition voiced and amendments sometimes accepted, and in the Dutch case sometimes even leading to a second round of negotiations.

49 There is a debate on the governmental declaration, itself a synopsis of the coalition agreement.

majority suffices in Belgium, Italy, Ireland and in Sweden[50]. Only in Spain (in the first ballot) and Germany (first and second ballot) must the new government prove that it can count on the support of an absolute majority of all MPs.

Hence, the number of MPs that a government has to gain support from varies from one country to another. The same can be said of the actor who has taken the initiative to prove that the government does, or does not, enjoy the necessary parliamentary support (government or opposition).

In this aspect, Bergman (1993a) makes a distinction between positively formulated formation rules, and negatively formulated ones. Following his line of thought[51], we can identify three types of positive rules with different "degrees of investiture freedom" (see Table 4.4):

1) the governmental majority in Parliament should consist of a party, or a coalition of parties, that must hold an absolute majority of seats. None of the countries examined here fall into this category.
2) a governing party or governing coalition must win a positive vote in parliament by an absolute majority (i.e. propose and win a vote of confidence, the vote of investiture, held at the moment the government faces the legislature for the first time). This is the case in Germany, where the candidate for Chancellor, appointed by the president, must win a vote by an absolute majority in the first round. Failing that, parliament can put up its own candidate and elect him by an absolute majority in the second round. If also this candidate eventually fails, a relative majority suffices in the third round. The Spanish rules require an absolute majority in the first round, a relative in the second.
3) a governing party or governing coalition must win a positive vote in the parliament by a relative majority (weakest positive rule). This is the case in Belgium, Italy, Ireland and Greece. To some extent this also holds for Luxembourg and the Netherlands, as the norm is that a government should be supported, and not merely tolerated by parliament. Therefore, in practice, the governmental parties always control an absolute majority of seats.[52]

   The negative rules do not require a government to win a positive vote of confidence.

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50 In Sweden, the candidate for Prime Minister must, before he (and thereby his cabinet) can assume power, prove that an absolute majority of MPs is not against him. In practice, this means that all abstentions are counted as tacit approvals, and that a small minority of explicit positive votes may select a PM.

51 We have expanded Bergman's definition of formation rules in such a way as to also include systems in which one party holds a majority of seats in the legislature.

52 Bergman (1993a) places the Netherlands in the group of countries with positive formation rules.

4) a governing party, or governing coalition, must survive a vote of confidence, but only in the sense that an absolute majority of MPs does not vote against the government. In Sweden, *before* a coalition can assume power, it must show that it is tolerated by an absolute majority. In Portugal, a government appointed by the president must present parliament with its policy program within ten days. Only if this program is rejected by an absolute majority must the government resign.[53]
5) a governing party, or governing coalition, does not have to win an explicit vote in parliament. This is the case in the four other Scandinavian countries, Austria and the U.K.

Consequently, the negative rule implies that the government should be *tolerated* by an absolute majority, while positive rules require that governments are explicitly *endorsed* by at least a relative majority. As Bergman (1993b) already indicated, there is a positive relation between positive formation rules and the length of the formation process.[54] This is confirmed by our data, which operationalised formation duration in a different way and for a different set of countries. For the governments formed in the 1970-1994 period after general elections, the formation in the eight countries with negative rules consumed an average of 33 days, while those formed in countries with positive rules took on average eight days longer to emerge (41 days).

4. Government Resignation

A. Formal and Informal Resignation Rules

The types of votes a government cannot lose if it wishes to remain in power also vary considerably between countries. In Belgium, Denmark[55], Sweden, Finland and Ireland[56], a government will usually step down after a defeat on a major bill,

53 Since 1976, nearly all incoming governments have been confronted with motions rejecting government policy proposals and thus, in practice, a vote of confidence is taken by voting against the motion of rejection.

54 There is a positive relation between negative formation rules and the occurrence of minority governments.

55 As a rule, before 1982 a government resigned after such a defeat. Especially, in the 1982-1988 period, many defeats occurred and were swallowed, forcing the government to implement many bills amended by the opposition. Yet, also in the 1988-1993 period, governments sometimes accepted a defeat without resigning.

56 In theory, the responsibility of the government can be put at stake on any kind of parliamentary activity (questions, committee work, and of course censure motions). It

even if it is constitutionally not obliged to (see Table 4.5). In other countries, a government will step down after a defeat on an important bill, only if the cabinet has explicitly turned the vote on the bill into a matter of confidence.[57] Therefore, chance mishaps with disastrous results are more likely to occur in the former than in the latter group of countries.

In some countries, the type of vote that may not be lost is defined very restrictively. In Germany and Spain (and from 1995 on also in Belgium), a government may suffer as many defeats as parliament deals out, as only a constructive motion of censure can bring the government down. As it is often easier to agree upon what one opposes rather than on what one supports, this obligation makes it much more difficult for a parliament to unseat a government.

Furthermore, the degree of unambiguousness of the obligation to resign varies from one country to another. In some countries, the principle of parliamentary government is not enshrined in statutory law, but constitutes instead only a constitutional convention. For instance, British and Finnish governments are not constitutionally obliged to resign if they lose a vote of confidence, but in practice, they have always done so.[58]

Finally, similar to the distinction made by Bergman (1993a) between positive and negative formation rules, one should distinguish between negative and positive resignation rules. Here, the size of the majority that calls for the resignation of the government can vary between absolute majority of all MPs (France[59], Greece, Sweden and Portugal) to a relative majority in the other countries. As in Germany and Spain, a motion of censure must propose an alternative PM, we should group these countries - together with France, Sweden and Portugal - in the set of countries that render government resignation forced by parliament more difficult ("positive resignation rules"). In all other coun-

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suffices that the PM has lost the confidence of a majority in the Dáil. However, there is no clear definition on the matter of exactly when a government loses the Dáil's confidence. In practice, there has only been one case of defeat on a major bill, when in 1982, the government resigned after a defeat on a budget resolution.

57 In France, resignation after losing a vote on a bill has been rendered even more difficult: the government will only have to resign if it has linked its responsibility to a specific bill, and when an absolute majority votes against the bill. Hereby, absentees are counted as having voted in favour of the government, and the vote may only taken at least two days after the filing of the motion.

58 Gallagher, Laver and Mair (1992:175) argue that "strictly speaking, British governments could defy many votes of no confidence and remain in office". The Finnish president may accept resignation in the event of a no confidence vote. Swiss governments, once formed, do not have to face confidence votes.

59 Cf. the famous article 49.3 of the French Constitution.

Table 4.5: Resignation Rules and Practice

	AUT	BEL	DEN	FIN	FRA	GER	GRE	ICE	IRL	ITA	LUX	NET	NOR	POR	SPA	SWE	UK
Resignation on defeat of major bill																	
Rule	-	-	-	-	-	-	-	-	+	-	-	-	-	-	-	-	-
Practice	-	+	+	+	-	-	-	-	+	-	+	-	-	-	-	+	-
Resignation rules																	
Positive	-	-	-	-	+	+	+	-	-	-	-	-	-	+	+	+	-
Negative	+	+	+	+	-	-	-	+	+	+	+	+	+	-	-	-	+
Reasons of termination [1] 1945-1990																	
- N of governments	18	35	27	42	23	23	9	20	17	49	15	21	23	11	8	21	18
- no parl. support	0	8	10	3	1	2	0	3	5	15	1	3	3	4	0	1	1
% no parl. support	0	23	37	7	4	9	0	15	29	31	7	14	13	36	0	5	6

1) Data covers the 1945-1990 period and was drawn from Woldendorp, Keman and Budge (1993). Some minor corrections were made. All other data included in Table 4.5 was drawn from the answers of country specialists of the research group to the De Winter questionnaire.

tries, a vote of censure passed by a relative majority suffices to unseat a government ("negative resignation rules")(see Table 4.5).

B. Resignation Practice

In spite of the fact that the essence of parliamentary government stipulates that an absolute or relative majority of MPs has the power to bring down a government, parliamentary actors are, in practice, rarely at the basis of the downfall of a cabinet. The data provided by Budge and Keman (1990) for governments in the 1945-1990 period indicates that in the countries considered in this chapter, on average, less than one in six (15.8%) governments resigned due to a lack of parliamentary support[60].

In post-war Austria and in post-1974 Spain and Greece, not one single government fell due to a lack of support in parliament (see Table 4.5)[61]. In post-war Sweden, Finland, Germany, Luxembourg, Great Britain and the French Fifth Republic, less than one in ten governments resigned after a defeat in parliament. In the Netherlands, Norway and Iceland, between 10 and 20% of the governments suffered such a defeat. In Denmark, Belgium, Portugal, Italy and Ireland, more than one in five governments resigned due to insufficient support in parliament. In the latter group Norwegian, Italian, Irish and Belgian governments are especially vulnerable to parliamentary rebellion. Whereas in Finland, Luxembourg, Austria and the U.K., governments are not easily brought down by parliament, even though only a relative majority would suffice to do so.

The role of parliament in government breakdown is related to the resignation rules mentioned above. First, as far as the obligation to resign after a defeat on a major bill is concerned, in the countries which apply this rule (i.e. Belgium, Luxembourg, Denmark, Sweden, Finland and Ireland) 18% of the governments (28 out of 157) met their Waterloo in parliament. In the countries with less strict res-

60 In spite of their definition of "lack of parliamentary support" (i.e. "every instance when parties either withdrew support from government, or there occurred a (successful) vote of no confidence (or similar parliamentary action)" (Budge and Keman 1990:218), the defeat of the Callaghan's minority government on a major bill, which pushed the PM to call for anticipated elections (1979), is not considered as a case of lack of parliamentary support. In our presentation of the data, we do consider this a valid case of defeat by parliament.

61 Defined as "every instance when parties either withdraw support from government, or there occurred a (successful) vote of no confidence (or similar parliamentary action)" (Budge and Keman 1990:218). Data for Greece, Portugal and Spain, which are not included in the Budge and Keman dataset, has been drawn from Keesing's Historical Archives.

ignation rules, 14% of the governments (32 our of 223) had to resign after parliamentary defeat.

Second, as far as the distinction between positive and negative resignation rules goes, if we compare the number of governments that fell due to lack of parliamentary support in countries with positive resignation rules (Sweden, France, Greece, Portugal, Germany and Spain) to those with negative formation rules, we notice that in the former group, 8.4% of the governments (8 out of 95) fell that way. In fact, only in Portugal, are governments regularly (more than one in three!) brought down in Parliament, despite the requirement that an absolute majority of all MPs has to support the motion of censure. In countries with negative resignation rules, 18.2% of governments (52 out of 285) fell due to lack of support in parliament. In the latter group, Norwegian, Italian, Irish and Belgian governments are especially vulnerable to parliamentary rebellion. Whereas, in Finland, Luxembourg, Greece, Austria and the U.K., governments are not easily brought down by parliament, even though only a relative majority would suffice.

Hence, special institutional safeguards intended as rendering government less vulnerable to parliamentary rebellion do, in practice, reduce the role of parliament in the downfall of governments[62].

5. Correlates of Government Formation Features

A. Parliamentary Backgrounds of Ministerial Personnel

The background of ministers in West European governments varies strongly in terms of the proportional recruitment from the legislature (ranging from 53% in the Netherlands in the 1944-1984 period to 95% in the U.K.) (De Winter 1991:48). We have also learned from the above, that the degree of involvement of parliamentary actors in the different stages of government formation varies considerably between countries.

One may assume that the degree of parliamentary recruitment of ministers is a result of the degree of involvement of parliamentary actors in the formation process. The more these actors possess some degree of veto power, and even participate directly , the more ministerial selectors will have to take into account the preferences of parliamentary actors. As we can presume that most - or at least a

62 On the other hand, these resignation rules only have a marginal impact on the survival rate of governments in the 1970-1994 period (as calculated in Budge and Keman 1993:108). The governments in the six countries with positive resignation rules attain an average survival rate of 49.2%, against 52.0% for the governments in countries with negative resignation rules.

significant number of - MPs of the supporting parties have ministerial ambitions, one could assume that they are more likely to support governments entirely composed of MPs, rather than cabinets stuffed with non-political specialists or technocrats recruited from outside the legislature. On the other hand, in political systems in which the parliamentary parties are not, or only little involved, in the process of government formation, ministerial selectors would have much more leeway to nominate non-parliamentary ministers.

This hypothesis is not confirmed by our ministerial recruitment data recalculated for the 1970-1984 period[63]. Quite to the contrary, (see Table 4.3)[64], of the ministers in the five countries in which parliamentary actors, as such, do not directly participate in coalition talks (i.e. Belgium, France, Ireland, Iceland and Sweden), 80.6% had a parliamentary background, against 74.9% of those in countries where parliamentary actors are involved in coalition negotiations.[65]

Furthermore, there is little difference in parliamentary background in those countries where parliamentary actors do or do not have a say in the selection of ministers (79.8% against 78.4% ministers with a parliamentary background respectively).

Moreover, as far as the veto power of parliamentary groups is concerned, in those countries where the parliamentary party has to endorse the overall coalition agreement before the new cabinet is presented to parliament, 80.2% of the ministers of the 1970-1984 period were recruited from parliament, against 74.4% of the countries in which parliamentary parties do not have the power to veto the coalition agreement.

It seems that the more parliamentary actors are present in the formation of a government, the greater their absence from the government to be formed. This

63 The data collected within the framework of the Blondel research projects on cabinets in Western Europe covers the 1944-1984 period. Spain, Greece and Portugal were not included.

64 A similar line of thought could be pursued for the presence of national party leaders in the government: whether or not party leaders constitute the main negotiators, whether the party executive is consulted or not during the formation talks and has or has not to ratify the final agreement, whether party actors do or do not constitute the main selectors of ministers. Yet, all these differences in the involvement of leading members of the party organisation do not exert a significant impact on the degree to which ministers are selected from amongst national party leaders.

65 As far as indirect involvement with the coalition talks is concerned, if we take Italy and Belgium, where the parliamentary parties, as such, are usually not kept informed during the coalition talks, and compare the with the others countries where parliamentary parties are regularly consulted, a similar paradox emerges (95.0% of parliamentary MPs in the former groups against 73.8% in the latter).

"paradox of the vanishing MPs" suggests that in countries where parliamentary parties are kept far away from the formation process, they are eventually seduced into supporting the government agreement through the inclusion of a large number of their MPs in the new cabinet.

This argument is corroborated by the relation between the parliamentary background of ministers on the one hand and the type of formation and resignation rules applied on the other. First, in the countries applying positive formation rules (i.e. those that require at least an explicit relative majority vote for the new government), one finds noticeably more parliamentary ministers (83.7%) than in systems where negative rules are applied (i.e. where it suffices that a government be tolerated by a majority)(73.6%). Hence, the more a government needs both wider and explicit parliamentary support, the more MPs one finds in government. Presumably, this difference is due to the fact that, in systems where there is no incompatibility between legislative and governmental office, the parliamentary members of the government constitute a considerable "voting block" which the cabinet can count on unconditionally in parliament. In addition, a considerable overlap between ministerial and parliamentary party personnel most likely facilitates control by the former over the latter. The more leading parliamentarians also hold ministerial office, the easier these ministers can use their parliamentary leadership position to mobilise government support amongst the backbenchers[66].

Second, as far as resignation rules are concerned, in countries where it is more difficult to bring a government down (Sweden, Germany and France), one finds noticeably less parliamentary ministers (71.0%) than in those where government is more vulnerable to parliamentary rebellion (80.7%). Hence, the large number of ministers that also sit in the parliament in the latter group serves, to some extent, as an additional instrument for suppressing backbench rebellion during the cabinet's term.

B. Government Control over the Parliamentary Agenda

In countries where very little time is spent on the elaboration of a detailed government policy program, many matters concerning the content of concrete policies must be solved during the cabinet's term through formal and informal arrangements[67]. The electoral manifesto might offer some guidelines, but is usually

66 There is no systematic relationship between the involvement of parliamentary actors in the different stages of government formation and the parliamentary seniority of ministers recruited from the legislature.

67 For a comparative analysis of the relationship between governments, parliamentary parties and party organisations in Western Europe, see De Winter (1993).

too vague and too "utopian" to be used as a blueprint for government policy. In the first place, the manifesto serves the purpose of seducing potential electorates.

On the other hand, in those countries spending a long time on the elaboration of a detailed government policy programme, the policy agenda for the following years is set before a cabinet's term. Because the cabinet is built after the policy agenda is set, this agenda is already an obligation for the political party organisations of the majority, for their parliamentary groups, their delegates in the cabinet, and the rank-and-file if endorsed by a party conference. Hence, no major problems should arise during the translation of the programme into legislation, as all veto players have signed a detailed government contract.

One could, therefore, expect that in countries where institutional arrangements give the executive extensive legislative agenda setting powers, government formation will consume less time, as most matters can be settled "on the road". On the other hand, in countries where the legislature has a relative strongly hold on its own agenda, coalition parties will prefer to settle all or most potential disputes before a cabinet is formed, and, thus, formalise agreements in a written contract, to be endorsed or rejected as a whole. Violations of this agreement are expected to be few, as they would automatically jeopardise the survival of the government (Blondel and Müller-Rommel, 1993:8-10).

This hypothesis is clearly confirmed[68]. If, on the one hand, we follow the operationalisation of the degree of government control over the legislative agenda as developed by Döring in this book (see Figure 7.1), and, on the other hand, use the duration of government formation (in days) as an indicator of the comprehensiveness of the policy matters solved during the coalition talks[69], the Pearson correlation coefficient between both variables amounts to -0.64.[70] Hence, there is a positive relation between the degree of government control over the legislative

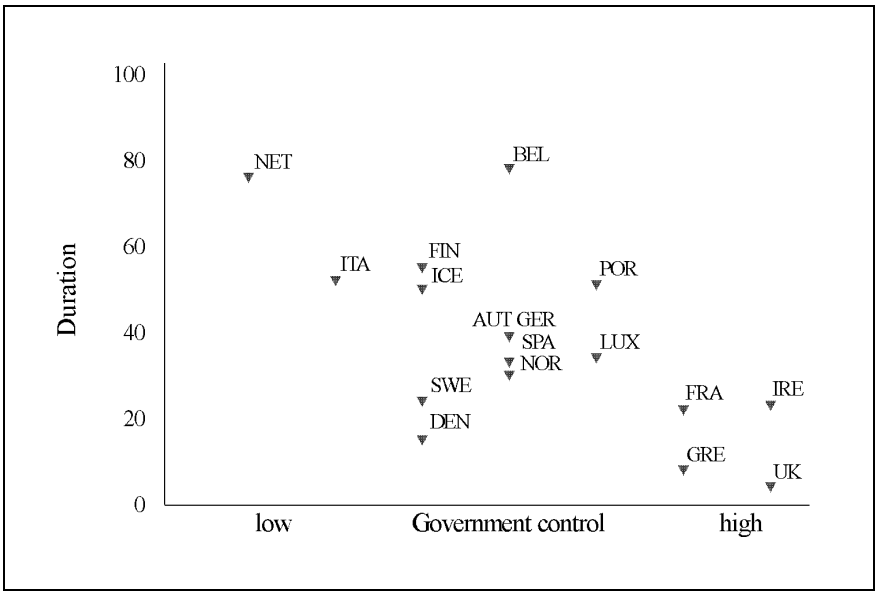
68 In the second phase of the research project, this hypothesis will be tested at a lower level of aggregation, i.e. at the level of individual bills. We assume that bills that cover policy issues already dealt with in detail in the coalition agreement will pass through parliament more swiftly, will be less easily and less successfully amended, and that voting during the committee and plenary stage will follow more the majority/opposition mode than other modes of legislative/executive relations.

69 Of course, analysis of the size and content of the government agreement would constitute a less crude indicator. However, only in a few countries, have government agreements been analysed from this perspective (see for instance Neels (1975), Müller (1994)). For an analysis of governmental declarations, which in most countries only represent a summary of the agreement, see Klingemann, Hofferbert and Budge (1994).

70 Significant at the 0.01 level.

agenda and the time government parties invest in the elaboration of a detailed policy agreement.

Figure 4.1: Lack of Agenda Control and Duration of Government Formation



Sources:
Duration in average days as from Table 4.1;
Government control as from Table 7.1 (coding reversed)

Government control

AUT	BEL	DEN	FIN	FRA	GER	GRE	ICE	IRE
4	4	3	3	6	4	6	3	7
ITA	LUX	NET	NOR	POR	SPA	SWE	UK	
2	5	1	4	5	4	3	7	

Duration

AUT	BEL	DEN	FIN	FRA	GER	GRE	ICE	IRE
39	78	15	55	22	39	8	50	23
ITA	LUX	NET	NOR	POR	SPA	SWE	UK	
52	34	76	30	51	33	24	4	

The strongest outliers in relation to the general trend are Denmark and Belgium (see Figure 4.1). The extremely long duration of government formation in Belgium (in fact on average the longest of all countries considered) is not due to

a lack of institutional tools for government control over the legislative agenda[71], but primarily to a number of factors which make coalition building exceptionally tiresome (De Winter 1994). First, in the 1970s, the national party system gradually split into two separate party systems. As no single party addresses itself to the entire Belgian population any more (but only to the Flemish- or French-speaking part of it), the minimal number of parties necessary to form a majority coalition has grown from two to four. Second, within each of these party subsystems, fragmentation is high[72]. Third, as most coalitions in the period considered sought to reform the unitary state into a federal one, oversized coalitions were required (i.e. 2/3 overall majorities plus normal majorities within each region). Finally, until now, coalition building at the level of the national government has also had to take into consideration coalition stakes situated at the level of the regional and community governments.[73] Thus, the exceptionally complex process of coalition formation in Belgium sufficiently explains its position as an outlier. In fact, in the period before government formation became so complex, the process consumed less than half the time it took afterwards (1946-1965: 31 days; 1968-1992: 78 days). Likewise, before the 1970s governmental agreements tended to be rather short and vague (Neels 1975), which one would, in fact, expect in a system where the government has considerable control over the legislative agenda.

Denmark is an outlier in the opposite direction: quick cabinet formation combined with little government control over the legislative agenda. This paradox can be attributed to the willingness of Danish governmental actors to live with the dramatic consequences of the rather bizarre combination, of a government and its parliamentary troops that have lost control over the legislative agenda. In an article with the telling title "Who Governs?", Damgaard and Svensson (1989) have shown, that especially in the 1982-1988 period, not only were many bills, resolutions and agenda motions either not passed or defeated (which is a situation most minority governments have to live with), but that on numerous occasions, the government did not participate in winning voting coalitions in the *Folketing*. The

71 For the lack of autonomy of the Belgian parliament vis-à-vis the cabinet and party system, see De Winter (1992:4-13).

72 Calculated on the basis of the results of the last general elections (1991), Rae's index of the fragmentation of the "Flemish party system" in terms of seats in the House of Representatives amounts to 0.84, the French-speaking one to 0.76. The overall index is 0.88

73 Until 1995, elections of the main regional and community parliaments coincided with general elections, as the regional and community legislatures are entirely manned by national MPs (an exception is made for the legislature of the Brussels region and of the German-speaking minority).

agenda of the legislature was effectively set by the so-called "alternative majority" composed of the opposition parties. This practice is a clear violation of one of the basic principles of parliamentary government (be it majority or minority parliamentary government), i.e. that the government and most of its policies be at least tolerated by a majority in parliament. In the Danish case, governmental policies were not tolerated by a majority. Instead they were often simply overruled by an opposition that managed to pass policies of its own and subsequently have them implemented by the government. So, in the Danish case, there is no contradiction between low legislative agenda setting power of the government and little preliminary policy formulation, as Danish governments and their supporting parties seem to be able to live with a legislative agenda determined by the opposition.

If we exclude these two outliers from our calculations, the relation between government control over the legislative agenda and comprehensiveness of the coalition policy agreement becomes quite strong ($r = -0.82$). Thus, institutional constraints with regard to government control over the legislative agenda determine to what extent parties will try to solve policy differences before a cabinet takes off[74].

6. Conclusion

Apart from the question of which parties go together to form a coalition, the comparative analysis of the process of government formation as a whole has, until now, not received wide scholarly attention. Consequently, the study of the role of parliament in the formation and maintenance of governments, (one of the few traditional functions in which West European legislatures have not suffered major losses), has rarely developed beyond the traditional focus on motions of confidence or censure in parliament.

The lengthy duration of the formation process and the importance of formation outputs (division of parliament and parties in supporting and opposition parties, distribution of portfolios between individuals and parties, usually a policy handbook binding for the subsequent parliamentary term, and often also other vital matters) suggest that, in several countries, this is a crucial process in the general decision making system. Nevertheless, the emphasis of comparative research has been on external indicators of this process (Which parties? Which portfo-

74 The plausible objection, that it is not so much lack of agenda control that accounts for the duration of government formation but the number of coalition parties (an objection raised at a seminar of the Mannheim Centre for European Social Research), will be taken up and assessed by the editor. See note 7 in the concluding Chapter 22.

lios?) rather than on the bargaining dynamics that lead to these results, and the wide variety of actors participating in this crucial process, each with their own goals, expectations, strategies, resources and constraints.

In this chapter, we have tried to sketch out the types of actors (party and parliamentary group, Head of State) formally and informally involved in this process, and the formal and informal rules governing it. This first exploration of the involvement of parliament in the formation and resignation of governments reveals that in most countries, parliamentary actors participate at most stages of the formation process and are sometimes the most influential.

Firstly, in most countries where the Head of State holds formation consultations, parliamentary leaders (leaders of the respective groups or the Speakers of the Chamber(s)) are heard. Secondly, in a few countries, the legislature is formally involved in the nomination of the PM-designate or formateur. Thirdly, in most countries, the parliamentary group leaders are members of the parties' negotiations teams; and in some countries they are clearly their most influential spokesperson. Other prominent MPs and parliamentary specialists are also frequently involved. Fourthly, with regard to the selection of ministers, parliamentary actors are not the predominant selectorate in most countries. Yet at the same time, only in a few countries are they absolutely insignificant. Fifthly, in a majority of countries, parliamentary groups are kept informed by their party's negotiators about the progress made at the coalition talks. However, in most countries, it is the party executive, rather than the parliamentary party, that formally endorses the coalition agreement prior to the presentation of the new governmental team and its programme to parliament as a whole.

As far as investiture is concerned, in ten of seventeen countries considered (i.e. West Europe without Switzerland where there is no vote of censure) no investiture vote is formally required. In those that do require a formal vote, a relative majority usually suffices. There is a positive relation between positive formation rules (which demand that at least a relative majority supports an incoming government) and the duration of the formation process.

As far as the resignation of governments is concerned, only a minority of governments step down after a defeat on a major bill, even though constitutionally not obliged to. One can also make a distinction between negative and positive resignation rules. This is dependent on the existence of rules rendering government resignation, as forced by parliament, more difficult than the norm in most countries, i.e. a vote of censure passed by a relative majority.

In spite of the fact that parliament, or better an absolute or even relative majority of MPs, has the power to bring down a government, in practice, parliamentary actors are rarely instrumental in the downfall of a cabinet. The role of parliament in government collapse seems to be related to the resignation rules men-

tioned above. First, in the countries where a government is compelled to resign after a defeat on a major bill, more governments bite the dust in parliament here, than in those countries with less strict resignation rules. Second, in countries with positive resignation rules, more governments fall due to the lack of parliamentary support, than in countries with negative formation rules. Hence, special institutional measures intended to make the government more immune to parliamentary sanctions do, indeed, reduce the role of parliament in the resignation of governments.

As far as the effects of the degree of parliamentary participation in government formation is concerned, the more parliamentary actors are involved in the formation of a government, the more they are absent from the government to be formed. This "paradox of the vanishing MPs" suggests, that in countries where parliamentary parties are kept far away from the formation process, the majority of MPs are eventually seduced into supporting the governmental agreement through a large number of them being included in the new cabinet. This argument is corroborated by the fact, that in the countries that apply positive formation rules, one finds noticeably more parliamentary ministers than in systems where negative rules are applied. Hence, the more a government needs explicit and wider parliamentary support, the more MPs one finds in government, as the latter constitutes a substantial "voting block" that the cabinet can count on unconditionally in parliament. They can also use their parliamentary leadership position to mobilise government support amongst the backbenchers. In addition, in countries in which it is more difficult to bring a government down, one finds noticeably less parliamentary ministers than in those systems where government is more vulnerable to parliamentary rebellions.

There is also a significant relationship between government control over the legislative agenda and the amount of time parties spend on drafting a detailed policy agreement. In countries where institutional arrangements give the executive extensive legislative agenda setting powers, government formation consumes less time, as most matters can be settled "on the road". In countries where the legislature has a relatively strong control over its own agenda, coalition parties prefer to settle all or most potential disputes before a cabinet is installed, and to formalise agreements in a written contract. The fact that Denmark and Belgium deviate strongly from this trend further substantiates, rather than falsifies the general hypothesis, that institutional constraints pertaining to government control over the legislative agenda determine to what extent parties will try to solve policy differences before a cabinet is formed.

As far as parliamentary actors are concerned this analysis has clarified the issue of which actors are involved at the different stages of the formation of governments. However, several aspects vital to the process of government formation

still call for further research. Firstly, in most countries, no systematic data exists on which individuals actually participated in the formation process at a given moment in time. Secondly, little is known about the goals, strategies, resources and constraints of these formation actors. Finally, there remains the fundamental question of which actors are the most influential in this process, which is itself, crucial to the general political decision-making process of most West European countries.

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5

Beyond the Two-Body Image: Relations Between Ministers and MPs

Rudy B. Andeweg and Lia Nijzink

1. A Framework for Analysis

The interactions between government ministers and members of parliament are commonly analysed within the bounds of the concept of 'executive-legislative relations'. Unfortunately, for at least two reasons this concept is more confusing than it is illuminating. Firstly, because it mistakenly equates functions (law-making; implementation) with structures (parliament; government). Secondly, because it forces the study of relations between ministers and MPs into the straightjacket of a two-body image, thereby failing to do justice to the rich variety of interactions within the parliamentary/governmental complex. To even speak of 'executive-legislative relations' in the context of American politics, where the term originated is already problematic. But what is more, it is deceptive as a framework for comparative analysis in Western Europe, as in most countries political parties are stronger and the separation of powers less complete than in the United States. Where parties are strong, the behaviour of both MPs and ministers may be conditioned more by their membership of a party than by their belonging to either parliament or government. Where powers are fused rather than separated, the executive, and especially the legislative function may be shared to some extent between ministers and parliamentarians.

Although these are hardly novel or controversial observations, the parsimony of the two-body image still continues to exert a powerful attraction in the field of political science, as can be seen in comparative studies (e.g. Loewenberg and Patterson 1979 or Lijphart 1984), and particularly in the debate on the relative merits of parliamentary versus presidential regimes (Lijphart 1992 and, although using a different terminology, Shugart and Carey 1992). Only a few authors have drawn the logical conclusion and replaced the idea that ministers and MPs merely belong to two different constitutional bodies with different analytical frameworks (e.g. Polsby 1975; Steffani 1981; Davidson and Oleszek 1985). The most promis-

ing amongst these attempts has been Anthony King's typology of five different 'Modes of Executive-Legislative Relations' (King 1976). King developed his typology largely on the basis of the British experience, but applied it to (West) Germany and the French Fifth Republic as well. Its comparative potential is further underlined by recent applications to, again, the German case (Saalfeld 1990), to the Netherlands (Andeweg 1992), and to Austria (Müller 1993).

It is King's typology that will serve as the main inspiration for our effort to look beyond the two-body image. However, it can be demonstrated that three modes, rather than the five originally proposed by King, are necessary and sufficient to conduct such an analysis:

(1) a non-party mode in which members of 'the' government interact with members of 'the' parliament. The interactions are indicated by the small arrows in Figure 5.1. This mode conforms to the two-body image.

(2) an inter-party mode in which ministers and MPs from one party interact with ministers and MPs (or, if it is an opposition party: only MPs) from another party. Within this mode, two submodes can be distinguished:

(2a) (only in the case of a multiparty or factionalised one-party government) an intra-coalition mode in which ministers and MPs from one governing party or faction interact with ministers and MPs from another governing party or faction (indicated by dotted arrows in Figure 5.1).

(2b) an opposition mode in which ministers and MPs belonging to the governing majority interact with opposition MPs.

The image evoked by the inter-party mode is not one of two bodies engaged in constitutional checks and balances, but of the parliamentary/governmental complex as an *arena* in which the ideological struggle between political parties is fought out.

(3) a cross-party mode in which ministers and MPs combine to interact on the basis of cross-party interests. As in the inter-party mode, the interactions ignore the constitutional boundary between government and parliament, but unlike in the inter-party mode, the struggle is not between political parties, but between sectoral interests intersecting party boundaries. This is graphically illustrated in Figure 5.1 by turning the picture 90 degrees. This mode brings to mind a third image, different from both the two-body image and the arena image: that of the parliamentary/governmental complex as a *marketplace* where social interests are traded in fierce competition.

King's original five-mode typology consists of a non-party mode, an intra-party mode, an inter-party mode, an opposition mode, and a cross-party mode. However, it is not always altogether clear what distinguishes one mode from

Figure 5.1:

another, allowing authors, who use the typology, to interpret it in slightly different ways (Müller 1993:490, note 1). A first problem is that King remains ambivalent in his critique of the two-body image. In both the title and the contents of his article he continues to speak of executive-legislative relations. This leads to the unnecessary dismissal of the inter-party mode in Germany: "We need not dwell on the inter-party mode here, however, because it is more confusing than helpful to analyze this mode in executive-legislative terms. [..T]he process of inter-party bargaining is not a parliamentary process or an executive-legislative process, and the influence that the various bargainers have depends not on their position in parliament, but on their position in the party. Certainly it is not at all meaningful in this context to speak of 'the legislature' or 'the executive'" (King 1976:29). Maybe so, but was not that distinction itself dismissed as insufficient? In fact, what King does is to disaggregate parliament, but to keep it on one side of the fence, interacting with the government as a singular and homogeneous body. Most of his modes have the government, as such, on one side and various combinations of MPs on the other. We intend to make King's analysis more compelling by eliminating the two-body image altogether, allowing for modes in which we have the government, or parts of it, with or without categories of MPs on the one hand and other categories of MPs, sometimes in collusion with other parts of the government, on the other.

A second problem arises from the fact that it appears difficult to distinguish King's inter-party mode from his opposition mode. The opposition mode is first defined on the merits of the British example, i.e. as Government versus Opposition front-benchers + Opposition backbenchers (King 1976:14). The inter-party mode is introduced later. Using Germany as an example, the inter-party mode describes three sets of relations: ministers from the dominant governing party versus ministers from a subordinate governing party; ministers from the dominant governing party versus opposition MPs; and ministers from a subordinate governing party versus opposition MPs (King 1976:28). Thus, the inter-party mode contains elements of the opposition mode. The defining characteristic of the inter-party mode is that the interactions between ministers and MPs are governed by their party allegiance. Within the overall inter-party mode, we have distinguished two 'sub-modes': King's opposition mode for relations between ministers + MPs from the governing parties versus opposition MPs; and, for multiparty governments, an intra-coalition mode for the relations between the members (ministers + MPs) of the respective governing parties.

The third problem is that King's cross-party mode remains rather vague. King attaches great importance to this mode in the German case, because there, "the committees of the West German Bundestag function in a genuinely 'legislative' style" (King 1976:31). Worded like this, the cross-party mode shades into the

non-party mode. However, King's example of the German parliamentary committees provides us with a clue to distinguish these two modes more sharply. Underlying the work in these committees is the emphasis on 'Ressort', i.e. policy area, and on issue-bound (neo-)corporatist networks pervading German political and administrative life. Whereas the non-party mode refers to the classical two-body image, the cross-party mode, therefore, can be seen as one in which a cross-party and cross-body coalition of MPs and ministers specialising in one policy area defend their interests against similar specialists from another policy area, and, in particular, against the 'generalists' and 'coordinators' in the parliamentary/governmental complex.

Fourthly and finally, King's intra-party mode seems to be of a different order when compared to the other patterns of MP-minister interactions. It describes the interactions between government ministers and government backbenchers. For King, this is the most important mode in all three countries to which he applied his typology. This is so because, as we pointed out, he tends to describe the modes from the vantage point of the government, and for all majority governments, survival is dependent on the continued support of 'their' MPs. However, this also means that the intra-party mode presupposes that there is such a governing majority. In the non-party or cross-party modes the existence of such a majority is irrelevant; only within the inter-party mode can we hypothesise an intra-party mode. It is a mode to describe the relations between leaders and ordinary MPs within a party, not within the whole of the parliamentary/governmental complex and thus excludes all opposition MPs. Furthermore, the intra-party mode is void of content: the common good, or constitutional fastidiousness inspires the actions in the non-party mode; political ideology drives politicians in the inter-party mode, as do social interests in the cross-party mode. There is no equivalent in the intra-party mode. King developed the intra-party mode first for the British case, and there the notion of 'backbencher' does refer to some common identity and even organisation (as the Conservative Party's 1922 Committee). Yet, Searing argues that being a backbencher in itself means so little, that these MPs seek out other roles. Among these other roles are some that seem to fit better with the cross-party mode ('policy advocate') or the non-party mode ('parliament man') (Searing 1994:33). For these reasons, the intra-party mode appears largely redundant in our analysis of relations between MPs and ministers.

The three modes, as we have defined and visualised them, constitute distinct patterns of interactions between ministers and MPs. This limits the reach of our typology: ministers and MPs interact not only with one another, but also with other political actors and institutions (constituents, supra-national bodies, pressure groups, courts, etc.), and such interactions are not covered by the three modes. There is a further limitation to the subsequent analysis. Obviously, it is an

empirical question as to what extent the behaviour of ministers and MPs in the political systems included in this study conforms to these patterns. This empirical question is well worth pursuing, but our aims with this chapter are more modest. In order to assess the viability of the typology and the modes included in it, we shall survey the institutional norms and practices that structure the parliamentary/governmental complex in the countries under study. After all, the institutions provide venues for the interactions between MPs and ministers, rules for the behaviour of participants and above all, role models for the 'inmates' of the parliamentary/governmental complex. As an example, or appetiser, let us look briefly not at the institutional architecture, but at the real architecture of the Houses of Parliament in our countries:

When we look at the seating arrangements in these 19 parliaments, from Iceland's Althingi in the upper left-hand corner of Figure 5.2 to the U.K. House of Commons in the lower right-hand corner, we appear to be moving gradually from the two-body image or non-party mode to the political arena or inter-party mode. In Iceland, ministers sit on separate benches, facing the members of parliament who are seated in no particular order. There is no division between government MPs and opposition MPs; MPs from the same party do not even sit together. Magnusson explains the background of this arrangement that is now a rarely found phenomenon (the Dutch Upper House being another example), in terms that clearly evoke the non-party mode: "Although this system was not formally introduced until 1915, it can be considered as a pre-party tradition as the parliamentary parties in Althingi at that time were only loose amalgamations of quite independent members" (Magnusson 1987:314, note 30). In countries such as Switzerland, Italy and Austria, Portugal, Finland and Greece, we also see that the seating arrangement symbolises the two-body image, but MPs are no longer seated randomly. In Figure 5.2, the two-body image gradually gives way to the arena-image as the government moves towards and into the parliamentary benches. In the Netherlands the ministers still sit in a separate section to the side of the parliamentary semicircle, and in Germany this section has moved closer towards the parliamentary benches. Interestingly, both the Dutch and German parliaments recently moved to new buildings; in the old buildings the ministers were still clearly opposite the MPs. In Sweden and Denmark, this incorporation of the government into parliament is complete. There are some telling variations. In Belgium, for example, ministers occupy the front bench of the semicircle, but when they are present to answer parliamentary questions, they sit behind a separate table facing the MPs. When we come to Ireland and especially the U.K., the inter-party mode is very evident with ministers sitting on the front benches of their parliamentary party's sec-

Figure 5.2: Seating Arrangements in Western European Parliaments

tion, facing the opposition leaders in front of their backbenchers on the other side.

At first sight, there is not much evidence of a cross-party mode in the seating arrangements. However, Iceland is not the only country ignoring party allegiance in assigning seats to MPs. In Norway and Sweden, the seating arrangement is based on the districts from which MPs are elected. This points to region as a potential basis for a cross-party mode. In Switzerland not only party, but also linguistic group is reflected in the seating order, suggesting another cross-party interest in the interactions between ministers and parliamentarians.

The physical architecture and seating arrangements are not generally thought to be of much importance (but see Goodsell 1988). However, even if they are of primarily symbolic significance, Figure 5.2 may give us some clues as to the normative importance assigned to our three modes in these countries. Such symbolic clues as to what patterns of interaction are more appropriate than others, may exercise a psychological impact on ministers and MPs in addition to the perhaps more compelling influence of the institutional arrangements to which we now turn. We shall take each of the three modes in turn, trying to tease them out of the parliamentary structures, rules or customs in the political systems included in this study.

2. Evidence of the Inter-Party Mode

King's labelling of the two-body image as the non-party mode makes reference to the pattern of interactions of a past era prior to the development of modern political parties. Since then, parties are believed to have come to dominate political life to such an extent that people speak of a party state, 'Parteienstaat' or 'partitocrazia'. For our interactions between ministers and MPs, this means that the closer the ties are between ministers and their party's MPs, the more the inter-party mode has replaced the non-party mode. Evidence of such close ties can be seen in ministerial recruitment, in the government formation, and in consultations between ministers and parliamentary party.

Recruitment of Ministers

Non-partisan ministers have, indeed, become extremely rare. In some countries there is no record of any recent minister who was not a party member (Belgium, where the last case occurred in 1960, Ireland, Switzerland). In other countries, one has to go back to the period of the Second World War and its immediate aftermath to find the last ones (U.K., Denmark, the Netherlands). In Spain, France and a few other countries, a non-partisan minister is appointed occasionally, but,

sooner or later, most of them are enlisted by one of the governing parties. The recent Ciampi-government in Italy stands out in this respect, in that more than half of its ministers did not belong to any party, but this was only possible because of the grave crisis affecting all the established parties in that country.

However, even if nearly all ministers are party members, the degree of fusion between government and governmental parliamentary parties may vary. The extreme case is where the constitution prescribes that only MPs can be ministers. Where the combination of the two offices is allowed, we may distinguish political systems on the basis of the frequency with which the combination occurs. Where the combination is prohibited by the constitution we may look at the proportion of ministers who at least belonged to the parliamentary party before being appointed to a government position.

Table 5.1: The Inter-Party Mode and Ministerial Recruitment

Combination Minister/MP	*% of Ministers Recruited from Parliament*	
	High	*Moderate*
Required	UK: 95% Ireland: 96%	
Allowed	Belgium: 87% * Denmark: 79% Germany: 74% Italy: 94% Greece Spain	Finland: 62% Austria: 68%
Prohibited	Luxembourg: 81% Switzerland: 83%	France: 65% Norway: 57% Netherlands: 53% Sweden 61% ** Portugal

* will be prohibited in the near future.

** was allowed before 1974.

Source: Percentages are from Döring in Gabriel, 1994, based on De Winter 1991. The classification of Greece, Spain, and Portugal is based on judgment by country expert.

Figure 5.3:

With the possible exception of Norway, all countries, for which the relevant data are available, recruit most of their ministers from parliament. If we use an arbitrary 70% as the cut-off proportion, above which we say that nearly all ministers come from the parliamentary benches, only seven out of the seventeen countries in Table 5.1 fall below that criterion. The Irish Republic is the only political system in which the constitution (Art. 28) prescribes that ministers should be members of parliament, although in practice, the same requirement exists in the U.K. However, in most countries that allow ministers to be recruited from outside parliament, this option is fairly rarely used. Even where an MP, who is called to ministerial office, has to relinquish his seat, most ministers are former MPs, although here the percentages are considerably lower. Unfortunately, we are unable to systematically present longitudinal data, but there is some evidence suggesting the lack of a clear trend. In some countries, such as Finland and the Netherlands, there has been an increase of 'parliamentary' ministers, indicating a move towards the inter-party mode, whilst other countries move towards the non-party mode in this respect: in Sweden, the combination of ministerial and parliamentary office used to be allowed, but was prohibited in 1974, and in Belgium the combination will be prohibited in the near future.

Government Formation

Ideally, we would need information on the extent of parliamentary party involvement in the negotiations on the formation of a new government to be able to assess the strength of the inter-party mode. Lacking that, we take the prescription of an investiture vote as being a sign that a government may only take office if it is formally established by a governmental majority supporting it. Such a vote of confidence is mandatory in Belgium, Greece, and Italy, and we should also add Germany, Ireland, Sweden and Spain, where parliament elects the new head of the government, as well as the U.K. where the question is a moot one due to single-party governments. From 1995 the European Commission will also need a vote of confidence from the European Parliament. These political systems present the clearest examples of the inter-party mode in this respect. No investiture vote is needed in France and Portugal, but the government may ask for a vote of confidence on its programme. Austria, Denmark, Iceland, Luxembourg, the Netherlands, and Norway have neither a mandatory nor a voluntary investiture vote. Some of these countries, however, are still close to the inter-party mode, because the prospective governing parties undersign the government's programme (e.g. Iceland and the Netherlands), while some of the others are closer to a non-party mode as they regularly experience minority governments dependent on ad-hoc majorities to support their policies (e.g. Denmark and Norway). Switzerland, finally, is furthest removed from the inter-party mode. Here, all major parties are

included in the government according to a fixed formula and neither an investiture nor a censure vote exists.

Consultations Between a Party's Ministers and MPs

Once the ministers are in office, the inter-party mode and its submodes (opposition mode and intra-coalition mode) lead us to expect regular meetings and close consultations between ministers and their party's MPs to coordinate the party's strategy in government and in parliament. There are important variations in the arrangements for such coordination and in its intensity (De Winter 1993:162-171). Coordination may be arranged, for example, by convening weekly meetings of the parliamentary party at which the party's ministers are expected to be present, as is the case in Denmark, Norway, Sweden, Iceland, Luxembourg, and Ireland. In other countries, there is a weekly meeting of a party's ministers and the parliamentary party leadership, as in Austria, the Netherlands, and in the major governing party in Belgium (CVP). In the U.K., Conservative ministers sometimes attend meetings of the backbench 1922 Committee, but coordination of party strategy is usually achieved by the 'Whips'. In yet other countries, there are no such institutionalised mechanisms of this kind and consultations between a party's ministers and its MPs are informal and irregular (France, Spain, Italy). In Switzerland, there is only one formal meeting per year: the 'Von Wattenwyl Gespräche'. It should be noted that coordination between a party's ministers and its MPs can also be achieved without ministers attending parliamentary party meetings or special meetings between the ministers and the parliamentary party leadership. In some political systems the party executive provides the functional equivalent, making both its MPs and its ministers toe the party line. In Belgium, for example, ministers attend weekly meetings of the party executive, and the party president (i.e. the chairman of the party organisation) is the true party leader in most parties.

In countries with coalition governments, a further sign of the inter-party mode can be found in meetings to coordinate the activities of the governmental majority as a whole, including the governing parties' leaders in both government and parliament. In Germany, such regular meetings during the Große Koalition became notorious as the Kressbonner Kreis. In Austria, such 'coalition summits' have all but replaced cabinet meetings as the place where decisions are made. In the Netherlands (weekly 'turret meetings') and Luxembourg ('inter-fractionnalisme'), these meetings appear to be growing in frequency and importance. Again, this type of coordination may also involve, or be dominated by, the party leadership outside government or parliament (e.g. Belgium, Italy).

3. Evidence of the Cross-Party Mode

The cross-party mode has received much less attention in studies of parliamentary behaviour. It is in studies of policy networks, 'Iron Triangles', or neo-corporatism that we find mention of MPs and ministers interacting on the basis of a common, though cross-party interest. However, such interests need not be confined to policy areas such as agriculture, defence, or education. Regional or linguistic interests may also provide incentives for relations between ministers and MPs that cut across party lines. We already saw some signs of this in the parliamentary seating arrangements. To search for indications of the cross-party mode's existence, we shall return to recruitment, but also look at parliamentary committees and at informal cross-party caucuses in parliament.

Recruitment Revisited

Nominating candidates for public office is a defining characteristic of political parties and they dominate recruitment in all countries in this study, with the possible exception of Iceland, where there have been recent experiments with open primaries, leading to a significant decline of party discipline. However, studies of the parliamentary recruitment process (e.g. Bochel and Denver 1983; Gallagher and Marsh 1988; Hillebrand 1992) have found surprisingly little evidence of political or ideological criteria being used in selecting candidates. Often, in correspondence to an electoral system using districts or constituencies, the nomination procedures within the parties tend to be decentralised. The national party organisations may, perhaps, strive for the representation of different policy specialisations in the parliamentary party as they may attract voters with different social interests, or because there is a need for expertise in various areas. But where nomination procedures are decentralised, this requires a considerable effort in persuading or coordinating regional party bodies. The more autonomous such constituency parties are, the larger the role of considerations of regional representation in the recruitment process. To the extent that a member of parliament's 'selectorate' also influences his actions once elected, parliamentary recruitment generally favours a cross-party mode based on territorial interest representation. Only in Austria, Germany, Luxembourg, the Netherlands, and Portugal is an effort made to achieve a balanced mix of policy specialisations within the parliamentary party. In Germany, these efforts are limited because of the nature of the electoral system and the constitutionally prescribed nomination procedures, but there is evidence that parties use the 'Landesliste' (state lists) to redress some of the imbalances resulting from the nominations of the 'Wahlkreis' (constituency) candidates (Hesse and Ellwein 1992:205). In the Netherlands, the Social-Democrats have recently centralised their nomination procedure to give the na-

tional party executive more opportunities to take account of expertise in various policy areas.

Table 5.2: The Cross-Party Mode and Ministerial Recruitment

	% specialist ministers *	*% ministers with a background in local or regional politics* **
United Kingdom	14	21
Italy	19	60
Ireland	21	58
Iceland	22	36
Sweden	23	39
Austria	28	35
France	28	55
Luxembourg	30	62
Belgium	31	62
Norway	41	74
Denmark	42	45
Germany	49	82
Netherlands	49	32

* *Source:* Blondel 1985:277. The percentages, recalculated to exclude ministers whose specialization is unknown, indicate the extent to which ministers who lasted nine months or more in government have been allocated to posts corresponding to their prior training, provided these posts cover a particular field of administration for which a given training is relevant.

** *Source:* Thiébault 1991:33. The percentages indicate the extent to which ministers are recruited who held elective positions in local or regional executives or assemblies before joining the government.

Both policy expertise and experience in regional politics also play a role in ministerial recruitment. Where policy expertise is taken into account in appointing ministers, and where ministers tend to remain in a particular department area for the duration of their governmental career, there is a potential for a cross-party mode based on policy area. Where ministers are recruited with a background in local or regional politics, they may be inclined to have an eye for the interests of their region and a regional cross-party mode may ensue. Table 5.2 shows that there is considerable variation in this respect, with, for example, the U.K. showing little sign of either regional representation or policy specialisation in government and German governments displaying both and yet other countries emphasis-

ing either regional background (e.g. Belgium) or policy specialisation (e.g. the Netherlands) in ministerial recruitment.

Parliamentary Committees

If the cross-party mode evokes the image of a marketplace for the trading of social interests, regionalist or specialised recruitment provides the stall holders, and specialised parliamentary committees the market stalls. The committees are a formal venue for MPs and ministers to discuss a common cross-party interest. The existence of specialised committees, and the degree of specialisation are therefore important institutional conditions for the cross-party mode. It should, however, be emphasised that even if these conditions are met, the parties may enforce such discipline on their members that the inter-party mode leaves no room for cross-party interactions between ministers and MPs. The fact that the parliamentary party eventually decides which members sit on which parliamentary committee is a powerful reminder of this. However, it is also illuminating to see the variation in committee specialisation. The British House of Commons and the Irish Dáil are alone in still processing legislative activity through non-specialised Standing Committees (in which party discipline is certainly not relaxed). Since 1979 Departmental Select Committees have been introduced in the U.K., but they seem to strengthen the non-party mode rather than the cross-party mode, as we shall see later. Other countries have never had non-specialised committees, or abolished them either quite some time ago (the Netherlands in 1953), or more recently (e.g. Sweden, Denmark, Switzerland). The non-specialised committees that are still to be found in most countries tend to deal primarily with procedural matters and parliament's own housekeeping.

Table 5.3: Number of Permanent Specialised Committees in (the Lower House of) each Country (Situation in 1990)

Netherlands	29*	Switzerland	12
Denmark	22	Norway	12
Germany	19	Belgium	11
Luxembourg	19I	Spain	11
European Parliament	18	Iceland	9
Austria	17	Greece	6
Sweden	16	France	6
Italy	13	Ireland	0
Portugal	12	United Kingdom	0
Finland	12		

* until May 1994

Where non-specialised committees no longer play a role, the degree of specialisation is affected by the number of specialised committees, and by the number of committees to which an individual MP may belong. In practice, this latter variable is not very important: in the few parliaments where an MP is allowed only one committee membership, the number of committees tends to be relatively small (Norway, France, and Italy), so that the net effect on the cross-party mode is insignificant. The degree of specialisation in the committee system itself, however, varies considerably, as can be seen from the number of parliamentary committees. In France, the potential for a cross-party mode was intentionally reduced by the founding fathers of the Fifth Republic by bringing the number of parliamentary committees down from 19 to only 6. Due to numerous subcommittees, the scope for specialisation in Greece is greater than Table 5.3. suggests. On the other extreme, we find the Netherlands and Denmark with more than 20 committees, followed by Germany and Luxembourg with 19 committees. Please note that it was exactly the specialised German committees that inspired King's 'discovery' of the cross-party mode. In the Netherlands, complaints about overspecialisation of MPs have led to attempts to reduce the number of committees somewhat. On the other hand, specialisation may even extend into the parliamentary parties where they have an internal specialised committee system, as for example in the large party groups of European Parliament and in Denmark, Finland, Germany, Greece, the Netherlands, and Austria.

Other Caucuses

In addition to parliamentary committees, there may be more informal market stalls for interests that are not covered by the committee system. In France, the framers of the Constitution not only tried to prevent a cross-party mode from developing through the limitation of the number of official committees, but they also forbade meetings based on so-called private interests (Art. 23 of the Standing Orders of the Assemblée Nationale, based on Art. 27 of the Constitution). This, however, is exceptional.

In many countries, female MPs form an informal caucus to promote women's rights or interests. Sometimes such caucuses are party-based (such as the Strikkeklub in the Danish socialist party), but often they are genuinely cross-party. MPs representing the same region (or country, in the European Parliament) may also have regular meetings ranging from taking the same plane together (Denmark) to the more formal Landesgruppen in the German parliamentary parties. Only in France, Greece, Ireland, and Luxembourg have we not been able to find any trace of such meetings.

There are few examples of interests other than gender and region for which such caucuses exist. An interesting case is presented by the European Parliament:

"One of the most striking developments in the European Parliament's working methods since direct elections has been the creation of a large number of 'intergroups', consisting of members from different Political Groups with a common interest in a particular theme" (Jacobs, Corbett and Shackleton 1992:159). These authors list no less than 51 such intergroups, some with curious names such as the Crocodile Club (in favour of federalism) or the Kangaroo Group (in favour of free trade). Caucuses are also common in the German Parliament, but there they do not cross party lines (e.g. the 'Gruppe der Vertriebenen- und Flüchtlingsabgeordneten' in the CDU-CSU fraction, or 'Die Youngster' in the SPD fraction) (see Ismayr 1992:104).

4. Evidence of the Non-Party Mode

Being the pattern of interactions that corresponds with the two-body image, the non-party mode has, presumably, been dominant not only in studies of parliamentary behaviour, but also in the history of Western European parliaments. With the development of modern political parties, this dominance has withered away. Nowadays, driven by partisan and social interests, MPs form strong alliances with members of the government. There is, however, no reason to assume that parliament as well as individual MPs have completely lost their independence vis-à-vis the government. To find out the extent to which the non-party mode still exists, we may look at the way in which internal affairs of parliament are conducted, as well as the way its legislative and oversight functions are performed.

Internal Affairs

Looking at the extent to which parliament controls its own agenda, the U.K. and the Irish Republic are clearly exceptional. Government formally controls the parliamentary agenda in both of these countries. Thus, the non-party mode seems to be far removed from their parliamentary practice. The other parliaments in this study seem to have a more independent position vis-à-vis government. At least formally, they control their own agenda in one way or another. However, the non-party mode is certainly not equally strong in each of these countries. The Dutch parliament is probably the most independent, since it has full control over its own agenda. The Lower House in the Netherlands does not even share the power to determine the agenda with its own Speaker: he or she can only make agenda proposals. In Finland, the situation is different, in that the Speaker has more authority. Here, parliament delegates the power to control its own agenda to its Speaker. At first glance the Speaker seems to play the same role in Denmark, Sweden, Luxembourg, Portugal, Iceland, and Spain. This would seem to indicate

that the non-party mode is as strong here as in the two countries mentioned above. However, a closer look reveals that the situation is considerably different. The Speaker does not make any decision with regard to the parliamentary agenda without consulting parliamentary party spokesmen. This indicates the existence of the inter-party mode rather than the non-party mode.

The same can be said about Austria, Belgium, France, Germany, Italy, Norway, Switzerland and the European Parliament, where the practice of consulting party groups is more or less formalised. Here, agenda decisions are not made by the Speaker, but by a separate parliamentary committee (including the Speaker) in which parliamentary party groups are represented (e.g. the Council of Elders in Germany).

This evidence suggests that in countries like Denmark and Germany the scope for the non-party mode is smaller than in the Netherlands and Finland. Actually, some countries are as close to a situation of governmental control over the parliamentary agenda as is the case in the U.K., albeit in a more indirect manner. In France, for example, priorities fixed by the government cannot be changed by the Assembly, whereas in Greece, the Speaker needs the government's agreement for his or her agenda decisions. In Portugal, the Speaker has never decided against the will of the Conference of Representatives of Parliamentary Groups, which, in turn, is dominated by the governing parties. There is a striking resemblance between Portugal and the U.K. in yet another respect: each party group in the Portuguese Parliament has the right to determine the agenda on several days of the parliamentary year, a mechanism similar to the British 'Opposition Days', although in Portugal it is not limited to opposition parties.

The evidence with regard to control over the parliamentary agenda suggests that the position of the Speaker is, in itself, another indicator of the occurrence of the non-party mode. In Belgium and Luxembourg, the position of the Speaker is included in the government formation negotiations over ministerial posts, which points to the inter-party rather than the non-party mode. In Austria, Belgium, France, Greece, Luxembourg, Portugal and Spain, the Speaker is always a member of a governing party, which is another indication of a relatively weak non-party mode. In the remaining eleven countries, the Speaker is not necessarily a member of a governing party. In Germany, for example, the Speaker is always an MP of the largest parliamentary party, whilst in Switzerland, different parties successively provide the Speaker according to a system of rotation. In both cases, this often leads to a member of a governing party becoming the Speaker, but not inevitably so. Therefore, in countries like Germany and Switzerland the scope for the non-party mode is wider.

Additionally, we may take the fact that the Speaker does not vote (e.g. France, Finland) or only has a casting vote (U.K., Norway, Switzerland, Ireland)

as a sign of a strong non-party mode, whereas the case of the Speaker voting with his or her own party (e.g. Spain) can be taken as evidence of a strong inter-party mode. The position of Austria is interesting in this respect, because it changed in 1975 from refusing the Speaker a right to cast his or her vote to allowing it, moving from the non-party to the inter-party mode.

Legislation

The non-party mode refers to a situation in which parliament as well as individual MPs have a certain amount of independence vis-à-vis the government. Therefore, the right of an individual MP to introduce a bill is closely linked to the non-party mode. A relatively frequent use of this right by government MPs and a high success rate for Private Member Bills introduced by opposition MPs are particularly strong indications of the non-party mode. Unfortunately, the data necessary to compare our 18 countries on these two indicators are not available. We can, however, compare 15 of the countries in this study on the basis of data presented in Table 5.4.

The average number of Private Member Bills being introduced in one year varies considerably, from 2400 in Sweden to 4 in Luxembourg. This, however, does not tell us much about the non-party mode. In some countries the introduction of Private Member Bills is simply a form of electoral propaganda, rather than a serious legislative activity by 'true' parliamentarians. In Belgium, for example, the majority of Private Member Bills is of little importance in terms of policy, containing not more than two articles. (van Schoor 1972:8-31).

The average number of Private Member Bills being passed in one year seems to be more informative. In any case, the countries show more resemblance with regard to the number of Private Member Bills adopted. In fact, the number is quite small in most countries: not more than 28% of the total amount of bills adopted. Only in Portugal is the percentage higher, namely 60%. Apparently, the non-party mode is stronger in this country. However, in Portugal a high proportion of successful Private Member Bills (in some years more than 50%) is made up of so-called 'small laws', which are comparable to the Italian 'leggini' (see Hine 1993:174, 178). They deal with minor matters, for example, changing the status of places in the country from villages to towns or from towns to cities. Therefore, the fact that more than half of the bills adopted in Portugal are Private Member Bills cannot be taken as a clear sign of a strong non-party mode.

Table 5.4: Average Number of Bills Introduced and Passed per Year in the Lower House of each Country (over the Five-Year Period from 1978 to 1982)

	government		*private MP*		*other*		*total*	
	I	*P*	*I*	*P*	*I*	*P*	*I*	*P*
Austria	74	71	40	20	4	4	118	95
Belgium	55	29	187	11	-	-	242	40
Denmark	171	151	89	5	NA	NA	260	156
Finland	259	253	238	3	5	3	502	259
France [2)]	93	77	125	7	NA	NA	218	84
Germany	79	80	28	16	18	13	125	109
Greece	128	98	19	0	NA	NA	147	98
Luxembourg	63	64	4	1	NA	NA	67	65
Netherlands	135	119	6	2	-	-	141	121
Norway	75	74	8	1	NA	NA	83	75
Portugal	126	17	55	26	0	0	181	43
Spain	80	65	57	8	0	0	137	73
Sweden	±200	most	±2400[3)]	±1%[4)]	32	most	±2632	
Switzerland	±80	most	11[5)]	1	0	0	±91	
U. K.	57	53	100	10	-	-	157	63

I = introduced
P = passed

1) includes those referred by Senate
2) data on the Upper House; the only available data on the French Lower House are the average number of Private Member Bills introduced per year, being 328, and the average number of Private Member Bills passed per year, being 11
3) includes amendments to government bills
4) 10% regarded in some way
5) parliamentary initiatives = a bill is drafted or a request formulated in general terms; a committee is then commissioned to give preliminary advice and eventually to prepare a detailed proposal or counter proposal

Source: The figures for the Netherlands are from Visscher 1991:177, 649, 748; the figures for Belgium are from (Verminck 1987: 2-3, 233-256); the other figures are from IPU 1986:909-920.

Furthermore, it shows that we have to know more about the content of the bills before we can draw any definite conclusions on the basis of the findings presented in Table 5.5.

Looking at this table we also have to keep in mind that in Germany, Private Member Bills, as such, do not exist. Only parliamentary parties (or groups of at least 5% of all MPs), but not individual MPs, have the right to introduce a bill.

Table 5.5: Private Members' Bills as a Percentage of Bills Passed (Based on Table 5.4)

Greece	0
Norway	1
Finland	1
Netherlands	2
Luxembourg	2
Denmark	3
France	8
Spain	11
Germany	15
United Kingc	16
Austria	21
Belgium	28
Portugal	60

This points to the inter-party, rather than non-party mode. Similarly, a situation in which bills are introduced by specialised parliamentary committees, as in Austria, Iceland, Sweden and Finland, or by regional organisations (e.g. the 'Standesinitiative' of the Swiss cantons) points to the cross-party, rather than the non-party mode.

Oversight

In most of the countries included in this study, votes are recorded by individual MP; only in the Netherlands and Portugal are votes recorded by party. This indicates that, in general, the non-party mode has not been completely overshadowed by the inter-party mode. We expect the individual MP to still have a certain amount of independence, particularly in performing the function of parliamentary oversight. This expectation is confirmed by the fact that, in as many as 13 countries an MP does not have to seek approval of his or her parliamentary party before putting a written question to a minister. Only in Austria, Belgium, Germany, the Netherlands and Luxembourg is this way of gathering information subject to party approbation.

The importance of the non-party mode is reflected in yet another means of power with which parliament can perform its function of oversight: the right to form an ad hoc committee of MPs to carry out a parliamentary inquiry. In most countries where such inquiry committees can be formed, installation requires a

majority in parliament. However, there are countries in which a minority can force the formation of an inquiry committee. In Portugal, the minimum number required is one fifth of MPs, whereas in Greece two fifths of MPs may suggest such an inquiry. Yet, the decision must be taken by parliament with an absolute majority. In the German as well as the European Parliament the support of one fourth of MPs is needed.

The frequency with which parliaments and parliamentarians have actually used the right to form an inquiry committee varies considerably. It ranges from five or less parliamentary inquiries in Denmark, Iceland, Switzerland, Luxembourg and the Netherlands since the Second World War to 25 or more parliamentary inquiry committees in Greece, France, Germany and Italy for the same period. Although some of these inquiries were probably conducted in a highly partisan atmosphere, we may, in general, regard the frequency of parliamentary inquiries as a sign of a strong non-party mode: the more inquiries, the stronger the mode.

We subsequently have to mention the U.K. and Ireland. Earlier, we suggested that the non-party mode is more or less alien to these countries. However, the U.K. select committees perform a function similar to the function of oversight performed by ad hoc parliamentary inquiry committees. Due to the establishment of these select committees, there is a more or less constant process of parliamentary scrutiny in the British House of Commons. Although the select committees function in a more partisan manner than most ad hoc inquiry committees, this process of scrutiny suggests that the non-party mode is at least not entirely foreign to parliamentary practice in the U.K. A similar observation can be made with regard to Ireland. The committee system of the Irish Dàil has been revised quite frequently over the last fifteen years, but mechanisms for scrutinising the government are still in place (Gallagher 1993:138-143).

Finally, we expect the non-party mode to be especially strong where parliamentary inquiries have caused the resignation of one or more ministers. This turned out to have been an extremely rare event. However, it has happened once or twice in Austria, Switzerland and the Netherlands.

5. Conclusions

Having presented evidence of three patterns or modes of interactions between ministers and parliamentarians, we found the inter-party mode to be almost overwhelming in the United Kingdom and the Irish Republic. These two countries show close ties between ministers and MPs in ministerial recruitment, government formation and minister/MP consultations. The other countries show clear

signs of the inter-party mode in one or two of these areas. Switzerland, apparently having a weak inter-party mode, is the only country scoring low on all three indicators.

With regard to the cross-party mode, Germany and the Netherlands turn out to be the leading countries. Both are used to cross-party alliances based on social interests (regional and/or sectoral) involving MPs as well as ministers. In other countries, alliances of this kind do exist, but are less common. This, at least, is the picture as it emerges from the evidence on recruitment, parliamentary committees and cross-party caucuses. This evidence also suggests that the cross-party mode is especially weak in the U.K., even to the point of it being hardly existent.

Our evidence of the non-party mode provides us with a different picture. No particular country seems to stand out as having an extremely strong or a very weak non-party mode, but all 18 countries show signs of the non-party mode with regard to either internal affairs, legislation or parliamentary oversight. Even the U.K. proved not to be exceptional in this respect.

The main conclusion we can draw from this evidence is that, with the possible exception of the cross-party mode in the U.K., the three modes seem to occur in every country included in this study. Each mode might not be equally strong in each country, but the overall picture is one of the coexistence of the three modes in the parliamentary/governmental complex. Obviously, as we have discussed only institutional norms and practices in this chapter, it remains an empirical question to what extent the behaviour of ministers and MPs conforms to this picture. However, to the extent that institutions structure and facilitate interactions between ministers and MPs, our findings clearly suggest a coexistence of the three modes, thus providing evidence of the viability of our typology.

The subsequent question is: how do our different modes or patterns of interactions between ministers and MPs coexist? One answer could be: through specialisation. Ministers and particularly MPs may specialise in one mode or another. Some MPs may primarily be party representatives, interacting most of the time with ministers according to the inter-party mode. Perhaps others represent mainly social interests and often form alliances with ministers in the same policy area or from the same region. Meanwhile, a third group specialises in the non-party mode, operating as 'true' parliamentarians, with ministers as their main opponents. By pointing out that backbenchers in the House of Commons choose between different roles, Searing (1994) seems to suggest that this kind of specialisation could very well exist in the U.K. If so, then there is no reason to assume that it does not occur in other countries, although it probably depends on the size of the parliament and the number of parties in parliament. In the Dutch 'Second Chamber', for example, the scope for specialisation seems quite limited, due to the relatively small number of seats (100 before 1956, 150 since then), combined

with the relatively large number of parliamentary parties (more than 10 in the average post-war Parliament).

An additional explanation of the coexistence of the modes could be that parliamentarians shift from one mode to another according to the kind of issue that is under discussion. This explanation basically involves an attempt to assess in what circumstances each type of interaction between ministers and parliamentarians is likely to occur.

We expect that whenever a politically controversial issue is at stake, parliamentarians operate in the inter-party mode. Ministers and MPs act primarily as party representatives, party discipline is strong and therefore the majority rules in parliament.

MPs probably shift to the non-party mode during affairs in which the parliamentary function of oversight is crucial or when the position of parliament as an institution is involved. In these instances of true parliamentarianism, minority rights are most likely to be exercised.

MPs and ministers can be expected to change to the cross-party mode when dealing with policy oriented, technocratic or regional issues. Such a situation can be best described as a situation of minority rule, because it involves minority cross-party coalitions making the decisions.

Whether these expectations are justified is a question we obviously cannot answer solely on the basis of the institutional data presented in this chapter. It requires behavioural data on interactions between ministers and MPs, as well as situational data, for example on the kind of issue under discussion.

So far, political scientists have resigned themselves to the straightjacket of the constitutional two-body image, and this has hamshackled the comparative study of interactions within the parliamentary/governmental complex. Building on Anthony King's seminal article, our typology of modes of interactions between ministers and MPs is intended to provide a more fruitful framework for such studies. It is surprising and encouraging to see that so many of the institutional arrangements, norms and practices that are discussed in more detail in the other chapters of this book, could be integrated in this framework. While being only the exploratory stage of a new research agenda, this hopefully shows the potential value of looking beyond the two-body image.

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6

Parliamentary Questioning: Control by Communication?[1]

Matti Wiberg

> "There is no limit to the curiosity of parliament"
> (Bagehot 1867: Ch. 5)

Introduction

Parliamentary politics in Western Europe is a game involving the constant attempt to control the parliamentary agenda. Various actors try to get their interpretation of a specific situation accepted by other players and consequently their own preferences implemented. This takes place within in a complex network of various kinds of principal-agent relations. Modern parliaments have many functions (Packenham 1970; Norton 1993:7):

Legitimation
Latent (through meeting regularly and uninterruptedly)
Manifest (the formal stamp of approval)
'Safety valve' or 'tension release' (outlet of tensions)

Recruitment, Socialisation and Training
Recruitment

1 The author would like to thank all the persons who helped to complete this chapter. These include all project participants and particularly the Mannheim team. The following persons from the various parliamentary services provided many pieces of detailed information: Gerhard Koller (Austria), Robert Myttenaere (Belgium), Ib Skovsted Thomsen (Denmark), Heike Baddenhausen-Lange (Germany), Helgi Bernodusson (Iceland), Verona Ní Bhroinn (Ireland), Piet van Rijn (Netherlands), Inger Lorange Figved (Norway), Anabela Ventura Lopes (Portugal), Ulf Christoffersson (Sweden), John Prince (UK). The persons mentioned are also responsible for the results.

Socialisation
Training

Decisional or Influence Functions
Law making
'Exit' function (resolving an impasse in the system)
Interest articulation
Conflict resolution
Administrative oversight and patronage (including 'errand running' for constituents).

Representatives engage in three kinds of electorally oriented activities: advertising, credit claiming, and position taking. Advertising is "any effort to disseminate one's name among constituents in such a fashion as to create a favourable image, but in messages having little or no issue content." Credit claiming is "acting so as to generate a belief in a relevant political actor (or actors) that one is personally responsible for causing the government, or some unit thereof, to do something that the actor (or actors) considers desirable." Position taking is "the public enunciation of judgemental statement on anything likely to be of interest to political actors" (Mayhew 1974:21-24).

Parliamentary questioning and various types of debates may contribute to many of these functions simultaneously. Questions to ministers as a means of eliciting information about matters within their official responsibility is a common practice in all parliaments, and one of the celebrated functions of parliament. Overseeing the executive and putting parliamentary questions is one form of controlling the government of the day and its administration. John Stuart Mill (1861:chapter 5) went so far as to demand that popular assemblies should only control and criticise. Questions are thus an opportunity to obtain information on particular points or to force a policy statement to be made. Parliamentary questions are not only put in order to receive information, as the naive reading of the formal regulations concerning questioning would suggest. They are put also in order *to give* information to the government, its administration, or some other group of actors inside or outside parliament, for instance the mass media or some local constituency club. It is important to note that everything an MP may have intended by putting a question may already have been successfully achieved by the time the question is actually put, totally regardless of the answer and, even regardless of whether there is an answer at all. To a large extent parliamentary questioning is signalling: MPs do not signal necessarily to the government alone, but also to an extra-parliamentary audience. But note, it is the government that must react to this signalling, both formally (constitutionally) and for 'political' reasons: "For government, there is no equivalent to the legal right of silence" (Norton 1993:112).

MPs put questions for a variety of reasons. Bagehot was aware of this as far back as the 19th century: "There is no limit to the curiosity of parliament. (...) As soon as bore A ends, bore B begins. Some inquire from a genuine love of knowledge, or from a real wish to improve what they ask about; others to see their name in the papers; others to show a watchful constituency that they are alert; others to get on and to get a place in the Government; others from an accumulation of little motives they could not themselves analyse, or because it is their habit to ask things" (1993:188-189). Modern political science literature has not much to add to this list, despite the experience of many hundreds of thousands of new parliamentary questions. From the academic writings on this matter, it has been possible to distillate the following different motivations for parliamentary questioning (cf. Wiberg and Koura 1994:30-31):

(1) To request information
(2) To press for action
(3) To gain personal publicity
(4) To demand an explanation
(5) To test ministers in controversial areas of their policies
(6) To attack ministers in difficult political situations
(7) To dispose of a large number of heterogeneous topics rapidly and conveniently
(8) To show concern for the interests of constituents
(9) To help build up a reputation in some particular matters
(10) To force compromises on an unwilling government
(11) To delay a headstrong government until other forces and events make their influence felt
(12) To demonstrate the government's faults
(13) To rally the troops within an opposition party, with only a remote intention of forcing change on the government
(14) To create elements of excitement and drama.

One single question may be motivated for many reasons, and may simultaneously serve many ends. To reiterate: questioning is signalling. By putting questions, MPs typically signal different things to different actors. There may be many kinds of trade-offs to be taken into account here.

When the constraints vary, so do the forms and number of questions. Representatives do not primarily put questions in order to control the executive. Control may, nevertheless, be achieved. Rasch (1994:256-260) has developed the argument of what we could call "control as a by product." As such, legislative control should guarantee the responsiveness of those to whom authority has been delegated to legislative requirements. The theory of agency defines legislative-executive relations thus: the legislators are the principal, while the executive

comprises a multiplicity of agents. Attention may be diverted away from the intentions of the principal by the problems arising at agency level, such as parliamentary decisions and interpretations. A conflict of goals exists between legislators and agents: agents may benefit from hidden information and hidden action, while the legislator's aim must be to counter this by offering incentives to agents to promote the former's interests.

A hypothetical example is offered by Rasch where the exertion of parliamentary control increases compliance with the will of the principal. The benefits thus derived are not confined to those exerting the control: rather the benefits may be reaped by all who constitute the legislature, regardless of the extent of their contribution to the costs of collective action. However in addition to these shared benefits, further benefits may apply to the individual legislator. While the collective benefits will be largely positive, their extent should not be overestimated since the abuse of such delegated authority and discretionary powers is likely to be seen as contrary to the long-term interests of both the government and the opposition.

From this premise Rasch proceeds with the assertion that the exertion of such controls requires time and effort in evaluating available information, and that such costs may outweigh the potential benefits. Indeed, in view of the costs incurred in exerting controls there is no guarantee that such control facilities will be utilised; and if they are it will be those which minimise the potential costs to legislators. This aspect of parliamentary control should not be over-estimated since the nature of Western European parliaments is one which fosters a more cooperative relationship between the legislative and the executive.

In reality the effect of a single question on executive compliance is secondary to the publicity and self-promotion opportunities presented to the questioner, which Rasch assesses as crucial to a legislator's likelihood of re-election. This publicity, then, is more advantageous in the private sphere of the legislator than in that of the collective good.

While it may be asserted that the tabling of questions is open to exploitation by legislators, Rasch rejects this as improbable: the greater the number of questions tabled, the lower the chances of favourable publicity for the individual legislator; and the greater the likelihood of accusations of misuse of this particular form of control. Indeed the decision to table a question will be strategically determined by the number and topics of other questions tabled. However this point is qualified by Rasch with the assurance that in spite of the limits of this form of control, questions will be tabled and this form of control will not be neglected.

Parliamentary questioning is not an overly researched area of legislative acting (see, however, Chester and Bowring (1962); Morscher (1976); Franklin and Norton (eds.) (1993); Wiberg (ed.) (1994a). Fellowes (1960), and Bruyneel

(1978) provide some information on the various forms of questioning in some parliaments and Gwidz (1960) on interpellations). The typical political science text-book treatment is mostly influenced by the formal, legal description in which the practical realities play a far too insignificant role at the cost of an overexertion of the formal, but politically often irrelevant conditions and constraints. What is especially disturbing in these presentations is the almost total absence of the political dynamics involved in questioning. Parliamentary questioning, in practice, is much more, and perhaps is mostly something other than a game where elected representatives control the executive. Control is perhaps not among the motives of MPs at all.

This book is focused on legislative output. Another important aspect is the evaluation of the implementation of legislation and the various forms of controlling the government of the day. This is the only chapter in this book which does not directly focus on legislative processes.

The purpose of this chapter is to provide a general review of parliamentary questioning and conditions and constraints of adjournment debates and analogous forms of urgency debates in West European parliaments. Our main dependent variable is the number of questions. Our two main research questions are:

Research Question 1:
What forms of parliamentary questioning and procedures for forcing debates exist in the eighteen West European parliaments?

Here, we focus on the similarities and dissimilarities of the various forms of questioning, their evolution and the conditions for their utilisation. We are also interested in throwing some light on the question of how far the controlling capacities of MPs actually extend. Are there explicitly forbidden topics? The various deadlines for putting and answering questions are also scrutinised. It has been claimed that parliament is not much more than a "collection of committees that come together periodically to approve one another's actions" (Clem Miller, Member of House, quoted in Cox and McCubbins 1994:1). If this is true, then we must consider the possibilities for committees to question not only ministers, but also government officials. We are also interested in whether a minority (either opposition party groups or a cross-party minimum number of members) may request an urgent debate to take place. We also review the possibilities of a minority (party group or cross-party) to have its motion debated in the plenary whenever it requests and, in this context, also the majority's opportunities to stifle the debate by referring the matter to a committee. May a minority force a debate whenever a minimal number of deputies request it? What are the conditions and constraints for such a debate?

Research Question 2:
How frequently are these different forms of control and oversight used by MPs?

Here, we are interested in getting the overall picture of the volume of parliamentary questioning. Which trends seem to emerge from the data? Is questioning increasing or decreasing? Which kinds of question forms are most frequently used? Which seem to be of lesser significance? Is there an electoral cycle which would explain a fluctuation in questioning activity? In this context, we are also interested in modifications to the formal and informal regulations concerning questioning in the parliaments studied. If questioning is important, it would seem to be a precondition that Question Time be well attended by ministers and MPs, and it should also be suitably placed for media attention. We will also present the available evidence concerning the scope and use of various kinds of urgency debates.

The structure of the chapter is as follows. First we start with a factual inventory of the various forms of parliamentary questioning. Following this, the kinds of constraints on parliamentary questioning will be presented and discussed: MPs are not only individual MPs, but above all also representatives of party. Individual MPs' opportunities are constrained by other individual actors inside and outside parliament, but above all by political parties. Then we present the various forms of adjournment debates and urgency debates. After this, we show the main behavioural trends, and especially the distribution of the frequencies of different types of parliamentary questioning in the 18 parliaments presented. We will go on to test a particular hypothesis concerning the relationship between the size of the public sector and parliamentary questioning. The chapter ends with a discussion of the meaning of party for parliamentary questioning and some concluding remarks.

Forms of Questioning

Although West European parliaments share to a large degree a common political and cultural heritage, itself a minimum necessary requirement for making a meaningful cross-national comparison, there is a rich variety in the forms of parliamentary questioning in the parliaments under study. Indeed, there are no two parliaments with exactly identical questioning forms. Even where the names of these forms are identical in their English translation, they are by no means even functionally equivalent. Interpellations, for one, have the same title in different political systems but different forms, contents, functions and consequences. The deceptive similarity may be quite misleading if the relevant differences are not spelled out in enough details. The conditions for questioning, as well as other aspects, vary to a large degree from parliament to parliament.

pects, vary to a large degree from parliament to parliament. This makes a true comparison difficult, if not impossible. Moreover, the whole institution of parliamentary questioning is under constant evolution: older forms of questioning instruments are reformed, completely new forms are introduced and the political meaning and the practical limits of these are constantly debated and under various kinds of pressures. Truly comparative research is complicated because we neither know nor understand the *incentive structure* relating to the various actors involved in parliamentary interactions. There are several important constraints on individuals and collective actors. In order to really understand the incentives representatives have, we should not focus on the formal rules and institutional settings alone, but also pay due attention to the practical, though informal rules influencing the choices of politicians in their specific political system. We can only begin to fully understand the importance of rules and institutions when we properly understand how, in exact terms, rules and institutions constrain the choices of rational actors. Major misinterpretations and misplaced judgements in many comparative studies are due to the rich flora of national experiences: we tend to look at the world through spectacles whose frames are formed by our own political systems. We are trained to think in terms of our own political system. Too much is taken for granted, be it warranted or not.

Parliamentary questioning in West European parliaments varies with respect to at least the following dimensions:

1. forms of questioning
2. manner of introduction
3. conditions for admissibility
4. timing of questioning (both with respect to when questions may be put and when they have to be answered by at the latest)
5. the way in which debates are fixed and organised
6. content of questioning (some issues are not permitted)
7. maximum number of questioners
8. allocation of the duty to answer
9. the conclusion which is possible

The most typical forms of parliamentary questioning include: some sort of *oral questions* presented at a fixed Question Time on a regular basis, *written questions*, which are not answered nor debated at all in the chambers, and *interpellations*. A written parliamentary question is operationalised here as a question, which is both asked and answered in writing only. An oral question, on the other hand, is a question which may be (and most typically is) handed in writing in advance, but is also presented orally by the relevant MP, or some administrative clerk of the parliament or at least *answered* orally by the responding minister, or someone else in the chambers (it is usually also printed in the proceedings or pro-

tocols of the parliament, as is also the case for all other forms of questioning). Thus, a question may be asked either orally or in writing and it may also be answered both orally and in writing:

		Answer	
		Oral	Written
Question	Oral	1	2
	Written	3	4

Parliaments typically do not allow genuinely spontaneous oral questions: at least the topic of the question must be registered by the staff of parliament and the relevant minister or his or her staff in advance. Hence, cases 1 and 2 are, for the most part, illusory and result from a literary understanding of the standing orders, rather than reflecting actual reality. Even oral questions, despite their name, are handed in writing for preparation by both parliament and executive. All parliamentary questions in all parliaments studied are written, in the sense that they are available in written form for the responder before he, or she, will have to react to it (answer it or refuse to answer). In Sweden, however, there has been a truly spontaneous question hour since 1992.

An interpellation has the following objectives (Bruyneel 1978:70):

1. To request from the Government information, justification, or both concerning a problem of general interest of substantial importance which is not on the agenda of the House and thereby which one or more Members consider that Parliament, the public, ought to be informed.
2. To open a debate on this problem within a reasonable time under an established procedure during which the originator(s) of the interpellation, the Minister concerned, and possibly other Members of the Assembly can put forward their point of view.
3. To conclude the interpellation without further action, leaving it as a purely informative exercise; or to call into question the responsibility of the Government (or the Minister concerned) by tabling a motion on which the Assembly must take a decision, which then amounts to a motion of censure. Such motions, without calling into question the Government's responsibility, can also express the positions of the Assembly as a whole, or even simply give approval.

The various forms of parliamentary questioning in the 18 parliaments studied are presented in Table 6.1.

In the EP there were normally four different procedures of putting questions: Written question, oral question without debate, oral question with debate, and questions at question time. Since 1993 the number has been reduced to three, as oral questions without debate have been abolished. In Austria there are four pos-

sibilities: written question (Schriftliche Anfrage), urgent question (Dringliche Anfrage), oral question (Mündliche Anfrage), topical hour (Aktuelle Stunde). In Belgium there are four types of parliamentary questions: written question (Schriftelijke vraag met schriftelijk antwoord), oral question (schriftelijke vraag met mondeling antwoord), urgent question (dringend vraag), committee questions (vraag om uitleg in commissie). In Denmark there are five types of questions: oral question (spørgsmål til mundtlig besvarelse, onsdagsspørgsmål), written committee question (utvalgsspørgsmål), written question (spørgsmål til skriftlig besvarelse) and interpellation (forspørgsler). In Finland there are four different questions: written question (kirjallinen kysymys), oral question (suullinen kysymys), interpellation (välikysymys), and question to the Council of State (kysymys valtioneuvostolle). In France there are four different questions: written question (question écrite) oral question without debate (question orale sans débat), oral question with debate (question orale avec débat), budgetary question . Interpellations have disappeared under the Vth Republic, but the name has been retained for the initiation of a motion of censure (interpellation). In Germany there are six different questions: major interpellation (Große Anfrage), minor interpellation (Kleine Anfrage), written question (Schriftliche Frage), oral question (Mündliche Frage), urgent question (Dringlichkeitsfrage), question to the federal government (Befragung der Bundesregierung). In Greece there are four different questions: written question (Erotissi), question of actuality (epikairi erotisi), interpellation (epikairi eperotisi), interpellation of actuality (epikairi eperotisi). In Iceland there are three kinds of questions: written question (skrifleg fyrirspurn), oral question (munnleg fyrirspurn), and topical hour question (óundirbúnar fyrirspurn). In Ireland there are two kinds of questions: written question (written question), and oral question (oral question). In Italy there are three kind of questions: written question (interrogazione), oral question (interrogazioni con cattere d'urgenza), and interpellation (interpellazione). In Luxembourg there are three kinds of questions: written question (question et réponse écrite), oral question (question avec débat), and urgent question (question urgente). In Netherlands there are three kinds of questions: written question (schriftelijke vragen), oral question (mondelinge vragen), and interpellation (interpellaties). In Norway there are four kinds of questions:

Table 6.1: Forms of Parliamentary Questioning in West European Parliaments

	Written Question	*Oral Question (= Question Hour/ Time)*	*Urgent Question*	*Topical Hour*	*Committee Question*	*Interpellation with motion of censure*	*Interpellation without motion of censure*	*Question to Government*	*Budgetary Question*
EP	yes	yes [2)] (with debate)	yes	yes	yes	no	yes	yes (Commission)	yes
AUT	yes	yes [3)] (no debate)	yes	yes	yes [8)]	yes	no	yes	yes
BEL	yes	yes [3)] (no debate)	yes	no	yes	yes	yes	no	yes
DEN	yes	yes	no	no	yes	yes	yes	no	no
FIN	yes	yes	no	no	no	yes	yes	yes	no
FRA	yes	yes (with debate/ no debate)	no	no	no	yes [9)]	yes	yes [12)]	yes
GER	yes	yes	yes [7)]	yes	no	no	yes [11)]	yes	no
GRE	yes	yes	yes	no	no	yes [10)]	yes [10)]	no [13)]	no
ICE	yes	yes [4)]	no	yes	no	no	no	no	no
IRE	yes	yes	yes	no	no	no	no	no	no
ITA	yes	yes	no	yes	yes	yes	yes	no	no
LUX	yes	yes [3), 5)] (with debate)	yes	no	no	yes	yes	no	no
NET	yes	yes	no	no	no	yes	no	no	no
NOR	no [1)]	yes	yes	no	no	yes	no	no	no
POR	yes	yes [6)]	no	no	no	no	yes	no	no
SPA	yes	yes	no	no	yes	yes	yes	yes	no
SWE	no	yes	no	no	no	no	yes	no	no
SWI	yes	yes	yes	yes	no	no	yes	no	no
UK	yes	yes	yes	no		no	no	no	no

Notes:

1) There are no written questions, but there is a parallel called 'oversendelsesforslag', which is a proposal tabled in the Storting but not voted on. At the end of each session, the government issues a report referring and responding to most of the proposals. This is not, however, regarded as nor called written questions.
2) The procedure of "oral questions" without debate was struck from Rules of Procedure in November 1993.
3) "No debate" and "with debate" mean that the Standing Order of Parliament stipulates in advance that there has to be or must not be any debate; if the chairman allows debate will be informally possible in most countries.
4) For up to half an hour on a special plenary meeting oral questions which have not been registered are allowed.
5) The 1983 reform of the Standing Order canceled article 76 concerning "written questions and oral answers". But the 1990 reform added an alinea 5 to the old article 75 concerning "written questions and answers" (that became new article 76!) in order to give the deputy the possibility to ask orally his question to the minister if he had not obtained a reply of the minister during the month following the delivery of his question. Moreover, a new type of questions, the "questions with debate" (new article 78), was created in 1990.
6) The oral questions - questions asked and answered orally in the Plenary Assembly (pergunta ao Governo) - was introduced in 1985; in 1988, the written questions with oral answers (perguntas escritas) was eliminated.
7) There is only nominally an "urgent question". It is an oral question that is given preferential treatment at the beginning of Question Time.
8) The questioning of ministers in standing committees has only an information and no controlling function.
9) Interpellations have disappeared under the Vth Republic, but the name remains for the initiation of a motion of censure.
10) Interpellation, interpellations of actuality, motion of censure.
11) Major interpellation (Große Anfrage): request information about important wide-reaching political issues. The interpellation and the reply always require a plenary debate and therefore help in forming opinion and political will. Minor interpellations (kleine Anfrage) are for specific, limited questions.
12) In fact, this is "question on government" which is the exact name, but the minister answers.
13) 1991-93 to Prime Minister only by party leaders.

Source: Parliaments in Western Europe participants and Standing Orders.

long question (grungitte spørsmål, dropped in 1989), oral question (spørretime-spørsmål), question at the end of the meeting (spørsmål ved møtets slutt), and interpellation (interpellasjon). In Portugal there are three kinds of questions: written question (requerimento), oral question (pergunta ao Governo), and interpellation (interpelação). In Spain there are two kinds of questions: written question (pregunta escrita), and oral question (pregunta oral). In Sweden there are two kinds of questions: oral question (muntlig fråga) and interpellation (interpellation). In Switzerland there are three different questions: simple question (Einfache Anfrage), oral question (Aktuelle Frage), and interpellation (Interpellation). In the United Kingdom there are three kinds of questions: written question, oral question, and private notice question.

The choice an MP makes as to which form of questioning he or she will use may, to a large extent, be influenced by the kinds of alternative forms open to him or her.

In some parliaments (Denmark, Spain) the questioner may ask for a written or an oral answer. It is then up to the minister to decide whether he or she will answer in writing or orally. In both cases the answers are also documented in writing in the parliamentary proceedings.

The Norwegian *Storting* and the Swedish *Riksdag* are the only West European parliaments without the institution of written parliamentary questions (although oral questions here must also be delivered in writing, and are then presented or answered orally). The Spanish *Cortes* was the only parliament that for a long time lacked a permanent Question Time (it was introduced in Spain in 1994). Even when the names of these instruments stay the same, the instruments available do not remain constant over time. They tend, instead, to evolve slowly. The different forms of questioning have been formally introduced at different times in different parliaments. There seems to be a constant process of evolution in the precise terms of the various questions. Unfortunately, for most parliaments, these modifications are not well documented. Different sources provide different dates, and in many countries there are many discrepancies between formal rules and behavioural practice. The most essential information concerning the formal introduction of the different forms is given in Table 6.2.

Typically one single MP is the minimum numerical requirement to start the processing of a parliamentary question. However, there are some particular forms that require the participation of more than just one single representative. The minimum and maximum number of questioners by question type is presented in Table 6.3.

Table 6.2: The Year of Introduction of New Forms of Parliamentary Questions

Country	*Written Question*	*Oral Question (≈ Question Hour/Time)*	*Interpellation*
AUT	1867 [3]	1961	1861
BEL	1897	1962	1889
DEN	1947	1947	1849
FIN	1928	1966	1928
FRA	1909	1876	-[7]
GER	1969	1952	1848 [8]
GRE	1974 [4]	1987	1974/1987 [4]
ICE	1947	1991	
IRE	1922	1922	-
ITA	1909	1986	1909
LUX		[5]	
NET	1906	1906	
NOR		1949	1908
POR [1]	1976	1985 [6]	1976
SPA [2]	1977		1977
SWE	1938	1938	1866 [9]
SWI	1874	1979	1874
UK	1833	1869	none
EP	1958	1973	1958

1) First constitution of the Portuguese democratic parliament in 1976.

2) Spanish democratic parliament since 1977. Provisional standing orders since October 1977. Final standing orders since February 1982.

3) Informally 1861.

4) Interpellations of actuality where introduced in 1987; although the forms of „written questions“ and „interpellation of actuality“ date back to either the 19th century or the beginning of this century, 1974 refers to the re-establishment of democracy.

5) In 1983, article 76 concerning „written questions and oral answers“ were canceled.

6) Since 1988, the „written question with oral answer“ has been eliminated.

7) Created about 1830, during "Monarchie de Juillet" (1830-1848). Suppression in 1959, when the Constitutional Court declared it contrary to the constitution. See also footnote 8 in Table 6.1.

8) parliamentary tradition preceding the foundation of the empire.

9) Vote of no confidence was introduced in 1969.

Source: Parliaments in Western Europe participants; Ameller 1964; Morscher 1976.

Table 6.3: Minimum and Maximum Number of Questioners by Question Type

	Written Question	*Oral Question*	*Urgent Question*	*Interpellation*	*Committee Question*	*Budgetary Question*	*Government Question*
	Min/Max	*Min/Max*	*Min/Max*	*Min/Max*	*Min/Max*	*Min/Max*	*Min/Max*
EP	1 MP	A committee or a political group or 23 MEPs	1 MP	1 MP	--	--	--
AUT	1 MP/none	1 MP/none	5 MPs/none [1)]	--		--	--
BEL	1 MP/3 MPs	1 MP/1 MP	1MP/1 MP	1MP/1 MP [2)]	--	--	--
DEN	1 MP/none	1 MP/1 MP	--	1 MP/none	1 MP/Any number of committee members	--	--
FIN	1 MP/none	1 MP/none	--	20 MPs/none	--		4 MPs/none
FRA	1 MP/none	1 MP/none	--	1 MP/none	--	1 MP/none[3)]	1MP/none[4)]
GER	1 MP/1 MP [4)]	1 MP/1 MP [4)]		5% of MPs or 1 party group [5)]/ none	--	--	1 MP/1 MP
GRE	none/none	1 MP	1 MP/none	motion of censure: 50MPs	--	--	--
ICE	none/none	1 MP	--	--	--	--	--
IRE	none/none	1 MP	--	--	--	--	--
ITA	1 MP	1 MP	pol. group	1 MP	1 MP	--	--
LUX	1 MP/5 MP	1 MP/1 MP	1 MP/1 MP	1 MP/1 MP [6)]	1 MP/1 MP	--	
NET	1 MP	1 MP	--	1 MP [7)]	--	--	--
NOR	--	1 MP/1 MP	1 MP/1 MP	1 MP/none	--	--	--
POR	none/none	none/none [8)]		none/none	--	--	--
SPA	none/none	none/none		none/none [9)]	--	--	--
SWE	1 MP/1 MP	1 MP/1 MP		1 MP/1 MP	--	--	--
SWI	none/none	none/none	none/none	none/none	--	--	--
UK	1 MP/1 MP	1 MP/1 MP	1 MP/1 MP	--	--	--	--

-- means the instrument definitely does not exist in the country.

Notes:

1) Since 1.1.1989; until 1989 8 MPs could make proposal to change a written question into an urgent question, national council voted on proposal; 20 MPs could force the "urgent" treatment of a written question.
2) Motions can only be introduced after an interpellation (or after a governmental declaration) by one or more members. Interpellations can be joint.
3) Budgetary questions and weekly questions to the government depend a lot on the will of party groups.
4) Questions for oral or written replies must be countersigned by the leader of the parliamentary party group.
5) This applies for both, minor and major interpellations. 5% of MPs is also the minimum number of MPs required to constitute a party group.
6) Motions cannot be introduced by more than five MPs.
7) The right to have an interpellation is *not* an individual MP's right; the House has to give its permission and decides when the interpellations can be held.
8) Until 1993, each parliamentary party could ask one question for a tenth of the total number of MPs for every "question time"; since that rule has never been followed it was eliminated in 1993.
   This restriction did exist at the level of the parliamentary party and not for the MP, who could for instance ask all questions proposed by his party.
9) Interpellations may be presented by the parliamentary group (in its name), not individually. A political group can table no more than two interpellations per legislative session.

Source: Parliaments in Western Europe participants and Standing Orders.

Table 6.4: Question Time

	Monday	*Tuesday*	*Wednesday*	*Thursday*	*Friday*
EP		x [1)]	x [1)]		
AUT	at the beginnig of a session day, i.e. usually between 9 and 11 a.m., no fixed week day; duration : 1 hour. [2)]				
BEL				2.00 p.m.	
DEN			x		
FIN				5.00 p.m.	
FRA			p.m.[3)]		p.m.[3)]
GER			(noon - 1.30 p.m.) [4)]		
GRE		6 p.m. (duration: 2-3 hours)			10 a.m. (duration: 2-3 hours)
ICE	3 p.m.				
IRE		2.30 - 3.45 p.m.			
ITA			p.m.		
LUX		at the beginning of the morning session			
NET		2 p.m.			
NOR			11 a.m.		
POR					in the morning every fortnight (duration: 2 hours) [5)]
SPA					
SWE		2 p.m. [6)]			
SWI	in the afternoon of the 2nd and 3rd week of a (three week) session				
UK	2.45 - 3.30 p.m.				

Notes:

1) The exact time is not specified: pursuant to Art. 60.1 Rule of Procedure at a time fixed by the Presidents' Conference; duration: 2-3 hours.
2) If a lot of oral questions have piled up the President can summon a special parliamentary session which consists in only a question hour and which may be held at any time during the day.
3) Wednesday or Friday; decided by the Presidential Conference.
4) Since 1973/74; from 1952 to 1973 the German Bundestag had three question hours of 60 minutes per plenary week. Urgent oral questions may be submitted the previous day until 12 a.m.
5) The Question Time is not prescribed in the Rules of Procedures, depending hence on the decision of the Conference of Chairmen.
6) The exact time is not prescribed in the Standing Orders, depending hence on the decision of the Speaker. Normally the Question Time is held on Tuesday afternoon.

Source: Parliaments in Western Europe participants and Standing Orders.

Many parliaments permit only a single MP to put a question. In some others, it is possible for more than one MP from either one and the same, or from different parties, to submit a joint question. Both written and oral questions, as well as interpellations, may be joint ventures in some parliaments.

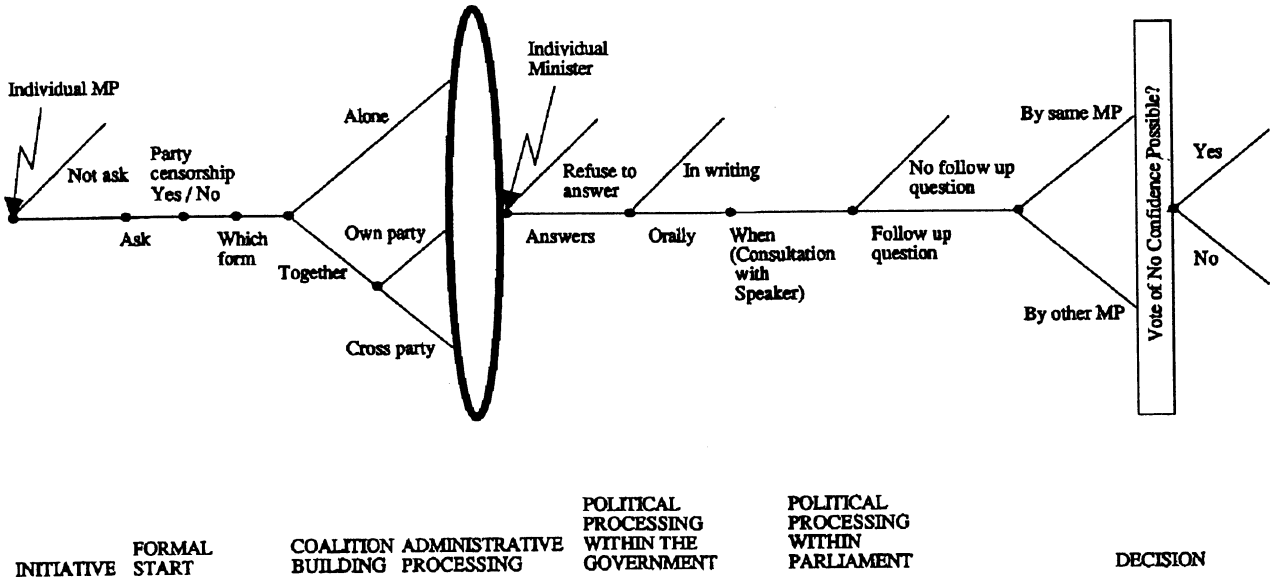
Question Time takes place on a regular basis, usually at least once a week. The fixed hours of Question Time are presented in Table 6.4.

Question Time is usually not well attended by ministers. In Germany and Portugal ministers do not necessarily answer oral questions themselves. The answers may be given by the minister or by one of his or her deputies. In Germany answers may be given by the Parliamentary State Secretaries. The minister usually answers his or her questions. By no means do all MPs attend Question Time. It is rather the case, that only those MPs attend the sitting, who have put questions, or want to put supplementary questions, i.e. those who have an active role to be performed. In some parliaments, MPs may listen to Question Time from the comfort of their offices. Parliamentary questions are now and then reported in the mass media, but it would be an exaggeration to claim that parliamentary questioning receives much regular media coverage in the national newspapers and electronic media. The only exceptions to this rule are the weekly British Question Hour and the monthly Finnish Questions to the Council of State, which are televised live. Some local newspapers may report questions of some local relevance, but the national media do not typically cover systematically and continuously many of the questions. The politically heavier interpellations and adjournment debates, on the other hand, are to a large extent reported in the national press as well as via the electronic media.

Putting a parliamentary question is by no means a totally spontaneous event. On the contrary it always comprises many stages and always has the explicit consent of more than just one individual MP. In no parliament is it possible for just one MP to force his or her question to be processed through all the different stages. The Speaker, or some other decision-making body, may at least prevent a question from being processed in the form proposed by a certain representative. There are several costs and constraints to be taken into account here. There are also several trade-offs to be given a similar consideration. Even at the lowest level, there is much more to parliamentary questioning than just one MP putting a spontaneous question, which a minister then immediately and properly answers. So called planted questions are an everyday open secret in all parliaments: a minister or some of his or her staff may, for instance, draft a suitable question and hand it over to a loyal MP, who then puts the question in his or her own right. It is not even expensive: "The going rate for putting down a question is, after all, more like a half of bitter in the members' bar", estimates the collective pseudonym Bagehot in *The Economist* as the price for this kind of wheeling and dealing (Bagehot 1994:41). A successfully processed parliamentary question, written or oral, necessarily involves the voluntary participation of at least three distinct types of actors: one or more MPs, some part of the staff of parliament and/or the bureaucracy of the government, and one or more ministers. The ideal type of parliamentary questioning game is depicted in extensive form in Figure 6.1.

The question may originally be initiated inside or outside parliament: sometimes, MPs just advance drafts or completed questions written by someone outside parliament. Here, the relevant representative acts as a representative in the trivial sense. The first question for an MP is then to decide whether the draft provided by some extra-parliamentary actor (for instance an interest organisation) is worth being processed in the presented form or not. If not, the MP may either totally neglect it or redraft it and formulate a more suitable question by his- or herself. When the MP has decided to put a question, he or she must decide upon the form of the question. Here, the opportunities differ remarkably. In some parliaments, MPs have as many as six different kinds of possible questioning forms. In other parliaments, they must choose between two forms only. Several factors influence this choice. Much depends on what the MP would like to achieve with his or her question. It is not self-evident that an MP will always gain something from submitting a question: the net benefit may also be negative. He or she may also lose something by revealing his or her ignorance, for instance. The MP may also be ridiculed by a clever and witty minister in a

Figure 6.1: Parliamentary Questioning Game in Extensive Form



heated exchange during Question Hour. If an MP asks a question that is thought to be common knowledge to everyone, or if she or he lets the minister answering humiliate the questioner, the representative may just be demonstrating his or her personal incompetence. Different question forms provide different possibilities of furthering the representative's goals. Here are some of the most important considerations an MP has to take into account before any further steps are taken in processing the idea of a question into a question proper:

1. Is the speed of putting the question and/or answering it of any importance? Is the question urgent or not? Does it make a difference whether the question is at least registered without delay? Would it be important (= politically profitable) for the question to be processed through the staff of parliament and the bureaucracy of government as soon as possible?
2. Is it of any importance which of the ministers answers the question? Would the representative like to put the question to a particular minister? (The style and content of the question may differ if it is put to a particular person instead of the acting government in toto).
3. Is it possible and functional to form a coalition of MPs asking the same question (may other MPs join; if yes, is it worthwhile for the original initiator (or his or her 'source') and/or the relevant MP to put the question by his- or herself, ask only MPs from his or her own party to join, or would it be better to put the question supported by a cross party coalition? Even a trivial issue may sometimes be successfully promoted if the number of co-signers is significant enough. Sometimes, a symbolic majority, say half of the representatives or perhaps all group leaders of the parliamentary party groups may, together, want to demonstrate their concern for some specific issue.
4. Do those commanding some kind of discretion concerning the possibility of questioning (the Speaker, the staff of parliament, etc.) have any impact on any of the dimensions? If yes, are some forms of questioning more advantageous from the questioner's point of view? The degrees of freedom vary with respect to the different forms.
5. Is a spontaneous or a bureaucratically (technically, administratively) as well as politically (within the government) well-prepared answer desired, or are the reactions (answers and other linguistic actions) irrelevant?
6. Is there a need or desire for further debate or discussion in immediate connection with the original question?
7. Is it desirable to have the opportunity to make a decision immediately connected to the original question after the minister's or the government's answer or other reaction have been received?

8. Which form serves best the signalling needs with respect to intra- and extra-parliamentary actors? If the intra- and extra-parliamentary considerations are in conflict with each other, which is more important?

There are many kinds of trade-offs involved here. It is not always self-evident which factor is the most important. A rapid answer is not always the most informative in administrative terms, but for controversial issues, it might very well be the most useful one: if the sole political purpose of the question was to demonstrate the minister's lack of competence and of relevant information, then spontaneity might be used strategically to great advantage: the minister's incompetence could be effectively demonstrated within seconds. But, on the other hand, if the questioner wants to know what plans the executive has on a particular issue, it might very well be wiser to give the minister and his or her staff some time to think about the issue in peace before they commit themselves publicly.

When the question has been put, the parliamentary staff forward the question for further administrative and political processing by the government. This involves several stages. The question is written, printed, distributed, and sent to the government central office or directly to a ministry. Then there must be a decision made within the government as to which minister answers the question. Sometimes the question will be sent back and forth between different ministries before the correct ministry is found. Then the relevant minister must decide whether he or she will answer the question in the first place. If the minister decides not to answer, he or she must typically explain the reasons for this non-co-operation; the refusal must be motivated. Only extremely rarely are questions not answered. It is politically intolerable to refuse to answer, but ministers might give an evasive or perfunctory reply. Sometimes, a two letter word is considered to be enough as a proper answer: "No". If the minister (or rather some of his or her clerks) decides that the question is to be answered, there must be a decision taken, whether it will be answered orally or in writing and as to when the question is answered. If the question is answered orally, it is not completely at the minister's discretion; The Speaker (or some other body of the parliament) sets the agenda for parliament. Sometimes ministers want to delay their reaction for as long as possible, other times they want to publicise (the good) news immediately. After the timing of answering is settled, the minister's reply is drafted, and not seldom the final answer is identical with the draft prepared by a bureaucrat: It may even happen that the minister just reads the material prepared for the occasion without completely understanding what is going on, or what is involved. In certain forms of questioning, other MPs and even other ministers may participate with follow up questions and complementing answers, respectively. In interpellations, the issue of a vote of no confidence is the next to final stage. But this concerns only interpellations. With respect to all other question forms, no decisions are made and even here

there must be a separate motion of vote of no confidence. Typically, the standing orders regulate that no decision is made after the processing of an oral or a written question.

The processing of the written and oral questions are summarised in Tables 6.5 and 6.6.

Forbidden Topics

Representatives are not allowed free reign to put any kind of questions focusing on any aspect of human life. There are some quite formal and many more informal constraints: Some issues are simply *taboo*. Even when there is no limit to the curiosity of parliament, there are some political no go areas even for representatives. The standing orders typically require that the question must be relevant and fall directly under the responsibilities of the government or some of its ministers. The EP does not have a list of forbidden questions. The same holds true for Denmark (although even here the questioner has to ask about a public matter), Finland, Greece, Iceland, Netherlands, Norway, Portugal, Spain, Sweden, and Switzerland. Bruyneel (1978:81-82) mentions the following as grounds on which a question can be ruled as out of order: personal cases, private matters, disorderly expressions, overriding national interests, personal imputations, especially regarding third parties who cannot defend themselves, questions where the subject of which is currently being debated or on which a debate is about to take place, seeks legal opinion, excessive documentation, based on hypotheses, argument or deduction, expression of opinion. These are all issues and areas full of political dynamite.

In Austria no questions are permitted on private matters of government members or matters falling under the competence of either the federal legislature, the states (Länder) or the communes. In Belgium (art. 85.2 of the House Rules stipulates that) the following type of questions are not accepted:
- those referring to particular interests or individual cases
- those seeking only statistical material
- those seeking only documentation
- those which only try to obtain judicial counselling
- those matters already raised previously by an interpellation or bill.

In addition, oral questions have to be "of general interest and refer to current problems of the day."

In France written questions on individual charges "imputations d'ordre personnel" are prohibited (art. 139.1 règlement de l'Assemblée nationale). A ques

Table 6.5: Basic Characteristics of Written Questioning

	Is there party censorship?	*May a question be joint?*	*May a minister refuse the answer?*	*May a minister choose the form of the answer?*	*May a minister choose the time for answering?*	*Are follow up questions possible?*	*May other MPs come with follow up questions?*	*Is vote of no confidence possible?*
AUT	yes	yes	yes	yes	yes	yes	yes	no
BEL	yes	no	no	no	no	no	no	no
DEN	no	no	yes	no	no	yes	yes	no
FIN	no	yes	yes	no	yes	no	no	no
FRA	no [1)]	no	yes [2)]	yes [3)]	no [4)]	no	no	no
GER	yesno	yes	no	n.a.	n.a.	n.a.	n.a.	no and n.a.
GRE	no	yes	yes	yes	yes	no [5)]	no [5)]	no
ICE	no	yes	no	no	no	yes	yes	no
IRE	no	no	yes	no	no	yes	yes	no
ITA	yes	no	yes	no	no	yes	yes	no
LUX	yes	no	no	no	no	no	no	no
NET	yes	yes	yes	yes	yes	yes	yes	no
NOR	--	--	--	--	--	--	--	--
POR	no	no	no	no	yes	no	no	no
SPA	yes		yes	no	no	yes	yes	no
SWE	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
SWI	no	no	no	no	yes	no	no	-- [6)]
UK	no	no	yes	no	no	yes	yes	no
EP	no	yes	no	no	no	no	no	no

n.a.: not applicable

1) Informal censorship exists.
2) Secret matters.
3) It is possible to transform a written question into an oral question.
4) Possibility of further delay (1 month more).
5) Coded as "yes" if there is at least one such party.
6) No vote of censure because not a parliamentary system.

Table 6.6: Basic Characteristics of Oral Questioning

	Is there party censorship? [1)]	*May a question be joint?*	*May a minister refuse the answer?*	*May a minister choose the form of the answer?*	*May a minister choose the time for answering?*	*Are follow up questions possible?*	*May other MPs come with follow up questions?*	*Is vote of no confidence possible?*
AUT	yes	yes	yes	yes	yes	yes	yes	no
BEL	yes	no	no	no	no	yes	no	no
DEN	no	no	yes	no	no	yes	yes	no
FIN	no	no	yes	no	yes	yes	yes	no
FRA	no	yes	no [1)]	no	yes	no	no	no
GER	yes	yes	no	no [2)]	no	yes	yes [3)]	no
GRE	yes	yes	no	no	no	yes	yes [4)]	no
ICE	no	no	no	no	no	yes	yes	no
IRE	no	no	yes	no	no	yes	yes	no
ITA	yes	no	yes	no	no	yes	no	no
LUX	yes	no	no	no	no	yes	no	no
NET	yes	yes	yes	yes	no	yes	yes	no
NOR	no	no	yes	no	yes	yes	no	no
POR	yes	no	yes	no	yes	yes	yes	no
SPA	yes	no	yes	no	no	yes	no	no
SWE	no	no	yes	no	no	yes	no	no
SWI	no	no	no	no	yes	no	no	--[5)]
UK	no	no	yes	no	no	yes	yes	no
EP	yes	yes	no	no	no	yes	yes	no

1) It is not the minister who answers the questions but his junior minister (Parliamentary State Secretary) who usually answers the question.
2) But only one follow up question.
3) Informal censorship exists.
4) Only those who signed
5) No vote of censure because not a parliamentary system.

tion must be "limited to the elements which allow its understanding" (art. 133.2 RAN).

In Germany, MPs only have the right to ask questions concerning topics for which the Federal Government is responsible. Federalism and as a consequence the division of competences between the Bund (Federation) and the Länder (Federal States) has to be respected. In principle, questions shall relate to matters for which the Federal Government has direct or indirect responsibility (Rules of procedure, annex 4, nr. I,2). There are exclusive legislative powers for the Federal States where the Federation has no competence (art 70-75 Basic Law). Parliamentary control of these matters cannot be exercised on the level of the Federation, but takes place in the parliaments of the federal states. Members are not allowed to ask questions about the behaviour or the political attitude of other MPs, parliamentary groups or parties ("Dreiecksfragen"). The government is not obliged to answer questions about its "core area of the formation of political goals, or core of decision making process" ("Kernbereich ihrer Willensbildung").

In Ireland there is no particular list of forbidden topics, but "questions will not be answered in respect of activities for which responsibility is vested outside Government departments [...] The exclusion also extends to decisions taken by the President, on his own discretion [...] State-sponsored bodies are in this context [...] a border-line case: the usual convention in relation to a minister's jurisdiction over a State-sponsored body which is related to his department is that the minister is responsible only for policy, so that it remains independent so as far as its day-to-day running is concerned. Thus questions may not usually be addressed in regard to such day-to-day matters. However, this rule is not applied rigorously in relation to all the State-sponsored bodies and commissions" (Morgan 1990:153). Moreover, questions "which seek the minister's opinion on some hypothetical matter are disallowed. So, too, are questions which seek to expose or create disagreements between ministers, since these would threaten the doctrine of collective responsibility by which ministers speak with one voice in public. And questions concerning the internal affairs of Government - for instance the existence of Cabinet committees - have been turned away because they would violate Cabinet confidentiality" (Morgan 1990:153). In Italy, the question must refer directly to the government; it may not refer directly to the action of other institutions. In Luxembourg, there is no explicit list, but art. 74 of the Standing Orders specifies that, "the text of the question must be restricted to indispensable terms to formulate with concision and without comments the subject of the question." Moreover, the acceptability of the question depends on the general interest, the importance and the actuality of the subject. A question is not accepted if it has already been presented in the same formulation or sense during the same session. In the United Kingdom, questions may not refer to legislation and they must

not touch upon topics *sub judice*. "The basic rules are that Questions may be asked of Ministers about any matter for which they are responsible and that Questions must ask for information or press for action. Flowing from these are a large number of specific rules. For example, relating to ministerial responsibility, Ministers have declined to answer Questions dealing with matters for which local authorities or nationalised industries are primarily responsible, even though Ministers may have certain ultimate powers, and consequently these sorts of Questions have been ruled out of order. So have questions relating to the personal powers of the monarch (for example, ecclesiastical patronage or the grant of honours or the appointment of Ministers), even though Ministers may advise the Queen on such matters. Questions about the internal affairs of other countries are usually out of order [...]. Questions asking for confirmation of rumours or for comment on newspaper articles have been ruled out of order" (Griffith et al. 1989:255-256).

Summary: In most parliaments the regulation exists, that the question must fall under the responsibilities of the government or some of its ministers. All parliaments share, to a large degree, the same constraints.

Speaker's Role

The Speaker/President and his or her staff are omnipotent in the channelling of all questions to the government. The Speaker's role is, thus, not an insignificant one. The chairman of the House, together with his/her staff, decides on the suitability of all types of question. In cases of unresolved disagreement the ultimate decision rests with the Speaker. His or her decision is final. There is no appeal against this ruling and the matter cannot be raised in parliament. (Although the majority may typically get rid of a Speaker that has not acted properly). This is something potential questioners must take into consideration. There is no way of putting an oral question without, at least, the explicit consent of the Speaker. Little is known on the true status of the Speaker in this context. There is at least some variation with respect to different parliamentary traditions and different personalities. In the standing orders of all parliaments there is some clause requiring that representatives behave in an orderly manner. The interpretation of this is the responsibility of the Speaker. In certain political situations the Speaker can use considerable power in interpreting this vague norm. There is only little evidence that would point to the assumption that a Speaker clearly displays some form of political bias. Speakers in all parliaments studied have a highly respected and neutral position.

Killing of Questions

A particular question may be totally stopped by the Speaker/President/Presidium in all parliaments studied. This is explicitly stipulated in the constitution or the standing orders in all parliaments. In practice, it is an extremely seldom occurrence, that a question is rejected by the chairman. In Iceland only three questions have been denied by the President since World War II: the questions were not framed in the way as provided in the rules of procedure.

The MP who puts the question may withdraw his or her question in all of the parliaments studied. Sometimes, MPs wish to withdraw their question, because the minister who they wanted to answer the question is absent. Sometimes, the latest political developments have made the question irrelevant.

The Timing of Questioning

The practical dynamics of questioning varies quite considerably in the parliaments studied, due to the fact that there is considerable variation in notice time. In some parliaments the answers have to be given or handed in sooner than in other parliaments. Table 6.7 gives the deadlines for putting and answering questions of various forms.

Written questions may be put to a minister even when parliament is in adjournment in Austria (since 1975), Belgium (since 1952), Denmark (formally since 1947, in practice since 1960), Finland (since 1983), France, Germany (since 1969), Greece, Italy, Luxembourg, Portugal (1976). The EP and the parliament of the Netherlands are never in adjournment. Written questions may not be put to ministers when the parliament is in adjournment in Iceland, Ireland, Norway, Spain, Switzerland, and UK.

Committees

All important political muscle work is done in the permanent parliamentary committees. All bills have to pass a committee stage in order to be enacted. In order to be able to crystallise its own policy position, a committee invites experts to give their informed opinion on *actual* matters relating to the bill in preparation. The committees are entitled to either invite or to summon ministers and high officials in all parliaments studied. This right is also used frequently. Committees most typically, however, work behind closed doors, so there is not much public knowledge concerning the procedures and consequences. In many parliaments it is possible for the committee to opt for a public hearing. This happens, however, seldom. (cf. Leonardy 1980) In some parliaments, the

Table 6.7: Amount of Notice for Putting Questions and Deadlines for Answering

	Written Questions *Deadline for Answering*	*Question Hour/Time* *Advance Notice for Putting*	*Deadline for Answering*
EP	Questions with priority: 3 weeks Questions without priority: 6 weeks	1 week before question time oral questions with debate: 1 week before the intended sitting	
AUT	2 months [1)]	48 hours	[2)]
BEL	within 20 working days	before 11 a.m. of the day question time is held	normally during question time
DEN	within 6 week days	before Friday 12 a.m.	next question time
FIN	30 days after arrival to the minister	3 days	none
FRA	1 month [3)]	[4)]	none
GER	1 week after arrival at Federal Chancellary	Friday 11 a.m. before parliamentary week	following parliamentary week
GRE	25 days after submission	1 day	same day
ICE	within 10 working days [5)]	at least 3 days before meeting	within 8 days after the question has been distributed to members
IRE		3 days before meeting	
ITA	within 20 days [6)]	3 days	the following question hour
LUX	within 1 month [7)]	at least 2 weeks	none
NET	3 weeks	until noon on the day the question hour is held	the following question hour
NOR	--	Friday 10 a.m.	the following Wednesday
POR	none	5 days before the session of answers	next session of answers
SPA	within 20 days	--	--
SWE	3 days	Friday before next question hour	the following question hour
SWI	none	Thursday before next question hour	the following question hour
UK	7 days	10 sitting days	none

Notes:

1) Since 1961; before there was no time limit set.
2) In case an oral question could not be asked in the question hours for 4 weeks because of lack of time, the MP can demand within another 8 days that his question should be answered in written form. The written answer has to be presented to the National Council within a month. If the MP does not demand a written answer, his/her oral question remains in the queue and will be answered in the question hour in future.
3) It is possible for the concerned not to answer (secret matters) or to demand a further delay (1 month more).
4) Oral questions: the text is given by the MP to the President of the Assembly, and then to the government. The item is then put on the agenda by the Presidential Conference.
   Actuality questions: 2 hours before the sitting.
5) Since 1991; before 1991 6 working days.
6) In practice, it is rarely respected.
7) Since 1990; before 1990 2 weeks.

Source: Parliaments in Western Europe participants and Standing Orders.

committees are active questioners, whereas in other parliaments the committees do not use this opportunity much.

Debates

Representatives may not only question the government of the day, but also force a debate with its ministers on topics that are felt to be important for one reason or another. Let us now turn to the various forms of debates representatives may initiate in order to have their opinion disseminated among their colleagues.

Adjournment and Urgency Debates

In UK there are four main types of adjournment debates in the House of Commons: (1) Main business debates, (2) emergency adjournment debates, (3) adjournment debates following Consolidated Fund Bills and (4) daily adjournments.

(1) An adjournment motion can be moved as a main item of business and appear on the Order Paper. It permits a debate on a matter of the government's choosing, without requiring the House to come to a decision (Griffith et al. 1989:263-264)

(2) The second type provides "an opportunity for debating urgent and important matters for which time has not otherwise been provided. On any day other than Friday, a Member may ask leave under Standing Order No 20 to move the adjournment of the House for the purpose of discussing a specific and important

matter that should have urgent consideration. Advance notice must be given to the Speaker by noon that day (unless the urgent happening became known after that time) and he must decide whether to grant the application. [...] There are many applications but few are allowed; those that are tend to be made by the official Opposition [...]" (Griffith et al. 1993:264). These debates are by no means frequent: during the time period 1946-1966, there were only 15 of them. During the parliamentary year 1980-81, less than three hours were spent on them (Saalfeld 1988:91, 99).

(3) The adjournment debate under Standing order No 54 (2) enables Members "to raise topics of their choosing in the all-night debates (till 9.00 a.m., or 8.00 a.m. on a Friday) that follow the passage of Consolidated Fund Bills before Christmas, in March and at the end of July. The choice of topics to be debated depends on the luck of a ballot held in the Speaker's Office on a previous day. Debate on two topics, selected by the Speaker, may last for three hours; debate on all other topics is restricted to an hour and a half" (Griffith et al. 1989:266).

(4) The daily adjournment debate is the most common debate of this type. "Every sitting day, before the House rises, there is a motion 'That the House do now adjourn', and this permits a short debate, initiated by a backbencher on any matter for which a Minister is responsible. The topics that Members wish to raise are first vetted by the Principal Clerk of the Table Office to ensure that they are within the rules (ministerial responsibility, not legislation, not *subjudice*, etc.). A Member's right to initiate such a debate again depends on a ballot held in the Speaker's Office, under rules laid down by him, every Thursday for the Tuesday, Wednesday and Friday of the following week and the Monday after that; the topic for each Thursday is chosen by the Speaker personally." (Griffith et al. 1989:266).

The half-hour adjournment debate at the end of each day's sitting is confined to this rigorous thirty-minute period (unless preceding business finishes early), with the member initiating the debate speaking for ten to fifteen minutes, perhaps allowing another member to intervene for a few minutes, and the remaining time occupied by the minister responding. No vote is taken. The occasion is most frequently used to raise specific constituency matters but may also be utilised to discuss more general issues of policy and administration such as, for example, problems of solvent abuse and water fluoridation (Norton 1993:92).

In many cases these debates have become obsolete. Especially when these debates are televised live, they may be used for signalling political messages primarily outside of the parliament. This can lead to amusing consequences, such as the Camscam "Scandal" in the USA when a few Republican congressmen began to use the after regular business hours, "Special Orders", sessions to make extended partisan speeches in front of the cameras and an empty House chamber.

The democratic leadership took notice of these speeches as the media paid more attention. The speaker of the House finally ordered the cameras to pan the empty chamber during the Special Orders speeches (Crain and Goff 1988:16-17).

There are several possibilities for a minority (either opposition party groups or a cross-party minimum number of members) to request an urgent debate to take place. The names and introduction year, minimum number of MPs involved, and duration for this kind of urgency debate are presented in Table 6.8.

In most parliaments studied here, the minority may not force a debate at will. In most cases it is completely the majority's business whether a debate takes place at all. However, in the German Bundestag, for instance, a minority may enforce a necessary debate upon its resolution before it is sent to a committee. The floor may decide to send it to committee (in order to politically slaughter the resolution in all peace and quiet), or to debate it immediately. All the same, before this decision is taken, the minority has already been guaranteed publicity for its resolution.

Opposition Days

In two parliaments (Portugal, UK) the opposition is given a fixed number of days under which it can choose topics for debates. In most parliaments, there are no specifically allocated opposition days. Typically, the House rules do not include "debates" as such, but only debate with a given framework (e.g. with regard to the processing of bills, budgets, interpellations, etc.). With regard to these debates, opposition members have the same rights as majority members. In Norway, where minority governments are frequent, the opposition constitutes a majority, and a majority can, in principle, structure the agenda as it wishes. In Portugal until 1988 the maximum number of meetings that the parliamentary parties could determine (6 for Opposition party, and 3 for the Government party) was reached by a representation of 50 MPs. Since 1988, the number of meetings depends on fractions of 25 MPs. Prior to 1988, parliamentary groups in the opposition were allowed to set the agenda for 2 plenary sessions (for groups with up to 25 members), 4 plenary sessions (for groups comprising between 26 and 50 members) and 6 plenary sessions (for groups with more than 50 MPs). For parliamentary groups represented in the government, the number

Table 6.8: Conditions for Adjournment and Urgency Debates

	Name of Debate	*Year of Introduction*	*Minimum n of MPs*	*Advance Notice*	*Duration*
EP	a) debates on topical urgent and important matters (Art. 64) b) urgent procedure (Art. 75)	1981	a) party group, or at least 23 MEPs, accompanied by a motion for resolution b) President of Parliament, Committee, or at least 23 MEPs, the Commission or the Council	a) within 3 hours of final draft agenda to be passed by plenary	a) 3 hours
AUT	topical hour (Aktuelle Stunde)	1989	5 MPs	48 hours before session [1)]	60 minutes recommendation
BEL	debate on matter of topical interest (débat d'actualité) [2)]	1993			
DEN	Interpellation debate in which votes may be taken	1849	1 MP with the agreement of the House	10 meeting days after submission of request	no fixed time limit
FIN	Interpellation debate in which votes may be taken	1928	20 MPs	15 days	no fixed time limit
FRA	Adjournment [3)] Urgency debates [4)]	- 1958		- by the government	
GER	debate on matter of topical interest (Aktuelle Stunde)	1965	5% of MPs	either takes place immedately after Question Time or must be demanded on the previous day until 12 a.m.	60 minutes
GRE	Debate prior to the agenda (debates among party leaders)	1975/1987 [5)]	Either the President of the oppositional party concerned, or 2/3 of the group's MPs	Debate has to be held within 1 month of the submission of request	4 hours
ICE	Urgency adjournment debates	1985	1 MP	no later than 2 hours before the meeting of Althingi	up to 30 minutes

	Name of Debate	*Year of Introduction*	*Minimum n of MPs*	*Advance Notice*	*Duration*
IRE	a) half hour adjournment debates b) emergency debate	1922	a) 1 MP b) 12 in Dáil, 5 in Senat	a few hours notice	a) 30 minutes b) 90 minutes
ITA	urgency debate (interrogazioni con carattere d'urgenza)		[6]		
LUX	debate of actuality	1990 [7]	5 MPs		
NET	urgency debates take place in forms of interpellations	1848	1 MP with the agreement of the house	as soon as possible	90 minutes
NOR	spontaneous questions (Spørsmål ved møtets slutt): questions at the end of the sitting		10 MPs or President		no fixed time limit
POR	a) adjournment (Período de antes da ordem do dia) b) urgency debate (Debate de Urgência)	a) 1976 b) 1991	a) no requirement b) no requirement	a) no specification b) within 7 days after approval by the Conference of the Chairmen [8]	a) 1 hour b) 2 hours
SPA	no specific names		[9]	[9]	
SWE	a) debate not connected to other matters under consideration (fristående debatt) b) oral information (muntlight meddelande)	a) 1975 b) 1975	a) not initiated by MPs; decided by speaker after consultation with the party groups' representatives b) initiated by the government	a) initiated by the government b) notification is required only just before the beginning of the meeting	
SWI	urgent debate (Außerordentliche Debatte)	1874	25% of MPs or 5 Cantons	as soon as possible	no specification
UK	a) main business debates b) emergency adjournment debate c) adjournment debate following Consolidated Fund Bills d) daily adjournments		b) 1 MP	b) by noon that day [10]	c) up to 3 hours

Notes:

1) The President of National Council can fix a topical hour also after deliberation in the Presidium, but it has never been the case.
2) No specific rules; the House can decide by majority that a debate is urgent, whereby normal terms and speaking duration limitations are overruled.
3) This is only possible for a approval bills of international treaties; considered as an alternative of amendments. (Result of a vote of the Assembly)
4) Prerogative of the government; may occur after a first reading in both houses in order to resolve intercameral differences.
5) Informally introduced in 1975, formally in 1987.
6) If during a plenary meeting very important events occur, the President of the Senate can open an „interrogazione“ of this type; in the Chamber this is only possible with the agreement of the government.
7) Before 1990, no specific rules.
8) Since 1993; until 1993 there was no specification.
9) No rules for adjournment debates; in practice, questions are answered when the government is prepared.
10) Unless the urgent happening became known after that time.

Source: Parliaments in Western Europe participants and Standing Orders.

of plenary sessions was, respectively, 1, 2 and 3. Between 1988-1991 the following days were allocated:

Number of MPs	Opposition days
0-10	1
11-25	2
26-	2 per group of 25 fraction.

The revision of the constitution reduced the total number of MPs from 250 to a number between 230 and 235. In correspondence with this change, the number of 25 was replaced by "a tenth of the number of MPs" in the standing orders in 1991. So, parliamentary groups are allowed to set the agenda of the plenary sessions according to their size. Presently, political parties in opposition have the right to set the agenda in two plenary sessions per year per set of 23 MPs. For parties represented in government, the equivalent figure is one.

In the UK there are twenty opposition days, during which the subject for debate is chosen by opposition parties. The Leader of the Opposition chooses the topic on seventeen of these days, and the leader of the third largest party in the House selects the subject on the other three. Each of these days may be utilised for one or two debates and some debates will only be conceded for topics chosen by other parties in the House (Norton 1993:90).

The Behavioural Trends

Let us now turn to the actual use of the various forms of scrutiny and control. Reliable information concerning the number of questions has been hard to obtain. Parliaments differ from each other to a large extent in their solutions as to how the vital statistics are kept. The most important basic statistics concerning the number of different types of parliamentary questions, upon which this analysis is based, were reported to the author by the country specialists. A printout in available on request (address: Mittarinkatu 4a 14, FIN-20100 Turku) or from the editor (Krähhöhlenweg 9, D-67098 Bad Dürkheim).

The general trend is increasing: questioning has become more frequent and representatives tend to ask more and more questions. There are many reasons for this development. Changes both outside and inside the parliaments studied have, together, in a complex way contributed to the increase in questioning. The galloping modernisation and increasing complexity of West European societies, in particular the expansion of the public sector, seem to be among the most important factors explaining the increase. Even more people with the required technical and substantial skills for drafting potential questions are appearing on

and substantial skills for drafting potential questions are appearing on the stage. The development of the modern mass media and their emphasis on investigative and critical journalism has also provided more and more material for parliamentary questioning. Various kinds of interest organisations draft many questions for MPs. There are many changes and modifications inside parliament which have contributed to the increase in questioning: there are new demands and new conditions for parliamentary work and also new demands upon individual MPs. Today it is the norm, that for electoral and other reasons, representatives are expected to be active in order to survive in the political games. This means, among other things, more questions.

Does the size of the public sector explain the frequency of parliamentary questioning? Does the scope of politics explain questioning activity? Is it the case, that the bigger the public sector gets, the more parliamentary questions will be put? Are these two phenomena related? Let us take a closer look.

There are three distinct instruments for managing the public sector: money-intensive, labour-intensive, and law-intensive. Almost all efforts made in regulating the public sector can be seen as the use of at least one of these three instruments. Politicians have, thus, three kinds of tools for their attempts at regulating society: budgets, bureaucrats, and laws (Rose 1984). Unfortunately, there is at present no reliable data available on these three instruments, that would make a cross-European comparison possible.

There are, however, several different indicators of the public sector. Here we have chosen to rely on one standard operationalisation, disbursements by government as a percentage of GDP. The data for the annual share of disbursements of government from the GDP is taken from OECD-statistics[2] ("Current disbursements of government as percentage of GDP", which consists mainly of final consumption expenditures, interest on the public debt, subsidies and social security transfers to households) (OECD 1982, 1984 and 1992).

Unfortunately, there are no data on the number of written parliamentary questions submitted for all parliaments studied. The dependent variable is the number of written questions answered (or some functional equivalent, number of answered oral questions for Sweden) by diet (= parliamentary year).

We notice that there is a strong positive correlation between these two variables, except for Italy (the standard outlier!).

We tested the following hypothesis:

Table 6.9: Spearman Rank Correlation Coefficients of Disbursements and Number of Written Questions Answered

2 There are some differences in these partially overlapping sources for different years. These minor complications have been ignored in this context.

	rho	*N*	*Years*
BEL	.721	30	1960-89
DEN	.917	31	1960-90
FIN	.835	31	1960-90
FRA	.905	31	1960-90
IRE	.911	27	1960-1986
ITA	-.686	29	1960-1986, 1989-90
NET	.405	30	1960-89
SWE	.664	20	1971-90

The scope of the public sector explains the variation in parliamentary questioning.

The idea behind the hypothesis is quite simple and straightforward: *parliamentary questioning is increasing, because there is more to question about*. Since the scope of politics is broadening, so is the amount of all kinds of control and other signalling activities on behalf of the elected representatives. We have witnessed a huge increase in the public sector during the last decades in many if not all of the countries studied in this project. Does this have an impact on questioning? Unfortunately, we do not have the tools needed for such a straightforward causal analysis; strictly speaking, the technique used only tests covariation.

Table 6.10: Regression Analysis on Scope of Government and Number of Questions

	Intercept Slope	R^2	N and Years	Durbin-Watson
BEL	-603.5 + 79X	.53	39, 1960-1989	1.2
DEN	-999.4 + 44X	.88	31, 1960-1990	.7
FIN	-612.2 + 28.1X	.71	41, 1950-1990	1.5
FRA	-17785.8 + 663.4X	.77	30, 1961-1990	2.6
IRE	-10158.6 + 348.5X	.74	27, 1960-1986	.4
ITA	8235.7 - 143.99X	.48	29, 1960-86, 89-90	1.7
NET	2704.5 - 27.3X	.21	22, 1968-1989	.7
SWE	-142.1 + 12.1X	.55	20, 1971-1990	1.0

All statistically significant at the 0.000-level, except for NET, where significant at the 0.004-level.

We must make a distinction between the scope of the public sector on the one hand and the growth of the scope of the public sector on the other.

When we construct linear regression equations with the number of written questions answered as the dependent variable and the annual share of public disbursements as the independent variable, we get the following results.

It is, however, necessary to control for the presence of a trend in the data. It might be the case, that these two variables covary in time simply because both phenomena evolve, i.e. have a specific temporal pattern (Skog 1988). The handling of trends can be done most easily by *differentiating* the data series. This transformation replaces values by the differences between each value and the previous value, therefore removing the trend (nonstationary in level over time). If each value in a series depends on the preceding point's value, then differencing removes this dependence. After differencing, we get the following results:

Table 6.11: Differentiated Regression Analysis on Scope of Government and Number of Questions

	Intercept Slope	R^2	N	Durbin-Watson
BEL	15.4 + 10.8X	.001	29	2.737
DEN	24.7 + 9.7X	.008	30	2.317
FIN	38.0 - 29.4X	.088	30	3.176
FRA	-19.0 + 201.2X	.025	18	2.127
IRE	195.8 + 173.8X	.045	26	2.269
ITA	86.4 - 213.7X	.059	27	2.978
NET	-8.9 + 32.3X	.041	29	1.857
SWE	7.7 + 6.5X	.017	19	2.278

Although the first simple linear regression equation gave nice results, the removing of the trend reduced the amount of explained variance to next to nothing. We must simply reject our hypothesis. There is, thus, only one conclusion to be drawn from the above analysis: The size of the public sector does not seem to explain the variation in parliamentary questioning in the Western European countries studied.

Discussion

The Impact of Party on Parliamentary Questioning

The actors playing the parliamentary questioning games participate in other political and administrative games as well. The questioning game does not take place in a political vacuum. There are many kinds of interdependencies which all too often are completely overlooked in at least judicial text book presentations of parliamentary control. The older Standing Orders-framework of study is simply misleading after the introduction of strong, concerted parties in parliaments. These interdependencies vary to a certain degree from parliament to parliament. The principal players, the MPs and the ministers, are by no means totally independent of each other. In many countries, almost all ministers are simultaneously MPs (see De Winter's chapter in this volume). The standard doctrine on parliamentarism claims that the government should enjoy the support, or at least the trust, of the majority of the floor. But, usually, it is only assumed, without being spelled out in detail, that the MPs should be independent of the government of the day. In many of the countries studied here, the constitutions explicitly forbid an *imperative mandate*. The paper version of constitutions and other formal regulations and the text book presentations of political systems should be balanced up with realistic evidence. We should not take all constitutional facades as the true description of the parliamentary questioning game, or any parliamentary game. We should not pay too much blind attention to Montesquieu's vision of the separation of powers between three branches of government. The plain truth is, that the Montesquieuian version of the division of labour is, by now, and at its best purely metaphorical. All West European political systems are ruled with the help of the 'efficient secret' à la Bagehot: "The efficient secret of the English Constitution may be described as the close union, the near complete fusion, of the executive and legislative powers. No doubt by the traditional theory as it exists in all the books, the goodness of our constitution consists in the entire separation of the legislative and executive authority, but in truth, its merit consists in their singular approximation. The connecting link is the *Cabinet*" (Bagehot 1993:67-68, Cox 1987). If the government of the day happens to enjoy the support of the majority of the floor, and party discipline is strong - as is the case in all West European parliaments by almost any realistic measure - there is no way for MPs to independently and in a sovereign way effectively control the acts and omissions of the executive without the active consent of the government (party/ies). The collective responsibility of the cabinet is the element that actually fuses the executive and legislative (Crossman 1993:22). The dominant European conception of democracy is democratic party government (Katz 1987:7):

1. Decisions are made by elected party officials or by those under their control

2a. Policy is decided within parties which
2b. then act cohesively to enact it.
3a. Officials are recruited and
3b. held accountable through party.

Maurice Duverger (1969:394) goes as far as to claim with brutal frankness: "Executive and legislature, Government and Parliament are constitutional facades: in reality the party alone exercises power."

If it is true that both the government and the parliament are controlled by party or parties with a majority in the popular assembly, as is the case by definition with majority governments, then there really is no political space left for parliamentary control as we understand it from a naive reading of the constitution and standing orders. If the government remains, in essence, "a committee of the party or parties with a majority in the parliament", as Harold Laski (1952:104, 108) put it, then there is no incentive for the majority of the floor to execute hard-nosed control: it is not politically profitable to extend the searchlight upon one's own closest political allies or literally upon one's own party. The opposition does not have the means available to really know, in detail, what the government has done, or is planning to do. This informational asymmetry may be used by the government in order to advance its own policies. The opposition is, typically, not able to independently verify whether the government's word holds true. The only information available to the opposition may actually come from the government itself, in whose interest it may not always be to tell the truth and nothing but the truth. Typically, the government will also wish to keep certain things away from the public's concern.

It is somewhat astonishing how these older traditional legal understandings of parliamentary control still prevail, despite the fact that they have been outdated for almost the whole of this century. The birth and establishment of the modern party system changed the informal rules of the game to a considerable degree, even when it did not leave any marks in the formal rules. Even nowadays, political parties are frequently not even mentioned in the constitutions of the West European political systems. The existence of political parties is, however, a crucial element in understanding the political life of any of these political systems. Without the notion of party, little true insight is to be gained concerning the operation of modern representative assemblies. The party has an enormous effect on the individual MP. Indeed as is suggested by Crossman (1993:43), an MP's responsibility to his party is prioritised over that to his electors, since deviation from the party line could jeopardise his candidature and ultimately could constitute his political suicide. This party loyalty is intrinsic to his political survival, and so extensive that an MP will follow the party line even against his better judgement. Consequently the debate on the floor of the house and the subsequent

vote are reduced to a sham; and the important political arena is focused in the secret party meetings. Public access to the contents of these meetings is limited to the information that is made available through press leaks.

The effect of party on parliamentary control of the executive has not been of a lesser magnitude. Evidence of this is provided by Crossman in the negligibility of parliamentary control whereby the one-time independent-minded MPs succumb to the strictures of the modern party machine. It is not the parliament which controls the government, but the other way round: the government controls the (majority of the) parliament.

A further assertion from Crossman is that the effect of the party on the task of opposition has also changed. It is claimed that in theory, the role of controlling the executive has been removed from the House as a whole and invested in the Opposition, whose capacity to control even a government with a moderate majority is strictly limited. Effective opposition would require the long-term obstruction of legislative programmes. Such action could incur negative electoral consequences for the Opposition since the hindrance of the governmental process could be viewed as irresponsible by floating voters: exactly the sector of the electorate whose support the Opposition must seek to attract. Consequently the Opposition's inclination to impose such controls is restricted.

The effect of the party on ministerial responsibility is also worth a mention. According to Crossman, with the strengthening of the party machine, the responsibility of a minister to parliament is reduced, thereby negating an important check on bureaucratic incompetence. As the governing party's control of parliament increases, so the number of resignations from, and dismissals of incompetent ministers diminishes. Increasingly, an incompetent minister may be kept in office on the basis that concealment of incompetence is more likely to minimise vote loss than the admission thereof.

Norton (1993:109) summarises: The result is that parliament cannot claim to subject the conduct of government to continuous and comprehensive scrutiny. Much of what government does, avoids parliamentary attention. When it is the subject of such attention, the attention is frequently sporadic and fleeting, affected by partisan considerations, pressures of time and lack of knowledge. Ministers are variously able to deflect probing by members and to ignore recommendations for a change in practice or policy.

But there is more to it. Norton (1993:109) provides also balancing evidence: Parliament, limitations notwithstanding, has a considerable impact. The various control instruments have the effect of ensuring that ministers present themselves in order to explain and justify their actions and their stewardship of their departments. A failure to attend would be politically damaging. Ministers may win the

vote: they may not necessarily win the argument. An inadequate answer or response to a debate can harm both a minister and consequently the government.

Parliament does not have much impact in terms of initiating policy and affecting the content of legislation, but it has far greater consequences for the government's general conduct on affairs. The controlling devices have considerable consequences for government, Norton (1993:112) concludes: "They provoke responses in the form of information, explanation and justification. They absorb the time and intellectual energy of ministers and senior civil servants. They create a critical environment for the discussion of particular programmes and actions. They ensure greater openness on the part of the government. For government, there is no equivalent to the legal right of silence. Use of these parliamentary tools may influence a change of policy or minister or, more frequently, some change in administrative techniques and departmental practices. And their very existence, and the observable impact they sometimes have on policies and careers, have a pervasive deterrent effect throughout the corridors of power."

It is by no means self-evident that the various forms of questioning have been designed from a systematic viewpoint. Maybe it would be more accurate to claim, that the various alternatives have evolved during a long period of history with a blend of many competing and conflicting political actors with heterogeneous preferences: Constitutional arrangements are products of delicate compromises.

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7

Time as a Scarce Resource: Government Control of the Agenda[1]

Herbert Döring

A recurrent feature of all parliaments is the constant pressure on their time. As large assemblies representing a great number of people they have to process a great many topics within a limited number of sitting days over the legislative term. Not only is time in short supply in absolute terms, control of the finite timetable also forms an important part of the notion of overall agenda control that, according to social choice theorising, is crucial to an understanding of how parliaments work. Strictly speaking, the term "agenda power" is reserved in a narrow sense to control over the design and selection of proposals that arise for a vote. But concerning the passage of bills, increasing attention has also been given in the "postbehavioural or New Institutionalism years" of legislative research to procedures that "are restrictive in terms of time allotted for debate and amendments allowed for consideration" (Krehbiel 1992:91).

A cross-national account will be given in this chapter concerning mainly three questions regarding our 18 Western European countries: Who sets the plenary agenda? Who controls the timetable at the committee stage during the legislative passage of bills? Who is in a position to curtail debate before the final voting on bills? Over and above these questions specifically devoted to time as a scarce resource, a few other agenda-setting devices in the procedure for passing legislation will be registered in passing. The procedure for passing legislation has already been comparatively documented by both Grey (1982) and in tables compiled by the Inter-Parliamentary Union (Parliaments of the World 1986) and will not be repeated here in all detail.

The reader should be reminded again that the rules concerning the agenda for passing the budget are different to the procedure for passing legislation. With this reservation in mind, the following sections of this chapter study crucial junctures

1 I am grateful to all participants of the project for answering my questionnaire and giving very helpful additional comments to a previous draft of this chapter.

of access and admissibility in the procedure for passing legislation. In the concluding section the question is explored as to what extent these variegated features form a general pattern when studied cross-nationally.

1. Control over the Plenary Agenda: Who Decides the Priority of Business?

Laver and Shepsle state quite bluntly that simple control of the plenary timetable is a way to determine what will be decided. Settling the order of the day is therefore an important feature of agenda setting (1994:295). But there are considerable differences across Western Europe concerning the degree of ease with which a majority may fix the order of the day of the plenary agenda. Majority prerogatives may enable a government in some countries but not in others to speed up contentious legislation by giving its own bills priority. Opposition bills may be stopped in some instances by simply keeping them off the agenda fixed by government.

How may the bewildering variety of subtle differences be ordered in such a way that countries may be both clearly classified into categories distinguishing them from each other and at the same time able to exhaustively capture all the different forms encountered? Attention given to three aspects related to each other seems necessary and sufficient to achieve a rank ordering of countries from very strong to less and less government control over the settling of the priority of business in the plenary.

1. Which body formally decides on the agenda? As will be seen, the answers range from the government alone, to a steering committee and finally to the chamber itself.[2]

2. If there is a steering committee arranging ex ante the order of the day in plenary, what are the government's prerogatives in the procedure for arriving at a decision in this collective directing authority of parliament? The answers range from commanding a majority far higher than that of its share of the seats in the chamber, to deciding by formal vote and to the requirement of unanimous agreement.

3. Is the government in a position to correct, ex post, the prior decision of the collective directing authority of parliament by means of the formal rules of pro-

2 This dimension has already been tackled by Rudy Andeweg and Lia Nijzink in Chapter 5. So, in my assessment of a rank ordering of government control of the plenary agenda I will build upon their findings and supplement them with the additional two criteria.

cedure via a vote of the plenary majority over which it commands, or is this ex post correction explicitly ruled out?

An empirical survey of these three aspects of the degree of priority a government enjoys in settling the plenary agenda enables us to arrive at a rank ordering of countries according to ever-weakening government control as depicted in Table 7.1.

Table 7.1: Authority to Determine Plenary Agenda

I	***II***	***III***	***IV***	***V***	***VI***	***VII***
IRE	FRA	LUX	AUT	DEN	ITA	NET
UK	GRE	POR	BEL	FIN		
		SWI	GER	ICE		
			NOR	SWE		
			SPA			

more government control ◄——————————► **less government control**

I. The Government alone determines the plenary agenda.
II. In a President's Conference the government commands a majority larger than its share of seats in the chamber.
III. Decision by majority rule at President's Conference where party groups are proportionally represented.
IV. Consensual agreement of party groups sought in President's Conference but right of the plenary majority to overturn the proposal.
V. President's decision after consultation of party groups cannot be challenged by the chamber.
VI. Fragmentation of agenda-setting centres if unanimous vote of party leaders cannot be reached.
VII. The Chamber itself determines the agenda.

Source: Project participants' answers to the author's questionnaire.

From the legend in Table 7.1 it will be seen that all three aspects mentioned above have been integrated into a three-component assessment ranging from simple "The government alone settles the plenary agenda" to "The chamber itself determines the agenda". In these two polar categories of the classification scheme, the question of ex ante and ex post control does not, of course, apply. But in the intermediate categories II to VI a suitable differentiation is achieved by asking the two further questions mentioned above as to how big the government majority is ex ante, and whether or not the government may correct the

steering committee's decision ex post. Let us now briefly survey the descriptive details as generously provided by all country specialists.

1.1 The Government Alone Formally Determines the Timetable

This category only applies to Britain and Ireland. Only on the 20 statutory "Opposition Days" (nineteen days for Her Majesty's Opposition and one day for minor opposition parties) the parliamentary opposition decides which topics will be debated. The opposition parties may also make use of roughly the same amount of "Private Member Days". Here, on certain Fridays not only opposition backbenchers but also the government's own backbenchers are given the opportunity to raise issues. However, with the exception of the Opposition Days and about half of the Private Member Days, on all the other approximately 170 plenary sitting days per parliamentary year it is Her Majesty's Government who determines what will be debated and decided in the House.

Similar to Britain, either special private member and/or opposition days are to be found in Greece, Ireland and Portugal. In Greece, according to a special clause of the Constitution, one meeting per month is devoted to the discussion of pending opposition bills. In Ireland, there is a tradition of reserving parliamentary time for Private Members but, unlike Westminster, there are no fixed opposition days. In Portugal, as Rudy Andeweg and Lia Nijzink have already noted, all parliamentary groups have a right to determine the agenda on several days of a legislative session. On these "parliamentary group days", opposition groups are given more weight than groups represented in government.

It would appear that in Britain and Ireland the formal rules could give the government absolute powers if it so wished. In practice, this is a more subtle affair and a few qualifications are therefore appropriate: In Britain, the informal practice restricts the formally absolute government powers. "The Government could seek to use its majority to deny the Opposition a reasonable opportunity for criticism of Government policy or in other ways to manipulate the business of the House to the Government's advantage. But the Opposition is not defenceless. Time is a valuable commodity which the Opposition has many opportunities to use as it chooses. Since it is the Government that needs to get its business through, obstruction by the Opposition can be a considerable embarrassment. At the end of the day, the Government almost invariably will get its way and win its vote in the division lobbies. But prolongation of the debate will upset the Government's timetable. So the Government has a real interest in ensuring that its relations with the Opposition are as harmonious as can be expected and that the Opposition is given as little opportunity as possible for obstruction" (Griffith et al. 1989:297).

Categories II, III and IV deserve a moment's reflection to understand the value of clearly distinguishing them. In all three, i.e. in ten of our eighteen cases, it is a President's Conference that, as a steering authority of the chamber, predetermines the plenary agenda. But stark and incisive differences arise from the two further qualifications mentioned above, namely, whether or not the government commands a majority larger than its proportion of seats in the chamber and whether decisions are made by majority rule or unanimous agreement.

1.2 The Government Majority on President's Conference Is Larger than Its Share of Seats in the Chamber

Category II stands out from the others in that due to the cunning of special institutional devices, the government commands a majority far greater than its share of seats in the chamber. Thus, this is fairly close to category I where the government may also formally unilaterally decide what will be debated and voted on. This is the case in France where priority of government initiatives on the plenary agenda is secured by article 48 of the Constitution of the Fifth Republic *(ordre du jour prioritaire)*. Additionally, the chairmen of the legislative committees form part of the President's Conference settling the order of the day. So, in spite of the representation of parties according to seats, the government may therefore control what is debated and voted upon both by its constitutional prerogative and by its enlarged majority in the directing authority of the chamber.

In Greece a change of the standing orders in 1987 replaced the previous "Bureau" (Parliaments of the World 1986:Table 9.1) with a "Conference of Presidents". It now comprises not only the Speaker, 5 Vice Presidents (1 of whom comes from the opposition), three quaestors (1 of whom comes from the opposition), and six secretaries (2 of whom belong to the opposition); but it additionally also includes the Presidents of the six standing committees, who are all from the government majority (Parliaments of the World 1986:Table 21.2), and the leaders of the party groups. Altogether "the ruling majority controls more than 70% of the votes" in this Conference of Presidents (Nicos Alivizatos in response to the author's questionnaire). Although not a decision-making authority, the Conference of Presidents is obligatorily consulted by the Speaker for the setting of the agenda. The Speaker also informally consults the cabinet. His decision cannot legally be overruled by the Chamber's plenary. Thus whilst the Speaker alone formally sets the order of the day, the government controls the agenda both through its informal influence on the Speaker and through the Speaker's obligation to consult the Conference of Presidents where the government commands a supermajority. The Speaker, "as a general rule, never opposes cabinet priorities" (Nicos Alivizatos in response to the author's questionnaire).

1.3 Proportional Party Representation on President's Conference but Majority Rule Prevails

Category III is clearly distinguishable both from category II and IV because, firstly, the government only commands a majority proportional to its share of seats in the chamber and, secondly, the rules of procedure explicitly state that majority decisions are taken, whereas in category IV the achievement of consensus without a majority vote is the parliamentary practice. Hence, a government enjoys greater prerogatives in category III than it would in category IV.

The standing orders of the chamber in Luxembourg contain sophisticated provisions to ensure that the government majority is always reflected in settling plenary priorities. In the collective directing authority of parliament, where each group's representatives carry as many plural votes as the group has in the Chamber, the standing orders expressly prescribe that a majority vote will resolve the dispute if no agreement is reached in this "Business Committee" (Commission de travail). But this vote "will only take place at the next meeting" of the business committee that "will be exclusively devoted to that vote, and the vote is valid independently from the number of MPs present. So, if an agreement is not reached in the commission, the decision taken by vote will always reflect the will of the parliamentary majority" (information supplied by Lieven De Winter).

In Portugal, too, a change to the standing orders in 1985 prescribed majority rule in the "Conference of the Representatives of the Parliamentary Groups", whereas prior to this a consensual agreement was formally required. Therefore, both Luxembourg and Portugal are far more majoritarian than the countries in category IV, where there is also a Conference of Presidents, but no majority voting takes place and, instead, unanimity is sought.

It should be noted that it is slightly out of place to speak of government control in Switzerland because the government-opposition divide does not apply. Since 1959 the country has been ruled by a permanent Grand Coalition of four parties representing until recently about 80 percent of the seats. On the one hand, the agenda is set not by the government but by the "Office" of the chamber comprised of the President of the Chamber, the Vice President, the leaders of the party groups and the counters of votes. On the other hand, in spite of the country being the nominal home of "consociational democracy" normally striving at consensus, decisions are made in the collective directing authority by taking votes (Robi Schumacher in response to the author's questionnaire). Furthermore, any decision of this body may be overruled by a simple majority in the chamber where the governing coalition commands an overwhelming majority. It is quite telling for the preponderance of government and the voluntary deference of the chamber to the executive that, of the 426 motions by individual MPs moved between the winter of 1987 and summer of 1990, only 35 were eventually put on

the agenda in spite of the chamber being sovereign in setting its own agenda (Graf 1991:203-221, quoted by Lüthi 1993:54). It is therefore appropriate to code Switzerland into category III as well.

1.4 Unanimity Sought on President's Conference but Subject to Governmental Plenary Majority Overrule

In category IV, unanimity is an informal rule. It makes a difference whether - as in this category - unanimity is the rule and majority vote the exception, or whether the rules of procedure make explicit arrangements for majority votes to be taken as in category III. Here, the government naturally enjoys weaker agenda-setting priorities in the Conference of Presidents than it does in the Conference of Presidents in category III. Of course, in category IV ministers also try to exert pressure to bear on the President's Conference. But the government is only in the position of a pressure group and commands no birthright to order the priorities of the parliamentary agenda.

This limited influence of government is well conveyed by the provisions of the standing orders in the Spanish Cortes. A distinction is made between the medium term parliamentary agenda and the specific order of the day. The former is set up by the Conference of Spokesmen (junta de portavoces) comprising the President of the Congress, one minister and the spokesmen of the party groups in parliament; the latter is set up by the President with the agreement of the Conference of Spokesmen. Overall, this junta de portavoces has more political influence than the President of the Congress. Unanimity in this collective directing authority is an informal rule although decisions may be made by weighted votes taking into consideration party strengths in the Congress. The government is entitled to ask that one issue (a bill or other business) is included as a priority if it has already finished its parliamentary procedure and is awaiting acceptance by the plenary. If an issue has not yet finished its parliamentary procedure, it may only be included in the Order of the Day if the Conference of Spokesmen unanimously agrees (Jordi Capo Giol's reply to the author's questionnaire).

1.5 President's Decision Cannot be Overruled by Plenary Majority

Category V exhibits a special quality. Here, the President's decision after consultation of party groups cannot be challenged by the government in the chamber. The order/priority of business is settled by the President of the Folketing "usually after consultation with the chairmen of the party groups. It is only the President who may remove an item from the order paper and only matters entered onto the order paper for a sitting shall be considered at that sitting" (paragraph 32.3 of the standing orders quoted in communication from Erik Damgaard). Government, therefore, is deprived of the opportunity to get its control of the order of the day

assured by a plenary majority if and when the President should not pay attention to all the government's requests, especially in the case of minority governments. Surely, the plenary of the Folketing may put any urgent matter on the agenda through the procedure of an "agenda motion"; but this deviation from the order of the day requires a supermajority of three-quarters of the members voting, so that the government can hardly determine a change of the agenda (see for the procedure of "agenda motion" Damgaard 1994:48 f.). If the government cannot control the directing authority of parliament, inadmissibility of a change in the order of the day by the plenary - as in Denmark - contributes to a low agenda setting prerogative of the government of the day. Denmark, therefore, is coded into category V.

This rule applies to four of the five Scandinavian countries. In Finland, Iceland and Sweden, however, the Speaker's decision could, in theory, be overruled by the plenary but it has never happened in practice. But in Norway, the Speaker is frequently overruled by the plenary. Hence Norway is coded in category IV and the other Scandinavian countries in category V. In consequence, if, due to parliamentary practice a government is deprived of the right to resort to a majority decision on the timetable of the plenary by overturning the Speaker's decision, the prerogative of the government to settle the plenary agenda is considerably lower in category V than it is in category IV.

1.6 High Transaction Costs Due to Multicomponent Agenda Setting Centres

Category VI puts Italy in a class of its own. In both chambers the President convenes the "Conference of Group Chairmen" which has to fix the long-term "programme" and the short-term "calendar", i.e. the order of the day of the respective plenary. In prearranging the plenary order of the day, unanimity of all party group leaders in the Conference of Group Leaders is not only sought as a formal rule, as it is in category IV, but is also constitutionally prescribed in the standing orders. If party leaders do not decide unanimously, as they hardly ever do, it is the President of the Chamber who gains authority as a supreme arbiter in agenda setting.

Of course, he is required by the rules of procedure to take the priorities indicated by the government into account. But "each week there are cases in which the President of the Chamber does not execute the government's requests" (communication from Ulrike Liebert). Amendments to the long-term "calendar" are possible only in the Senate, not in the Chamber. Proposals for modification of the short-term "agenda", i.e. the "order of the day" must attain three-quarters of the votes in the House under discussion here.

The government may, thus, correct an adverse decision by the President and put its proposals ex post on the plenary agenda, but only commands very weak

procedural prerogatives for doing so in that it requires an insurmountable supermajority of the chamber to overturn the decision of the President. Therefore, this happens only extremely rarely. On the whole it can be said that there is a balance between the President of the Chamber, the Conference of Group Chairmen and the government in controlling the plenary timetable. Italy therefore is to be found in the position of a country with not one but several agenda-setting centres enjoying only weak prerogatives. Hence, the multiplication of agenda-setting contributes to a rather large increase of the overall transaction costs of passing legislation as analytically depicted in Figure 1.1.

1.7 Low Government Control with Chamber Determining Its Own Agenda

Category VII where the chamber itself has full control over the agenda is taken up by only one country in the whole of Western Europe, namely, the Lower House in the Netherlands. It "does not even share the power to determine the agenda with its own speaker" (communication from Lia Nijzink). In contrast to all the other parliaments, the rules of procedure do not prescribe anything in particular for the party group leaders. Agenda proposals are not only submitted by the speaker but also by individual MPs at the beginning of each plenary meeting "and MPs use this opportunity to put forward all kind of wishes with regard to agenda issues. These wishes are very often granted" (communication from Lia Nijzink). Due to this particularity, it seems advisable to classify in a separate class where the chamber is strongest and government prerogatives are lowest in settling the order of the day of the plenary agenda.

The preceding descriptions group the eighteen lower houses (or unicamernal chambers) of Western Europe according to three questions. Firstly, who may settle the plenary agenda ex ante? Secondly, how strong is government command over this ex ante decision as to what shall be put on the order of the day? Thirdly, in how strong a position is the government to overturn ex post an adverse prior decision by plenary majority at the beginning of the sitting? From the discussion of these three questions a rank ordering emerged from I to VII indicating ever-decreasing government prerogatives in the formal procedures for settling the plenary timetable.

This descriptive grading of countries is the result of an examination of the answers by project participants to the author's questionnaire. This rank ordering of countries that forms part of the original research conducted by the group will now be supplemented by additional information from readily available published sources, notably from the Inter-Parliamentary Union. Since all information can be checked in the literature, a brief compilation will suffice.

2. Where is the Initiation of "Money Bills" a Prerogative of Government?

In six of the eighteen countries standing orders prescribe that the initiation of bills requiring expenditure is exclusively reserved for the government. "In the United Kingdom, no Member of the House of Commons can introduce a Bill the main purpose of which is to increase expenditure or taxation; nor can the relevant provisions of a Bill which proposes any such increase proceed much further unless a resolution authorising such increases has been moved by the Government and agreed to by the House of Commons" (Parliaments of the World 1986:862).

Table 7.2: "Money Bills" as a Prerogative of Government

restrictions	*some restrictions*	*no restrictions*
France	Greece [1)]	Austria [2)]
United Kingdom		Belgium
Ireland		Denmark
Portugal		Finland [3)]
Spain		Germany
		Iceland
		Italy [2)]
		Luxembourg
		Netherlands
		Norway
		Sweden
		Switzerland

1) In Greece, all bills must be accompanied by a report on how much is the amount of money involved. If this report is not given by the minister of Finance within 15 days, the legislative process can continue.

2) In Austria and Italy, "new expenditure Bills must specify means of financing": but there are no restrictions for MPs to initiate "money bills". Some matters are reserved to government, i.e. the budget, ratification of treaties and the conversion of decrees into law.

3) In Finland there are no restrictions on bills introduced by government and MPs. However, if the Finance Committee and/or the Bank Committee of the Eduskunta initiate bills, certain restrictions apply (see IPU 1986:868).

Source: IPU 1986: Table 29 with additional comments by project participants.

This agenda-setting restriction is not only practice in countries which model themselves on the Westminster system, but it is also employed in some continental European systems, where it may serve as a cue for attempting to establish ma-

jority control of the agenda. The newly consolidated democracies Portugal and Spain conform to this device. In Spain an extensive interpretation is given to this rule in that even bills which do not directly concern taxes but might lead to increased expenditure for administration are shelved in the procedure called "taking into consideration" (Communication from Jordi Capo Giol).

This prohibition to initiate money-intensive bills must be looked at in the context of other restrictions on private member initiatives which do not grant the government special prerogatives, but create specific obstacles in the chamber itself. These restrictions will be comparatively assessed by Ingvar Mattson in Chapter 14. The whole matter will be taken up again and put into a more conclusive perspective in Chapter 22.

3. May the Plenary Majority Establish the Principles of a Bill Before It Is Sent to Committee?

It is well known from the comparative literature on legislatures that one simple yet ingenious agenda-setting device, i.e. the vote on a bill before it is sent to committee, considerably shapes the influence of government on the final policy outcome of the bill. If every bill is first examined by a committee before the chamber finally decides on it, "the chances of the committee influencing or determining the outcome tend to be greater than when the lines of battle have been predetermined in plenary meetings" (Shaw [1979] 1990:266). Altogether only four countries, Denmark, Ireland, Spain and the United Kingdom, decide on the principles of a bill before they are, with strict terms of reference, referred to committees. All other countries require their committees to consider bills before they are dealt with on the floor.

One generalisation that appears to be germane and valid may be stressed here: "There are two distinct approaches to legislative procedure; the first, which has been adopted by the majority of countries, that the general principle and details of the Bill should be thoroughly considered in committee and not until then should it come before the plenary. [...] The other approach, adopted by a minority of countries, is best typified by the United Kingdom procedure, where the general principle of a Bill must first be approved in plenary before the details of the Bill are considered. There is a rigid distinction between consideration of general principles and detailed consideration. At each stage either one or the other takes place but never both" (Grey 1982:111). Table 7.3 codes the first approach as categories I and II and the second approach as category III.

Table 7.3: Is the Committee Stage of a Bill Restricted by a Preceding Plenary Decision?

I	*II*	*III*
Ireland	Denmark	Austria
Spain		Belgium
United Kingdom		Finland
		France
		Germany
		Greece
		Iceland
		Italy
		Luxembourg
		Netherlands
		Norway
		Portugal
		Sweden
		Switzerland
more government control		**less government control**

I. Plenary decides on principles before committee and leaves little room for substantial changes.
II. Plenary decision usually before committee but not strictly binding.
III. Committee stage before consideration in plenary presents final solution.
Source: Grey 1982:112-127 (Table III) and IPU 1986: Table 33.1 and further information provided by project participants.

Denmark is coded in-between as a special case in category II. Here the committee stage is not a prerequisite for adoption of a bill; and not all bills are automatically referred to committees (Ruch 1976:121), whereas in Sweden and Finland this is the case (Parliaments of the World 1986:Tables 33.1 and 33.2). In Denmark "no committee consideration is required. In practice, however, almost all bills are referred to a committee before they are passed" (Communication from Erik Damgaard). The plenary precedes the committee but is not as strictly binding as in category I.

A few peculiarities not invalidating the ordering of countries in Table 7.3 should be mentioned here. In those countries where plenary comes before committee, bills that are important are not referred to a specialised committee at all but deliberated in full plenary labelled "committee of the whole house". In Ireland in particular most bills have their committee stage in a Committee of the

Whole House. It also applies to Denmark that important bills may be taken to a vote without previous committee consideration.

"Debate before committee" must not be taken at face value in Germany. Here a parliamentary group may force a plenary debate on the government majority before a bill is referred to committee, which does not, however, imply that the decision on the contents of the bill is already made. In his cross-national article on "The System of Parliamentary Committees" the German specialist Schellknecht explicitly states: "in most Parliaments, bills are referred to the committee for general and detailed consideration without being accompanied by precise instructions as to how they are to be dealt with. The giving of instructions to committees is expressly ruled out in the Bundestag (Federal Republic of Germany) for instance" (Schellknecht 1984:145).

4. Are Committees Allowed to Rewrite a Government Proposal, or Must They Report on the Original Bill?

An important agenda-setting device is the question as to whether committees are entitled to rewrite a legislative initiative of the government and substitute their own text for that originally submitted, or whether the government proposal must be submitted for final voting to the plenary in a clearly recognisable form. If committees have the statutory right to change the wording of government bills beyond recognition, government prerogatives in the procedure for passing legislation would be considerably curbed. Fortunately, a procedural question to this intent was asked by the Inter-Parliamentary Union and answered by the clerks of national parliaments quite straightforwardly (Parliaments of the World 1986:Table 33.4). An inspection of these answers reveals a rank ordering of government prerogatives according to IV categories.

Category I indicates a strong agenda-setting prerogative of government: the original bill must be reported so that the government's intentions are clearly discernible, with committee amendments enclosed in an annex. Spain follows a special, sophisticated procedure according to which the Cortes must be classified in category I notwithstanding the routine fact that government's legislative initiatives are first referred to a permanent legislative committee.[3]

3 If within a period of fifteen days after referral to committee, a parliamentary group announces it wants to change the principles of the initiative or submit alternative initiatives, a plenary vote on the "totality of the government initiative" must take place. The final vote on this plenary discussion prior to committee is binding. Budget bills and all constitutional revisions must statutorily be subjected to such a debate prior to committee deliberations.

Table 7.4: Authority of Committees to Rewrite Government Bills

I	***II***	***III***	***IV***
Denmark	Greece	Austria	Belgium
France		Luxembourg	Finland
Ireland		Portugal	Germany
Netherlands			Iceland
United Kingdom			Italy
			Norway
			Spain
			Sweden
			Switzerland

more government control **less government control**

I. House considers original government bill with amendments added.
II. If redrafted text is not accepted by the relevant minister, chamber considers the original bill.
III. Committees may present substitute texts which are considered against the original text.
IV. Committees are free to rewrite government text.

Source: Grey 1982:112-127 (Table III) and IPU 1986: Table 33.4 and further information provided by project participants.

The French Fifth Republic pays a rather sophisticated attention to the logic imputed here. For there are two deliberately different procedures for government and members' bills, where for the former the original text plus committee amendments must be reported, but for the latter the rewritten text resulting from committee deliberations is considered by the plenary (Parliaments of the World 1986:973). As the coding is geared towards government prerogatives, France therefore is included in category I.

Category II gives the government quite a strong upper hand but not exactly as much as in the previous category. In Greece, the chamber considers a redrafted text and not the original bill, but only to the extent that the amendments changing the bill have been accepted by the relevant government ministers during committee deliberation.

Category III leaves some more discretion to the committee in that it may rewrite the bill if and when it deems necessary to recommend "substantial" amendments. But there is a strong safety valve for the government. The chamber may choose to consider the original text (Luxembourg) or the committees may

present "substitute texts which are considered against the original text" (Portugal).

Category IV gives the committee unconditional authority to change a government bill as it thinks fit. There is no procedural constraint. The government must informally rely on its supporters representing the majority in committee.

5. Who Controls the Timetable During the Committee Stage of a Bill?

Two crucial questions allow a rank ordering of more or less control of the committee timetable by the government majority. Firstly, is the timetable set by the plenary parent body or by the committee itself? Secondly, may the plenary majority reallocate the bill to another committee or even take a final vote without a committee report, or does the committee enjoy the exclusive privilege of debating a bill as long as it thinks fit with no right of recall by the plenary? Table 7.5 gives a rank ordering of countries along a combination of these two criteria.

Category I gives the government the highest prerogatives in that in Finland, Ireland and the United Kingdom the timetable is by definition set by the government alone in that "the Bills and Amendments tabled before the Committee constitute the agenda of the Committee" (Shadhker 1973:10).

Category II gives the majority of the directing authority of the plenary body authority to set and supervise the legislative committees' agenda. Bills not reported by the committee on time may be scheduled to another committee or even a final vote taken in the plenary without a committee report.

Category III allows the committees to determine their agenda themselves; but even here a majoritarian safety valve is built in. Not only are committees requested by the standing orders to give priority to government bills, but deliberation of the bill may be taken away from the committee and allocated to a different one.

Category IV witnesses the least control by the plenary majority of the governing parties. Bills may not be reallocated to another committee. Four countries, notably all Scandinavian parliaments except Finland, and the Netherlands enjoy this committee strength.

Table 7.5: Control of the Timetable in Legislative Committees

I	***II***	***III***	***IV***
Finland	Austria	Belgium	Denmark
Ireland	France	Germany	Iceland
United Kingdom	Greece	Switzerland	Netherlands
	Italy		Sweden
	Luxembourg		
	Norway		
	Portugal		
	Spain		

more government control **less government control**

I. Bills tabled before the committee automatically constitute the agenda.
II. The directing authority of the plenary body with the right of recall.
III. The committees themselves set their agenda but right of recall by plenary.
IV. House may not reallocate bills to other committees.

Source: Project participants' answers to the author's questionnaire.

6. The Final Adoption of Bills in the Plenary: How May Possible Obstruction Be Curtailed?

In all parliaments the government will find its priorities paid attention to in some way or other by parliament. Opposition parties will refrain, even in the case of minority governments, from obstructing business. For, as a practitioner of parliamentary procedure recently put it, all parliamentary procedure has to strike a delicate balance between two contradictory yet closely corresponding principles of parliament: the right of the majority to govern and the right of the minorities to be heard (Huber 1994:1). In the parliamentary game of agenda setting obstruction is defined by Erskine May's classic on "Parliamentary Practice" as a behaviour by a Member of Parliament "who without actually transgressing any of the rules of debate, uses his right of speech [and other parliamentary procedures] for the purpose of obstructing the business of the House"; and, thus, May continues, "by misusing the forms of the House" the Member "is technically not guilty of disorderly conduct" (Erskine May, quoted in Bücker 1989:244).

In his cross-national "Report on the Obstruction of Parliamentary Proceedings" Bücker concludes that only in three Western European countries obstruc-

tion is practically unknown: the Netherlands, Norway and Sweden. In a topical discussion on the "Obstruction of parliamentary Proceedings" the Swedish parliamentary official pointed out that the "Constitution provided hardly any measure for limiting debate" in the Riksdag. Nevertheless "tactical obstruction" is "non-existent in Sweden" with Members showing "a high degree of discipline and awareness of the permanent lack of time on the floor of the Chamber" (Bücker 1989:234). This observation is also confirmed by Ingvar Mattson's response to my questionnaire. He writes: "my image of the Riksdag [...] is that it, in comparison with many other parliaments, is free from interventions from the government. The government does seldom try to speed up the proceedings in the Riksdag and has few opportunities to do so. [...] At the same time, the opportunities for the opposition to delay the proceedings are constrained".

Listing spectacular cases of obstruction in many countries, on the other hand, the final verdict of Bücker holds: "One of the important results of the inquiry is that today we only have occasional cases of obstruction which do not seriously hamper the conduct of parliamentary business" (Bücker 1989:263). Because of the delicate and difficult task of balancing the right of the government to govern and the right of minorities to make themselves heard on the "forum of the nation" parliamentarians generally tend to show "equanimity in the face of attempts at obstruction. For those adopting this approach [...] amendments of the rules of procedure as a means of fighting tactical obstruction are generally ruled out." So as not to "upset a balanced system of majority rights and minority protection" they consider "if attempts at obstruction are occasionally made, [...] this obstruction is an acceptable price to be paid for carefully defined rights of parliamentary minorities" (Bücker 1989:163 f.).

The game-theoretical situation of majority and minorities in parliament appears to be similar to that famous couple wanting to stay together and to spend an evening out. But she wants to visit the opera and he wants to see a boxing match. Inventing mutually agreeable rules such as alternately going together, may mitigate the dilemma. This is what in a similar vein government and opposition interacting in parliament do. The possibility of curtailing debate before the final vote on a bill is just the other side of the medal and a device arrived at in parliamentary history in response to the obstruction of proceedings by minorities.

The procedures for curtailing of debate show considerable variety not to be described in detail here. But for the pertinent theoretical question of a possible rank ordering of countries according to government control, it seems appropriate to classify the eighteen countries into three categories with respect to the questions: 1. May an exceedingly short time limit to curtail debate for the final vote be unilaterally imposed in advance by the government or its simple majority in the plenary over which the government normally commands? 2. May a limitation

of debate only be imposed by mutual agreement between the parties? 3. Is there neither advance limitation nor possibility of closure of debate, thus theoretically opening up unlimited opportunities for filibustering? These three questions form the categories of Table 7.6.

Table 7.6: Curtailing of Debate Before the Final Vote of a Bill in the Plenary

I	***II***	***III***
France [1)]	Austria	Finland
Greece	Belgium	Netherlands
Ireland	Denmark	Sweden
United Kingdom	Germany	
	Iceland	
	Italy	
	Luxembourg	
	Norway	
	Portugal	
	Spain	
	Switzerland	

more government control **less government control**

I. Limitation in advance by majority vote.
II. Advance organisation of debate by mutual agreement between the parties.
III. Neither advance limitation nor closure.

1) "Guillotine" according to article 49.3 of the Constitution asserts the will of the majority and passes a bill even without debate if opposition parties are not successful in a vote of censure bringing down the government.

Source: Grey 1982:112-127 (Table III) and IPU 1986: Table 33.1 and further information provided by project participants.

Category I sets an advance time limit upon which final voting on the bill takes place no matter whether all clauses of a bill have been considered by the chamber. In Britain such an "allocation of time order" is also named "guillotine" but must not be confused with, and is quite different from, the famous French article 49.3 of the Constitution (see note to Table 7.6). In Britain the plenary majority decides in advance to fix a time limit for each part of a bill (Barclay 1977). When this is reached, the Speaker requests the House to vote on the matter immediately.

Although the name "guillotine" is unknown to Greek parliamentary procedure, the chamber may by simple majority declare a pending bill to be of "special importance", in which case the bill must be debated in a specific number of sit-

tings not exceeding five days. This device imposes in substance, if not in wording, an advance fixing of a time limit for completion of the passage of a bill by majority vote. This "urgency" procedure may be labelled a guillotine in disguise. Proper urgency procedures, imposed not by simple but by absolute or two-thirds majority, are left out of consideration here.

In Luxembourg the government can, by a simple majority vote, arrange a vote on a bill without a plenary debate. Nevertheless, the country must not be coded into category I. This urgency procedure that necessitates an agreement between the government, its majority in the chamber and the Grand Duke, specifies only that there will be no debate and not that a vote must take place on a day fixed in advance. Furthermore, even if a plenary debate does not take place before the first vote, a second vote is generally the rule (unless agreement is reached between the chamber and the Council of State that must give its mandatory advice before the final vote).

Category II gives the government far fewer prerogatives. Limitation of debate may be arranged in advance, not by simple majority voting as in Britain or Greece or by a unilateral declaration as is the case in France, but only by supermajorities or even by mutual agreement between the parties in the procedure known as the "organisation of debate" and found in many countries. Under this procedure the President's Conference (or an equivalent body) determines the number of sittings to be set aside for debate on a particular bill. It then allots speaking time to the Government, the committees, and, in accordance with their size, the political groups. Each group may use this time allotted to it as it thinks best, but may not exceed it (Parliaments of the World 1986:925).

Category III lists those countries that know neither advance limitation nor closure of debate. Here, government control of the agenda must be categorised as lowest. In the Netherlands, "the standing orders do not mention any specific, shortened procedure for urgent bills". If an urgent bill is to be passed, a government and its parliamentary majority must use the normal procedures. This expert rating is the more important as the Dutch Chamber by name knows a "guillotine" without ever using it in practice. In the consensual culture of the Dutch parliament, the "guillotine procedure" stating the moment of the closure of debate is "hardly ever used". Moreover, this "guillotine" order "does not contain a provision which rules out the possibility to reopen deliberation on a bill" (communication from Rudy Andeweg and Lia Nijzink). There is no procedure for closure in Finland. (What Campion and Lidderdale 1953:14 noted is still true today.) Nor is there such a possibility in Sweden.

7. What Is the Maximum Lifetime of a Bill Before Lapsing if not Adopted?

Time is a scarce resource in the procedure for passing legislation and all the more so, the shorter the period after which a bill pending approval lapses if not adopted. The British House of Commons is constantly engulfed in a struggle for time as a precious resource. Tellingly, a comparative article on the Dutch and British parliaments concluded: "In the House of Commons, a Bill must be passed within the parliamentary session in which it is introduced: otherwise, it is 'lost', and has to be reintroduced in the next session. In the Second Chamber, a Bill can last for ever; a recently-passed Bill was a top-scoring 15 years before Parliament. The most time-consuming phase in the Dutch process of legislation is the Committee-phase. In the House of Commons, therefore, much more control is needed to pass a Bill on time. Frontbench-leadership, including the whip-system, satisfies this need" (van Schendelen and Herman 1982:227).

Table 7.7: Maximum Lifespan of a Bill Pending Approval After Which It Lapses if not Adopted

I	***II***	***III***	***IV***
Denmark	Austria	Belgium	Luxembourg
Iceland	Finland	France	Netherlands
United Kingdom	Germany	Portugal	Sweden
	Greece		Switzerland
	Ireland		
	Italy		
	Norway		
	Spain		

more government control **less government control**

I. Bills die at the end of session (6 month - 1 year).
II. Bills lapse at the end of legislative term of 4-5 years.
III. Bills usually lapse at the end of legislative term but carrying over possible.
IV. Bills never die (except when rejected by a vote).

Source: Grey 1982:92 and 103, notes 4 and 5 and further information and corrections from project participants.

There is a large variation between countries where bills "die" if not passed during a session and countries where bills "never die". Table 7.7 rank orders the coun-

tries by the number of years the government has at its avail until its bill must be passed. Only in Britain, Denmark and Iceland bills are shelved after a parliamentary session of less than one calendar year. In most other countries bills may stay under consideration for a full legislative term. But because the constitutionally-set period between general elections may be shorter or longer, substantial variations arise. In several countries bills may be carried over a general election upon certain conditions not to be detailed here. Only in Luxembourg, the Netherlands, Sweden and Switzerland bills pending approval enjoy eternal life if they are not rejected by a vote in parliament.

8. Do the Components of Agenda Control Show Congruent or Contradictory Cross-National Patterns?

In the preceding seven sections, important junctures in the procedure for passing legislation were surveyed cross-nationally. The countries were rank ordered on each of the single dimensions according to whether there were more or less government prerogatives. Now, all comparativists hope to be rewarded for making such classifications by the emergence of general patterns. Two questions in particular are posited.

Firstly, is there a congruent pattern of government control extending to both the plenary and committee deliberations, or are there cases where government is particularly strong in the plenary but deprived of its prerogatives in committee?

Secondly, may the surprisingly high prerogatives of government in some countries be thought of as a device to make good the exceedingly short life span of bills pending approval? In other words, is agenda control highest where the life span of bills pending approval is at its lowest and does not extend beyond a sessional period of one year, such as in the British House of Commons, and where a bill must start the legislative obstacles course all over again?

To find an answer to these two questions, Table 7.8 gives a rank order correlation matrix of all the preceding variables documented in this chapter.

However intuitively plausible, the hypothesis of an imaginative trade-off between the pressure for time resulting from the lapse of bills and increased government prerogatives of the agenda may be, it is refuted by the cross-national pattern. Across the board (see the last line of Table 7.8) the correlations are with one exception (the plenary decision restricting committee stage) very weak and therefore this hypothesis should be rejected. Leaving the lifetime of bills as an explanatory variable aside, government control of the plenary agenda emerges as the single most powerful variable.

Table 7.8: Rank Correlations of Agenda-Setting Prerogatives

	Plenary agenda (Table 7.1)	Financial initiative (Table 7.2)	Committee stage (Table 7.3)	Rewrite bill by committee (Table 7.4)	Timetable committee (Table 7.5)	Final vote plenary (Table 7.6)
Financial initiative (Table 7.2)	0,70***	1,00				
Committee stage (Table 7.3)	0,32	0,56**	1,00			
Rewrite bill by committee (Table 7.4)	0,41*	0,49*	0,40	1,00		
Timetable committee (Table 7.5)	0,57**	0,56**	0,33	0,20	1,00	
Final vote plenary (Table 7.6)	0,82***	0,67***	0,41*	0,49**	0,47**	1,00
Lapse of pending bills (Table 7.7)	-0,00	-0,15	0,53**	0,09	0,23	0,36

Number of cases N = 18

Note: Entries are Spearman rank correlations

significance levels: < 0.01 = ***
0.01-0.05 = **
0.05-0.10 = *

There is no stark disparity between control of the agenda in the plenary and in committees. In the overall cross-national pattern, whoever has control over the timetable for the plenary agenda also has significant control over the timetable in legislative committees. This is testified by the Spearman correlation coefficient of 0.57 between settling the priority of the plenary agenda (Table 7.1) and controlling the committee timetable (Table 7.4).

As we can see, the bivariate correlations between government prerogatives in settling the order of the day on the plenary agenda and most other variables are generally, and strongly, positive. Three of them show the highest correlations

across all the matrix.[4] Two of the three variables that do not correlate highly with agenda-setting priorities in the plenary, i.e. the importance of the committee stage of a bill before a final decision in the plenary (Table 7.3) and the rewriting authority of legislative committees (Table 7.4) correlate more with the variable focusing on committees' authorities. However, as can be judged from the only moderately strong coefficients, this pattern is not as strong as the one emphasising the authority to settle the plenary agenda.

Where the government controls the plenary agenda, it is also able in a majority of cases to assert its will concerning the timetable of the committee stage. What to the casual observer might have first appeared a bewildering array of procedural rules, clearly conforms to an underlying pattern of high congruence across countries. A first glance at the data here tells us that the question as to who settles the order of the day on the plenary agenda, is the single most powerful variable explaining a great deal of variance across other aspects of agenda control apart from a committee's authority to rewrite bills. Deciding on the timetable of the plenary therefore is a crucial variable that may be used as a "proxy" for agenda control before a more complex index is constructed in Chapter 22 of the present volume.

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Part III

Chamber Structures:

Collective Actors and Arbiters

Introduction

This part of the book covers all the important groups that are given special privileges in parliamentary assemblies. As outlined by Kaare Strøm in Chapter 2 above, four main types of such groups are to be observed: 1. parliamentary committees, 2. the party leadership, 3. the president or, respectively, the collective directing authority of parliament and, in bicameral systems, 4. the second chamber.

A comparative assessment of West European parliaments intent on disclosing emergent patterns worthy of a fitting generalisation quickly reaches the frontiers set by the present state of the discipline. Due to the dearth of truly cross-national studies on parliamentary committees, and furthermore, in view of the fact that the only stimulating theories have been developed with regard to the U.S. Congress, Chapter 8 by Ingvar Mattson and Kaare Strøm is bound to pay more attention to the U.S. than all the other chapters of this book on Western Europe.

As an in-depth study of the variations in party leadership across all eighteen countries would have been a task worthy of its own book, Chapter 9 by Erik Damgaard is devoted to the single, but crucial, aspect of the control of committee members by the party leadership. Chapter 10 by Marcelo Jenny and Wolfgang C. Müller focuses on the directing authorities of parliaments. Chapter 11 by George Tsebelis and Bjørn Erik Rasch explores social choice regularities in the privileges of second chambers and in the relations between the two chambers in bicameral systems.

Chapter 12 by Mark Williams is somewhat special as it deals exclusively with the European Parliament rather than studying cross-national variation. It has been located in this part, as one of the "efficient secrets" of the European Parliament becoming more important, and thus to a degree lessening the "democratic deficit", can be seen in the hitherto little-noticed task of establishing "privileged groups", and thereby making purposive collective action possible.

8

Parliamentary Committees[1]

Ingvar Mattson and Kaare Strøm

Parliaments are often large and unwieldy bodies of representatives. As anyone who has observed such bodies in action will have noted, much of the real deliberation takes place away from the plenary arena in much smaller groups of legislators such as legislative committees. As long ago as in the nineteenth century, Woodrow Wilson (1885) equated congressional government with committee government, and as Laundy (1989:96) notes, "[a]ll Parliaments work to a greater or lesser extent through committees." Though "design by committee" is by no means always a complimentary description, committees are part and parcel of the way most complex organisations work. Legislatures are no exception in this sense and committees have indeed become the main focal points of many representative assemblies.

A legislative committee is a subgroup of legislators, normally entrusted with specific organisational tasks. Within their areas of responsibility, parliamentary committees are often vested with certain decision-making privileges (dictators, decisive groups, veto groups) discussed in chapters elsewhere in this book. Committees are typically found among the most important privileged groups in modern parliaments. Like other legislative arenas, they are designed to promote majority rule, but also sometimes to protect minority rights. In this way, as in many others, committees are microcosms of the larger assembly.

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1 This chapter was written while Ingvar Mattson was a Visiting Scholar at the Institute of Governmental Studies at the University of California, Berkeley, and Kaare Strøm a William C. Bark National Fellow at the Hoover Institution on War, Revolution and Peace at Stanford University. We thank these institutions for their hospitality and support. We also gratefully acknowledge the assistance of Evi Scholz in data collection and analysis. Herbert Döring not only commented most constructively on earlier drafts, but also contributed to many of the ideas expressed here. Finally, we would like to thank all country specialists who patiently answered our questionnaire and later checked the data. As usual, we take final responsibility for the accuracy of our data and analysis.

Committees are critical to the deliberative powers of parliaments. As Mezey (1979:64) notes, legislatures with strong policy-making powers "have highly developed committee systems which enable them to divide the legislative labour in such a way that a degree of legislative expertise is generated in most policy areas." Strong committees, it appears, are at least a necessary condition for effective parliamentary influence in the policy-making process. Whether they are also a sufficient condition is less obvious.

This chapter examines the role of committees in European legislatures. We explore their structure, procedures, and powers and seek to understand their role in the legislative process. Our focus throughout is on committees with significant lawmaking tasks, rather than on those whose principal functions lie elsewhere. We emphasise the committees' legislative impact, or more specifically, the ways in which they foster or hinder legislative effectiveness.

In the following section we consider the functions that parliamentary committees serve. We frame this discussion within a neo-institutionalist rational choice framework and show how the rapidly growing literature in this area has generated three distinct, though at least partly complementary, perspectives on legislative committees. From these theoretical perspectives, we turn to description of the structure of legislative committees in European parliaments. The next two sections then survey these committees' procedures and powers respectively. After laying out these features, we examine the empirical relationships between committee powers, structures, and procedures, before concluding our analysis.

Why Committees?

Parliamentary committees are rarely mandated by constitution; yet they almost invariably exist. We must therefore look to the legislature itself, and to the interests of its members, to understand the rationale behind organising their work in this manner. Legislative organisation generates two forms of differentiation: hierarchy and specialisation. Most committees are primarily vehicles of specialisation. Beyond that, their functions are more controversial. The recent neo-institutional literature on legislatures, which is surveyed elsewhere in this volume, stresses the following functions: (1) economies of operation, (2) gains from trade, (3) information acquisition, and (4) partisan coordination. We discuss these functions in turn.

Economies of Operation

The division of labour that a committee system permits creates opportunities for legislative efficiency in two obvious ways. One is that the greater the number of

committees, the more parallel tracks of deliberation the legislature possesses. Given the perennial scarcity of time, numerous committees therefore facilitate overall legislative productivity. This is, of course, most clearly the case at those stages of the legislative process that take place in committee, rather than on the floor. All else being equal, the larger the number of committees and the greater the part they play in the legislative process, the higher the potential output of parliament. The second efficiency stems from the indirect benefits that specialisation may engender, especially under a system of permanent committees with fixed jurisdictions and stable memberships. Here, legislators benefit from their greater familiarity with the substance and procedures they encounter in their respective committees compared with the legislative agenda as a whole.

All accounts of legislative committees tend to emphasise their economies of operation in legislative and other tasks. Mezey's (1979) observation above stresses this incentive toward an internal division of labour. The larger the legislature and the greater the number of legislative committees, the more effectively these economies of operation may be realised. Economies of operation is a broad and relatively non-controversial understanding of the functions of parliamentary committees. Within this general framework, however, students of parliamentary committees apply different perspectives, which are both partly competing and partly complementary. We discuss three such perspectives here: Gains from Trade, Information Acquisition, and Partisan Coordination.

Gains from Trade

Early neo-institutional analyses of legislative institutions, at first almost exclusively focused on the United States Congress, gave pride of place to committees. This literature emerged in the late 1970s as an attempt to draw on informal insights to explain the apparent stability of policy choices in legislatures. This stability appeared to contradict the devastating "chaos results" that emerged from the social choice literature (e.g., McKelvey 1976). These results seem to suggest that legislative majorities should be highly unstable and cyclical. The neo-institutionalists saw legislative structures, such as committees, as the critical impediments to such cycling (institutional equilibrium) and sought to explain why legislators would choose to erect such barriers (equilibrium institutions).

The theoretical commitments of the early neo-institutionalists were *distributive* (as argued by Krehbiel 1991) and *demand-driven* (Shepsle and Weingast 1994). That is to say, this literature sees legislators as involved in collective choice situations, such as the "divide-the-dollar" game, where there is both some inescapable conflict over outcomes and some prospects for gains from trade (Krehbiel 1991). In other words, the game is neither one of pure coordination nor constant-sum. The gains from trade between legislators stem from their *hetero-*

geneous preferences, which, in turn, may derive to a large part from the electoral connection. Put more simply, legislators have different policy goals, because their respective constituencies differ. Members from rural districts are likely to care much more about farm subsidies and much less about urban transit than representatives from major cities. If they do not do so for intrinsic personal reasons, they are forced to do so by electoral competition (Mayhew 1974). The rural member would happily compromise on mass transit to get farm subsidies, and vice versa for the urban representative. Such differences in *tastes* (or in the policy objectives of different legislators) are particularly likely in single-member district systems or in very diverse societies.

Given heterogeneous tastes, each legislator may have an interest in collectively inefficient *logrolling* deals, such as "pork-barrel" projects (on pork-barrel projects, see Baron 1991). The rural member may be happy to vote for urban transit in exchange for farm support, and vice versa, but collectively beneficial logrolling may easily break down where the exchange is not *simultaneous* (Weingast and Marshall 1988). The urban member may promise to vote for farm subsidies later to get mass transit appropriations today. However, as soon as the rural member has delivered his vote in favour of mass transit, the urban representative no longer has any incentive to keep his or her part of the deal. Furthermore, if the rural member suspects that his colleague from the big city is likely to renege, he is unlikely to make the sacrifice of supporting mass transit in the first place. The difficulties of enforcing such deals easily lands representatives in collective action problems such as, e.g., the prisoners' dilemma.

In the view of many neo-institutionalists, this is the rationale for legislative committees and various other forms of legislative structure. Committees enable members to make credible commitments because they assign "property rights" over specific policy areas to various subgroups of legislators. The members of the agriculture committee get to make policy on farm supports, and the members of the transportation committee are empowered to choose mass transit programs. For committees to serve this function, several conditions must hold. Committees must enjoy some institutional advantages in policy making within their respective jurisdictions (normally taken to be well-defined, mutually exclusive, and stable), such as proposal powers or gate-keeping powers, restrictive amendment rules, effective oversight functions, etc. Moreover, non-committee members may need to be willing to show deference to committees in floor voting. Finally, members must have a way to secure assignment to the committees about whose jurisdictions they care most (Shepsle 1978; Shepsle and Weingast 1994).

It follows from this perspective that, as legislative subgroups, committees should be autonomous and enjoy many policy-making privileges. Policy making should be decentralised and governed by a number of restrictive rules. In addi-

tion, committees should consist of policy "outliers", or more specifically, "high demanders" for whatever benefits the committee provides. Defence committees should be hawkish, social welfare committees spendthrift with respect to welfare benefits, agriculture committees responsive to farm interests, and so forth. In aggregate, the legislature should spend more in each area than the median member might prefer, with an aggregate tendency toward budget busting.

Information Acquisition

These distributive perspectives have been challenged by authors who have stressed informational and supply-side aspects of the legislative process. Gilligan and Krehbiel, in particular, have stressed the critical role of information uncertainty in policy making (Gilligan and Krehbiel 1989; Krehbiel 1991). Their work is based on two key assumptions: (1) the majoritarian postulate, which asserts that all institutional choices, such as committee assignments and powers, are ultimately under majority control, and (2) the uncertainty premise, which implies that legislators cannot fully anticipate the relationship between the policy instruments they choose and the policy outcomes they ultimately want.

The majoritarian premise reminds us that the legislative majority routinely chooses all committees' powers and voting rules and similarly approves all committee assignments. If these powers and assignments were to systematically thwart the majority's will, then the majority should not, rationally, adopt them. That is to say, there is no reason to think that the legislative majority would put up with a set of committees consisting of extreme "high demanders," and producing budget busting legislation which most representatives would oppose.

The informational premise highlights the constraints facing legislators in the policy-making process. Various exogenous factors affect the relationship between parliamentary decisions and policy outcomes. As even the casual student of legislative politics knows, the most well-intentioned pieces of legislation occasionally bring results that no one anticipated, and even worse, no one wanted. But legislators can mitigate some of these effects through policy specialisation. The members can reduce their uncertainty by allowing subgroups, such as committees, to specialise in particular policy areas. Specialised legislative committees can, thus, "capture informational efficiencies" and reap collective benefits (Shepsle and Weingast 1994:159).

Through specialisation, and at some cost to themselves, committee members can gain private information about the consequences of various policy instruments. Given the opportunity to propose legislation to the floor, they can be induced to divulge some of this information through signalling. Committee recommendations reflect both the preferences of the members and their estimates of the effectiveness of various policy options. The latter, of course, is the critical infor-

mation that other members want. The trick for the legislature as a whole is to generate an incentive structure that induces members to take the trouble of acquiring expertise. This explains deference to committees on such matters as seniority privileges and restrictive rules. What is important, however, is that from the informational perspective, these are not established "property rights," but rather inducements that the floor majority is willing to provide in exchange for useful signals.

Regarding committee assignments, the informational perspective implies that those members should be chosen who can specialise at low cost, for example because of their professional training (medical personnel on health committees, lawyers on judiciary committees) or other prior experience. Occasionally, these members may also be high demanders, but are not chosen for that reason. On the contrary, non-committee members can have the greatest confidence in the signals they receive, when committee members are heterogeneous in their policy preferences. If both radicals and conservatives agree on the same policy instruments, then floor members can place the highest trust in their recommendations. Committees, in sum, should include "natural" specialists with heterogeneous preferences, but should not be biased toward high or low demanders. Both the distributive and informational perspectives view parliaments as arenas of distributive conflicts, but according to informational theories, specialisation may also lead to collective benefits.

Partisan Coordination

The third and last camp of neo-institutionalists shares many of the commitments of the two already mentioned, but provides a novel understanding of the relationship between parties and committees. The literature on legislative committees has often related their importance to that of disciplined political parties. After reviewing the powers of parties and committees in eight national legislatures, Shaw (1979:394) concludes that they are inversely related: "Where the committees are strongest . . . one finds the lowest level of party control over the committees." Presidential regimes are especially conducive to such powerful committees, but they are also to be found in parliamentary systems where no single party dominates the legislature. In Tsebelis' terms (see other chapters in this volume), committee strength seems to be positively correlated with the number of institutional veto players. In a recent analysis, however, Cox and McCubbins (1993) challenge this view. They see legislative committees (specifically those in the United States House of Representatives) as instruments of coordination wielded by the majority party. Parties arise to solve various "collective dilemmas" legislators face, such as coordination problems, public goods, and externalities. Committees

are simply the extensions of party power in the process of resolving these problems.

Following Mayhew's (1974) seminal work, Cox and McCubbins stress reelection as a particularly critical collective dilemma that legislators face. Since voters simplify their choice problems by relying on party identification, legislators can benefit from the collective reputation their party provides. At the same time, each legislator seeks to improve his or her own prospects by tailoring the party line to the district interest and by delivering specific particularistic (often "pork-barrel") benefits that the constituents value. The collective dilemma is that jointly such entrepreneurship debases the party label. Legislators seek to resolve this problem by delegating authority to party leaders (the Leviathan), who are empowered to enforce discipline on the members ("whip" them) in the interest of protecting the party reputation as a collective good.

Cox and McCubbins' work leads us to see legislative committees as the instruments of the majority party, and more specifically its leadership. When committee chairs exercise their powers, they do so on behalf of their respective parties. Implicitly, Cox and McCubbins therefore challenge the conventional notion that weak parties make for strong committees, and vice versa (e.g., Shaw 1979). As to whether committee members represent preference outliers, Cox and McCubbins take an intermediate position between the two already discussed. In their view, this is endogenous to the collective dilemmas generated by the respective committees. Committees that have very narrow jurisdictions and impose few costs on other members can be allowed to cater to preference outliers. On the other hand, committees with broad powers and capable of massive externalities (e.g., finance committees) should be much more representative of the median member of the majority party.

Theoretical Implications

To put it bluntly, the three perspectives view committees as (a) arenas of high demanders; (b) an efficient mode to manage information; and (c) extensions of majority parties. The theories thus have distinctly different empirical implications. One such difference regards committee autonomy. In the first perspective, members of each committee determine policy within their jurisdiction, irrespective of the policy preferences of the parent chamber and of parties. Committees therefore have a very independent role in the policy-making process. In the second perspective, committees become agents of their parent chambers. They are established to develop expertise and acquire information in order to meet the chamber's demands. Finally, committee members are viewed as agents or instruments of their parties in the partisan perspective. Party leaders control appointments, and give the committees an appropriate composition.

However, although the perspectives differ in certain respects they all have one feature in common: they are institutional. Legislative organisation matters. Institutional structure, procedures, and rules are assumed to affect the distribution of legislative power and ultimately public policy. Moreover, each perspective is informed by earlier and more inductive studies of legislative committees, the vast majority of which are studies of the US Congress. Indeed, many focus on problems that are of particular relevance to that political institution, such as the relationship between strong committees and fiscal irresponsibility (i.e., pork barrel projects in particular). The stylised features of the models often reflect rather peculiar features of the institutional setting of Congress, such as the US checks-and-balances system, the electoral system, and its version of bicameralism.

It is therefore reasonable to ask to what extent these perspectives are applicable to other parliaments as well. We choose to take an optimistic view. All three perspectives are based on rational choice theory, which offers a distinctive potential for universal generalisations. Rational choice models are neither ultimately constructed for a particular set of institutions nor for a substantively defined set of political problems. The current challenge for neo-institutionalist legislative scholars is to push their stylisation beyond the most parochial features of the legislatures they know the best. Although we cannot here extend the models analytically or offer a fully satisfactory test, we explore European parliamentary committees guided by neo-institutionalist logic.

How do we view the relationship between the three perspectives? There are at least three different explanatory logics: (a) we can regard the perspectives as rival explanations and try to devise critical tests. Yet, this is usually difficult to achieve in political science; (b) a second possibility is that each perspective contains a contingent explanation. The applicability of each perspective would then depend on contextual conditions and each perspective might contribute partly to our understanding of parliamentary committees in Western Europe. One perspective might fit Finland and another one Greece. Or, informational perspectives might explain some committees (energy ?) and distributive perspectives others (agriculture ?). The further challenge would then be to specify the scope conditions under which each perspective is particularly illuminating; (c) thirdly, the perspectives may contribute to a composite explanation. They can be complementary explanations so that, for instance, one perspective explains phenomena left unaccounted for by the others. The relation between different explanatory logics cannot be solved a priori. We return to this matter in the last section of this chapter, where we make a systematic, albeit tentative, exploration of European parliamentary committees in light of these three perspectives.

We now turn our attention to the empirical investigation of structures, procedures, and powers in West European parliamentary committees. Our aim is pri-

marily descriptive and comparative, but in addition we discuss the importance of committees based on the neo-institutional premises outlined above. We examine only parliamentary committees which are in some way engaged in the fulfilment of constitutional parliamentary duties (such as legislation, budgeting and/or control of the government) and focus on those with law-making functions. Consequently, we ignore committees established to direct the parliamentary administration or to organise the work of the assembly (see, e.g., Jenny and Müller in this volume), or to perform other duties in the management of the assembly (e.g. library matters). As a further limitation, this study will not cover extra-parliamentary committees to which Members of Parliament belong (cf. Schellknecht 1984:90) or "parliamentary delegations" (e.g., delegations to the EU or EFTA). Unless otherwise stated, the data were provided by project contributors through two questionnaires and refer to the respective parliaments as of January 1, 1990. The main source for the tables is a questionnaire sent to the country specialists in the autumn of 1994. See Herbert Döring's introduction to this volume for further details.

Committee Structure

Though it is customary to refer to legislative committees as if they were a well-defined phenomenon, in reality they come in almost endless varieties. Committees diverge in respect to their functions, size, composition, degree of institutionalisation, and along many other dimensions. In this section, we describe and compare the following important structural features of European parliamentary committees: (1) Types and tenure, (2) Numbers, (3) Size of legislative committees, (4) Jurisdictions and their correspondence with ministerial departments, (5) Restrictions on multiple memberships and finally, (6) Subcommittees.

Types and Tenure

Parliamentarians establish committees for countless reasons. The most important purposes tend to reflect key institutional tasks, such as lawmaking, budgeting, and administrative oversight. Yet, legislators also routinely establish committees to look after parliamentary household tasks, or to serve as liaison bodies to outside agencies and institutions, including international organisations. Shaw (1979) distinguishes between the following committee purposes: (1) the legislative purpose, (2) the financial purpose, (3) the investigative purpose, (4) the administrative oversight purpose, and finally, (5) the housekeeping purpose. The final category may be the least familiar to the more casual observer of legislatures. Some such committees in fact have a high status and considerable powers, e.g., the

Rules Committee in the United States House of Representatives. The Council of Elders (*Ältestenrat*) in the German *Bundestag*, though not technically a committee, serves a similarly critical function. The Main Committee in the Austrian National Council has a similar purpose. Examples of more mundane housekeeping operations would be committees charged with the administration of the parliamentary staff and ethics committees.

One of the most consequential properties of legislative committees is their tenure. Whereas some committees are established and maintained for long-term purposes, others are formed and abolished in short order to deal with specific, one-shot issues. The literature generally distinguishes between permanent (or standing) and ad hoc committees. Permanent committees have fixed memberships and jurisdictions over an entire legislative term or longer (or in a less strict definition, at least over an entire parliamentary session).[2] Ad hoc committees have no fixed duration and generally dissolve after they have completed their designated task.[3]

Obviously, these variables generate a substantial number of committee types. In practice, however, some types are more important than others, and existing legislatures gravitate towards a smaller number of typical committee arrangements. Schellknecht (1984) identifies the following types:

2 Committees may formally endure for more than a legislative term in non-elected assemblies, or in such chambers where the membership is replaced on a rotating basis (e.g., the United States Senate).

3 A note of caution is in order, however, as committees that are referred to as standing (e.g., in the United Kingdom) do not always meet the requirements specified here. To avoid such confusion, we prefer to refer to committees that meet certain minimum standards of durability as permanent, rather than standing.

1. Ad hoc committees to consider a specific piece of legislation.
2. Ad hoc committees to deal with a specific item of business other than legislation.
3. Permanent committees to deal with most or all legislation in a particular policy area.
4. Permanent committees to consider all legislation of a particular type.
5. Permanent committees to deal with all items of business other than legislation in a particular policy area.
6. Permanent committees to study matters in a particular area, possibly including legislation.
7. Permanent committees to deal with all legislation and all other matters in a particular policy area.
8. Permanent or ad hoc committees fulfilling functions that do not correspond to the area of competence of a ministry, such as, e.g., privileges, immunities, procedures, or impeachment.
9. Permanent committees to deal with petitions.
10. Joint committees of both chambers in bicameral legislatures.

In this chapter, we employ a simplified version of Schellknecht's typology. Firstly, we identify (a) *ad hoc* committees and distinguish them from permanent committees. Among permanent committees we then distinguish between committees that are (b) law-making by function, (c) specialised, and (d) non-law-making. Thus, our classification takes both tenure, functions and division of labour into account. Law-making committees (category b) refer to permanent committees which prepare legislation, but which may have additional functions. They may further differentiate their law-making functions. For instance, one committee may prepare civil law and another constitutional law. Alternatively, the committees may deal with legislation for one geographical region each. However, such committees are not specialised by policy area. This category is the same as category 4 in Schellknecht's classification. Specialised committees (category c) are divided by policy area and are made up of Schellknecht's categories 3, 6, and 7. Finally, the classification includes committees that have other functions than legislation (category d), including categories 5, 8 (if permanent), and 9 in Schellknecht's classification. Additionally, we identify joint committees in bicameral parliaments (i.e., category No. 10 in Schellknecht's classification).

Committee Numbers

Committee systems vary with respect to the number of committees established. It has been suggested that the number of committees is positively correlated with committee strength. Gordon Smith claims that there is an inverse relationship between the number of committees and executive power. The logic behind this con-

clusion is plain: "... the greater the number of small groups, the less amenable to government control they are than a single, large one" (Smith 1980:167).

Neo-institutional theories also imply that the number of committees matters. Economies of operation imply increased productivity as the number of committees increases. All else being equal, the more committees, the more bills can be dealt with at the same time. Beyond this basic proposition, different neo-institutional perspectives approach the issue from different angles. A cornerstone assumption of the distributive perspective is that committees are independent of the party leadership. This is not the case for the partisan coordination perspective, which by no means precludes the emergence of strong committees - on the contrary, but emphasises party control. If both Smith and Cox and McCubbins are right, we might expect fewer parliamentary committees, the more party leaders control the committees.

Tables 8.1 and 8.2 show the number of different types of committees for each parliament. Our main focus here is on law-making committees. We find that most parliaments in Western Europe rely on about 10-20 specialised committees for scrutinising legislative bills. Only two parliaments establish more than 20 permanent committees for preparing legislation: Denmark and the Netherlands. At the other extreme are Ireland and the United Kingdom, which have no permanent committees with legislative functions. Ireland makes only very sparing use of committees. Neither the *Dáil* nor the *Senad* establishes specialised committees to deal with legislation.

The British House of Commons - in many respects the most deviant case - establishes ad hoc committees to prepare individual bills. Each bill is normally assigned to an ad hoc committee established for that particular bill. Committees are set up by the House of Commons as and when the need arises, and are simply known as Committee A, B, C, etc. (Mény 1993:205). The following standing committees also review legislation: the Scottish Grand Committee, the Welsh Grand Committee, and the Northern Ireland Committee. Formally, these committees are ad hoc committees, but, in practice, their tenure is permanent. However, they are not specialised committees, and their legislative function is only marginal. The grand committees meet four or five times a session and debate legislation and other matters affecting their region. Though they can pass motions, they cannot bind the House of Commons. The House of Commons also maintains a set of select committees to scrutinise specific aspects of government administration. One such committee is the Public Accounts Committee, always chaired by a leading opposition Member of Parliament, which audits government expenditure and publicises instances of waste and financial mismanage

Table 8.1: Committee Structure in the Lower House

	Number of committees				*Joint Committees*	*Size of legislative committees (min-max)*		*Correspondence with ministerial departments* [1]	*Multiple Membership Restrictions (max. number)*	*Sub-committees (number)*
	ad-hoc	*permanent*								
		legislative by function	*specialised*	*non-legislative*		*ad-hoc*	*permanent*			
Austria (Nationalrat)	0	0	17	8	1	-	13/27	General correspondence	no	Neither mandated nor prohibited, but exist [2] (13)
Belgium (Kamer der Volksvertegenwoordigers)	2	1	11	4	0	23/23	10/23	Broad correspondence	no	Neither mandated nor prohibited, but exist (< 5)
Denmark (Folketing)	2	0	22	2	-	17/17	17/21	Subject-based; approximate correspondence also between most committees and ministerial departments	no	Neither mandated nor prohibited, but none exist [3] (0)
Finland (Eduskunta)	n.a.	1 [4]	12 [5]	0	-	n.a.	11/45	Subject-based [6]	no	Neither mandated nor prohibited, but exist (9)
France (Assemblée Nationale)	3	1	6	1	1	30/31	up to 145	Subject-based but no necessarily correspondence	yes (1)	Neither mandated nor prohibited, but none exist (0)
Germany (Bundestag)	2	0	19	2	2	-	13/37	Subject-based and broad correspondence with ministerial departments	no	Neither mandated nor prohibited, but exist (16)

	Number of committees				*Joint Committees*	*Size of legislative committees (min-max)*		*Correspondence with ministerial departments* [1]	*Multiple Membership Restrictions (max. number)*	*Sub-committees (number)*
	ad-hoc	*permanent*								
		legislative by function	*specialised*	*non-legislative*		*ad-hoc*	*permanent*			
Greece	n.a.	0	6	2	-	20/30	38/50 [7]	Total Correspondence [8]	no	Neither mandated nor prohibited, but none exist (0)
Iceland (Althingi, Lower House)	0	0	9	1	0	-	up to 7	Subject-based; but general correspondence 9)	no	Neither mandated nor prohibited, but none exist (0)
Ireland (Dáil)	n.a.	0	0	3	6 [10]	n.a.	-	Select and joint committees are subject-based	no	Neither mandated nor prohibited, but none exist (0)
Italy (Camera dei Deputati)	at least 3	0	13	6	6	not fixed 5-47	not fixed 5-47	Subject-based; but correspondence with ministerial departments	yes (1) [11]	Mandated (Standing Order) (n.a.)
Luxembourg (Chambre des Députés)	n.a. [12]	0 [12]	19 [12]	4 [12]	-	n.a.	5/13	Mostly correspondence	no	Neither mandated nor prohibited, but none exist (0)
Netherlands (Tweede Kamer)	n.a.	0	29	5	n.a.	4/26	4/26	Total Correspondence	no	Neither mandated nor prohibited, but exist (1)
Norway (Storting)	0	0	12	4	-	-	10/18	Total correspondence [13]	yes (1) [14]	Neither mandated nor prohibited, but none exist (0)

	Number of committees				*Joint Committees*	*Size of legislative committees (min-max)*		*Correspondence with ministerial departments* [1]	*Multiple Membership Restrictions (max. number)*	*Sub-committees (number)*
	ad-hoc	*permanent*								
		legislative by function	*specialised*	*non-legislative*		*ad-hoc*	*permanent*			
Portugal (Assembleia da República)	8	0	12	2	-	up to 12	up to 12	Subject-based;but general correspondence	yes (2) [15]	Neither mandated nor prohibited, but exist (n.a.)
Spain (Congreso de los Diputado)	Exist; but number not fixed	0	11	8	-	size not fixed	Size not fixed	Total correspondence	no	Mandated (n.a.)
Sweden (Riksdag)	0	0	16	1 [16]	-	-	17/17 [17]	Subject-based but broad correspondence	no	Neither mandated nor prohibited, but none exist (0)
Switzerland (National-rat)	- [22]	0 [18]	12 [18]	0 [18]	- [22]	-	about 25	Some correspondence	yes (2)	exist [23] (n.a.)
UK (House of Commons)	No fixed number, but at least 2	4 [19]	0	19	3	16/50 [20]	[21]	Some committees examine activities of ministerial departments	no	Neither mandated nor prohibited, but exist (4)

1) Source: Inter-Parliamentary Union (1986): Parliaments of the World, Vol.1, pp. 625ff.
2) Exceptions: The Standing sub-committee of the Main Committee is required by the constitution, the Standing sub-committee of the Budget Committee by constitutional law.
3) The Europe Committee has a sub-committee which deals with procedural matters.
4) The name of the committee which is legislative by function is the Grand Committee (Suuri Valiokunta). Every bill must be considered in the Grand Committee between its first and second reading.
5) Five committees are formally permanent, whereas seven committees are so-called regular ad-hoc committees. According to our definition, all these committees are permanent.
6) Exception: the Grand Committee.

7) Committees with the same names and competencies are also established at the beginning of every summer in order to consider bills submitted to the vacation session of the Chamber (from July to September); these committees comprise of from 14 to 17 MPs.
8) As a result of the 1986 reformation of the committee system, committees do not any longer correspond totally with ministerial departments.
9) Source: Apter 1984: 169-176.
10) Data refer to 1992.
11) Exceptions exist for the replacement of Government members and for groups with fewer members than committees.
12) Data refer to 1992.
13) Exception: The Control Committee scrutinises them all.
14) Some are also members of the Control Committee.
15) 3, if the group is too small to be represented on all Committees.
16) The Riksdag Auditors is not called a committee in the Swedish Riksdag Act, but is a committee according to the definition used here.
17) According to the Riksdag Act, there should be at least 15 in each committee.
18) Data refer to the situation after 1991.
19) Regional committees; formally ad-hoc (Standing Committees) but in practice they are "semi-permanent".
20) Usually 18.
21) The Scottish Grand Committee includes not fewer than 16 Members representing Scottish constituencies. The Welsh Grand Committee consists of all Members sitting for Welsh seats, plus not more than five other members nominated by the Committee of Selection. The Northern Ireland Committee consists of all Members sitting for constituencies in Northern Ireland plus not more than 25 other members nominated by the Committee of Selection. The Standing Committee on Regional Affairs consists of all Members sitting for English constituencies, plus up to five others.
22) Ad-hoc joint committees for special issues.
23) The committee for foreign policy has a standing subcommittee for European questions.

Table 8.2: Committee Structure in the Upper House

	Number of committees				*Size of legislative committees (min-max)*		*Sub-committees (number)*
	ad-hoc	*permanent*					
		legislative by function	*specialised*	*non-legislative*	*ad-hoc*	*permanent*	
Austria	0	0	10	3	n.a.	17/17	Prohibited
Belgium (Chambre des Représentants)	0	1	13	5	-	22/22	Not mandated (n.a.)
France (Senat)	1	1	6	1	21/24	40/77	Mandated by § 39,4 Standing Order (0)
Germany (Bundesrat)	0	0	18	0	-	n.a.	Neither mandated nor prohibited, but none exist (0)
Iceland (Althingi; Upper House)	0	0	9	1	-	up to 7	Neither mandated nor prohibited, but none exist (0)
Ireland (Seanad)	n.a.	0	0	2	n.a.	-	Neither mandated nor prohibited, but none exist (0)
Italy							

	Number of committees				*Size of legislative committees (min-max)*		*Sub-committees (number)*
	ad-hoc	*permanent*					
		legislative by function	*specialised*	*non-legislative*	*ad-hoc*	*permanent*	
Netherlands (Eerste Kamer)	2	0	19	3	n.a.	13/13	Neither mandated nor prohibited, but hardly ever used
Spain							
Switzerland	- 1)		12			13	exist 2)
UK	at least 1	0	0	2	0	15/24	Neither mandated nor prohibited, but exist (n.a.)

1) Ad-hoc joint committees for special issues.
2) The committee for foreign policy has a standing subcommittee for European questions.

ment. In 1979, the Commons established fourteen such select committees to monitor the policies and activities of the ministerial departments (Adonis 1993:chapter 7; Rose 1986:96-97).

Besides Ireland and the United Kingdom, all parliaments maintain specialised committees for the purpose of scrutinising legislative bills.[4] In the past, Denmark maintained numerous ad hoc committees similar to the British ones, but the system was reformed in 1971, when permanent committees were established. The extensive number of committees in the *Folketing* permits far-reaching diversification and a high degree of specialisation. There are, for instance, committees established to deal with Science and Technology, Immigration, and the Environment (Arter 1984:172). There were about 40 committees in the Dutch Second Chamber in 1990, 34 of which were permanent (Andeweg and Irwin 1993:141).

At the other extreme the French National Assembly has only six committees to consider all bills and legislative proposals in their respective jurisdictions.[5] Inspired by the French model, Greece also has established only six specialised committees. Besides France and Greece, only the parliament of Iceland features fewer than 10 specialised committees.

In some countries, such as France, the constitution limits the number of committees, whereas, in other countries, the parliaments are free to organise their own set of committees which can lead to numerical fluctuations from year to year. In West Germany, for instance, the number of committees dropped from 39 in the first *Bundestag* to 36 in the second due to a decline in the number of parliamentary parties (Mény 1993:204).

As described above, the main difference between parliaments is whether they make use of permanent or ad hoc committees for legislation. Yet, even those countries with permanent legislative committees show considerable variation. Some rely solely on specialised committees, whereas others have established committees, ad hoc or permanent, to perform functions above and beyond those of legislation. In the first case, specialised committees are multifunctional and in the second, functions are dispersed. In sum, we find that for legislation, parliaments are structured mainly along the lines of either ad hoc committees (Britain and Ireland), specialised, unifunctional committees (Finland, Iceland, Norway,

4 The Swiss permanent specialised committees were not normally used until the reform of the system in 1991. As 1990 is the time for data collection in our tables, our tables annotate whether the data for Switzerland refer to the previous or current situation.

5 In 1958, the French constitution-framers wanted to avoid the proliferation of standing committees that had occurred under the Fourth Republic, where parliamentary committees came to consist of small numbers of highly expert members. This committee structure fostered sectional interest influence on parliamentary deliberation (Arter 1984:171).

Sweden, and Switzerland), or specialised, multifunctional committees (the remaining countries in this study).

Bicameral parliaments quite often set up joint committees of the two houses. Their functions may vary somewhat, but one distinct task of joint committees is to mediate in cases of disagreement between the two houses (see the chapter by Tsebelis and Rasch in this volume for further information.) Germany has established a special inter-chamber Mediation Committee for this purpose (Steffani 1990:277), and similar committees have been established in Austria, France, Ireland, and the United Kingdom. However, the Austrian and British parliaments do not involve committees in solving differences between the two Chambers.[6] In Iceland, which has no joint committees *per se*, committees of both chambers (the committees are organised as duplicates of one another) can occasionally join together for specific purposes. For instance, the standing committees on Transportation annually form a joint committee to allocate moneys to ferry boats and other kinds of rural transportation (Arter 1984:176).

Committee Size

The next structural feature is committee *size*. Small committees, we assume, increase incentives to specialise. The possibility of monopolising expertise in parliament increases as the size of the committees decreases. The informational perspective should therefore be particularly applicable in countries with small committees. The optimal size of decision-making bodies is the subject of both academic and political debate. James Buchanan and Gordon Tullock (1962) frame the size problem in terms of internal and external decision-making costs. Giovanni Sartori (1987:Ch. 8) develops this argument and claims that, generally, committees can be regarded as the optimal decision-forming units, since they operate with a well-established but highly flexible operational code of reciprocal compensation, thus, allowing reasoned and discussed elaboration of decisions and accounting for the unequal intensity of preferences.[7]

6 Joint committees in the United Kingdom are select committees composed of members of both houses meeting as one committee. There is one permanent joint committee, concerned with the scrutiny of Statutory Instruments, but each session others are set up on an ad hoc basis (Adonis 1993:151).

7 In a comparative survey of committees in US state legislatures, Wayne L. Francis (1982) found evidence that about nine members might be an ideal size of legislative committees, taking into account both the internal and external costs of decision making. The ideal size can, however, differ depending on the size of the legislature and the use of subcommittees.

The size of West European legislative committees varies from as few as seven or less to as many as 145 members.[8] The variation in size is quite astonishing. The largest committees, consisting of up to 145 members, are found in the French *Assemblée Nationale*, whereas committees in the Icelandic *Althingi* consist of seven members at the most. One obvious explanation of this is the different sizes of the parliaments. Although there are exceptions from the general pattern, committee size is related to the size of the parliament. The number of members for all or certain types of committees may be fixed. However, some parliaments (including Austria, Finland [min. varies depending on type of committee], Iceland [max. 7], Portugal [max. 12], Spain, Sweden [min. 15]) lack decisive regulations on the size of committees and must, therefore, set the size of each committee before they assign members.

If discretionary, size may become an issue of political controversy, as is obviously the case in the US Congress, which may fuel a process of increasing committee sizes (Smith and Deering 1990:62-68). Austria demonstrates that size negotiations occur in Western Europe as well. Committee members are formally elected, but, in practice the *Klubs* of the parliamentary parties present decisive lists with nominations for each committee. Since the distribution of committee seats among the parties is proportional, inter-party negotiations centre on the exact number of members in each committee. In Sweden, the minimum number of members has twice been increased to 17 members to meet demands from the Green Party, which otherwise would not have been represented under proportional distribution (d'Hondt's formula). However, similar demands from the Left Party have occasionally been ignored.

Jurisdictions

Committee jurisdictions may vary extensively. Ad hoc committees are often appointed with a very specific and narrow mandate, such as a particular bill before parliament or a particular issue needing investigation. Permanent committees may have a great variety of tasks. Some committees monopolise "property rights" over all legislation and budgeting in a particular policy area defined by parliament itself or by the jurisdictions of the executive departments. This property right is effective if the parent chamber follows committee recommendations regardless of their content. Such behaviour could be supported by a reciprocal norm that Members of Parliament should not intervene in the work of committees other than their own (Fenno 1973). Or it could simply reflect the fact that the scarcity of time makes it impossible for legislators to be informed in areas other

8 Please note that we are now only concerned with legislative committees. Committees with other functions are not discussed here.

than their own (Olsen 1983:61). Other legislatures divide their work according to function, so that some committees handle lawmaking, others appropriations, yet others revenues, others again administrative oversight, and so on.

The informational perspective suggests that specialised committees generate an incentive structure that induces members to acquire policy expertise. This is facilitated if members know that they will serve on the same committee for an extended time. We would therefore expect the parliaments to establish committees with long tenures, that is, permanent rather than ad hoc committees. Expertise acquisition is also facilitated if the scope of the committee's jurisdiction is narrow and well-defined, which should be all the easier to achieve as the number of committees increases. For oversight as well as legislative purposes, it is important whether *committee jurisdictions correspond with those of the government ministries* (Mezey and Olson 1991; Strøm 1990:71). Correspondence facilitates influence through expert knowledge and enables individual committee members to build personal networks. Senior committee members usually become familiar with the relevant administrative agencies and outside interest groups.

The source of information on this variable is the publication, *Parliaments of the World*.[9] Table 8.1 shows that most law-making committees have jurisdictions which are parallel to the ministerial organisation. It is, thus, possible to talk of a correspondence between committees and ministries. In so far as committees' jurisdictions are defined by subject matter, they tend to parallel the structure of administrative agencies. The only countries where legislating committees do not correspond with the ministries are Ireland and the United Kingdom, the two countries lacking specialised law-making committees. Where there are more committees than ministries, as in the Netherlands and Denmark, most government departments are monitored by two or three parliamentary committees. Correspondence is not absolute, as committees are seldom mirror-images of the ministries. Nevertheless, when the organisation of the committee system is based on policy subjects, then the division reflects the organisation of ministries so that it is possible to link each committee to a ministry.

Multiple Membership Restrictions

An informational logic also justifies an investigation of *regulations of multiple membership*, since specialisation facilitates committee influence on legislation.

9 In a questionnaire, the Inter-Parliamentary Union asked representatives of the parliamentary research offices to classify the relationship between committees and ministries on an ordinal scale. Although we assume the research officers had good knowledge of their own parliament's features, we cannot disregard the fact that the classification was subjective and that the categories could have been more clearly operationalised.

Specialisation and expertise will be reinforced if the committee members concentrate their work on one, and only one, committee and if all Members of Parliament belong to one committee only.

In reality, only a few parliaments impose limitations on the number of committees on which a member may serve, as shown in Table 8.1. Restrictions exist in France, Italy, Norway, Portugal, and Switzerland. In the Spanish Congress of Deputies each Member is entitled to serve on at least one committee. In practice this is also the case in Norway (*Parliaments of the World*, Table 20.5). In all other parliaments, there are members who do not serve on any committee. Norway stands out as a special case. It is the only country that totally fulfils our prescription of a specialised committee system in this respect: each legislator is a member of one and only one committee. There are 165 seats in the twelve permanent committees and precisely 165 MPs to occupy them.

Although there are thus few formal regulations of the number of permissible memberships, a general observation for all parliaments is that few members in practice serve on more than one or two committees even where this is in principle possible (Schellknecht 1984:109).

Subcommittees

Finally, we consider the committees' internal delegation through the use of *subcommittees*. Some committees have elaborate internal differentiation, whereas others do not. The most important forms of such differentiation are, of course, subcommittees. Subcommittees may be formally established by the standing orders of parliament, or they may exist on a more informal basis. The creation of subcommittees may be at the discretion of the committee itself, or it may be prohibited. When subcommittees exist, their agenda powers vis-à-vis the larger committee are critical to the fate of bills.[10]

Subcommittees presumably affect the legislative process and output, due to several circumstances. First, the small size and relatively small jurisdiction of subcommittees, which result from the further division of labour within committees, can narrow the range of political interests represented at the committee stage. Narrowness will be reinforced if subcommittee membership is based on self-selection, as tends to be the case in the US Congress (Smith and Deering 1990:161). Thus there is the risk that the subcommittees will deviate even more from the preferences of the full House than their parent committees (Shepsle and

10 Even without subcommittees, committees may develop very extensive procedures by which they internally delegate and differentiate their work. In some parliaments, each member serves as a floor rapporteur on some set of issues, often in many consecutive sessions, and internal committee deliberations may reflect this division of labour.

Weingast 1994). Legislation could, as a result, be biased even more towards particularistic interests, at the cost of the public interest. It could lead to an underproduction of highly aggregated collective-benefit bills and an overproduction of many petty bills of a regional or narrowly sectional special-benefits character (Döring 1993:7).

This line of reasoning could, however, be questioned by representatives of the informational perspective. Establishing subcommittees is, they might claim, an effective way to let Members of Parliament specialise at low costs. Yet, according to this perspective, subcommittees will consist less of high demanders than of specialists with heterogeneous preferences. The partisan coordination perspective, in turn, would postulate that subcommittee members will be selected according to the confidence the party colleagues can have in them as bearers of the party label.[11]

Second, if subcommittees bias interest representation, it may cause more conflict in full committee and on the floor than would have been the case with more representative members. As the internal decision-making costs decrease with a further division of labour and a decreasing size of the actual decision-making body, the external risks increase.[12]

Third, subcommittees represent a trade-off between the benefits of a greater division of labour among members and the costs of an additional step in the legislative process. Division of labour increases the capacity to consider many issues simultaneously. An additional step in the legislative process, on the other hand, may create a potential obstacle to effective legislation. Students of the US Congress have found that active subcommittees tend to increase jurisdictional conflicts not only between committees but also within single committees (Smith and Deering 1990:161). In the event that costs exceed benefits, fewer bills could be expected to be passed each year.

Where the number of subcommittees is not constitutionally or otherwise regulated, it may be the subject of political dispute. This is especially the case if Members of Parliament have incentives to become members of a subcommittee.

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11 These hypotheses are clearly contradictory and will be the subject of future empirical validation within the project framework. One method of testing them would be to see whether, all else being equal, countries with subcommittees produce more aggregated collective-benefit laws than other countries. Krehbiel and Rivers (1988) point out different techniques for such a test. In his recent book, Krehbiel elaborates on the difficulties of the approach suggested here (1991:7f). (See also the chapter by Evi Scholz for an account of the possibilities of classifying legislative output and the concluding chapter by Herbert Döring for an account of the future research plans within this project.)

12 Compare the hypothesis presented in the section above on committee size.

These incentives can, for instance, be resources tied to a subcommittee or to its chair. It might be less costly to lobby for an increase in the number of subcommittees than to compete for a seat in an established subcommittee. The number of subcommittees will thereby rise, as it has done in the US Senate "... where there are more sub-committees than there are senators" (Mayhew 1974:97).

The parliaments of Austria, Finland, France, Germany, Italy, the Netherlands, Portugal, Spain, and the United Kingdom employ subcommittees.[13] The remaining parliaments have not established formal subcommittees. This is the case despite the fact that only the Austrian Federal Council prohibits subcommittees. In some cases, however, the committees utilise informal subgroups. A few examples may illuminate this. According to a 1989 amendment of the 1987 standing orders, each of the six permanent committees in Greece may split into subcommittees. The subcommittees correspond to each of the ministries whose policy areas fall under the competence of the relevant permanent committee. Subcommittees comprise from 10 to 20 members and their competence is strictly restricted to hearing involved public officials. However, at the time of our investigation, no subcommittee existed.

The French permanent committees are few and large with broad and vague jurisdictions. They do, however, form smaller working groups on specific bills, which also opens up opportunities for opposition member influence on and responsibility for legislation (Olson 1994:59). Subcommittees were prohibited in the early years of the Fifth Republic, probably because the Gaullist party feared that smaller subcommittees might develop into anti-Gaullist power centres. But as time passed, such subdivision has in fact taken place. *Groupes de travail* have been formed frequently and are now officially sanctioned (Safran 1991:170).

In Sweden, subcommittees are not formally forbidden, but none exist. Occasionally, the committees appoint a few of their members to perform a certain task. Minor practical issues are the most common case. However, these appointments are made on an informal basis. The appointed members are not entitled to any extra authority or responsibility besides those derived from their membership in the parent committee.

In several countries, however, subcommittees exist on a more regular basis. Austria prohibits subcommittees in the Federal Council, whereas two subcommittees are mandated in the National Council (Art. 18 para. 3, Art. 29 para 1 and Art. 55 para. 2 of the Constitution; resp. constitutional law BGBI 353/1986). The Standing Subcommittee of the Main Committee may only act under special cir-

13 In the British House of Lords, the European Communities Committee and the Science and Technology Committee have appointed subcommittees. However, although these committees are permanent, they do not deal with legislation.

cumstances. It takes part in the issuing of emergency decrees by the President of the Republic and takes over the Main Committee's tasks in the event of the President dissolving the National Council. Apart from dealing with budget bills, the Standing Subcommittee of the Budget Committee would also take over the tasks of the Budget Committee should the President dissolving the chamber. Apart from these two cases, subcommittees are ad hoc and as many as 113 were established during the period 1986-1990.

The German *Bundestag* neither requires nor prohibits subcommittees. However, fully ten subcommittees are at work, most notably four each in the committees on Foreign Affairs and Economic Affairs (Chronik des Deutschen Bundestages, 11. Wahlperiode, 1991:353-358). In the Netherlands, the Second Chamber regulates potential subcommittees in the Standing Orders (Art. 42). A subcommittee has to have at least three members. Two or more committees can also establish a joint subcommittee. Sometimes subcommittees are used to prepare the work of, or act as a substitute for, inquiry committees. As for the First Chamber, the Standing Orders permit committees to establish one or more subcommittees consisting of at least three members. However, this right is hardly ever used. The large Finnish Finance Committee is divided into nine sections in which both full members and substitutes serve. Members and substitutes have equal rights in sectional meetings. The committee has a heavy workload since it deals with the state budget (Elder et al. 1988:135-136).

Subcommittees thus exist in a majority of European parliaments. Yet, few studies have so far addressed their properties or functions. Although subcommittees greatly interest students of the US Congress, they have not yet attracted correspondent attention among students of parliamentary systems. While obviously subcommittees play a very important role in Congress, not least since the 1970s (Shepsle and Weingast 1984; Tidmarch 1992), their role in West European parliaments appears to be more limited. As far as we can judge, their powers are more constrained than their American counterparts. There seems, however, to be good reason to devote future attention to this neglected subject in European political science.

Committee Procedures

Committee procedures tell us a lot about the organisational principles of a parliament. In this section we examine five different committee procedures: a) committee assignments, b) chair selection and allocation, c) committee openness, d) minority reports, and e) committee stage in deliberation. These procedures reflect different patterns of majority rule and minority rights within parliaments and

generate different opportunities for legislative productivity. They define the conditions under which the committees do their legislative work. Let us review some theoretical reasons for focusing on each of these five procedures before we turn to the empirical account.

Each of the theoretical perspectives presented in this chapter generates expectations concerning committee procedures. The distributive perspective sees committees as composed of homogenous high demanders, or preference outliers, as a result of the assignment procedures (i.e. self-selection). Moreover, to enforce gains from trade, standing committees will be granted favoured procedural status throughout the process, such as closed rules, ex post vetoes, or gate keeping powers (Shepsle and Weingast 1987). Informational theory, on the other hand, predicts that committees should be composed of legislators whose preferences represent both ends of the policy spectrum. According to this perspective, parliaments establish and practise restrictive procedural rules when it facilitates specialisation, even at the expense of reduced possibilities for distributive trade. Procedures are viewed as tools with which a parliament may attain the collective benefits of expertise. As soon as procedural restrictiveness undermines informational efficiency, a parliament will not commit itself to organisational forms that foster gains from trade, but would, instead, prefer forms that make information management effective. Decisions on committee procedures are distributional-informational trade-offs (Krehbiel 1991:95-98). In the partisan coordination perspective, majority party leaders control the agenda and only adopt procedures leading to committee independence when they can retain control of the legislative process (Cox and McCubbins 1993:part 5).

Committee Assignments

Assignment is a procedure with a potential for political conflict. To party leaders, committee assignments could be vital in at least two ways. Assignments are an important resource for rewarding loyal and hard working members (Damgaard in this volume). Secondly, committee assignments are vital for the parties' basic policy choices (Manley 1970:24; Cox and McCubbins 1993:chapter 7). By choosing reliable committee members and chairs, leaders can indirectly control the party's long-range policy positions. Members want committee assignments that allow them to deliver benefits to their constituency or local party organisation, which, in turn, facilitates their renomination and reelection. Seniority rules and renomination enable members to invest time and energy in acquiring expertise in their policy areas and building personal networks.

Procedures for committee assignments vary between parliaments. Some parliaments centralise these procedures so that party leaders normally have a decisive role. Other parliaments grant committee independence in one or more of

these matters and do not involve the plenary assembly. Seat allocation among the parties reveals the role opposition parties play in parliamentary committees. Some emphasise the consensus-building role committees can play by giving minorities proportional committee representation. In other parliaments the government controls its committee majority strictly and tries to avoid any amendments or defeats of its bills in committee. The consensual pattern can be reinforced if the chairs are also distributed among both government and opposition parties. In other parliaments, the government strictly controls its committee majority and tries to avoid any amendments or defeats of its bills in committee.

Although committee assignment contains an element of potential conflict, it appears to be dealt with by consensus in most parliaments and for most of the time. Membership composition is, in principle, proportional all over Western Europe, with seat allocations based on the relative size of the party groups in the plenary (Sources: IPU Table 20.4 and questionnaire)[14]. The allocation is either regulated in the constitution (e.g. Denmark), other laws, the rules of procedure (e.g. Austria), or it is based on custom (e.g. the Select Committees in the British House of Commons) (Schellknecht 1984:106). In Germany, members of the *Bundesrat* committees are nominated by the states. Each state has one vote on every committee, reflecting the federal constitution.

Most legislative committees are true subsets of the legislature, which is to say that only legislators may be members, and that the total membership of each committee is smaller than that of parliament as a whole. One exception to the second part of this rule is the Committee of the Whole House, which is widely used in the Westminster parliamentary tradition.[15] More commonly, exceptions concern the former restriction, i.e. the stipulation that only legislators can be committee members. Some parliaments feature committees whose members may be drawn from outside its membership, though on the whole this practice is rare. The most important of such arrangements may be where cabinet members, even

14 We also have a few examples of allocations of seats where small minority parties are overrepresented. The Swedish Social Democratic government formed in the autumn of 1994 looked for cooperative modes of legislation in the *Riksdag* and therefore refrained from taking on 15 committee seats in various committees to provide seats to parties which were not large enough to gain seats in every committee (source: *Från Riksdag och Departement* no. 30, 1994).

15 The procedure of the Committee of the Whole House is used when the matter under consideration is too extensive for a single committee to scrutinise on its own, and, above all, when the government controls only a small majority that would be further reduced by the narrow majority in a committee. When the Committee of the Whole House meets, the House no longer observes the rules that apply to plenary sessions (Mény 1993:205).

if they are not elected representatives (or if they are barred from serving as legislators during their tenure in the executive branch), may, nevertheless, participate in the deliberations of the legislative committee corresponding to their department's jurisdiction (see Andeweg and Nijzink in this volume). In bicameral legislatures, some (but typically only a few) committees may have members from both legislative chambers.

Chair Selection and Allocation

There are good reasons to observe the *selection and allocation* of chairs. Committee chairs can be appointed by the house, the committee itself, the speaker, or by another body. In some parliaments the speaker is the *ex officio* chair of certain committees (Schellknecht 1984:114). Although rules can differ between committees within a single parliament, chairs are generally elected by their own committees, particularly in law-making committees. Only Germany, Italy, the Netherlands, Switzerland, and the United Kingdom have other procedures. In Italy, chairs are elected by the Chamber and in Switzerland they are nominated by the Bureau. The Swiss parliamentary parties propose candidates to chair, in turn, a permanent committee for a period of two years. The procedure is a means of protecting minority participation and influence in the legislative process, equivalent to the purpose of proportional representation in other parliaments. Germany is once again a special case due to its federal structure. In the *Bundesrat*, the seats are distributed between the states, whereas the *Bundestag* distributes the committee members and also the chairs according to the relative size of the parties. In the British House of Commons, chairs are selected by the Speaker from the *Chairmen's Panel*, a group of about twenty senior backbenchers from both sides of the House (Adonis 1993:153). Although chair selection in Britain is focused on seniority rather than partisanship, most chairs belong to the majority. Chair selections in the House of Commons are usually the result of intriguing negotiations. In the Netherlands, the Speaker appoints both committee members and chairs, but, in practice, he is left little choice. Proportional representation dictates membership composition and chair allocation among the parties. The leaderships of the parliamentary party groups meet informally to discuss which party will get which chair. One of the considerations during these negotiations appears to be that the chair should not be given to the respective minister's party (Andeweg and Irwin 1993:141).

This is mainly the formal part of the story. As the cases of the United Kingdom and the Netherlands partly illuminate, the selection of chairs may be negotiated between party representatives. It is, we believe, common that even in parliaments where the committees elect their chairs, they only make the final formal

decision on a matter that has already been settled elsewhere (cf. Schellknecht 1984:114).

No strict seniority procedure for chair appointments exists among the West European Parliaments, as far as we know.[16] It is, nonetheless, reasonable to assume that seniority matters when chairs are appointed. But partisanship and general parliamentary seniority, presumably, matter much more than service on the particular committee. Seniority can lead to decreased conflicts over both committee assignments and chair selections, since it reduces the election to a purely formal procedure. It also protects committee autonomy and prevents party leaders from intervening.

The chair assignment process may result either in a majoritarian or in a proportional distribution. The leadership of the majority party monitors the committees more easily if all chairs are allocated to its members. Majoritarian allocation of chairs thus conforms to the partisan perspective. The actual allocation of chairs among parties varies as shown in Table 8.3. In six countries, all or most chairs belong to the majority party or parties. Attempts undertaken in France to take account of the principle of proportional representation have been unsuccessful (Schellknecht 1984:114; Safran 1991:170). Most parliaments, however, allocate chairs more or less proportionally among the parties. Small deviations from strictly proportional distribution sometimes occur. In some cases, coalition partners or coalition partners *in spe* favour small coalition partners and thereby deviate somewhat from proportionality. Moreover, some parliaments actually reserve chairs for the opposition. This applies mainly to committees with oversight tasks such as auditing public expenditure (Schellknecht 1984:116).

16 Magnus Hagevi (1994) has recently falsified claims concerning the importance of seniority in the Swedish *Riksdag*.

Table 8.3: Committee Procedures

	Chairs		*Meetings*	*Minority reports*	*Committee stage in deliberation*
	Selection	*Allocation*			
Austria	Committee	Mainly majority party	Other rules [1)]	The right exists	Before plenary stage
Belgium	Committee [2)]	Proportional	Other rules [3)]	Right exists but practice is unclear; country-specific limitation	Before plenary stage
Denmark	Committee	Proportional	Open to committee members and certain MPs	Right does not exist	After plenary stage
Finland	Committee	Proportional	Closed	The right exists	Before plenary stage
France	Committee	Mainly majority party	Open to all MPs	Right does not exist	Before plenary stage
Germany	House/Committee [4)]	Other/proportional [5)]	Open to all MPs	Right exists but practice is unclear; country-specific limitation	Before plenary stage
Greece	Committee	Majority party only	Open to all MPs [6)]	The right exists	Before plenary stage
Iceland	Committee	Mainly majority party	Closed	The right exists	Before plenary stage
Ireland	Committee [7)]	By agreement in the committee or by majority decision	Ad-hoc committees are open to public; the existing permanent committees do not consider bills	Right does not exist	After plenary stage

	Chairs		*Meetings*	*Minority reports*	*Committee stage in deliberation*
	Selection	*Allocation*			
Italy	House	Majority party only [8]	Other rules [9]	The right exists	Before plenary stage
Luxembourg	Committee	Proportional	Closed	Right does not exist	Before plenary stage
Netherlands	Speaker/ Committee [10]	Proportional [11]	Lower House: open to public [12];Upper House: closed	The right exists	Before plenary stage
Norway	Committee	Proportional [13]	Closed	The right exists	Before plenary stage
Portugal	Committee	Proportional	Open to all MPs. Open to the mass media when dealing with legislation. Meetings can be made open to the public by committee decision	Right exists but practice is unclear; country-specific limitation	Before plenary stage
Spain	Committee	(Proportional) [14]	Open to all MPs and the mass media	Right exists but practice is unclear; country-specific limitation	After plenary stage
Sweden	Committee	Proportional	Closed	The right exists	Before plenary stage
Switzerland	Bureau [15]	Distributed equally among the parties	Closed	The right exists	Before plenary stage
UK	House/Speaker [16]	Mainly majority party	Open to public	Right does not exist	After plenary stage

Notes:

1) Participation includes in addition to committee members: the president and vice-president of the National Council, other deputies, ministers and state secretaries and members of the parliamentary and government bureaucracy, and experts from interest groups. Government members are not allowed to participate in meetings of the Main Committee and its sub-committees. The president and vice-president of the audit office may take part in committee meetings dealing with its reports and the budget accounts.
2) Senate: The President is ex-officio chair of certain committees. Chamber of Representatives: 1 permanent committee chaired by President. President and Vice-President are ex-officio Chairs of certain committees.
3) About half of the meetings are public, as for budgets, bills accepted and transferred by the other chamber, interpellations and questions held in committee.
4) Federal Council: Elected by the House from among committee members. Federal Diet: Elected by each committee in accordance with arrangements of the Council of Elders.
5) Federal Council: Distributed between States. Federal Diet: Proportional to party strength.
6) Open to public only at the initial stage of committee work on pending bills.
7) Except for the Joint committee on a Private Bill where the chair is jointly appointed by the Chairs of each House.
8) If no majority achieved, "Stichwahl" between the two candidates with equal votes; if not successful, principle of seniority and finally of age decides (art. 20 SO).
9) All other deputies have the right to participate, without right to vote and publicity by closed TV-circuit in separate room.
10) First Chamber: Appointed by the President from among committee members. Second chamber: Elected by each committee.
11) First Chamber: Distributed among fractions on the basis of agreement between their leaders. Second Chamber: Distributed proportionally among the larger fractions.
12) Exceptions: for example meetings of the permanent committee for Intelligence and Security Services and meetings dealing with letters to a committee or discussing procedural matters.
13) Proportional to their strength and depending partly upon tradition and partly upon agreement among party groups.
14) No specific rules. In practice they are distributed according to strength of the two main parties.
15) Nominated by the respective Bureau.
16) House of Lords: not applicable as public bills are usually taken in the Committee of the Whole House.

Public or Private Meetings

The third procedural aspect we analyse is committee *openness*, that is to say, the public or private nature of committee deliberations. The constitutional choice whether to arrange public or private committee meetings affects committee members' informational advantages. Public meetings dissipate some of the informational advantages committee members may acquire. Open committee meetings enable party leaders to monitor the performance of committee members and to enforce strict party discipline. Even if public meetings do not actually diffuse information, the mere fact that committees meet in private can give their members an advantage, as long as other members believe that important information resides behind the closed doors. Public meetings, on the other hand, turn committee meetings into potential advertising fora for committee members. The members might use the meetings for such reelection purposes as credit claiming, advertising, and position taking (Mayhew 1974). Open meetings are less likely to foster inter-party compromise (see Mattson forthcoming).

In all our parliaments, committee members and their substitutes as well as the authorised members of the parliamentary administrative staff may attend committee meetings. Apart from that, there are widely varied provisions relating to committee attendance. As is shown in Table 8.3, the public may, in principle, attend all committee meetings in Ireland, the Netherlands, and the United Kingdom, while these committees are in a legislative mode. In Britain, verbatim published reports of standing committee proceedings facilitate party oversight (Mény 1993:205). In Spain, committee meetings are open to the mass media, which, of course, makes them far from private even though the mass public cannot attend.

By contrast, committee meetings in the remaining parliaments are, in principle, not open to the public. But even among these parliaments, members of parliament who are not regular or substitute members of the committee may, at least under certain circumstances or in certain committees, also attend meetings. The rules vary, but in principle, all MPs may attend all committee meetings in Austria, France, Germany, and Greece. Denmark allows certain non-committee members to attend committee meetings under special circumstances. This concerns MPs whose bills are deliberated in the committee, and also MPs from the Faeroe Islands and Greenland when matters are discussed which particularly affect their constituencies. In Finland, Iceland, Luxembourg, Norway, Sweden and Switzerland committee meetings are closed to all but committee members and staff (or other authorised persons) at those times when the committees prepare legislation.

What we have described here is only the general pattern. In many cases, mixed rules are applied. In Portugal, for instance, committees themselves can decide to open their meetings to the public. In Greece, committee meetings are not

open to the public when considering legislation. However, according to a 1993 amendment to the 1987 standing orders, meetings are open to the public at the initial stage when only the general provisions of a bill are examined. The speaker can grant exceptions to this rule if the committee itself has requested a private meeting. The general rule, nevertheless, is that meetings are private. In the Netherlands, on the other hand, the general rule since 1980 has been that all committee meetings in the Second Chamber are public. However, there are exceptions, including meetings dealing with committee letters or procedural matters. Committee meetings in the First Chamber are open to all Members of Parliament but closed to the public.

Minority Reports

Some parliaments allow committee minorities to submit *minority reports*. Minority reports can serve as effective vehicles of information to the floor. Where minority reports are allowed, the floor may gain either several policy options or an assurance that the report represents a cross-partisan consensus. Some minority reports also include a statement of the minorities' rationale. If minority reports, as in Sweden, have the same form as a committee report and, therefore, are directly substitutable for the committee report or parts of it, members of the committee minority have added incentives to specialise and to take their tasks in committee seriously.

Our measure in Table 8.3 is Herbert Döring's indicator of minority rights to append committee reports. The variable has three categories: a) An indisputable right to attach minority reports exists, b) The right probably exists but practice is unclear or restricted by certain country-specific limitations, and c) The right does not exist (Döring 1994:343, table 1). The data have been complemented in collaboration with Thomas Saalfeld and the country experts.

The minority right exists in nine parliaments, while it does not exist in five. In the remaining cases, practice is unclear or the right restricted. Parliaments that do not permit minorities to submit reports include France, Ireland and the United Kingdom. Thus, in these parliaments, the majority party (and the government) has important prerogatives regarding agenda control and legislative initiatives (see the chapters by Döring and Mattson in this volume).

The detailed rules for submitting minority reports vary significantly even where the right exists. Let us describe the procedures in one case only for the purpose of illustration. In Sweden, any dissenting member (alone or in collaboration with other members, regardless of party) may attach a reservation to the committee report. It may deal with a small part only of the committee report or its full contents, including any committee recommendations. The minority report may contest the majority conclusions but may also (or solely) deal with their mo-

tivations, which may be critical for the subsequent implementation. The basic requirements for a minority report are that it should only deal with matters included in the committee report and that it should be interchangeable with the committee report. The latter means that if a minority wants to alter a paragraph of the committee report, it must formulate the minority report in such a way that the paragraph in question could be substituted. In the plenary voting procedure, the main alternatives are the majority and minority reports, rather than the original bill (see Rasch and Saalfeld in this volume on voting procedures).

Committee Stage in the Legislative Process

Our final procedural feature is the *committee stage in deliberation*. One reason for claiming that the American legislative committees are stronger than their British counterparts is that committee scrutiny takes place prior to floor deliberations (Olson 1994:58). The pre-floor stage, which is generally regarded as the crucial part of the legislative process on Capitol Hill, is the committees' domain. Since party cohesion is weak, the parties constitute *floor voting coalitions* rather than cohesive legislative organisations (see Cox and McCubbins 1993:4 et passim who challenge this description). It is reasonable to suggest that the role of committees increases if the major debate on a bill has not taken place before it is referred to them. Obviously, the "property rights" identified by the distributive perspective cannot be enforced if the major floor decision takes place before committees have an opportunity to deliberate.

In this volume, Herbert Döring shows that only Denmark, Ireland and the United Kingdom set a plenary stage before committee scrutiny (see also Table 8.3). However, the impact of this procedure varies. Committees in the British House of Commons are severely limited by previous floor deliberation. In the House of Commons, a bill is introduced by a minister at first reading, and published without debate. The general principles of the bill are discussed at the second reading. Then, major bills are usually referred to the Committee of the Whole House, whereas lesser legislation is considered by standing committees. A report stage follows, giving the plenary assembly a chance to debate the bill once again. By placing the committee stage after a general plenary debate, the House of Commons severely constrains the committees' ability to consider bills independently of the agenda of the majority party. As a result, committee considerations are restricted to details only. In Denmark, on the other hand, the *Folketing* does not constrain the committees in exactly the same way, since it sometimes refers bills to committees which it actually does not support.

Committee Powers

Legislative committees carry out a variety of tasks in the legislative process such as (a) scrutinising bills, (b) collecting information, (c) proposing amendments, and (d) recommending final decisions to the floor. For these purposes they are granted various formal powers. However, these committee powers vary considerably among parliaments. The powers of committees will be defined here as the role of the committees in the policy making process. We are interested mainly in the ability of the committees to influence or determine parliamentary outputs, thus emphasising the decisional functions of parliaments (Shaw 1979:384). Committee power can have two forms, negative and positive (Krehbiel 1988). Negative committee power is the ability to defend the status quo, despite the pressure for change from other actors, whereas positive power is the ability to influence policy changes (Smith and Deering 1990:9). Autonomous committees, as described in the distributive perspective, have both negative (e.g., refusing to report to the chamber on a bill and thereby blocking legislation) and positive power (e.g. proposing legislation that the chamber is compelled to consider).

In this section we examine a selection of different committee powers, both positive and negative: (1) the committees' right to initiate legislation, (2) their authority to rewrite bills, (3) the control of the committee timetable, and (4) their methods of obtaining information: specifically the rights to summon witnesses and documents. These formal powers are likely to have an important impact on the committees' ability to influence legislation, independent of such external actors as party leadership, chamber majorities, and the government (cf. Fenno 1973:xiii). Although our point of departure is the formal committee powers, in collaboration with country experts we also seek to take the enforceability of these formal rules into account.

Initiation of Legislation

There are obvious reasons for examining the committees' right to *initiate* legislation themselves. The ability to set the legislative agenda is a crucial source of power. Autonomous committees lend some support to the distributive perspective. The authority to initiate legislation and/or to organise the bills in such a way that the committees can reframe legislation, i.e. the ability to split or consolidate bills, are very important for the committees' proposal powers.

Only a few countries grant their committees initiative powers. In Austria, Iceland, Sweden and Switzerland all committees have the right to initiate legislation.[17] In Denmark, France, Ireland, the Netherlands, and the United Kingdom,

17 The Finance Committee and Bank Committee in Finland also have this right.

committees are not even entitled to split or consolidate bills. Some committees, however, enjoy particularly broad decisional (legislative) powers. This is one of the distinguishing features of Italian committees: they can legislate directly through the (in)famous decentralised procedure. After a bill has been approved by the committee of one chamber according to what is called the legislative procedure, the other chamber's approval can be given by a committee instead of the floor (Cotta 1994:68). In fact, the lion's share of legislation has been passed by committee and not by the floor. Note, however, that committees can only legislate if the bill is essentially uncontested. At any time, the government or a tenth of the members of one chamber can demand the normal floor procedure (Cotta 1994:63). Moreover, the Constitution (Art. 72) prohibits this procedure in matters of constitutional or electoral reform, on finance bills, in the ratification of international treaties, or in connection with the delegation of legislation (Mény 1993:199).

In Denmark, the Finance Committee can enact supplementary appropriations on behalf of the Folketing during the fiscal year. Cabinet ministers can apply for appropriations authorised by the Finance Act or for purposes not included there. The role of the Chamber is restricted to a retroactive annual confirmation of appropriations already granted by the committee. Also, the Europe Committee (formerly the Market Committee) provides ministers with a negotiation mandate on behalf of the Folketing prior to meetings with the European Council of Ministers (Mattson forthcoming).

In Sweden, the conjoint committee of the Standing Committees of Finance and of Taxation can decide on financial matters when the Riksdag is adjourned. However, this conjoint committee has never actually met and is regarded as an institution for extraordinary situations only. Moreover, the decisional powers of these committees will be abolished in a Riksdag procedural reform presently in process (Riksdagsutredningen 1993).

Committees with decisional powers of this kind are, however, exceptional cases. Apart from in Italy, it is not a dominant legislative pattern in any of the parliaments under study. Instead, committees are mainly restricted to an advisory role.

Revision of Bills

Committees empowered to *redraft bills* have major agenda power advantages. By rewriting bills, the committees take over the agenda setting powers of the original initiator. When the committees submit their reports to their parent chambers, their reports get precedence over the original bill. Redrafting laws is principally a committee function since plenary assemblies are ill-adapted to elaborate on detail due to their size. If committees cannot rewrite government

Table 8.4: Committee Powers

	Initiatives	*Authority to rewrite bills*	*Control of timetables*	*Hearings*		*Documents*
				Right to compel witnesses	*Openness*	
Austria	Right to initiate legislation (restricted)	Redraft of bill when substantial amendments are recommended	The directing authority of the plenary body with right of recall	Can compel [1)]	Always private	Can demand documents from government [2)]
Belgium	Right to consolidate and split bills, but no right to initiate legislation [3)]	Committees are free to rewrite government text	The committees themselves set their agenda; but right of recall by plenary	Can invite but not compel	Public or private	Can demand documents from persons/ institutions not belonging to Parliament
Denmark	No right to initiate, consolidate or split bills	House considers original government bill with amendments added	House may not reallocate bills to other committees	Can compel [4)]	Private	Cannot demand documents
Finland	Right to consolidate and split bills [5)]	Committees are free to rewrite government text	House may not reallocate bills to other committees	Can invite but not compel	Private	Can demand documents from government
France	No right to initiate, consolidate or split bills	House considers original government bill with amendments added	The directing authority of the plenary body with right of recall	Can compel [6)]	Always private	Can demand documents

	Initiatives	*Authority to rewrite bills*	*Control of timetables*	*Hearings*		*Documents*
				Right to compel witnesses	*Openness*	
Germany	Right to consolidate and split bills	Committees are free to rewrite government text	The committees themselves set their agenda; but right of recall by plenary	Can invite but not compel	Public or private	Cannot demand documents
Greece	Right to consolidate and split bills	If redrafted text is not accepted by the relevant minister, chamber considers the original bill	The directing authority of the plenary body with right of recall	Can invite but not compel	Private [7)]	Cannot demand documents
Iceland	Right to initiate legislation	Committees are free to rewrite government text	House may not reallocate bills to other committees	Can invite but not compel	Always private	Cannot demand documents
Ireland	Ad-hoc committees have no right to initiate, consolidate or split bills; the existing permanent committees do not consider bills	House considers original government bill with amendments added	Bills tabled before the committees automatically constitute the agenda	No right to arrange hearings nor to compel anybody to submit documents for ad-hoc committees; the existing permanent committees do not consider bills		Cannot demand documents [8)]

	Initiatives	*Authority to rewrite bills*	*Control of timetables*	*Hearings*		*Documents*
				Right to compel witnesses	*Openness*	
Italy	Not the committee as such but each single deputy is entitled to initiate legislation	Committees are free to rewrite government text	The directing authority of the plenary body with right of recall	Can invite but not compel	Public or private	Cannot demand documents
Luxembourg	Right to consolidate and split bills, but no right to initiate legislation [9)]	Committees may present substitute texts which are considered against the original text	The directing authority of the plenary body with right of recall	Can invite but not compel	Always private	Can demand documents from persons/institutions not belonging to Parliament
Netherlands	Lower House: No right to initiate, consolidate or split bills [10)]; Upper House: not applicable	House considers original government bill with amendments added	House may not reallocate bills to other committees	Can invite but not compel	Public or private	Cannot demand documents
Norway	Right to consolidate and split bills, but no right to initiate legislation	Committees are free to rewrite government text	The directing authority of the plenary body with right of recall	Can invite but not compel [11)]	Always private	Cannot demand documents

	Initiatives	*Authority to rewrite bills*	*Control of timetables*	*Hearings*		*Documents*
				Right to compel witnesses	*Openness*	
Portugal	Right to consolidate and split bills	Committees may present substitute texts which are considered against the original text	The directing authority of the plenary body with right of recall	Can compel [12)]	Normally private [13)]	Cannot demand documents
Spain	Right to consolidate and split bills	Committees are free to rewrite government text	The directing authority of the plenary body with right of recall	Can compel [14)]	Public and private	Can demand documents only from some individuals or government
Sweden	Right to initiate legislation	Committees are free to rewrite government text	The committees themselves set their agenda with no right for the plenary body to recall	Can invite but not compel	Public or private	Can demand documents from government institutions only
Switzerland	Right to initiate legislation	Committees are free to rewrite government text	The committees themselves set their agenda	Can invite anybody but not compel	Committees may declare hearings open	Can demand documents from government institutions
UK	No right to initiate, consolidate or split bills	House considers original government bill with amendments added	Bills tabled before the committees automatically constitute the agenda	No right	-	Cannot demand documents

Notes:

1) Anybody.
2) All committees can demand written reports (§ 40 para. 1 and 2 of the standing orders), whereas only investigating committees can demand documents in search for evidence (§ 33 para. 4)
3) This right originated from practice; according to the Standing Order they have no right to do it.
4) Ministers.
5) Two committees have the right to initiate legislation.
6) Civil servants.
7) Public only at the initial stage of committee work.
8) Exceptions: The Committee of Public Accounts has the power to send for persons, papers and records.
9) This right originated from practice; according to the Standing Order they have no right to do it.
10) Formally, the Chamber can decide to instruct a committee to consider if and how a non-government bill should be introduced (Standing Orders art. 109). This has happened only twice, without any result. Therefore, non-government bills are, in practice, always introduced by one or more MPs, which means that they are always private member bills.
11) In the Upper House the consent of the entire Chamber is needed in order to arrange a public hearing.
12) Civil servants and employees of public enterprises. Although some civil servants require ministerial authorization it is not customary to refuse attendance.
13) Hearings can be held in public, unless the person heard demands a private hearing. Normally hearings are not held in public.
14) Ministers.

bills, the legislature as a whole is therefore in a comparatively weaker position vis-à-vis the executive.

Herbert Döring has investigated the authority committees have to rewrite bills and his results are reported in this volume (Table 7.4) and displayed here in Table 8.4. As revealed in the table, not all committees have the discretionary powers to rewrite the law. Some can only recommend amendments. In the British case, committees undertake the task of discussing the text, article by article, line by line, with the opposition continually attempting to substitute its own proposals for those of the government. Sometimes, the parliamentary majority also wants to amend the bill, but, generally, the government controls a secure majority which has little or no interest in changing the Government Bill under consideration. The committees may amend Government Bills, but usually only with the approval of the government.

In several countries, governments may interfere in the committees' legislative preparation. British committees consider amendments, but cannot adopt them if the minister in charge of the bill does not accept them. A corresponding rule is applied in Greece. As a result, committee scrutiny in these two parliaments is limited to details only. Hence, the British government, on average, secures the passage of 96 percent of its bills. While amendments are often proposed on bills that the government promotes, the government almost invariably determines whether or not proposed amendments will succeed (Rose 1986:90).

The French government also strictly controls the committees' amendment procedures in order to avoid any disturbing changes to its bills. The government can reject all amendments in which funds would be depleted or public expenditure increased. This rule enables the government to reject virtually all amendments that it does not like (See Mattson in this volume).

Control of the Committees' Timetable

A third aspect of agenda powers regards the *control of the committees' timetables*. The less external actors can control the committees' timetables, the greater the committee autonomy. Committees which control their own timetables can decide when to introducing the committee report to the plenary assembly. To what extent do the committees control their own timetables and what possibilities do the plenary assemblies in the parliaments under study have to recall bills submitted to a committee? Herbert Döring develops this theme at length in his contribution to this volume and we therefore confine ourselves to reporting the data he has collected in Table 8.4. For most cases, country-specific particularities exist which may make comparisons difficult. However, the classification on this ordinal scale (varying from "the directing authority of the plenary body with right to recall" at one extreme to "the committee themselves set their agenda and the ple-

nary assembly cannot recall business" at the other) was done in careful collaboration with country experts.

Information Acquisition: Hearings and Documents

The remaining powers to be investigated here are informational. They concern the committees' powers to gather information when they prepare bills. We will compare the committees' right to *summon witnesses and documents*. Obtaining information independently is an important part of committee work. Parliaments can only play distinctive and deliberative roles if they can independently obtain information and expertise from the government. The informational perspective on legislative organisation emphasises the difficulty of knowing the precise effects of legislation *ex ante*. It also stresses asymmetric information among the legislators. Members of committees sometimes gain tactical advantages over outsider colleagues because they are better informed. This is possible because of division of labour and specialisation within parliamentary parties, but it is not the only reason. Through membership in a committee, an MP often has easy access to relevant information through formal committee hearings, relationships with interest groups and executive agents in issue networks, and also from the party resources to which expert status helps him gain access (see Damgaard in this volume). Moreover, committee membership or chairs often entitle legislators to certain resources, such as expert staff assistance and/or rights, which puts them at an advantage compared to colleagues outside the committee.

Most committees in modern legislatures (including all parliaments under study here) have professional staff support, although the generosity of such support varies greatly. The standing committees of the US Congress stand at one extreme (even after the Republican reforms), with a vast body of professional staff. In smaller European countries, even permanent legislative committees may have only a single secretary or other staff member, or several committees may even share a single staffer. In some countries with limited institutional resources, parliamentary committees may borrow staff from the cabinet office or from cognate departments in the executive branch. Naturally, such practices are unlikely to enhance the legislature's ability to serve as an independent watchdog vis-à-vis the same agencies.

The methods of obtaining information vary. The Danish committees apply a rare formula of gathering information from the government: committee questions. Committees submit questions to ministers while they scrutinise bills or draft resolutions. The minister is requested to send a written answer or to attend a committee meeting for oral answers. Although these questions are formally put by the committee, in reality any committee member can usually forward a question through the committee (Damgaard 1994:50; Jensen 1994). Even if these proce-

dures are unique to the *Folketing*, permanent committees in other parliaments also establish channels to the corresponding ministry, even if this might be in other more or less formalised ways. A reluctant minister usually risks running into trouble in parliament, should he or she not inform the committee properly. Exchanges of information between members of government and parliament often take place informally and cooperatively.

Nevertheless, let us focus on the formal rights allocated to committees to compel witnesses and to call for documents while preparing legislation.[18] These ultimate rights can be exercised if the government fails to hand over important information voluntarily. [19]

Hearings are meetings in which committees receive testimony from witnesses. Government officials, delegations from interest groups, independent experts, or others can be summoned by the committee to give their views on the matter under scrutiny. Their prime function is to inform the committee members about policy considerations, but they can also serve as a means of building legislative majorities and attracting public opinion. The latter functions are, of course, facilitated if hearings are held in public.

Table 8.4 shows in which parliaments the committees can compel persons to testify. This right varies across potential witnesses. The committees with the strongest rights to compel witnesses to testify include those in Austria, which can summon any citizen. In Denmark and Spain, the right to compel witnesses is restricted to ministers only. In eleven parliaments, committees may invite witnesses as they prepare legislation, but cannot force them to attend. However, even if appearing in a committee for testimony is not compulsory, it rarely happens that invited witnesses refuse to attend a hearing in any of the countries. Only British and Irish committees may not even invite witnesses.

Table 8.4 also reveals whether the testimonies are given in public or private meetings. Several parliaments have only recently established public hearings (e.g., Belgium in 1985, Finland in 1991, France in 1991, Greece in 1993, Sweden in 1989). This indicates an increased interest in hearings. Moreover, the number of public hearings has risen in parliaments where they have long been permitted. In Germany, for instance, hearings were exceptional until the 1970s, but since

18 Please note that we are not dealing here with the committees' rights in connection with investigatory tasks but have constrained ourselves to the rights of committees to obtain information for the purpose of preparing legislation.

19 A note of caution: Since transparency varies between national bureaucracies, the need for compelling powers also varies. The powers to compel witnesses and documents are least important in countries where most documents are open to all citizens from the start. Nevertheless, these powers are important anyway, since no country makes all documents open to the public.

then their number has increased. The same goes for Italy, where the 1971 reform of Assembly regulations allowed more American-style hearings. As a result, many more hearings are now conducted (Mény 1993:207).

An alternative method of gathering information is by calling for documents from private or public institutions or citizens. The right is restricted when a committee lacks authority to demand the documents and/or lacks the means to punish violators. It is also restricted when the set of persons or institutions obliged to disclose documents is limited. Table 8.4 shows which committees can extract documents and, in some cases, from whom they can compel submission. In about half of the set of countries (nine), the committees cannot compel documents at all, whereas in the other half, the committees can at least compel documents from the government.

Multidimensional Analysis

As a final step in our analysis, we examine the intercorrelations between different features of parliamentary committees. First, we look at the relationships between various dimensions of committee power. Following that, we explore the relationships between committee power on the one hand and structural and procedural characteristics on the other. In this analysis, we make use of different statistical techniques, but at the same time try to keep the exposition as simple and accessible as possible.

Our interest in the correlations between different committee features is driven partly by general curiosity and partly by more focused theoretical expectations. On the former score, we have little structural information about systematic differences in committee structure, procedures, and powers across European parliamentary democracies. Legislative specialists generally consider certain legislatures (e.g., Germany) to have more powerful committees than others (e.g., Britain), but such conclusions tend to be drawn after only brief comparisons, and with little specificity. Our data allows us to make more specific and detailed comparisons and analyses.

Equilibrium Institutions

We can, to some extent, move beyond inductive comparisons by virtue of the theoretical guidelines provided by the neo-institutional literature on legislative organisation. Specifically, this literature has two aims: to account for the effects of legislative organisation (*institutional equilibrium*) and to explain its origins (*equilibrium institutions*). In other words, the different perspectives in the neo-institutional literature on legislative organisation lead us partly to expect different

behaviours within similar institutions and partly to expect different forms of legislative structure to be correlated. Since our data are purely institutional, rather than behavioural, we cannot test the behavioural implications of these perspectives (institutional equilibrium) in any meaningful sense. We can, however, seek to draw out and test some of the implications of these models concerning committee organisation itself (equilibrium institutions).

If the *distributive* perspective is correct, then strong legislative committees should be correlated with a system of enforced property rights. Committees that serve the functions this perspective identifies should have well-established rights and powers within well-defined jurisdictions. This committee structure should coexist with a structure in which the plenary fora grant committee deference and practice various forms of universalistic behaviour. The distributive perspective attributes universalistic norms of reciprocity and mutual deference to legislators which then sustain the powers of committees. We would also expect strong committees to coexist with relatively weak political parties unable to crack committee dominance.

The *informational* perspective, on the other hand, suggests that committee powers should be a matter of delegation rather than property rights. At the same time, we would expect to see clear evidence of committee dedication to expertise and information collection. This perspective suggests that we should look for evidence of efforts to strengthen information collection and privacy in committees. Those committees conforming to these expectations should also be those capable of wielding power vis-à-vis the floor. The less biased these committees are, the more influential they should be within the parent body.

Finally, the *partisan* perspective suggests a very different relationship between committee and party influence. In this view, strong committees are not antithetical to, nor substitutes for, strong parties. On the contrary, committees are the handmaidens of political parties and their leaders, and we should expect the strength of committees to covary positively with that of political parties. Strong parties should delegate authority to strong committees, particularly in key policy areas requiring extensive coordination of members' interests.

Committee Powers

Let us now return to the empirical record and examine first the relationships between different aspects of committee power. Table 8.4 has identified six related variables: (1) whether committees have the authority to initiate legislation, (2) whether they can rewrite bills assigned to them, (3) what control they have over their own timetable, (4) whether they have the right to summon witnesses, (5) the privacy of such hearings if they occur, and (6) whether committees can similarly demand documents from public or private sources.

Most of these characteristics, as well as the majority of our structural and procedural features, are ordinal variables on which our cases can take only a relatively small number of possible values. Given the limited number of parliaments in our data, our opportunities for rigorous statistical analysis are therefore limited. The reader should keep this limitation in mind during the remainder of our analysis.

We begin by examining the simple bivariate correlations between our different measures of committee power. Given the ordinal nature of most of our variables, we first examine the Spearman rank correlations between them. The results can be inspected in Table 8.5. As we see, the bivariate correlations between different measures of committee power are generally positive. Only two rank correlations are negative, and both are very weak. On the other hand, few of the positive correlations are strong enough to meet conventional significance standards. The two strongest correlations are those between initiative powers and redraft authority on the one hand, and between initiative powers and the right to summon documents on the other. In other words, a first glance at the data tells us that different aspects of the committees' authority to redraft legislation are highly correlated and, specifically, that committees enjoying great powers with respect to the introduction of new legislation are also likely to have other sources of authority. Secondly, committees that have a greater authority to initiate or amend bills also tend to enjoy a greater power to summon documents from public and private sources.

Table 8.5: Rank Correlations of Committee Powers

	Initative *Table 8.4*	*Rewrite Authority Table 7.4*	*Timetable Control Table 7.5*	*Compel Witnesses Table 8.4*	*Summon Documents Table 8.4*
Initative	1	.64***	.30	.14	.40*
Rewrite Authority		1	.20	-.02	.29
Timetable Control			1	.23	-.01
Compel Witnesses				1	.22
Summon Documents					1

Number of cases N=18

Note: Entries are Spearman rank correlations

significance levels < 0.01 = ***
0.01-0.05 = **
0.05-0.10 = *

These correlations are hardly counter-intuitive. In particular, there is little reason for surprise that the two measures of drafting authority should be correlated. It is more interesting, perhaps, that drafting authority is associated with a greater power to summon documents. This result suggests a general association between the power of committees in the legislative process and their access to privileged information and, hence, presumably expertise. The remaining correlations are generally too weak to be given much weight in our interpretation.

In order to extract more information concerning the interrelations between different measures of committee powers, we subject the same variables to an exploratory factor analysis. Given the limitations of the data, these results should be interpreted with even greater caution than the previous analysis. Table 8.6 shows the results of this factor analysis, in which we have utilised an orthogonal (varimax) rotation method. This rotation method constrains the factors that result to be orthogonal (unrelated) to one another, which in our view aids presentation and interpretation.

Table 8.6: Factor Analysis of Committee Powers

	Rotated Factor Matrix	
	Factor 1 *Drafting Authority*	*Factor 2* *Agenda Control*
Initative	.83	.30
Rewrite Authority	.86	.10
Summon Documents	.68	-.08
Timetable Control	.03	.85
Compel Witnesses	.10	.70
Eigenvalue	2.08	1.12
% Variance Explained	42	23

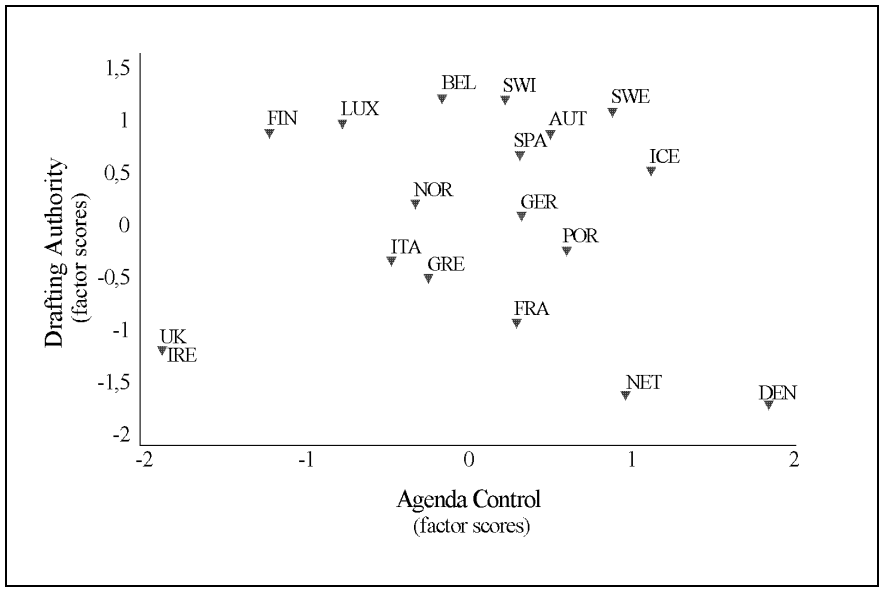
Note: Entries are factor loadings. Varimax rotation. N=18

In the factor analysis presented in Table 8.6, we have entered the same five powers measured discussed above. The factor analysis disclosed two factors with an eigenvalue greater than one. For the final solution presented in Table 8.6, these factors have been rotated as noted above. The two factors are easily distinguishable and lend themselves to a fairly straightforward interpretation. Both the authority to rewrite bills and to initiate legislation load strongly and positively on the first factor, along with the power to summon documents from public and private sources. The other two original variables, the committees' right to control

their own agenda and to compel witnesses to testify, load just as strongly and positively on the second factor.

It thus appears that committee power is two-dimensional. We interpret the first factor as reflecting the *drafting authority* that committees enjoy, since the two strongest loadings clearly relate to this facet of committee authority. It is somewhat surprising, perhaps, that the right to summon documents is so clearly associated with this, rather than with the second, factor. We refer to the second factor as *agenda control*, since it seems to have to do with the committees' ability to control their own proceedings.

Figure 8.1: Dimensions of Committee Power



Agenda control:

AUT	BEL	DEN	FIN	FRA	GER	GRE	ICE	IRE
0,5	-0,17	1,84	-1,23	0,29	0,32	-0,25	1,12	-1,89
ITA	LUX	NET	NOR	POR	SPA	SWE	SWI	UK
-0,48	-0,78	0,96	-0,33	0,6	0,31	0,88	0,22	-1,89

Drafting authority:

AUT	BEL	DEN	FIN	FRA	GER	GRE	ICE	IRE
0,87	1,21	-1,71	0,88	-0,93	0,09	-0,5	0,52	-1,19
ITA	LUX	NET	NOR	POR	SPA	SWE	SWI	UK
-0,34	0,97	-1,62	0,21	-0,24	0,67	1,08	1,2	-1,19

Our next question is how these two dimensions of committee power differentiate between the parliaments examined in this volume. In Figure 8.1, we have plotted the position of each country in the two-dimensional space generated by these two factor scores. The plot reveals some identifiable clusters of parliaments. Britain and Ireland score low on both dimensions of committee authority, in that legislative committees in these countries neither have much authority to affect legislation nor extensive control of their own agenda. Finland and Luxembourg combine high drafting authority with relatively modest agenda control. Denmark and the Netherlands, on the other hand, exhibit high agenda control but much less committee power to initiate or rewrite legislative bills. Finally, there is a broad cluster of countries which combine moderate to high values on both factors. Iceland and Sweden seem to be the best examples of parliamentary committees that enjoy relatively high autonomy in terms of drafting authority as well as agenda control. Italian and Greek committees, on the other hand, appear to be the weakest in this cluster and thus most similar to the Westminster tradition in their lack of autonomy. The position of the Italian committees is among the most surprising results of our analysis.

Structures, Procedures, and Power

The final part of our data analysis consists of an examination of the relationships between committee powers as they have emerged from our factor analysis and the structural and procedural features discussed earlier in this chapter. For this purpose, we have retained the factor scores obtained from the analysis above and entered them into a second-stage factor analysis with a variety of structural and procedural variables. For bicameral legislatures, the data pertain to the lower (popular) chamber only. We have used the same factor analysis technique as above, again including a varimax rotation. We present the results in Table 8.7.

Once again, the results are for the most part readily interpretable and noteworthy. We obtain four significant factors, and interestingly the first two are associated with each of the two dimensions of committee power, respectively. That is to say that the structures and procedures of committees are significantly related to the powers they enjoy within the larger legislatures. The first factor captures drafting authority from our previous analysis, which is associated strongly with closed committee meetings. It is also associated with minority reports to the floor, committee deliberation prior to the major floor debate and proportional chair allocation. All of these features are once that we expect to be associated with the committees' ability to effectively transmit information to the floor. We therefore refer to this factor as *information control*. The second factor relates to our measure of agenda control above. The number of specialised committees loads strongly on this factor, whereas committee stage prior to the floor debate

and proportional allocation of chairs load less strongly. We call this factor *delegation*, as all of these structural and procedural features seem to be consistent with effective delegation and specialisation.

Table 8.7: Factor Analysis of Committee Powers, Structures, and Procedure

	Rotated Factor Matrix			
	Factor 1 Information Control	*Factor 2 Delegation*	*Factor 3 Lack of Internal Control*	*Factor 4 Minority Protection*
Drafting (F1)	.96	-.06	.05	-.05
Meeting Openess	-.79	-.14	.37	-.21
Minority Reports	.49	.25	.23	.53
Committee Stage	.47	.50	-.21	.60
Agenda (F2)	-.01	.84	-.13	.05
Specialisation	.07	.92	.06	.03
Subcommittees	.08	-.07	.90	.00
Chair Selection	-.25	.02	.74	.33
Membership	.02	-.03	.18	.66
Chair Allocation	.43	.47	.21	-.48
Eigenvalue	3.05	1.80	1.53	1.18
% Variance	31	18	15	12

Note: Entries are factor loadings. Varimax rotation. N=18

Factor three in the second-stage analysis is only weakly and indeed negatively correlated with either dimension of committee power. Instead, plenary control of chair selection and our subcommittee variable load most strongly on this factor, along with a more modest association with open committee meetings. This factor is in our opinion interpretable as *lack of internal control*. We note with some surprise the association of subcommittees with this factor, as one might expect subcommittees to represent effective vehicles of specialisation within committees. As the example of the recent U.S. Congress suggests, however, powerful subcommittees may easily erode the internal cohesion of the committee as a whole. Finally, the last second-stage factor associates weakly the existence of membership restrictions with committee stage prior to the floor and minority reports. This factor is also weakly related to majoritarian allocation of chairs. The last factor is relatively insignificant, but we have interpreted it as *minority protec-*

tion due to the high loading on membership restrictions, committees stage and minority reports.

This second-stage factor analysis clearly suggests that structural and procedural characteristics of parliaments are not randomly distributed. Rather, there are meaningful relationships between these features and the powers that committees enjoy. We have previously established that committee powers can be subdivided into two dimensions: drafting authority and agenda control. We can now document the fact that different structural and procedural designs go with different dimensions of committee power. The most significant factor that emerges from our second-stage analysis impresses on us the importance of information in committee deliberation. The second factor similarly suggests the importance of delegation and specialisation.

These concepts, of course, are associated with central and competing themes in the literature on legislative organisation. Roughly speaking, the first factor confirms the informational perspective on legislative organisation. To the extent that committees are strong in the ways we have previously established, they are organised so as to facilitate the collection and transmission of information not otherwise available to the floor. Specifically, such forms of legislative organisation foster the type of committee authority we have previously called *agenda control*. The second factor brings home the fact that committee specialisation and drafting authority go hand in hand. While this finding is in no way incompatible with the informational perspective, it may even more strongly suggest a distributional perspective in which "property rights" to various policy areas are a cornerstone.

Our data do not permit any clean test of the partisan perspective on legislative organisation. According to this view, we would expect strong committees to coexist with, and specifically serve, strong and cohesive majority parties. Unfortunately, we have no direct measure of party dominance. A casual inspection of our results suggests some scepticism. Britain and Ireland, with their traditions (particularly in the former case) of strong majority parties, are at the low end of both dimensions of committee power. Conversely, Denmark, Iceland, and the Netherlands, with highly fragmented party systems, have the three highest scores for agenda control. On the other hand, Austria and Sweden combine powerful committee with stable party systems in which a single party has long played a dominant role. Our ruminations on this topic therefore remain inconclusive.

Conclusion

By broad consensus committees are considered one of the most significant internal organisational features of modern parliaments. Members of various committees are among the most important privileged groups in legislative settings. Contemporary neo-institutional theories of legislative behaviour have paid a great deal of attention to the rationale and functions of these legislative committees. In this chapter, we have examined the plethora of committee types that exist in modern European parliaments. We have, ourselves, been struck by the complexity and diversity of such arrangements. It is obvious to us that the analytical literature has only managed to scratch the surface of committee arrangements and that many of the critical questions have not yet even been asked, much less answered.

In this chapter, we sought to survey West European parliamentary committees by focusing on their structures, procedures, and powers. Ultimately, our main interest has been in the third of these themes, and we have slanted our discussion of structures and procedures towards the implications of these characteristics for committee powers. We have found that committee powers seem to fall into two dimensions: drafting authority and agenda control. Each of these dimensions is, in turn, associated with a set of structural and procedural features which foster information transmission and effective delegation, respectively. Our results are, in the main, pleasing in their interpretability. They are also consistent with leading perspectives on legislative organisation, though they do not permit us to make any critical and clear-cut test of competing propositions derived from these perspectives. The results might rather suggest the complementary aspects of different perspectives on legislative committees. As our data have shown, European parliamentary committees differ greatly, and their diversity may reflect the variety of functions these committees were meant to serve. At the same time, however, we are particularly struck by the importance our results attribute to the role of information acquisition and transmittal through parliamentary committees.

Moreover, we believe that we can, indeed, gain significant new insights into equilibrium legislative institutions by pushing ahead with comparative institutional studies of parliaments in Europe and other democratic societies. One important next step would be to relate the institutional characteristics we have mapped to the behavioural patterns of legislators in order to understand the importance of different rules and procedures.

Another prominent issue which this volume addresses is the implication of different committee institutions for majority and minority rights in legislatures. Ultimately, the partial insights offered by this analysis can help us understand the

conditions under which parliaments can be most effective. For parliamentary democracy to be realised, that knowledge is critical.

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9

How Parties Control Committee Members

Erik Damgaard

1. Introduction

Rational choice theory with its assumptions of methodological individualism and self-interested behaviour is eminently suited to analyses of legislative behaviour in the United States. It is also applicable to Western Europe even if the parliamentary institutions are quite different, especially in terms of party. Ultimately, legislative behaviour is of course individual behaviour, but such behaviour is nevertheless much more constrained by parties in Europe than it is in the United States. In Western Europe parliamentary parties are usually very cohesive and may therefore in many respects be treated as unitary collective actors, which is not really the case in the U.S.

Modern political parties may be facing new challenges in Western Europe, as suggested in the more recent "party government" literature (e.g. Rose 1969; Castles and Wildenmann 1986; Katz 1987), but they are still going strong almost everywhere in Europe, even if their electoral fortunes often differ dramatically. The idea of party government also had a prominent position in the classical American literature on parties and legislatures (e.g. Schattschneider 1942; Ranney 1954; Kirkpatrick 1971), but parties did not figure prominently in the "textbook Congress" (Shepsle 1989) literature, and they were almost neglected in rational choice analyses of Congress in the 1960s and 1970s (Shepsle and Weingast 1994).

David Mayhew (1974) assumed that, basically *individual* legislators wish to be reelected and that they adjust their behaviour to that fundamental goal. Richard Fenno (1973) took a somewhat broader view of the goals of committee members, emphasising not only reelection but also "influence" and "good policy". But neither Mayhew nor Fenno lists party as a major concern of U.S. legislators. In Western Europe, however, it is rather obvious to assume that MPs also have a strong desire to advance within the hierarchy of party positions, as far as they do not already belong to the fairly small group of top leaders. Consequently, ra-

tional-choice inspired analyses of individual parliamentary behaviour in Western Europe should be based on the assumption that MPs want, at least, to be re-elected and to advance within their parties.

Interestingly, the most recent rational-choice literature on the U.S. Congress has apparently "rediscovered" parties as important institutional constraints on the behaviour of the individual MC (cf. the survey in Shepsle and Weingast 1994). Thus Gary W. Cox and Mathew D. McCubbins (1993:126) state that:

> Reelection remains important, even dominant, but its importance can be modified significantly by the desire for *internal advancement*-defined both in terms of a party's advancement to majority status and in terms of the individual MC's advancement in the hierarchy of (committee and leadership) posts within her party.

In a subsequent article, Cox and McCubbins to some extent compare the U.S. Congress with parliamentary systems and rightly note: "Majority parties in the U.S. Congress cannot compete with parliamentary parties in the strength of incentives they can marshall, but the logic of their design is in key respects the same" (Cox and McCubbins 1994:220). Their arguments are quite persuasive, so perhaps there is an emerging consensus on the view that the importance of parties in the two systems of government is only a matter of degree?

Such a conclusion would be premature, however, because parties in Western Europe must also be regarded as collective, unitary actors in many respects. European parties are not only constraints on individual legislator behaviour but also important actors in their own right.

Party goals may be phrased in terms of "office-seeking" and "policy-seeking" motivations (Laver and Schofield 1991). Parties as collective actors usually want to form governments, alone or in coalitions, and usually they also want to determine or at least influence official policy decisions. For the present purpose we can also assume that parties, and especially party leaders, are normally very interested in unitary or cohesive parliamentary party group behaviour (Sjøblom 1968) in order for the party to be effective, no matter whether office or policy is at stake.

If the basic motivations of individual MPs and parties are conceptualised in this way, it follows that MPs seeking reelection and internal advancement are constrained in their behaviour to the extent that party groups and their leadership, pursuing party goals, control these reelection and/or promotion opportunities.

Comparative legislature textbooks (e.g. Loewenberg and Patterson 1979) rightly observe that parliamentary parties and permanent committees are two very important organisational structures in most parliaments, although the relative significance of the two structures differs a great deal across legislative systems. A comparative in-depth study of committees in eight legislatures (United States, It-

aly, (West) Germany, the Philippines, Canada, United Kingdom, India, Japan) concluded that the permanent committees in Italy and Germany were relatively powerful, although it also recognised the variable importance of party control. Of course the committees of the U.S. Congress were found to be by far the strongest of all the systems under study (Lees and Shaw 1979). A study of the Nordic parliaments found that albeit their committees were characterised by substantial specialisation, they also had a very effective party leadership (Arter 1984; see also Damgaard 1992).

On balance, parliamentary parties seem to be the most important components of parliaments in Western Europe, given the overall constitutional arrangement of executive-legislative relations, the level and quality of staff support, the informational and technical equipment etc. After all, it is the parties that form governments and appear to direct parliamentary work. However, governments can only control the legislative decision-making process if the governing parties behave, more or less, as unitary actors within and outside of the committee rooms. Minority cabinets may not be in a position to do that, even if their parties are disciplined.

Individual MPs usually have numerous attachments to constituents, interest groups, private firms, professional associations, public institutions, etc. In addition to being members of a party group, they are normally also members of one or more specialised parliamentary committees and perhaps to a certain extent even advocates of the interests associated with the committees in question, which may be perfectly compatible with the possible attachments of MPs just mentioned. The organisation and working of the committee system are therefore of considerable importance, especially if the committees are endowed with strong powers in the legislative process.

Permanent specialised parliamentary committees of some kind exist in all countries under study, although non-specialised committees are also used in the process of law-making, particularly in the United Kingdom. The number of permanent, specialised committees varies a great deal, however, from 6 in France and Greece to 25 in Austria. The chapter by Mattson and Strøm in this volume gives a cross-national synopsis as of 1990, whereas basic features are highlighted here with a view to basic changes over the last two decades. In the Netherlands the number of permanent specialised committees was reduced from 29 to 15 in 1994. The low number of committees in France resulted from a deliberate attempt to crush the power of the many permanent committees in the previous Fourth Republic "assembly regime" that prevented strong governments. In Greece, which historically had many committees, the standing orders of the new democratic parliament were inspired by the French model, limiting, too, the number of committees in the Greek chamber to 6.

The existence of only a few permanent committees, as in France, indicates that the level of specialisation is not very high at the committee level, which, however, does not preclude high specialisation at the level of individual MPs. Evidence generally suggests that the jurisdictions of permanent committees in Western Europe correspond, by and large, to the division of tasks between national government departments, although a committee may sometimes deal with more than one ministry and vice versa.

In most countries, the permanent specialised committee systems were introduced a long time ago. In the U.K., Ireland, Portugal, Spain, Sweden and Denmark they were first established in the 1970s or 1980s, however, Switzerland followed suit in 1991, and Ireland introduced permanent specialised committees in 1993. The general development tends to confirm Joseph LaPalombara's statement that "...if the national legislature is to be a significant political factor, then it must have specialized committees of limited membership and considerable scope of power" (LaPalombara 1974:123).

The main rule is that members of committees are appointed for a full election period, that is, for 3, 4 or 5 years if no "premature" election is held. Only in Greece, France, Denmark and Iceland are members appointed for a single legislative session only, that is for one year, but reappointments are possible and likely to occur, which means that the real difference may not be that significant. With the exception of France, Norway and (in practice) Sweden, MPs can be members of more than one committee.

In all countries, some form of proportional representation of parties in committees is the rule. This also means that a small party may only have a single member on a committee, and that a very small parliamentary party may not be represented on committees at all.

The committees are generally used for preparation of legislative decisions and/or control of governmental actions. Only in Italy and, after a recent change of the standing orders, Spain can permanent committees actually legislate without debate and decisions in floor meetings. Apart from that, the powers, organisation and procedures of committees vary across countries. However, the detailed variations in these respects are not the concern of this article, the general purpose of which is explained below.

2. The Research Problems

Without claiming that parliamentary parties always behave as unitary actors (which they do not, cf. Laver and Schofield 1991, appendix A), the purpose of the present chapter is to study how parliamentary parties may control or constrain

the behaviour of their committee members, and thus reduce or prevent committee autonomy to secure the prevalence of party goals in decision-making. Analytically, three main questions relating to the instruments available to the party leadership seem relevant.

First, how are MPs appointed to parliamentary committees? This question is important because appointment procedures may help to select particular MPs and possibly thereby to control the behaviour of committee members. The crucial question is about the role of the parliamentary party leadership in the appointment process versus the committee preferences of individual MPs of the party: Do member preferences or political leadership concerns ultimately determine committee assignments?

Second, what is the interplay between committee members and their parties in initiating and processing legislative items? This question relates to the phase at which proposals are considered in committees as well as to other activities performed by committee members. The main issue is the degree to which committee members are constrained by their party leadership in committee behaviour. To put it a bit too bluntly: Are committee members free agents or merely party delegates? The answer is of course less straightforward and more complex.

Third, can and does the party leadership apply sanctions, if their committee members do not conform to the party line and if so which ones? Whereas the first question relates to leadership control through selection of committee members, and the second to the behaviour of MPs in day to day committee work, this third question deals with the influence of the leadership through the application of more or less severe punishments of recalcitrant MPs.

It goes without saying that such potential sanctions may work through the "rule of anticipated reactions". If committee members know what may happen in cases of deviant behaviour, they might not want to deviate from the party line. An MP behaving rationally may calculate that on average or in the long run conformity serves his or her interests (especially in terms of reelection and promotion) better than defection.

To this should be added that sanctions can also be "positive" in the sense that "good" party behaviour of MPs may lead to promotion in the party hierarchy both inside or outside parliament. Conceivably, positive sanctions may be far more important than punishments from a party control perspective.

The three main questions mentioned above are not well-researched, but certainly very relevant and important for an understanding of how parliaments work in Western Europe. There are some severe problems in terms of the availability of reliable data and information on most scores, but even slight improvements of our collective knowledge should be welcomed. We know that parties are crucial actors in all Western European countries, whereas the parliamentary committee

systems are somewhat different (cf. Döring 1994). Basically, we want to know whether, and if so how and to what extent, parliamentary party groups and/or their leadership control the behaviour of committee members.

The next three sections focus on the questions listed above: appointment to committees, interplay between committee members and party groups, and possible sanctions applied to committee members.

3. Appointment of Committee Members

There are several ways of formally appointing committee members, for example appointment by a "directing authority", a "special committee of selection" and a decision by "parliament" (IPU, Parliaments of the world 1985:629). These, and other, formal procedures are used in various countries, as shown in Table 9.1.

Table 9.1: Formal Procedures in the Appointment of Committee Members [1)]

Directing Authority	*Special Committee of Selection*	*Parliament*	*Other*
Greece	Finland	Belgium	Austria
Italy	Ireland	Denmark	Portugal
Netherlands	Norway	France	Spain
Switzerland	UK	Germany	
		Iceland	
		Luxembourg	
		Sweden	

1) As explained in the text the real decisions on committee appointments are, in fact, made by the parliamentary parties.

From a realistic point of view, however, the formal procedures in Western Europe are less interesting than what actually happens in practice. One way or another, the real decisions on committee appointments are, in fact, made by the parliamentary parties. In Austria, Portugal and Spain the formal rules even prescribe that party groups appoint the members of the parliamentary committees. Thus, formally or informally, the parties are crucial in this respect in all 18 parliaments.

The interesting question, therefore, is how parliamentary parties actually go about in appointing their committee members. How do they deal with the possible tensions between what individual MPs want, on the one hand, and what the

party group, or its leadership, thinks is desirable in terms of committee assignments on the other?

Generally the available evidence shows that the committee preferences of MPs are somehow taken into account before decisions on committee assignments are made. Usually MPs have the opportunity to explicitly state their committee preferences. If that is not the case, the leadership usually bases assignment decisions on considerations that include informal information on member preferences.

It is equally clear, however, that the parliamentary party group, and especially its leadership, normally has the upper hand in committee assignment decisions. The leadership often either nominates party candidates for committee positions or has the power to approve or reject proposals. Where this is not the case, a final decision to solve possible disagreements is taken in a party group meeting. Among the 18 countries covered, Switzerland appears rather unique in that the party leadership plays a very subdued role in the committee assignment process. The general conclusion is obviously that the preferences of individual MPs are never the sole basis for committee assignments. In all cases, other important factors also play a role.

There are at least four such general factors other than member preferences that influence party decisions on committee assignments. First, member preferences are often incompatible. The more prestigious committees attract interest from more candidates than can be accommodated by the limited number of committee posts available. Hence, the party groups have to make collective decisions on the basis of some other criterion to solve the problem.

Second, newcomers are generally in a weaker position than MPs with high seniority. New members often have to wait for interesting openings in committees. Thus, incumbency and seniority are fairly universal principles when applied with respect to committee membership.

Third, parties are generally concerned with the special competence, knowledge or expertise possessed by competing candidates for committee seats, although party loyalty also plays a role. But specialised knowledge is not enough to secure membership of desired committees. For example, all MPs of a "farmers party" cannot possibly sit on the agricultural committee, some of them have to deal with, say, church or defence matters.

This leads to a final and important point, which is that parties have to think about recruitment to all committees, including those which are not very attractive to most members. Somebody simply has to sit on a given committee whether he or she likes it or not. Membership of a certain committee can sometimes be a party duty rather than an individual desire. Newcomers, in particular, know this pretty well.

In sum, if the parliamentary party leadership is not in charge of committee assignments then it seems, generally, at least to heavily influence appointments to committees. Member preferences are taken into account everywhere, but the party is also concerned with the seniority, loyalty and expertise of its MPs as well as with the need to satisfy the systemic demands on the party group as a whole. In addition, geographical and intra-party group considerations play a role in a number of countries, including Germany, Austria, Belgium and Norway.

The selection of committee members is important from a leadership perspective, but the assignment process does not necessarily ensure that committee members behave as the parliamentary party leaders might like them to do.

4. Work in Committees

It is almost trivial to state that party is the main "focus" of representation in Western Europe. But, nevertheless, two questions are relevant in this context. First, although party is presumably of overriding importance, could it not be the case, as Rinus van Schendelen (1976) suggested for the Netherlands (cf. Andeweg 1992:173), that individual committee members as specialists or experts actually determine the policy positions of the party group? Second, MPs might not look exclusively at the policy principles and interests of their parties. Could they not also cater for other interests, at least in cases where such interests do not conflict with party interests, perhaps to preserve or enhance reelection opportunities? Extreme cases along these lines would indicate that committee members have considerable autonomy vis-à-vis their parties. Unfortunately, the two questions can only be answered tentatively on the basis of the evidence collected, as there is no hard data but only summary judgements by national experts.

The first question was phrased in such a way as to check whether committee members, although representing the policies of their respective parties, nevertheless heavily influence the policy positions taken by their parties as experts or specialists. In some countries the answer is definitely "yes", in others it is definitely "no". Although evidence is rather soft and less clear-cut in a further number of countries, at least a tentative classification can be proposed, as shown in Table 9.2 .

Table 9.2: Tentative Classification of Countries in Terms of the Degree of Influence of Committee Members on Party Positions [1)]

Low:	*Medium:*	*High:*
France	Belgium	Austria
Greece	Denmark	Iceland
Ireland	Finland	Italy
Portugal	Germany	Netherlands
Spain	Luxembourg	Norway
United Kingdom	Sweden	Switzerland

1) As explained in the text this is a classification based on each country specialist's well-considered yet subjective assessment.

Although the exact location of some countries is debatable, and although party considerations dominate in decision-making processes, Table 9.2 basically informs us that party positions in a number of countries are more or less determined or influenced by the committee members in question, at least on topics that are not highly party politicised from the outset. The table describes the situation in general. In some countries the policy specialists of government parties are probably cabinet ministers. In Belgium and Germany the major parties have influential research centres or working groups outside of parliament, which means that MPs may be more dependent upon the party organisation.

The information provided in Table 9.2 is nevertheless quite significant. For, if occupants of committee posts influence party policies, then they are important political actors. If they are important actors, then the party leadership has good reasons to be concerned with committee assignments, as we have just seen. In several countries, the major parties have established internal working groups that mirror the official committee structure.

This is not to say that the policy influence of committee members alone is the reason why the leadership should be concerned with committee assignments. It can probably be regarded as axiomatic that no matter how and where the official party policy is formulated, the leadership normally wants the party's committee members to loyally support and actively work for party proposals at the committee stage.

The second question hypothesises that interests other than those of the party could also serve as foci of representation for committee members. We have particularly in mind the interests of the electoral constituency of MPs and of groups

not necessarily affiliated or aligned with their party. If such interest representation does occur, there is a potential for conflict with the party line and hence a possible problem for the leadership.

Except in the Netherlands, where the whole country is a single constituency, the evidence provided overwhelmingly suggests that constituency and/or interest groups are indeed important foci of representation even if party interests are usually the main concern. In some countries, e.g. Germany and the UK, members of parliament are required to officially register their private interests. Thus, in Germany it can be ascertained that about half the members in the agricultural committee on "Ernährung, Landwirtschaft und Forsten" are self-employed farmers. In other countries, including Denmark, registration of private interests is voluntary.

If, in specific cases, party and other interests coincide, there is of course no problem for the party or the MP. If they do not coincide but still do not contradict each other (perhaps because no party position exists in the matter), there need not be a problem either. But if they do conflict, a problem certainly exists.

If a compromise between the two interests of party and special interests is possible, it might solve the problem. If a compromise is not possible, the problem can only be solved if either the party or the special interest has its way, that is to say, the MP in question can either be loyal to the party line or deviate from it. If the MP stays loyal, the leadership has no problem but the MP may get one with the special interests. If the MP deviates, he/she and the leadership may get an internal party problem, provided of course that the matter is of some importance.

We do not know how often situations like those just described actually occur in the various countries. But we do know that party discipline is normally high in the parliamentary party groups of Western Europe. Thus, we presume that party discipline takes care of a great number of potential conflicts. Furthermore, as will be discussed in the following section, the leadership may apply sanctions if MPs deviate from the party line in important matters. However, the leadership may also intervene in the committee decision-making process before a possible open conflict emerges.

In multiparty systems without a dominant single-party majority, decisions require bargaining and compromises among two or more parties. Even where a one-party majority exists, the ruling party may want at least some important decisions to be based on agreements with opposition parties. Some of the negotiations, or "discussions" to use the euphemistic expression of Swedish MPs (Sannerstedt 1992), are conducted during the committee stage, either in formal committee meetings or, more likely, in private meetings outside of the committee rooms.

If such bargaining and compromises are required during the committee stage, the party group or its leadership may control the process in at least two ways.

First, it may have the right, if not formally then in practice, to approve the negotiation position of its committee members when a compromise is to be worked out with other parties represented on the committee. Second, it may have the right to approve a compromise reached with other parties before a final decision can be made, that is before the party formally commits itself to an agreement.

In fact, the two instruments of control are widely used in Western Europe, except that they seem to be rather irrelevant in the United Kingdom. In Greece, they are not used very often simply because inter-party compromises are quite rare. In the remaining 16 countries, the party groups or their leadership regularly approve the negotiation positions and usually also the proposed compromises on all important matters. In less important matters the party spokesmen/women ("Obleute" in Germany) have a more independent role to play.

This finding is perhaps not surprising given the fact that in the end, all members of a party group are expected to support and vote for deals made with other parties. But the approval of negotiation positions and compromises still involves a certain reciprocity between the party groups and their spokesmen. Normally, a committee spokesman of a party will be able to anticipate the views of the party group, which meets regularly, but an explicit approval of a negotiation position on important matters is a formal commitment of the group to the spokesman: The spokesman receives a bargaining mandate involving some discretionary powers when the party group approves a negotiating position. In less important matters, the spokesman may rightly believe that he, or she, has a mandate when the general position of the party group is felt to have been correctly interpreted.

5. Sanctions

Some MPs may be policy experts in their parties and some may represent constituencies and interest groups as well as their parties. This would seem to give MPs a certain room for manoeuvre. On the other hand, parliamentary parties may control committee behaviour through assignment processes and approval procedures in ongoing committee work. The influence of party groups is further buttressed by the fact that party leaders can apply different types of sanctions which either reward or punish the MP in question. One may distinguish between negative and positive sanctions.

At least three types of negative sanctions (punishments) seem relevant should the MPs behave in ways disapproved of by the party. First, the leadership or the party group could possibly remove a recalcitrant MP from the committee in question. Second, while the party might permit an MP to stay on in a committee, it could possibly strip him or her of tasks to be performed for the party group.

Third, a committee member might not be reappointed to the committee in the next session or term. If committee work is important for advancement in the party hierarchy and for the prospects of reelection, these sanctions may obviously be damaging to the career of MPs. The sanctions need not be used very often to be effective. If MPs know that they might be used, the sheer possibility could constrain the behaviour of committee members considerably.

Based on the information available, Table 9.3 summarises the extent to which committee members may be removed from committees and/or stripped of tasks to be performed for the party.

Table 9.3: May MPs Be Removed from Committees and/or Stripped of Tasks?

YES	*NO*
Austria	France
Belgium	Ireland
Denmark	Italy
Finland	Norway
Germany	Sweden
Greece	Switzerland
Iceland	UK
Luxembourg	
Netherlands	
Portugal	
Spain	

In most countries, the two former types of sanctions are actually applied, i.e. removal or stripping of tasks by the party, although typically only rarely. In one third of the countries, they appear not to be used at all. However, there is still the third possibility of not reappointing a recalcitrant committee member. Refusal of reappointment does indeed occur in the UK, Switzerland and Italy. In Italy, MPs have a right to sit on one of the 13 committees and can only be transferred to another committee after the term has elapsed. Only in Ireland and France, do none of the three negative sanctions seem to be employed. In Sweden, there appears to be other ways to handle the problem, which brings us to the next important point.

There are still further kinds of negative sanctions available to the party groups and their leadership. One might think of them as being located on a continuum ranging from very mild forms of persuasion or social pressure to formal exclusion from the party group. On the one hand, there are measures directly related to

the future of the MP in the party group and parliament, on the other, there are various forms of social pressure.

To the first of these two categories belong sanctions like exclusion, refusal of renomination or other means of obstructing chances of reelection. To the second belong various kinds of less severe social sanctions such as persuasion, warnings, threats, and isolation of the MP in the social system which the party group could be said to constitute (Gahrton 1983). Information on these forms of sanctions is not available for several countries, including Ireland and France. However, the exclusion or no-reelection type of sanction is sometimes applied in Finland, Belgium, Luxembourg, Italy, Greece and Spain, whereas the social pressure type is practised more often in Sweden, the UK, Germany, Switzerland, the Netherlands and Iceland.

Even if the available information is rather sparse and incomplete, it is beyond doubt that at least some of the negative sanctions mentioned are applied in all countries with the possible exceptions of France and Ireland. Could it be that committees and committee work are not that important in France and Ireland compared to other countries?

To speak only of punishments is to take a too one-sided view of the relationship between parties and individual MPs. Negative sanctions are party or leadership reactions which in some way punish MPs for deviant behaviour. Positive sanctions, that is rewards accruing to MPs for good party behaviour, may be just as important and perhaps more important than punishments in attempts to control the behaviour of individual MPs.

If reelection is an important goal for individual MPs and if MPs behave rationally, we should expect them to at least avoid actions that could cause severe negative sanctions. If we further assume that MPs in Western Europe are also very much concerned with a future career in party politics, the expectation would be that MPs behave in ways likely to increase their chances of advancement within the party. Such behaviour can be displayed in a great many ways, but considering the importance of committee work in most parliaments it seems likely that good, serious and loyal committee service increases the chances of promotion within the party. In this way, the power to appoint and promote becomes an important tool in controlling the behaviour of MPs. While there is no information for Ireland and Spain concerning positive sanctions, evidence for the remaining 16 countries shows clearly that "good committee members" are indeed being rewarded in a number of different ways. The data are not "hard" but there is a general agreement on the possible benefits for individual MPs from good committee service. Thus, MPs may

- get seats on better and more prestigious committees
- become chairmen of committees

- advance in the party group hierarchy
- get leading positions within parliament as a whole
- be promoted to government posts.

To conclude, then, if MPs behave rationally according to their presumed individual goals of reelection and promotion, they will probably be aware of their party as an important constraint on the nature and degree of permissible self-interested behaviour.

6. Summary and Discussion

The previous sections have tried to disentangle some important threads in the web of complex relationships between individual MPs and their parties in matters related to committees in particular. Considering the kind of data and information available, the reported findings should be interpreted with caution. Still, it does seem warranted to conclude that nowhere in Western Europe are MPs and committees autonomous actors. Party groups play very important roles everywhere. This is not to say that committee members are puppet-like party delegates, but rather that their behaviour is definitely constrained by their parties. Table 9.4 summarises the main factors dealt with in this chapter.

The analysis has attempted to highlight general factors at work across Western Europe, which means that a very huge number of specific national circumstances and peculiarities have deliberately been ignored or subdued. The "average" parliamentarian in Western Europe is supposed to aim at reelection and promotion within the party hierarchy. As far as committee assignments are concerned, he or she has individual preferences that can be strengthened by relevant expertise, seniority and a good record of party loyalty. He or she may sometimes be the expert of the party within the policy area, but may also, even at the same time, represent the special interests of groups and constituency. While trying to further the assumed basic aims, the parliamentarian is aware of the goals, routine actions and possible reactions of the party group and its leadership.

Presumably parties typically aim for government office, policy influence and party unity. The party group and especially its leadership has a large say in assigning committee positions and it has at least a de facto power to approve the bargaining positions or compromises proposed by committee members. They may also reward or punish individual MPs according to their performance in the light of party aims.

Broadly speaking, this is the general picture emerging from a survey of committee member activities in Western Europe. It does not do justice to a number of important dimensions and variables. At least four additional aspects ought to be

mentioned by way of conclusion. They all tend to amplify the possible influence of individual MPs vis-à-vis their parties.

Table 9.4: Variables Affecting Party Control of Committee Members

	MP	*Party*
Actor goals	Reelection Promotion	Government office Policy influence Party utility
Committee assignments	Preferences Expertise Seniority Loyalty	Final control Systematic demands
Committee work	Party specialist	Approve negotiation position
	Special interest representation	Approve compromise
Sanctions	Anticipated reactions	Negative sanctions Positive sanctions

First, the two assumed goals of MPs (reelection and promotion) may not always go together. In theory, it is perfectly possible that an MP may possess a strong local power base, which will almost certainly ensure reelection even in cases of disloyal party behaviour preventing advancements within the party hierarchy. The degree to which reelection is possible depends upon party rules and practices of nomination. Especially the influence of central party leaders and organisations on the nomination processes is a significant factor. In Iceland, for example, the recent use of primaries is generally considered to have made MPs more independent of their parties.

Second, parties are different in terms of organisation and size. For example, (former) communist parties are usually more disciplined than, say, liberal or conservative parties and some parties are even made up of rivalling factions. The size dimension is also crucial. Some parliamentary party groups may have two or three hundred members while others consist of only a handful of MPs. Thus, a small Danish parliamentary party may only have 4 MPs who are then bound to be the party "specialists" or "experts" in a very large number of policy areas. To

some extent the electoral systems, and in particular the existing thresholds of representation, determine the sizes of parliamentary parties.

Third, the electoral system is also important with respect to formation and representation of new parties. Deviant MPs or factions may, in some cases, be able to form splinter parties and thus threaten the "mother" party. This has happened several times in the Nordic countries.

Fourth, individual MPs may sometimes be pivotal at critical moments in the decision-making process and therefore perhaps able to blackmail their leadership, at least in the short run. The party or coalition might possibly lose a parliamentary majority and prefer to give concessions in order to secure the necessary votes. On the other hand, if a government has a large majority it may be able to afford some dissenters. It could be argued along the same line that opposition parties are normally less required to display cohesive behaviour than governing parties.

Further research is obviously needed on these and a number of related questions.

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10

Presidents of Parliament: Neutral Chairmen or Assets of the Majority?[1]

Marcelo Jenny and Wolfgang C. Müller

1. Introduction

Politics is to a large extent about office seeking. According to one main strand of rational choice theory, it is their private desires that makes politicians tick. What they are looking for is income, limelight and a place in the history books. All this tends to be bound up in their strivings to occupy high public office. Unlike business, which allows for many millionaires, and showbiz, which allows for an unlimited number of stars, in politics the attractive positions are fixed by the constitution. It is probably the scarcity of public office which makes it so valuable (cf. Hirsch 1977). Attractive positions are indeed in short supply. Without doubt, they include the positions of head of government (Prime Ministers, Chancellors, etc.), cabinet minister and in the republics of Western Europe also the position of head of state. In contrast to the other executive positions at the national level which have attracted a lot of academic attention, not much is known about the top parliamentary offices. Again, the number of attractive positions here is also limited. Attractive parliamentary positions include the leader of the parliamentary party (*Fraktion*) and chairman of prestigious committees. However, the most attractive position is probably the president of parliament.

This paper addresses the office of parliamentary president from a comparative perspective, covering 18 West European countries and the European Parliament in the 1970-1992 period with anecdotal evidence for some countries bring-

1 We are grateful to the participants in the project for corrections and critical comments on a first draft of the paper. A special thank is expressed to all those who generously provided us with data, to project participants and their aides, and to Gabriel Colomé, Ruth Lüthi and Jean-Louis Thiébault.

ing them up to 1994[2]. We aim to assess their role in the process of parliamentary decision making, and in doing so, we distinguish between two dimensions, power and partisanship. Power is one of the most important concepts when discussing political positions. Like all political offices, the one of president of parliament can be more or less powerful. The second dimension is the partisanship displayed whilst exercising presidential office. Politics, in one sense or another, is about division and taking sides. There are only a few political offices for which the "job description" contains a non-partisan element or indeed focuses on non-partisanship. In every polity there is a need to bridge divisions and to make decisions in procedural if not substantive matters in a neutral and undisputed way. The top candidates for such a role in the polity are the head of state, the constitutional judges and the president of parliament.

Parliamentary presidents in particular, but also the heads of chambers in bicameral legislatures, usually enjoy high positions in the official protocol of a country. They often fulfil other roles in addition to steering parliamentary sessions. To cite just two examples, in Sweden the Speaker of the Riksdag serves as head of state, replacing the king when the royal family is out of the country; and the French President of the National Assembly takes on important administrative functions, e.g. naming the state auditor. However, these functions are not the concern of this chapter. As already mentioned, our aim is to assess the role of parliamentary presidents in the process of parliamentary decision making.

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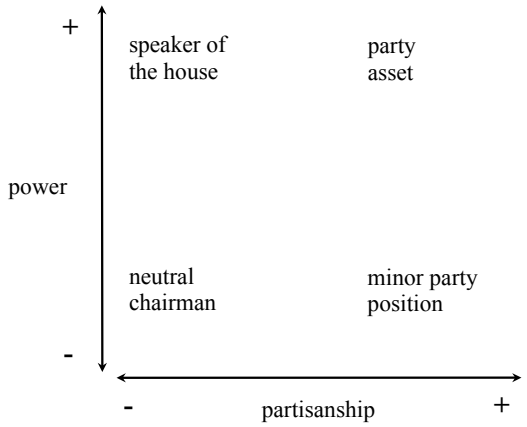
2 The identification of the object of study was easy in countries with unicameral legislatures. Where bicameral legislatures exist, either the head of the whole parliament was chosen where such a position exists, or the head of the politically dominant chamber, which happened to be almost always the lower house. In the cases of Italy and Switzerland, the decision to take the head of the lower house was an arbitrary one as their legislatures are usually seen as being comprised of two chambers of equal political strength. So, the presidents were drawn from the Austrian National Council, the Belgian Chamber of Representatives, the British House of Commons, the Danish Folketing, the Finnish Eduskunta, the French National Assembly, the German Federal Diet, the Greek Chamber of Deputies, the Icelandic United Althingi and since 1991 Althingi, the Irish Dáil, the Italian Chamber of Deputies, Luxembourg's Chamber of Deputies, the Dutch Second Chamber (lower house), the Norwegian Storting, the Portuguese Assembly of the Republic, the Swiss National Council, the Spanish Congress of Deputies, the Swedish Riksdag and the European Parliament. In most countries, the proper name for the position is 'President' of parliament or the lower house, respectively. In the United Kingdom, Sweden and Finland, the holder of the office is called the 'Speaker', whilst Denmark and Ireland have a 'Chairman'. The tables shown in the paper vary slightly in the period covered as this depended on the availability of data.

In the next section we develop four models of presidential office. In the subsequent sections we present the empirical evidence on the respective power of parliamentary presidents and their partisanship. In the concluding section, we bring together these dimensions and locate the 18 countries and the European Parliament in this two-dimensional space.

2. Four Types of Parliamentary Presidency

The power and partisanship dimensions can be combined to produce four types of parliamentary presidency, which may or may not actually exist in the real world (Figure 10.1). In this section we will elaborate on these types, in particular the two extreme cases, and make reference to their real world approximations.

Figure 10.1: Types of Parliamentary President



Neutral Chairman

What are the characteristics of an ideal-type neutral chairman? In this case, the president of parliament is recruited from the ranks of long-standing parliamentarians. Prior to their selection, they were not engaged in the front line of party fights. The rules of election favour a broad consensus and this, indeed, is sought by the parliamentary parties themselves. The nominating party not only chooses a suitable candidate, but also seeks consensus with the other parliamentary parties (including the backbenchers) by means of consultation. The election to president of parliament is normally not contested. Once elected, the ideal-type

neutral chairman president remains in office until he or she decides to resign. In order not to force the president of parliament back to party politics during elections, the respective seat is not contested in a general election. Furthermore, a sitting chairman gets re-elected to presidential office in a new parliament, irrespective of the new party constellation. In exercising the duties of parliamentary president, the incumbent is perfectly neutral. Institutionally, this is reflected in the president either not having the right to vote or traditionally refraining from using it. Moreover, the president does not engage in parliamentary activities other than those flowing from presidential office; thus they do not speak as an MP or engage in normal committee work. In sum, the behaviour of the president of parliament does not cause any controversy and he or she is held in high esteem by fellow parliamentarians and the general public. Since the president of parliament is generally respected and behaves neutrally, there is no need for much in the way of formal powers - neutral decisions are self-enforcing. Little power also helps substantiate the type of the neutral speaker, since little would be gained from making the office more partisan.

The best known empirical approximation to this type is the Speaker of the House of Commons in the United Kingdom. As a rule, he or she is not directly chosen from the front benches. In order to ensure that the Speaker is the choice of the House as a whole, consultation is practised widely (Laundy 1979:133). No Speaker seeking re-election in his constituency has ever been defeated at the polls and normally the Speaker is not even contested by official candidates from the other parliamentary parties (Laundy 1979:132, 1989:49-50). What is more, no incoming majority has ever replaced a sitting Speaker (Laundy 1979:132).

Election to the office of Speaker means a total change of life-style for the new incumbent. This involves resigning from the party and also from any clubs with possible political associations. The Speaker isolates himself from the comradeship and social life of the House of Commons (Laundy 1979:126-127). He or she does not participate in debate and never votes in the House except in the event of a tie (Laundy 1979:130). The "total impartiality of the Speaker" is indisputable (Laundy 1979:125).

Party Asset

In this type, the office of parliamentary president is first and foremost an instrument of party politics. Therefore, the majority selects the person best suited for exploiting the powers of presidential office in the pursuit of party political goals. This is likely to be an experienced parliamentarian, but the career pattern is less important than the ability to exercise control. The election to presidential office is likely to be strictly majoritarian: no special majorities are required and no attempt is made to get the minority's support for the majority's candidate. As a

consequence, the election tends to be contested, or in the case of only one candidate, show those for and those against a candidate dividing along the lines of parliamentary majority and minority. In electoral terms, the president of parliament remains accountable: there are no special provisions or conventions which ensure re-election to parliament and, within the house, his office hinges on the party's ability to defend its status as majority or part of the majority (and also on the division of spoils within that majority). Once elected, the president exercises presidential office to the benefit of the majority. Not only does the president have a voting right and exercise it, but also participates in other partisan activities. Being sometimes blatantly partisan, presidential decisions are likely to raise controversy. As a consequence, the president of parliament is considered as a "normal" politician, who may or may not be held in high esteem.

The best empirical approximation of this type is probably the Speaker of the US House of Representatives in the early 20th century, in particular under Speakers Cannon and Smith (Jones 1987). Cooper and Brady succinctly summarised his powers and impact thus: "The Speaker appointed the committees. He served as chairman of and had unchallengeable control over the Rules Committee. He had great, though not unlimited, discretion over the recognition of members desiring to call business off the calendars, to make motions for unanimous consent and suspension of the rules." (Cooper and Brady 1981:412) These institutional powers, the building up of credits over the years, the Speaker's ability to command majority support in committee and on the floor, which were all possible in the days of high party discipline, gave him great power to control the outcomes in the House. This was when the House was described as being under "Czar rule" (Cooper and Brady 1981:411-415) which even involved a good deal of personal, rather than party power.

Speaker of the House

In terms of power, the Speaker of the House type of president of parliament is similar to the party asset presidency, but is not partisan in exercising the president's role. The speaker represents the parliament as a whole vis-à-vis the public and the executive. The very logic of this type implies a strong countervailing power to parliament, in the sense of the Montesquieu-inspired separation of power formula. Thus, it might be found in the pre-party government era and - mainly under exceptional circumstances - in presidential systems.

This type was approached, for instance, in the struggle between the Crown and the Commoners in 17th century England (Laundy 1964:209-211), when the Speaker first assumed this role, having previously been the servant of the King. The Speaker, then, was not strong in institutional terms, neither vis-à-vis the

Commoners nor vis-à-vis the Crown, but he was probably strong in terms of support coming from the parliament.

Minor Party Position

In this type, presidential office is envisaged as a partisan position, but the office provides less power than in the party asset type and, hence, it does not matter that much if the incumbent acts as a partisan. Because the office is less powerful, top party leaders may not actively seek it. It may rather be a bonus for long and faithful party service by people in the front row of the second rank. This may be different in multiparty systems. Here, more parties are required to form a majority and, hence, more offices must be distributed among them and their top leaders.

3. Powers and Accountability

This section looks at the power dimension of presidential office. First, we survey the powers which are at the disposal of the parliamentary president. Second, we are concerned with the institutional shelters the president has vis-à-vis parliament, or, seen from the other perspective, accountability to parliament.

Presidential Powers

Setting the agenda. The president of parliament has the competence to set the agenda of plenary sessions in 9 of the 19 cases. However, many legislatures in this group have reserved the final say in that specific matter to the majority in the assembly. In Austria, Belgium, Iceland, Italy, Portugal and Switzerland, the agenda set by the president can still be changed, whereas in Denmark, Finland, and Greece, this is not the case. In Germany, France, the United Kingdom, Ireland, Luxembourg, the Netherlands, Norway, Spain, Sweden, and the European Parliament, the head of parliament is not in charge of setting the agenda.

Assigning bills to committees. How important the position of the head of parliament is, should also be discernible from looking at the influence the holder of the position can exert on the further progress of a bill after its introduction in parliament. Can the president select the committee that will discuss the bill? Is he allowed to discharge a committee from work on a specific bill and to delegate the bill to another committee? The answers to the first question show no clearly dominant tendency. In eight cases, the president has the right to delegate incoming bills to the different parliamentary committees, in eleven cases he is without that right. The first group comprises of Austria, Belgium, France, Greece, Italy,

Luxembourg, Portugal and the European Union. The second country group consists of Denmark, Finland, Germany, Iceland, Ireland, the Netherlands, Norway, Spain, Sweden, Switzerland and the United Kingdom. However, the President of the European Parliament does not assign bills to committees except during sessional adjournment. The power of parliamentary presidents to select the committee to work on a bill is usually constrained by standing orders and precedent. Additionally, in 50% of the countries where the president has this right, the decision may be overruled by a majority. In the case of Italy this is even possible by a minority of 10 % of the deputies. Greece represents the only case where the president is allowed to stop a committee's work on a bill. The president is allowed to do so after the time he/she has set for a committee to report to the plenum has expired. In none of the 19 cases can the head of parliament shift bills between committees. In Italy, however, the president of the chamber can request a committee to express its opinion on a bill already being deliberated in another committee.

Choosing voting procedures. Parliamentary debates are usually concluded in taking decisions by holding a vote. The method of voting may not always be fixed in advance and on all matters by the parliamentary rules of procedure and, so, may leave the president with the considerable influence of being able to determine the voting procedure. Presidential preferences can also become relevant if there is considerable leeway in determining procedure in the case of several alternative proposals. With regard to such situations, it is relevant whether the head of parliament can fix the sequence of voting on the different proposals, or not. Let us look at the competence to select a voting method first. In six cases (Germany, Ireland, Spain, Sweden, Switzerland, the United Kingdom), the answer is 'No, the voting method is strictly determined by the standing orders'. In the remaining thirteen cases, the president may select the voting method, but only within the constraints set by the standing orders. With the exception of France, the president's decision is subject to revision by a parliamentary majority. The Italian case presents a good example of this political importance of the right to select a voting method. Taking into account that voting discipline has been low in the Italian parliament, a presidential decision to hold a secret vote looks very much like an invitation to "snipers". The Chamber of Deputies' 1988 reform of the standing orders restricted the scope of secret votes, but did not totally abolish the presidential prerogative.

In France, Ireland, Spain, Sweden, and the United Kingdom, the president cannot determine the sequence of votes on bills and amendments. Austria, Belgium, Germany, Luxembourg and the Netherlands have regulations in their standing orders which restrict a president's freedom of action. Even though the president formally decides on the sequence of votes, he or she has to follow the

ranking principles set in the standing orders or by tradition and can be overruled by the assembly when neglecting them. Following a long established convention, the National Council in Austria used ranking principles which were contrary to the ones set in its standing orders until 1989 (Cerny and Fischer 1982). In Germany, the President of the Federal Diet sets the sequence of votes only in accord with the Council of Elders.

The president decides on the sequence of votes, but can be overruled in the European Parliament, Finland, Iceland, Norway, and Portugal. In Belgium, Greece and Italy, the president decides and cannot be overruled.

Voting power. Here, the question is whether the president is deprived of or restricted in the right to vote, when chairing a session. The European Union, Finland, Sweden and Switzerland have such a legal clause. However, in Sweden a substitute sits on the president's chair in the assembly during voting decisions and in Switzerland the president of the Swiss National Council has the right to vote, when it really matters, i.e. in case of stalemate. In Germany and Portugal, the president can be deprived of the right to vote through a majority decision of the house. In France, the United Kingdom, Ireland, Italy and to a lesser extent in Austria, the president refrains from voting by convention.

The post of president gains in importance, if it is connected with a special voting right. The president's vote breaks ties in Switzerland, Ireland, Norway and the United Kingdom.

Government formation. Only one country has granted its parliamentary president the right to nominate a government *formateur*. Since 1974 the president of the Swedish Riksdag proposes a candidate for premiership to the plenum. In Norway and the Netherlands parliamentary presidents have sometimes served as *informateurs* for the King or Queen on candidates for the office of Prime Minister. In Denmark the Chairman of the Folketing has served only once so far, in 1975, as an *informateur*, surveying the deputies' opinions about an acceptable head of government (see the chapter by De Winter in this volume).

Disciplinary powers. In the function of presiding officer of a plenary meeting, the president of parliament or chamber has in all of the 19 cases the right and duty to sanction an MP for unruly behaviour and, thus, maintain order in the assembly. The various standing orders state two main reasons for a president to interrupt a deputy's speech in the plenum. The first deals with the management of parliamentary time. Addressing a subject not currently under debate or deviation from the subject of the speech, repetition of arguments and continuing after the expiration of speaking time where time limits exist, are all examples belonging in this domain. The second reason for presidential interference is in the event of insults or otherwise improper behaviour by an MP. The standing orders of the

Netherlands and Iceland mention other instances where the president can interrupt a deputy whilst speaking. These are the violation of the obligation of secrecy and open advocacy or approval of unlawful practices in the Netherlands. In Iceland, a deputy can be interrupted if he/she talks disrespectfully of the President of the Republic or makes allegations a Minister or against another deputy. In most countries, after repeated warnings the president is allowed to ban an MP from further participation in a debate or even to exclude him or her from the rest of the day's session. The president's rulings are binding in 15 of the 19 cases. In Finland, if the parliament disagrees with the president's decision, it may submit the matter to a specialised committee, whose decision is then binding. In Norway and Iceland, the president has to call for a vote of the house as to whether, and how, a deputy should be sanctioned. The president of the European Parliament has to take the same action if he/she judges a MPs behaviour as a serious breach of conduct, which could result in the exclusion from sittings for several days (Jacobs, Corbett and Shackleton 1992:154).

Adjourn debates. The right to adjourn debates is often, but not always or exclusively, connected with the disciplinary aspect of the president's role. Five countries have no such presidential right. These are Denmark, Germany and Switzerland (in these countries it is a right of the presidium), Finland and Sweden. In the remaining countries, some standing orders formally leave the use of this instrument to the president's discretion, others explicitly define it as a weapon against disorder in the assembly, varying the allowed time limits set for adjournments. In Greece the president can also adjourn a session for 24 hours after an oppositional demand for a roll-call. In Norway, Portugal, Spain and the European Parliament, a presidential decision to adjourn the session can be overruled by a majority decision in the assembly.

Calling a plenary meeting without having to rely on an initiative by either the government, the parliamentary parties, or a specified number of MPs, may be regarded as a basic right of the head of a chamber or parliament. However, it is not universally accepted as five countries (France, Ireland, Norway, Switzerland and the United Kingdom) reveal. In Switzerland, this is a competence of the presidium alone. In the United Kingdom, Ireland and France, the convocation of a special plenary meeting is also based on a decision of the house. In Luxembourg, a parliamentary committee, the Business Committee, first has to be consulted by the president, who then has to submit the proposal to a decision of the house. In Iceland and Sweden the president possesses, at least formally, exclusive power to summon plenary meetings.

Parliamentary administration. The president, as the person responsible for the internal organisation of the house, makes a rather seldom appearance in the

countries surveyed. Most parliaments have delegated this task to special bodies or organs. The president is often, but not everywhere, a member of these bodies. Presidents who are the rulers of the house can be found in Austria, Greece, Ireland, Norway and the United Kingdom.

Table 10.1 shows the rights of the various presidents in the form of a scale ranging from 0 to 2. A value of 0 means the president of parliament does not have this right, a value of 2 means he is very influential or takes sole responsibility for a particular decision. The intermediate value 1 stands for a range of different possibilities. Either the president's influence is strongly curtailed by the regulations in the standing orders or by convention, or he has the respective right, but only under special circumstances, or the decision can be overturned by a parliamentary majority, or as in the case of voting, the right is not normally used. The 3-point scale is crude, but available data often did not allow for more detailed distinctions. The Index of Rights shown in Table 10.1 was built by adding the countries' values across these 13 variables. All variables were given equal weight. This may be criticised on the grounds that some presidential rights are more important (and therefore should be weighted higher) than others. Admittedly, this index is a preliminary attempt in the study of the presidents of parliament from a comparative perspective.

Presidential Accountability

Accountability can be considered the second, passive dimension of power. The less accountable a president of parliament is, the more powerful he or she is likely to be. In this section we are concerned with two institutional and one behavioural aspect of presidential accountability, the length of term, removability and duration.-

Length of the term. The longer the term, the less accountable the president is. According to Table 10.2, 12 out of 19 parliamentary presidents in Western Europe are, at the moment, elected for the full term of parliament, while the

Table 10.1: The Rights of Presidents of Parliament [1)]

	A	B	C	D	E	F	G	H	I	J	K	L	M	Index of Rights
Austria	2	2	1	1	1	0	0	1	1	1	0	2	0	12
Belgium	1	2	1	1	1	0	0	1	1	2	0	1	0	11
Denmark	2	2	0	2	0	0	0	2	1	2	0	1	0	12
Finland	2	1	0	2	0	0	0	2	1	0	0	0	0	8
France	0	2	2	0	1	0	0	0	2	1	0	0	0	8
Germany	1	2	0	0	0	0	0	1	0	1	0	1	0	6
Greece	2	2	1	2	2	0	2	2	1	2	0	2	0	18
Iceland	2	2	2	1	0	0	0	1	1	2	0	0	0	11
Ireland	0	2	2	0	0	0	0	0	0	1	2	2	0	9
Italy	2	2	1	1	1	0	0	2	1	1	0	0	0	11
Luxembourg	1	2	1	0	1	0	0	1	1	2	0	0	0	9
Netherlands	2	2	2	0	0	0	0	0	1	2	0	0	0	9
Norway	0	1	1	0	0	0	0	1	1	2	2	2	0	10
Portugal	1	2	1	1	1	0	0	1	1	1	0	0	0	9
Spain	2	2	1	0	0	0	0	0	0	2	0	0	0	7
Sweden	2	2	0	0	0	0	0	0	0	0	0	1	2	7
Switzerland	0	2	0	1	0	0	0	1	0	0	2	1	0	7
United Kingdom	0	1	1	0	0	0	0	0	0	1	2	2	0	7
European Union	1	1	1	0	1	0	0	1	1	0	0	1	0	7

Sources: Project participants' answers to questionnaire{2}, coded by authors.
Notes and Abbreviations:

1) The right of the president of parliament/chamber to exercise tasks listed below is 2 - unrestricted, 1 - restricted, 0 - (almost) inexistent.

A Summon a plenary meeting
B Interrupt speaker
C Adjourn debate
D Set agenda of plenary sessions
E Delegate bills to committees
F Shift bills between committees
G Stop committee work on a bill
H Determine sequence of votes on bills/amendments
I Determine voting procedure
J Vote while chairing a session
K President's vote breaks a tie
L Decide on questions of parliamentary administration
M Nominate government formateur

Table 10.2: Length of Presidential Office and Parliamentary Term

	Official term of office in years	*In % of the parliamentary term*
Austria	4	100
Belgium	1	25
Denmark	1	25
Finland	1	25
France	5	100
Germany	4	100
Greece	4	100
Iceland	1	25
Ireland	5	100
Italy	5	100
Luxembourg	5	100
Netherlands	1 until 1983, 4 since then	25 until 1983, 100 since then
Norway	1	25
Portugal	1 until 1988, 4 since then	25 until 1988, 100 since then
Spain	4	100
Sweden	3 until 1994, 4 since then	100
Switzerland	1	25
United Kingdom	5	100
European Union	1 until 1979, 2.5 since then	100 until 1979, 50 since then

Source: *P*roject participants' answers to questionnaire.

remaining presidents are only elected for parts of the full parliamentary term. Prior to 1979, 10 of the presidents were elected for the full term. Presidential terms are shorter in relative terms in the Low Countries (the Netherlands and Belgium), in the Nordic countries and in Portugal. Shorter terms of office tend to contain the power of presidents and to maintain the idea of equality among parliamentarians. However, shorter terms also make more spoils available, since they allow for several presidents during one parliamentary term. Indeed, with the exception of the Netherlands, the number of individuals who have served as parliamentary presidents is higher in those countries where the term is shorter. In Switzerland, this may be due, primarily, to the strong belief in the idea of equality among parliamentarians. By contrast, in Belgium, Finland, Iceland, Portugal and the European Parliament, this may be caused, primarily, by the need to cut smaller slices of the cake to be distributed according to party political considerations. In the European Parliament, "in 1989 there was a tacit agreement between

the two largest Groups, the Socialists and the EPP [European People's Party], to share the two Presidencies of the current legislature" (Jacobs, Corbett and Shackleton 1992:93).

Removability. If the president cannot be removed, accountability is low. Likewise, the easier it is to remove the president, the more accountable he or she is. The office of president of parliament in Western Europe has the comfortable property of high job security. A majority of countries has no formally fixed procedure to prematurely end a head of parliament's term of office. Only five countries, Greece, Iceland, Ireland, Denmark and Norway, allow for the removal of a president who has fallen into disgrace in his or her assembly. If intended, such a decision should, theoretically, be reached most easily in Ireland, as can be seen from Table 10.3.

Table 10.3: Conditions for Removal of Head of Parliament/Chamber During Term of Office in Five Exceptional Countries

	Proposal	*Decision rule*	*Quorum*	*Voting method*
	Removal of president			
Greece	1/6 of assembly	absolute majority	-	roll-call
Iceland	individual MP	two thirds majority	2/3 of assembly	not specified
Ireland	individual MP	plurality	20 MPs	roll-call
	Removal via election of a new president			
Denmark	60 MPs (= 1/3 of assembly)	absolute majority	> 50% of assembly	not specified, i.e. in practice use of voting machine
Norway	1/5 of assembly	simple majority	50%	secret vote

Source: Project participants' answers to questionnaire.

However, Ireland is also one of three countries which tend to shelter the parliamentary president most particularly. It is legally prescribed that a sitting chairman of the Dáil seeking another term is automatically 'elected' as a member of the new legislature. This clause was introduced for two reasons. First, due to the apolitical nature of the position Chairman, he would be handicapped in the election campaign. Secondly, after a heated campaign his or her experience and neutrality would serve well in the new legislature (Morgan 1990:156). The Speaker of the British House of Commons lacks a similar legal shelter and in general elections has to stand as a candidate in a constituency. Nevertheless only a few Speakers faced official (i.e. party-sponsored) competitors in their constituency and no incumbent Speaker seeking re-election has ever been defeated (Laundy 1989:49-50). Denmark gives the old president a slight advantage when seeking another term of office by demanding that a proposal for an alternative candidate be sponsored by a third of the total number of MPs within a three-day period.

Duration. The longer presidential duration is, the less accountable presidents seem to be. However, long presidential duration can result from quite different factors. It may be the stability of the power situation which keeps presidents in office or their reputation as a neutral and generally respected chairperson. Table 10.4 shows the mean duration of those parliamentary presidents who served in the 1970s and 1980s. A rough comparison with ministerial duration in the 1945-84 period (Bakema 1991:75) does not display a general pattern of differences - there are countries in which the duration of ministers exceeds that of parliamentary presidents and vice versa.

Table 10.5 is an attempt at summarising presidential accountability. As in the case of presidential powers, we have again used scales ranging from 0 to 2, to classify the countries in each of the three accountability dimensions discussed above - the relative length of the term, removability, and mean duration. The construction of an index of accountability required the coding of information and transformation of the data presented in tables 10.2 to 10.4. Details are given in the notes to Table 10.5. The higher the index, the more accountable a parliamentary president is.

Table 10.4: Mean Duration of Office 1971-1990 [1)]

	Number of different presidents [2)]		Mean duration in office in years
	during period	included in calculations	
Austria	5	4	5.2
Belgium	7	7	3.3
Denmark	6	5	4.8
Finland	9	9	2.1
France	5	5	4.3
Germany	7	7	3.0
Greece	4	4	4.7
Iceland	7	7	2.9
Ireland	6	6	3.0
Italy	3	3	8.0
Luxembourg	5	5	5.1
Netherlands	4	3	6.0
Norway	5	5	4.8
Portugal	7	7	2.2
Spain	4	4	3.9
Sweden	3	3	6.7
Switzerland	21	21	1.0
United Kingdom	4	4	6.4
European Union	10	9	2.4

Sources: Authors' calculations based on project participants' answers to questionnaire.

Notes:

1) Start of period for Greece 1974, Portugal 1976, Spain 1977.
2) The number of presidents included for the calculation of the mean duration in office differs from the total number of presidents during the same period for countries where the data did not allow us to identify a president's first or last term in office. The first and the last years of the period were determined by the availability of data for all countries.

Table 10.5: The Presidents' Accountability

	Relative length of term [1)]	*Removability* [2)]	*Mean duration* [3)]	*Index of Accountability*
Austria	0	0	0.7	0.7
Belgium	1.5	0	1.2	2.7
Denmark	1.5	1	0.8	3.3
Finland	1.5	0	1.5	3.0
France	0	0	0.9	0.9
Germany	0	0	1.3	1.3
Greece	0	1	0.8	1.8
Iceland	1.5	0.5	1.3	3.3
Ireland	0	2	1.3	3.3
Italy	0	0	0.0	0.0
Luxembourg	0	0	0.4	0.4
Netherlands	0	0	0.5	0.5
Norway	1.5	1	0.8	3.3
Portugal	0	0	1.5	1.5
Spain	0	0	1.0	1.0
Sweden	0	0	0.3	0.3
Switzerland	1.5	0	1.8	3.3
United Kingdom	0	0	0.4	0.4
European Union	1.0	0	1.4	2.4

Sources: Tables 10.2 to 10.4, coding by authors.

Notes:

1) Countries where the heads of parliament/chamber serve a whole parliamentary term got a score of 0. Countries where they are elected for a quarter of the parliamentary term got a score of 1.5.
2) Removability data coded with information in Table 10.3.
3) A transformation was sought which moved the data values presented in Table 10.4 to a [0;2] interval. Applying the formula x*(-0.25)+2 to the raw data transformed the value for Italy, the country with longest mean duration in office to 0, the value for Switzerland, the country with shortest mean duration, to 1.8.

4. Party Politics and the Office of Parliamentary President

Getting Into Office

It might be argued that the more difficult it is to become president of parliament, the more neutral the president of parliament may be expected to be. The requirement of a qualified majority in the election to president assures acceptance beyond the boundaries of a "normal" governing majority. However, there are limits to the requirement of a qualified majority. Ultimately, a parliament needs a president and there is no better principle to elect him or her than the majority principle. Nevertheless, the institutional setting, for instance the regulations for voting procedure, can provide incentives to search for a broad consensus. If a secret vote is held, parties are likely to nominate candidates who appeal to a broad constituency. Conversely, roll-call voting procedure is likely to ease the coherence of the governing majority.

In the 18 national parliaments and the parliament of the European Union the formal appointment procedure for the president of parliament or lower house is an election. (Before 1983 the Dutch Second Chamber did not formally elect its president, but instead the first-ranked of three candidates, was appointed by the monarch.)

In 15 out of 19 cases, the election is to be held by secret vote. Roll-call methods are prescribed in the United Kingdom and Ireland. No specific voting method is established by the standing orders in Denmark and Iceland. In practice, appointment by acclamation was the dominant procedure in a number of countries including Belgium, Denmark, the United Kingdom, Luxembourg and Sweden. Until 1979, i. e. before the extension of the period of office from one to two-and-a-half years, the European Parliament also used acclamation for granting an incumbent president a second term.

In most countries, the right to propose a candidate is unrestricted, i.e. either the standing orders contain no specific rules, or any MP may nominate a candidate. In the Netherlands, Greece and Spain, only the parliamentary parties can nominate candidates. In Portugal, candidate proposals are only valid if they are supported by a minimum of one-tenth and a maximum of one-fifth of the Assembly of the Republics deputies. Nominations for the presidency of the European Parliament can be made by the Political Groups or 13 MPs.

Table 10.6 lists the requirements a candidate has to meet for getting elected in the first ballot. In 16 out of 19 cases, more than 50% of the valid votes or of the total number of MPs is needed. The threshold is lower in the United Kingdom and Ireland, and higher in Italy. In the former cases, a relative majority is sufficient. In Italy, a two-thirds majority is required. The majority requirements are lowered in each subsequent ballot, but the level of absolute majority required

in the fourth ballot is still a hurdle to be taken by a candidate who wants to become president of the Chamber of Deputies. The ballot structure, therefore, ends at a point where most other countries start their election processes. In about half of the remaining cases, the quorum is set at 50% of the deputies or at 50% plus one deputy. Austria, the United Kingdom, Ireland and the European Union have lower thresholds, while Finland, Italy, Luxembourg, Sweden and Switzerland have no quorum requirement whatsoever for the election of the president of parliament.

Table 10.6: Requirements for Election of Head of Parliament/Chamber at the First Ballot

	Majority	*Quorum*	*Method of election*
Austria	>50% of valid votes	33.3%	secret vote
Belgium	>50% of valid votes	> 50%	secret vote
Denmark	>50% of votes cast	> 50%	not specified, in practice voting machine used
Finland	>50% of votes cast	-	secret vote
France	>50% of votes cast	> 50%	secret vote
Germany	>50% of MPs	> 50%	secret vote
Greece	>50% of MPs	-	secret vote
Iceland	>50% of votes cast	> 50%	not specified
Ireland	relative	20 MPs	division
Italy	>66.7% of MPs	-	secret vote
Luxembourg	>50% of valid votes	-	secret vote
Netherlands	>50% of valid votes	> 50%	secret vote
Norway	>50% of votes cast	> 50%	secret vote
Portugal	>50% of MPs	50%	secret vote
Spain	>50% of MPs	> 50%	secret vote
Sweden	>50% of votes cast	-	secret vote
Switzerland	>50% of votes cast	-	secret vote
United Kingdom	relative	40 MPs	division
European Union	>50% of votes cast	33.3%	secret vote

Source: Project participants' answers to questionnaire; IPU 1976.

In some countries, conventions strongly predetermine candidate selection and also the result of the presidential election. In Austria and Germany, it is accepted practice to elect a member of the strongest parliamentary party as head of the lower house of parliament. In Switzerland, a complex agreement exists. The six strongest parliamentary parties, consisting of the four parliamentary parties in permanent coalition government since the 1950s and two oppositional parties, take turns in nominating a candidate. Each of the three larger government parties, Christian Democrats, Social Democrats and Free Democrats, has an informal right to the presidency of the National Council once every four years. The smallest party in the coalition, the Swiss People's Party, nominates a candidate every eighth year. Among the opposition parties, the Liberal Party and Independents' Party, can elect a candidate once every twelve years. The same scheme applies to the nomination of a candidate for the post of vice-president of the Swiss National Council. As a rule, the new president has been vice-president in the previous period and this often coincides with being the final political office held before retirement. Only very few exceptions to this pattern have occurred. In Sweden, rival principles of candidate selection have been promoted by the Social Democrats, on the one side, and the bloc of bourgeois parties on the other. The Social Democrats proposed that the head of parliament should belong to the strongest parliamentary party, i.e. to themselves. In contrast, the bourgeois bloc has claimed the position for one of its member parties if there is a non-socialist majority in the Riksdag. From 1970 to 1990, the Riksdag always elected socialist presidents, even in two situations in 1976 and 1979 when there was a non-socialist majority in parliament. In 1976, the bourgeois bloc honoured the style of office shown by the previous Social Democratic president, Henry Allard, and elected him for another term. The Conservative prime minister, however, declared, that this was an exception, due to Allard's personal skills. In 1979, the Conservatives nominated their own candidate against the Social Democratic candidate, Ingemund Bengtsson. In a chaotic election, the majoritarian bourgeois bloc proved unable to deliver its votes fully to the Conservative candidate in two ballots. In a third ballot, held some days later, Bengtsson was elected unanimously (Arter 1984:142). Subsequent elections have shown alternating successes for the rival principles. In 1991, a Conservative Speaker was elected by a non-socialist majority. In the following election, in 1994, the Social Democratic Party, which formed a minority government, gained the post. In the Netherlands in 1989, the Christian Democratic Appeal challenged the incumbent Social Democratic president Dolman with its own candidate, Deetman. The CDA argued that an unwritten constitutional rule existed, according to which the presidency of the Second Chamber belonged to the largest party. The interpretation seemed

not to be widely shared since Deetman won only by a rather narrow majority of 52% of the valid votes.

In Belgium, Luxembourg, Ireland and Portugal, the post of head of parliament or lower chamber is part of the deal struck between partners in a government coalition. In Italy, the head of the Chamber of Deputies seems to belong to a larger set of political offices to be distributed among the parliamentary parties. From 1970 to 1976, the presidency of the Italian Chamber of Deputies was occupied by a Socialist deputy, while the president of the Senate, the president of the Republic and the prime minister belonged to the Democrazia Cristiana. When the Communist Party entered into the "historic compromise" in 1976, its candidate, Pietro Ingrao, was elected as head of the lower house. Although the "historic compromise" period came to an end in 1979, the Communist deputy, Leonilde Iotti, was elected as the new head of the Chamber of Deputies and was re-elected twice in 1983 and 1987.

Table 10.7 provides the results of presidential elections. It also shows that, in most countries, a very low number of candidates were nominated for the post, an indicator of the existence of informal norms ruling candidate selection.

Austria, Germany, Italy and Switzerland have not experienced a single contested election during the last 20 years. However, active support for the uncontested candidates varied considerably. Italian presidents were elected by a three-quarters majority of the valid votes, while Austrian presidents received almost full parliamentary support. Finland and the Netherlands had a mean number of candidates of almost five. Nevertheless, the successful candidates united more than 80% of the valid votes behind them. The most competitive elections took place in the Greek Chamber of Deputies and the French National Assembly.

Tables 10.8 and 10.9 reveal the party background of the 1970-90 presidents of parliament. According to Table 10.8 the position of parliamentary president was always occupied by the strongest party in five parliaments, and most of the time in eight parliaments. However, different reasons may account for allocating this position to the strongest party. It may be due to the power of this party or to a kind of non-partisanship, which, by establishing the norm of electing a representative of the largest party, takes the presidential position out of the party political game. Therefore, it is useful to look at those situations in which the strongest party was not represented in government. In such situations the parliamentary president was, nevertheless, chosen from the largest party in four countries in a significant number of cases, i. e. in the Netherlands, Germany, Denmark and Sweden. We interpret this as indicating non-partisanship. Taking a different angle, we now look at situations in which the president of parliament was recruited from a government party despite the fact that it was not the largest party. This we tend to take as indicating partisanship. Belgium, Iceland,

Table 10.7: Results of Presidential Elections 1970-1992

	Number of terms [1)]	*Mean number of candidates*	*Presidents' mean share of valid votes*	*Standard deviation of share of valid votes*
Austria	9	1.0	95.3 %	2.9
Belgium	33	1.2	94.1 %	13.5
Denmark	27	1.1	96.3 %	13.3
Finland	26	4.9	83.5 %	14.0
France	7	3.3	60.8 %	10.3
Germany	10	1.0	79.8 %	6.8
Greece	8	2.4	58.5 %	6.6
Italy	7	1.0	74.9 %	9.5
Iceland	22	2.0	78.5 %	14.9
Ireland	8	1.1	82.8 %	23.9
Luxembourg	5	1.2	2)	2)
Netherlands	16	4.7	89.1 %	11.6
Norway	25	1.2	92.0 %	18.4
Portugal	14	1.5	64.7 %	13.2
Spain	6	1.8	2)	2)
Sweden	8	1.3	94.4 %	15.9
Switzerland	13 [3)]	1.0	90.2 %	5.9
United Kingdom	9	1.1	93.9 %	13.4
European Union	15	3.2	72.5 %	24.5

Source: Project participants' answers to questionnaire.

Notes:

1) The highly varying number of elections is mainly explained by the different tenures of office (see Table 10.2 above). Because the democratic regimes in Greece, Portugal and Spain were established only during the 1970s they have had fewer elections compared to other countries with the same length of term.
2) No data available.
3) Data available for period 1980-1992.

Luxembourg, Italy and Finland stand out in this respect. Switzerland also ranks high on this score but is a special case, practising almost all-party government and rotating parliamentary presidency among all significant parliamentary parties. So, it is a case of rather strong non-partisanship. Finally, it is worth looking at situations in which the parliamentary presidency went to opposition parties. It occurred in a majority of cases in Denmark and in a significant number in the

Netherlands and Italy. In the former two cases, we again interpret this as indicating non-partisanship. The Italian case was a product of the bargain between the government and the PCI, the "historic compromise", and, after its end, the need to compromise with a powerful opposition in order to avoid obstruction (Hine 1993:188-193). Therefore, it is rather a special case of partisanship than non-partisanship.

Further hints on the partisanship of parliamentary presidents can be extracted from Table 10.9 Looking at the intra-party status of parliamentary presidents, it turns out that they were top party leaders in the majority of cases in seven countries, Austria, Belgium, Finland, Luxembourg, the Netherlands, Norway and Sweden. Two of them stand out, Belgium and Finland. There, parties nominated their national party leader for parliamentary presidency and almost never allocated this position to people who did not belong to the top party leadership. Again, we think that these countries rank higher on the partisan dimension than those in which members of the wider leadership or even backbenchers were chosen for the office of parliamentary president. The single instance of Belgium, when a backbencher became president of the Chamber of Representatives does not really disturb the picture, as he was elected to serve as a temporary substitute.

Let us try to summarise our discussion of the partisanship of parliamentary presidents' recruitment. For us, the most obvious and significant measure is the presidential election. The less support a president receives in his or her election, the less he or she tends to be trusted by the MPs, hence, the more partisan he or she is expected to be. This indicator seems to be preferable to contestation for two reasons. First, contestation would give too much value to 'loony' candidacies. Secondly it would not represent situations where MPs accept the convention that a specific party has a claim to the parliamentary presidency, but are not convinced of the qualities (including non-partisanship) of the particular candidate. Therefore, we have ranked the countries on a ten-point scale, according to the amount of support for the presidents as expressed in their elections. This constitutes the basic ranking of countries in the partisan dimension. However, two other indicators, discussed above in length, also merit inclusion: the party constellation at the time of election and the presidents' career background. We have reduced the score whenever a country displayed non-partisan elements and have added to it when both the party constellation at the time of election and the presidents' career background indicated particular partisanship. Corrections amount from -1 to +3. The details and the resulting Index of Partisanship can be seen in Table 10.10.

Table 10.8: Party Background of Parliamentary Presidents 1970-1992 [1)]

		President belonged to					
	Terms of office (n)	*largest parliamentary party (in %)*	*largest parliamentary party & opposition party (in %)*	*an opposition party (in %)*	*a government party (in %)*	*largest government party (in %)*	*a government party and not largest parliamentary party (in %)*
Austria	9	100	0	0	100	100	0
Belgium	33	12	0	0	100	12	85
Denmark	27	44	26	52	48	41	26
Finland	26	35	4	23	77	50	42
France	7	100	0	0	100	100	0
Germany	10	100	30	30	70	70	0
Greece	8	100	0	0	100	100	0
Iceland	22	32	0	4	96	59	64
Ireland	8	38	0	37	63	50	25
Italy	7	14	0	43	57	14	43
Luxembourg	5	60	0	0	100	100	60
Netherlands	16	81	38	44	56	50	13
Norway	25	40	0	28	72	72	24
Portugal	14	71	0	0	100	71	29
Spain	6	100	0	0	100	100	0
Sweden	8	88	25	25	75	75	13
Switzerland	23	22	0	9	91	22	70
United Kingdom	9	78	0	22	78	78	0
European Union	15	40	-	-	-	-	-

Source: Project participant's answers to questionnaire.
Note: 1) Status at the time of election.

Table 10.9: Career Patterns of Parliamentary Presidents 1971-1990 [1)]

	Number of different presidents	*Intraparty status*				*Record of government membership (in %)*	*Presidential office was 'status improvement' (in %)*
		nl	*tl*	*wl*	*bb*		
Austria	5		4	1		3 (60)	4 (80)
Belgium	7	1	5		1	5 (71)	3 (43)
Denmark	6		1	5		6 (100)	6 (100)
Finland	9	3	5	1		7 (78)	5 (56)
France	5		3	2		3 (60)	2 (40)
Germany	7			7		5 (71)	7 (100)
Greece	4			4		3 (75)	4 (100)
Iceland	6		1	4	1	1 (17)	2 (33)
Ireland	6			6		3 (50)	0 (0)
Italy	3		1	2		0 (0)	3 (100)
Luxembourg	5		5			2 (40)	1 (20)
Netherlands	4		3	1		3 (75)	1 (25)
Norway	5		3	2		1 (20)	5 (100)
Portugal	7		2	5		0 (0)	4 (57)
Spain	4			4		0 (0)	4 (100)
Sweden	3		2	1		2 (67)	0 (0)
Switzerland	21	almost all wider leadership				[2)]	(100)
United Kingdom	4		1	2	1	2 (50)	0 (0)
European Union	10	trend to elect top leaders				-	-

Sources: Project participants' answers to questionnaire and coding by authors.

Abbreviations:
nl: the national party leader
tl: one of the top leaders
wl: member of the wider leadership
bb: backbencher

Notes:
1) The first and last year of the period were determined by the availability of data for all countries. Start of period for Greece 1974, Portugal 1976, Spain 1977.
2) No data available.

Table 10.10: Partisanship in the Recruitment of Parliamentary Presidents 1970-1992

	Support in election [1)]	*Party constellation* [2)]	*Career background* [3)]	*Index of Partisanship*
Austria	1	0	+1	2
Belgium	2	+1	+2	5
Denmark	1	-1	0	0
Finland	4	+1	+2	7
France	8	0	0	8
Germany	5	-1	0	4
Greece	9	0	0	9
Iceland	5	+1	0	6
Ireland	4	0	0	4
Italy	6	+1	0	7
Luxembourg	[4)]	+1	+1	-
Netherlands	3	-1	+1	3
Norway	2	0	+1	3
Portugal	8	0	0	8
Spain	d	0	0	-
Sweden	2	-1	+1	2
Switzerland	2	-1	0	1
United Kingdom	2	0	0	2
European Union	6	-	-	-

Source: Coding by authors.

Notes:

1) The minimum of one point was accorded to countries with mean election results lying in the range 95-100%. Every 5%-step down in the share of valid votes meant an additional 'partisanship' point.
2) Countries where the post was often shared among the governing parties were given an additional 'partisanship' point. One point was subtracted when the largest parliamentary party seemed to have a claim to the presidential post irrespective of being in government or not or when another scheme of office sharing was employed.
3) Additional one to two 'partisanship' points were given for the tendency to elect top party personnel.
4) No data available.

The Parliamentary Presidium

So far the paper has dealt with only one position, that of the president of parliament. According to the standing orders of many parliaments, the president is a monocrat, however, in practical terms, he or she is often the primus in a parliamentary presidium. This is most obviously the case in the chairing of parliamentary sessions. For physical reasons alone, in all parliaments there are a number of vice-presidents who, together with the president, alternate in chairing plenary sessions. The number of vice-presidents varies widely across countries. The extremes are the Swiss National Council with only one and the supranational parliament of the European Union with 14 vice-presidents, allowing, where possible, for one from each Member State. In order to allow for cross-country comparisons, we have drawn the boundaries restrictively around what shall constitute the parliamentary presidium. Only deputies who have the right to preside over a plenary session are defined as members of the presidium. Thus, deputies elected as assistants of the presiding officer for counting votes,, for example, have not been taken into consideration, even though this may be done in the respective country or in the comparative documentation of the Inter-Parliamentary Union (1976; 1986).

The parliamentary presidium performs at least two different functions. First, via its formation it fixes in advance who will take over the president's rights and duties in the case of absence. Secondly, it distributes the workload of acting as presiding officer over plenary sessions between several individuals. Sometimes, the presidium fulfils a third important function: working on solving of problems arising from vague formulations in the actual standing orders. In some parliaments this latter function is exercised by a specialised committee, existing separately from the presidium. In other countries, the head of parliament consults the parliamentary party leaders prior to a binding presidential decision (see Table 10.11 below).

Although in party political terms, the office of president of parliament can be part of a larger deal, it eventually has to go to just one party. The existence of several positions in a parliamentary presidium, however, allows for the representation of more than one party or country in the special case of the European Union. If the proportional distribution of these positions is prescribed by law, this indicates that - at least at some point in time - there was consensus that the presidium of parliament should be non-partisan, which in practical terms may be translated into all-partisan. Such legally binding proportionality requirements exist only in Denmark and Spain. However, in most countries where such legal rules do not exist, the parliamentary parties nevertheless follow a norm of pro-

portionality by convention. As a consequence, the election of the respective parties' candidates to a position in the parliamentary presidium have often been uncontroversial. This, again, may be read as a consensus for non-partisan presidential office. In contrast, the positions in the parliamentary presidium can also be seen as political spoils, which, according to the winner-takes-all principle go to the victor of the election, or belong to the spoils which are distributed among coalition partners. In Belgium, Iceland, Ireland and Luxembourg, vice-presidential posts have sometimes, or even traditionally, been used as spoils to be distributed among the partners in a government coalition. Where a convention of proportionality exists, conflicts sometimes arose over the exact number of vice-presidents, which in turn affects proportional distribution. An example of such a conflict was Germany, where in 1983, the new party in parliament, the Greens, challenged unsuccessfully its exclusion from the distribution of vice-presidential posts by demanding the election of additional vice-presidents. The Green party got its first vice-presidential post in 1994. Through unexpected CDU/CSU support, it managed to gain a former SPD-occupied vice-presidential post. Norway is another case where unaccustomed new distributions of parliamentary power following an election led to conflicts over established practice. When in opposition, the Conservative Party, being usually the second largest party in the Storting, as a rule held the post of vice-president. In the elections of 1993, the Conservative Party lost the position of second largest party to the agrarian Centre Party, and the latter challenged the claim of the Conservative Party. The Conservatives defended it by saying that it was still the largest opposition party, due to the behaviour of the Centre Party as an informal supporting party of the Labour government. Eventually, the Centre Party candidate was elected with the support of Labour MPs.

Table 10.11 gives an overview of the number of vice-presidents and the method of appointment used in the different countries.

According to the rules for selecting the parliamentary presidium, Denmark and Spain stand out as those countries stressing non-partisanship (via all-partisanship). Taking practice also into account, however, it turns out that most parliaments apply rules of proportional representation. Only Belgium, Iceland, Ireland and Luxembourg stand out as exploiting the selection of the parliamentary presidium in party-political terms.

The Role of the Parliamentary President and Presidium in the Parliamentary Process

As a rule, presidents do not speak in debates. In most countries, the president also refrains from participating in committees. The exceptions to this rule are Austria, Belgium, Ireland, Luxembourg, the Netherlands and Norway. A closer

Table 10.11: The Selection of Presiding Officers

	Presiding officers	*Binding proportionality*	*Appointment of vice-presidents*
Austria	P + 2VP	No	election
Belgium	P + 5VP	No	election
Denmark	P + 4VP	Yes	nominated by fractions
Finland	P + 2VP	No	election
France	P + 6VP	No	by acclamation or election
Germany	P + 4VP	No	election
Greece	P + 5VP [1)]	No	election
Iceland	P + 6VP	No	election
Ireland	P + 5VP	No	nominated by president
Italy	P + 4VP	No	election
Luxembourg	P + 3VP	No	election
Netherlands	P + 2VP [2)]	No	election [3)]
Norway	P + 3VP [4)]	No	election
Portugal	P + 4VP	No	election
Spain	P + 4VP	Yes	election
Sweden	P + 3VP	No	election
Switzerland	P + 1VP	No [5)]	election
United Kingdom	P + 2VP	No	election
European Union	P + 14VP	No	election

Source: Project participants' answers to questionnaire; IPU 1976

Notes:

1) There were 3 vice-presidents until 1987, all belonged to the government party. Since 1987 the fourth and fifth vice-president belong to the first and second largest opposition party.
2) Minimum number of vice-presidents. Election of additional vice-presidents is possible.
3) Vice-presidents were nominated by the president until 1983.
4) These are the presiding officers of the Storting. Its constituent units Odelsting and Lagting elect their own presidents and vice-presidents. All together are refered to as the "presidium" in Norway.
5) In practice there is a regular rotation between the parties.

Abbreviations:
P President VP Vice-president(s)

look at the committees of which the presidents are members, reveals that the committees are usually of a special nature, often dealing with the setting of the chamber's agenda, where this is not a right of the president, or they deal with the rules of procedure. The respective committees are, with a few exceptions, generally not concerned with law production. However, the Belgian president of the house usually chairs a prestigious standing committee dealing with policy questions, which is either the committee of foreign affairs or of institutional reform. In the Netherlands and Norway, presidents have also sometimes chosen to preside over or participate in standing committees dealing with policy questions.

Informal contacts between the president and the parliamentary party leaders can be expected to exist everywhere. In an institutionalised form they may exist on two different grounds. Either these bodies are responsible for the setting up of parliamentary agenda as is the case in France and Italy, or they function as deliberating or decision-making bodies when conflicts about the interpretation of the standing orders occur. Table 10.12 identifies the bodies and mechanisms of conflict-resolution existing in West European parliaments.

In order not to overstate the influence of the president of parliament and of these bodies in such conflicts, it should be kept in mind that a chamber can always resort to changing the standing orders. However, the ease with which that can be done depends, in the first place, on the legal status of the standing orders in the different countries, and the majorities required for a change of the regulations. The widespread existence of deliberating contrary views of parliamentary rules and decision-making indicates, however, that parliamentary actors do not see every difference of opinion as being important enough to merit an expensive effort and time-consuming reform of the rules of procedure.

The question of whether the president is generally accepted as a neutral referee has elicited mixed answers from the country experts. The tendency is to say 'Yes' with the qualification that it depends also on the personal qualities shown by different presidents and that, therefore, there is significant variation over time. In Norway, a tie-breaking vote by the president sometimes occurs without causing uproar. The same, although substantially less often, occurs in the United Kingdom. Otherwise we could identify only a few cases of politically important and controversial 'lonely decisions' by parliamentary presidents. In Greece in 1985, the president of the lower house, Ioannis Alevras, who at the same time was acting as president of the Republic, participated in the election of a new head of state in the chamber. The incident provoked a heated discussion. The prevailing opinion among constitutional scholars was that, by taking part in the election, Alevras had ignored regulations of incompatibility. In August 1990, the Italian president of the Chamber of deputies, Leonilde Iotti, provoked

Table 10.12: How and Where Conflict over Parliamentary Rules of Procedure Is Solved

	Deliberation in	*Composition*	*Mode for arriving at a solution*	*Formal decision rule*
Austria	Presidial conference	P+VP+FL	usually consensus	presidential decision
Belgium	Conference of Presidents of Parliamentary Groups or special standing committee [1)]	P+VP+FL(+CC) CM	until recently usually consensus	majority decision
Denmark	Presidium or special standing committee	P+VP CM	usually consensus	presidential decision
Finland	Speaker's Council	P+VP+CC	usually consensus	-
France	Conference of Presidents [5)]	P+VP+FL+CC	majority decision	majority decision [3)]
Germany	Council of Elders [5)] or special standing committee	P+VP+MPs CM	usually consensus	presidential decision or majority decision in committee
Greece	Conference of Presidents	P+VP+FL	usually consensus	presidential decision
Iceland	-	-	-	presidential decision
Ireland	-	-	presidential decision	majority decision
Italy	Board of the parliamentary rules	P+MP	presidential decision	presidential decision
Luxembourg	special standing committee	P+FL	usually consensus	majority decision [3)]
Netherlands	-	-	-	presidential decision
Norway	special standing committee	P+VP+FL+CC [2)]	often consensus	majority decision on the floor [5)]
	Deliberation in	*Composition*	*Mode for arriving at a solution*	*Formal decision rule*

Portugal	President's Office	P+VP+S+VS	not known	not specified
Spain	Conference of Spokesmen	P+FL	majority decision	presidential decision
Sweden	Speaker's Conference	P+VP+FL+CC	usually consensus	presidential decision
Switzerland	Office	P+VP+FL+CV	majority decision	majority decision on the floor
United Kingdom	-	-	-	majority decision on the floor
European Union	special standing committee [4)]	CM	often consensus	majority decision

Source: Project participants' answers to questionnaire.

Notes:

1) Since 1993 the matter is brought before the Central Committee, a subset of the plenary, in the event that two parliamentary party leaders, representing more than 20% of the MPs, oppose a decision of the Conference of Presidents of Parliamentary Groups. This procedure is not in the standing orders, it is by convention only.
2) The Storting and its constituent units, Odelsting and Lagting, are presided over by separate presidents and vice-presidents.
3) The parliamentary party leaders votes are equal to the number of deputies they represent.
4) Another body acts - the Enlarged Bureau until 1993, the Conference of Presidents since then -, if there is conflict over the agenda of Parliament.
5) Committee report recommends a solution. In case of consensus in the report, no vote is taken in the plenum.
6) The body's main responsibility is setting the chamber's agenda.

Abbreviations:

P	President	CC	Committee chairmen/women	MP	Deputies
VP	Vice-president(s)	CM	Committee members	S	Secretaries
FL	Fraction leaders	CV	Counter of votes	VS	Vice-secretaries

loud protests from the government parties when she decided that a secret vote would be held on the approval of the RAI-TV bill. The bill was a controversial issue between the coalition parties, and the government feared a defeat. In December 1994, the president of the Chamber of deputies, Irene Pivetti of the Northern League, used her presidential power to hold a vote on the establishment of a commission, the task of which was to prepare a restructuring of the electronic media sector. Establishing such a commission was a matter of controversy between the Lega and the other government parties. It was perceived of as a threat to the prime minister and media tycoon Silvio Berlusconi. The commission was established by the Lega joining forces with the opposition for the first time. In France in October 1994, the president of the National Assembly, Philippe Séguin, embarrassed a Conservative government, already burdened with internal divisions concerning European integration policy, with his insistence on parliamentary control of the application of the Maastricht Treaty. From Iceland, two cases were reported. In May 1974, the president of the united Althingi refused the opposition a vote of no confidence when the government had lost majority support in parliament. Instead, the prime minister dissolved parliament and called for new elections. In May 1993 the president of Althingi under political pressure from the prime minister, her party colleague, refused to set a government bill, which had already passed committee stage, on the voting agenda of the plenum. Both cases mentioned were highly controversial. In Austria, the president of parliament acknowledged in 1992 a break-away from one of the parliamentary parties as a new *Fraktion*. This, in turn, provided the new group with essential resources (access to committees, finance, space). The decision was highly controversial and brought the president under the fire of criticism from those parties which feared to suffer most from the new party. The decision, in turn, at least initially, was seen as serving the interest of the president's party. Eventually, the constitutional court confirmed this decision as lying within the discretion of the president of parliament.

If the above is true, with a few exceptions, West European parliamentary presidents tend to behave in a non-partisan way. This contrasts with their recruitment, which in many parliaments displays a significantly higher degree of partisanship. Therefore, it might be asked whether the struggle for parliamentary presidency is just a struggle for attractive spoils - a high salary, a chauffeur-driven car and some limelight. Despite the low party-political profile of presidential behaviour, we do not believe this to be the case. It might be useful to refer to Bertrand de Jouvenel's classification of authority, which distinguishes two symbolic figures, the *dux* and the *rex*, with the former playing a more active part and the latter a more passive part in the political game (cited in Pelinka and Welan 1971:207). The office of parliamentary president seems to be more akin to

the *rex*. However, this does not mean that the position is irrelevant in party-political terms. Rather, it is not equally relevant during the whole course of the political game. From a party-political point of view, it may not make much difference who is the parliamentary president in routine situations. However, occasionally, situations may arise in which it is essential for a party to be able to rely on the parliamentary president to bring the powers of presidential office to bear.

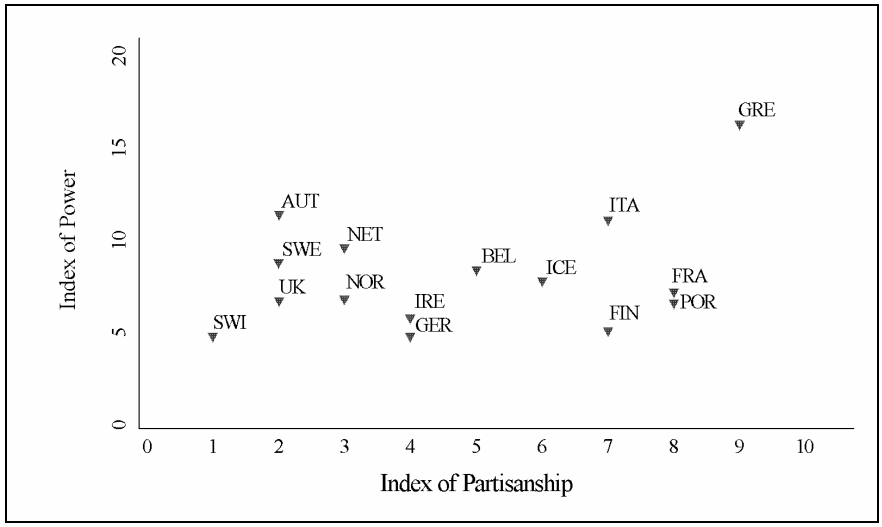
Occupying presidential office, therefore, may be seen as a kind of "safety net" for political parties. It provides them with potential power rather than adding to their capacity to influence day to day politics.

5. Conclusion

We will now bring together the two dimensions which have been under investigation throughout the paper, the power and partisanship of parliamentary presidents. The power of presidents is measured by the index of rights in Table 10.1 minus the accountability index in Table 10.5. As a measure for partisanship of parliamentary presidents, we take the partisan index as developed in Table 10.10. We realise that this is an *ex ante* measure for partisanship, which may be not be in tune with the subsequent behaviour of the incumbent. However, because of the very nature of the office, this seems adequate. As we have argued in the preceding section, presidents of parliament cannot be expected to act permanently in a partisan manner. Rather they will do so only in specific circumstances. Figure 10.2 displays the pattern of how the countries are spread about in the power and partisan dimensions.

Drawing empirically on Figure 10.2, we now return to the four types of parliamentary presidency developed in section 2. Not unexpectedly, the speaker of the house type cannot be found in today's real world. The only country falling into the quadrant of this type, is Austria, but it is also much closer to the countries falling into the neutral chairman quadrant than to the ideal type of speaker of the house. The party asset type is best approached by Greece. Italy also falls into the party asset quadrant, but (similar to Austria in the speaker of the house quadrant) is a borderline case. The bulk of countries, however, is spread around the two lower quadrants. The neutral chairman type is best approached by Switzerland and the United Kingdom. Three Scandinavian countries, Denmark, Norway and Sweden, and also Germany, Ireland and the Netherlands fall into this quadrant, too. The Belgian president of parliament is placed at the borderline between the neutral chairman and minor party position quadrant. Finally, the minor party position type of parliamentary president is best approached by Portugal, France and Finland. Iceland also falls into this quadrant.

Figure 10.2: Presidents of Parliament/Chamber: Distribution of Power and Partisanship



Sources:
Index of power = the index of rights in Table 10.1 minus the accountability index in Table 10.5. Index of partisanship as in Table 10.10.

This chapter presents the first comparative study of the parliamentary presidents of Western Europe and the European Union. We have looked at their role within parliament and have been concerned, in particular, with their power and partisanship. The aim of this chapter was to provide a descriptive account of the powers, the accountability and the partisanship of parliamentary presidents. In this final section, we have combined these dimensions in to provide a first attempt at classifying West European countries. Obviously, there still remains much to be done to refine and extend the scope of the present analysis.

Appendix

On March 4, 1933 the president of the first chamber of the Austrian parliament, the Nationalrat, resigned during a session. According to his statement in the chamber, he resigned on the grounds of being severely criticised by several members for making a particular procedural decision. This decision was to uphold the result of a roll call vote in the Nationalrat, despite the fact that one of the MPs had used the voting paper of his neighbour rather than his own. In this particular ballot the government had been defeated by a single vote; made possible by the defection of two government MPs. According to the standing orders, the president, as a member of the opposition, which was happy with the result, had not participated in the vote. He resigned to maintain the anti-government majority should the government manage to "turn" one of the defectors and try to reopen the issue. As the second president, a member of the government, now taking the chair would not be entitled to vote,. the numerical strength of the opposition would persist. The first action of the second president was to declare the vote invalid and to announce a new vote on the issue. In view of this decision it was now the opposition that criticised the president. The response of the president as a consequence of this criticism was to resign immediately, thereby giving the government's side an additional potential vote, and at the same time reducing the strength of the opposition by one vote since the third president, who was now forced to take over, belonged to the second opposition party. However, the first and last action of this third president was to resign too. Without formally closing the session, the Nationalrat was dissolved. Unfortunately the standing orders had made no provisions for such a situation: there was no positively proscribed procedure to reconvene the House with a new chairman in the event that none of the presidents already appointed should happen to be available. This situation came as a gift to the government, some of whose members had already made plans for replacing parliamentary democracy with an "authoritarian government". The government declared that in light of this checkmate situation, the Nationalrat had dissolved itself by default (Selbstausschaltung). The government claimed that given the lack of procedural remedies for this problem, there would be no legal way to resummon the Nationalrat and used the police to enforce its position. Thus, it was a procedural loophole that helped facilitate a pseudo-legal introduction of the dictatorship in Austria.

Although the case outlined above is singular in the history of Western democracies, it nevertheless makes clear that, potentially, the procedural rules presented in the table below can be highly relevant. Standing orders often include several provisions in the event that a specific rule is not applicable. Table 10.13 lists the rule to be used first.

Table 10.13: Provisional Chair of Parliament/Chamber Should President and Vice-Presidents Be Unable to Carry Out Their Duties

former president of chamber	SWI, NET
longest serving MP of largest party	AUT, UK, GRE
longest serving MP	SWE
head of state	DEN
oldest MP	BEL, FIN, LUX [a]
substitutes nominated in advance	IRE
no provisions	FRA, GER, ICE, ITA, NOR, POR, SPA, EU

Source: answers to questionnaire by project participants.
Note:
a Since 1990 the president can also name substitutes and the parliamentary presidium can set an order of succession at the beginning of a parliamentary session.

Data

This is a short-cut reference to the various sources of data. Apart from each country's constitution, the standing orders of parliament or chamber and the parliamentary minutes, country experts cited the following publications in their answers to our questionnaire:

Austria: Atzwanger, Kobzina and Zögernitz 1990; 1994; Cerny and Fischer 1982; Fischer 1971;

Belgium: Senelle 1966; Toebosch 1991; Van Impe 1965;

Denmark: Busck 1988; Folkmann 1985; Gulman et alii 1987; Nemeth 1982;

Germany: Ismayr 1992; Deutscher Bundestag 1991; Schindler 1983; 1986; 1988; Schneider and Zeh 1989;

Iceland: Magnusson 1987;

Ireland: Dooney and O'Toole 1992; Morgan 1990;

Netherlands: Bellekom et al. Rijn/Tjeen Willink 1991; Hagelstein 1991; van Raalte 1991, Parlement en Kiezer, annual editions;

Norway: Arter 1984;

Switzerland: Parlamentsdienste 1993 and annual editions;

United Kingdom: Boulton 1989; Griffith, Ryle and Wheeler-Booth 1989; Laundy 1984

European Union: Jacobs and Corbett 1990; Jacobs, Corbett and Shackleton 1992

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11

Patterns of Bicameralism[1]

George Tsebelis and Bjørn Erik Rasch

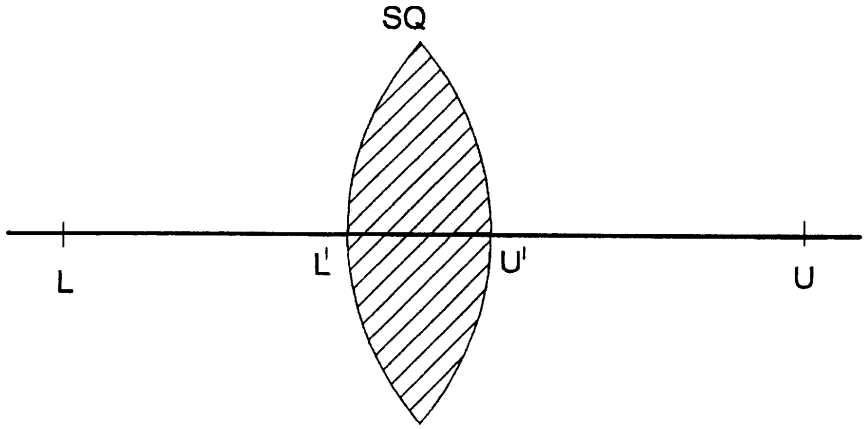
This chapter investigates the impact on the final outcome of different methods of resolving differences between the two chambers in bicameral systems. The general method of resolving intercameral difference is the navette system, according to which a bill is shuttled from one chamber to the next. This procedure can be continued until agreement is reached, or can be complemented by a specific stopping rule: one chamber decides, there is a conference committee (i.e. a joint committee of both houses), or there is a joint session. The impact of each of these procedures will be analysed. As a general rule, the impact of upper chambers on legislation is a minor one, but almost never negligible. In addition, the impact depends on institutional features of the navette, as well as how impatient each chamber is to reach an agreement.

Ten of the eighteen countries in our sample have bicameral legislatures. This proportion, at over 50 percent, is significantly higher than the actual worldwide proportion of 35 percent (Money and Tsebelis 1992). The list of bicameral legislatures includes all the major West European countries: Germany, France, Italy, Spain, and the UK. In addition, smaller countries like Ireland, the Netherlands, Switzerland, Austria, and Belgium, whether federal or not, include an upper chamber in their Parliament. Finally, some Scandinavian countries (Norway, and Iceland (until 1991)) have an ambiguous arrangement according to which their parliament is elected as one chamber, but then divides itself into two parts holding separate meetings.

In a nutshell Figure 11.1 presents the problem to be considered with respect to bicameral legislatures. Following the assumptions of Tsebelis (in this volume) we will represent each chamber by a single "ideal point", that is, a point in space at which it would prefer to have the legislative outcome located. If this

1 We would like to thank the participants in the conference on Parliaments in Western Europe for many useful comments. We also thank Neal Jesse, Amie Kreppel, and Monika McDermott for editorial and research assistance.

Figure 11.1: Simplified Decision Making in a Bicameral Legislature



choice is impossible, the chamber would prefer to see legislation producing points as close as possible to this ideal point. More precisely, each chamber is indifferent towards various points located at an equal distance from its own ideal point. Suppose that in an n-dimensional space (two dimensional in our Figure) the two houses have different ideal positions, indicated by U and L for the upper and lower chambers respectively. The reason that the two houses may have different ideal points is that they may be representing different constituencies as will become clear in the next section, or be involved in different games (for example, the one in an electoral game, the other not (Tsebelis 1990)). For the moment, the fact that the multiplicity of legislators' preferences in each chamber has been reduced to a single point should be disregarded.

Suppose also that the status quo (the previous bill) is located at the point SQ of the Figure. Can one somehow make an educated guess as to which point will be selected by these two chambers to replace the status quo? For a unicameral legislature the answer to the same question would be simple: the single chamber (L for the sake of this argument) would move the status quo from SQ to its own ideal point. For a bicameral legislature, we may be able to narrow the choice down to that segment of the line that connects U and L, which is included inside the circles with centres U and L who pass through the status quo (segment L'U' in the figure). But which one of these points would be chosen? Moreover, what characteristics of the chambers does one need to investigate in order to narrow down the possible outcomes?

More generally, if one does not make the simplified assumption of collective players having unique ideal points, are we justified (and under what conditions) in holding the expectation that the outcome will be located in the L'U' segment? This chapter will provide an affirmative answer to the last question. The expectation that the outcome will be "around" the segment L'U' is reasonable under a wide set of assumptions. In addition, we will try to narrow down the interval of the final outcome even further, and provide a point estimate. However, we will do this on the basis of more restrictive assumptions about the interaction of the chambers.

The final outcome of the investigation is that institutional features of the two chambers' interaction, such as where a bill is introduced, how many times it goes to each chamber, and who has the final word, systematically affect the outcome. In addition, the location of the outcome depends on political factors, such as how impatient each chamber is for a compromise.

The chapter is organised into three sections. The first describes the different mechanisms for resolving differences between the two chambers in the ten bicameral legislatures of our sample. The second uses results from formal literature to investigate the impact of these procedures on the final outcome. The third section concludes the study.

1. The Multiple Mechanisms of Bicameral Negotiations

In Figure 11.1 there are two distances: the distance between the ideal points of the two chambers and the distance of the status quo from the line connecting the two chambers' ideal points. Each of these distances may be large or small. If the two chambers have ideal points close to each other (as will happen if they have the same political makeup), then it will be relatively easy for the two chambers to reach an agreement, because the question each will be facing is whether to accept a new solution which is not far away from their ideal point, or to preserve a very undesirable status quo (because of their disagreement). Conversely, if the status quo is close to the line L'U', a compromise between the two chambers becomes more difficult because the common gain from altering the status quo is not large enough to compensate for the differences of opinion (the points along the line L'U').

If the ideal points of the two chambers are far away from each other, then the specific institutional provisions that regulate the interaction in pursuit of a compromise between the two chambers are of paramount importance. If, on the other hand, the two ideal points are close to each other, then the specific mechanisms of reconciliation become less important. In following this, this section is organ-

ised into two parts. The first part studies how close the ideal points of the two chambers are in different countries. The second part examines the different mechanisms of reconciliation.

A.. Closeness of the Upper and Lower House

Lijphart (1984) has called legislatures, in which the two chambers have the same political makeup, congruent, otherwise he calls a bicameral legislature incongruent. Money and Tsebelis (1992) speak about efficiency gains when one moves on from the status quo to the line L'U' and redistributive movements when the movement is along the line L'U' where the two chambers have conflicting interests. The two ideas are closely related: congruent legislatures are those where significant efficiency gains from a change of the status quo can be made; incongruent legislatures are those where the distance between the two chambers is large compared to the efficiency gains.

In countries with strong party discipline, like all the countries of our sample, a very good predictor of the two chambers' closeness is their partisan makeup. It is possible that even legislatures with different compositions will agree on some issues (imagine that an old law has become obsolete, even parties with different positions may agree about how it should be changed; or imagine a strong exogenous shock like the oil crisis, it is possible that different parties would have similar ideas about how to increase revenues or decrease spending). However, such agreements are not very likely. Consequently, it is only a very similar partisan makeup, along with strong parties that guarantees closeness of ideal points.

A similar partisan makeup is likely to be produced if elections for the two chambers are held simultaneously, and if the electoral system for the two chambers is the same. Only the two hybrid bicameral legislatures of Iceland and Norway follow a path guaranteeing congruence. In these countries there is a single election, and the legislature only divides itself into two parts after the election.

In all other countries of our sample (10), the lower house directly represents the people, whilst the upper house is the product of either indirect elections (France, Austria, Netherlands), appointment (by the Länder in Germany, by the Queen in the UK), or partial appointment (Ireland, Spain, Belgium). In addition, in federal countries the upper house represents different territorial units (Switzerland, Germany, Belgium). Only in Italy is the upper house entirely the result of direct popular elections.

Table 11.1: Overcoming Disagreements Between Houses on Bills

Country (1)	*Mode of selection of upper house*	*Congruence*	*Decision system*
Austria	indirect election by provincial leg. proportional rep.	no	navette (lower house decisive)
Belgium	direct proportional (4/7) indirect (2/7) cooptation by senate (1/7)	yes	navette
France	indirect election by electoral colleges	no	navette (followed by joint committee or lower house decisive)
Germany	appointed by state governments	no	navette (followed by joint committee or lower house decisive)
Iceland (*)(**)	unified chamber divides itself after election (1/3 upper house, 2/3 lower house)	yes	navette (followed by 2/3 maj. decision in unified chamber)
Ireland	direct election (49/60) appointment (11/60)	no	navette (followed by joint committee or lower house decisive)
Italy	direct election proportional rep.	yes	navette

Country (1)	*Mode of selection of upper house*	*Congruence*	*Decision system*
Netherlands	indirect election by provincial councils proportional rep.	yes	navette (upper house decisive)
Norway (*)	nominated by unified chamber after election from among its own members (1/4 total membership)	yes	navette (followed by 2/3 maj. decision of combined chambers
Spain	direct election simple majority (208/256); appointed by reg'l assemblies (48/256)	no	navette (followed by joint committee)
Switzerland (*)	direct election two per canton [1)]	no	navette (followed by joint committee)
UK	hereditary and appointed	no	navette (lower house decisive)

(1) Information for all countries except (*) taken from Tsebelis and Money (1992).

(*) Information for these countries was taken from Tsebelis and Rasch questionnaires

(**) Iceland followed this system until 1991

Note:
1) 2 per canton, 1 per "Halbkanton"

In conclusion, existing procedures of upper and lower chamber selection in all but two countries (Iceland and Norway) do not guarantee small ideological distances (or congruence). However, examination of the post-World War II results indicates that the distances between upper and lower houses have been small in another three countries: Belgium, Netherlands, and Italy. As a consequence, in Table 11.1, 5 of these countries are classified as having congruent legislatures.

B. Mechanisms of Reconciliation

There is a common mechanism for the resolution of intercameral differences. It is called the navette system, and it consists of sending a bill, as modified, from the one chamber to the other. Each chamber makes an offer to the other which either accepts it (in which case the legislative game ends with the adoption of the bill), or modifies it and offers it as a counter-offer (in which case the legislative game continues). This mechanism of reconciliation may either continue indefinitely (the legislatures of Italy, and Belgium are examples of this arrangement), end immediately (in the Netherlands the lower chamber makes an offer to the upper who accepts or rejects it), or continue for a finite number of rounds. If agreement is not reached by the prespecified number, some other closing rule is applied. In some cases (Spain, the UK, Austria, and sometimes France), the lower house makes the final decision; in others (Norway, Iceland, and although it is outside our sample Australia) there is a joint session of the two houses of Parliament; in others still (sometimes France, sometimes Germany, and Switzerland) there is a joint committee, or committee of reconciliation, which develops a compromise that is offered on the floor of both houses for final approval. This enumeration exhausts all the mechanisms of negotiation between the two houses. Table 11.1 provides more precise information.

The differences in the reconciliation procedures are remarkable, despite the fact that the term "navette" appears in every country. For example, we described the Dutch system as navette; in this system, the lower house makes a proposal to the upper house which accepts or rejects it. We also described the Italian system as navette; in this system the two houses make alternating offers until an agreement is reached. From this account it becomes obvious that the same name covers very different procedures in different countries, and that the differences depend on the institutional details of the navette, such as for how many rounds a bill may be shuttled back and forth, and who makes the final decision.

With respect to the final decision, only in the Netherlands is this delegated to the upper chamber. Austria, the UK, Ireland, and Spain delegate the final decision to the lower chamber. In France and Germany either the lower house has the last word, or the matter is delegated to a conference committee. In Belgium and Italy the navette has no stopping rule (i.e. it can continue indefinitely). In the two

hybrid bicameral parliaments of Norway and Iceland, the two chambers meet in a joint session. Finally, in Switzerland persistent disagreement is resolved by a conference committee.

Table 11.2 provides both the institutional details of the navette system and the stopping rule prevailing in each country. From this table it becomes clear that in six of the countries (Belgium, the Netherlands, Iceland, Italy, Norway, Switzerland), agreement of both chambers is required for the adoption of a law. In four countries (Austria, Ireland, Spain, the UK), the lower house has the final word and can overrule the upper house. Finally, in France and Germany legislation is produced either by both chambers, or by the lower house overruling. However, the mechanism of case selection differs in the two countries. In France, a conference committee is set up first (the government has to request such a procedure) and only if this committee fails to produce an acceptable compromise can the Government ask the National Assembly to make the final decision. In Germany, laws relating to the federal structure of the country (Zustimmungsgesetze, Art. 77, 3) require the agreement of the upper house (Bundesrat). In practice, more than 50% of all laws fall into this category.

If the lower house can overrule upper house objections, it is obvious that the relative power of the upper house is severely circumscribed. Lijphart calls such legislatures asymmetric (Lijphart 1984: 97-99). On the other hand, if the upper house cannot be overruled, legislation cannot be produced without a compromise between the two houses.

Combining the arguments presented in the first and second parts of this section, we come to the conclusion that disagreements are to be expected only in legislatures with large ideological distances between the two chambers (the legislatures labelled incongruent in Table 11.1). These disagreements are not as important if the upper house can be overruled (asymmetric legislatures; see Table 11.2). If none of these two conditions apply, important disagreements between the two chambers are to be expected. The countries that belong in this category of incongruent and symmetric legislatures are France, Germany, and Switzerland.

In all three of these countries, the final mechanism for the resolution of intercameral differences is the conference committee.[2] It is therefore important to take a closer look at this institution. As Table 11.3 indicates, in all three countries, the conference committee is composed of an equal number of representa-

2 In France this is not exactly the case, because the government can always ask the National Assembly to make the final decision (art 45.4). However, this is a decision with a political cost, and governments prefer to avoid it.

Table 11.2a: Institutional Features of the Navette (Non-Financial)

Country (1)	*Introduction of non-financial legislation*	*Number of rounds*	*Final decision*	*Comments*
Austria	lower house	1	lower house, if upper house objects within eight weeks	delay only
Belgium	either house	indefinite	no stopping rules	
France	either house	indefinite 3 (2 if urgent)	joint committee then lower house	government decides where to introduce bills, number of rounds and whether lower house decides
Germany	government bills in upper house; otherwise either house	1	joint committee then either lower house decides, or concerning federalism, mutual veto	
Iceland (*)(**)	either house	2	joint meeting in united chamber	
Ireland [1]	either house	1	lower house	delay only: if Senate rejects President can abort, except if Dáil has 2/3 majority
Italy	either house	indefinite	no stopping rules	

Country (1)	*Introduction of non-financial legislation*	*Number of rounds*	*Final decision*	*Comments*
Netherlands	lower house	1/2	upper house, but no power to amend	
Norway (*)	lower house	2	plenary session of united chamber (2/3 majority)	
Spain	lower house (except inter-territorial)	3	lower house decides by absolute majority	
Switzerland (*)	either house	3	joint committee	
UK	either house	2 or 3/2	lower house after one year	delay only

(1) Information for all countries except (*) taken from Tsebelis and Money (1992).

(*) Information taken from Tsebelis and Rasch questionnaires.

(**) Iceland followed this system until 1991.

Table 11.2b:

Country (1)	*Introduction of financial legislation*	*Number of rounds*	*Final decision*	*Comments*
Austria	lower house	0	lower house	
Belgium	traditionally lower house	indefinite	no stopping rules	
France	lower house	indefinite 3 (2 if urgent)	joint committee or lower house	government decides number of rounds; time limit
Germany	simultaneous for budget; upper house otherwise	1	lower house for budget otherwise upper house has veto	
Iceland (*)(**)	budget introduced in united chamber	2	united chamber	
Ireland	lower house	1	lower house after 21 days	delay only
Italy	alternately in lower and upper houses	indefinite	no stopping rules	
Netherlands	lower house	1/2	upper house	
Norway (*)	united chamber (Storting)	2	united chamber	

Country (1)	*Introduction of financial legislation*	*Number of rounds*	*Final decision*	*Comments*
Spain	lower house	1	lower house decides by absolute majority	
Switzerland (*)	either house	3	joint committee	
UK	lower house	1	lower house after one month	delay only

(1) Information for all countries except (*) taken from Tsebelis and Money (1992)

(*) Information taken from Tsebelis and Rasch questionnaires

(**) Iceland followed this procedure until 1991

Table 11.3: Information on Conference Committees

Country (1)	*Number of members (upper and lower chambers)*	*Standing (Y/N)*	*Decision making*	*Appointed by*	*Composition*
France	7 from each chamber	N	1/3 quorum, simple majority	relevant committees draw up lists, members decided by poll (in Senat decided by poll if 30 members call for a vote)	after 1981 proportional to party strength in both chambers (before maj. of National Assembly over-represented)
Germany	16 from each chamber	Y	quorum 7 members per chamber, simple majority	the mediation committee is permanent (chosen by coalition leadership)	lower chamber, proportional to party strength; upper house one per Länder (state).
Switzerland	13 from each chamber	N	simple majority	delegations of the relevant committees	proportional to political party strength

(1) Information taken from Tsebelis and Rasch questionnaires.

tives from each chamber, and decides by a simple majority of all their members (a per chamber quorum is required). In all three countries, the conference committee makes the final proposal to both chambers. At that stage, no amendments can be accepted, and the compromise proposal is voted under closed rule. The responsibility to craft the compromise in its final form places considerable power in the hands of the committee.[3] Consequently, the leadership of each house makes sure that members of this committee are selected proportionally from the different parliamentary groups. Indeed, a different representation may lead the members of the committee to compromises that are not acceptable to one or both of the parent chambers.[4]

To summarise the argument so far, there is a wide variation in what upper houses represent, ranging from aristocracy (UK), to professional associations (Ireland), to predominantly rural populations (France), to states (Germany, Switzerland). In a majority of cases, the two houses have different political makeups, and are therefore expected to disagree on legislation. Whether the disagreements are significant or not, a variety of institutional provisions, covered by different forms of the navette system, are used for resolution of differences. The next section provides an insight into the differences in outcomes entailed by these procedures.

2. Bicameral Bargaining Outcomes

In this section we will try to investigate the possible outcomes of negotiation between the two chambers. In the first part we will explain the problem in the most complicated (and realistic) form. We will review the assumptions implicit in reducing it to the simple form of Figure 11.1.[5] In the second part we will make these assumptions, along with some additional ones that are necessary to bring us to a unique solution.[6] At the end of the exercise, we will have a better idea of the

3 For a discussion of the power of the power to propose see Tsebelis (this volume) where the argument is made that in parliamentary regimes the government is powerful *because* it has the power to propose legislation, that is, because it controls the parliamentary agenda.

4 For example, before 1981, the right wing majority in the French National Assembly was selecting its representatives in the conference committee in such a way that the compromises adopted by majority were subsequently often rejected by the Senate.

5 This part follows closely Tsebelis (1993).

6 This part will be a recapitulation of work done by Money and Tsebelis in different combinations (Money and Tsebelis forthcoming, and Tsebelis and Money 1995).

policy consequences of the vast array of institutional arrangements covered by the name "navette", that is, all intercameral negotiating processes.

A.. Narrowing down the Possible Outcomes

The basic problem in identifying the possible outcomes of a majoritarian decision-making process, such as decisions in a legislature (whether unicameral or bicameral), is the fact that collective preferences (unlike individual ones) are not transitive. Consequently, while a legislature can prefer outcome a over b and outcome b over c by majority rule, it is still possible for the same legislature to prefer outcome c over a.[7] The outcome of such a set of preferences is that decision-making is not stable, as any outcome can be upset (that is, majority preferred) by another outcome. Furthermore, the process never ends, it can repeat itself by going through the same steps over and over again.

This was the reason why the core became a basic concept in social choice theory and cooperative game theory. The core of a legislature is a set of outcomes that cannot be defeated. Note that in this definition there is no mention of the mechanism by which a legislature actually arrives at the core. However, once a legislature is on a core outcome, then it will remain there as long as the preferences of the legislators remain the same.

Plott has shown that for unicameral legislatures the necessary and sufficient conditions for the existence of a core are very restrictive (Plott 1967:790). He discovered that for an n-dimensional legislature with an odd number of members to have a core (a point that cannot be majority defeated by any other point), the core has to be on the ideal point of at least one member and that the remaining even number of members ... "can be divided into pairs whose interests are diametrically opposed." In the absence of these restrictive conditions, majority rule could cycle anywhere in an n-dimensional space (McKelvey 1976; Schofield 1978).

In the absence of a core, social choice theory has developed other, weaker concepts of stability. The most important has been the uncovered set (Miller 1980; Shepsle and Weingast 1984; Ordeshook and Schwartz 1987; Cox 1987). The uncovered set is a set of points that cannot be defeated directly and indirectly by any other point. Consequently, the points u of the uncovered set either belong to the core (cannot be defeated directly), or if there is a point v that defeats u, then there is at least one point w that defeats v but that can be defeated by u. This

7 Imagine that the legislature is composed of three legislators, the first with preferences a over b over c, the second with preferences b over c over a, and the third with preferences c over a over b. This legislature deciding by majority rule would exhibit the preferences of a preferred over b over c over a; in technical terms it would "cycle."

literature has demonstrated that if legislators were sophisticated, under certain agendas the outcome would be inside the "uncovered set". McKelvey (1986) has proven that in an n-dimensional space, the uncovered set is centrally located.

More restrictive assumptions produce outcomes in some subset of the uncovered set (Banks 1985; Schwartz 1990). The latest of these results, and for our purposes the most significant, is Schwartz's Tournament Equilibrium Set (TEQ). Schwartz assumes that contracts between legislators are enforceable (cooperative decision making), but that legislators are free to recontract, that is, if they find a proposal that a majority coalition prefers, they can write an enforceable contract to support it. He also assumed that any two proposals can be directly compared. He calculated the smallest set within which this cooperative recontracting process is likely to produce outcomes. He called this set TEQ, and he proved that it is a subset of the uncovered set.

Bicameral legislatures have not been the object of such exhaustive formal studies. However, non-formal analyses indicate that American institutions were explicitly designed to avoid the problem of cyclical majorities. Hammond and Miller (1987) cite McGrath (1983:Ch. 3) who argues that Madison was acquainted with the Condorcet paradox and that the Constitution (separation of powers and bicameralism) can be interpreted as an effort to avoid the instability of majority rule. With respect to bicameralism, Madison argues that "the improbability of sinister combinations will be in proportion to the dissimilarity of the two bodies" (Federalist No. 62). Riker (1992a and b) has argued that bicameralism delays decisions and in more than one dimension gives the opportunity for further discussion until an equilibrium solution emerges. Finally, jurists like Levmore (1992) and Frickey (1992) think of bicameralism as "preserving the status quo or stalling hastily-fashioned legislation" and compare it with supermajoritarian decision rules.

The most extensive formal analysis of the American Constitution can be found in Hammond and Miller (1987) who find a series of necessary conditions for the existence of a core in a two-dimensional bicameral system. One of their results generalises a finding by Cox and McKelvey (1984) that if the Pareto sets of the two chambers do not intersect there will always be a core in two dimensions.[8] Hammond and Miller claim that their proof is a confirmation of Madison's intuition (from Federalist No. 62; see above). However, Hammond and Miller do not generalise their arguments to more than two dimensions.

8 In two dimensions the hyperplanes become lines. Hammond and Miller (1987) generalise because they show that even when the two Pareto sets intersect, provided the two chambers are sufficiently "far apart" from each other, there may be a core. The interested reader should consult the article.

A proof of Madison's intuition in more than two dimensions was presented by Brennan and Hamlin (1992). They argue that the Hammond and Miller results can be generalised to n dimensions as long as the Pareto sets of the two chambers do not overlap. However, Tsebelis (1993) has shown that their proof was incorrect, and that the conditions for the existence of a bicameral core are almost as restrictive as the Plott conditions. Tsebelis (1993) has also shown that if a bicameral core exists, it will be a segment of a straight line, or a point. Finally, he has shown that the uncovered set of a bicameral legislature (and therefore also TEQ) is contained within an area centrally located inside the legislature.

Figure 11.2: Area Within Which the Uncovered Set of Bicameral Legislature Is Located

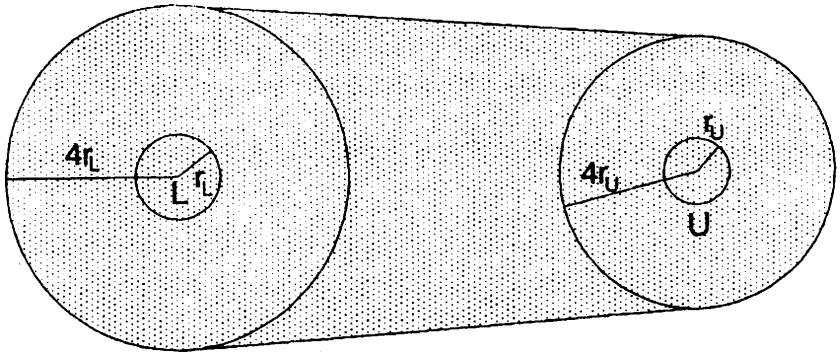


Figure 11.2 provides a visual representation of the Tsebelis argument. One can define the yolk of each chamber of a bicameral legislature in n dimensions as the smallest sphere in n dimensions intersecting with all median hyperplanes.[9] If one calls r_U the radius of the yolk of the upper chamber and r_L the radius of the yolk of the lower chamber, the uncovered set of the bicameral legislature (and therefore TEQ) is contained within the shaded area, where the two circles have as their centre the centre of the yolk of each chamber, and radius 4r where r is the radius of the yolk of the corresponding chamber. The reader can verify that the shaded

9 "Median" is defined as a hyperplane which leaves a majority of members of the chamber on it and on one side of it, and a majority of members of the chamber on it and the other side of it.

area always has one dimension (the line connecting the centres of the two yolks) longer than any other.[10]

The relevance of this analysis is that whether it is the core (which in multiple dimensions rarely exists) or the uncovered set or TEQ (which always exist), bicameralism produces one privileged dimension of conflict. This dimension expresses the differences of the two chambers, or more specifically, the differences of the median voters of the two chambers.[11] Consequently, if one assumes cooperative decision-making (enforceable agreements), the outcome of bicameral negotiations will be located within the shaded area of Figure 11.2.

How reasonable is it to assume enforceable agreements? I would argue that the existence of disciplined parties guarantees that agreements among them will only very rarely not be enforced. Consequently, the prediction that the outcome of bicameral decision-making will be located within the shaded area of Figure 11.2 is a good one.

Let us explain this prediction in simple representations of the policy space. First, let us assume that the policy space has one dimension (left-right). In this case, it is easy to locate the median voter of each chamber. In addition, the yolk will be of radius 0, and centred on the median ideal point. From Figure 11.2 we can predict that the bicameral outcome will be located somewhere between the medians of the two chambers. This is not a surprising result, however, the fact that in a simple case the model produces the same outcome as our intuition should increase our confidence in the model.

Let us now consider the case of a simple two-dimensional policy space where the two chambers have distinct policy positions, as is the case in Figure 11.3. In this case, there is a core, namely the segment LU, and the model predicts that the outcome will be located on this segment. The reason for this is simple. For any point over or under the line LU, its projection on the line is majority preferred in each chamber, so any point outside the line can be defeated by concurrent majorities of the two chambers by its projection. Similarly, any point to the left of L or to the right of U can be defeated by L or U by concurrent majorities in both chambers.

10 At the limit, if one circle is contained within the other, the uncovered set is contained within the outside circle and all dimensions are the same.

11 Strictly speaking, the median in n dimensions does not exist (if it does it is the core). However, one can think of the yolk as the multidimensional equivalent of the median.

Figure 11.3: Core of a Bicameral Legislature

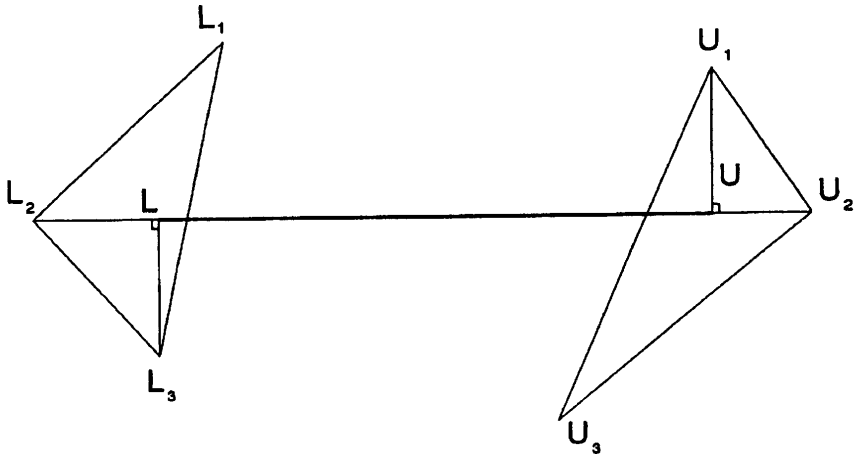
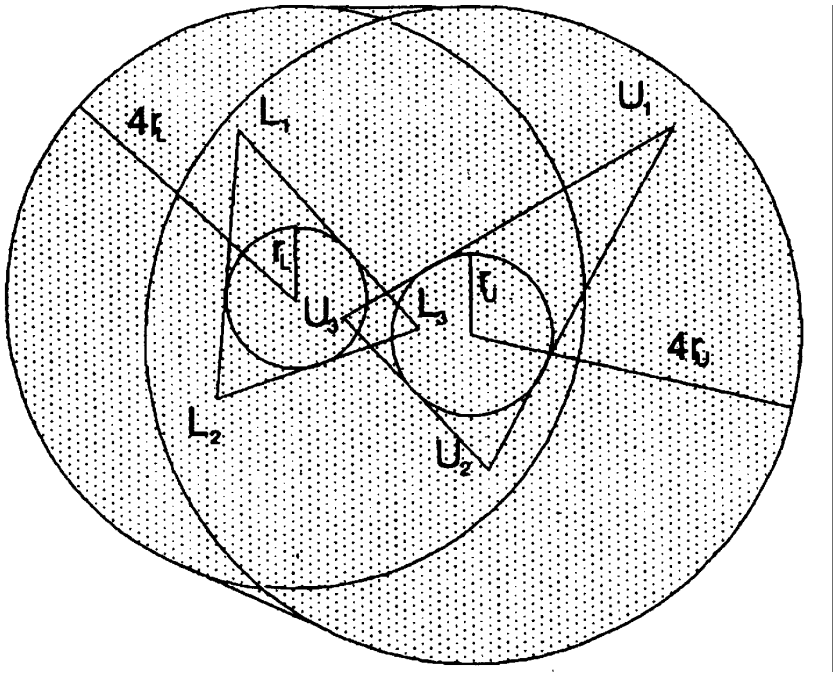


Figure 11.4: Uncovered Set of a Bicameral Legislature (Core Does Not Exist)



Finally, let us consider the case of a more complicated two-dimensional policy space, as presented in Figure 11.4. The difference from the previous Figure is that the two chambers have preferences closer to each other. In this case, there is no core, and one has to find the area within which the uncovered set is located. The circles inscribed inside the two triangles representing each chamber are the corresponding yolks, and the wide shaded area is the prediction generated by the model. It may appear that this prediction is not very restrictive. However, two points should be made before we jump to conclusions. First, as discussed in the beginning of this section, in the absence of a core, the outcome of bicameral deliberations can wander anywhere in space; in addition, we needed the assumption of cooperative decision-making in order to restrict the outcome that much. Second, the size of the yolk generally decreases with the number of members of each chamber, and consequently, for realistic chamber sizes (in the order of hundreds), the prediction is not only the best we can do, but also quite good. However, the next part will take the objection of weak prediction seriously, make additional assumptions, and make a point prediction about the outcome of bicameral negotiations.

B. The Outcomes of the Navette

In the previous section we argued that bicameralism stresses one dimension of conflict (the line connecting the centres of the yolks of each chamber). Here we will take this finding for granted. We will assume conflict along one dimension (the redistributive game of the introduction), as here there is either only one policy dimension, or, on the basis of the previous argument, the two chambers are negotiating along the line UL.

Tsebelis and Money (1995) have modelled this process as bargaining between the two houses. The basic premise of their model, which is based on Rubinstein (1982; 1985), is that both houses of the legislature are eager to reach agreement. A bill today is better than a bill tomorrow as the reasoning goes.

There are a number of reasons why each house values legislation today over legislation tomorrow. If the issue is politically divisive, early agreement limits the level of fallout radiating from the legislation. In the case of fiscal or administrative crises, quick agreement resolves the crisis. Public opinion is important as well. Parties come to power with a political manifesto that promises specific pieces of legislation; failure to pass legislation will be interpreted by the public as political failure and lead to declining popularity. Finally, as time passes, the firmness of legislators' political commitments may decline, causing legislators to change their votes and thus making successful passage less likely. All these factors suggest that a deal today is preferred to a deal tomorrow.

The driving mechanism of Tsebelis and Money's model (from now on TM) is the following. Suppose that the difference for the lower house between an agreement in round 1 and round 2 is y, then this house should be willing to give a concession of the same magnitude in order to speed up the process and agree in round 1 instead of round 2. Obviously, the same argument is true about the other house as well. Moreover, the more impatient each house is, the more concessions it will be willing to make in order to reach a compromise. If the houses know each other's impatience, they can anticipate the final outcome of the bargaining process and get there immediately. If, however, each house does not know how impatient the other is, the process can continue for several rounds. If the level of impatience of each house is known by the other, the TM model permits the calculation of the final outcome on the line UL as a function of the level of impatience of each house, as well as the institutional features of the navette (where the bill is first introduced, how many times it goes through each chamber, what the final outcome of the stopping rule is). Here we will focus on a series of comparative statics statements, that is, statements that keep all other factors the same, and vary only one (institutional) parameter of the model.

A terminological clarification is necessary at this point. TM speak of a "round" of the navette when a bill is introduced back in the same house again. They use the term "time period" when a bill is introduced from one house to the other. Obviously, one round is equivalent to two time periods. An integer number of rounds means that there is a stopping rule (joint committee, session etc.), and that the house that has first reading is also the one that applies this stopping rule. Table 11.2 indicates that most countries have an integer number of rounds. We will present the comparative statics statements of the TM model along with the intuition behind them, the interested reader should consult the article for the proofs.

Proposition 1. When the lower house has the final word, the power of the upper house increases with the number of negotiating rounds.

Even in the case where the lower house ultimately decides, the constitutional provision of upper house review requires the lower house to send its version of the legislation to the upper house. This procedure delays the passage of legislation. Given the desire of the lower house to proceed as quickly as possible, it can offer the upper house some concessions in the initial legislation in exchange for upper house agreement to approve the legislation immediately. In the absence of concessions, the upper house can return the legislation to the lower house without approval, thus delaying agreement and making the final outcome less useful to the lower house. Each constitutionally required round of upper house review increases the delay and decreases the utility of the bill for the lower house. Thus, the lower house will be willing to make more concessions as the number of con-

stitutionally possible rounds increases. Even when the lower house is granted the ultimate power of decision, the upper house is not impotent. It can use its power of review to extract concessions from the lower house.

Proposition 2. If there is another stopping rule (conference committee, joint session, etc.), the most powerful house loses power as the number of negotiating rounds increases.

The derivation of this proposition requires the knowledge (by both houses) of the likely compromise when a stopping rule is applied. This knowledge may be in the form of a probability distribution over a series of possible outcomes. If, for example, disagreement is resolved by a joint session which favours the more numerous lower house, its power is decreased as the number of negotiating rounds increases. Again, this is because both houses are eager to reach agreement and the more powerful house will offer concessions in order to achieve rapid agreement.

Figure 11.5: Point of Compromise as a Function of n Number of Rounds

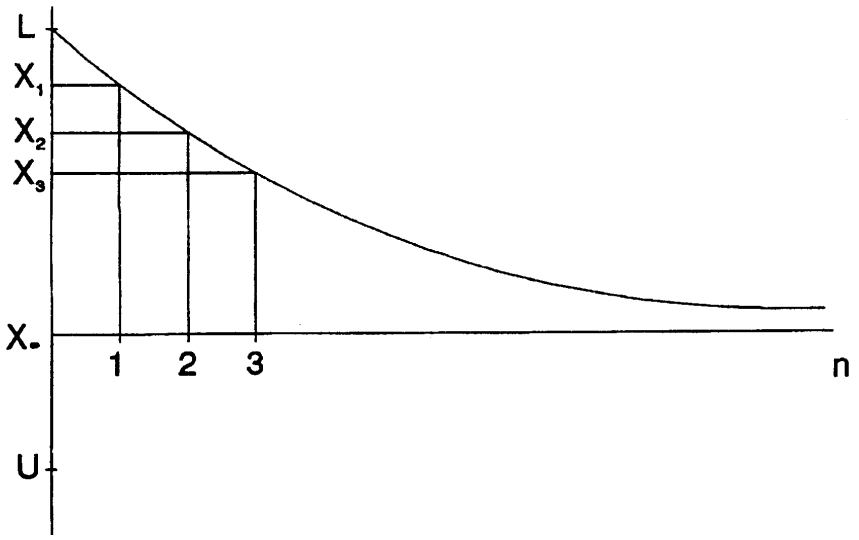


Figure 11.5 provides a graphic representation of the two propositions. Consider that the stopping rule specifies the exact point of compromise X_0 (if the lower house has the final word X_0=L). The model permits the calculation of the compromise point X_∞ if the navette could last forever (see Table 11.2). Each additional round pushes the compromise outcome further away from X_0, towards X_∞.

Proposition 3. If there is an integer number of possible negotiating rounds, the house where the bill is first introduced has an advantage. This advantage is independent of the stopping rule, and increases with the number of rounds.[12]

The intuition behind this proposition is more difficult to express. The reasons have to do with the fact that as time goes by, the level of concessions a house is willing to make in order to avoid an additional round declines (see Figure 11.2). So, the house that has first reading is able to extract from the other the maximum concession. This is the first reading advantage. For the same reason, each potential additional round pushes the negotiation outcome more towards the first reader than towards the second. Over time this difference increases, so the first reader advantage increases.

A more interesting and realistic application of the same framework is where one house does not know the other house's level of impatience. In this case, the navette will continue until the uninformed chamber obtains a better understanding of the opposing chamber's impatience. Therefore, the length of the navette process depends on the amount of incomplete information of the game; the less well informed a chamber is, the more likely the process will take more rounds to complete.

The TM model makes a series of assumptions about the micromechanisms of negotiations and comes to several conclusions concerning the power of each house as a function of the institutional rules selected by the government and the impatience of each player. According to this theory, legislators will tend to defect over time, reducing the likelihood of successful passage. Moreover, greater impatience produces greater concessions; with the lower house invariably offering concessions to the upper house, even if it can prevail in the end.

Taking the French case, TM distinguish two types of impatience that drive the bargaining game between the Senate and the National Assembly. The first is systemic impatience, which they attribute to the breadth and strength of the current political coalition. If the dominant party (coalition) has a large majority, defections have little effect on the ultimate passage of legislation; it can afford to be patient. Similarly, if one party dominates the political coalition, defection by coalition members is less threatening. In the opposite case, where the political opposition is strong, and the coalition partners large, defections threaten the passage of legislation and the dominant party is impatient to see its legislation passed.

The second type of impatience is bill specific. Some bills are more important to the lower house than others; the lower house will grant more concessions for these bills in order to obtain senatorial agreement and a quick passage of the leg-

12 If the number of negotiating rounds is not an integer, which house has the advantage depends on the impatience of both houses.

islation. The TM model has been applied successfully to French legislation, and results conforming to the predictions of the model have been presented both at the case study level (Money and Tsebelis, forthcoming) and at the aggregate level (Tsebelis and Money, 1995).

3. Conclusions

There is significant evidence indicating that even those upper houses considered to be weak, like the British House of Lords, the Federal Council in Austria, or the First Chamber in the Netherlands, have all obtained concessions from powerful lower houses or even aborted legislation. The question of why upper houses which do not have the formal power to abort legislation have been able to exercise influence in legislation has usually been attributed to their wisdom, and the strength of their considered opinions.[13] The institutional approach that we present here provides an alternative explanation of this puzzle. In addition, the three propositions introduced by the TM model permit us to make comparisons of the relative powers of the two houses of different bicameral legislatures. For example, in countries like the United Kingdom, Austria, and Spain, when a bill is introduced in the lower house first, their navette systems are identical except for the number of readings required by the upper house. The TM model leads to the expectation that the countries that require two readings, like the UK, have stronger upper houses than countries that require only one reading (Austria and Spain). Similarly, in those countries where legislation can be introduced in either house, the shift in power from one house to the other is more important in countries without stopping rules, like Italy, and Belgium, than in countries with three readings like France; and a change in the initiating house in France is more important than in Ireland with only one reading.

The expectations generated by propositions 1, 2, and 3 of the TM model are not tested here, and to our knowledge they have not been tested anywhere. These propositions rely on very strong ceteris paribus assumptions about the impatience of each chamber (time discount factors). The appropriate testing of these propositions requires an analysis of bills as they come out from each stage of the navette process. So far very few case studies of legislative decision-making have been done in European legislatures.

13 Mastias and Grangé (1987); see also Money and Tsebelis (forthcoming) for additional references.

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12

The European Parliament: Political Groups, Minority Rights and the "Rationalisation" of Parliamentary Organisation. A Research Note[1]

Mark Williams

The primary objective of this paper is to propose that we look at the European Parliament (EP) as an institution in the sense that any other body politic may be looked at. Indeed, if one can leave aside, for one moment, the frequent complaint of democratic deficit within the whole European system and the opaqueness of the complex legislative procedures and constitutional relationship the European Parliament holds with Commission and Council, one encounters basically the same institutional nuts and bolts to be found in all West European parliaments.

This is not to say that the concept of democratic deficit within the institutional framework of the European Union should be treated too nonchalantly. Indeed, the role of the Parliament is itself very much bound up in this tangled and complex concept. But there are other angles from which this peculiar political animal, the European Parliament, can be looked at, and indeed deserves to be looked at. Whether the legislative decision making process is truly democratic is not a consideration that applies exclusively to the charge of deficit in the European Union. It is without doubt a far more universal concept when looked at under the general guise of the influence that all modern legislatures have over legislation. Looking at the modus operandi of the European Parliament and concentrating on the role of parties in legislatures as units of organisation beyond the

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primary unit level of individual actions, one may spot far more similarities with other parliaments than might, perhaps, be expected.

What is more, even if one cannot fully detach the European Parliament from the notion of democratic deficit, there is still some room to manoeuvre. In terms of looking at the role of parliamentary parties in the overall European system, recent trends go some way towards substantiating the idea of the evolving predominance of parties even at this level. Much of the talk on the democratic deficit in the Community or Union centres on the lack of the real accountability of Council to either the European Parliament or the national parliaments. As one way of relieving the problem, and without being committed to radical institutional reform, the key words of efficiency and transparency have emerged. In terms of being a forum, the European Parliament was brought into the transparency discussion connected with the Maastricht negotiations as a means of making the role of the Commission more public, nearer to inspection by the European citizen and, thus, more efficient. Parliament seized on a declaration made by the Belgian Presidency over Council that, because it, the Council, indeed, makes most of the legislative decisions affecting the citizens of Europe at the supranational level, it should be subjected to the same rules of transparency as apply to national parliaments (see Lodge 1994:358). In its challenge to the Council to open up its proceedings to parliamentary scrutiny, the European Parliament did so by way of its Groups, and not via the formal organs of Parliament. "In pushing this [accountability], not only are the political parties continuing the traditional parliamentary 'battle against the King' at EU level, but are also beginning to act more as a bridge between the supranational system of government and society (Lodge 1994:358). Amidst this emerging pattern of activity a comparison of the role of parties in parliamentary procedures of the EP and that if the national parliaments is no longer a far-fetched undertaking.

The independence of a parliament in putting its nuts and bolts together is an essential democratic right. With respect to the Member States of the European Union, this right is anchored in many of the constitutions (Rutschke 1986:7). In our particular case, the original Treaties also made this provision, which has been upheld in all subsequent revisions of the texts, and today can be found in Article 142 of the TEU, where it is stated that the European Parliament shall adopt rules of procedure, acting by a majority of its members.

Although an independent right, no parliament is really in a position to perfect a form of institutional organisation free of the specific demands that the political system makes on it. If there were no demands on the institution then there would be no need for rules. The lowest common denominator amongst the demands made on any parliament could be said to be the need to make legislative decisions or preference choices between alternatives, whether these stem originally

from the parliament itself or not and to watch over their further progress and implementation.

The multitude of competing individual preferences amongst the peoples of Europe is equalled only by those of their representatives in parliament. Parliamentary procedures must, therefore, resort to some form of constraints (for a discussion of these constraints, see Chapter 2 by Strøm in this volume) so that consistent preference decisions can be made. This is usually done in the form of developing some regulation by which an infinite diversity can be persuaded into accepting a (compromise) majority decision, whilst at the same time giving some form of positive benefit both to those accepting the costs of relinquishing their individual preferences by lending their support to form a majority, and also to those "stuck" in the minority. In consensual democratic systems, this pay-off phenomenon is frequently reflected in a proportional share-out of "power" positions at stages of the parliamentary division of labour to make sure that minority opinion is kept alive. This is what may be inferred from Eva Thöne-Wille's 1984 comparative study of the European Parliament and national parliaments when she says that all political systems are geared toward resolving conflict; and that furthermore, these systems become democratic political systems when efficient problem solving is linked with both an optimising of chances for individual participation and with adequate transparency in all decision-making processes (Thöne-Wille 1984:14).

Throughout its relatively short history, the European Parliament has been continually occupied with attaining the status of a "real" parliamentary body, able to fulfil those requirements, i.e. decision making and transparency, or legitimisation as we may understand it. Describing in short a plan of action which can be called a two-pronged strategy of institutional reform, the European Parliament has dedicated much of its attention to increasing its own powers within the strict constitutional/institutional framework which defines its relations with the Commission and Council (in terms of right the of appointment of the former and equal legislative rights with the latter). In tandem with this, it has also sought, by means of amendments to its own Rules of Procedure, to enforce greater operational efficiency, discipline and organisation in its own activities, not only with the aim of getting the job done in light of the growing workload pressures on its plenary meetings, but also to gain support for its own case for more power by being able to perform the tasks demanded of it.

To show the changes that have been made to the Rules of Procedure during its lifespan as the Parliament has attempted to respond to changing institutional circumstances and, in particular, to changing internal demands involves extensive documentation that exceed the physical bounds of this volume and warrant a publication in their own right. These changes have been documented in tables as

outlined in a short appendix to this research note. As a longitudinal study over the whole lifespan of the Parliament, I have been able to show the impact of the growing dominance of Political Groups, the European counterpart of parliamentary parties, not only as far as each subsequent innovation to the rules on parliamentary procedures is concerned, but also with regards to the perhaps more traditional elements of EP activity. That the Political Groups should play a dominant role in the European Parliament is no new finding, it has, indeed, already been the subject of an informative in-depth study by Gabriele Rutschke (1986). However, as this study was completed before the introduction of the Single European Act, one may get a better impression of just how more important these Groups have become since then by following developments over time, taking into account changing institutional circumstances, the responses to these changes and what this has meant for majority/minority activities. What becomes clear is that the once numerous minority rights have given way to a more rationalised organisation of parliamentary work. In a practical sense, each subsequent amendment to the independent regulation of Rules of Procedure strengthening the role of Groups represents the conscious move by a majority of individual members to voluntarily vote away their own prior privileges.

The concept of majorities versus minorities takes on enormous dimensions in a pan-European scenario. The way this parliament attempts to tackle the problems is not strikingly different to the approach taken by national parliaments. Making a correct comparison of EP with other parliaments is very much a question of the stage of development at which the different parliaments find themselves and of the pressures they face, or have already faced and mastered.

If one looks beyond the more conventional comparative evaluation of the EP along the lines of how well it scores on a catalogue of expected parliamentary attributes, we may find an analytical point of departure from which to better assess the nature of the whole system in general, and the Parliament in particular. If one follows the exciting lead given by George Tsebelis (1994) in recognising the fact that EP has the potential to act as a conditional agenda setter, the impact of the emergence of Group dominance in certain areas of internal institutional organisational procedures becomes all the more relevant.

It has become generally accepted that within the bounds of the evolving institutional framework of the European Union the European Parliament has certainly grown in importance. In the course of this evolution, the EP can be seen as having been faced with the challenge of capitalising on new-found powers. In one of the most recent articles on this subject, Bowler and Farrell (1995) note, much of this depends on it settling its own internal organisation. The authors go on to say that in the present situation, the EP is in a position to provide theoretical scholars with a ‘test bed’ for theories of institutional design. At the same time

they also draw the none too flattering conclusion that: "Despite some attention paid to the party groups, the internal organization of the EP has remained largely unstudied in recent years...By and large, the EP remains something of a 'black box' whose internal workings are rarely studied" (Bowler and Farrell 1995:220). This paper takes up this call, in part, in documenting the evolution of procedural rules.

In one fell swoop, a better understanding of how the EP works should also make the Groups themselves a more attractive subject for future academic attention. My intention here, is, needs be, more modest. In concentrating more on a longitudinal descriptive documentation of Parliament's Rules of Procedure than on an in-depth inventory of the functions and organisation of the EP at individual stages of its evolution, I hope to give a preliminary illustration of the parallel between what I call the "rationalisation" of institutional organisation and efficiency, and the emergence of Group domination over parliamentary procedures. This would put the European Parliament in a context relatively similar to that of the British House of Commons in the second half of the 19th century, where emerging party government began to shift the emphasis away from the individual member in an "orators" chamber, to becoming a more "rationalised" decision-making institution.

In a sense, rationalisation is also the concrete proof of the independence of rules "pudding". For our case, once the ball started rolling, i.e. once the EP had finally wrestled some decision-making powers from the other two institutions, it needed more and more regulations and constraints to make its performance functional. What this in fact boiled down to was a curtailing of the once abundant minority and individual rights in a streamlining of procedures and a rationalisation of parliamentary activities. Thus, the Political Groups of the European Parliament have become the institutional cement pasting together the different units of the Parliament to the extent that they are now "of central importance in the work of Parliament" (Jacobs, Corbett and Shackleton 1992:56). As a consequence, the chances of the individual member, acting independently, have diminished by a corresponding degree. The behavioural findings of Bowler and Farrell (1995) corroborate the procedural approach taken here. The trend towards individual specialisation is judged to be a 'good thing'. The European Parliament "has established itself as an effective legislative chamber; the individual members may specialize in their own favoured areas, but they do so under party-group scrutiny and control" (Bowler and Farrell 1995:243).

For a considerable length of time the European Parliament was able to simultaneously sustain both specific Group privileges and many individual (minority) rights. This was, indeed, a reflection of the differences of opinion that existed amongst its members of what the Parliament ought to do, and what it was ex-

pected to do. On the one hand, as the so-called forum of European interests, minority rights must be provided in abundance as, after all, the Parliament was not a "real" legislature and "gagging" the individual would not lead to collective benefits. On the other hand, the Parliament, or perhaps more correctly, certain members have continually sought a legislative role for the EP in the institutional framework, which even as a "rubber stamp parliament" would make majority decision making a more frequent and binding necessity. Returning to my emphasis on a longitudinal study, the change in this majority/minority relationship does not receive enough attention in a "freeze-frame" study of the European Parliament, which in the few existing illustrations there are, is often the case.

The full-scale version of this paper follows a pattern of research to be completed in the next stage of the research project where changes to procedures over time will be addressed more directly. Here now follows a short summary of the descriptive part of the study.

The first section lists the most important changes to the overall European institutional climate that have affected the European Parliament. The way the Parliament acted and reacted may be seen as a reflection of its understanding of what its own role was, and is, in the whole system, which is itself an evolutionary and, thus, dynamic framework, aiming to provide the ever closer union among the peoples of Europe; most often paraphrased as the process of European integration. Following this is a four-stage descriptive account of the rise of Groups and fall in the potential impact of the individual MEP in the workings of the EP. The gist of the matter is that the ability of the individual member to act independently has been steadily reduced at the expense of collective and more representative action. Consequently, it is the Groups that have emerged as the organisational vehicles in this rationalisation of parliamentary activity.

To round off this research note, I have looked at two of the most important debates on reports on changes to parliamentary procedures to check for a possible crystallisation of support for moves to reduce minority rights in the motivation of those proposing rationalisation and in the reactions of ordinary members who stood to lose their individual parliamentary rights at the expense of becoming Group actors. The final section contains a summary conclusion and comments on the "rationalisation" of the European Parliament to date.

Why Should the EP Reduce Individual and Minority Rights?

It should be made clear that the present state of the balance between majority rule and minority rights is transitory, as it has been throughout the whole life-span of the European Parliament. If we take a closer look at what the MEPs themselves think on the matter, we gain a better understanding of how fine this balance has always been. After all, it is the individual MEPs who, in the end, are responsible for voting away their own individual rights.

If one accepts the argument that the EP is marching on a long road to achieving its ultimate goal of becoming a real legislature, which, in terms of the numerous initiatives it has brought forth on the matter may, indeed, be seen as a specific strategy, then we must take a careful look at why the Parliament has so far changed its Rules the way it has. Certain changes have had as their *prima causa* the immediate demands of new Articles following renegotiations of the Treaties. But where does it all start? The most recent developments in terms of a third legislative procedure, i.e. co-decision, did not just appear out of thin air. The procedure is to an extent the result of a rational attempt at making the overall decision-making process more efficient. The form the new procedure takes will also be dependent on experiences of past procedures. It is in this sense that the EP's Rules come into play. The Treaties lay down what one may call a framework for procedure which the Rules try to regulate in a more detailed manner. Naturally, imposing certain procedural regulations, for instance a third reading, is like casting a stone in a pond. The initial impact reverberates through the whole body, and in this very same sense any increased demand on Parliament is to be felt everywhere and by all members. How does a parliament cope with these demands? The usual pattern for the European Parliament has been a move to providing greater Group priorities and diminishing minority individual rights to pay for it. Taking a look at two major changes to the Rules passed in 1981 and 1993 it is possible to see whether the reasons for change have become clear from the members' own point of view in the explanations of the need for the wide-reaching revisions to the rules of procedure that they contain.

The Changes in 1981

The introduction of direct elections was not accompanied by a change to the existing institutional framework of the time. From 1979 on Parliament began looking at a number of suggestions to cope with the massive increase in members. An early attempt to raise the minimum trigger for certain procedures from 10 to 21 was made, but failed. The Committee for Rules of Procedure and Petitions was, however, charged with presenting to Parliament a general revision of its Rules. Of immediate consequence for what was later to become known as the

Luster Report, was the recognition of the unlikelihood that the amount of working time for plenary activities could be substantially increased beyond that already available. At the same time, there was also no reason to believe that the workload thrown on Parliament would decrease, be this in the form of legal texts from the Commission or its own resolutions. Both these reservations were confirmed. As has been seen, the role played by the Groups in setting the agenda to deal with the workload has been an increasingly important one. Yet, in this respect the changes made in 1981 were a compromise, leaving enough influence for the "non-political" Bureau over the Groups in drafting the provisional agenda. The other breakthroughs in the form of urgent debates, procedure without debate and decision in committee have also been discussed above in more detail. These, too, were meant as time-saving devices.

Other innovations were proposed with the intent of strengthening Parliament's position without there being a change in the Treaties (the "second prong" of Parliament's strategy). For instance, the setting up of committees of inquiry and delaying procedures in consultations. None of these changes were challenged by an all-out counter-attack during the debate on the report in plenary. Not so the desire to weaken the existing minority rights. Not even the argument that the number of MEPs after the elections had doubled could unhinge the existing individual, five or ten member minimum. "This debate took place against the background of differing concepts as to the role of the European Parliament. While some Members gave priority to seeking majority decisions in the interest of efficiency - thus intentionally or unintentionally subscribing to the national model of a parliament as a legislative institution - others felt that the main role of Parliament was to serve as a forum for the expression of different points of view" (Bieber 1984:240).

Instead of reducing minority rights, this first major revision greatly strengthened them. It is against this background that one should view the changes eventually made to Parliament's own procedure for amending its Rules. Until 1981, the only changes to the Rules were resolutions to that end, needing a specific majority, and as a consequence allowing minority blockage. With the adoption of the new Article 111, interpretations could now be passed by a smaller, simple majority. Bieber described this innovation as a new "instrument of conflict within Parliament" (Bieber 1984:244).

In the debate in plenary on his report[2], Luster explained that the revision of 1981 made use of the manifold and varied experiences of the national parliaments that the Members of the European Parliament could draw on. During the preparation of the report in committee, the need to reach the broadest consensus

2 Debate of 10 March 1981

meant that certain amendments were not attempted. The reason being that it was felt the Rules of Procedure should serve both the needs of the largest majority and of the totality of those belonging to Parliament. This was the crux of the matter. Speaking for the Socialist Group in the debate, Mrs. Vayssade pointed out the difficulty of uniting the defence of the freedom of expression and individual rights of all members with the right of the Groups to assemble members within the bounds of political ideas and to give the EP a political face. This was again a reflection of the uncertainty amongst members of the role of Parliament. So, without making the Rules a dictate to the members of how they were to see their role as parliamentarians, the revision was repeatedly referred to as a transitory measure and, thus, implied that further changes would become necessary as of when the Members of Parliament become more resolute on what they believe the Parliament should do. Despite discrepancies over the role of Parliament, there was widespread agreement on the need to make the work of Parliament more functional, but this is not completely synonymous with efficiency. A former member of the German Bundestag, Mr. Sieglerschmidt, pointed out the difficulty of incorporating elements of the various national parliaments as the problem of trying to accommodate different degrees of efficiency and spontaneity in the Rules of Procedure.

To continue the last argument a little further, if minority rights are used positively, then they can contribute to the overall efficiency of a parliament. However, if they are used as part of a strategy of spontaneous disruption in what is supposedly a consensual assembly, then they are a hindrance to efficiency.

The Changes in 1993

The revision of the Rules in 1993 was made necessary by the enforcement of new Treaties which on final ratification accorded the EP a greater role within in the institutional framework. This time the revision would have to deal with a far more detailed and complex role of Parliament, as laid down in the specific Articles, and the need to make Parliament itself efficiently able to fulfil the demands now made of it.

If one looks at the debate on the report,[3] one finds quite a different atmosphere in comparison to 1981. Mr. Rothley, one of the three co-rapporteurs pointed out the need for Parliament to attract more media attention to its work. This would not come from concentrating efforts on matters such as increasing the numerous pedantic amendments to legislation on foodstuff additives, for instance. Instead, Parliament must be concerned with real politics, matters of real European interest.

3 Debate of 14 September 1993 (3-434/1993 German version)

Generally speaking, the rights of the individual member were transferred from the plenary to the committee, where even more decisions may now be taken. The rights have even been improved, if one takes account of the growing influence that responsible committees have after the initial stage of all legislative procedure. As a complete revision of the Rules, the report by the Committee on Rules was particularly referred to as a rationalisation of Parliament's work. The fuzzy areas of the Treaty texts were seized on as an opportunity for Parliament to improve its own position beyond that stated in the Treaty framework. Reference has already been made to the vote on the President-designate of the Commission in Parliament, which goes beyond the formal vote on the collegiate Commission in the Treaty. This is illustrative of the wish by the EP to have some form of the traditional "say" in the process of installing the executive. Indeed, the revision was the result of a close cooperation between the Committee on Rules and the Committee on Institutional Affairs, which is itself a form of rationalisation, bringing external and internal strategies together (whereby the internal side was again somewhat characterised by the compromise between those forces favouring a limitation of individual activity and those against it). This time the individual member lost out, both in terms of the general restructuring of parliamentary procedure, and more specifically, of getting rid of time-wasting inefficient elements, which were more the domain of individuals, to, instead, concentrate on the efficient parts.

Conclusion

The concept of efficiency of parliamentary organisation is directly linked with the notion of democratic representation. This is no better illustrated than in the deliberations over changes to the Rules of Procedure. Parliament has continually sought to do things it could not do before, and to perform existing functions in a better way as a means to press for an even greater competence. The European Parliament does this in a way that is not strikingly different to procedures established in the national parliaments, i.e. via promoting the role of parties and in the division of parliamentary labour. The difference is that the EP is still promoting the position of Political Groups parallel to attaining more power, whereas the national parliaments have long since passed this phase of seeking power, and are more concerned with finding methods of preventing their work from being swamped by the executive as a result of the variety of party links and modes of relations between the two branches, executive and legislature, that have since evolved.

One wide-ranging problem for a comparison of the European Parliament in this sense, is the nature of the supranational political system itself. Is the EP more a parliamentary, or more a presidential parliament, and what does this supranational element imply in terms of the protection of individual or minority rights against majority decision making? On the international scene minorities are still very large and powerful entities. The Groups will certainly have an important say in the future role of the EP. Their organisational driving force is quite obvious. The question for Europe is what use will be made of it.

Looking at the institution from a narrower point of view, it is possible to see that the rise of the Political Groups (be they weaker than national parties or not), and the fall of individual rights can, as in any parliament, be brought down to the level of rationalising procedures in the light of institutional constraints, reflecting too, problems of principal-agent relationships within the Parliament, and being a direct consequence of the evolving role of the Parliament itself.

Appendix

The following list of table headings shows how the sections of the evolving rules of procedure in the European Parliament have been grouped into areas that are perhaps more familiar to mainstream comparative legislative research. Each table documents the developments from 1958 to 1994 in terms of majority versus minority rights and politicisation of the division of parliamentary work from agenda setting down to simple speaking rights. As an appetiser each table is accompanied by a brief summary.

1 *The Directing Authority and Deciding the Plenary Agenda.* Ever-decreasing number of actors involved, a simultaneous increasing influence of the groups and a gradual stripping of president's privileges.

2 *Amending the Plenary Agenda and Agenda for Urgent or Topical Debates.* The later the stage, the more the possibility to amend moves to the groups. The same goes for urgency.

3a *Manning the Committees.* Increasingly a group affair.

3b *Procedures in Committee.* Quorum requirements for deliberation relaxed. Move to more rationalised working conditions: simplified procedures.

4 *Speaking Rights in the Plenary.* Reduction of speaking time on procedural motions, domination by group chairmen, committee chairmen and rapporteurs.

5 *Amendments to Texts.* Basically, first reading amendments remain an individual right. The further the stage, the more they have become the realm of the competent committee.

6 *Resolutions in the Plenary.* Resolutions have always been an individual right. The procedural innovations of resolutions following debates or other forms of communication from the central political bodies, the Commission and Council, are more a group or committee right.

7 *Procedural Motions.* Originally a purely individual right. Today these motions have either been struck from the rules or have increasingly become group matters.

8 *Organising Plenary Work.* The more the agenda becomes coordinated with Commission legislative programme the tighter the plenary workload is organised.

9 *The Plenary Workload.* The number of texts the plenary has to deal with: the need for efficient organisation of activities.

10 *Written and Oral Questions.* Moving from its original purposes as an individual right to information and control to a means of debating Council and Commission activities, oral questioning has become more of a group matter. Even the Council was prepared to reduce its advance notice requirements.

11 *Question Time.* Often criticised for its lack of efficiency, it remains one of the few real minority rights.

12 *Questioning Activity.* The numerical increase in the number of questions.

13 *Motions of Confidence or Censure.* A problem area for parliamentary comparativists. The motion of censure has moved from being an individual right to a group right and now to requiring the support of 1/10 of all members reflecting the wish of Parliament to present a united stand when facing the other institutions. The vote of confidence is an example of a "house-own" rule being partly taken up in the official treaties.

14 *Group Strengths in the Plenary.* The groups in Parliament during the course of its evolution.

15 *Political Group Minimum Memberships as Percentage of Total Membership.* How members organised in groups fare in comparison to the minimum number of members triggers.

16 *Voting in the Plenary.* How the vote and voting sequence is organised.

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Part IV

Attaining Legislation:

Demands, Rules and Veto Players

Introduction

Whilst the previous Part III can be seen as having covered the "supply side" of legislation initiated by collective actors, in this part the main demanders of particular legislation, i.e. interest organisations and individual members of parliament acting independent of the party line, are assessed cross-nationally. Rather than producing chaos as predicted by social choice, a proliferation of individual demands may be contained by institutional restrictions such as parliamentary "lobby regimes" (studied in Chapter 13 by Ulrike Liebert).

Detailed rules on the admissibility of private members' initiatives and amendments tend to work in the same direction (Chapter 14 by Ingvar Mattson). Collective choice is also structured by detailed prescriptions, or the lack of them, on the sequence of voting (Chapter 15 by Bjørn Erik Rasch) and the possibility of forcing recorded votes (Chapter 16 by Thomas Saalfeld).

In addressing the attainment of special interest legislation demanded by well-organised groups it is also appropriate to include judicial review in this part (whether it be exercised by the normal courts or a special constitutional court). Any legislation either demanded by sectoral interests or by the collective will of majorities and eventually passed by possibly shifting majorities may only be put to the desired effect if it cannot be nullified by veto players external to parliament such as the courts (Chapter 17 by Nicos Alivizatos) or the people in abrogatory referenda.

13

Parliamentary Lobby Regimes

Ulrike Liebert

1. Introduction

A large number of case studies and comparative analyses of state - interest group relations in post World War II Western Europe suggest the persistence of significant variations in the pattern of interaction and, as a consequence, of the outcomes of policy making. This is also true of the "third wave of interest group research" (Almond 1983b), which, inspired by the neo-corporatist paradigm (Schmitter 1974; Lehmbruch 1977), could not confirm a uniform trend towards corporatist interest representation and intermediation throughout West European states, but has, instead, observed a great deal of variation (Schmitter and Lehmbruch (eds.) 1982; Lijphart and Crepaz 1991).

The way parliamentarism relates to neo-corporatist policy making, is a question which has either been addressed at a high level of abstraction (Jessop 1979, 1990), or within the dominant paradigm, has been confined to only marginal interest in empirical research (Lehmbruch 1983; Halle 1984, 1985). Interestingly enough, parliamentary powers for checking government in those countries rating high on conventional scales of corporatism, appeared not to be weaker, but rather stronger than in those cases of no or only weak corporatism. An example of these powers can be seen in the form of the competence of parliamentary committee systems (Döring 1994:352ff.).

Since the beginning of the 1980s, interest in European parliaments has been reawakened both as the targets of interest group influence as well as the subjects of comparative interest group research (von Beyme 1980:160-181). Interest in parliamentary lobbying increased at the same time as neo-corporatism was entering into decline. But, while it is hardly questionable that the neo-liberal counter-attack on neo-corporatism succeeded in making governments, to varying degrees, independent from tripartite concertation, and with respect to trade unions in particular (Streeck 1994:23), the consequences of this change appear more

doubtful. Is it really the case that "Europe is approaching the American pluralist model instead" (Lewin 1994:59)?

The question is whether the strengthened importance of parliaments denotes anything but a successful revanche of liberal pluralism in Western Europe, with all the weaknesses and defects which pluralist critique blamed it for.

In this chapter, I will not only try to assess the variations in lobbyism that have emerged during the 1980s in 19 West European parliamentary systems (including the European Union) with regard to their differences in scope and forms. I am also particularly interested in exploring the question of the constraints parliamentary procedures may have put on lobbyism, that is, the extent to which they have introduced procedures and measures in order to "domesticate" and balance private influences in the processes of passing legislation. My central concern is, hence, the question of how to distinguish liberal pluralist types of lobby-regimes from neo-pluralist varieties that were designed not only to overcome some of the faults of the former, but, possibly, also some of the inherent deficits of neo-corporatist regimes.[1]

In section 2, I will discuss the theoretical framework encompassing "classical" pluralist criticism and recent neo-corporatist self-criticism. Using network analytical terminology, I will define the major characteristics of parliamentary lobbyism from a neo-pluralist and neo-institutionalist perspective.

In section 3, I will make subsequent use of available empirical information provided by existing comparative and case study data, as well as the data gathered in our collective project. Thus, I will empirically assess forms of lobbying according to six variables, to be explained below, and considered as constitutive for the 19 West European parliamentary systems.

In section 4, I will look for the major dimensions in the patterns of lobbyism underlying the variations in parliament-interest group interactions by means of a factor analysis. The two resultant fundamental dimensions allow us to distinguish between four major empirical types of lobbyism. Our cases may thus be classified empirically according to their location in a two dimensional space. From this a theoretical interpretation of the two major dimensions of this pattern will be made feasible and provide at least some tentative answers to the above question, i.e. by which institutional procedures at the parliamentary level - incen-

1 Like in international relations theory (see Krasner 1983; Katzenstein 1990:22), the concept of "regimes" will be used here to denote particular constellations of principles, norms, rules and procedures that must not necessarily be institutionalised. In a neo-institutionalist perspective, lobby-regimes can thus be conceived of as either contexts or variables for interest groups that are considered as structures rather than given actors.

tives and constraints on interest group influence - may a neo-pluralist model of lobbyism be specified beyond that of liberal pluralism and neo-corporatism.

2. Beyond the Third Wave: A Theoretical Framework

If in the last twenty years relations between states and interest associations in Western Europe have been predominantly conceived of in terms of the neo-corporatist paradigm, then this was motivated by the intention of neo-corporatism to overcome some of the crucial problems inherent in pluralist theories. Whereas the pluralist image of interest politics assumed that interest groups of different size and social origin were equally capable of organising members and influencing the decision making processes, the critics of pluralism revealed the inadequacies of these assumptions. These were attributed either to theoretical grounds (Olson 1965)[2], or to empirical conditions in non-American field situations (LaPalombara 1960). Furthermore, the critique pointed out the costs of an interest group liberalism which served as the "operative ideology of the American elite". These were "1) the atrophy of institutions of popular control; 2) the maintenance of old and creation of new structures of privilege; and 3) conservatism", in the sense of a generalised resistance to change (Lowi 1967:18ff.). In the extreme case, these deficits relating to democratic norms as well as to functional efficiency were perceived as leading to a system of a "confederation of oligarchies", where, under the pressure of corporate groups, state institutions were no longer capable of mobilising support for public goods and, hence, adapted to corporate interests rather than counterpointing them (Lowi 1990).

With respect to the underlying claims of both a functional as well as normative democratic order, at least the practice of neo-corporatism has defeated the expectation that, in the long run, neo-corporatism would perform better than liberal pluralist interest politics (Streeck (ed.) 1994). On the one hand, tripartite arrangements with their ordered and balanced links between state and organised interests on both sides of the labour market functioned as the basis of social regulation and national governability only until the neo-liberal counterattack discovered monetarism and "deregulation" as devices to replace consultation with trade unions as well as Keynesian social capitalism. In democratic terms, on the other hand, neo-corporatist representational monopolies could only be justified

2 Due to the costs of forming and maintaining large organisations, individuals will prefer to free ride with respect to public goods than actively pursue their common interests, at least in the absence of coercion or of separate incentives. Lacking sanctions or incentives, small "corporate" groups will organise and achieve political influence more easily than public interest groups do (Olson 1965).

as long as class appeared to be the most central cleavage in democratic politics, and working class interests proved to be marginalised within the institutions of parliamentary democracy (Streeck 1994:22f.). The more complex and fluid the social and interest structures of West European societies became, the more the legitimacy of neo-corporatist interest cartels seemed to become problematic (Streeck 1994:23).

During the 1980s, these contingencies of legitimate and efficient neo-corporatist interest mediation became increasingly manifest in many West European states which had previously belonged to the strongholds of neo-corporatism. This was especially true for the paradigmatic case of Sweden (Lewin 1994). As a consequence, representational monopolies either do not exist at all, or they lost importance and have been replaced by "loose networks of a multitude of groups" (Streeck 1994:24). Did this also mean that, besides the state administration, liberal democratic institutions, like parliaments and political parties, were revitalised as the targets of group influence and as the legitimate channels of functional interest representation? Furthermore, did West European states, under the cover of liberal pluralism, also increasingly turn to "government" by corporate elites, with its inherent lack of public control, structures of privileges and status quo conservatism? Or is it that, on the contrary, liberal democratic institutions had in the meantime better equipped themselves to cope with the realities of organised interests?

With few exceptions, the neo-corporatist debate treated parliamentarism as a relatively marginal topic. At best, parliaments were conceived of as complementary structures of support for external social concertation[3]. In contrast, continental neo-pluralist democratic theory has continued to defend the classical constitutional idea of parliamentary government as an integrative mechanism (Smend (1923) 1955), trying to adapt it to the modern nature of interests. From this perspective, the parliamentary function of safeguarding the public interest was con-

3 Certainly, the party-parliamentary and functional decision-making circuits were not just opposed as players in a zero sum game, but could coexist as two structurally differentiated and specialised arrangements for coping with policy domains of different type (Lehmbruch 1977). Cases like that of Austria showed that "postclassical parliamentarism" could be symbiotically allied with social partnership (Pelinka 1974). The case of the Scandinavian countries also questioned the thesis of the functional decline of parliaments to the benefits of the neo-corporatist actors (Halle 1984). If the effectivity of neo-corporatism with respect to rates of employment (Schmidt 1982) and to degrees of governability (Schmitter 1981) in Western democracies could be confirmed cross-nationally, this did not necessarily prove also the general incapability, and hereby the weakening, of party and parliamentary democracy, as some authors maintained (Offe 1983; Rokkan 1966).

ceived of as being compatible with the existence of powerful interest groups, too, and not only with individual and local interests as in the times of classical liberal parliamentarism (Fraenkel (1959) 1991:64-65). Nonetheless, the existing arms of post-liberal parliamentarism in Western Europe, designed to cope with organised interests, are marked by a mix of rather different and even contradictory devices - from formal constitutional and parliamentary rules trying to suppress their influences, up to formal procedures designed to institutionalise and control them and even comprising of informal customs encouraging private interests to circumvent some of the formal constraints. The introduction and development of this arsenal can be attributed to a number of rather heterogeneous paradigms:

(1) The conservative *statist theory* traditionally focused on the danger of the unity of the state being dissolved by a plurality of particular interests (Schmitt 1972). In this respect, a relative autonomy of state institutions vis-à-vis private "corporate" interests could only be achieved by strictly excluding or restricting private interests within the parliamentary arena. Instances of this are the prohibition of an imperative mandate, the various "incompatibilities" and "ineligibilities" of certain private offices in the economic or social sphere with a parliamentary mandate; the forms of registering an MP's private interests as well as restrictions on the participation of MPs in legislative sittings and deliberations on projects concerning issues affecting their own personal interests.

(2) In a *party democracy perspective*, parliamentary interactions with organised interests are mediated mainly by parties and parliamentary groups functioning as "gate keepers" or filters, and aggregating the complexity of particular individual and group interests. Structures and procedures designed for this function would be party discipline, the dominance of party groups within legislative processes, or functionally differentiated working groups within parliamentary parties maintaining close links to external interest groups. Whereas close parental relations between parties and interest groups could make parties act as hidden interest groups, they could also be assumed to better serve the gate keeper function the more their interactions with interest groups are of the cross-party mode and the more the parties internally aggregate different categories of interests.

(3) Some of the *neo-corporatist analyses* do not suggest the actual decline of party-parliamentary channels of decision making *tout-court*, but observed the strengthening of parliamentary powers vis-à-vis government, especially in the realm of committee competences (Döring 1994). One of the most important powers that parliamentary committees in many Western European political systems have assumed and expanded during the 1980s is the right to hold public hearings with attendance by representatives of social groups. This practice not only strengthens the parliamentary position with regard to the monopoly of in-

formation held by the ministerial bureaucracy, but also contributes significantly to the transparency of private interest group influences in the legislative processes (Strauch 1993:65f.). However, exclusive corporate structures can emerge at the parliamentary level in the form of so-called "iron triangles" - privileged and quasi institutionalised relations between legislative committees, executive agencies and interest groups (Hamm 1983). Parliamentary practices whereby deputies are placed in committees that do not correspond to their own private interests or occupational backgrounds could be considered as a counterstrategy to keep legislative processes at the committee stage open.

(4) The conception of "*private interest government"* does not emphasise the autonomy of state institutions in the sense of closure or gate keeping, but their centrality as arenas for the shaping and intermediation of private group interests. Intermediary groups are seen as potential agents for public policy development. Following this line of reasoning Wolfgang Streeck sought an answer to the question of which institutions, organisational forms, and policies could promote the articulation of those group interests that can be used for public purposes, and which could impede the articulation of interests detrimental to public interests (Streeck 1983:195). Rational choice theory has explained why it is not only rational for interest groups to interact strategically with deputies, but also why it can be rational for deputies to contact interest groups (McLean 1982, 1987). The central question for this "private interest government" perspective would seem to concern those particular institutional rules and procedures capable of motivating both deputies as well as interest group representatives to develop relatively extensive, inclusive and decentralised networks of communication within which interest conflicts may be held open and at the same time private interests be "domesticated". This requirement appears more likely to be met the higher the number of groups lobbying a parliament and, hence, the more *extensive* and inclusive parliamentary lobby networks are. All parliamentary instruments providing publicity for and making interest politics transparent, should also be included in this category of mechanisms designed to control "private interest government". Not only do the above mentioned "hearings" belong here but also, and more importantly, the parliamentary committees of investigation.

(5) A useful analytical instrument for describing variation among lobby regimes and hence of highly complex constellations of multiple public and private actors within the parliamentary processes, and to distinguish them from other forms of interest politics, is provided by network analysis. Network analytical concepts and classifications (Pappi 1993; van Waarden 1992; Liebert 1994) may be employed in particular to differentiate parliamentary lobbyism from other types of relations between organised interests and state institutions.

Traditionally, the concept of "lobbyism" denoted the whole process of communication, within which representatives of interest groups try to motivate state decision makers to adopt their political preferences (Milbrath 1968:442). This concept has recently been expanded so as to include supranational levels and also local, regional and national governmental lobbies (van Schendelen (ed.) 1993). In a narrower sense, however, "lobbyist networks" have to be distinguished from party political parental relations, because of their multiple, cross-party interactions, which normally show relatively less intensity and stability. In comparison, "party-parental networks" between political parties or party groups and organised interests are characterised by ideological affinities, permanent and close personal and organisational links in the form of "inbuilt lobbies", and financial and other resource dependencies.

Both lobbyism and parental relations also have to be differentiated from "iron triangles" formed by private administrative agencies and parliamentary committees due to the existence of representational monopolies and exclusive, privileged and relatively stable relations in the case of the latter and, thus, largely excluding groups which are in competition with each other.

Contrary to widespread popular convictions, lobbyism also differs from "corruptive" or "clientelist networks" in so far as (1) lobbyism may be made more transparent by forms of registration and regular accounts, (2) lobbyism is based on professionalisation, requiring certain roles and offices within interest groups specialised in "monitoring" legislative processes, in collecting specialised information which can be of interest for, and offered to, public decision makers; or (3) lobbyist activities may be delegated by firms to contracted specialised service agencies. Hence, in the ideal case, lobbyism should neither be based on personal relations of dependence or loyalty, nor bring the decision maker into a situation of conflict between private and public interests.

In the following, some of the major aspects of parliamentary lobbyism identified here which have emerged in Western Europe during the 1980s will be empirically assessed.

3. Forms of Lobbyism: An Empirical Assessment

Numerous single case studies as well as a limited number of comparative analyses of Western European interest politics suggest the persistence of significant variations among the patterns of interaction between groups and national parliaments during the 1980s. My assumption is here that these national variations may be described as different profiles evolving from specific combinations of those basic variables already sketched out in the section above.

A major problem complicating the task of systematically and empirically comparing national patterns and international variation arises from the lack of appropriate and comparable "hard" data. With respect to the 19 West European parliaments considered here empirical data on interest group-parliament relations is, at present, not only scarce but that which is available is also largely of the "soft" type (e.g. elite interviews, survey studies, subjective evaluations) and unevenly distributed across countries. Contrary to the situation in the United States, where the number of groups lobbying state legislatures can easily be made available for most states and, thus, allows to calculate the density and diversity of interest group systems (cf. Gray and Lowery 1994)[4] in the European setting, this information is only available for the German Bundestag and the EP. The relations between parliaments and organised interests still comprise of webs of largely hidden, or at least informal, interactions, which, especially in the Latin European countries, are still publicly considered of dubious legitimacy. Empirical fieldwork with elite interviewing appears the most appropriate strategy for satisfying data demands in this situation. Presently, this has only been realised by way of circulating rather different questionnaires for the cases of Belgium (De Winter 1992), Denmark (Damgaard 1982, 1984, 1986); France (Wilson 1982, 1983), Germany (Herzog et al. 1990; Weßels 1987; Hirner 1993; Puhe and Würzberg 1989), Italy and Spain (Liebert 1995), the Netherlands (Thomassen et al. 1992), Sweden (Holmberg and Esaiasson 1988; Esaisson 1993), and the United Kingdom (Rush 1990; Wood 1987). Insider accounts with their subjective evaluations or single group case studies are helpful as a source of complementary information(for the EU: Strauch 1993; for Austria: Pelinka 1988, 1992; for Italy: Trupia 1989; Pasquino 1988, for Switzerland: Torrent 1993). The Association of Secretaries General of Parliaments has collected systematic comparative information on formal aspects of internal parliamentary regulation (IPU

4 These authors measure "interest group system density" as calculated as the ratio of the number of groups registered to lobby state legislatures and Gross State Product. "Interest group diversity" is measured by interest group concentration across ten types of groups: eight private economic sectors and two residual categories encompassing government and social groups (Gray and Lowery 1994:6-7).

1986). Finally, our project group was also in a position to uncover additional comparable information.

Within the limits inherent in the structure of available data, I will assess the following six aspects of lobbyism in 18 Western European democracies, as well as for the case of the European Parliament[5]:

(1) socio-economic incompatibilities;
(2) the registration of private member interests;
(3) the cross-partyness of parliamentary interactions with interest groups;
(4) the frequency and publicity of interest group hearings;
(5) the diversity of committee networks;
(6) the extent of lobby networks.

3.1 Economic Incompatibilities with the Parliamentary Mandate

Generally speaking, constitutional provisions in Western Europe prohibit imperative mandates. But with respect to regulating the conditions of ineligibility and incompatibility, there exists a great deal of variation which, to a certain degree, has been shaped by the particular historical conditions applying to each country. In most systems, incompatibilities followed from the principle of the separation of powers with respect to public offices and parliamentary mandate. Stricter or conditionally enforceable forms of ineligibility and incompatibilities between an elective mandate and specific economic positions - so-called "economic incompatibilities" have been expressively introduced in only five cases: Austria, France, Greece, Italy and Portugal, (see Table 13.1):

In Austria, an MP holding a leading position in a joint-stock corporation or insurance company, or in the banking, industrial or commercial sector, has to disclose this position as well as his salary to the president of the respective chamber: The incompatibility committee must then decide whether an incompatibility exists.

For the French National Assembly, a number of laws introduced after 1875, when state economic activities started, determine incompatibilities between parliamentary mandate and certain functions in a broad range of corporations or enterprises which either benefit from state support, are dedicated to financial activities, or execute services for or under the control of the state. In addition to this, a deputy may not act as a consultant for these entities. Furthermore, the Assembly expressively prohibits meetings or the formation of groups of MPs de-

5 Each of the six characteristics of lobbyism shall be measured by means of attributing to each of the 19 cases a value of between 0 (minimum) and 5 (maximum). The resulting matrix of scores displays hence the characteristic profile of lobbyism of each case.

fending private interests. Deputies are not allowed to take advantage of their mandates in private organisations or companies and, consequently, links between private interests and MPs are formally prohibited. Sanctions in the event of a violation of these regulations are determined by law.

The Greek Constitution stipulates that the duties of a deputy are incompatible with activities as members of governing councils, as general directors or employees of commercial societies or enterprises that enjoy special state privileges or subventions (Art. 57).

In Italy, there is a provision of law which states that private businessmen or legal representatives of private corporations or enterprises linked to the state by contracts, concessions or authorisations are ineligible as deputies. Furthermore, members of parliament are not allowed to occupy offices, or exercise the functions, of administrator, president, general director or permanent legal advisor to associations or entities with public functions, to which the state contributes ordinarily, be it directly or indirectly. The same incompatibility applies to positions in banks or "joint-stock companies" with primarily financial activities. Deputies are also not allowed to advise financial or economic enterprises in their transactions with the state (Servizio studi del Senato 1984:178ff.).

Belgium is one of the rare parliamentary democracies with rules of incompatibility, but not of ineligibility with respect to certain public offices. In the event of being elected, candidates holding a public office must simply choose between this or their parliamentary mandate.

In Denmark there are virtually no limitations to election or incompatibilities at all. In the Federal Republic of Germany, incompatibilities concerning public office holders are prescribed constitutionally. A special incompatibility was introduced by the electoral law: this provides that deputies lose their status should they belong to a party declared unconstitutional by the Constitutional Court. In the United Kingdom, the "Representation of the People Act" (1949, 1983) provides that the commitment of acts of corruption can imply either ineligibility or, ex post, the loss of the mandate for members of the House of Commons. Apart from the so-called "disqualifications" concerning public office holders and employees of nationalised industries, the clergies of all churches, except for the church of Wales and the non-conformist churches are also "disqualified" from taking up a parliamentary mandate. There are no economic incompatibilities linked to taking up a seat in the House of Commons. The same also applies in Ireland with respect to the Dail and Seanad. This is also true for the parliaments of the Netherlands and Luxembourg. Among those parliamentary systems with no socio-economic incompatibilities, the European Parliament occupies an "ambivalent" position: Although making demands for a uniform regulation of the

matter, it allows Member States to determine incompatibilities for their own national deputies, which are usually in line with ruling national regulations.

Table 13.1: Economic Incompatibilities with Parliamentary Mandate

(1) yes	*(0) no*	*n. a.*
Austria	Belgium	Norway
France	Denmark	Sweden
Greece	Finland	
Italy	Germany	
Portugal	Iceland	
	Ireland	
	Luxembourg	
	Netherlands	
	Spain	
	Switzerland	
	United Kingdom	
	European Community	

Source: Project questionnaires; Servizio studi del Senato 1984.

3.2 Registration and Publicity of an MP's Private Property and Interests

Constraints on any attempt to influence the legislative processes from the part of deputies with a personal interest or "imperative mandate" with respect to external entities exist in the form of regulations pertaining to the registration and publication of Members' private interests. The strictness of these regulations varies to the extent that four categories may be distinguished (see Table 13.2):

1) Situated at the lowest level, there are countries like Austria and Luxembourg, where registration is non-public and either limited to specific categories or voluntary, or where registration is public, but on a merely voluntary basis (Belgium, Denmark).

2) A second category of relatively stricter regulations comprises of the cases of France, the Netherlands, Norway and the United Kingdom, where registration of MPs' interests is customary and public. In Portugal and Spain, on the contrary, registration is obligatory, but in practice public access to this information is limited.

In Spain, for instance, MPs are obliged by electoral law to make a statement on their professional and economic activities and on their patrimonies. The regis-

ter of these rather poor and routine statements has been open to the public since 1982, with the exception of information on patrimonies.

3) The third category is composed of the cases of Germany, Italy, Greece, Switzerland and the European Parliament. Here, registration of professional interests - provided deputies earn an income therefrom - is more detailed, obligatory and also public. In Italy, the register, which was introduced in 1982, requires that MPs not only make public their own incomes but also their marital partner's and children's properties as well as all expenses and obligations incurred during the election campaign. A similar regulation also exists in Greece, where registration is not only obligatory for each legislative term, but also for every financial year and even extends to the third year after the end of their term. Such norms were discussed in Belgium and France, without any conclusion being reached.

4) Although registration of individual deputies' interests is only voluntary or customary in some systems, this is compensated for by rather more stricter rules of conduct as in the cases of Sweden, Finland and Iceland. In Finland, parliamentary standing orders give representatives the right to participate in a debate on a matter in which they have a personal interest, but stipulate that they must abstain from decision making, i.e. the vote on these matters. The Swedish provision goes even further in requiring that a deputy with personal interests in a given matter not only abstain from deliberations in plenary but also from respective committee meetings. In the Icelandic Althingi, no Member may vote in favour of an appropriation of funds from which he could personally benefit - but possible interests with regard to external groups are left free.

In the British case, a somewhat weaker rule requires Members of the House of Commons to declare in a debate any personal pecuniary interest in the matter under discussion. However, members are still allowed to vote on these matters. Consequently, the U.K. was not included in this fourth category. According to the House Rules of the German Bundestag as well as of the European Parliament, MPs participating in committee deliberations are obliged to declare any financial or professional involvements related to an item under discussion, if this interest has not yet been published in the Official Handbook - but without this having any impact on their right to participate in the vote. In Ireland, the planned "Ethics in Government Bill" provides that "private bills" cannot be introduced by MPs with a personal interest in the subject matter - but a final decision has not yet been reached.

Table 13.2: Registration of MP's Private Interests and Participation Rights in Debates and Voting

(0)	Ireland	does not exist
(1)	Austria Luxembourg	voluntary and non-public
	Belgium Denmark	voluntary and public
(2)	France Netherlands Norway United Kingdom	customary and public
	Portugal Spain	obligatory and non-public
(3)	Germany Greece Italy Switzerland European Community	obligatory and public
(4)	Sweden Finland Iceland	abstention in decision-making in matters of personal interest

Source: Project-questionnaires; IPU 1986.

3.3 The Cross-Partyness of Parliamentary Lobbyism

The degree of representational monopolies of special interests within specific parliamentary party groups - measured by MPs' occupation prior to accepting the mandate - shall serve here as a first indicator of the strength of party-parental networks of interest groups. As a second indicator the degree to which communication networks between groups and parties are segmented along party-group "parental" lines is chosen. Unfortunately, detailed statistical data on the distribution of private interest representation and contacts among parliamentary party groups collected on a regular basis are only available for a few cases, like Ger-

many (since 1972). In most other cases available studies only refer to limited time periods: in Belgium (De Winter 1992); in Denmark (Damgaard 1982), in the Netherlands (Thomassen et al. 1992), in Sweden (Esaiasson 1993), in Italy and Spain (Liebert 1995).

Still, even if we classify European systems with these tentative reservations and in part on a subjective basis, we can identify three typical clusters of cases, within which the "partyness" of party-interest group relations shows up at a similar level. These clusters may be described as follows (see Table 13.3):

(1) A low cross-partyness of interest group - parliament interactions in the legislative processes - with a correspondingly high degree of policy correlation between groups and parliamentary parties - can be identified either in moderate pluralist party systems with alternation and social concertation, like in Austria, or in more "dissensual" pluralist party systems with frequent minority governments, like in Denmark, Norway, Sweden or Iceland, as well as in polarised pluralist systems like that of France and Finland:

In the Austrian Second Republic with its high degree of concentration, organisation and participation, the party state was based on two traditional-ideological "camps" (Pelinka 1988). Politically organised by the two large popular parties, these were mainly based on the trade unions on the one side and, predominantly, on the Economic Chamber with obligatory membership, on the other. The high level of direct representation of both camps in the Austrian National Council was channelled by the two parties: in 1979, 26% of the Austrian Popular Party's deputies were officials of the Economic Chamber, while 24,2% of the Socialist Party were trade union officials (Halle 1985:96, 76). Towards the end of the 1980s, however, internal problems of interest aggregation had begun to reduce the dominance of the large associations and the contemporary symptoms of the crisis of the party state became manifest (Pelinka 1992).

In Denmark, rising party-political fragmentation after 1973 meant that the "Folketinget" increased its level of representativeness and internal complexity. The number of parties represented in parliament grew from 5 in the 1950s and 1960s to up to 12 in the 1970s and 8 parties at the beginning of the 1990s. Fierce party political conflict prevented the social-democratic and bourgeois parties from forming a coalition and, thus, from forming stable majority governments. Nevertheless, legislative stalemate was frequently avoided by reaching legislative compromises across bloc-boundaries, even though party group loyalty remained at the same time a constituent factor even for committee members (Damgaard 1992:40). Parliamentary contacts with external economic interest groups remained strongly segmented according to the left-right scale, although not necessarily with regard to cultural, religious and leisure associations (Damgaard 1982:349).

In Norway, similar to Denmark, the political complexity of the Storting increased significantly after 1973 when the number of parliamentary parties gradually rose from 5 to 8. Given that the level of conflict, mainly between the social-democratic and the non-socialist bloc, also sharply increased, the change in parliamentary government was described as a transition from consensual majoritarianism to "dissensual minoritarianism" (Rommetvedt 1992:53f., 68, 96). As industrial conflict began to increase, especially during the 1980s, labour and employers organisations simultaneously maintained their strict alliances with the Labour Party and the Conservative Party, respectively.

As the number of parties in the Swedish Riksdag increased during the 1980s from 5 to 7, Sweden began to resemble ever less the British Westminster model with its polarised fight between two political blocs. From 1985 on, both the non-socialist and the socialist camps dissolved and competition could no longer be reduced to a struggle between left and right on the political scale (Sannerstedt and Sjölin 1992:148-149). Fading polarisation and the emergence of minority government increasingly enhanced flexibility in parliamentary negotiations and coalition-building across the former bloc-boundaries (Sannerstedt and Sjölin 1992:149). However, on traditional socio-economic issues, bloc politics is still alive. According to a 1988 study on job perception among members of the Riksdag, representation of labour interests was almost exclusively perceived of by the deputies from the two leftist parties as a "very important task", 62% of whom declared affiliation with the interest group concerned. On the other hand, support for the idea that the representation of business interests was very important came almost exclusively from amongst deputies of the three centre-right parties, 25% of whom indicated affiliation with that group (Esaiasson 1993:Tables 2, 3). For both, it could be confirmed that those deputies with certain "social characteristics" were considerably more inclined than other members to view themselves as representatives of the interest group in question. However, "party affiliation" as a determinant of representational behaviour was seen as being of equally high importance (Esaiasson 1993:Table 4).

(2) A second category of cases comprises of those types with a "mixed" nature of party-interest group interactions, i.e. where overlapping memberships between parties and interest groups may remain differentiated along traditional parental relations, but at the same time, where groups exert cross-party pressures. The important economic groups keep clear cut party political preferences with regard to their direct parliamentary representatives, while at the same time, when operating from outside, develop cross-party patterns of communication. This appears to be the case in systems with moderate pluralist party systems with alternating coalitions, as in Germany, but also in systems with extreme pluralism,

like that of Italy, or the case of "limited but polarized pluralism" as the Greek system has been described (Mavrogordatos 1985:157):

For the German Bundestag, analyses of the occupational background of members of the parliamentary groups and the representation of interest groups in the Bundestag, on the one hand (Kaack 1988; Müller-Rommel 1988), and interview-data on party group specific differentiation of contacts between deputies and interest associations, on the other (Hirner 1993), confirm a "mixed" pattern. The profiles of the parties in the Bundestag, with respect to occupational backgrounds as well as the ranking of interest associations represented within them, remain sharply differentiated (Kaack 1988:134f.; Müller-Rommel 1988:397). At the same time, the two large "catch-all parties" show relatively similar patterns of communication with different social groups, while traditional links retain their favourable biases and historical party identities still survive (Hirner 1993:161, 167) . This has not prevented the paradox situation arising of highly institutionalised interest groups from both sides of the labour market operating with a certain degree of autonomy within the two major parliamentary parties[6].

Referring to relations between the party groups of the Italian Chamber and society back in the 1960s, Joseph LaPalombara identified characteristic "vicious circles" , i.e. close parental links between parties and interest groups that reproduced the fragmentation and polarisation of society in parliament. Instead of moderating ideological cleavages, conflicts were exacerbated, frequently leading to violent confrontations (LaPalombara 1964:249). These parental relations between socio-economic interest groups and parliamentary groups continued to persist throughout the 1970s. But, as a survey of party representatives in a number of standing committees for the 10th legislative term (1987-1992) revealed, patterns of lobbyist contacts had substantially eroded, the traditional party political boundaries, even allowing for communication between the business association and Communist deputies (Liebert 1995:Fig. 3.34).

In Great Britain, the large economic groups on both sides of the labour market continue to maintain their privileged traditional relations to the two major parties. However, a study of constituency economic interest lobbying based on interviews with conservative MPs in 1983-84 showed that, compared to a similar analysis conducted ten years earlier, more than half of the MPs engaged in constituency-oriented activity because, due to both economic as well as political factors, their constituencies had become less secure than they once were,. These activities were geared towards the saving of threatened jobs, promoting public

6 These groups such as the "Diskussionskreis Mittelstand" in the CDU/CSU, elect their own leadership, command staff and financial resources from the budget of the parliamentary group; and in regular bulletins issue legislative initiatives. They also appoint "rapporteurs" in the permanent committees to monitor these initiatives.

spending on infrastructure and securing favourable treatment for firms in the area. Hence, activities were related to a diversity of interest groups (Wood 1987:399f.).

In Greece, since PASOK took office in 1981, party-interest group relations became a question of the lack of autonomy for a large part of the latter (Mavrogordatos 1985). Under the label of "democratisation" the government imposed through legislation a change of interest group structures and statutes, and introduced proportional representation in the elections to the governing bodies of students, workers, farmers, professionals and small business associations. As a consequence, these either came under the control of PASOK or of other parties. Thus, they lacked authentic representation with respect to government as well as to parliament. Only industrial associations, merchants and shipowners, namely the "National Council of Private Enterprise" kept their autonomy - although their legitimacy was still questioned by the Greek public. In contrast to the legitimacy of labour and farming interest, which was rarely challenged because they were perceived as being parts of "the People", the articulation of bourgeois interests was viewed as illegitimate (Mavrogordatos 1985) . Although it has been estimated that two thirds of deputies have started their political career in trade unions or other interest groups, as deputies, with the exception of professional associations, they have had to lay down these memberships. Hence, direct representational links are not allowed to continue, while certain patterns of party-interest group dependency have certainly been strengthened by legislative intervention under the PASOK government.

(3) A third case is that where cross-party representation of interest groups is combined with cross-party lobbying on the part of major interest groups. The European Parliament seems to come closest to this case.

One of the major developments in the European Parliament in the 1984-89 period was the creation of about 50 "intergroups" with members from different party political groups sharing a common interest in a particular political issue. Some are supported by industry, others have had members from outside parliament. Before the most recent enlargement, "intergroups" could play a key organisational role in the second reading stage of Commission proposals, where 260 votes were required (absolute majority) to amend or reject it.

But also in the case of the Spanish Congress, under the hegemony of the Socialists as governing party during the 1980s, interest associations had to learn to contact all parties with ever-decreasing privileged parental relations. During the first two legislative terms (1977-1982), close relations between labour and the leftist parties and similarly business interests and the parties of the centre-right still prevailed (Condomines 1982, 1985). The hegemonic position and the majoritarian style of the governing Socialist Party, with its absolute majorities since

1982, forced business associations into an "antagonistic cooperation" with government. At the same time, the failure of corporatist concertation after 1986 and sharp economic and social policy differences between government and its supporting party in parliament forced the socialist trade union, UGT, to differentiate organisationally and personally with respect to both. Major trade union leaders resigned from their parliamentary mandate during the fourth legislative term (1986-89), thereby increasing the autonomy of their organisation as an interest group. Due to the disunity of the centre-right opposition, direct representation of business interests in the Cortes also decreased (Liebert 1995). Instead, cross-parliamentary party group contacts have gradually become the general rule, although have not yet been acknowledged as such in public.

Table 13.3: The Cross-Partyness of Parliamentary Interactions with Interest Groups

partyness of IG-representation by and contacts with deputies		
(1) high partyness	*(2) mixed*	*(3) cross-partyness*
Austria	Finland	Spain
Belgium	Germany	European Community
Denmark	Greece	
France	Ireland	
Iceland	Italy	
Norway	Luxembourg	
Sweden	Netherlands	
	Portugal	
	Switzerland	
	United Kingdom	

Source: Project questionnaires.

3.4 Institutionalisation of Parliament-Interest Group Interactions: Hearings Conducted by Parliamentary Committees

In none of the West European systems do any institutional guidelines exist regarding the rights and duties of lobbyists in their relations with deputies that are of comparable content to those introduced by the "Federal Regulation of Lobbying Act" in 1946 in the United States and which provide for a certain transparency of at least the "tip of the iceberg" of lobbyist activities, financial spending, targets and partners every three months.

The lobby list of the German Bundestag does not provide any information on lobbyist activities. Essentially, it can be considered a useful address list, but, then again, some of the organisations that play an important role in the legislative processes, such as trade unions or churches, are not even mentioned.

In Great Britain, a register of "parliamentary agents", who promote "private bills" and subsequently monitor the petitions presented against these bills, is kept by officials of the "Private Office". These agents must only acknowledge their familiarity with specific parliamentary procedures relating to private business and that they shall respect the customs and rules of the House. This discipline was established by the Speaker of the House of Commons in 1837 and has subsequently been modified (according to a study relating to this subject conducted by the Italian Senate (Senato della Repubblica 1984:142)).

One mode, however, by which parliamentary exchanges with interest groups have become institutionalised in most West European systems and even made public to a certain extent over the past decade, is committee hearings. In all cases, with the exception of the U.K. and Denmark, where no such hearings take place, standing committees are entitled to invite representatives of affected interests from corporations or associations, when deliberating legislation, for the purpose of formal and often public consultations. In a number of countries, this practice has emerged only very recently. Several types of cases may be distinguished in this respect (see Table 13.4):

(1) Systems with no hearings at all or a low frequency of hearings that normally take place behind closed doors:

This is the case, for instance, in the French National Assembly, where hearings are extremely rare and even when they do take place are neither public nor documented (Mény 1990:175).

In Austria, interest groups are strongly represented in the committees, but their deliberations are not public. The parliamentary *"Enquetten"* (enquiries) are open to public inspection, but are not so strongly shaped by the established interest groups because they handle issues for which no established interest structure yet exists.

In Spain, the procedure of the *"comparecencias"* in the standing committees of the Congress formally permit the invitation of affected external interest groups to participate in deliberations. In practice and with only a few exceptions, however, this instrument has been used to invite representatives from government and public corporations. When questioned on the motives behind this restriction, the sharpness of the conflict between opposed interest groups was mentioned (Liebert 1995).

In Denmark, only investigatory committees can summon outside persons, but this is rarely done (IPU 1986:707).

(2) A second category is made up of parliaments displaying a medium frequency of hearings and inviting interest group representatives. However, in some cases these hearings receive only limited publicity. Examples of such cases can be identified, for instance, in Belgium, Italy and Norway. In Norway, although standing committees do not have the formal right to summon external witnesses, they may still be invited all the same (IPU 1986:715).

(3) The third category groups together those parliaments displaying a high frequency of hearings. This is the case in Finland, Germany, Iceland, the Netherlands, Sweden and the European Parliament. Here, consultations with external

Table 13.4: Publicity and Frequency of Interest Group Hearings (Around 1990)

	Publicity	*Frequency*	*Score*
Austria	no	low	1
Belgium	partly	medium	3
Denmark	no	zero	0
Finland	partly	high	4
France	no	low	1
Germany	yes	high	5
Greece	no	low	1
Iceland	no	high	3
Ireland	partly	low	2
Italy	partly	medium	3
Luxembourg	partly	low	2
Netherlands	yes	high	5
Norway	no	medium	2
Portugal	yes	low	3
Spain	no	low	1
Sweden	yes	high	5
Switzerland	partly	low	2
United Kingdom	yes	low	3
European Community	partly	high	4

Source: Project questionnaires.

experts from affected interest groups nearly always, or at least in the majority of cases, take place when a committee considers a matter.

In Finland, even if sessions are not formally public, they are publicised by the mass media working within the parliament.

In the German Bundestag, communication with interest groups is highly institutionalised in public hearings, which are not only numerous - most of them being conducted by the social committee - but, which also cover a large spectrum of societal associations, among which business interest groups are dominant (Weßels 1987).

The case of the U.K. falls somewhere between all these categories because, although the select committees are of a permanent nature and frequently hold hearings of interest associations with a high degree of publicity, they do not, however, deliberate legislation. The actual legislative committees are ad hoc and may not invite affected interests.

3.5 The Diversification of Committee Membership: Policy Networks Between "Iron Triangles" and Inclusive Networks

In any parliament, private interests and especially organised groups seek direct access to the standing committees of their sector for some of their representatives and/or by contacting committee members. Three categories of cases may be distinguished accordingly (see Table 13.5):

(1) On the one extreme, there are the cases in which interest groups successfully hold the chairmanships of, or remain overrepresented in, committees corresponding to their sectoral interests and with considerable continuity over time. If competing associations are not represented in the committee or are in a marginal position and if at the same time relations with the competent ministries also show a pronounced stability, corporate "iron triangles" can be identified. These typically lead to segmented policy outputs with a strong bias towards specific private interests:

The Austrian situation appears paradigmatic for this type. Here, from the 12th to the 17th legislature the same businessman and member of the ÖVP was chairman of the committee on Economic Affairs. A pronounced continuity in group affiliation of a chairman was also shown by the Committee on Agriculture. This remained in the hands the of farmers organised within the ÖVP, although they did change the person holding the chairmanship twice from 1970-1990.

(2) An intermediate case can be identified where patterns of representation in leading committee positions are clearly biased, but communication patterns are not, or vice versa. Belgium, for example, shows this form of mixed evidence. More than a quarter of MPs preferred specific committee assignments as a matter of serving constituency and individual as well as local interests, and only less

than one fifth of deputies named pressure group interests they actually felt close to (18.9%). As a consequence, only in some Belgian committees were certain interest groups overrepresented. In the Committee for the Interior, more than 90% of members were local office holders; trade unions were overrepresented in Social Affairs, Infrastructure and Health Committees; and the catholic farmers and middle class organisations were concentrated in the Committee on Agriculture and Economy. In other committees, however, no preferential links to corporate interests were observed, at least not with respect to their chairmen. For instance, from 1988-1991, the chairman of the Economic Affairs Committee was a catholic trade unionist; the chairman of the Finance Committee a conservative catholic without formal links to private interests; and the chairman of the Agricultural Committee a socialist.

Again, the U.K. falls into this intermediate category given the hybrid nature of its non-specialised legislative committees with their changing memberships. In principle, this does not exclude the possibility that in given policy areas more or less the same party experts are always involved, who may, thus, form a policy community without formal institutionalisation. However, there is still a lack of empirical research on this matter.

(3) The other extreme is reached when committee chair positions are occupied by deputies with professional backgrounds most distant from the sector in question.

This was the tendency in the Finnish Assembly, where, in 1993, the Finance, Economic and Social Affair Committees were headed by a teacher and two lawyers, and where only the Committee for Labour Affairs and the Agriculture Committee were run by chairmen with a corresponding professional/associational background, i.e. by a trade unionist in the first case and a farmer in the second. This, however, does not mean that groups in Finland are not decisively involved in the work of committees, as shown in their initiation of legislation (Arter 1987) and sending of experts to hearings.

In cases where only a limited number of all-encompassing committees exist, as in France or Greece, a higher level of diversification of interest group representatives and, hence, of network-inclusiveness can be expected than in those cases where a multitude of highly specialised committees are to be found (the Netherlands or Austria). In France, for instance, the low number of only 6 standing committees, the chairmanships of which being monopolised by the majority party, appears to exclude the possibility of corporate networks. However, the existence of 58 “groupes d’études”, formed to discuss specific projects, can promote the formation of “policy networks” with a limited lifespan and, hence, no institutionalisation.

In Greece, after 1987 the number of standing committees was reduced from 22 to 7. Under the assumption that their composition diversified accordingly, this case is also assigned to the third category.

Table 13.5: Diversification of Committee Membership

	Diversity of group-interaction of legislative committees	*Score*
Austria	low	1
Belgium	medium	2
Denmark	high	3
Finland	high	3
France	high	3
Germany	medium	2
Greece	until 1987:low; after 1987: high	3
Iceland	high	3
Ireland	no information	-
Italy	medium	2
Luxembourg	medium	2
Netherlands	low	1
Norway	medium	2
Portugal	no information	-
Spain	high	3
Sweden	high	3
Switzerland	no information	-
United Kingdom	medium (?)	2(?)
European Community	high	3

Source: Project questionnaires.

3.6 The Extension of Lobby Networks

The general assumption of a "decline of parliaments" with respect to interest group strategies in Western Europe appears by no means certain for all countries, nor is it applicable in all cases to the same degree. On the contrary, in many cases parliaments have apparently become increasingly salient as the targets of lobby activities during the 1980s. In a strict sense, however, the quantitative and qualitative data available for an attempt at assessing the extensiveness of parlia-

ment-interest group networks are hardly comparable. In all cases, lobbying the executive probably remains the necessary condition in order to succeed in influencing a piece of legislation. Lobbying legislators appears to be a sufficient condition for that purpose the more parliamentary actors - opposition, minorities, committees - have the competence and resources to initiate proper legislation, to change governmental proposals or to control public or private performance in implementing legislation or in delegated legislation. Thus, parliaments appear to vary significantly with respect to the comprehensiveness of the lobby activities they attract (see Table 13.6).

(1) Probably the lowest number of lobbyists in Western Europe are attracted by the French Assemblée Nationale, the Portuguese Assembly of the Republic and the Spanish Cortes (Congress and Senate).

In Portugal, lobbying did not become a profession until accession to the European Community in 1986. Since then the term has gradually lost its unpopular connotation, given that the government itself encouraged sectoral interest organisations to improve their internal structures to represent national interests ahead of Community institutions (Nandin de Carvalho 1993:258). Correspondingly, the percentage of MPs belonging to interest organisations, though remaining at an extremely low level in absolute figures, has slowly increased from 1,5% for 1976-1979 to 4,4% for 1985-1987 (Braga da Cruz 1988).

In the case of France, interest groups appear to give relatively little or even lessening attention to parliamentary legislation as compared to extra-parliamentary concertation with government agencies. Although legislation in France is strictly centralised, 60% of 96 interest-group representatives reported the frequency of practising lobbyism towards MPs as only being "from time to time". Only one third claimed such approaches were made "often". Against this, more than half of interest group representatives are in constant contact with government (Wilson 1983). The French Assembly, for its own part, contributed to this selectivity. Official "purple cards" were issued to no more than 30 organisations, 17 of which were public entities. Only the holders of these "purple cards" are granted access to the "lobbies" of the two chambers in order to meet MPs or ministers. This exclusiveness can be traced back to certain peculiarities in the traditional structures of political power in France. French lobbyists suffer from an atypical problem when compared to other European systems: they have to cope with a network of public and private corporate power that is built on a system composed of graduates from two important schools; Ècole Polytechnique and Ècole Nationale d'Administration. This makes French lobbying in Europe, too, difficult and sometimes ineffective (Allain-Dupré 1993:233ff.).

During the 1980s, major Spanish groups learnt to pay less attention to the national parliamentary level. This was due to a variety of developments: the decen-

tralisation of legislation to the Autonomous Communities according to their policy competences since the beginning of the 1980s; Europeanisation of agricultural policy since 1986; recentralisation of legislation remaining at the national level in the hands of hegemonic party government and the executive; increasing differentiation between trade unions and governing party. Thus, while major trade unionists dropped their parliamentary mandate, the governing party tried to establish direct channels of communication at the local and regional level with all types of professional and interest group representatives (Liebert 1995).

(2) The cases of Belgium, Denmark, Greece, Luxembourg, Norway, Sweden and the United Kingdom are attributed to the second category of parliaments which appear to receive the attention of an important, but not extreme, number of lobbyists.

In Belgium, where important socio-economic pressure groups prepare policy proposals that are mostly oriented towards the executive, MPs are also assisted, belonging to or sympathising with the group. Due to their poor institutional staffing, it is often the Belgian MPs, themselves, who are forced to seek the help of external groups with their better resources. Given their resource dependency, the MPs are easily accessible for those interest groups in a position to offer them assistance (De Winter 1992).

In the Danish Folketing, contacts between interest groups and committees are registered in a journal in the Secretariat. This document is then attached to the bill in question. The information it offers, however, is not easily available to the public.

In the Norwegian Storting, the rising level of both group activities and of dissensual decision making processes are seen as representative of the enlarged social conflict potential in Norway: "The heterogeneity of Norwegian society can, for instance, be seen in the formation of an increasing number of groups and organizations fighting for their interests. The number of nationwide voluntary organizations rose from about 1000 in 1960 to around 2200 in 1983....The organizations are in frequent contact with political authorities" (Rommetvedt 1992:87). The Storting in particular, occupies an increasingly salient position with regard to interest organisations (Nergaard 1987).

Sweden has been described as the best example of "the rise and decline of corporatism": The Swedish "prototype of the Social Democratic Corporatist State" functioned to "pacify intense minorities by giving them another opportunity to influence politics when they have no chance in parliament", but which was "approaching the American pluralist model" since the onset of the gradual decline of neo-corporatist interest representation during the 1980s (Lewin 1994). However, the strength of the Riksdag appears to be determined by the variable nature of the governing coalition. The years of non-socialist cabinets (1976-82)

activated the Social Democratic party group and vitalised parliamentary committee work, thus strengthening parliament vis-à-vis government. When, after 1991, a non-socialist four-party coalition was formed with its inherent increased need for internal unity, the conditions for parliamentary negotiations became less favourable.

After corporatism had failed in Great Britain, the post-1979 era saw the British House of Commons and the House of Lords coming increasingly under pressure from external interest groups (Rush 1982). The question of how to regulate lobbyism became an issue on the parliamentary agenda (IPU 1986).

(3) Parliamentary lobby networks appear to be most comprehensive and the monitoring of the parliamentary processes a need of primary importance for a large range of interest groups in the cases of Austria, Finland, Germany, Iceland, Italy, Netherlands, Switzerland and the European Parliament.

In Austria, where neo-corporatist concertation involving government, parties and parliamentary parties, trade unions and employers associations was strongest, contacts between neo-corporatist actors and parliamentary committees, on the basis of direct representation, are of a permanent nature. The National Association of Industrial Construction Enterprises (VIBÖ), for instance, reported maintaining permanent contacts with the Austrian National Council (Marin 1986:107).

In Finland, interest groups use their indirect right of legislative initiative. The major economic interest groups constantly monitor parliamentary and legislative processes in their sectors, circulate information on parliamentary topics regularly to their member organisations and continually send experts to standing committees.

In Germany, the number of groups that register in the lobby list, published annually since its creation in 1972, has nearly doubled and by 1991 contained 1578 associations. Furthermore, a 1987-88 survey study among deputies calculated that, on average, individual deputies have 177 contacts with private economic or public interest groups each year (Herzog et al. 1990; Hirner 1993).

The attraction of the European Parliament for lobbyists has multiplied considerably within only a few years. Whereas in 1988 only 300 lobbyists were registered, in 1991 the number had increased to 3000 - compared to the approximate 5000-10.000 lobbyists working at the European Commission in Brussels (Strauch 1993:176). It was estimated that during the session period, approximately 150 lobbyists approach the members of the EP each day (Jacobs and Corbett 1990:235). One reason for this acute increase is to be found in the new decision-making procedures of the Community since the adoption of the Single European Act in 1986. Another reason is that the EP is the most accessible of all European institutions when compared with the Council, which is probably the

most closed-off institution at the European level and the Economic and Social Council, which is reserved to certain highly institutionalised private interests, but without having important powers with respect to European decision making (van Schendelen 1993:69).

Table 13.6: Extent of Parliamentary Lobby Networks

(1) low	*(2) middle*	*(3) high*
France	Belgium	Austria
Ireland	Denmark	Finland
Portugal	Greece	Germany
Spain	Luxembourg	Iceland
	Norway	Italy
	Sweden	Netherlands
	United Kingdom	Switzerland
		European Community

Source: Project questionnaires.

From this comparative empirical review of six characteristics relating to lobbyist interactions of organised interests with parliaments in 19 European cases, a rather complex picture of different national "lobbyism-profiles" emerges. The question to be addressed in the final section is whether it is possible, at least for the 18 national cases, to discover an overall structural pattern of lobbyism. Which are, hence, the fundamental dimensions underlying the complex and detailed empirical case descriptions?

4. Lobby Regimes: Attempts at Classification

Given the complex nature of interaction between parliaments and organised interests, any unidimensional ranking of lobbyist systems appears reductive. By simply adding the scores obtained, three clusters of lobbyism in European political systems may be discerned:

The category with the highest scores (16-23) comprises of those systems with relatively strong incompatibilities and requirements for the registration of MPs' interests; a high level of cross-party lobbyism and committee diversification; with frequent and public hearings; as well as with lobby networks embracing a wide range of groups. In Western Europe, only the European Parliament and Finland fall into this category.

The category of cases with medium scores with respect to these characteristics embraces 15 of the systems being compared. Within this class, however, countries are to be found with medium scores on all major dimensions (Switzerland or the United Kingdom, for instance) as well as countries where the overall medium score results from a combination of extremely low values on some dimensions and yet, extremely high values on the other (as in the cases of Sweden or Germany).

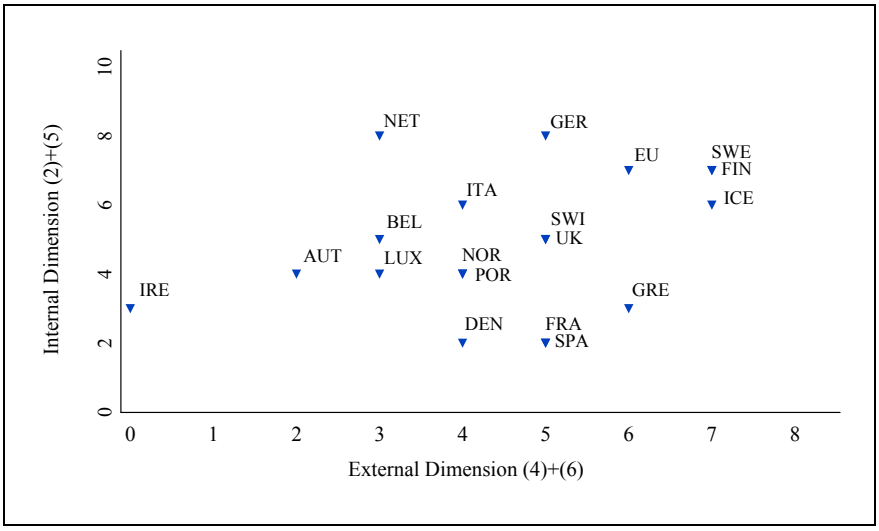
In the last category of countries with the lowest scores, only the cases of Denmark and of Ireland are to be found.

A step further in classifying patterns of lobbyism can be taken by distinguishing between fundamentally different dimensions that constitute several of the descriptive variables. For instance, the variables (1) "economic incompatibilities", (2) "registration of MPs' interests" and (5) "committee diversification" may be considered as constituting a dimension of internal parliamentary controls and checks on lobbyism.

On the other hand, the variables (4) "frequency of hearings" and (6) "size of lobby networks" could be considered as describing the external dimension of parliamentary lobbyism. "Cross-party lobbyism" appears to fall in between these two dimensions, possibly as a third, intermediary dimension. Figure 13.1 shows the values for the external and the internal variable for each country, resulting from adding the respective scores separately, and it displays the distribution of cases over the respective two-dimensional space.

A relatively more robust method for finding out whether these are the fundamental dimensions that underlie the complex empirical pattern is factor analysis. Although in principle "hard" interval data would be more desirable in order to apply this method, the "interpretative" ordinal data obtained from the above analysis of six variables in 18 cases can be explored by means of a factor

Figure 13.1: Two-Dimensional Distribution of Parliamentary Patterns of Lobbyism. Additive Scores



Country	*Internal Dimension (2) + (5)*	*External Dimension (4) + (6)*
Austria	4	2
Belgium	5	3
Denmark	2	4
Finland	7	7
France	2	5
Germany	8	5
Greece	3	6
Iceland	6	7
Ireland	3	0
Italy	6	4
Luxembourg	4	3
Netherlands	8	3
Norway	4	4
Portugal	4	4
Spain	2	5
Sweden	7	7
Switzerland	5	5
United Kingdom	5	5
European Union	7	6

analysis as well[7]. The pattern matrix of table 13.7 shows - according to the data on the 18 national cases - the loading of each of the six variables on three factors. These appear to represent the fundamental dimensions underlying the pattern of lobbyism described and assessed above.

Table 13.7: Rotated Pattern Matrix of the Six Variables Characterising Parliament-Interest Group Interactions

Variable	*Factor I*	*Factor II*	*Factor III*
(1) Economic incompatibilities	-.22	.01	- .65
(2) Registration of MP's - interests	.48	**.76**	.06
(3) Cross-party lobbyism	-.24	.00	.76
(4) Hearings	**.79**	-.02	.36
(5) Committee-diversification	-.21	**.97**	-.04
(6) Extention of lobby networks	**.85**	.00	-.26

Among the six variables, there are two pairs of "key variables" that clearly load on only one factor each:
- Variables 4 and 6 - hearings and lobby-extension - load highly on Factor I;
- Variables 2 and 5 - registration and committee-diversification - load highly on Factor II.

Factor II can be interpreted as the internal dimension of parliamentary control of lobbyism - by means of registration of MPs' interests as well as by the diversification of committee membership with respect to occupational background or interest group linkages of committee members and, especially, the chairmen. On the other hand, Factor I can be interpreted as the external dimension of the routinisation and institutionalisation of parliamentary lobbyism - by means of frequent and public committee hearings of interest group representatives as well as by a high number of lobbyists contacting parliamentarians on a regular basis. Factor III, on which cross-party lobbyism loads highly but the other variables weakly or negatively, could be interpreted as the intermediary dimension of party political representation, aggregation and mediation of organised interests. Intermediary in as much as it combines aspects of internal control as well as ex-

7 I would like to thank Evi Scholz from MZES for running the factor analysis for me.

ternal routinisation. Given the - in total - relatively weaker loading of variables, this third dimension shall be neglected here.

The first two - the external and the internal - dimensions constitute a two-dimensional space of lobby-regimes. Factors do not cross-cut significantly (with the exception of variable 2 that also loads weakly on Factor I). The result can be used to cluster our countries empirically. Table 13.8 presents the standardised factor scores for the 18 national parliamentary interest group regimes compared here.

Table 13.8: Factor Scores for 18 Parliamentary Interest Group Regimes

	Factor I	*Factor II*
Austria	.10	-1.38
Belgium	.03	-.68
Denmark	-1.06	.18
Finland	1.17	1.23
France	-1.16	.62
Germany	1.47	.04
Greece	-.87	1.03
Iceland	1.15	1.24
Ireland	-1.05	-2.46
Italy	.43	-.26
Luxembourg	-.54	-.61
Netherlands	1.47	-1.12
Norway	-.06	-.23
Portugal	-.63	-.17
Spain	-1.81	.67
Sweden	1.04	1.23
Switzerland	.57	.15
United Kingdom	-.24	.51

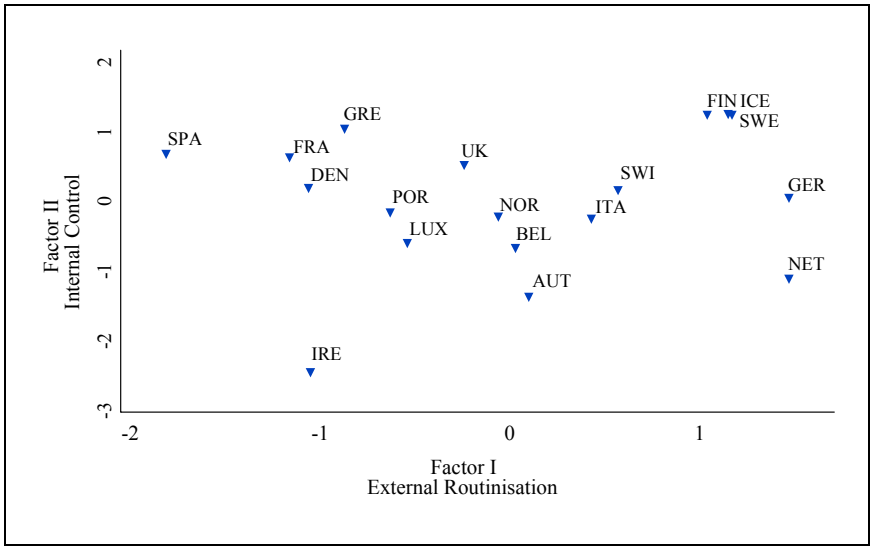
The graphical representation of these values in the two-dimensional space displays *four types of lobby-regimes* (see Figure 13.2):

(1) The low routinisation and weaker control of lobby-regime type: Ireland, Luxembourg and Portugal
(2) The high routinisation and stronger control of lobby-regime type: Finland, Iceland, Sweden, and Switzerland and, with a proportionally higher level of institutionalisation than of control, Germany.

(3) The lobby-regime type with a high level of control, but a relatively low level of routinisation : Spain, Greece, France, Denmark and the U.K.
(4) The type of lobby-regime with a high level of routinisation but with a relatively low level of internal control: the Netherlands and Italy.

Austria, Belgium and Norway are situated on the borderline of a medium level of routinisation of lobbyist interactions and differ from weak (Austria) to relatively stronger internal control (Norway).

Figure 13.2: Lobby Regimes in Western Europe According to External Routinisation and Internal Control (Obliquely Rotated Factor Analysis)



Source: Values from Table 13.8.

At this point it seems suited to return to the question formulated in the introductory remarks above: whether it is possible to distinguish liberal pluralist lobbyism from post-liberal varieties. It is my proposition to conceive type (4) as an empirical *model of liberal pluralism*, where lobbyism proliferates without any important internal checks. On the basis of our empirical findings, the Netherlands and Italy represent two examples of this model. Consequently, type (2) represents the opposite *model of post-liberal pluralism* equipped with important parliamentary mechanisms of "domestication" but not excluding organised interests from a highly routine and even institutionalised participation in legislative processes. The Nordic countries of Finland, Iceland and Sweden, but also Swit-

zerland and, to a lower degree, Germany, represent this post-liberal model, at least with regard to the empirical information used here. Type (3) illustrates the *model of statist anti-pluralism* with relatively higher levels of control as compared to routinisation. This appears to be the case in Spain, Greece, France and Denmark. In the U.K., internal checks appear to be relatively weaker and routinisation higher than in the other cases in this category. Finally, type (1) represents the *model of personalised clientelism*, illustrated by Ireland, Luxembourg and Portugal with their relatively low levels of internal control and equally low degree of routinisation of lobbyism.

5. Conclusions

The preceding comparisons have contributed to illuminating and structuring the considerable variation between lobby-regimes in Western Europe - understood as constellations of principles, norms, rules and procedures. These regimes have not only offered interest groups variable structural constraints and opportunities to pursue their interests, but, as contexts, have also profoundly influenced political strategies and even the ways organised groups define their interests. In particular, it has been argued that a "post-liberal pluralist" type of lobby regime has emerged. This type - similar to liberal pluralist lobbyism - is on the one hand characterised by a high level of routinisation and even institutionalisation of participation of interest groups in the parliamentary processes by means of frequent and public committee hearings and by a wide extension of lobby networks. On the other hand - and different from liberal pluralism - post-liberal lobbyism shows a relatively high level of parliamentary control of and checks on organised interests, designed to keep interest group conflict open and to avoid "iron triangles"- by means of a diversification of committee leadership and/or membership, and also in terms of the registration and neutralisation of individual deputies acting as inbuilt lobbyists, for instance. Parliaments within such post-liberal regimes neither function as autonomous actors that formulate and realise goals vis-à-vis interest groups, nor do they simply reflect the claims of particular social groups. They rather exert a procedural control on interest group influences. This type of post-liberal lobbyism has been identified, primarily, in the cases of Finland, Sweden and Iceland.

The thesis that a pluralist type of lobbyism developed in Europe after the decline of neo-corporatism (Lewin 1994) - according to our assessments - does not at all apply to the Scandinavian countries, but rather to the Netherlands.

At the same time, an apparently typical "old European" variant of statist anti-pluralist lobbyism appears to persist. Characterised by low level routinisation of

interest group participation and at the same time by a high level of internal parliamentary control, this type has been identified in France, Greece and Spain.
These findings must be savoured whilst keeping three reservations in mind:

- The empirical data on which the analysis of lobby-regimes is based are - as has been stressed - of a soft "interpretative" type and derive to a large part from informed and comparative "expert judgements". A comparison based on "hard" data would require a major data-collecting effort, mainly by means of MP - interviews applying the same questionnaire in all countries. The research design developed here could be adapted quite easily to this end.
- The validity of the assessment of parliamentary lobby-regimes could, and should, also be tested with respect to legislative outputs. The expectation that post-liberal regimes improve the quality of legislation and reduce its quantity could be a hypothetical point of departure.
- The clustering of cases mirrors the situation at the end of the 1980s and beginning of the 1990s. It is, as a consequence, contingent on the socio-political conditions characteristic of this period. Neither changes in patterns of lobbying over time nor the variables on which country-specific changes depend could be analysed in the comparison presented here.

From a public choice perspective it has been assumed that demand for legislation by sectional interest groups would be shaped and stimulated by specific parliamentary rules of procedure (Landes and Posner 1975). From a structural and historical perspective, the structuring of informal lobbyists networks must not necessarily covary with formal parliamentary procedures. Considered over time, differences in national patterns of the way organised interests relate to parliamentary processes appear to be relatively persistent - very much like different policy styles or political networks (van Waarden 1993). This structural invariance has also been attributed to long-standing state traditions and political cultural peculiarities (Lehmbruch 1987; Strauch 1993:103). If this is true, persisting informal networks might undermine and even contradict procedural norms and could survive in spite of procedural changes. It should, then, be expected that types of parliamentary lobby regimes and the procedural norms of formal parliamentary organisation will covary more in some countries than in others. A practical consequence of this would be that legislators could certainly use the "post liberal" lobby-regime as a prescriptive model for organisational reforms of parliament. But then again, in some cases more than in others, parliamentary reforms of lobbyism would also be constrained by persisting informal norms and traditions.

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14

Private Members' Initiatives and Amendments[1]

Ingvar Mattson

Introduction

In many classical theories of democracy and representation, political parties can only be found in the shadows. Parties only create disruption, it was claimed, and thus were regarded as illegitimate. The classical republican tradition required that citizens and leaders alike should have a desire to achieve the public good, and not, simply, their own interests. This view came together with the fear of factions, as James Madison called them, and later of political parties, because they were believed to consist of citizens pursuing their own, restrained interests rather than the general public good and, thus, were a danger to the republic (Sartori 1976:Chapter 1; Hofstadter 1969:2 et passim; Dahl 1994:7).

Instead, theories focused on the individual representatives and their civic virtue. The prevalent nineteenth-century liberal view of a good legislature was one composed of independent men. The ideal Member of Parliament was a detached and skilled individual, able to give voice and strength to the people's will and who should act in the public interest of the nation. This ideal has probably never been realised, although it may have been approached during the so-called golden age of parliament in the United Kingdom. In those days (the late eighteenth and early nineteenth century), the time of parliament was, as Philip Norton points out, much occupied by bills introduced by private members. Eventually, however, the House of Commons became an arena for private interests competing for passage of bills that would benefit them personally (1994:13).

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1 This chapter was concluded while I was a Visiting Scholar at the Institute of Governmental Studies, University of California at Berkeley. I want to thank the Institute for its warm hospitality. I gratefully acknowledge the comments of project participants in general and Herbert Döring in particular for his inventive suggestions, as well as the assistance of Evi Scholz and Mark Williams. Maria Sönne has not only provided moral support but also substantial comments on an earlier draft.

Although the early democratic ideal of a Parliament relied on individuals, we know that history has now reversed (or at least changed) the positions of individuals and parties. During the last few decades, the development of West European democratic Parliaments has put political parties on the centre stage and made the members primarily party representatives - conditions that are obviously reflected in the initiation of legislation.

The implementation of the principles of parliamentarism is an important factor in this development. Parliamentary constitutions put the emphasis on popular sovereignty and unitary government. This is characterised by the direct election of parliament, which, in turn, appoints (or at least tolerates the appointments of) the executive government. Presidential constitutions, on the other hand, are characterised by separate elections of parliament and chief executive and a formal balance of the powers of the two branches. The different relations between legislature and executive in the USA and Great Britain, for instance, is illuminating for the initiation of legislation, as Harold J. Laski has already pointed out. Due to the strong leading roll of the British executive:

> "the initiative of the private member has a much narrower field of activity. He may, as in America and France, present his bills in unlimited numbers; but he knows beforehand that the timetable and the procedure of the assembly are under the control of the government, and that there is, broadly, no serious prospect of an important measure finding its way to the statute-book unless it secures the guardianship of the government" (1925:347).

Legislatures in presidential systems, like the USA, normally introduce bills themselves, whereas parliamentary legislatures mainly operate on government bills, which renders agenda control into the hands of the executive (see Rasch 1994:2).[2]

In addition to the establishment of the principles of parliamentarism, the development of party institutionalisation has contributed to a downgrading of the importance of independent individual actions. By the turn of the century, party cohesion was well established in the British Parliament and the task of the House of Commons became one of supporting the government's bills (Norton 1993:17). "Political parties have served to ... constrain the freedom of individual action by members of a legislature", writes Philip Norton with reference to Western Europe

2 This picture should, however, not be overdrawn. As Charles E. Lindblom already pointed out in the 1960s, even congressmen depend on executive leadership, especially in the initiation of policies. He estimated that 80 per cent of bills enacted into law originate in the executive branch (Lindblom 1968:86). In their recent examination of the influence of Congress parties, Gary W. Cox and Mathew D. McCubbins enhance the legislative role of the party leadership (1993).

and in contrast to the United States (1990a:5). Individual members' influence on legislative matters is constrained by political parties, but - as is the nature of most institutions - parties also enable individual members to attain effective influence, as he or she can act within the party group to create support for his or her cause.

Not only in the House of Commons, but also in the other West European Parliaments, individual rights and possibilities to initiate laws and amendments have been circumscribed. The dominance of the executive as well as the institutionalisation of the parties in parliament have given way to party government, putting individuals in a remote corner. Members of Parliament are not considered as free representatives, but as puppets on their parties' strings.

Despite governmental domination over legislation, there are good reasons to devote a study to private members' rights to initiate legislation and propose amendments. The reasons can be traced from both a theoretical as well as a practical or political starting point.

In recent decades, theoretical approaches to parliaments, relying heavily on methodological individualism, have made their way into the field of legislative studies. This includes different rational choice approaches in general, and game theory and public choice in particular. Due to their emphasis on the individual actors and their preferences, these approaches initially neglected the institutional boundaries to individual members' freedom of action, or took them for granted. However, political institutions should be regarded as limitations on the set of actions available to individual actors. This approach is followed within the neo-institutional branch of rational choice theory. Here, structural features (the division and specialisation of labour in committees, leadership organisation, staffing arrangements, and parties) and procedures (rules of debate, amendment, and other legislative procedures) - the most fundamental variables in the traditional empirical approaches to legislative research - are taken into account for an elaboration of theoretical generalisations. As Kenneth Shepsle points out, explanations of social outcomes are not only based on agent preferences and optimising behaviour, but also on institutional features (1989:135). This development has, thus, given way to a renewed interest in the impact of political institutions on individual behaviour and reinforced the ambition to say something about the way in which institutions, in this case parliaments, actually work.

An example of this from the present research project could be illuminating. Within the project's framework, we will make an effort to investigate the production of laws from a public choice perspective. (see Döring's presentation of the project in this volume.) A hypothesis put forward by Herbert Döring is:

> "if individual legislators possess many rights of initiative and amendments, then an underproduction of highly aggregated collective-benefit bills and an overproduction of many petty bills of a regional or narrow

> sectional special-benefits character (in Italy aptly called leggine) is likely to occur" (Döring 1993:7).

We thus assume that forms of legislative organisation bear on legislative output as well as on the general performance of the parliament. For instance, Keith Krehbiel (1992) claims, that the assignment of parliamentary rights to individual Members of Parliament or to parties shapes the collective expression of policy objectives and the level of expertise that is embodied in legislation that seeks to meet legislative objectives. Moreover, we can assume that, at the micro level of neo-institutional theory (see the chapter by Strøm for a presentation of this theory), forms of legislative organisation bear directly on the performance of individual Members of Parliament. Without the rights to propose legislation, to debate the content and consequences of legislation, to propose amendments, and to negotiate compromises an MP cannot contribute meaningfully to legislation (Krehbiel, 1992:2).

But the rights and opportunities of individual members are also of crucial importance in more traditional approaches to parliaments. Asking whether a legislature is a policy-making body or otherwise classified, Loewenberg and Patterson emphasise that major public policies should be initiated within the assembly (1979:197). When the US Congress is regarded as being important in the policy-making process, it is often done so with reference to the importance of the individual members' position. The power element rests on the autonomy and expertise legislators have been able to build up and maintain (Rasch 1994:2). It is, therefore, not surprising that many approaches to Congress are based on individual legislators' goals; whether this be reelection (Mayhew 1974) or also includes additional goals such as influence and good policy (Fenno 1973). Michael Mezey sums up the theoretical consequences for congressional research:

> "Preoccupied with questions of individual behaviour, congressional research employed theories and methods derived from sociology, psychology, and (most recently) economics, to produce a highly quantitative and increasingly formal literature. This work has depicted the legislator as a purposive political actor motivated primarily by electoral and constituency factors outside the institution and bargaining processes within it" (Mezey 1994:430).

Studies of parliamentary systems, he continues, have, on the other hand, been based more on the party and state theories of comparative politics. The behaviour of private members has been assumed to be dictated by party loyalty and, for MPs of the governing party, by the executive. As a result, the legislature rather than the individual legislator has been the prime unit of analysis. The behaviour of individual Members, it has been assumed, is explainable solely in terms of party. This assumption is, however, seldom subject to empirical evaluation.

There are, therefore, good theoretical reasons to investigate the individual's role in the legislative process and to see whether there is a variation among the parliaments under study.

From a practical or political perspective, the problem of individual members' rights of initiation could be illustrated by two issues presently being deliberated in Sweden. The first concerns the internal working conditions in the Riksdag. Too many Private Member's Bills dealing with trifling issues and being repeatedly introduced each year, although their prospect of success are very low, indeed make parliamentary work inefficient. In order to raise efficiency, limitations of the right to initiate bills have been considered by an internal commission in the Riksdag (Riksdagsutredningen 1993:Chapter 6). The second problem is related to the hypothesis of an underproduction of highly aggregated collective-benefit bills mentioned before. The rather unrestricted right to submit Private Member's Bills in the Riksdag, in combination with the obligatory preparation in committees of all bills, has led a government commission to conclude that these rights ought to be restricted in order to prevent bills dominated by subgroup selfishness and thereby enable a more restrictive budgetary process. This conclusion should be seen in the light of the large deficit in the state budget during recent years in Sweden (Lindbeck et al. 1994). Thus, for all parliaments facing similar problems and for those concerned with parliamentary reform, a comparison of individual members' right of initiating and amending legislation should be of relevance.

Perspective, Aim and Method

A basic democratic norm of representative democracy is that private members should have the right to raise matters of importance to them and their constituents. Consequently, according to traditional parliamentary practice, every individual Member of Parliament has the right to introduce bills to parliament. This right has been truly institutionalised in most democratic parliaments (see Table 29 in *Parliaments of the World)*.

Political institutions - in our case constitutions and parliaments - are important, since they contribute to the determination of the social order. For instance, they give meaning to organisational activities, have an impact on actors' preferences, enable joint actions and legitimise power. Thus, the Members' right to initiate legislation and propose amendments to bills is institutionalised in the constitutional rules and/or parliamentary practice in most democracies.

However, although these political institutions both enable and legitimise individual members' participation in the legislative process, the right is not unconditional. The reason is that the same institutions also constrain an individual member's optional set of actions. Individual members are restrained by formal rules and behavioural norms. We will look at individual members' rights to initiate and

amend legislation from this "negative" perspective and, thus, use it as a base to describe differences and similarities across countries.

We started off by claiming that the individual members' role in the legislative process is in decline, but even if party dominance is the general pattern in Western Europe, there is, however, still room for variation between parliaments regarding the individual right to initiate legislation and amendments. The primary aim of this study is, thus, to describe these variations and to classify the countries on an ordinal scale.

An initial difficulty to be surmounted when carrying out the task is to decide how we should deal with formal rules (i.e. constitutions, standing orders, common laws and contracts) and informal norms (i.e. codes of conduct, norms of behaviour, conventions and customs). In parliaments that mainly rely on customs, behavioural norms can be as equally restrictive as formal restrictions manifested in the written constitutions or standing orders in other countries.[3] Thus, we must take both formal rules and informal norms into account whenever they constrain the individual member's right. As a consequence, we cannot only focus on constitutional rights, but must also study legislative behaviour. Thus, studying individual rights means looking for the actual obstacles to the initiation of legislation and amendments, rather than for the formal rules: what restrictions exist to constrain the set of optional actions available to individual members in the parliaments under study; or in other words, what obstacles are there to individuals' opportunities to execute their assumed democratic right of initiating legislation?

A second difficulty is how to estimate the effect of different restrictions on the rights to initiate legislation. For example, are time limits on initiatives more restrictive than technical requirements? I will return to this difficulty later when describing the method I have chosen to deal with it in this study.

Another difficulty concerns the identification of pure individual initiatives. How can we trace the real sources of legislation? It is not unusual for individuals to act on behalf of the party. So, even if the bill is signed by one person alone, it could still be a party initiative. In Portugal, for instance, it seems that most of the time the members who undersign bills *(Projectos de Lei)* have little to do with the drafting of the actual proposals: Private Members' Bills from members of the

3 There is a wide spectrum of cases at hand. On the one side, there are parliaments such as the British Parliament, which relies heavily on customs, and on the other side of the spectrum, there are parliaments such as the Swedish Riksdag with its rather detailed rules on procedures written in to the Instrument of Government and the Riksdag Act. There is also a variation regarding the extent to which the written rules are effectively in operation, or only reminiscent of former ambitions.

government party are sometimes drafted by government departments.[4] They are presented as Private Members' Bills for reasons of political strategy and opportunity. It is widely known that Members of Parliament in Portugal belonging to the government party have signed several bills without having a thorough knowledge of their contents. The same thing happens with Private Members' Bills from opposition parties, where important bills often originate from specific party agencies. Of course, the opposite may also occur. In Sweden, for instance, it is common for individuals to ask colleagues (normally, but not exclusively from the same party) to sign their bills, and in return, he or she is prepared to sign a bill proposed by the colleague. There is, in fact, bound to be ambiguity about what precisely counts as legislative initiative. This ambiguity arises at the moment one departs from the purely formal submission of bills. We lack any generally accepted standard by which we can distinguish the innovator from the messenger in the legislative process.[5]

In addition to the difficulty of tracing the original initiator, the whole undertaking is made more complex by the fact that bills are usually not registered in the parliamentary records as individual or collective, but as Government or Private Member Bills. In most parliaments, it is no use consulting the printed parliamentary records if one wants to know the number of signatories of a bill. Instead, one must search for the specific bill itself. This has not been possible within the framework of this article, but remains an interesting area for further research.

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4 Marsh and Read point out that few people claim to recognise the scale of government involvement in such processes in the United Kingdom. Private Members' Bills are used by the government to get minor pieces of their own legislation passed through (1986:45).

5 Individual members can, of course, also try to influence the framing of government Bills. Thorstein Magnusson identifies four ways that this can be done in a general way in Iceland. Members who hold leadership positions in pressure groups can gain influence on government policies since interest organisations are important sources of government legislation. Parliamentary party meetings, which are also attended by ministers of the respective parties, provide individual members with an opportunity to seek support for legislation among party colleagues. Since the Althingi is a small organisation, it is very easy to lobby the minister personally. Finally, members' bills sometimes find popular appeal among the public and therefore motivates the government to take over the initiative by introducing a Government Bill. The minister will thereby take credit for legislation initially presented by an individual member. Moreover, individual members can influence the actual formulation and drafting of government legislation through their work in governmental commissions, since it is here that the important investigation and formulation of government policy is made (1987).

Yet another difficulty is the fact that, in some parliaments, Private Members' Bills are restricted to legislative initiatives, whereas in other Parliaments, such bills may also be submitted in terms of other types of parliamentary decision-making. An example of this is the use of a resolution in parliament to initiate legislation in an indirect way.

Describing and comparing parliamentary procedures is always somewhat tricky. The general difficulty in comparing institutions with similar names but different meanings and/or functions often calls for detailed descriptions of formal rules. It is also claimed that each procedure must be interpreted in its own setting. In this chapter, however, we will try to compare the rights of initiation and amendment from the individual members' perspective, thereby, and unavoidably, simplifying the situational context for each parliament's procedures.

In the first step of this chapter, we attempt a purely descriptive classification of parliaments. The description is primarily based on information gained from a questionnaire sent to project participants in their function as country specialists, and in addition to this, from documentation published by the Inter-Parliamentary Union on parliamentary procedures.

The next step is to evaluate the individual MP's role in legislative processes based on the observations made concerning individual members' rights to initiate legislation and to propose amendments.

Legislative Initiatives

As I have claimed already, it is a basic democratic norm of representative democracy, that individual Members of Parliament have the right to initiate legislation. So, from a theoretical point of view, the initiative in law making should rest primarily within the parliament. Yet, in all West European countries, parliament's right to introduce laws is shared with the government. In practice, the actual initiation of laws is dominated by the executive. It is the government that generally takes the initiative in drafting and introducing legislation.

In addition to the Members of Parliament and the government, certain parliamentary bodies in some of the West European countries make use of the right to introduce legislation. This applies particularly to parliamentary committees (in Austria, Iceland, and Sweden; also the Finance Committee and Bank Committee in Finland). For Members of Parliament who are also members of these parliamentary bodies, there exists an additional opportunity to initiate legislation besides that made possible by their membership of parliament.

Bills can also originate from popular initiative. In many countries, citizens have an opportunity to propose legislation to parliament through the medium of

petition. This is the case in Austria, Italy, and Switzerland, where the right is enshrined in the constitution or in parliamentary practice. In other countries, persons outside parliament may, in an informal way, hand in suggestions to their Members of Parliament, who, if they wish, may introduce a bill in parliament. Occasionally, the Members of Parliament in some countries will forward the bill even if the member himself or herself does not approve of its content and, as a consequence, will not actively support its progress in parliament. This is the case in Norway. Of course, in this case the function of submitting a Private Members' Bill is purely symbolic and has little or no instrumental function in the legislative process.

Popular initiatives through an approach to Members of Parliament can have an impact on their conduct. In the United Kingdom, proposals for initiatives from constituency members or interest organisations are frequent. For those MPs who frequently attend their constituency offices, this can both be a source of inspiration for initiatives in parliament as well as forcing the parliamentarian to act, albeit sometimes reluctantly.

In *Back to Westminster,* Philip Norton and David Wood suggest that over the past 15 years or so, constituency activities have become increasingly important for British MPs. These activities seem to have an electoral connection, since the personal vote has also grown over the same period. The voter casts his or her vote more independently of party and seems to base the decision to some degree on the reputation and activities of the individual MP in his or her constituency. From this analysis, we can also discern a constituency connection to individual members in parliamentary democracies, which might have an impact on individuals' behaviour in parliament, making them more independent of party.

A corresponding phenomena can be found in Italy, where legislators used to maintain very busy local offices in their electoral district. These offices were autonomous from their party and often better staffed than local party organisations. They were a forum for local citizens to forward demands and at the same time a channel for the parliamentarians themselves to demonstrate, for instance, through legislative initiatives, what they were doing for the constituency (Cotta 1994:63-64).

Although there are other ways of initiating legislation, for example by the Head of State in some of the countries in our study, our discussion will focus on the Private Members' initiation of legislation and amendment proposals.

There are certain institutional aspects that affect the opportunity for the individual member to initiate legislation. For parliaments with two chambers, the right to initiate legislation raises a special problem when the chambers have unequal status. This concerns Norway in particular, where the right to initiate legislation is restricted to members of the Lagting and also the Netherlands, where

members of the First Chamber lack the right of initiation. Also, in the parliaments of Austria and Spain, all bills must commence their passage in the lower chamber. Moreover, in Germany and Austria there is a difference between initiation in the two chambers. The Federal German Council and the Austrian Federal Council can only initiate legislation collectively. In France, Great Britain and Ireland, the right to initiate financial legislation is restricted to the popular chamber, and in Ireland, bills designed to amend the constitution can only be introduced in the lower house. (See the chapter by Rasch and Tsebelis in this volume for further details on bicameral parliaments.)

The mere existence of two chambers can actually be an obstacle to individual (as well as other) legislation, due to the long-winded procedures of co-ordinating the chambers' decisions. If both chambers have to approve the same proposition, sometimes an almost never-ending game of Ping-Pong is set in progress, which severely delays decision-making. The analysis by van Schoor on Belgium, for instance, indicates that in the 1960s, about five per cent of the bills approved by one chamber did not manage to get approved by the other chamber within the parliamentary term (van Schoor 1972).

Restrictions

Let us now turn to the constraints on individual members. There are different kinds of restrictions on individual members' rights to initiate legislation. These are:
1) numerical limits,
2) time limits,
3) technical requirements,
4) limitations on the contents, and
5) killing in committees.

1) Numerical Limits

Even if the right to initiate legislation is generally an individual right, some parliaments restrict the right to collective initiative.[6] The principle behind this requirement is the desire to prevent bills that lack substantial support from consuming precious parliamentary time.

6 There are, actually, also three countries with a reversed rule, maximising the number of initiators. As for Belgium, there is a maximum limit of ten MPs signing a bill (Art. 64 in the Standing Orders of respective Chamber). The corresponding figure is five for Luxembourg and 20 for Portugal (SO, art. 134 num. 1). The aim of this limit is to prevent a member from binding too many Members of Parliament before the bill has been examined.

The most severe numerical limit can be found in Germany. In the Bundestag, only parliamentary parties or at least five per cent of the Members of Parliament, but not individual members, have the right to introduce bills (§ 76.1 Rules of Procedures). This means that after unification, when the total number of MPs increased from 519 to 662 (including six *Überhangsmandate* in 1990-1994), the backing of 34 Members of Parliament are necessary to submit a bill. The right to initiate legislation is given to groups of Members of Parliament and parliamentary parties in order to make sure that only serious propositions have a chance in Parliament (Engels 1993:241). This is intended as a mechanism of rationalising the work of the Bundestag (Jekewitz 1989:1041).

The right to initiate legislation in Germany is tied to party factions, *Fraktionen*. These factions are equipped with far-reaching powers and tasks and, as claimed by Suzanne S. Schüttemeyer (1994), have become the gatekeepers of legislation. A bill that reaches the committee stage has passed the scrutiny of at least one *Fraktion*. The individual members have not only been deprived of the right of initiation, but the *Fraktionen* also determine who may speak in debates. It is also the *Fraktionen* that appoint committee members, etc. "A deputy who is not a member of a Fraktion is reduced to almost complete powerlessness" (Schüttemeyer 1994:37).

Due to the experiences of the Weimar Republic it is understandable that the Constitution of Germany aims to restrict the rights of initiative in order to avoid ineffective decision-making (Kershaw 1990). Germany, however, is not the only country which has a numerical restriction on legislative initiatives. They can also be found in less demanding forms in Austria, Italy and Spain.

In Austria, the support of eight deputies was needed until 1989. Since then the support of five MPs is sufficient.

In the Italian Chamber of Deputies, propositions may be tabled by the chairman of a political group or at least ten Members. As for the Senate, Italian Senators may sign no more than six propositions in any one year.

In Spain, propositions of law (the form used for initiatives) can either be presented by any one Deputy backed by the signatures of fourteen more Deputies, or by a parliamentary group. The Spanish Constitution does not give the legislative initiative to MPs, but to parliament as a whole.

In Belgium, a Private Members' Bill can be submitted by a single member, but, before the bill can be deliberated on, it needs the support of five Members of Parliament.

2) Time Limits

A further restriction on individual initiatives concerns some form of limitation as to *when* Private Members' Bills can be introduced. As a rule of thumb, Private

Members' Bills can only be submitted during actual sessions, and not when parliament is in adjournment. This will not be regarded as a restriction on the members rights, but there are other kinds of time limits that should. Time limits are the main restriction to individual initiatives in Sweden where introduction is limited to the General Period of submitting Private Members' Bills. During 15 days in January - in connection with the presentation of the Budget Bill - Private Members Bills concerning any issue may be introduced. For the rest of the session, propositions from individual Members of Parliament are restricted to bills relating to a Government Bill already submitted.

The same goes for Finland regarding Budget Motions (a financial proposal relating to a supplementary budget proposal), which may be submitted "only during the period which begins when parliament has been notified of the arrival of the State budget proposal and ends at noon on the fourteenth day ... thereafter" (Section 32 of the Parliamentary Act).

A time limit for both Government and Private Members' Bills has been applied in Iceland since 1985. Government and Members may submit as many bills as they wish, but legislative initiatives that are distributed six months after the annual opening meeting of Althingi may only be put on the agenda with the consent of a majority of the House (Art. 36(2) of the rules of procedures). Since this restriction applies to all kind of bills it does not change the balance in terms of individual versus government, at least not formally. The fact that it is possible for individual Members to submit bills at any time within the six months, as long as the parliament is not in adjournment, makes Iceland a country portraying a non-restrictive procedure for individual initiatives.

However, time restrictions can be much more severe on individual initiatives when it comes to the overall scarcity of time available to parliament. Most parliaments' timetables are largely dominated by the scrutinisation of measures proposed by the government for implementing its own policies. Only a small amount of time is devoted to the examination of Private Members' Bills. In some parliaments, this is actually the main obstacle to individual initiatives. It is most conspicuous in countries where the government controls the parliamentary agenda. (see also the chapter by Döring in this volume.) As a consequence of the restricted timetable, bills can be "talked-out" in several cases. However, in other countries, Government Bills do not take priority over Private Members' Bills during discussions in Parliament.

As for the United Kingdom, the time available for the consideration of Private Members' Bills is limited; confined to about ten Fridays and taking up less than five per cent of the time of the House each session. This means that most Private Members' Bills actually introduced are not debated at all. Furthermore, those which are debated still face considerable hurdles if the government opposes

them. No bill which has been the subject of a division on second reading has subsequently been promulgated without government time being provided. However, not even the support of the government guarantees passage, since opponents can try to obstruct the proceedings, for instance, by talking the bill out. If the debate is not concluded at 2.30 p.m., the bill under consideration falls to the back of the queue on subsequent Fridays, where it can be blocked (Norton 1993:78).

The procedures for Private Members' Bills in the United Kingdom is, at least from the ignorant outsider's perspective, astonishing. A baffling aspect is that one way of introducing bills is through ballots. Private Members' Bills can be introduced through a ballot at the beginning of each parliamentary session (Standing Order No. 13). The chances of winning in this lottery are very low. One MP has pointed to one peculiar consequence of this:

> "As a back-bench Member I am in somewhat of a difficulty when constituents ask why, after 30 years, I am for the first time introducing a private-member's bill on a Friday. It is difficult to explain to them that the privilege of standing here on a Friday is the result of getting fifth prize in a raffle" (Quoted in Marsh and Read 1988:7).

Besides balloted bills, there are three different ways for individual members to initiate Private Members' Bills. They may be introduced under the ten-minute rule, which allows a ten-minute speech, for and against, on the floor of the House. They may also be introduced without debate under Standing Order 37. These bills shall be debated after the balloted bills have been dealt with, which means that they have very little chance of any debate (Marsh and Read 1988:11). Finally, a backbencher may take up a Bill which has passed the House of Lords (Griffith et al. 1989:385-392).

Although there are various ways of introducing Private Members' Bills, the procedures ensure that very few contested bills succeed (Marsh and Read 1988:7). These procedures give the government precedence over the agenda of Parliament, and in effect, the government controls Parliament's legislation.

Corresponding time restrictions also operate in Greece, the Irish Republic and Italy. In Greece, individual law proposals may only be debated once a month. As a consequence, most of them do not even reach this stage and, thus, die without having been previously debated.

In Ireland, private members' time is restricted to Tuesdays and Wednesdays between 7 p.m. and 8 p.m. Bills which have passed the first reading are debated at the second reading on private members' time for a maximum period of six hours (Dooney and O'Toole 1992:55-6). The government will almost always oppose a Private Members' Bills, which, consequently, has small chance of passing even its second stage (Morgan 1990:102-3). Moreover, since each party may only have one Private Member's Bill before the House at any one time, and all

Private Members' Bills must be approved by a party, scarcity of time on the parliamentary agenda becomes the eye of the needle, through which all bills must pass. This is all in addition to potential governmental hostility towards it in the first place.

In Italy, the rules of procedure of Chamber and Senate prescribe that the "conference of the group chairmen" and the President of the respective chamber have to take into account priorities indicated by the government when setting the agenda for their chamber. Individual law initiatives do not enjoy such a privilege. Private Members' Bills are constantly adjourned until the end of the legislative period.

If we turn our attention to France, we find another type of governmental control of the agenda preventing individual initiatives from becoming inputs in the legislative process. The government decides what bills are to be discussed and how much time is to be allocated to debate on parts of a bill. It has to give its approval for the examination of Private Members' Bills *(proposition de loi)*. A bill, which has been initiated by a Member of Parliament can only be put on the complementary agenda, whereas the priority agenda is reserved for Government Bills *(projet de loi)*. "In France, parliamentary officials do not determine the agenda. Instead, a priority agenda is established by the government, which "informs" the Presidents' Conference about matters to be taken up in parliament. A complementary agenda is determined by the speaker of each chamber and approved by it, but at least in the Assembly, this decision is strongly influenced by the government majority" (Safran 1991:176). This is where most bills stop in France. Due to the fact that Government Bills have priority on the agenda, only few of the bills passed originated with private members, and most of these passed because the government raised no objections, or even encouraged them (Hancock et al. 1993:118).

Another type of time restriction is practised in Italy, where a bill, which has been adopted or rejected by parliament, cannot be reintroduced until a certain period of time has elapsed after its original introduction. A similar requirement is found in Switzerland, where an MP cannot initiate a so-called parliamentary initiative, if the Federal Council has already presented a bill pertaining to the same issue, or if a committee has already presented a report on the same issue. In France, a rejected bill is temporarily banned for the duration of one year. A bill rejected by the Icelandic Althingi may not be introduced again during the same session. The same goes for Portugal (CPR, art. 170, num. 5). This type of time limitation must, however, be regarded as very mild, and will therefore be neglected in future.

3) Technical Requirements

To avoid faulty initiatives from a legal standpoint, technical requirements on Private Members' Bills are demanded in some parliaments. An Act of Parliament is normally very complex. Preparing a bill requires not only a good idea, but also knowledge of law and specialist competence within the particular field. Individual Members of Parliament do not normally possess enough technical facilities to prepare a comprehensive draft law. In this sense, technical requirements of bills can be an important obstacle to individual initiatives of legislation.

Legislative Bills can take various forms, but in most countries the proposal is basically a draft law. In most countries, bills must be submitted in writing, whereas oral initiation, as the exception, is allowed in some (i.e. Denmark and Portugal, where there is no such formal requisite, but where they are, nonetheless, usually submitted in writing; in the United Kingdom only the title must be submitted in writing, though in a very informal way). These bills may propose new laws; or either amendments to, or abrogation of existing laws. Amendment of the constitution is generally subject to special procedures (see the chapter by Rasch in this volume).

A rather mild technical requirement is to be found in the Netherlands, Switzerland and Spain, where all bills must be accompanied by a statement of motives. This may concern the principles behind the proposition, or the financial consequences of its adoption.

Technical obstacles to individual initiatives of a more severe kind can be found in Denmark. When a bill is introduced in the Folketing it must be formulated as a definite law, which means it has to be structured and divided into sections and articles in a such way, as would make it directly applicable by the administration and the courts. The formalities surrounding the formulation of a bill are very demanding and are written in the Standing Orders of the Folketing (Busck 1988:33). In Finland, France, Iceland and Portugal, the bill must also be presented in the form of a law. One must keep in mind, however, that for amendments of laws or for minor pieces of legislation, this is not a decisive obstacle to individual initiatives. We could as a consequence expect private initiatives to be concerned with less comprehensive measures than Government Bills, but it does not necessarily mean that individual members will refrain from initiating legislation.

As for Belgium, the Speaker must agree with the proposal before it can be translated, printed and distributed amongst the members of the House in question with all the relevant attached materials (motivation, background, general aims and specific documents). If the Speaker is opposed to a bill's consideration, the proposal is transmitted to the Conference of leaders of parliamentary groups *(Conférence des Présidents)*, which will have to decide whether the proposal be

distributed. If the relevant materials, which were not yet attached to the proposed bill, have not been handed over to the Steering Committee of this House *(Bureau de la Chambre)* within a month of the deposit of the bill, it is considered as null and void. If the bill is accepted, its author asks for registration of the bill on the agenda of his or her House for the bill then to be taken into consideration. If at least five MPs support this "consideration" proposal, it is accepted for further deliberation. Afterwards, the Chairman requests the agreement of the House to discuss and, possibly, to put the bill to the vote or decides to send it to the competent parliamentary committee, which is usually the case (Art. 64 of the Standing Orders). In practice, both Houses only refuse further deliberation for the proposed introduction of manifestly unconstitutional bills. We must, therefore, regard the Belgian technical requirements as being relatively mild.

In France, private members get help from *attachés parlementaires* (parliamentary attachés) to prepare a bill. This facilitates the private members' bill-writing, surmounting the obstacle of technical requirements.

A method for individual members of some parliaments to circumvent the technical requirements is to submit resolutionary motions. These can require that the government initiates a bill on the issue, thereby applying a certain policy. The government must then prepare and submit a Government Bill. In this case, of course, the original initiator is the private member, not the government. There are obvious advantages for individual members in choosing this method, as is illuminated by the Danish procedures for draft resolutions. The proposer is relieved of the very demanding work relating to the formulation of a bill; the political value and viability of the idea behind the proposal is discussed in committee; and the responsibility and work of formulating the proposal in a legal and precise way, which also corresponds to the idea behind the resolution, is placed with the minister and the experts connected to the ministry (Folkman and Hilden 1985:77). In sum, we should not, therefore, regard technical requirements as a decisive restriction of individual members' right to initiate legislation.

4) Limitation of Contents

A general provision for legislative initiatives is that they concern matters within parliament's competence. In the case of France, for instance, there is a sort of "organic" condition of acceptability. If the government considers that the proposal is beyond the scope of the chamber concerned, it can refuse examination of the bill. Corresponding rules exist in other countries. One area that is generally not considered as belonging to parliaments' tasks regards the internal organisation of cabinets, which is not subject to legislation and, thus, up to the governments themselves to decide upon. Although there might be a difference in this re-

spect between parliaments, it is not a decisive factor. There are, however, more specific rules that can be an obstacle to individual initiatives.

The most common limitation on contents regards financial issues. In Italy, amongst other countries, the Budget is reserved to the government's sphere of legislation. In general, the members' right to initiate legislation is restricted, if it intends increasing expenditure, or reducing revenue. Hence, Private Members' Bills with financial implications cannot be raised at all. Private Members' Bills cannot deal with a subject which will have the raising or spending of money as its outcome. If a private member wishes to initiate a proposition which has impact on financial matters, he or she must choose other means, for example, introducing a resolution urging the government to consider the proposal.

Turning to Greece and Spain, financial bills must be approved by the government before submission. Greek legislative proposals submitted by individual Members of Parliament pertaining to salary increases are not accepted. A corresponding rule exists in the Irish Republic. Here, bills involving expenditure (as most bills do) must receive a positive money resolution from the government (i.e. a resolution to provide public funds) prior to their proceeding to the third reading. As a consequence, the government can make a bill lapse at this stage if such a resolution is not put forward (Dooney and O'Toole 1992:56).

In the British House of Commons, it is not possible to propose increased expenditure or taxation unless the bill is accompanied by a money resolution moved by the government. Private Members' Bills can not make a charge on public revenue.

In the French National Assembly, Private Members' Bills are referred to the Bureau of the Assembly which decides whether they are admissible. It does this under specific terms of Article 40 of the Constitution, which says that bills may not involve a reduction in public funds or an increase in public expenditure.

Private members' legislation is also excluded with regard to the Dutch general budget law, whilst Private Members' Bills with financial implications are allowed. A further limit on content is that Dutch MPs may not submit bills concerning the King, the Regent or a potential successor to the Throne. This is reserved for the government alone.

Special provisions are set up in some countries with bicameral systems regarding the right to initiate propositions on the Budget. In Ireland, France and the United Kingdom, Private Members' Bills involving finance may only be introduced in the popular Chamber. The reason for this is the basic principle, that the people should give their consent to increased taxes. Thus, motions proposing increased expenditures should only be allowed in the elected popular Chambers. Indeed, in many cases these chambers were actually established for this very purpose: to give the people's consent to taxation and state spending.

Not only are budgetary matters reserved for the government. In Italy, this is also true of the annual laws referring to Common Market affairs, the conversion of government decrees into laws, the ratification of international treaties, the approval of agreements with religious communities or the approval of regional statutes. Restrictions of the same kind do also exist in other countries. However, beside budget restrictions, limitations of contents have relatively little impact on individual members' opportunity to initiate legislation.

5) Committee Killings

Some bills manage to make it to the committee stage, but do not progress further. Burying bills in committees is a way to stop initiatives reaching further deliberation, as these bills will not be voted on, if the committee does not report on them. Killing bills in committees is a method of restriction usually used in Austria, Belgium, Denmark,[7] Finland, Iceland, Luxembourg and Portugal.

In Belgium (which has no other severe restrictions), Private Members' Bills are usually stopped at the committee stage. Van Schoor's analysis of legislative activity in the 1960s reveals that six out of ten bills referred to a committee were never discussed. For those that have been discussed, only half of the proposals manage to have a committee report drafted. Hence, committees only report on about one out of six proposals sent to them (1972).

Committee killing is a widely observed phenomenon. Yet on the other hand, in Norway and Sweden, committees must report to the Chamber on all bills sent to them. This provides individual members with the added insurance that their bills cannot die in committee.

6) Other Kinds of Restrictions

There are other kinds of restrictions that have not yet been dealt with. As shown in Table 14.1, in some countries, legislative initiatives must commence from the lower House, and, in other countries, initiatives with financial consequences are restricted to the lower House. Neither of them can be considered as a decisive restriction in our context. However, the special procedures in Luxembourg, must be seen as such. Most private initiatives, here, are stopped by the time they get to the procedures of approval by the Council of State. The procedures applied in Luxembourg do not have correspondent effects in the other countries. There are, of course, various additional difficulties in all the parliaments under study, but as far as I can judge, the restrictions displayed in Table 14.1 are the most relevant.

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7 A vote is taken on the floor of the Danish Folketing before the bill is submitted to a committee (Figure 3 in Döring's chapter in this volume).

The European Parliament has not been mentioned yet, and it will only be dealt with marginally in this chapter. For many years, the European Parliament lacked the right to initiate legislation, at least in a formal sense. However, according to the Maastricht Treaty (art. 138b) it now has the right to request that the Commission undertake studies and to submit to it the appropriate proposals. Thus, the Parliament has been given the equivalent of the right that the Council had already formally enjoyed for many years. The Parliament had been making informal proposals to the Commission prior to this by other procedures, e.g. "own initiative" reports or motions for resolution. But it was not until Maastricht (1992) was passed that it gained a restricted formal right of initiative.

The right of initiation is, however, not an individual right. The Treaty ascribes the right to Parliament and not its Members. Moreover, the minimal right is constrained by a long list of formal Treaty restrictions on the Parliament's ability to initiate legislation. We can conclude that the individual right is non-existent in the European Parliament.

Table 14.1 summarises the observations made so far. Only in a few countries there is no indication of a severe limitation in any respect. These are Norway, Sweden and Switzerland. In Sweden, the individual members' rights are only restrained by a time limit. On the other hand, all initiatives are scrutinised in committee and thereafter voted on in the Chamber, making parliamentarians' right to initiate legislation, here, stronger than in many other countries. Most individual members' initiatives are, however, turned down by the committees which scrutinise them, and the bills will normally not receive support from a majority in the Chamber (see Mattson 1992; Sannerstedt 1992; Sjölin 1993).

Table 14.1: Restrictions on Individual Members of Parliament's Right to Initiate Legislation

	Type of restriction					
	Numerical	*Time*	*Technical*	*Contents*	*Committee Killing*	*Others*
Austria	x	-	-	x	x	• [1]
Belgium	•	-	•	-	x	
Denmark	-	-	x	-	x	
Finland	-	•	x	-	x	
France	-	x	x	x	-	• [2]
Germany	x	-	-	-	-	
Grecce	-	x	•	x	-	
Iceland	-	•	x	-	x	
Ireland	-	x	-	x	-	• [2]
Italy	x	x	-	x	-	
Luxembourg	•	-	-	-	x	x [3]
Netherlands	-	-	-	x	-	• [1]
Norway	-	-	-	-	-	• [1]
Portugal	-	-	x	x	x	
Spain	x	-	•	-	-	• [1]
Sweden	-	•	-	-	-	
Switzerland	-	-	•	-	-	
UK	-	x	-	x	-	• [2]
EP	-	-	-	-	-	x [4]

- = no restriction
• = mild restriction
x = severe restriction

1) Initiative must commence from the lower house (Norway: *Odelstinget*).
2) Financial initiation restrained to the lower house.
3) Must be approved by the Council of State before examination.
4) Individual initiatives do not exist.

A similar situation is at hand in Norway, where bills cannot be stopped by a committee (Rules of Procedure art. 29), but where the lion's share of all individual members' motions are turned down by a committee in a report to the Chamber and where voting is a pure formality with a predictable result. Not even a perfect speech by the initiator during the debate will change the situation. In Switzerland, most individual law proposals are stopped by a vote in the Chamber after a pre-check by a committee, but prior to the proper committee stage. Only

a pre-check by a committee, but prior to the proper committee stage. Only about 10-20 per cent of individual law proposals are referred to a committee for intensive scrutinisation.

Classification of Countries

Is it, then, possible to classify parliaments according to the rights of individual members? I admit that such a classification cannot be made without difficulty, involving several hard choices. In this section, however, a tentative ordinal scale classification will be attempted. This means that the parliaments will be classified in mutually exclusive categories and ranked in relation to each other. We will thus be talking of more or less restrictive procedures. It will, however, only be possible to reveal the sequence of parliaments from this classification, not the distance between the categories.

From our individual-oriented perspective, the most severe restrictions on members' rights are those which limit the individual's set of available actions. Thus, the most severe restrictions to the individual parliamentarians' right of initiation of legislation are those which: prevent initiatives from being submitted at all; obstruct the process of the legislative initiative at an early stage so that the issue cannot be debated; and do not allow the proposition to be voted on in the Chamber. There are, as we have seen, various ways to inhibit initiatives. Germany, Austria, Italy and Spain apply numerical restrictions as an obstacle to individual initiatives, whereas the ballot has become the eye of a needle, through which Private Members' Bills must pass in Great Britain. In France, Greece, and Ireland, the government controls the agenda to such an extent that individuals have no hope of initiating legislation without the support of the government. The Council of State fulfils a corresponding function in Luxembourg. I classify the countries applying these rules as the most restrictive parliaments, claiming that they effectively inhibit individual initiatives, whereas the other countries are classified as less restrictive.[8] The classification made here is shown in Table 14.2.

8 Thus, the less restrictive countries do not apply any of the *severe* restrictions of the following types in Table 14.1: Numerical restriction; Time limit; or Other restrictions.

Table 14.2: Inhibition of Individual Members' Right to Submit Law Initiative

Yes				*No*
Numerical requirement	*Ballot*	*Government control of the agenda*	*Council controls the agenda*	
Austria Germany Italy Spain	United Kingdom	France Greece Ireland	Luxembourg	Belgium Denmark Finland Iceland Netherlands Norway Portugal Sweden Switzerland

I will not make any attempt here to present a fully-fledged explanation of the differences in the members' rights, since the classification will be part of future research in the second step of this project. However, we can make some general, tentative observations. The first observation regards the size of Parliament.

In organisational theory, it is common to distinguish between small and large organisations. It has been claimed that the size of the organisation has an impact on the individual (see for example Hall 1982:58). Many other features of parliament may change, but the size will generally remain stable. We also know that size varies considerably between parliaments in different countries. In light of these facts, the size of parliament is probably an underestimated structural feature in parliamentary research. When comparing a small legislative body, like the Luxembourg Parliament, which consists of 64 Members with a large one, like the British Parliament, where 650 persons meet in the House of Commons and more than 1100 persons are members of the House of Lords, it seems reasonable to assume that the role of individuals differs.

Consider for a moment the small, fragmented Danish Folketing, where it has often been possible to count the number of members in several parliamentary party groups on the fingers of one hand. It is obvious, that in comparison to the main British parliamentary parties, here, the private member's access to the party leadership, the possibility of labour division and specialisation, the decision-making style in the group, the organisational complexity of the group, the organ-

isational capacity, the relationships between the members, etc. must all be quite different.

A relevant empirical indication of the impact of parliamentary size on the individual Members, which is of current interest, is provided by Germany. The experience of enlarging the Bundestag after unification has been a matter of debate and demands have been made for a reduction in the number of deputies. It is claimed that 656 deputies constitute a too large an organisation with respect to opportunities for participation by ordinary Members (Schüttemeyer 1994:54).

Table 14.3: Size of Parliament and Individual Members' Rights to Initiate Legislation

Size of Parliament (Lower House)	*Individual initiatives inhibited*	*Individual initiatives **not** inhibited*
Large	France Germany Greece Italy Spain United Kingdom	Sweden
Small	Austria Ireland Luxembourg	Belgium Denmark Finland Iceland Netherlands Norway Portugal Switzerland

Key:
Large Parliament: 300 members and more
Small Parliament: less than 300 members

Sources: Parliaments of the World. Table 1. (Complementary information has been collected for Iceland and Germany.)

As is shown in Table 14.3, there is a correlation between size and the individual Members' right to initiate legislation.[9] The rights are more restricted in large par-

9 Also analysis of correlation coefficients (number of MPs measured on an continual scale) provides evidence to the same conclusion. (Pearson's corr. is - 0.52.)

liaments than in small ones.[10] There are only four exceptions to this general pattern: Austria, Ireland, and Luxembourg on the one hand and Sweden on the other.

The particular theoretical explanation of this correlation can be traced to the costs of decision-making. A decision-making cost arises when two or more persons have to reach an agreement. The cost normally increases as the number of persons involved in reaching the agreement grows, due to the time and resources each individual must invest in the bargaining process. If we only look at this one aspect, the most efficient method of decision-making is exercised by one person alone (Buchanan and Tullock 1962:97-99; cf. Sartori 1987:Chapter 8).[11] If this assumption is right, that a high number of decision-makers increases the internal decision-making costs, only small parliaments may be able to afford to foster individual Members' rights of initiation, whilst large parliaments cannot, due to the high number of applicants involved.

Size, however, is but one relevant factor. Other external factors have also an impact on the parliaments' organisation, functioning and performance. We can reasonably expect that the political context of the parliaments is relevant for their working methods. From an ocular examination of the parliaments in Table 14.4 it appears to be the Scandinavian countries together with the consociational democracies which apply least restrictive procedures for individual Members.

When we take a closer look at the countries we find an interesting pattern. Arend Lijphart has made an effort to grasp the entire institutional system of democratic regimes and tried to classify democracies according to their general pattern of majority rule and minority rights. Lijphart distinguishes majoritarian from consensus types of democracy. The majoritarian model is characterised by power concentrated in the hands of a simple majority, whereas, in the consensus model, power is dispersed to different centres, and conflicts resolved through compromises rather than majority voting (1984). Unfortunately, Lijphart has not included all West European countries in his study. However, if we study the countries that are included in Lijphart's study, we get the results shown in Table 14.4.

10 Since the size of Parliament approximately reflects the size of the population, there is also a correlation between population and the members rights.

11 I will here only take up one half of their argument. If we also consider the other part, we must take the external costs (external risks) into account as well. To ensure that decisions are backed by the citizens, it is valuable to include as many persons as possible in the process. There is a trade-off between internal and external costs.

Table 14.4: Individual Members' Rights in Majoritarian and Consensual Democracies

Lijphart's classification	*Individual initiatives inhibited*	*Individual initiatives **not** inhibited*
Majoritarian	Austria Germany Ireland United Kingdom	
Intermediate	France Italy Luxembourg	Iceland Norway Sweden
Consensual		Belgium Denmark Finland Netherlands Switzerland

Sources: Lijphart 1984:219; 1989:35.

In Table 14.4, dimension I of Lijphart's classification of majoritarian and consensus democracies is cross-tabulated with individual members' right to initiate legislation. This dimension is made up of five variables: (1) concentration of executive power versus executive power-sharing; (2) executive dominance versus executive-legislative balance; (3) two-party versus multiparty system; (4) one-dimensional versus multidimensional party system; and (5) plurality elections versus proportional representation (Lijphart 1984; 1989:35-36).

Our conclusion from Table 14.4 must be that individual initiatives are more restricted in majoritarian democracies than in consensus democracies. The result is not unexpected: restrictions of individual Members' rights are compatible with majoritarian rule. In sum, we can conclude that individual members' right of initiation is most restricted in large parliaments and where a majoritarian type of democracy is applied.

Finally, let us reflect somewhat on the relationship between the role of the individual member and the strength of parliament - an issue we raised earlier in the introduction. There are, I think, good reasons to expect a difference between so-called active parliaments and reactive parliaments regarding their approach to the individual member's role in the legislative process. Active parliaments are supposed to fulfil the legislative function more appropriately than reactive ones,

which should house an opposition more inclined to criticism than legislation. Reactive parliaments have the capacity to modify policies put before it, but they lack the capacity to formulate and substitute policy of their own (Mezey 1979). Most West European parliaments are classified as reactive, but there is still room for variations between the countries (Norton 1990b). The individual's right to initiative might serve as one indicator of the parliament's potential strength, but it is certainly not the only one.

When evaluating private members' rights in the legislative process, we should not only study the right to initiate legislation, we must also consider a complementary procedure, the right to submit amendments to bills under deliberation. It is to this matter that we turn in the next section.

Amendment Initiatives

In his proclamation of 14th January 1852, Louis-Napoleon Bonaparte declared that the Legislative Body would have freedom to discuss legislation and to accept or reject it but "it will not be permitted to indulge in any of that impromptu insertion of amendments which so often unbalance the whole economy of a system and distort the original lay-out of a bill" (quoted in Lidderdale 1958:214). But, despite this kind of objection to parliament's right to amend bills, the right to submit amendments, today, is generally recognised as one of the prerogatives of Members of Parliament in most democracies.[12] All the same, just as is the case with legislation initiatives, there are several types of restrictions on this right of amendment.

The right to initiate amendments is generally related to the right to initiate laws, since an amendment can be regarded as a limited form of initiation of legislation. In Finland and Sweden, the relationship between bills and amendments is so close, that there is actually no definitive distinction between an amendment and a competing bill. In the Netherlands, it is not customary for members to present amendments to propositions, but rather to proceed by means of alternative propositions. Similarly, in Austria, there is no single term that corresponds to the English for amendment. However, despite the close relationship of the two, the right to initiate amendments is generally less restrictive than the right to initiate legislation.

12 However, not in the second Chamber in Austria and the first Chamber in the Netherlands among the cases under study in this volume. These Chambers lack constitutional power to amend a bill from the other Chamber.

In most West European countries, the government has the right to submit amendments. However, this is not the case in France, Germany, Norway and Sweden, and as a consequence informal methods of submission have been introduced in these countries. If the governments in these countries wish to introduce an amendment, they have to have their loyal Members of Parliament submit it for them.[13] As for Germany, Norway and Sweden, it remains open to any member of the government to speak and explain his or her views, whereas even this opportunity is closed off to French ministers. The French government nonetheless controls the amendment procedures strictly through various means (Safran 1991:176-8; Huber 1992).

Amendments are designed to modify bills and, if they are submitted early enough, they can be an important part of the documents dealt with in committees. Generally, they may also be presented later on in the legislation process, and in this case are debated and voted on in the Chamber, but their impact on the decision outcome is seldom effective.

We can identify three general stages (or phases) in the legislative process relating to amendments: initiation, scrutinisation and voting. During the first stage, a bill is introduced and submitted to the Chamber, then printed and distributed. Thereafter, time might be available for general discussion in the Chamber before submitting the bill to a committee. During the committee stage, the bills are scrutinised in detail. There is, finally, a third step starting after the committee has delivered its report and lasting until the Chamber votes on the matter. Prior to the voting procedures, there is, generally, at least one detailed discussion of the matter in the Chamber. Of course, there is a great variety of legislative procedures not covered by this model, but in general terms, it holds true for all parliaments in West Europe.

Table 14.5 illustrates the stages at which initiation of amendments by individual Members of Parliament are allowed. As a rule of thumb, one can say that in parliaments where amendments are allowed at more than one stage, the rules governing the tabling and discussion of amendments become more stringent after the first stage. In Sweden, for instance, amendments introduced during the voting phase should be concerned with relevant and detailed revisions, whereas amendments introduced in the initial phase are permitted on matters relating to the problem in general.

13 In some countries, the ministers who were not initially elected Members of Parliament, nonetheless, become members and have the same rights as elected members. In other countries, on the other hand, elected members are deprived of their membership of parliament when appointed ministers, and, thereby, also lose their rights as members. Rudy Andeweg and Lia Nijzink analyse these features at length in their contribution to this volume as well as Ulrike Liebert in her contribution.

Table 14.5: Stages in the Legislative Process at Which Amendments May Be Introduced by Individual Members

	Stages in the Legislative Process		
	Introduction	*Committee*	*Prior to voting*
Austria	- [2]	- [2]	- [4]
Belgium	-	+	• [5]
Denmark	-	• [3]	• [1]
Finland	+	• [3]	+ [6]
France	+	+	• [1]
Germany	-	+	- [2]
Greece	+	+	+
Iceland	+	+	• [1]
Ireland	-	+	+
Italy	+	+	• [1]
Luxembourg	+	+	+
Netherlands	-	+	+
Norway	+	• [3]	+
Portugal	+	+	+
Spain	+	-	-
Sweden	+	-	+
Switzerland	+	+	+
United Kingdom		• [3]	• [7]
European Parliament	+	+ [8]	

Key:
+ = allowed
- = prohibited
• = restrained

Notes:
1) Notice in advance necessary.
2) Numerical restriction.
3) Committee members only.
4) Orthographic and stylistic changes only.
5) Restriction is applied only after deliberation is closed.
6) Second reading only.
7) Theoretically, an MP could move to amend the title during the first reading when the bill's title is read out.
8) Generally speaking, only an individual right at the first reading in committee. At other stages, amendments can only be introduced by a committee after a simple majority vote.

The restrictions to amendments are very similar to those already encountered in the study of legislative initiatives. In Germany, amendments must be signed by five per cent of members and may only relate to those clauses to which amendments have been made on second reading. They are also restricted during the third reading. There are also numerical requirements in Austria, where the backing of eight members is required in the Nationalrat and the backing of three in the Bundesrat. In the Irish *Seanad* a *seconder* is required when proposing amendments.

Restrictions also exist regarding the content of amendments. The most common being that amendments must be relevant to the bill. But there are also restrictions on financial matters relating to those mentioned before with regard to the initiation of financial legislation.

Amendments from individual members may also be stopped via the so-called "guillotine" procedure or the related procedure of the Closure. These two procedures are used to secure the passage of contentious Government Bills. The principal feature of the guillotine is that all questions must have been put by a certain point of time. The Closure is used for amendments and is applied to a single discussion only.

Financial restriction	Guillotine	Closure
Austria	France	Austria
France	Greece	Denmark
Greece	Ireland	Germany
Ireland	United Kingdom	Ireland
Italy		Norway
Portugal		United Kingdom
United Kingdom		

The importance of the closure differs between the countries in which it operates, depending on the parliamentary tradition. Its actual application varies, depending on the extent to which the government has control over the order of business and agenda priorities in parliament (see the chapter by Döring in this volume.)

Discussion

The right to initiate legislation and the right to propose amendments are very important, but merely a brief glance at the percentage of Private Members' Bills passed in Table 14.6 and Table 5.4 in Rudy Andeweg and Lia Nijzink's chapter,[14] suffices to illustrate the fact that individual members have not been very effective as initiators of legislation in any of the countries under study. In Greece, for instance, only two law-proposals by MPs have reached the statute book. Also, if we study the share of all laws originating from Private Members' Bills, we see that most laws originate from Government Bills (Table 5.4 in Andeweg and Nijzink). Although the available statistics reveal a small variation between parliaments, the general observation is, that the vast majority of the enacted bills have been initiated by governments, while the vast majority of those not enacted have been proposed by private members.

The individual members' rights are important, but as W. F. Dawson has pointed out in reference to Canada, the rights can be elusive:

> "The existence of private members' business is, of course, based on the parliamentary fiction that all members are alike in the House and that it is the duty of every member to bring his suggestions for legislation before Parliament. Today few members even bother to assert the equality of all in the House. The facts are obvious. The Government has its rights and responsibilities and the official Opposition has its rights. Any independents ... who attempt to move amendments in the Address debate and on similar occasions, rapidly discover the elusive nature of their equality" (quoted in Hyson 1974:262).

The exception from the main rule, that the executive dominates legislation, might be Iceland. Until recently, the Althingi legislated extensively on the basis of private initiatives covering major policy areas (Arter 1990:139). Yet, even in Iceland most Private Members' Bills are sponsored by more than a single member, and co-operation on bills extends only to a limited degree across party lines, as a great majority of these bills are one-party bills, implying party influence on private initiatives (Magnusson 1987). Moreover, Private Members' Bills are, on the whole, less important than Government Bills, in that they do not have a far-reaching impact on society. This difference is, according to Thorsteinn Magnusson, even more pronounced when it comes to those bills that are adopted. In

14 Statistics for individual member's initiatives are not available for most of the countries under study. We must, therefore, rely on statistics for Private Members' Bills here.

Table 14.6: Number of Private Members' Bills

	Total no. of Private Members' Bills 1971-1990	*% of Private Members' Bills passed 1971-1990*	*Total no. of amendments 1971-1990*
Austria	559 [1]	37,7	no data available
Belgium	4 548	7,3	no data available
Denmark	1 499	9,6	no data available
Finland	5 153	no data available [2]	no data available
France	6 759	32,3	166 756
Germany	[3]	[4]	no data available
Greece	190 [5]	[6]	no data available
Iceland	1 428	23,7 [7]	no data available
Ireland	35 [8]	0	no data available
Italy	12 887	14,1	no data available
Luxembourg	133	27,8	no data available
Netherlands	86	no data available [9]	13 466
Norway	approx. 83 [10]	n.a.	no data available
Portugal	2 310	29,8 [11]	no data available
Spain	309	46 [12]	no data available [13]
Sweden	approx. 59 900	n.a.	n.a. [14]
Switzerland	122	only a few	no data available
UK	1 320	13,5	no data available
EP	--	--	56 775

Blanks indicate that no information was given.

Notes:

1) 04.11.1971 - 18.05.1983
2) app. 1 / 1000
3) Total no. 1971 - 1990: 444
4) Individual MPs do not have the right to introduce bills.
5) 1977 - 09.03.1990
6) Bill proposal by MPs do not succeed in Greece.
7) Including Committee Bills (ca. 2%)
8) (1971-87)
9) Between 1965 and 1985 31 out of 93 individual initiatives became law.
10) (1977-90)
11) 1976 - 1990, no data for 1985/1986
12) 1979 - 1986
13) December 1982 - December 1983: 3389.
14) Approximately 16 700 (28%) of the Private Members' Bills were submitted as a consequence of a Government Bill with the purpose to rejecting or amending it.

fact, all major bills that the Althingi adopts are, indeed, Government Bills (1987:384-5, 398).

In Italy, too, a rather large share of legislation originates from Private Members' Bills (or maybe we should say originated, since we cannot yet appreciate the full impact of recent constitutional reforms). As we have previously seen, these bills are not purely individual, since Italy applies a numerical restriction on legislative initiatives. Nevertheless, it is sometimes claimed that, despite strong party organisations and pre-eminence of external party leadership,

> "... the Italian parliament has always shown a very significant degree of parliamentary individualism. Italian members of parliament have been extremely active at introducing legislation, and even if only a small part of it eventually makes it through the legislative hurdles, the final share of the total of bills enacted by the parliament is not altogether insignificant" (Cotta 1994:63).

From Table 5.4 in Rudy Andeweg and Lia Nijzink's chapter 5 in this volume we can see that a rather large share of legislation in Portugal originates from Private Members' Bills. Portugal is without doubt an exceptional parliament in this respect. A closer look at the bills reveals, however, that they are not initiatives from independent individuals, but connected to party initiatives. Almost all *Projectos de Lei* are subscribed by more than one MP, and they are registered as being from a parliamentary group (source: questionnaire).

Moreover, there are good reasons to assume that all over Western Europe most of the Private Members' Bills enacted, are uncontroversial, minor pieces of legislation. Thus, the two laws enacted by the Greek Parliament, resulting from initiatives by individual members, dealt both with issues of restricted range.[15] Regarding the United Kingdom, Denis van Mechelen and Richard Rose have pointed out, that most of the bills that have reached the statute book have been uncontested and concerned with uncontroversial measures. Furthermore, they are generally simpler than government legislation. The mean number of pages is less than one-quarter the length of the average for new government acts. Presumably, this is because backbench Members are not in a position to draft complex legislation (1986:76).

15 One dealt with the administration of the Church of Maria on the island of Tenos and the other acclaimed a day of remembrance of the violent death of Greeks in the Black Sea in 1922.

In general terms, this description fits well for all the parliaments included in our study.[16] In Italy, the government is generally not distressed by a great number of *leggine* ("small laws"), instead these are initiated by Private Members' Bills or by government agencies (Di Palma 1977). Research on Portugal has also indicated a similar feature (Opello 1988; Bandeira and Magalhães 1993).

As we have already seen, there are several ways to restrict rights: through numerical obstacles, time limitations, technical requirements, contents restrictions and committee killings. We have also observed differences, in this respect, between the parliaments under study. As a next step, it will be interesting to see who makes use of these more or less restricted rights, for what purposes and with what effect.

Previous studies of parliaments indicate that members of majority parties are the least active. This holds true for Belgium, for instance, where research done by Lieven De Winter shows that members of the extreme opposition parties are the most active. The stronger the party is associated with governmental participation, the less its MPs introduce bills. This confirms that one of the roles of majority MPs is to facilitate governmental legislative initiatives, rather than introduce their own (De Winter 1992).[17] Although we lack sufficient statistics for most countries in this study, answers to the questionnaire indicate similarities among all countries in this respect.

Due to the government's leading role in legislation, introducing Private Members' Bills has mainly become an activity for the members of minority parties. If members belong to a government party, they will try to convince the government to sponsor their bill and if this fails, they know that the prospect of success in the Chamber will be very small and will probably refrain from introducing it. If members do not refrain, they will possibly be urged by the government or parliamentary party group leadership to withdraw the bill. Private Members' Bills have therefore primarily developed into a means of opposition activity.

An important elementary reminder to be made here is that we cannot evaluate the legislative process without taking into account the impact of parties and the interplay between majority and opposition. Legislation must be studied within the framework of political parties and the way they influence individual members' behaviour. Individual members legislative work is generally formed by the par-

16 Similar results were presented by Thorsteinn Magnuson in his study of the Althingi. Private Members' Bills are generally briefer than Government Bills and propose modification of existing laws only (1987:381).

17 Furthermore, De Winter's study shows, ambitious MPs (in terms of having ambitions to ministerial office) to be more active lawmakers than the average member. Professional background also has an impact, implying that professional law experience produces lawmaking skills, and leads to higher involvement in lawmaking activities.

ties, and their own initiatives must first be backed by their own parliamentary party group before it can succeed (see the contribution by Damgaard to this volume).

Why then do individual members submit bills when they know that the prospect of success is so small? The answer must be that the aim of submitting bills is often a means of making manifest an opposition to government. Members of Parliament want to criticise, to attract media attention and to state an alternative to the policy of the government (Zahle 1987:54; Worre 1982:199). As for Belgium, van Schoor noted that a majority of Private Members' Bills could be labelled "demagogic", in the sense that their implementation would imply an increase in government spending and transfers, or a decrease in government taxation. Moreover, they are short. Van Schoor showed a majority of Private Members' Bills not to contain more than two articles. He also noticed that a considerable number of Private Members' Bills are introduced a couple of days or weeks before parliament's dissolution. These bills, of course, have no chance of being examined before the session ends, a fact that is very well known by the initiators themselves. They are introduced because they can serve as electoral propaganda towards the legislator's constituents and clientele groups. Hence, in many cases, the Members of Parliament actually do not care whether their proposals be examined or not, not to mention whether they become law. Van Schoor found that 15 per cent of Private Members' Bills introduced in the House were not taken into consideration, because the members did not introduce a written request to the House Bureau needed to take the bills into consideration. Moreover, authors of bills often fail to be present at the committee reading of their bill. Finally, about half of the Private Members' Bills are copies of bills previously introduced, but rejected (van Schoor 1972).

In Luxembourg, amendments may be introduced at all stages of the legislative process, but are more and more frequently introduced in plenary sessions as the opposition wants to give them publicity, thereby pressuring the government for changes. They may also be introduced in order to delay procedures, since amendments at this stage implies a new consultation of the Council of State. If amendments are tabled during the vote article by article, they must be sent back to the Council of State for mandatory advice (source: the questionnaire).

According to Guiseppe Di Palma, the use of Italian amendments points to a concurrence of government, parliament and opposition in the law-making process. Amendments are primarily introduced by members of small parties at the most visible stages of the process (1977:59-60).

These phenomena are not confined to Belgium, Italy and Luxembourg. (Recall the notes on Sweden in the introduction to this chapter.) On the contrary, they indicate a general feature of Private Members' Bills all over Western

Europe. The main reason for moving a Private Members' Bill is often to demonstrate an alternative to government policy or as mere propaganda campaigns. They are seldom moved in the belief that they will be passed.[18] Submitting a bill often serves other purposes than initiating legislation. Therefore, some bills belong to the field of pseudo-legislation (for a definition, see the chapter by Trantas in this volume). As a consequence, Private Members' Bills have developed into a form of parliamentary activity, complementary to other means of control and opinion building measures, such as parliamentary questions. By raising questions, not presently dealt with in parliament, private members can try to attract public attention to an issue. If successful in their efforts, MPs can thereby set the future agenda for parliament.

For the individual members, Private Members' Bills may be a means by which to improve their personal image. They may initiate bills in order to please influential interest organisations, display results to the local party organisation, and/or show their constituency that they promote the electorate's interests. Private Members' Bills probably often contain pork-barrel favours to the members' constituencies. Legislative initiatives are thus a means to securing both renomination by local party organisation and reelection at the polls.

Many Private Members' Bills are, as we have observed above, small in scope, brief, uncontroversial and are of only minor financial impact. The costs are diffuse, but on the other hand, benefits in the electoral sense are concentrated. Such laws satisfy demands from various small groups and the legislative process is generally bipartisan.

As demonstrated by the Belgian example above, initiatives can also be used as a means of obstruction. This takes us to another general observation regarding legislation in Western Europe. Decision-making in many multiparty parliaments is characterised by negotiations (Sannerstedt 1993). Both the initiation of legislation and the proposal of amendments to bills must, therefore, be seen as resources that Members of Parliament employ in different ways to negotiate decisions and influence legislation (Di Palma 1977:59). We must consider this when we try to evaluate the individual member's role in the legislative process. Members of Parliament can bargain their way through decisions. Submitting bills or amendments are but two formalised ways of influencing legislation in this permanent negotiation process.

Studying the Danish government's annual Financial Bill, for instance, we must consider it not only as an account of its policy, but also as an invitation to negotiations with the opposition parties as well as the government's first bid in

18 I rely here on the judgement of country experts for each parliament, expressed in their answers to the questionnaire and personal correspondence.

the following bargaining process. Alternative propositions from the opposition must be regarded, subsequently, as their answer to the invitation, and their first return offers (Mattson forthcoming).

Bargaining in parliaments is generally conducted according to formal rules specifying who may make proposals and how they will be decided. Skilful negotiators can make strategic use of these formal rules when they are to their benefit, but may also be able to overlook them if they are an obstacle to their purposes. However that may be, bargaining outcomes depend on these rules and on the structure of the parliament. The legislative outcome, thus, reflects the institutional structure of both the agenda formation process and the voting mechanism. David Baron and John Ferejohn, for instance, claim that under a closed amendment rule (or, more realistically, restrictive rules), a majoritarian outcome results from the legislative bargaining process, whereas under an open rule, the outcome can be universalistic under certain circumstances (1989a:1182 *et passim*).

Baron and Ferejohn's theory is based on game-theory and their assumptions were made with one eye on the theoretical requirements for the game they chose and the other on the institutional setting of the American Congress. Some of their assumptions are evidently incompatible with institutional arrangements in Western Europe (see also Baron and Ferejohn 1989b). Nonetheless, their article is an example of comparative institutional analysis and is a potential source of universal generalisations. We can only evaluate their model by empirical examination.

As we approach the end of this chapter the wheel has thus come full circle. As stated already in the introduction of this chapter, procedures related to individual member's rights to initiate legislation and propose amendments have theoretical importance for parliamentary research. The primary aim of this chapter has been to investigate individual member's role in the legislative process by describing their rights to initiate legislation and propose amendment. Considering the effects of restrictive or open rules is, however, a quest for future research and will be left unsolved here.

In our discussion of functions, we have found that Private Members' Bills and amendments from individual Members of Parliament fulfil several, analytically distinct functions. It is, of course, still a means to initiate legislation and to influence the legislative process. This is true, not only in the sense that individual initiatives are formally submitted and put on the agenda of parliament, but also in the sense that individual bills are inputs in the ongoing negotiation process, of which parliament is the arena. Taking the electoral connection into consideration, Private Members' Bills are also a means for securing renomination and reelection.

In addition to these instrumental functions, we have also observed expressive functions. Private Members' Bills and amendments are devices by which Mem-

bers of Parliament are able to criticise the government and thereby bring the government to task. Such bills also enables discussion and publicity as 'a means' of mobilising public opinion.

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15

Parliamentary Voting Procedures[1]

Bjørn Erik Rasch

Introduction

From time to time parliaments make choices between multiple, mutually exclusive alternatives. These alternatives might be candidates competing for election to some to position within the parliament or irreconcilable proposals on policy issues confronting parliament. Over the last three or four decades, social choice theory has revealed several fundamental difficulties associated with the aggregation of preferences in voting bodies such as parliaments[2]. A large section of this literature is quite abstract and general[3]. Not only that, few of the empirical studies found in this field of research have been particularly concerned with understanding collective decision-making in the parliaments of Western Europe. It is therefore my aim to discuss questions related to the institutionalisation of major-

1 Work on this paper began while visiting the Mannheimer Zentrum für Europäische Sozialforschung, and I would like to thank Professor Herbert Döring for his support and generosity. I thank Stig Traavik for research assistance, and Georgios Trantas, Christina Leston Bandeira, Josep Colomer, Prisca Lanfranchi, and Michael Laver for providing me with some essential pieces of information. Comments from country specialists, as well as from Kenneth Shepsle, are gratefully acknowledged. Parts of the research have been supported by the Research Council of Norway (project 103851/531).

2 In fact, some elements of social choice theory have been discussed for centuries. McLean (1990) even trace the lines back to medieval works (Ramon Lull, Nicolas of Cusa). McLean (1990:99) claims that "the theory has in fact been discovered four times and lost three times". In addition, the theory at least has been discovered once and lost again in Scandinavia (e.g. Heckscher 1892, Skriver Svendsen 1934, both mentioning the work of Condorcet rediscovered by Black 1958).

3 Craven (1992) and Nurmi (1987) exemplify two variants of more general social choice discussions, while Krehbiel (1988) and Strom (1990) can be mentioned as introductory expositions referring to rules and practices of one particular legislature (the U.S. Congress).

ity rule in parliaments. What kind of procedures or voting agendas are used for preference aggregation? Should we expect varying procedural structures in this area to make any difference?

Voting procedures are mechanisms by which individual votes on possible outcomes are translated into collective choices. To be able to work on any number of feasible alternatives, voting procedures consist, on the one hand, of a balloting method and on the other hand, of more or less complex decision rules[4]. The first component specifies how and in what form votes are cast (e.g. by voice, show of hands, roll call, use of division lobbies, etc.), and will not be discussed in the subsequent as they are covered elsewhere in the volume sections (see the chapter by Saalfeld). The latter component, my main concern, specifies how votes are summed up, or in other words aggregated, in order to produce a legislative outcome. Decision rules include both a dominance relation defining the requirements for winning - for instance the majority principle or plurality rule - and rules determining agenda or voting sequence, in the event that more than one ballot is required or prescribed to reach a decision in the case at hand.

If plurality rule is the dominance relation, no further rules on voting agendas are needed. No matter how many alternatives are voted upon, the one option receiving more votes than any other wins. Thus, there is always a winner (or a tie which normally has to be resolved somehow) after one single ballot. Majority principles, however, are of a strictly binary nature. If simple majority is the dominance relation, it might be the case that no alternative gains a majority of votes at all in an open (single-ballot) contest[5]. One obvious solution to such a problem of decisiveness, is to arrange binary ballots - and more than one of them. It is here that agenda problems inevitably arise.

Rules regulating parliamentary voting may be tremendously intricate, as exemplified by the existence of several comprehensive manuals and texts on the subject, written from a more practical point of view[6]. In order to paint the com-

4 Saalfeld's (this volume) term *voting method* is equivalent to what I call *balloting method* (see e.g. Merrill and Nagel 1987; Merill 1988). In theoretical discussions, voting procedures are typically defined as social choice functions assigning to each collection of individual preferences over a set of feasible alternatives, a subset of alternatives (or a social preference relation).

5 For example, each of three feasible alternatives get one third of the votes, while the majority principle stipulates that at least half of the votes are needed to win. (This kind of situation is described in Strøm's (this volume) Table 2.1.)

6 *ABC of Chairmanship* (Citrine 1952) and *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (Boulton 1989) are important in a British context, while *Robert's Rules of Order* (Robert 1876/1989), *A Manual of Parliamentary Procedure* (Tilson 1949) and *Deschler's Procedure in the House of Repre-*

plete picture of the voting procedure of any parliament, information on both unwritten norms and common practices would have to be provided in addition to clarifying the actual formal rules of the game. This broader task has yet to be accomplished, and only the first cautious steps in this direction are taken here. I restrict the discussion, here, primarily to the more general, formal aspects of parliamentary voting institutions. The major part of the following analysis is, as a consequence, tentative and exploratory.

The analysis is also restricted in another sense. I focus solely on the final (floor) voting stage, and do not consider the broader processes of agenda determination (see the chapter by Döring) and amendment opportunities (see the chapter by Mattson)[7]. In other words, the subject here is the parliamentary procedure for selecting between some fixed set of possible candidates or policy outcomes. This focus does not imply that this final stage of alternative selection is in any way more important than the preceding stages, where the alternative set to be chosen from is determined.

The chapter is organised in this way. The first section following this introduction demonstrates the dominance of majority rule in the parliamentary setting. In the second section, some inevitable aggregation problems faced by majority rule institutions are summarised, and I comment on why such social choice problems, in practice, rarely seem to be observed in most European parliaments. In the third section I will try to identify important features of parliamentary voting methods or agendas, assuming there is a fixed set of multiple alternatives to choose from. The final section rounds the paper off with a conclusion.

Majority Rule Institutions

Legislators may have both shared as well as diverse interests. If preferences conflict, some common course of action has, nevertheless, to be singled out. To be able to preserve the parliamentary institution, the principles guiding collective choices also have to be accepted by those failing to get their preferred candidates or proposals approved. All parliaments of Western Europe use *voting* to reach

sentatives might be seen as U.S. parallels. It is also possible to find isolated contributions from practitioners on the European continent. Sullivan (1984) is exceptional as he gives a thorough account of voting procedures utilised by one legislature - the U.S. Congress - from a social choice perspective.

7 Aldrich (1994:316) defines agenda in a representative way as "a rule that determines the set of proposals permitted, orders the way in which proposals will be considered, and provides a rule for adoption of proposals on the floor". In this perspective, I only consider rules regulating adoption of proposals on the floor.

final decisions, but voting is, of course, not the sole mechanism to resolve preference conflicts. Voting marks an end to deliberations in committees and on the floor, and helps to guarantee the production of a decisive outcome for the efforts made (although any issue may reenter the parliamentary agenda at a later date). Parliaments do, however, differ with respect to how votes count and are counted.

How many votes are needed to settle matters? In some situations - and in some parliaments more often than in others - the exact number of votes are neither counted nor recorded. For instance, decisions may be taken "on the voices". Nevertheless, this does not make the number of votes that are really needed for an alternative to prevail an arbitrary figure. All parliaments have defined exact dominance relations (majority requirements) on all types of decisions they make. This also includes a specification of how indifference is to be treated. In most parliaments, abstention or blank votes are instruments members may use to signal that the alternatives confronting them are equally good or bad. Norway is more restrictive than other countries in this respect: The norm, here, is that each legislator should be present when the plenary votes are taken, and everyone has to vote either in favour or against the motion(s) under discussion. In other words, there is no accepted way to escape forming strict preferences. In Portugal, voting is also mandatory, but a blank vote is an option. Austria, Ireland and Britain exemplify countries where not attending is a normal way of expressing indifference (and as we will see later, the two latter countries accordingly also have very low quorum requirements).

Returning to the different decision rules or dominance relations available, it seems natural to distinguish between four types in our legislative setting.

1. The weakest rule is simply to require *plurality* or a *relative* majority for an alternative to pass; each participant votes for one of the (possibly many) feasible alternatives, and the alternative with the largest number of votes win (see e.g. Riker 1982:85-88). An option clearly prevails by receiving more votes than any other option available, *no matter how many others* there are to choose from. A well-known example where pluralities are sufficient, is in elections to the House of Commons[8]. Typically, only a few candidates run in each constituency. If two candidates compete, plurality rule coincides with our next rule.

8 This electoral system is often called "first-past the post". McLean (1976:9) remarks that the plurality rule "simply provides that the candidate with the largest number of votes wins the seat. All other considerations are ignored, such as how many candidates there were, how many electors abstained from voting, and whether the successful candidate got over 50 percent of the votes cast." In British elections, it has, therefore, happened that candidates have won parliamentary seats although they received less than one-third of the votes cast in their constituency.

2. If we restrict ourselves to binary choices, both relative and *simple majority* say that the option preferred by the greater number is selected. In these situations, participants are invited to vote "yes" or "no", for example, to some motion or candidate, or to support one out of two (and only two) proposals or candidates. More generally, to cover any number of alternatives, simple majority rule can be defined in this way: an alternative needs to receive more than ½*m* of the votes to beat its challengers, where *m* is the number of aye *and* nay votes or, more precisely, the number of votes cast *in favour* of any of the feasible alternatives ($m \leq n$; where *n* is the number of members entitled to vote)[9]. The views of those members not taking part in the voting process (abstainers) are disregarded when calculating the winner. Expressions of indifference (blank votes) are also irrelevant to the result[10].

As long as two options or two blocks compete, simple majority refers to the relative position of confirming and opposing votes, and therefore easily opens up an opportunity for the practice of "pairing" - or coordinated abstention - found in many parliaments. For instance, if the same number of MPs from the government side and the opposition are absent, the outcome will be unaffected (provided the assembly fulfils the quorum requirement).

Note that the rule specified here is commonly referred to as the majority principle[11].

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9 Compare the previous example of British "first-past the post" (plurality) with presidential elections in Finland. In the latter case, a candidate needs support from at least half of the voters participating to be elected in the first round. The rule is, thus, simple majority and not just plurality. In the 1994 presidential election, 11 candidates competed in the first round. Martti Ahtisaari received more votes than any other candidate in this round (25.9 percent), but far less than simple majority demands (Anckar 1994). In the second round only two candidates competed (Ahtisaari and Rehn), and the one receiving more votes than the other of course won (53.9 percent favouring Ahtisaari).

10 If *m* is even $|x| \geq (½m)+1$, and if *m* is odd $|x| \geq (m+1)½$ (where |x| mean the number of votes supporting x). Remember, if the actors cast either yes or no votes, *m* refers to the number of votes supporting both yes and no. Note also that *m* does not refer to "the number of votes cast", because blank votes (indifference) may be allowed. Blank votes are however of no significance in picking the winner under simple majority (as well as plurality) rule, whether blank votes are actually counted or not. Blank votes, on the other hand, may be important to decide whether the assembly is quorate or not.

11 For instance, Dahl (1956:37-38) uses this formulation: "The principle of majority rule prescribes that in choosing among alternatives, the alternative preferred by the greater number is selected." The choice should be among pairs of alternatives. Spitz (1984:211) uses a more complex concept of majority rule. On the history of the majority principle, see Heinberg (1926, 1932). Heinberg did, however, underline the difficulties in defining with precision the term majority rule, and he also noted the ten-

One way to strengthen simple majority rule is to make additional clauses on the size of the majority required for adopting motions. A rule of this kind is found in Greece. If a majority because of abstention or blank votes constitutes less than one-fourth of the MPs, it is deemed too small to get the motion passed. Now let this number grow from one-fourth to one-half of the assembly. Then the rule in effect is transformed into absolute majority.

3. *Absolute majority* is, thus, a slightly more demanding rule than simple majority: To be accepted, an option needs positive support from more than ½*n* of the assembly (*n* refers to total membership). If each and every legislator has strict preferences and participates in voting, simple and absolute majority amounts to the same. As participation decreases, the hurdle represented by absolute majority may seem to increase. For example, if no more than three-fourths of the members vote, two-thirds of the votes cast must favour a proposal to make it the winner. However, the formal requirement, of course, remains constant. This comment may nevertheless have some significance for large assemblies (e.g. the German Bundestag), and if applied to large electorates, it easily transforms the effective decision rule into some kind of qualified majority (participation is necessarily lower than hundred percent). Compared to simple majority, abstaining now counts in favour of the status quo.

4. This brings us to rules of *special* or *qualified majorities*; three-fifths, two-thirds, three-quarters and five-sixths are some common examples of super-majorities (see e.g. Jaconelli 1989). Typically, special majority requirements are expressed as a fraction or percentage of those (*n*) entitled to vote (which is parallel to the absolute majority requirement)[12]. With respect to a particular assembly, the rule of absolute majority stipulates a single figure of just above one half. Qualified majority, on the other hand, may point to any figure higher than the one defining absolute majority.

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dency to associate or equate majority rule with the even more vague term of democracy. In general, Heinberg (1926:53) understands the majority principle (and simple majority) as a device for reaching decisions "where the opinion of the greater number is deemed expressive of the collective will".

12 Norway exemplifies a different practice, although the text of the constitution (article 112) says that two thirds of the Storting *members* are required to agree on constitutional amendments. The text is however interpreted this way: Two thirds of the members need to be present when voting on constitutional amendments (quorum), and among them, a two thirds majority is needed to pass amendments. In principle, then, constitutional amendments may be adopted although they are (positively) supported by less than half of the members of the parliament (i.e. (165x2/3)x2/3<165x1/2). Still, of course, it is true that a minority of about one-third of the MPs are able to *block* any constitutional change.

If we look at Table 15.1, most parliaments of Western Europe are mainly majority rule institutions; simple majorities suffice to pass ordinary motions in all countries except Belgium, France, Portugal and Spain. In these countries, situations arise involving more demanding requirements (e.g. "organic laws" in Portugal and Spain and some laws affecting linguistic groups in Belgium). The picture is a little more complicated with respect to no confidence motions. This particular type of alternative needs absolute majority in France, Germany, Greece, Portugal, Spain and Sweden. In addition, in Germany and Spain it is also necessary to simultaneously name a new head of government ("constructive vote of no confidence"). The latter mechanism no doubt strengthens the government, as it becomes more difficult to remove it. To some extent the same is true if simple and absolute majority are compared. Absolute majority favours the government (i.e. actually the no no-confidence option), unless all members of parliament vote either yes or no to censure the government; it may be easier to build support for rejecting the government if simple majority is the decision rule.

Almost all instances of qualified majority rule are confined to constitutional amendments[13]. Most countries mainly stipulate a single procedure for changing their constitution (exceptions are Finland, France and Portugal). Typically, a two-third majority or lower clauses - such as sixty percent of the MPs in France and Greece - are found. More demanding rules are used in Finland (5/6) and Portugal (4/5) in cases where there is a need to speed up the process of constitutional change. Larger majorities compensate for the reduced time to consider an

13 Only the main procedure(s) for constitutional change found in each country are mentioned, and thus the table is incomplete. In all countries having bicameral legislatures (countries italicised in the table), both chambers need to accept the constitutional amendment and in each country, both chambers use the same majority requirement. This type of double decision is neither mentioned in the table nor discussed in the text, but is quite likely an additional stabilising mechanism, provided the chambers are incongruent (see the chapter by Tsebelis and Rasch).

Table 15.1: Decision Rules at the Final Voting Stage (Single or Lower House)

Country (bicameral parliaments italized)	*Constitutional revisions ("highest" majority requirement)*	*Ordinary motions (laws and budgets)*	*Vote of no confidence*	*Parliamentary vote of investiture (may refer to first round only)*
Austria	Q[2/3]	S	S	--
Belgium	Q[2/3] (D,E)	S, Q[2/3] [7)]	S	S
Denmark	S (D,E,R) [6)]	S	S	--
Finland	1. Q[2/3] (D,E) 2. Q[5/6] (urgency)	S	S	--
France	1. Q[3/5] [3)] 2. S (R)	S (A)	A	--
Germany	Q[2/3]	S	C	A
Greece	Q[3/5] (D [11)],E)	S [12)]	A	S [12)]
Iceland	S (E)	S	S	--
Ireland	S (R)	S	S	S
Italy	A (D) [4)]	S	S	S
Luxembourg	Q[2/3] (D,E)	S	S	--
Netherlands	Q[2/3] (D,E)	S	S	--
Norway [1)]	Q[2/3] (E)	S	S	--
Portugal	1. Q[2/3] (time constraint) 2. Q[4/5] (any time)	S, A [8)]	A	(A) [10)]
Spain	Q[3/5] [9)]	S, A [8)]	C	A
Sweden	S (D,E)	S	A	(A) [10)]
Switzerland	S (R) [5)]	S	--	S
United Kingdom	S [2)]	S	S	--

Key:

S = Simple majority (one option recieves more votes than the other option)
A = Absolute majority (at least 50 percent of the total number of *members*)
Q = Qualified majority (exact rule in brackets)
C = Constructive vote of no confidence (parliament cannot vote down a government unless it, i.e. a majority of the members, simultaneously names a new Prime Minister or Chancellor)
R = Referendum required for constitutional change
E = Intervening election required for constitutional change
D = At least two (double) decisions by the same assembly (but not necessarily the same individual legislators) required for constitutional change

Notes:

1) Not a true bicameral system, as the Storting is elected as a single body. The parliament splits into two sections - the Odelsting and the Lagting - for the purpose of passing (nonfinancial) laws.
2) Strictly speaking, United Kingdom belongs to the very few democracies without a written constitution.
3) Only the president can decide to use this procedure of constitutional change.
4) A one-fifth minority of either Chamber, half a million electors or five Regional Councils may demand a referendum, but it is not held if both Chambers, during a second reading, the constitutional change is accepted by at least two thirds of the members.
5) To be accepted, constitutional amendments need a majority of votes nationwide, and majority support in a majority of Cantons.
6) In the referendum, at least 40 percent of the electorate need to vote in favour of the amendment to get it accepted (more demanding than simple majority but less demanding than absolute majority).
7) There are several special majority laws requiring majorities in each linguistic group *and* an overall two-third majority of votes cast.
8) Organic laws require absolute majority.
9) Refers to members of each chamber. Disagreements between chambers should be solved by setting up a Joint Commission. Minorities in either chamber may request a referendum. Requirements are stronger for making a total revision of the Constitution (i.e. Q[2/3] (D,E,R)).
10) No regular investiture. More than 50 percent of the members must vote against to reject a proposed candidate for Prime Minister.
11) Only one of the two decisions, which one being optional, requires qualified majority.
12) Actually a modified variant of simple majority: An alternative is accepted only if (i) more than one-half of those *present* (whether they abstain or not) support it, and if (ii) those voting in favour constitute more than one-fourth of total membership.

amendment[14]. Often, constitutional amendments must not only gain sufficient support as a legislative decision, they are subjected to decisions at more than one occasion (delay), intervening elections and referendums, which are other mecha-

14 This may seem to contradict parts of constitutional theory. Rousseau, in *The Social Contract*, claimed, first, that the "more important and serious the matter to be decided, the closer should the opinion which is to prevail approach unanimity", and, second, "the swifter the decision the question demands, the smaller the prescribed majority may be allowed to become" (book IV, chapter 2). In Table 15.1 we observed higher majority requirements in cases where decisions could be made swiftly. This is, however, compatible with Rousseau in a broader perspective: The sum of hurdles are fewer or lower under the short cut procedures, although the decision rule seen in isolation is closer to unanimity.

nisms utilised to impede changes, or to guarantee that any change of the formal rules of the game rests on well-considered, stable and widely shared opinions. All countries using the majority principle when changing the constitution also stipulate additional requirements. Thus, the Danish Constitution is one of the most difficult to amend, although simple majority is sufficient in the Folketing. Amendments must be accepted twice by the parliament, the second time after a new election, and have to be confirmed in a referendum[15]. This procedure severely restricts the possibilities of adjusting the constitutional framework through relatively frequent, minor changes.

Most parliaments require the presence of a minimum number of members when decisions are taken. The quorum varies with country and type of decision, as shown in Table 15.2 (for quorum when electing presiding officers see the chapter by Jenny and Müller). On ordinary motions and decisions related to government formation and resignation, normally at least one half of the members has to be present[16]. Exceptions are the UK, Ireland, Austria and Greece, employing lower quorum requirements, and Finland, Sweden and Switzerland, normally operating without quorum rules. The quorum is often highest on the presumably more important constitutional matters.

Quorum requirements are normally established for two reasons. First, a high quorum clause may be sought to obtain legitimacy. Acceptance of, or confidence in the decision is expected to rise as the number of legislators taking active part in deliberations and voting increases. Second, it might be argued that the probability of a "correct decision", defined as the same decision that would have been reached if the chamber were fully assembled, also increases as the quorum gets higher (Felsenthal 1990). Setting the minimal number of members who must be present at a (very) high level, does, however, make the assembly highly vulnerable to obstruction. Small groups of legislators may be able to block decisions and protect the status quo simply by being absent. For instance, if there is a two-third quorum under simple majority rule, the majority will not necessarily have its way; one-third of the members has the power to impede any measure by failing to appear of the floor voting stage[17]. At least today, obstruction of this

15 In the referendum, an amendment is passed if a majority votes in favour (simple majority), provided this majority constitutes at least forty percent of the electorate.

16 With few exceptions, the same holds true for elections of presiding officers. Italy has a two-thirds quorum for elections, but only one-half for ordinary motions. Greece has a one-half quorum for elections, but not really any such requirement with respect to other decisions (but at least one-fourth need to vote in favour of a motion to pass it).

17 Several European countries have had experiences of this type. Greece previously had very high quorum requirements, and the opposition used this opportunity to delay decisions. The 1975 Constitution accordingly defined no quorum for discussion and a

type might be risky, having some kind of boomerang effect, in that a short run victory in parliament could easily be interpreted as unfair, and thus result in a long term loss at the polls.

If we compare decision rules and quorum requirements, two main cases emerge. The first possibility is that the quorum runs parallel to the decision rule. This is the typical pattern found in Western Europe. If decisions are reached by simple or absolute majority, at a minimum, one-half of the assembly need to be present at the voting stage. If qualified majority is necessary, the same supermajoritarian level defines the quorum. In the countries which have chosen this institutional framework, obstruction by staying away is no longer a relevant strategy. The second possibility is to define the quorum lower than the decision rule. This solution is found in the United Kingdom, Ireland, Austria, Netherlands (constitutional amendments only) and Greece (ordinary motions only), and of course in the countries operating with no quorum at all. Again, obstruction is prohibited. On the other hand, alternatives may be accepted although only a very tiny group of legislators have shown up. The third posibility is a quorum higher than the decision rule.The effect of Luxembourg's rule of requiring three-fourths to debate constitutional amendments, although the decision rule and quorum are both two-thirds, is a parallel; a blocking minority may be smaller than indicated by the decision rule.

To complete the picture of the parliamentary voting institution, we should also consider what happens in cases of tied votes (see Table 15.3). These are situations where the support for two (or more) options turns out to be identical; and it is a problem occurring only in plurality or simple majority contexts. (Ties do not arise as long as decision rules specify exactly how many members are needed to vote in favour of an alternative to get it passed.) Methods for resolving ties differ between countries, and they also depend on the type of issue involved. On ordinary motions, it is usually the case that ties establish the status quo as the winner; any motion needs (strictly) more ayes than nays to prevail. Four countries do, however, authorise one person - the speaker or president - to decide in the event that the assembly is indifferent. In Switzerland, Ireland, Norway and the UK, there is a casting, or tie-breaking vote. In the latter three of these countries, the president may vote while chairing a session. Thus, the president's vote has to have a weight of more than one but less than two.

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rather low quorum for voting (on ordinary motions). In Norway the quorum was reduced early this century in anticipation of a growing Labour party; if the quorum had remained constant, the non-socialist majority feared that the socialist minority could have blocked parliamentary action in several policy areas (for instance laws aimed at ending strikes).

Table 15.2: Quorum Requirements (Single or Lower House)

Country	*Constitutional revisions*	*Ordinary motions*
Austria	1/2	1/3
Belgium	2/3	1/2
Denmark	1/2	1/2
Finland	--	--
France	1/2	1/2
Germany	1/2	1/2
Greece	3/5	1/4 [4)]
Iceland	1/2	1/2
Ireland	20/166	20/166
Italy	1/2	1/2
Luxembourg	2/3 [1)]	1/2
Netherlands	1/2	1/2
Norway	2/3	1/2
Portugal	1/2	1/2
Spain	1/2 [2)]	1/2
Sweden	(1/2) [3)]	--
Switzerland	--	--
United Kingdom	n.a.	40/650

-- No quorum requirement defined
n.a. Not applicable

1) Two-thirds needed to decide, but three-fourths to debate constitutional amendments.
2) For approval 3/5 of members.
3) Several special rules. For example, at least three-fourths must be present to transfer the right of decision to an international organisation, and one-half to amend the Riksdag Act.
4) Not actually a quorum requirement. For any motion to pass, it must be supported by at least one-fourth of the members of parliament.

Table 15.3: Mechanisms to Resolve Ties in Parliamentary Voting (Single or Lower House)

Country	*Ties on ordinary motions (laws and budgets)*	*Ties for elections of presiding officer(s)*
Austria	Status quo prevails	Lot
Belgium	Status quo prevails	The eldest appointed
Denmark	Status quo prevails	Lot
Finland	Status quo prevails	Lot
France	Status quo prevails	-
Germany	Status quo prevails	No provision [4)]
Greece	Status quo prevails	No provision
Iceland	Status quo prevails	Lot
Ireland	Tie-breaking vote [1), 6)]	No provision
Italy	Status quo prevails	New vote [5)]
Luxembourg	Status quo prevails	The eldest appointed
Netherlands	Postponement or status quo prevails [2)]	Lot
Norway	Tie-breaking vote [6)]	New vote if demanded by any MP; lot if again tied
Portugal	New vote; if again tied status quo prevails	No provision (implies new vote)
Spain	New vote; if again tied status quo prevails	No provision [7)]
Sweden	Lot [3)]	Lot
Switzerland	Tie-breaking vote	New vote; lot if another tie
United Kingdom	Tie-breaking vote [6)]	No provision

- No information available

1) Use of casting vote restricted by custom (in such a way that status quo is favoured).
2) If all members participate, the motion is rejected. If the session is not complete, the matter is postponed to a later meeting (if a new tie occurs, the status quo prevails).
3) During 1973-76 the government and the opposition controlled exactly one-half of the 350 seats (called "the lottery Riksdag"). In 1976 the size of the Riksdag was reduced by one to 349 to make deciding by lot less likely.
4) If majority is not reached, nobody is elected.
5) In the Senate the eldest is appointed.
6) The President also votes while chairing a session.

7) If absolute majority or plurality is not reached, nobody is elected.

The approach chosen by the Swedish Riksdag is exceptional, as ties on ordinary motions are decided by lot. This amounts to saying: If two options tie, either one is as good (or as bad) as the other, and there is no reason to select one. An arbitrary or unintentional choice is as good as any other choice[18]. As we move from ordinary motions to elections, however, deciding by lot, in cases of tied votes, becomes a little more customary. Ties in candidate selection are resolved by lot in at least seven countries. Why this distinction? One reason may be that the status quo actually means something different in different contexts. If some person has to be elected to an office, keeping the status quo means not electing any of the candidates running, which seldom represents a real solution; in fact there is no reasonable zero option to fall back on in the case of a tie, as there certainly would be when dealing with motions related to most policy issues.

Institutions, in our context, specify the formal rules to be followed by political actors in order to produce outcomes. Differences in institutional framework would easily be expected to result in different legislative outcomes and in different elections to office. Some of the institutional variation mentioned above is certainly important, in the sense that decision-making processes and resolutions are affected. For instance, the distinction between simple and absolute majority may be a significant institutional detail. Concerning executive-legislative relations, absolute majority turns out to be a mechanism by which the position of governments is strengthened. Several countries have substituted absolute majority for simple majority when it comes to motions of no confidence and votes of investiture. The ability to abstain from voting in some form or another may also be of importance. For instance, because the small Swedish right-wing party, "New Democracy", could use blank votes instead of deciding for or against, it was, in fact, made easier for the Riksdag to accept Carl Bildt as Prime Minister after the election in 1991. As New Democracy was able to abstain Bildt was not voted down, but gained the support of a tiny simple majority[19]. Another exam-

18 In his essay on randomisation in individual and social decisions, Elster (1989:37) note that to make decisions by lot reflects an intentional choice to make decisions by a non-intentional instrument. He also argues "that we have a strong reluctance to admit uncertainty and indeterminacy in human affairs. Rather than accept the limits of reason, we prefer the rituals of reason".

19 If New Democracy had voted against Bildt as Prime Minister, Bildt would have been faced with an absolute majority against his candidature. This outcome was what Bildt sought to avoid; constitutionally, he had no need for an absolute majority in favour of his government. A similar type of investiture decision in 1978 was even more peculiar. The candidate for the office of Prime Minister, Ola Ullsten, did not get a simple

ple: In 1972, the German Chancellor, Willy Brandt, advised members of his slim majority not to participate in the Bundestag vote over a motion of constructive no-confidence tabled by the opposition (see Tsebelis 1990:97 and the chapter by Tsebelis in this volume). This strategic manoeuvre enabled Brandt to monitor the behaviour of deputies in his coalition. In a secret ballot, defection from the ranks of the government coalition could have been easy (and, because of the tiny majority, the government could have lost). None of the moves described above would be feasible in Norway, where every MP is obliged to either support or oppose any proposal, and it would be difficult in some other countries too.

Some of the institutional details described above will obviously be of far less importance, and are only mentioned to complete the picture. An example of this is the way parliaments resolve ties in electing their presiding officers. For reasons that we return to later, in most countries such elections are often characterised by broad consensus and few competitors, and ties seldom, if ever, occur.

Why does majority rule seem to occupy such a dominant position in parliamentary decision-making?[20] I will mention three reasons. First, majority rule represents a trade-off between decision-making costs and external costs that many people find reasonable, although from the participants' point of view it may not be the optimal rule in each particular case considered (Buchanan and Tullock 1962:61-84)[21]. In a group with fixed membership, more restrictive rules may gradually increase the costs in reaching a decision substantially; collective action becomes more difficult as more actors need to interact and agree. On the other hand, any group may make choices contrary to the interests or opinions of some of the group members; there is a cost associated with reduced individual autonomy. This type of cost is expected to decrease in a group with fixed members, as the number of individuals required to decide rises. In the extreme case, where collective action rests on unanimity, no one need accept an adversary decision.

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majority supporting him in the Riksdag (only 11 percent support), but, because of abstention (for one the Labour Party), there was no absolute majority against him.

20 It could also be added that *majority rule* is the dominant principle with respect to parliamentary party groups, although such groups, in practice, seldom use formal votes to resolve conflicts. Most parliamentary party groups meet at least once a week during sessions (exceptions are Greece, Italy and Switzerland), and such groups often have written statutes.

21 For a different approach to the question of optimal decision rules, see Rae (1969) and Straffin (1977). Essentially, it is shown that majority rule gives the best average responsiveness to individual preferences (maximise the probability that the collective decision will agree with any individual's decision).

Second, majority rule, as most other relevant voting rules, implies political equality. The only feature counting at the decision stage is the number of votes. Thus, the outcome is independent of the actual positions of the voters; votes could have been interchanged between individual voters without affecting the result at all, meaning that each individual is treated the same way[22].

Third, the simple majority rule implies neutrality or equality with respect to alternatives[23]. Note that we are only speaking of simple majority rule here. In this case, if the names attached to alternatives - for instance, the "bill" and "status quo" - are interchanged, the outcome with, nevertheless, always remain unchanged; alternatives are treated the same way. Typically, as more restrictive decision rules are introduced (absolute or qualified majority or unanimity), the status quo gets favoured and more stabilised compared to competing options. This, of course, is the reason why we find stronger majority requirements in situations involving constitutional change (to protect the existing constitution) and rejection of governments (to protect the government in office). It would not be easy to provide reasons that everyone could agree with, to openly discriminate in favour of the status quo regarding ordinary legislation. However, if three or more alternatives are present at the voting stage, one alternative may gain a privileged position in the voting order, despite the fact that each ballot is decided by simple majority. I return to such difficulties later.

Most of what has been said above does not deal explicitly with multi-alternative decisions. The ordinary way to handle multiple alternatives, is to introduce some form of sequence of ballots. Before the procedures by which parliaments select outcomes are described, it might be helpful to mention some central issues developed within the social choice framework.

22 The only minor exception is the occasion where the speaker has a casting vote.

23 It was demonstrated by May (1952) that equality and neutrality, together with two other conditions named decisiveness (a unique decision for any combination of votes) and positive response (the decision rule respond "positively" to changes in individual preferences), were necessary and sufficient conditions for simple majority rule. Thus, simple majority is the only rule satisfying the four criteria mentioned above. The discussion was restricted to a two-alternative setting.

Multiple Alternatives and Majority Rule

Three key problems relevant to legislative research are discussed extensively in social choice literature. The first is the existence - or rather the genericness - of cycles in majority voting. In fact, Plott (1967) showed that the existence of an unambiguous majority alternative in spatial voting games required voters' preferences to be distributed highly symmetrically in policy space, and it is unlikely to find this symmetry condition satisfied in practice[24]. The second basic insight is the importance of procedures or agendas. Majority rule can be institutionalised in different ways to handle multiple alternatives. Theoretical arguments as well as experimental results support the view that institutions make a difference, at least by constraining political choice (e.g. Shepsle and Weingast 1984). The third very important theme is related to the use of strategy and skill in voting processes. It has been shown that all voting institutions are vulnerable to manipulation. Regardless of the institutional framework, there will be some occasions on which some voters can achieve a better outcome from their point of view by voting contrary to their true preferences (Gibbard 1973; Satterthwaite 1975). That is, when decision processes are manipulable, voters may, more or less frequently, have incentives to vote against the alternatives they actually prefer or in favour of something they dislike, in order to make the final outcome of the process as good as possible. To analyse this kind of sophisticated action, the various voting institutions are normally modelled as noncooperative games (Farquharson 1969; McKelvey and Niemi 1978). Potentially, strategic voting will produce outcomes reflecting voters' preferences more closely than would be the case under sincere, non-sophisticated voting. But, of course, other forms of strategic manoeuvres may be available to decision makers, such as vote trading or logrolling, manipulation of voting sequences, and insincere additions or removals of motions to consider and vote on (Riker 1986). With an eye on the section outlining parliamentary procedures for voting over multiple alternatives, I now illustrate some of the remarks above more closely.

Majority Rule Problems

The simplest instance of the phenomenon of cycles is the Condorcet paradox. For illustrative purposes, imagine a parliamentary situation with a minority government in power confronting a divided opposition. The minority government proposes a bill B, which is also supported by governmental parties in the parliament. Furthermore, we assume this group to prefer "no action" or the status quo (SQ), rather than taking orders from the opposition through an amended bill (i.e.

24 See e.g. Miller, Grofman and Feld (1989) for a simple geometrical exposition.

B>SQ>A, which is a very reasonable set of preferences for the governmental side)[25]. One part of the split opposition wants an amended bill, but are prepared, nevertheless, to vote second for the government bill (A>B>SQ). Let the other part of the opposition be conservative. Their first choice, then, is no bill at all. We assume, this group also thinks, that the government proposal is worse than the amended bill (i.e. resulting in SQ>A>B). As no group commands a majority on its own, but any conceivable pair do, we have a case of cyclical majority preferences. Thus, one majority incorporating the government side prefers B to SQ (anticipation of this possibility may be the reason why the government makes a proposal in the first place), another majority, consisting of the opposition, prefers A to B (this may be the reason why one part of the opposition actually draws up an amendment), and still another majority (comprising the government) prefers SQ to A (taken together, SQ>A>B>SQ). The essence of the story is, that identical preferences may produce different social choices. The will of the majority, as it turns out, is not a well-defined concept; in our case, preferences do not determine a consistent group preference. In more practical terms, whatever decision parliament finally makes, some majority would prefer one of the other two feasible alternatives to the one actually adopted.

What the situation above lacks is a Condorcet winner, i.e. an alternative that beats all other feasible alternatives in pairwise, simple majority voting (assuming voters do not misrepresent their preferences).

Let us also provide a simplified, spatial illustration of the phenomenon of majority cycles. Figure 15.1 depicts a two-dimensional policy space. Any point in the figure constitute a potential policy outcome, so voters no longer consider only a limited set of (discrete) alternatives. Also, the most preferred alternative of each decision maker is represented as a point (an ideal point). For reasons of simplicity, preferences are assumed to be "Euclidean" or "Downsian", meaning that the closer an alternative is to the ideal point of an actor, the better this actor

25 Note that the issue involved may be perfectly unidimensional with the government bill as the proposal most distant from the status quo, and, thus, the amended bill in an intermediate (median) position. Because it is typically a cost for the governing group to switch to an amendment rather than stick to their own proposal (and this cost of loosing easily outweighs the gain from getting the amended bill rather than the status quo), governmental preferences - all taken into consideration - need not be single-peaked with respect to the issue dimension. Although phrased differently, this is consistent with a claim made by Huber (1992:677-678) in his analysis of French legislative procedures: "The link between government survival and parliamentary confidence produces two dimensions of preference for each political party: (1) support or opposition for policy and (2) support or opposition for the government."

Figure 15.1: Spatial Voting Game with Five Actors A, B, C, D, and E

thinks the alternative is; two alternatives located at the same distance from the ideal point are regarded as being equally good (or bad). In other words, utility declines monotonically with distance, irrespective of direction. Figure 1 also portrays the content of two other concepts. The fact that preferences are assumed to be Euclidean allows us to draw indifference curves as circles. The circle through the status quo option (SQ) with the ideal point of actor C as the centre, consists of all alternatives this actor regards as being equal to SQ. All points inside the circle belong to this actor's preferred to (status quo) set, $P_C(SQ)$. This is the set of outcomes evaluated by C as better than the status quo. Similarly, the majority win set of a particular alternative is comprised of the various outcomes that majorities prefer to this alternative. The shaded area of the figure thus indicates all alternatives a majority, comprising of actors B, C and D, regards as being better than the status quo (i.e. $P_B(SQ) \cap P_C(SQ) \cap P_D(SQ) = W_{BCD}(SQ)$). The whole majority win set of the status quo consists of the union of the options that different majorities prefer to the status quo (i.e. all the various three member coalitions that could be formed).

When looking at social choice problems involving at least two dimensions, two results are emphasised in the literature (McKelvey 1976, 1979; Schofield 1978; see also Shepsle and Weingast 1982; Shepsle 1986, 1992). The first result says that a fundamental instability is present in collective choice, in the sense that whenever a single majority winner is lacking, the cyclic set consists of the entire multidimensional alternative space. With respect to each and every alternative constituting the policy space, their majority win set is non-empty. No matter which alternative x we take as our point of departure, some other alternatives always exist, that are preferred by a majority to x. Referring back to Figure 1, no matter where we locate SQ, a majority win set area (like the shaded one) can be produced. Any alternative we imagine can, by combining positions on the issue dimensions, be defeated by a majority; simple majority rule, and preferences are typically unable to generate stability. Thus Riker concludes by saying that "disequilibrium, or the potential that the status quo be upset, is the characteristic feature of politics" (Riker 1980:443).

The second finding is related to one possible consequence of disequilibrium (lack of Condorcet winner): The inherent instability of the situation can be exploited. For any two alternatives in the policy space, say x_i and x_j, it is possible to arrange a sequence of pairwise majority ballots beginning with x_i (and some alternative in the win set of x_i), and ending with the adoption of x_j (outcome x_j belongs to the win set of the alternative accepted at the previous stage). In other words, if no Condorcet winner exists in the setting where the alternatives constitute a continuous, multidimensional space, then majority rule, in principle, may wander anywhere. This "breakdown" of majority rule in turn is source of tremendous power for actors able to determine the voting agenda. By dictating the alternatives to be voted on as well as the sequence of voting itself, it is in fact, possible to dictate the outcome. There will always be a path leading to the adoption of the agenda setter's ideal point as the decision, provided that each voter votes according to true preferences, or as if each pairwise ballot in the sequence suggested by the agenda setter was the last one.

Although purely preference-induced equilibria may be lacking when voting bodies like parliaments make collective choices, this does not imply "chaos" in the sense that majority rule will actually be seen to wander anywhere in space. On the contrary, laws are passed in quite predictable ways and they normally remain unchanged for long periods of time. The status quo is not so easily upset (cf. Tullock 1981). Why? A first general answer is that institutions constrain the actions of decision makers, and create equilibria that would not otherwise exist (Shepsle 1979). In a legislative setting, a system of preparatory committees combined with a relevance (germaneness) rule to restrict proposals on the floor,

may have a strong stabilising effect[26]. A second answer is that majority preferences exhibit some coherence and internal structure likely to constrain choices under various institutional arrangements, even in the absence of a single majority winner. Related to this line of reasoning, solution concepts such as the uncovered set and the Banks set have been introduced (Miller 1980; Banks 1985; McKelvey 1986)[27]. The actual outcomes of different majority voting games, when a Condorcet winner does not exist, should often be expected to be located in those areas described rather than just anywhere.

Let me also make two further remarks on why, in practice, it would be difficult to move towards *any* alternative in space regardless of where the status quo - the point of departure - is located (cf. McKelvey's agenda theorem). First, voters might be unable to both perceive and to act on marginal differences between alternatives in the policy space. It will be difficult to make majority "improvements" whenever the majority winset is small and options confronting legislators are very close to each other. The possibility of consistent changes even under these circumstances is crucial to the agenda result (cf. McKelvey 1976:481; Skog 1994). Second, to be able to move by majority rule between any two points in the policy space, the assembly would often need to move through a large number of carefully devised pairwise ballots, and there is no reason whatsoever to believe this to happen in any legislature. The degree of "foresight" of real agenda setters would be too limited. Sufficient control of the agenda might also be lacking. Furthermore, decision-making costs would be remarkably high, and difficult to explain and justify to the general public the kind of parliamentary voting needed.

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26 The institutional structure envisaged by Shepsle (1979) essentially created an environment where decisions were reached orderly, dimension by dimension. The "structure-induced equilibrium" emerged as a combination of the medians of each separate dimension. The institutional structure laid down by Shepsle deviates in significant ways from structures found in the parliamentary democracies of Western Europe. This is relevant, because small deviations of Shepsle's original assumptions may lead to the non-existence of structure-induced equilibrium (Dion 1992).

27 The covering relation is defined in this way. An alternative x is said to *cover* alternative y if, and only if, x beats y and all other alternatives beaten by y. The *uncovered set* is then those alternatives not covered by any others (in the set of feasible alternatives). The *Banks set* can be defined as the set of Banks points (alternatives). Let us select one alternative z from the feasible alternatives, then find another one, y, beating z; then, if possible, still another one, x, beating both y and z, and so on until it is impossible to expand the trajectory further without creating a cycle. The top alternative in such a cycle avoiding trajectory is a Banks point, and all such alternatives together constitute the Banks set. This set is a subset of the uncovered set (Miller, Grofman and Feld 1990).

The discussion so far has been extremely sparse on the institutional side, although what we have learnt is primarily the central role of procedural structures rather than preferences in explaining outcomes. The agenda result due to McKelvey (1976) does, however, depend on restrictive institutional conditions. For one thing, decisions are reached by using an amendment method (defined more precisely in the next section)[28]. The group decides by working through a sequence of simple majority ballots over pairs of alternatives, where the length of the sequence depend on the number of motions considered. The agenda process is, therefore, "forward moving". The status quo is voted on first, and any alternative beating the current status quo becomes the new status quo. Furthermore, agendas are set monopolistically. The agenda setter is the only actor allowed to move motions for voting, and, thereby, solely controls the order of voting.

Even slight revisions of the institutional setting undermines the agenda result. For instance, a rule saying that the status quo always has to be voted on last, implies that only alternatives belonging to the win set of status quo can be adopted (Shepsle and Weingast 1982). As a consequence, the set of possible outcomes is reduced. As more specific voting order requirements are added to the "status quo last" clause, the set of possible outcomes is narrowed even more. One approach would be to apply a "backward moving" agenda, where alternatives are voted in reverse order of their introduction[29]. With respect to the empirical analysis to follow (in the next section), remarks, so far, indicate that we should be particularly interested in establishing which voting methods are used in the parliaments of Western Europe. Is the amendment procedure completely dominating the practice of legislative voting? If the method used requires the formation of a voting order, what principles guide this process? For instance, is the status quo voted on last?

Voting rules are possibly so detailed that there is no room left for discretion at the floor voting stage. But this is unlikely. Legislative actors will influence the voting agenda more or less clearly. One extreme is the "dictatorial" agenda setter described above, operating under a closed regime (McKelvey 1976). This could be a single member of parliament (e.g. the president or speaker of the chamber),

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28 It is also called the *elimination procedure*, because alternatives during the decision process are eliminated one by one until a majority winner is produced. Although one could defended seeing the amendment procedure as one particular institutionalisation of the elimination procedure, i.e. one following the Anglo-American practice of "perfecting" the original bill and voting status quo last, I also will stick to the familiar term amendment procedure, instead of changing to elimination procedure.

29 For example, the final amendment offered is voted on first, and on the last stage the bill - as amended - confronts the status quo.

some small group of legislators (e.g. a committee, the Presidium), or even the government (minority or majority). At the other extreme, we could have a completely decentralised agenda setting process. Under such an open regime, each and every legislator is able to suggest (revisions of) the voting agenda and because, in fact, only one agenda can be followed, is also able to seek approval for the suggestions on the floor. Empirically, then, I will try to outline the main features of how voting agendas are controlled in each country. Whenever a voting order has to be selected, is the setting one of monopolistic or decentralised control?

Scholars do not agree as to how important the various deficiencies of majority rule really are. However, if the alternatives constitute a continuous, multidimensional policy space it is reasonable to expect that legislators' preferences at any point in time are sufficiently diverse as not to generate a unique majority winner. It is, nevertheless, equally reasonable to say that parliamentary voting is seldom marked by apparent or clearly visible majority cycling. In addition, despite the theoretically established universality of strategic voting, extensive use of strategic manoeuvres in real legislative contexts has yet to be demonstrated[30].

Finally in this section, we should note some features of European parliamentarism likely to reduce problems at the final floor voting stage. Parties are normally disciplined, and if they are also few in number, it is unlikely that one will often find challenging situations involving multiple alternatives on the floor. If, for example, one coherent party group controls a majority of seats, the aggregation of preferences is rather trivial, irrespective of the number of alternatives to be chosen from. The British two-party system should, therefore, not give us many instances of actual majority cycles, and this should also be the typical case in other countries, where single parties may have won majorities (as, for limited time periods, Fianna Fáil in Ireland, Labour in Norway, New Democracy and PASOK in Greece, Social Democratic Party in Portugal, etc.). Still, most general elections do not give rise to single party majorities. All the same, the floor voting stage of parliaments need not be very different in cases where majority governments are formed, unless this majority coalition is very divisive and loosely composed. In fact, majority coalitions have been the typical pattern outside the

30 In an important paper, Krehbiel and Rivers (1990), argue that cases where sophisticated voting can be identified in the U.S. Congress are rare. See, however, also Denzau, Riker and Shepsle 1985; Calvert and Fenno (1994). Scandinavian parliaments are studied in Bjurulf and Niemi (1978) and Rasch (1987). The latter paper claims that successful strategic voting in the Norwegian parliament is almost non-existent, as, in fact, it would be possible to detect such instances empirically. One example, however, is described in Rasch (1990). I have no knowledge of comparable studies from other European parliaments.

Nordic countries and Italy, which have often been ruled by minority governments[31]. Actual difficulties in reaching legislative majority decisions should, then, be principally confined to the multipartism and minority government combination. Provided, of course, that parties are cohesive and disciplined, less unitary parties (or more autonomous legislators) also mean more demanding aggregation problems[32].

Voting on Multiple Alternatives

Although a large number of different voting methods are discussed in the literature, few of them have ever been used in real world parliamentary settings[33]. Indeed, some of the methods used more frequently in European legislatures have not been given much attention at all. In this section I want to give a preliminary description of the approach to parliamentary voting in Western Europe.

Procedures for Electing Candidates

The first observation to make is that procedures used for electing officers within the parliaments are remarkably different to the procedures used for handling legislation. No parliament uses the same procedure for the two tasks of voting on candidates and voting on motions.

Methods for electing presiding officers are shown in Table 15.4 (cf. the chapter by Jenny and Müller), where information on presidential elections - either direct or indirect - are also added. The array of methods found is limited.

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31 See Table 4 (p. 113) in the special issue of *European Journal of Political Research* devoted to "Party Government in 20 Democracies 1945-1990".

32 May be it is not surprising to find that floor voting problems are discussed much more extensively in relation to the U.S. Congress, with rather weak parties, than in the European context. In Western Europe, most empirical studies of parliamentary voting procedures seem to be concentrated in the Nordic countries. These are the countries where minority governments dominate the picture. Following this kind of argument, we should expect a lot of discussions of floor voting problems in European countries *before* parties became very disciplined. The fact that it is not difficult to find rather advanced procedural discussions published in the second half of the 19th century, supports my guess. See Heckscher (1892) for references.

33 For instance, properties of various methods are discussed extensively in Nurmi (1983, 1987); Riker (1982); Straffin (1980); Dummett (1984).

Table 15.4: Method for Election of Candidates (Single or Lower House Presiding Officers and the Head of State)

Country	*Method for election of presiding officer(s) if more than two candidates compete for the same office*	*Method for election of Head of State (President), either indirectly (e.g. by legislature) or directly by the voters*
Austria	Simple majority, three-ballot RUN-OFF; third stage two candidates	Directly: Simple majority, two-ballot RUN-OFF; second stage two candidates
Belgium	Absolute majority, three-ballot RUN-OFF; third stage plurality rule	-----
Denmark	Simple majority, three-ballot RUN-OFF; third stage two candidates	-----
Finland	Simple majority, three-ballot RUN-OFF; third stage plurality rule	Directly: Simple majority, two-ballot RUN-OFF; second stage two candidates
France	Absolute majority, two-ballot RUN-OFF; second stage two candidates	Directly: Absolute majority, two-ballot RUN-OFF; second stage two candidates
Germany	Absolute majority; three-ballot RUN-OFF; third stage two candidates	By Federal Convention: Absolute majority, three-ballot RUN-OFF; third stage plurality rule
Greece	Simple majority, two-ballot RUN-OFF; second stage two candidates	By legislature: Qualified majority (2/3), six-ballot RUN-OFF; sixth stage two candidates [3)]
Iceland	Simple majority, three-ballot RUN-OFF; third stage two candidates	Directly: One-ballot PLURALITY
Ireland	One ballot PLURALITY	Directly: Single transferable vote (STV)
Italy	Qualified majority, infinite-ballot RUN-OFF; from fourth stage on absolute majority	By legislature supplemented by regional electors: Qualified majority (2/3); infinite-ballot RUN-OFF [4)]
Luxembourg	Absolute majority, two-ballot RUN-OFF; second stage plurality rule	-----

Country	*Method for election of presiding officer(s) if more than two candidates compete for the same office*	*Method for election of Head of State (President), either indirectly (e.g. by legislature) or directly by the voters*
Netherlands	Simple majority, four-ballot RUN-OFF; fourth stage two candidates [1)]	-----
Norway	Simple majority, two-ballot RUN-OFF; [2)] second stage two candidates	-----
Portugal	Absolute majority, two-ballot RUN-OFF; second stage two candidates	Directly: Absolute majority, two-ballot RUN-OFF; second stage two candidates
Spain	Absolute majority, two-ballot RUN-OFF; second stage plurality	-----
Sweden	Simple majority, two-ballot RUN-OFF; second stage two candidates	-----
Switzerland	"modified" STV [5)]	By legislature: Rotates (yearly) among the seven government members
United Kingdom	One-ballot PLURALITY	-----

Notes:

1) The third stage is restricted to a maximum of four candidates. If three or four candidates compete at the second stage, only the top two candidates move on to the third stage.
2) If the majority wishes, parliament may "repeat" the first ballot (meaning that a three-ballot run-off procedure will, in fact, be used).
3) The first and second rounds require two-third majority and the third three-fifth majority respectively. If no president is elected, parliament is dissolved. On convening, the new parliament immediately proceeds with the election of a president. In the first round (actually the fourth) a two-third majority is again required, and in the second, absolute majority suffices. The last round would be a competition between only two candidates.
4) In 1971, Giovanni Leone (Democrazia Cristiana) was elected after 16 days and 23 ballots (Heidar and Berntzen 1993: 249).
5) The two first rounds are open; simple majority ballots. If a winner not yet is produced, the candidate with the fewest votes in the second round is eliminated, and a new ballot is taken, etc.

The simplest one is the plurality method, by which presiding officers are elected in the UK and Ireland, and, in addition, the Head of State in Iceland. By this method, the candidate receiving the highest number of votes is elected. Only one ballot is taken, so decision-making costs evidently are held at a minimum. Most often, however, some kind of run-off procedure is used. The simplest variant of this would be the one where, at most, two rounds are arranged, and participation in the second is strictly limited. The second round, restricted to two candidates, is only employed if no candidate receives a majority of votes - simple or absolute - in the first round. In the literature, this method is often referred to as plurality run-off (cf. Bullock and Johnson 1992). This approach can be found in the direct presidential elections of Austria, Finland, France and Portugal, rendering Iceland (plurality) and Ireland (STV) as deviant cases[34]. Presiding officers are elected by plurality run-off in one third of the countries. Spain and Luxembourg make use of a slightly different two ballot system: The second round, if reached, is open, and the candidate receiving the most second ballot votes wins (plurality rule). In Switzerland the two first rounds are open. After that, elimination of weak candidates starts ("modified" STV). The remaining countries are prepared to arrange a potential third round - Austria, Belgium, Denmark, Finland, Germany and Iceland - or even more - Netherlands and Italy - to reach a result in the election of presiding officers. All countries electing Heads of State indirectly prescribe three or more ballots, except Switzerland, which uses a simple system of rotation.

All countries but Italy have selected procedures that are able to force a decision if a relatively broad consensus fail to appear. Two main enforcement mechanisms are found. Either the number of candidates participating in the last round is restricted to the two top runners of the previous round, or the number of candidates remains unrestricted in principle, but plurality rule is introduced to settle the matter[35]. In Italy, majority support for a candidate has to be reached without "help" from the voting mechanism.

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34 Single-transferable vote (STV), for the case where only one candidate is elected, is also called Hares method or alternative vote. Voters are invited to rank order candidates. If no candidate receives a majority of first preference votes, the candidate with the lowest number of (first preference) votes is eliminated. Voters who supported this candidate have their votes transferred to other candidates according to their second preferences. If all candidates are still short of majority, a further candidate is eliminated and the votes, again, transferred. The process goes on until a majority winner is selected. (See e.g. Ordeshook and Zeng 1994.)

35 Recall that the STV-like procedure of Switzerland is exceptional. A decision is forced by eliminating candidates successively.

We note that four countries use identical methods for electing presiding officers and the Head of State (France, Germany, Italy and Portugal). Typically, when presidents are elected directly by the people, a simpler method than the one employed for electing presiding officers is found (except Ireland). This is not surprising, and might be explained by reference to the very high decision-making costs involved in arranging for more than two election days, while only two is clearly sufficient to force a decision under a run-off framework. With respect to indirectly elected Heads of State, it seems to be the other way round. Presidents are selected by the same or a more complicated procedure (Germany and Greece), likely to indicate a stronger emphasis on consensus[36].

I will not go into the normative properties of the methods presented. Suffice it to say that none of them guarantees the election of a Condorcet candidate if one exists. Neither a plurality rule or a forced two candidate race can prevent the Condorcet alternative from ending among the losers[37]. This remark is, however, less relevant when parliamentarians choose officers (and Heads of State), than when voters elect presidents in national elections. The number of candidates is normally lower in the former context, and the degree of consensus in connection with choices made by legislators is often much higher. One reason for the apparent consensus on these occasions may be the existence of majority parties or coherent majority coalitions, making it not only futile, but also politically devastating for opposition groups to run their own candidates. Another reason is related to the procedures as such. Most countries employ multistage methods inevitably leading to the selection of a candidate only after some time (i.e. if several candidates compete and none of them are backed by a majority in first preference votes). In the event of taking recourse to a final, forced solution the result should, normally, be relatively easy to predict. Parties and candidates who know they will eventually lose, have to consider whether it is better not to run (or to withdraw early in the process), rather than to suffer a series of (predictable) defeats. Especially those methods prescribing three or more ballots should be expected to have a deterrent effect on running, or rather, to have the consequence of increasing the main parliamentary groups' incentives to try to agree on candidates through pre-voting talks and negotiations[38].

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36 Switzerland can be seen as exceptional.

37 For example, if the Condorcet candidate is some kind of "compromise" option with few first preference supporters (but strong support in second preferences), this candidate may easily lose under a plurality method, and easily fail to reach the last round of a restricted run-off.

38 As an example, assume the presiding officer is elected by a simple or absolute majority three ballot run-off, with a two candidate race at the end. Further, let three candidates run: A supported by 42 percent of the assembly, B supported by 38 percent, and

Finally, we note the absence of voting order problems in the electoral context. The selection of a particular candidate never depends on any specific order solutions (i. e. ordering of candidates) at the floor voting stage. Accordingly, because the entire procedure is fixed, agenda power, founded on voting order manipulation, is completely lacking. A further implication of this observation is that majority rule, in practice, is not allowed to wander anywhere (if we think of candidate programs and platforms as points in a multidimensional policy space). However, if the voting methods utilised really tend to encourage more informal, consensual decision processes, the importance of agenda setting is likely to re-emerge in the pre-voting phase.

Procedures for Voting on Ordinary Motions

Procedures for deciding on legislation or various policy issues differ from those described above. Two approaches to voting are predominant. Given multiple alternatives, motions are either voted one-by-one, or they are voted two-by-two[39]. In both cases, voting proceeds in some predetermined, known order. The two approaches mentioned are called the *successive procedure* and the *amendment procedure* (or elimination procedure). The latter method has gained comprehensive scholarly attention, mainly because it is used in the Anglo-American world, while the former has only been studied sporadically (I believe, partly because its diffusion throughout Europe has not been so well-appreciated). Let me define the procedures more precisely.

Suppose the legislators are to select one alternative from the fixed and finite set $X=\{x_1,x_2,...,x_m\}$ ($m\geq 3$). Alternatives are mutually exclusive options, meaning that motions and alternatives, in practice, need not be the same (Ordeshook and Schwartz 1987:183). The first problem faced is to determine a voting order. Let us assume a voting order beginning with x_1, and proceeding with x_2, x_3, etc. This point of departure is common to both of the procedures discussed. The successive procedure now works by voting the alternatives one-by-one, up or down, in the order specified. Thus, the first ballot clarifies whether a majority supports x_1

C supported by 20 percent. If no negotiations, no adjustments of preferences or no candidate withdrawals (or additions) take place, two completely identical ballots would be observed before the final run-off between A and B. Clearly is such a process costly. At least seen from the point of view of candidate C, it might be difficult to defend the decision to run at all (and incur the high costs of reaching a solution).

39 This must not be confused with the fact that parliaments often, if MPs disagree on the issues involved, consider laws article by article or section by section, before a potential formal vote to accept (or reject) the entire law (as amended).

or not. If the single alternative receives a majority of votes, it is adopted and no more votes need to be taken. If, however, a majority decides against x_1, this alternative is eliminated from further consideration. The assembly moves on to the second alternative specified by the voting order selected. The third stage of the voting process is only reached if x_2 is voted down. Voting proceeds until one alternative obtain a majority. At least one of the alternatives remaining at the last possible step, i.e. alternatives x_{m-1} and x_m, has to be the legislature's decision, if no single alternative at earlier stages of the voting process has been able to attract a majority. In reality, what happens during the process is a series of successive comparisons of single alternatives with more and more reduced subsets of alternatives (i.e. first $\{x_1\}$ versus $\{x_2,...,x_m\}$, then $\{x_2\}$ versus $\{x_3,...,x_m\}$, and so on until $\{x_{m-1}\}$ versus $\{x_m\}$). The number of ballots needed before an outcome is produced depends on legislative preferences. Given m alternatives to choose from, only one ballot may suffice, and m-1 ballots are carried out at most[40]. In the successive framework, it is possible to have several alternatives eliminated in one vote. Actually, no alternative but the first in the voting order has any guarantee of being voted up or down as a single motion[41].

Figure 15.2a illustrates the procedure in a three alternative setting. The example may be related to the spatial game of Figure 15.1 if we call the status quo x_3; for some reason not concerning us here, we assume the assembly votes on the alternative set $\{x_1,x_2,x_3\}$. Given the location of ideal points and three alternatives in policy space, alternative x_1 is a Condorcet winner[42].

The amendment (or elimination) procedure proceeds by comparing pairs of alternatives. Given $x_1x_2x_3$...etc. as the voting order, x_1 first meets x_2. The winner of this contest is paired against x_3, which was the third alternative of the

40 Only one ballot is taken if one of the alternatives is supported by a majority, and this alternative is voted first. The same also may happen if (some) voters vote strategically, e.g. in cases where a Condorcet winner (lacking a majority in first preferences) is voted first.

41 Ordershook and Schwartz (1987:182) use the name "sequential-elimination agenda" for this procedure. We note, however, that alternatives are eliminated one by one in an ordered sequence only in those cases where the *m-1*th ballot is reached, and in that sense the name suggested by Ordeshook and Schwartz is unfortunate. (The authors note that the procedure is used by the U.S. Senate to vote on personnel questions.)

42 Actors A and B have preferences $x_1>x_3>x_2$; actor C has $x_2>x_1>x_3$; actor D has $x_2>x_3>x_1$; and finally, actor E has $x_3>x_1>x_2$. The collective preference, thus, is $x_1>x_3>x_2$ (with x_1 as majority winner). In other words, we observe "stability" in actual voting as long as the process is restricted to the three alternatives mentioned, although, of course, the win set of x_1 is not empty.

Figure 15.2: The Successive Procedure (a) and the Amendment (Elimination) Procedure (b) Using Voting Order x_1, x_2, x_3

voting order. The majority winner at this second stage then goes on to meet the fourth alternative on the list, and so on. With m alternatives on the agenda, exactly m-1 ballots are carried out. During the voting process, alternatives are always eliminated one-by-one, and in this sense, we are dealing with a strict sequential-elimination process. No winner is selected before the final ballot; victories at earlier stages are only preliminary. Figure 15.2b shows the structure of the amendment (elimination) procedure.

Table 15.5 indicates the main approaches to voting on multiple alternatives in parliaments in Western Europe. I say main approaches, because (with the exception of Scandinavian countries) the table is not constructed on a close inspection of voting practices[43]. Thus, it is not possible to tell just how stringently the two procedures, defined above, are applied in day to day proceedings.

43 The table is produced on the basis of information provided by country specialists and in most cases it is checked with other sources (other informants or literature). One possible source of misclassification however should be mentioned. Because parliaments often vote laws in smaller parts (e.g. article by article), it is possible to misinterpret this practice and say that a successive procedure is used, although, in fact, the parliament lean on an amendment (elimination) procedure. To misinterpret the successive approach as one of amendment (elimination) voting should be much less likely.

Table 15.5: Method for Voting on more than Two Alternatives or Possible Outcomes (Single or Lower House)

Country	*Voting procedure (main approach or structure of sequential voting)*	*Status quo always voted last*	*Norm ist to vote on the most extreme alternative first*	*Regulation on voting order found in formal rules (Standing orders)*
Austria	SP	No	Yes	Distribution of opinions
Belgium	SP	No	No	
Denmark	SP	No	Yes	
Finland	A/E	Yes	Yes	
France	SP	Yes	Yes	
Germany	SP	Yes	Yes	
Greece	SP	Yes	Yes	Chronological order of submission
Iceland	SP	No	Yes	
Ireland	SP	Yes	Yes	
Italy	SP	Yes	Yes	Amendment most contrary to bill is voted first
Luxembourg	SP	No	No	
Netherlands	SP	Yes	Yes	Amendment containing the widest implication will precede
Norway	SP	No	Yes	Logical order
Portugal	SP	No	No	Order of submission
Spain	SP	No	Yes	
Sweden	A/E	No	No	
Switzerland	A/E	Yes	No	
United Kingdom	A/E	No	No	

Key:

SP = Successive ("one-by-one") procedure; alternatives are voted one by one in a predetermined order until one of them receives a majority of votes

A/E = Amendment/elimination ("two-by-two") procedure; alternatives are voted two by two in a predetermined order (at each stage, one alternative is eliminated and the other meets a new alternative until all alternatives have been introduced)

Consequently, we cannot say how frequently assemblies deviate from using the main procedures[44]. From the table, however, the successive procedure appears most common. Only four countries use the amendment (elimination) procedure (also used in the U.S. Congress): the UK, Switzerland, Sweden and Finland.

Does it matter which procedure is used? Which one is best suited for parliamentary decision making? It is not possible to give simple answers to such questions. Let me point to some relevant characteristics that should be considered. First, related to implementation and decision-making costs, amendment (elimination) voting easily grows more complex and impermeable to the decision-makers, as opposed to successive voting, as the number of amendments to decide on increases. Higher speed in voting is possible within the simpler successive framework. Second, however, the outcome of amendment (elimination) voting may be less dependent on the actual voting order selected than is the case by successive voting. This is true, at least, if a Condorcet winner exists (among the limited alternative set considered), and legislators do not vote strategically (given a voting order). Under these conditions, the amendment (elimination) procedure always picks the Condorcet winner. Assuming the preferences of Figure 15.1, voting orders shown in Figure 15.2 illustrate the point. The Condorcet alternative x_1 will lose under the successive procedure (i.e. x_3 wins), but not under the amendment framework, no matter whether it is introduced first or second. The Condorcet winner may, however, lose under successive voting if it is voted too early on in the sequence, meaning that it will be deprived of receiving enough subsidiary votes to win[45]. The higher degree of voting order dependency in successive voting, may also lead to increased power to those responsible for forming the voting order. Or, alternatively, to those most knowledgeable in these matters. Third, amendment (elimination) voting probably is the approach most

44 For instance, although the amendment approach dominates in the U.S. Congress, legislators also use several other agenda forms (Ordeshook and Schwarz 1987; cf. Sullivan 1984). In Norway, however, voting by other approaches than the successive method turns out to be extremely rare. Voting practices during the 19th century seem to have been more mixed. This observation, if true, may be seen as an effect of consolidation. It takes time to develop a consistent set of rules and norms guiding voting. Another explanation for the earlier rather mixed approaches to voting may be the fact that Norway was part of a union with Sweden (1814-1905), a country applying the amendment (elimination) procedure, while Denmark, using the successive procedure, had been the main influence for centuries.

45 The voting order, of course, is irrelevant to the result if one alternative (i.e. the Condorcet winner) has a majority of first preference votes. This is true for both procedures. Politically, however, the order or voting may be important under successive voting even if an alternative supported by a majority exists. Unless this alternative is voted last, the voting process will terminate before each and every alternative has had a go.

susceptible to strategy and skill by the voters. This has to do with the complexity of the procedure, allowing some voters to take others by surprise during the process of sequential elimination of single alternatives, which is an inherent feature of the procedure.

Clearly, the outcomes of parliamentary voting may depend on the choice of voting order. It has been argued to the effect that both under the successive and the amendment approaches, "the later any motion enters the voting order, the greater its chances of adoption" (Black 1958:40)[46]. Table 15.5 indicates some of the voting order rules found throughout Europe. First we note that it is not always the case to vote on the status quo last, as known from the U.S. Congress[47]. About half the countries do not render the status quo such an unambiguous, privileged position. On the occasions when the status quo is not voted on last, outcomes outside the win set of status quo become possible. Instead, as a norm, the focus is on seeing to it that the governmental bill, or this bill as fashioned by the relevant committee, is voted on last. Typically, then, status quo should only be expected as the legislative decision if it actually belongs to the win set of the governmental bill (or the original motion).

In several countries, it is customary to look at the content of motions, not only their formal properties (such as "original motion", "amendment to original motion", "amendment to the amendment", etc.). More specifically, if multiple alternatives exist, one tries to vote the most far-reaching or extreme alternatives first, and gradually approach the more moderate ones. This practice is most readily found in countries using the successive procedure, but is also sought in Finland, using an amendment method. Although definitions and interpretations of "most extreme" varies a lot, the norm can be defended on theoretical grounds. If the preferences of legislators are single-peaked or nearly so, singling out extreme motions for voting on first, according to the underlying policy dimension, results in the Condorcet winner as the outcome[48]. Furthermore, no

46 See Niemi and Gretlein (1985); Niemi and Rasch (1987); Jung (1990).

47 Note that lack of a norm saying that status quo is always voted on last, does not necessarily imply, for example, that the status quo is taken first. Neither does it prevent the status quo from often being voted on last.

48 Note that in our example related to Figure 1 and 2, restricting the choice parliament can make to x_1, x_2 and x_3 (status quo) only, preferences offer these alternatives are nearly unidimensional, or semi-single-peaked (Niemi 1983; Rasch 1987). If the alternatives are ordered $x_3x_1x_2$ on an axis, a majority of preference curves slope downward to the left of x_1 *and* a majority of curves slope downward to the *right* of x_1, making x_1 a majority winner.

Table 15.6: Voting Order Proposals

Country	*Initial proposal on the order of voting by*	*Opportunity for a floor majority to revise the initial proposal on voting order*
Austria	P	Yes
Belgium	P	Yes
Denmark	P	Yes [1)]
Finland	P	Yes
France	G, P [2)]	No
Germany	P	Yes
Greece	P	Yes
Iceland	P	Yes [1)]
Ireland	G, P	No
Italy	P	No
Luxembourg	P	Yes
Netherlands	P	Yes
Norway	P	Yes
Portugal	P, C	Yes
Spain	P	Yes
Sweden	P	Yes
Switzerland	P	Yes
United Kingdom	P	No

Key:
P = Presiding officer(s), e.g. the Speaker or President of the assembly
C = Committee chairman
G = Government

Notes:
1) A proposal to change the initial order of voting has to come from a group of legislators, not single MPs.
2) Presidium is only responsible for proposals initiated by members of parliament which have been accepted by the government.

actor will gain by voting strategically (Hylland 1976, see also Rasch 1987)[49]. The conclusion covers both successive and amendment voting. As indicated by the last column of Table 15.5, parliaments tend to have rather vague formulations concerning the principles of voting order formation in their Rules of Procedure. This is not surprising as far as successive voting is concerned. The procedure is highly vulnerable to the choice of voting order, and to lay down very precise formal rules about the order would easily produce a result unacceptable to legislative majorities. So, for instance, it would be more difficult to get Condorcet alternatives adopted. Very specific formal rules would also easily come into conflict with the extremity-norm.

Table 15.6 shows that agenda setting in parliament in Western Europe is not monopolistic. In almost all countries, presiding officers are granted the task of suggesting how to vote. Other actors will be consulted in this process, if difficulties or doubts arise. Legislators, either as individuals or small groups, will normally be free to suggest alternative ways to vote, with floor majorities then making the final decision. With few exceptions, agenda setting is decentralised and controlled by the majority. Empirically, we should not expect frequent conflicts over the choice of voting orders for two reasons. First, because in many systems complex multi-alternative situations are, of course, quite rare. Second, because in forming the agenda, presiding officers will most likely try to anticipate whether it will be revised on the floor, and thereby try to avoid agendas that a majority will not accept. It is in their own interest not to create conflicts and potential defeats on voting order proposals.

Concluding Remarks

The aim of this chapter has been to document the various voting rules used by parliaments in Western Europe. The procedures discussed guide both the selection of candidates and choices among motions. In the first part of the discussion, it was clarified that most parliaments, most of the time, operate on simple majority rule. Majority requirements are often more demanding in voting on constitutional amendments, and occasionally in dealing with no confidence motions and investiture decisions.

The last part of the paper discusses complications arising in situations where parliament has to deal with multiple alternatives, be they candidates (election of presiding officers) or ordinary motions. Elections are often decided by various

49 Heckscher (1892) discusses the practice of voting extreme motions first. The way he defends it is close to anticipating Black's (1958) median theorem.

run-off procedures. With respect to ordinary motions, we found the use of the successive procedure to be more widespread than the familiar, Anglo-American amendment (elimination) procedure. In applying the procedures, it is not always the case that the status quo is voted on last. Parliaments often proceed after the manner of considering the most far-reaching or extreme proposals first. Generally, the successive procedure is likely to be more advantageous to governments, i.e. by making their bills easier to adopt, than the amendment (elimination) procedure.

As the analysis rests mainly on institutional data, it strongly needs to be elaborated with adequate data on actual voting practices. This is needed as much to be able to describe actual procedures in more detail (and to draw interesting inferences), as it is to get a reasonably firm understanding of how frequently difficult cases of preference aggregation emerge on the floor of parliaments.

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16

On Dogs and Whips: Recorded Votes[1]

Thomas Saalfeld

> Every dog is allowed one bite, but a different view is taken of a dog that goes on biting all the time - if there are doubts that the dog is biting, not because of the dictates of conscience but because he is considered vicious, then things happen to that dog. He may not get his licence returned when it falls due. (Harold Wilson MP, 1967) [2].

1. Introduction

There have been many attempts to develop empirically meaningful definitions of the role of assemblies in modern parliamentary systems of government. It has been emphasised that the name "legislature" is misleading because for a large part of the time parliaments are not devoted to law making at all (Wheare 1963:1). With the growing scope and complexity of state activity, legislation has become pre-eminently a function of the government. In modern parliamentary systems of government, virtually all major legislation is drafted in government ministries. The passage of government legislation through parliament is usually assured as long as cabinet ministers control the chamber via disciplined parliamentary majority parties - whose leading members they usually are. It has been pointed out, therefore, that most assemblies are very aptly called "parliaments" -

1 I owe thanks to Mark R. Thompson and the members of the "international team" for critical comments on an earlier draft of this article, as well as to Jorge E. Corbalán for research assistance. The "Mannheim team's" (Herbert Döring, Evi Scholz and Mark Williams) support was invaluable. I also wish to thank Kieran Coughlan, Michelle Grant, Brian Farrell, Philip Norton and Eunan O'Halpin for their advice while collecting and checking data for the project. Needless to say, any error or opacity remaining is my responsibility alone.

2 The Times, 3 March, 1967.

places where talk is carried on. Indeed, the communicative functions of parliaments have always been extremely important. For example, three out of the five functions Walter Bagehot (1963:150-154) identified as characteristic of the British House of Commons in 1867 were purely communicative ones - namely the "expressive", "teaching" and "informing" functions.

Nevertheless, parliaments remain important decision-making bodies. They are, "if not actually, at least potentially superior to other law-making bodies. [...] The last word about what the law is to be rests with the assembly" (Wheare 1963:3). Cabinets, informal coalition committees, bureaucrats and representatives of powerful interest groups unquestionably command superior resources at the various stages of the legislative process. Yet parliaments - especially the parliamentary majority party (or parties) - retain not only the ultimate power of "making" and "unmaking" the government, but also the power of "making the government behave" (Wheare 1963:92-143). These powers are at least reserve powers at the disposal of parliamentarians. Empirical studies of back-bench behaviour in the British House of Commons (Norton 1975; 1978; 1980) and the German Bundestag (Saalfeld 1995a) show that party leaderships cannot take "their" backbenchers' support for granted. Back-bench resistance may force governments to make concessions in order to avoid losing a bill. Even charismatic heads of government cannot afford to be exceedingly unresponsive *vis-à-vis* their backbenchers. Margaret Thatcher's lack of responsiveness over the poll-tax issue and her subsequent fall illustrates that parliamentarians' power to "unmake" the government is still a very real one - even in parliaments with a very strong degree of party unity[3]. Voting is the most important mechanism available to a parliament seeking to arrive at decisions. Votes are "[...] not the whole of the political behaviour of legislators, who may make important decisions on other occasions: in committees, for example, or in private conferences with their colleagues. They do, however, constitute the final actions taken on controversial issues, at least on those that were allowed to reach the floor" (Aydelotte 1977:13). A vote can be defined as an "act of indicating one's preferences among competing policies or candidates" (Finer 1987:631). Individual votes are aggregated, and the policy or cause supported by a majority prevails. "From a vote, a majority emerges on the matter under discussion and, according to democratic principles, the opinion of the majority overrides that of the minority and becomes binding on all citizens" (Inter-Parliamentary Union 1986:475). Although voting and decision-making according to majority rule is by no means

3 Admittedly, Margaret Thatcher did not fall because she lost a vote in the House of Commons. Nevertheless, she lost office because she had lost the confidence of a majority in the Conservative 1922 Committee.

the only decision-making mechanism parliamentary chambers employ, alternatives such as bargaining, settlement by compromise or mutual adjustment are often time-consuming and tend to increase decision-making costs (Buchanan and Tullock 1962:69). Therefore, majority voting remains an indispensable mechanism of aggregating individual or party preferences to authoritative collective decisions.

Parliaments use various methods of voting. Members of Parliament may be requested to vote secretly so that an aggregate result emerges without revealing each Member's preference. Alternatively, they may be asked to make their voting decisions in public. In this case, their votes may, or may not, be recorded in the minutes of parliament. The way a chamber votes matters. The use of particular voting methods may affect a parliament's efficiency as a decision-making body. The publicity of recorded votes, for example, helps the party whips in their task of "keeping the temperature of back-bench opinion and pressing Members into the lobbies" (Butt 1967:71). Therefore, recorded votes tend to enhance party unity and, as a consequence, reduce decision-making costs in parliamentary systems of government. On the other hand, recorded votes may be time-consuming and their frequent use may reduce a chamber's efficiency. As one observer summarised, a frequent criticism of the 1960s House of Commons was that: "Much of the 'ceremony' of the House is regarded as pointless and time-wasting; so is the long and tedious process of voting in the Division lobbies. The House not infrequently indulges in all-night sittings in which Members have to hang about simply to record their vote." (Butt 1967:19)

Focusing upon lower chambers at the national level, this chapter will address the following questions:

- What types of secret, semi-public and public votes are used in our sample of parliaments? (section 2)
- Why are recorded votes used more frequently in some parliaments than in others? Are variations in the frequency of recorded votes a function of variations in the intensity of competition between majority and minority in parliament? (section 3)
- What is the function of recorded votes in West European parliaments? Do they make any difference in the way decisions are made and, above all, in the legislative output that certain parliaments produce? (section 4)

2. Voting Methods in Legislatures: A Survey

The ancient Greeks voted by casting a pebble in an urn. Modern parliaments employ a variety of voting procedures. All of them are "safeguarded by rules designed on the one hand to eliminate any possibility of error or fraud and, on the other hand, to ensure by publication of the vote that the electorate is informed of the actions of their representatives" (Inter-Parliamentary Union 1986:475). All types of voting disclose some information on the behaviour of MPs. Yet, different types of voting disclose different degrees of information on the behaviour of *individual* members of parliament. The information may range from a parliamentary chairman's vague guess estimating the aggregate outcome of a vote to a precise division list, specifying, for each member, the way he or she voted. Voting procedures can be grouped into three categories according to the degree of information each method discloses about the positions taken by individual deputies: (1) closed or secret voting, (2) semi-open or anonymous voting and (3) open or public voting (recorded votes).

(1) *Closed or secret voting:* Perfect closed voting is exceptional. The vast majority of parliamentary decisions are taken in public (for data see Inter-Parliamentary Union 1986:475). Secret voting is usually only applied to cases in which the legislature exercises certain constitutional prerogatives, in which it checks the credentials of a Member, unseats a Member, or in which it operates as an electoral body, that is, when it elects either its own officers or its representatives in other bodies. In most cases, secret votes are carried out by issuing ballot papers bearing the names of candidates or the alternative proposals to be decided on. These ballot papers are inserted by each Member into unmarked envelopes which, in turn, are placed in a ballot box. "When a vote is secret, there is no way of knowing how any individual Member has voted. The most that can be done is to check the Members' names to ensure that they have voted only once" (Inter-Parliamentary Union 1986:476). Thus, closed voting gives the researcher virtually no information about the behaviour of individual Members of Parliament. Closed voting provides individual Members of Parliament with a greater freedom of choice, because this method does not allow the party whips to monitor individual voting behaviour. Accordingly, the maintenance of complete party unity is often difficult when closed voting is used. The German Bundestag, for example, formally elects the head of government, the Federal Chancellor, in a secret vote. In none of the 17 secret elections between 1949 and 1994, has a (West) German Federal Chancellor managed to secure the complete support of all members of the governing parties, even when government majorities were extremely narrow.

(2) The majority of votes in most West European chambers are taken by *semi-open or anonymous voting:* Voting of this type is open, in the sense that it occurs in the presence of people who have come to listen to speeches. It is closed, in the sense that it may not reveal the voting position of each individual Member of Parliament because the votes of individual deputies are not recorded. The use of these methods of voting may help the House to save time and give a certain measure of anonymity to the decisions taken. Party whips are able to monitor Members' voting behaviour, but, in large parliamentary parties, it is difficult for them to control absences. Distinguishable subtypes of anonymous voting are voting by (a) assent, (b) voice, (c) show of hands, (d) rising in places and (e) unmarked ballot papers, balls or tokens:

(a) Voting by assent is used if there is only one proposal. This time-saving device is frequently used in the parliaments of Denmark, Norway, Spain, Sweden and the United Kingdom.

(b) Voting by voice: The chair requests Members of the House to indicate their views by calling out "Aye" or "No" at the right time. The opinion expressed the loudest is regarded as being the opinion of the majority. Obviously, it is often difficult to estimate which side prevails. Therefore, voice votes are frequently challenged. Their use is limited to uncontroversial matters. Yet, even in supposedly adversarial chambers, a large number of motions are indeed uncontentious (see, e.g., Rose 1984:74-91; Schindler 1988:571-572; Nienhaus 1985). As a time-saving voting method, voice votes are frequently used in Sweden and the United Kingdom (see Inter-Parliamentary Union 1986:476-477).

(c) Voting by show of hands: "This method is more reliable than oral voting because it allows a rough count of those for and against a question and is used when a public ballot is not expressly required by the Constitution or by the rules of procedure" (Inter-Parliamentary Union 1986:477). Voting by show of hands is a frequent method in France, Germany, Greece, Iceland (until 1992 when the electronic vote was introduced), Italy, the Netherlands, the Swiss upper house (Ständerat) until 1994 when the electronic vote was introduced and the European Parliament.

(d) Voting by rising in places (sitting and standing): This method resembles voting by show of hands, but is more accurate. It is often used to check a vote taken by show of hands or voice voting (Inter-Parliamentary Union 1986:477). Some legislatures elaborate this method by having the "Ayes" and "Noes" move to opposite sides of the chamber to be counted, or by having them move successively in two groups down the centre aisle. Like voting by show of hands, voting by rising in places is useful in small chambers (where counting does not require a great deal of time) and in parliaments where Members have their own allotted

seats. The method is less useful in large chambers, like the British House of Commons, where Members do not have their own seats. It is used in Austria, Belgium, Denmark, Finland, France, Greece, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom (rarely), the Swiss lower house (Nationalrat) until 1994 (since 1994 electronic voting system) and in the European Parliament. The German *"Hammelsprung"* method may superficially resemble a division as Members are requested to walk through one of three doors for "Aye", "No" and "Abstention" and are counted as they emerge from the respective door. Yet, in a *"Hammelsprung"* only the numbers of Members supporting a motion, opposing it or abstaining are counted. The names are not recorded. Therefore, it has to be counted as a method of anonymous voting.

(e) Voting by unmarked ballot papers, balls or tokens: The fourth form of anonymous or semi-open voting is by voting papers not bearing the name of the Member who casts his vote, or by balls or tokens differing in colour according to the way the Member wishes to vote (Inter-Parliamentary Union 1986:477). In France, unmarked ballot papers are used as a means of anonymous voting in so-called "ordinary public polls".

The amount of information on individual decisions provided by this method is limited as individual decisions are not recorded. When voting by voice, show of hands or rising in places, the final result is usually estimated by the chair without any appreciable degree of precision. Some methods, such as voting by unmarked ballot papers, balls, tokens or "*Hammelsprung*", are relatively precise, but time-consuming. Sometimes anonymous voting methods leave room for dispute by Members about whether they have been counted on the right side or not. Except for the German "Hammelsprung" and anonymous voting by electronic machine, semi-public voting methods do not produce results precise enough to determine the outcome if a voting decision requires an absolute majority of Members, or if there are doubts whether the House had the quorum. In case of a dispute, the chair often orders an open or public vote.

(3) *Open or Public Voting:* In open voting, the individual positions of deputies are recorded in the minutes, or, alternatively, in the data archives of parliament (e.g., in Denmark and Sweden). This voting method "is more time-consuming and can provide an opportunity for obstruction, but it makes it possible for the names of the Members and an indication of how they have voted to be recorded in the official report or the minutes of proceedings of the House" (Inter-Parliamentary Union 1986:477). Recorded votes are often used when the quorum is to be checked or when an absolute majority is required for a certain decision to take effect. According to the European Parliament's Rules of Procedure, for example, a recorded vote must be held in such cases.

Methods of open voting include voting by (a) division, (b) roll call, (c) paper ballot and (d) electronic machine.

(a) Voting by division: The members divide along the lines of "Ayes" and "Noes". They then walk through division lobbies, their names being noted by Clerks and their numbers counted by tellers as they emerge from these lobbies. This method is used in the British House of Commons and the Irish Dáil as well as a number of other countries following the British practice. Voting by division is time-consuming. It takes ten to fifteen minutes to register a division in the British House of Commons, "the result of which in most cases, is a foregone conclusion" (Wheare 1963:31). As there are usually more than 1,000 divisions per parliamentary term in the House of Commons (Saalfeld 1990a:20), the aggregate loss of time is substantial. Therefore, voting by division has been variously criticised by prominent Members of Parliament. In 1930, David Lloyd George, for example, described it as "barbarous", "[u]ncomfortable and inconvenient" when giving evidence to the Select Committee on Procedure considering how parliamentary time might be saved (quoted in Wheare 1963:31).

(b) Voting by roll call: Members announce their vote as their names are called and the replies are recorded. Like divisions, roll calls are usually a lengthy procedure and can take up to an hour. Therefore, they can provide an opportunity for obstruction by a disgruntled minority. The roll call is used in Belgium, Denmark, Greece, Iceland (until 1992), Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Switzerland until 1994 (since 1994 electronic machine) and the European Parliament.

(c) Voting by paper ballot: Members register themselves and their voting positions on slips of paper. The chair sometimes combines ballot voting with roll call voting by having members mount the rostrum, as their names are called, and place their voting slips in a ballot box. This method is used in Austria, Finland, France and Germany. It is also relatively time-consuming and usually employed in those parliaments where the use of recorded votes is infrequent.

(d) Voting by electronic machine: Members register their votes on a series of buttons located in front of them. Results are computed and reported immediately, usually on a screen on a wall of the chamber. This method has the advantage of speed and accuracy, as it saves time and avoids disputes. Moreover, Members themselves can see that their votes have been correctly recorded. Nevertheless, Members with a repugnance for mechanical devices often argue that electronic voting devices open up possibilities of fraud, breakdown or mistakes. Yet, most parliaments that have adopted them, show no desire to give them up. One exception is the German Bundestag where electronic voting was introduced in 1970 and abolished in 1973 (Schindler 1983:775). Electronic voting machines are

used in many countries including Belgium, Denmark, Finland, France, Iceland, Italy, Luxembourg, Norway, Spain, Sweden, Switzerland and the European Parliament.

Some parliaments employ other forms of voting like *voting by proxy,* pairing or drawing lots in the case of an indeterminate outcome. Voting by proxy is prohibited in most countries with the exception of France and Luxembourg. In the British House of Commons a proxy is allowed for Members incapacitated by illness, provided they are in the House precincts. One of the main objections against proxy voting is that it encourages absenteeism, which seems to be the case in the French Assemblée Nationale. On the other hand, it has the advantage of eliminating surprise votes, especially when the government majority is small. To some extent the practice of *"pairing"* lightens the Members' burden of having to be present in order to vote. If Members of Parliament intend being absent from the House, they may ask a Member from an opposite political group not to take part in votes during their absence, so leaving the balance between the majority and the minority unaffected (Inter-Parliamentary Union 1986:478). This system can be based on reciprocal personal agreements between individual Members (like in the United Kingdom), or between leaderships of the parliamentary parties (like in Sweden or Germany during the 1970s). Some parliaments (the Icelandic Althingi and the Swedish Riksdag) allow the use of the *lot* in the case of tied votes. Table 16.1 summarises the different methods of voting used in our sample of 19 parliaments.

Most parliaments under consideration use at least one method in the three categories of secret, anonymous and recorded voting. Only the parliaments of Denmark, Ireland, Italy (secret vote abolished in 1988) and the United Kingdom do not use the secret vote at all. However, secret votes are exceptional in all chambers. In most cases, their use is restricted to parliamentary elections and political appointments. In the Austrian, Portuguese and Spanish parliaments, a secret vote is also held if demanded by a specific number of Members. These secret votes are usually cast on ballot papers.

The vast majority of votes are semi-public (anonymous) or public. Each parliament employs at least one kind of anonymous and public voting. The most frequently used method of anonymous voting is by rising in places. Recorded votes are usually cast either by roll call or electronic machine. Yet, the use of electronic voting machines does not necessarily mean that individual voting decisions are printed in the minutes. In Denmark and Sweden, for example, individual votes are stored in computerised data banks in the parliamentary archives. The parliaments of Denmark, Iceland, Luxembourg, Norway, Spain and the European Parliament also use the electronic machine for anonymous voting. In this case, the precise result of a vote is displayed, whilst the voting decisions

Table 16.1: Methods of Voting in West European Parliaments (1970 - 1994)

Parliament	*Secret Votes*			*Anonymous Votes*						
	Ballot papers	*Balls in different colours*	*Electronic machine*	*Voice*	*Show of hands*	*Rising in places*	*Ballot papers*	*Division*	*Electronic machine*	*Assent*
Austria	●					●				
Belgium	●					●				
Denmark						●			●	●
Finland	●					●			●	
France	●				●	●	●		●	
Germany	●				●	●		●		
Greece	●				●	●				
Iceland	●				●				●[1]	
Ireland										
Italy	[2]				●			●	●	
Luxembourg	●					●			●	
Netherlands	●				●	●				
Norway	●					●			●	●
Portugal		●				●				
Spain	●	●				●			●	●
Sweden	●			●		●				●
Switzerland	●				●[3]	●[4]			(●)[35]	
United Kingdom				●		●				●
European Parliament	●				●	●			●	

1) Introduced 1992.
2) The method was abolished in 1988.
3) Only in the upper house (Ständerat).
4) In the lower house (Nationalrat) until 1994.
5) In the lower house (Nationalrat) since 1994.

Parliament	*Recorded Votes*				*Other*
	Division	*Roll call*	*Ballot paper bearing MP's name*	*Electronic machine*	*Lot*
Austria			●		
Belgium		●		●	
Denmark		●		●	
Finland			●	●	
France			●	●	
Germany			●		
Greece		●			
Iceland		●		●	●
Ireland	●				
Italy		●		●	
Luxembourg		●		●	
Netherlands		●			
Norway		●		●	
Portugal		●			
Spain		●		●	
Sweden				●	●
Switzerland		●[6]		(●)[7]	
United Kingdom	●				
European Parliament		●		●	

6) Until 1994.
7) Since 1994.

of individual MPs are not published. Except in those parliaments where electronic machines are used, recorded votes are time-consuming. Therefore, methods of anonymous voting such as voting by show of hands or rising in places are often preferred, especially when a decision is uncontentious or not highly politicised. The practice in the British House of Commons is typical for most parliaments: The Speaker first attempts to gather which way the majority opinion lies by a simple process of interrogation and acclamation (voice vote). If this estimate is disputed, or if a major party wishes to divide the House, the Speaker is forced to call a division (Taylor 1979:76-77; Griffith et al. 1989:207)[4]. Similarly, in the Norwegian Storting voting proceeds in the following way: if the Chair expects a unanimous decision, he or she will ask members opposing a proposal to indicate this by rising in their places. If no one opposes a proposal, the decision is made. On all matters, where there is disagreement, an electronic vote or a roll call is carried out (Rules of Procedure, Article 44). Only on important matters, such as amendments to the Constitution or no-confidence motions, is it customary to perform a roll call.

Although the use of recorded votes is restricted in most parliaments, there are interesting quantitative variations in the use amongst our sample of 18 national parliaments. Some parliaments, such as the British House of Commons, the Danish Folketing, the Norwegian Storting or the Swedish Riksdag, witness more than 1,000 recorded votes per parliamentary term. In other chambers, like the Austrian Nationalrat or the German Bundestag during the 1960s and 1970s, only a handful of votes were recorded in each parliamentary session (year). As we do not have sufficiently accurate data on the frequency of recorded votes in each of the 18 national parliaments, the frequency of recorded votes in each chamber was measured on a dichotomised scale. The results can be found in Table 16.2.

The dichotomisation between those parliaments, where the use of recorded votes has been "frequent", and those, where it has been "exceptional", was carried out on the basis of the judgement of the country experts' responses. The dichotomisation into chambers where recorded votes are "frequent" and

4 There is a third possibility in the House of Commons. If the Chair believes that a division has been unnecessarily claimed - if, for example, a small minority, having been defeated in one or two divisions on a series of amendments to a bill, seek to press further amendments in that series to a division - he or she can require Members to vote by rising in their places (and so avoid time being taken up by walking through the lobbies) and can declare the result on that evidence. Although this procedure is rarely used, its availability is a protection against the use of divisions by a few Members for purely obstructive purposes. It is not suitable when a major party wishes to divide the House (Griffith et al. 1989:207).

Table 16.2: Frequency of Recorded Votes in West European Parliaments (1970 - 1990)

The use of recorded votes has been ...	
frequent	*exceptional*
Belgium	Austria
Denmark	Germany
Finland	Greece
France	Iceland (until 1992)
Ireland	Italy
Luxembourg	Netherlands
Norway	Portugal
Spain	Switzerland (until 1994)
Sweden	European Parliament
United Kingdom	

"exceptional" may seem arbitrary at first glance, but the data in Table 16.3 show that the differences are, in fact, quite stark, and a dichotomisation does seem justifiable. At one extreme, parliaments like the Danish Folketing or the British House of Commons show levels of recorded votes per parliamentary year that, at least, reach into the hundreds. In the Swedish Riksdag there have even been over 1,000 per parliamentary session (year). At the other extreme, in the parliaments of Austria, Greece, Italy and Switzerland, there have only been a handful of recorded votes.

What accounts for these differences? To some extent, the variation can be explained by technology: the use of electronic voting machines facilitates and speeds up the process of voting. Where electronic voting machines are installed, accurate results can be computed without much loss of time. Therefore, the number of recorded votes has usually increased in parliaments where electronic voting equipment was introduced. Between 1986/87 and 1990/91 there was an annual average of 51 recorded votes in the Icelandic Althingi. Since 1992, when electronic voting equipment was installed, the numbers have multiplied, because, since then, all votes have been recorded. In Finland, too, the frequency of recorded votes has grown since the introduction of the electronic vote. Prior to 1981, when electronic voting was introduced in the Danish Folketing, there were only a handful of recorded votes per year. After 1981, the number of recorded votes increased dramatically. Yet, the variance cannot be explained completely by technological change. The British House of Commons and the Irish Dáil do not employ electronic voting machines and still have a very high

Table 16.3: Number of Recorded Votes in Selected Parliaments, 1970-1990

Parliament	*Period*	*Average number of recorded votes per parliamentary session (year)*	*Remarks*
Austria	XIIth - XVIIth National Council, 1970-1990		
Denmark	Sessions 1970/71 - 1989/90		"Final votes" only.
Germany	7th - 12th Bundestag, 1972-1990		The average figure conceals a strong rise in recorded votes since 1983.
Greece	5th - 6th Parliament, 1985-1989		No data available for the time before 1985.
Iceland	Sessions 1986/87 - 1989/90		Since 1992 all votes have been recorded. Figures not available at the time of writing.
Italy	Parliaments 1972/76 - 1983/87		There was a much higher number of recorded votes in the two first Parliaments after 1945.
Norway	Storting 1989-93		
Sweden	Sessions 1971 - 1989/90		
Switzerland			
United Kingdom	Sessions 1970/71 - 1991/92		

number of divisions. In the German Bundestag, the number of recorded votes has risen to several hundreds per parliament since 1983 without any change in technology. There are important differences between West European chambers, and in the face of convergence in other areas, these differences call for explanation. In the following two sections, we shall look at cross-national and diachronic variations in the frequency of recorded votes. First (section 3), the number of recorded votes will be treated as a dependent variable. It will be explored

whether variations in the frequency of recorded votes are a function of variations in the intensity of competition between government majority and oppositional minority. Second (section 4), recorded votes will be treated as an independent variable. They will be used as a proxy measure of the monitoring capacity of parliamentary party leaderships. It will be investigated whether variations in the monitoring capacity of parliamentary party leaderships can help explain variations in the legislative output of a parliament.

3. The Role of Party Competition and Minority Rights

In some parliaments, such as the British House of Commons, the Danish Folketing, the Irish Dáil or the Swedish Riksdag, recorded votes are the standard way of voting. In others, where anonymous voting methods are predominant, recorded votes are often an expression of intense party-politicisation of an issue. Recorded votes may have initially developed to solve an agency problem and enable constituents to monitor the behaviour of their representatives. Today, they are frequently used as a weapon against political opponents, forcing them to declare in public their position on an issue of great political concern (Borgs-Maiejewski 1986:28). In those legislatures where recorded votes are *not* the standard way of voting, recorded votes may be used to embarrass or divide the "opposite side". As Loewenberg (1967:354) noted for the (West) German Bundestag:

> The 'management' of procedure [...] has tended to avoid recorded votes which would publicize divisions or abstentions within parties, or which for other reasons would embarrass the Members and incidentally, complicate the task of the whips. Only when a party hopes for political gain by exposing the contrast between its position and that of the others, or hopes to win allies in other parties by compelling Members to honor election promises or interest-group commitments, does it demand a recorded vote.

Thus, recorded votes may serve as a tactical device in the hands of the whips. If a recorded vote reveals intra-party or intra-coalition dissent, it will receive particular media attention, even in parliaments where recorded votes are very frequent. A parliamentary party - whether in government or opposition - may wish to highlight its own policy position *vis-à-vis* the position of a parliamentary opponent. Or it may be interested in exposing divisions within a competing parliamentary party to public light. To a certain extent, therefore, recorded votes are a weapon in the "*continuous election campaign* of the whole life of a parliament" (Butt 1967:23).

This leads us to a first hypothesis: if the use of electronic voting machines is controlled for, the frequency of recorded votes in parliament is largely a function of party competitiveness. The frequency of recorded votes should be relatively high in parliaments where the relationship between majority and minority is adversarial, that is, where parliament serves as an arena for the clash between cohesive government and opposition parties engaged in a permanent election campaign. Like in the "Westminster model", these parliaments are characterised by strong majoritarian elements, where the winner takes all, and the direct influence of minority parties is greatly reduced. The frequency of recorded votes should be relatively low in parliaments with a more consensual relationship between government and opposition parties. These are usually parliaments with a stronger emphasis on committee work. Although inter-party competition unquestionably exists in chambers of this type[5], there is a stronger emphasis on bargaining and unanimous decisions, allowing the minority more influence than in strongly majoritarian systems.

Before we "test" this hypothesis with empirical data from our 18 national parliaments, some concepts need to be clarified as does the general logic of our argument. According to Robert A. Dahl:

> [...] 'competitive' does not refer to the psychological orientations of political actors but to the way in which the gains and losses of political opponents in elections and in parliament are related. On the analogy of an equivalent concept in the theory of games, two parties are in a strictly competitive (or zero-sum) relation if they pursue strategies such that, given the election or voting system, the gains of one will exactly equal the losses of another. [...] two parties are strictly competitive in a legislature if they pursue strategies such that both cannot simultaneously belong to a winning coalition (Dahl 1967:336).

What institutional arrangements provide incentives for a competitive, majoritarian relationship between government and opposition in parliament? Comparative research has shown that conflict and competition in parliament may be structured by a variety of dimensions. Rudy Andeweg (1992), for example, investigates the patterns of conflict and cooperation between cabinet and parliament in the Dutch Staten Generaal. His analysis is based on King's (1976) distinction between different "modes" of executive-legislative relations. Although he admits that all lines of conflict, that he identifies, may coexist at the same time, he divides Dutch parliamentary history into distinct phases, separated by their "characteristic lines of conflict" (Andeweg 1992:167). The salience of par-

5 Indeed, Müller (1993:490) argues that co-operation and bargaining may be just a more sophisticated form of competition.

ticular lines of conflict is a good measure of party competitiveness in a parliament. The intensity of conflict between majority and minority will be *low* if parliamentary interactions and decision-making are dominated by:

(a) a *non-party mode,* where Ministers and Members of Parliament confront each other as members of two distinct institutions like in many 19th century constitutional monarchies and presidential systems of government,
(b) a *cross-party mode,* where a number of MPs and Ministers ally against a number of other deputies and Ministers, or
(c) an *intra-party mode* where the most salient line of conflict runs between a party's front-benchers (including its government ministers) and its own backbenchers.

By contrast, parliamentary party competition is highly adversarial if an *inter-party mode* is dominant: this mode is dominant in all Westminster-type parliaments and pits party against party; (ministers and) deputies of each party act as rivalling teams with a high degree of group solidarity unified in a permanent election campaign against (ministers and) deputies of other parties. Although limited competition may occur between the parties of a ruling government coalition, the *main* line of conflict will usually run between government majority and opposition parties (Andeweg 1992:162-163)[6]. Andeweg finds that a high degree of adversarial floor activity is correlated with the dominance of King's opposition mode (or, in Andeweg's terminology, inter-party mode) over non-party, intra-party and cross-party modes. Correlates of competitive government-opposition relations (or, for that matter, a parliament with a dominant inter-party mode) are minimum-winning coalitions, close links between ministers and their parliamentary parties (measured, for example, by the share of cabinet ministers recruited from parliament), a high degree of party unity in parliamentary votes, a high number of parliamentary interpellations, committee meetings, plenary sessions, amendments to bills, private members' bills, written parliamentary questions and parliamentary inquiries. Correlates of a more consensual parliamentary system (i.e., parliaments where the non-party, intra-party or cross-party modes are dominant) are oversized ("grand") coalitions, loose links between ministers and parliamentary parties, a relatively low degree of party discipline and a relatively low level of parliamentary floor activity (Andeweg 1992; Müller 1993). Recorded votes are not mentioned by Andeweg. Yet, as they facilitate a high degree of party unity and enhance the character of a parliament as a public arena,

6 Andeweg (1993:163) splits the inter-party mode into two submodes: In the opposition mode ministers and MPs of the governing majority confront opposition MPs. The intracoalition mode takes account of the interactions and the limited competition between parties that form a government coalition. In this article I assume that the opposition mode is usually the more important line of conflict.

their frequency should correlate with the competitiveness of parties in the chamber: chambers with a dominant inter-party mode should, on average, have a higher number of recorded votes than other parliaments.

There are several explanations for variations in competitiveness measured as the saliency of a particular "mode" of interaction in parliament. One explanation refers to the changing electoral environment in which parties compete. Andeweg, for instance, argues that the Dutch electorate became more volatile in the mid-1960s. Hence, the "parties were no longer able to take the loyalty of their voters for granted. Elections became heated battles for the floating vote. Polarisation between the parties increased, not just during election campaigns but afterwards as well, and this had a significant impact on the interactions between ministers and MPs" (Andeweg 1992:166-167). In other countries, too, the parties' electoral chances are said to depend increasingly on adversarial behaviour in and outside the parliamentary arena, involving attempts to attract media attention and to maintain party unity (see, e.g., the analysis of the Austrian case by Müller 1993:470).

The argument, then, is that a high degree of electoral volatility leads to increased party competition, which, in turn, encourages an emphasis on floor activities in the chamber that are effective as publicity. If recorded votes are considered to be amongst those floor activities directed at the general public, their frequency should increase with increasing electoral volatility. Table 16.4 is an eight-fold cross-tabulation of the frequency of recorded votes as the dependent variable, and the mean total electoral volatility between 1970 and 1990 as the independent variable. The impact of the intervening variable "electronic voting" is also controlled for. The total mean volatility is an aggregate measure for electoral stability in a party system. It measures the change - in absolute terms - in the aggregate vote for each party between two consecutive elections. These changes are aggregated for all parties participating in two consecutive elections and then divided by two. Subsequently, a mean value is calculated for each party system, taking into account all elections in a given period (here: ca. 1970-1990). For the purposes of this chapter, the volatility scores for each party system were dichotomised at the median, indicating whether a country's mean electoral volatility between 1970 and 1990 was above or below average. The theoretical expectation would be:

- The number of recorded votes is high in parliaments where the electronic vote is used regardless of the level of volatility.

Table 16.4: Correlation between Mean Total Volatility (1970-1990) and Use of Recorded Votes in Parliament

Electronic vote used			
Mean total volatility above average		*Mean total volatility below average*	
Recorded votes frequently used	*Use of recorded votes exceptional*	*Recorded votes frequently used*	*Use of recorded votes exceptional*
Spain (15.9) France (11.8) Denmark (11.7) Norway (10.6)	Italy (9.5)	Sweden (7.9) Luxembourg (7.6) Belgium (6.9) Finland (6.2)	

Electronic vote not used			
Mean total volatility above average		*Mean total volatility below average*	
Recorded votes frequently used	*Use of recorded votes exceptional*	*Recorded votes frequently used*	*Use of recorded votes exceptional*
	Portugal (13.7) Greece (12.2) Iceland (11.8) Netherlands (10.2)	United Kingdom (7.1) Ireland (5.5)	Germany (5.3) Switzerland (4.9) Austria (2.4)

Sources: Calculated from Mackie and Rose (1991).

- In parliaments where the electronic vote is not used, or where it is used only rarely, the following distribution should emerge: parliaments in countries with a total volatility above average should use recorded votes frequently, whilst parliaments in countries with a relatively low degree of volatility should also have a relatively low number of recorded votes.

The results of this cross-tabulation *do not* support the hypothesis that the frequency of recorded votes is a function of party competition at the electoral level. Table 16.4 demonstrates that the first expectation holds for all cases except Italy: Where electronic voting equipment is used, recorded votes are used frequently, regardless of the degree of electoral volatility. Yet, only three out of the nine parliaments that *do not* use the electronic vote (Germany, Switzerland and Austria) conform to the expected pattern, i.e., the frequency of recorded votes is, indeed, exceptional *and* the mean total volatility is below average. All other cases contradict our theoretical expectations: In the United Kingdom and Ireland, for

example, recorded votes are used frequently, *although* the mean total volatility between 1970 and 1990 was below average. By contrast, in Portugal, Greece, Iceland and the Netherlands, the use of recorded votes is exceptional, *despite* the fact that the mean total volatility was above average.

A second explanation of increasing parliamentary activism and competitiveness focuses upon the extent of minority rights in the chamber and the consequences of these rights for the nature and intensity of conflict between government and opposition. If the rules of procedure or parliamentary practice provide the minority with certain rights and veto powers, government-opposition relations will tend to be consensual, because the government is interested in securing the minority's cooperation. Majoritarian parliaments with few minority rights, a high degree of unilateral government control over the parliamentary agenda and strong party cohesion, both on the majority and minority side, provide little incentives for bargaining. The minority will concentrate its resources on the public clash on the floor of parliament. Andeweg (1992:171), for example, argues with reference to the Dutch case that "the dogs are barking more, because they are no longer allowed to bite". Dutch parliamentary parties can be shown to "become more active when they move from a governmental to an opposition role and less active when they move from the opposition to a governing coalition" Andeweg (1992:171). Moreover, with growing cabinet dominance over the parliamentary majority parties, "MPs in the governmental majority have also become more active. For them, barking is the only canine activity allowed" (Andeweg 1992:172). In other words, if the parliamentary minority's direct influence on the parliamentary decision-making process is only marginal, it has incentives to resort to indirect means such as attempts to influence public opinion (or to obstruct parliamentary business). Government backbenchers, too, may seek to increase their reelection prospects through enhanced publicity. This, so the argument goes, may lead to increased floor activity.

Parliaments with a majoritarian style create incentives for adversarial confrontation, parliaments with a more consensual style create incentives for bargaining and logrolling. To the extent that recorded votes are a weapon in the battle between majority and minority, they should be characteristic of majoritarian parliaments. The higher number of recorded votes would be a function of the higher total number of majority decisions, the higher degree of conflict between government and opposition and, possibly, a greater tendency on a powerless opposition's part to obstruct government business.

The logic of this argument has been developed in a more formal way by Buchanan and Tullock (1962:43-262) and Sartori (1987:223-232) using some concepts of game theory. The argument is based on the assumption that majority rule has the character of a zero-sum game: "A game is said to be zero-sum when

one player gains exactly what another player loses. The problem here is simply to win. [...] Contrariwise, a game is said to be positive sum when every player can win. If so, the problem ultimately becomes how to share and slice the gains" (Sartori 1987:224). If decisions are made by majoritarian criteria, the preference of the greater number prevails over the preference of the lesser number. The winner takes all. Majority rule has various advantages: it helps to reduce decision-making costs. When decisions for rapid or decisive change are required, a majority vote over clear-cut yes-or-no alternatives is more efficient than protracted bargaining. Yet, under certain conditions, majority vote can be inefficient. Consequent majority rule does not account for the unequal intensity of preferences. Majority rule gives each individual the same weight, that is, it equalises individual preferences with possibly very unequal intensities. If parliamentary majorities are cohesive and not permeable to the demands of the minority, there is a danger that certain substantive minorities (ethnic, religious, or other) are inexorably beaten when decisions come to a majority vote. Committees are often better suited to deal with the problem of unequally intense preferences and put them to efficient use. Committees are small face-to-face groups with a well-established, but flexible, operational code. Although committees often apply the majority principle in order to reach decisions, there is a stronger emphasis on unanimity here than on the floor of the chamber. Even in the select committees of the British House of Commons - a strictly majoritarian parliament - committee members from both sides of the House often attempt to agree on a single report, because agreed reports are believed to have greater impact than reports in which majority and minority are divided (see Saalfeld 1988:140-141)[7]. Although the majoritarian character of a chamber ultimately extends to its committees, there is more room for bargaining between majority and minority. According to Sartori (1987:229-230) a committee

> can be unanimous inasmuch as the distribution of the intensity of preference tends to change from issue to issue, so that every moment the members who feel less intensely about a problem are disposed to give in to the members who feel strongly about it. But this disposition needs, in turn, to be lubricated and reinforced by a return in due course, that is, on future decisions: Whoever concedes today expects to be paid back some other day (Sartori 1987:229-230).

Therefore, decisions made by committees can be positive-sum games. "The essence of a decisional system based on deferred reciprocal compensation is, in effect, that all the members of the group stand to gain and, moreover, that this

7 This is, of course, not true for the legislative Standing Committees in the House of Commons which are more rigidly majoritarian.

positive-sum game is a continuous one" (Sartori 1987:230). Where decisions are prepared or made in committees, such parliaments should be characterised by co-operation between government and opposition, because the minority has some opportunities to influence government policy and the parliamentary agenda (see, e.g., Sebaldt 1992:53-55). The "weapon" of publicity through parliamentary questions, adjournment debates, interpellations and recorded votes should be used less frequently than in parliaments with a majoritarian style.

As was mentioned earlier, the minority in a majoritarian chamber has little alternatives but to appeal to the public and thereby increase pressure on reelection-seeking government MPs. There is, however, a second important lever: time. An opposition, most of the times, outvoted by a disciplined majority, may exploit the fact that time is one of the scarcest resources in the chamber. Obstruction, or the threat thereof, can be used as a bargaining resource in order to gain concessions from the majority. The time-consuming nature of recorded votes can be used as a means of parliamentary obstruction at the hands of the minority. An opposition party may attempt to obstruct government business in the chamber by calling for a series of recorded votes if the House does not employ the electronic vote. If a large number of divisions or roll calls are demanded by the opposition, the government may lose a great deal of precious time in the chamber. One extreme example is the behaviour of the West German Green Party during the second and third reading of the Federal Motorways Bill in January 1986. In this instance, the House had to vote on 209 amendments tabled by the Greens, who also demanded a recorded vote in 51 instances. As one recorded vote on ballot papers takes about six minutes in the Bundestag, the voting procedure would have used up about five hours. Therefore, the Council of Elders (the Bundestag's steering committee) decided to record the vote on all 209 amendments and to use one single ballot sheet listing all amendments and allowing Members to accept or reject the amendments *en bloc*. The ballot papers were then processed with a computer. Thus the whole procedure took only 25 minutes (Schindler 1988:699).

In chambers with electronic voting, recorded votes do not take up a lot of time and are, therefore, unsuitable for obstructive purposes. In the 1991-92 session of the Swedish Riksdag, for example, there were 739 recorded votes taking up 24 of 560 plenary hours. Thus, each roll call actually took up less than two minutes[8]. In chambers using electronic voting machines, obstruction through the use of recorded votes is, therefore, virtually impossible. In order to prevent minorities from misusing the procedural device of recorded votes for obstructionist purposes, most of the other parliaments restrict the use of recorded votes

8 Information provided by Ingvar Mattson.

Table 16.5: Who Is Entitled to Request a Recorded Vote?

Parliament	*Individual MP*	*Minimum number of MPs*	*Parliamentary party*	*Majority of MPs*	*In situations defined by the constitution*	*In situations defined by the Standing Orders*	*Chairman*	*Government or government minister*	*Parliamentary committee*
Austria		≥ 20					●		
Belgium		≥ 12					●		
Denmark		≥ 17					●		
Finland		≥ 20				●	●		
France			●		●		●	●	●
Germany		≥ 5%	●						
Greece		≥ 5%					●		
Iceland	●						●	●	
Ireland	●								
Italy		≥ 20	●			●			
Luxembourg		≥ 5					●		
Netherlands	●								
Norway				●	●	●			
Portugal		≥ 10%		●					
Spain		≥ 20%	●(2)			●			
Sweden	●					●			
Switzerland		≥ 10[1)]							
United Kingdom	●								
European Parliament		≥ 23	●				●		

1) Upper house (Ständerat): 10; Lower house (Nationalrat): 30.

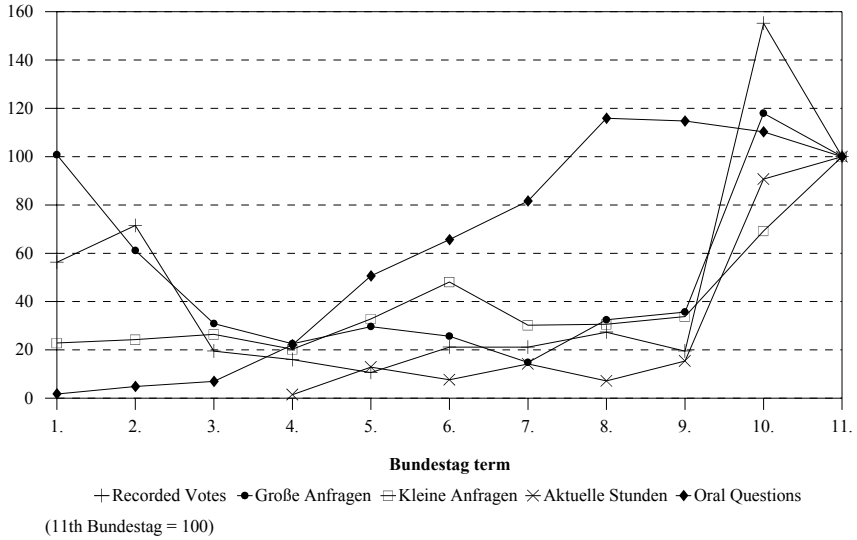
in their Standing Orders. Table 16.5 lists the most important regulations in each chamber restricting the use of recorded votes. In the Icelandic Althingi, the Irish Dáil, the Dutch Staten Generaal, the Swedish Riksdag and the British House of Commons, there are hardly any formal restrictions on Members' rights to call for a recorded vote. In these chambers, a recorded vote will usually be held if a single Member demands it. This may account for the very high number of divisions in the Dáil and the House of Commons. In the German and Greek parliaments, a recorded vote will only be held if it is demanded by at least five per cent of the House. In the Spanish parliament, the use of recorded votes is severely restricted. A recorded vote will only be held in cases defined by the Standing Orders, or if demanded by at least 20 per cent of Members or two parliamentary groups. Similarly, in Portugal, recorded votes are compulsory on certain matters clearly defined by the Standing Orders[9]. In all other matters, a roll call will only be held if it is requested by 10 per cent of Members and if that request is supported by a majority of the Portuguese chamber. In Norway, it is customary that roll calls (as opposed to electronic votes) are restricted to amendments to the Constitution and no-confidence motions. If a member requests a roll call in a different matter, this request has to be approved by the majority of the House. In most other chambers, the Standing Orders stipulate that a recorded vote cannot be held unless it is ordered by the Chair or demanded by a certain number of Members. Thus, there is considerable variation in the restrictions imposed on the use of recorded votes in the Standing Orders of the respective chamber. There is something like a continuum between those parliaments where each individual member can request a recorded vote (in Iceland, Ireland, the Netherlands, Sweden and the United Kingdom) and parliaments where the right to request a recorded vote is rather severely restricted (Spain, Portugal).

As was argued earlier, the frequency of recorded votes is to some extent a function of technology. Is it, nonetheless, possible to explain at least some of the cross-national variation by the decision-making style in parliament? The reason for assuming at least a certain causal relationship are correlations found in diachronic studies of some national parliaments. In the Austrian case, for example, the number of recorded votes per parliament seems to covary (albeit on a low level) with the type of government or government coalition. Wolfgang C. Müller (1993) argues that parliamentary behaviour in Austria is strongly influenced by two factors, namely "party system competitiveness" and "government type competitiveness". Government-type competitiveness is largely a function of the in-

9 These include the second deliberation after a Presidential veto, amnesties, the declaration of a state of emergency, the accusation of a President and the dissolution of the Regional Legislative Assemblies (Azores and Madeira).

clusiveness of a government coalition. In all-party coalitions such as the post-war (1945-47) coalition of ÖVP, SPÖ and KPÖ, government-type competitiveness was at its lowest. It has also been low under Grand Coalitions including the two major parties (1947-66 and 1987-). It increased under "small", i.e., minimum winning coalitions (e.g., the SPÖ-FPÖ coalition, 1983-87). It was high under single-party majority governments (e.g., the ÖVP government 1966-70 and the SPÖ governments, 1971-83) and, even more so, under single-party minority governments (e.g., the 1970-71 SPÖ minority government). To some extent, the frequency of recorded votes varies with these types of government coalitions. There was only one single recorded vote in the two decades between 1945 and 1966, i.e., in the period of post war all-party and grand-coalition governments. The numbers rose to an average of about five per year under the single-party ÖVP and SPÖ governments between 1966 and 1983. Figures have dropped since 1983 with the SPÖ-FPÖ (minimal winning) and the SPÖ-ÖVP (grand) coalitions to an average of about 1 per year.

Figure 16.1: Parliamentary Votes, Interpellations and Parliamentary Questions in Germany, 1949-1990



In the German Bundestag the frequency of recorded votes seems to be correlated with other indicators of inter-party competition. The number of recorded votes was highest when the conflict between government and opposition was most intense. Figure 16.1 demonstrates that the number of interpellations (Große An-

fragen) - one of the classical instruments in the clash between government and opposition in the Bundestag - correlates conspicuously with the number of recorded votes. One could, therefore, infer that recorded votes fulfil a similar function as interpellations - they are instruments in the public competition between majority and minority. The number of recorded votes and interpellations was relatively high in the early years of the Federal Republic (1949-1957) and after 1983. In the immediate post-war years with a relatively competitive SPD opposition and a number of small and radical opposition parties in the Bundestag (like the Communist Party and several extreme right-wing groups in the first Bundestag, 1949-53) as well as after 1983 with a highly competitive Green opposition, the number of recorded votes was relatively high. Between 1949 and 1957, the average number of recorded votes per year was about 38. Between 1983 and 1990, it was about 80. By contrast, during the Grand Coalition of the two major parties, CDU/CSU and SPD, the number was at its lowest with about eight recorded votes per year (Saalfeld 1995a). Both the 1949-57 and 1983-90 periods were characterised by a split opposition with small, radical opposition parties that were excluded from the consensual bargaining processes between the major government parties and the Social Democratic opposition (especially in the Council of Elders).

But does circumstantial diachronic evidence from Austria and Germany hold in cross-national comparison? In other words: does the frequency of recorded votes vary cross-nationally with the competitiveness of inter-party relations in the respective chambers? In accordance with Dahl's definition, competitiveness will be measured as the extent to which a parliament's work is based on majoritarian (i.e., zero-sum) principles. The extent to which majoritarian principles are enforced can be measured as the degree of government control over the parliamentary agenda. A dichotomous variable was created from Herbert Döring's Table 7.1 on government control of the parliamentary agenda (see Chapter 7). All parliaments ranked in the categories one to three are considered as parliaments with a high degree of government control. All chambers ranked in the categories four to seven will be treated as parliaments with a low degree of government control and/or relatively strong minority rights. In order to control for the effect of electronic voting, we will also distinguish between parliaments where the electronic vote is used and those in which it is not. The dependent variable is the dichotomised variable taken from Table 16.2, indicating whether recorded votes are used frequently or whether their use is exceptional.

Table 16.6 lists the results of this eight-fold tabulation. The initial hypothesis is moderately confirmed. In parliaments where electronic voting machines are used, the competitiveness of inter-party and government-opposition relations

Table 16.6: Correlation Between Government Control of the Plenary Agenda and Use of Recorded Votes [1)]

Electronic vote used *Government control*			
high *(1-3)*		*low* *(4-7)*	
Recorded votes frequently used	*use of recorded votes exceptional*	*Recorded votes frequently used*	*use of recorded votes exceptional*
France Luxembourg		Belgium Denmark Finland Norway Spain Sweden	Italy

Electronic vote not used *Government control*			
high *(1-3)*		*low* *(4-7)*	
Recorded votes frequently used	*use of recorded votes exceptional*	*Recorded votes frequently used*	*use of recorded votes exceptional*
Ireland UK	Greece Portugal Switzerland		Austria Germany Netherlands

1) Values from Table 7.1 dichotomized as high (1-3) and low (4-7).

is largely irrelevant as an explanation. For those parliaments where electronic voting machines are not used, the relationship between the competitiveness of government-opposition relations and the frequency of recorded votes seems to hold with three exceptions. Five out of eight entries are in the expected cells. The frequencies of recorded votes in the parliaments of Greece, Portugal and Switzerland contradict our theoretical expectations. Although the Greek, Portuguese and Swiss governments have relatively strong control over the parliamentary agenda, the use of recorded votes is exceptional in these parliaments.

4. Recorded Votes - a Weapon of the Whips?

The frequency of recorded votes can also be used as an independent variable. In parliaments whose formal or informal rules favour a relatively high number of recorded votes, the monitoring capacity of the parliamentary party leaderships *vis-à-vis* their backbenchers is stronger, and their control over individual Members' legislative activities is easier than in parliaments with a relatively low number of recorded votes. As will be argued further below, recorded votes are an important device at the hands of the whips to limit a Member's privacy and, in particular, to control the degree of absenteeism during votes. Why is monitoring important? Monitoring through the party whips - often described as villains twisting the arms of dissenting back-bench Members - helps to overcome "electoral inefficiencies" (Cox and McCubbins 1993:125) resulting from certain collective parliamentary dilemmas which are a familiar theme in public-choice theory. A collective dilemma can be defined as a situation where rational behaviour on the part of individual actors (e.g., individual Members of Parliament) can lead to unanimously "dispreferred" outcomes (Cox and McCubbins 1993:85-106). The concept of collective dilemma refers to the possibility of conflicts between individual self-interest (as postulated by rational-choice theories) and collective interest, a tension that occurs whenever human beings join forces to produce a *"collective good"*. Mancur Olson argues that the existence of common interests is insufficient to secure an optimal provision of collectively desired goods, if they are *non-excludable,* that is, if their supply cannot be restricted to those who contributed to the costs necessary for their provision. In most circumstances, therefore, rational actors should free-ride - that is, let other people incur the costs of collective action, while still receiving the same level of non-excludable goods (Olson 1965:5-52; Dunleavy 1991:31). Nevertheless, collective goods can still be provided if the group can utilise so-called *"selective incentives" apart from the collective good itself,* that is, positive inducements offered to those acting in the group's interest or negative sanctions punishing those who fail to bear an allocated share of the costs of group action. The use of selective incentives usually requires a group leadership, i.e., a central authority monitoring group members and stimulating them to act in a group-oriented way. The central authority itself may suffer from the free-rider problem unless there is an *unequal interest* in the collective good. Olson calls those groups, where at least some members have an incentive to see that the collective good is provided, even if they have to bear the full burden of providing it themselves, *"privileged" groups* (Olson 1965:49-51, 35).

In rational-choice theory, Members of Parliament are modelled as self-interested actors who - on average - want to maximise their own utility, that is,

their individual probability of reelection. The deputies' probability of re-election depends on their parties' reputations on the one, and their personal reputations on the other hand. The party's reputation is a collective good, individual reputations are private goods. According to the logic of collective action, deputies have strong incentives to undertake activities that enhance their own reputations (like pork-barrel politics) and to free-ride on their party's reputation. This may have several adverse consequences for the effectiveness of parliaments: it may lead to a lack of parliamentary group solidarity and, hence, undermine one of the central ideas of responsible party government: democratic accountability. It may also lead to an overproduction of particularistic-benefits legislation - pork-barrel politics that enhance deputies' personal chances of reelection - and an underproduction of collective-benefits legislation for the whole country (Cox and McCubbins 1993:123-125). This problem was quite clearly recognised by the Marquees of Salisbury (1830-1903) in an article (Saturday Review, May 9, 1857):

> On the conduct of the next few legislative campaigns will depend the issue whether the future government of this country is, or is not, to be party government. We shall ascertain whether we are to be ruled by an aggregate of minute factions, almost irresponsible from their obscurity, or by the representatives of broader national phases of opinion.

It seemed clear to the three-time British Prime Minister between 1885 and 1902 that since 1846,

> votes are given for selfish and sectional ends. Private gratitudes or grudges, the promotion of some local interest, or the glorification of some parochial notability, have replaced the old fidelity to a party banner (ibid.).

Parties create leadership positions which "induce those who occupy or seek to occupy leadership positions to internalize the collective interests of the party, thereby converting the party into a privileged group [...] for some purposes" (Cox and McCubbins 1993:133-134). The argument is based on the assumption that the payoff of being reelected is higher if a Member's party wins a majority. Majority parties have a number of leadership (especially governmental) positions at their disposal. These positions are so attractive that individual members of the group would be better off, if the collective good (high reputation and electoral victory of the Members' party) were provided, than they would be, if it were not provided - even if they had to pay the entire cost of providing it themselves. Thus, Olson's logic of a "privileged group" can be applied to party leaders. The leaders of a majority party are not just seeking individual reelection. They are interested in increasing (a) the probability that their *party* secures a majority in parliament and (b) the probability that they are *reelected as leaders* of

their party. As party leaders need to appeal to a relatively heterogeneous constituency in the country as well as in the party, they are interested in securing collective-benefit legislation which increases the party's overall popularity. "If internal advancement is to some extent contingent on the servicing of collective legislative needs, then the desire for internal advancement can play the leading role in solving the problems of electoral inefficiency [...]" (Cox and McCubbins 1993:126). Party leaders are offered attractive incentives - positions of power - to fulfil their role as a central authority. They have an "encompassing interest" in the prevention of collective dilemmas (Olson 1982:47-53). Therefore, they will be prepared to bear the costs of monitoring MPs and distributing selective incentives.

The publicity of recorded votes facilitates the party leadership's task of monitoring individual parliamentarians' behaviour. The importance of internal monitoring for the effectiveness of firms and the prevention of shirking by workers engaged in team production has been shown by Alchian and Demsetz (1972). Similarly, Hechter (1983:16-54, 1987:40-58) stresses the importance of monitoring in his rational-choice model of group solidarity. He applies his model to various kinds of groups, including parliamentary parties. Group solidarity, e.g., the solidarity and cohesion of a parliamentary party, is unlikely to emerge spontaneously, because groups produce collective goods. Group solidarity depends on two necessary conditions: (1) the members' dependence on the group, which, in turn, is a function of (a) the group's resources and (b) the opportunity cost of leaving the group. (2) The second condition is a group's control capacity. The groups control capacity is a function of (a) its sanctioning capacity and (b) its monitoring capacity. This last point is of particular interest in our context. According to Hechter, the group must have sufficient resources at its disposal to effectively reward or punish its members, contingent on their level of contribution or performance. The ability to provide selective incentives can be called the group's sanctioning capacity. The most drastic form of sanction would be the exclusion from the group. Sanctions can also be positive, rewarding compliance with group norms. In order to employ sanctions (selective incentives) the group must be able to detect whether individuals comply with their obligations or not. The ability to monitor group members depends to a large extent on the measurability of the individual contribution and the group's ability to limit the privacy of its members (Hechter 1987:49, 52). In sum, Hechter's theory of group solidarity suggests that

> "a member will comply with the directives of his group if these directives are consistent with his preferences; or, regardless of his preferences, if he is dependent on the group for valued benefits, *and* his behaviour is capable of being metered by the group's leadership. If group leaders have the

> means to meter the member's behaviour, compliance will solely be a function of his dependence on the group: the less the dependence, the less the compliance and vice versa. If the group does not have the means of metering the member's behaviour, he is unlikely to comply regardless of his dependence on the group. More formally, dependence and the group's monitoring capacity are both necessary conditions for compliance but each is by itself insufficient. Compliance can only be achieved by the joint effects of dependence and monitoring capacity" (Hechter 1983:25-26).

In his application of rational-choice group theory to the voting cohesion of parliamentary parties, Hechter (1983:27, 1987:78) argues that monitoring is essentially costless for the whips, because roll calls are public. Therefore, he asserts, monitoring is a constant, and party-voting solidarity purely a function of members' dependence on their parties (Hechter 1983:27). It has been shown in section 2 of this paper, however, that voting in many European parliaments is usually anonymous (semi-public). In parliaments where certain forms of anonymous voting are dominant, it is costlier for party leaderships to monitor Members' behaviour than in parliaments where the whips' task is facilitated by a high frequency of recorded votes. Thus, monitoring *cannot* be treated as a constant in the European context, because the frequency of recorded votes is highly variable. The whips' ability to monitor Members' behaviour in anonymous votes is often restricted to the detection of open cross-voting. My disagreement with Hechter is primarily based on the importance of abstentions and absenteeism as a means of expressing dissent in all parliaments in our sample. Not-voting is an alternative to outright dissent, because it is considered less damaging for the party's image as a unitary actor, and its implications for the overall result may be less serious. However, if a large enough number of dissenting Members abstain, a vote can be lost. Recorded votes facilitate monitoring and enforcing party discipline in parliamentary votes, because they allow whips to check on absenteeism and abstentions. Not-voting behaviour of individual Members of Parliament is difficult to check in anonymous votes. A recorded vote, by contrast, facilitates the monitoring task of the whips. Although recorded votes are not the only, nor, the most important weapon in the arsenal at the whips' disposal in monitoring their backbenchers, they are still a possible tool to be used. Therefore, one would expect that in parliaments where recorded votes are used frequently, free riding on the party's reputation should be more difficult for Members here, than in chambers where other forms of voting predominate.

The most effective way to assess the degree of parliamentary group solidarity would be to measure a party's voting cohesion in the chamber. Unfortunately, comparative data on party unity in parliamentary votes are not available for all

countries in our sample. Therefore, we use a different measure of back-bench independence: the number and success rate of bills that have not been initiated by the government. To be sure, some non-government bills are initiated by government backbenchers with the help of government departments and are nothing but government bills in disguise. Marsh and Read (1988:45-46) found for the British House of Commons that about eighteen per cent of all private members' bills introduced in the sessions from 1979-80 to 1985-86 originated in government departments. Although this percentage is higher than in any previous post-war period, the majority of (mostly unsuccessful) private members' bills originate on the back-benches of either side of the House without government encouragement. Private members' bills are often narrow in scope and many of them are stimulated by pressure group activity (Norton 1993:58-62). As private members' bills use up precious parliamentary time and are, by their very nature, often unsuited for the clash between majority and minority (most private members' bills seek broad all-party support for a narrow issue), party leaderships should not be too interested in a high number of such non-government bills.

Our hypothesis is straightforward: The higher the number of recorded votes and, accordingly, the stronger the monitoring capacity of parliamentary party leaderships, the lower the number and success rate of non-government bills and vice versa. To be sure, not all private members' bills are special interest bills, yet it is reasonable to expect that most of them are concerned with specific problems which a government either does not want to touch, or, which affect certain minority interests.

Parliaments of the World (Inter-Parliamentary Union 1986:912-919) provides data for thirteen of the eighteen national parliaments in our sample on the number of non-government bills introduced and passed during the period 1978-1982. This data has been supplemented by Rudy Andeweg Lia Nijzink (Table 5.4 of this volume) and by the present author for the Irish Dáil. In Table 16.7 the average annual number of successful non-government bills as well as their success rate (non-government bills passed as a percentage of all non-government bills introduced) was cross-tabulated with the dichotomised variable "frequency of recorded votes". By and large, our theoretical expectations are confirmed. The mean success rate of non-government bills in all sixteen countries is 17.36 per cent. The mean success rate of non-government bills in parliaments where recorded votes are frequently used is 8.09 per cent. The mean success rate in parliaments with few recorded votes is 32.81 per cent. It

Table 16.7: Frequency of Recorded Votes in 16 West European Parliaments and the Number (and Success Rate) of Non-Government Bills (Annual Averages, 1978-82)

The use of recorded votes has been ...					
frequent			*exceptional*		
Belgium	11	(5.88)	Austria	20	(50.00)
Denmark	5	(5.62)	Germany	16	(57.14)
Finland	3	(1.26)	Greece	0	(0.00)
France	7	(5.60)	Iceland	(n.a.)	
Ireland	0	(0.00)	Italy	(n.a.)	
Luxembourg	1	(25.00)	Netherlands	2	(33.33)
Norway	1	(12.50)	Portugal	26	(47.27)
Spain	8	(14.04)	Switzerland	1	(9.09)
Sweden	(n.a.)	(ca. 1.00)			
U.K.	10	(10.00)			

mean total: 17.36%; mean "frequent": 8.09%; mean "exceptional": 32.81%; t = -3.14 (p = 0.007).

Sources:
Inter-Parliamentary Union (1986: 912-919); Table 5.4 in this volume; for Ireland see Dáil Éireann: Returns Relating to Sittings and Business of the Twenty-Forth Dáil. Dublin: Stationery Office, 1990 (Pl. 7604).
The figures following immediately after the country name denote the number of successful non-government bills between 1978 and 1982 (annual averages). The figures in brackets denote the share of successful non-government bills as a percentage of all non-government bills introduced.

has to be emphasised, however, that the number of valid cases in the second category is only six. A t-test (pooled variance estimate) was performed in order to get an indication of the statistical "robustness" of the differences. With a t value of -3.14, the differences were significant at the one-percent level (p=0.007). (Only the Greek parliament's placement with few recorded votes and a success rate of 0 per cent for non-government bills is completely contradictory to our theoretical expectations[10].) At this stage, the evidence is still modest. It needs to be substantiated by expanding the sample and controlling for other sources of heterogeneity. Yet, overall, the monitoring hypothesis is consistent with the data available.

10 It has to be added that the German figure is inflated through the inclusion of the government parties' initiatives which are, at least in most cases, introduced after consultation with the government.

5. Conclusions

Voting is the most important mechanism in West European parliaments for aggregating individual deputies' preferences and making collective decisions that are legally binding for all citizens of the polity. Different West European parliaments use a varied mix of voting methods. These methods can be classified according to the amount of information they disclose about individual deputies' voting behaviour and according to their accuracy. Secret votes, usually on unmarked ballot papers, allow an accurate count of majority and minority, yet they do not reveal individual parliamentarians' preferences. Anonymous votes such as a show of hands or rising in places are principally public, yet they usually result in more or less inaccurate estimates of a prevailing majority. Only recorded votes are accurate on both counts: they reveal the precise result and each deputy's voting behaviour. The number of recorded votes varies strongly across parliaments. In the parliaments of Denmark, Great Britain, Norway and Sweden there are hundreds or even thousands of recorded votes per parliamentary term. By contrast, there are only a handful of recorded votes per year in the parliaments of Austria, Greece, Italy and Switzerland.

How can these variations be explained? Much of the variation can be explained as a result of technology: the use of electronic voting machines speeds up the process of voting and minimises the amount of scarce parliamentary time spent on voting. The data indicate, however, that although technical reasons are important, they are insufficient explanations. Parliaments like the British House of Commons or the Irish Dáil with their very high number of recorded votes do not use electronic equipment. One further reason for variation was hypothesised to be the degree of party competition in the chamber. Indeed, in parliaments where the relationship between government and opposition is characterised by majoritarian elements and where the electronic vote is not used, recorded votes tend to be more frequent than in chambers with a more co-operative relationship between majority and minority. The higher number of recorded votes in majoritarian parliaments is likely to be a function of the higher total number of majority decisions (as opposed to more consensual forms of decision-making in committees), the generally higher degree of conflict between government and opposition and, possibly, a greater tendency on a powerless opposition's part to obstruct government business through time-consuming procedures. Diachronic comparisons in Austria and Germany support the conclusion that recorded votes may be considered a function of the competitiveness between government and opposition. The cross-national classification (Table 16.6) lends moderate, if not fully conclusive, support to the hypothesis for parliaments in which the electronic vote is not used.

In the final section of this chapter, recorded votes were used as an independent variable to gauge the monitoring capacity of parliamentary party leaderships. It was argued that recorded votes can be used as a proxy measure of the whips' capacity to monitor individual deputies' voting behaviour. According to Hechter's (1983; 1987) rational-choice model of group solidarity, monitoring through a group leadership is a necessary condition to prevent shirking and "electoral inefficiencies" as identified by Cox and McCubbins (1993:122-125), especially the overproduction of special-interest legislation at the expense of collective legislation. As the bulk of special-interest laws will tend to be non-government bills (like the British Private Members' Bills), the success rate of non-government bills should be a good indicator for the survival chances of special-interest bills. In a first test, there was modest support for the hypothesis that those parliaments where the whips generally possess a strong monitoring capacity produce less non-government bills than those parliaments where the whips' monitoring capacity is weak.

It has to be emphasised, however, that the "tests" carried out in this paper are essentially bivariate. Given the small number of cases, there is hardly an alternative. It will be necessary to substantiate the results in further comparative research. In the context of our project I would find it desirable to construct indicators of parliamentary competitiveness (like the number and percentage of bills passed unanimously, various forms of opposition activity etc.) and collect data on parliamentary party cohesion. This should be possible at the second stage of the project when the focus upon one particular policy area will allow us to collect additional data on a large number of further indicators.

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17

Judges as Veto Players

Nicos C. Alivizatos

Introduction

Over the past twenty years, there has been general agreement in Western Europe that the judiciary has taken on an increasingly significant role in national decision making processes. The widely publicised ambition of Italian judges to enforce moral ethics in public life through the law has not yet found imitators of the same calibre beyond the Alps.[1] However, since the mid-1970s, the adjudication of constitutional disputes by national courts in Europe has been giving clear signals of the fact that these courts are determined to assume equally significant, though less spectacular, functions. Far from being restricted to issues of strict legality, it has been said that judicial review of statutes and of administrative action is being increasingly extended to the political sphere, that is to questions traditionally perceived as falling within the exclusive realm of a democratically elected legislature and that of the executive. While, in theory, few West European judges contest their traditional role as guardians of legality, in practice, they are actually seen by an increasing number of observers as veto players. The reason for this is that their particular influence on the national decision making process is now assessed as being more important than it ever was in the past.

Although not absolutely inaccurate as an overall assessment, this widely shared view of the political role of the judiciary in Western Europe is an oversimplification of reality. While there is truth in the claim that the increased po-

1 Though, according to the French *Le Monde* Spanish, Swiss and French judges, sharing similar views on corruption, have met on their own initiative more than once with their Italian counterparts to coordinate their action, see "Le 'clan des nettoyeurs'", in *Le Monde*, 14 October 1994, p.7. Focusing exclusively on constitutional adjudication, this study will not take into consideration this facet of the politics of the judiciary in Western Europe, in spite of its obvious interest. Moreover, facts on the legal dimension of the corruption issue in Europe are still too recent to permit any synthetic comparative approach.

litical role of the courts was a deliberate measure in almost every European country in the past two decades, it is equally true that substantial differences from state to state still persist with respect to the extent of judicial activism, especially whenever "hard" issues are at stake. Closely related to the institutional framework of judicial review in each particular constitutional order, the first section of this article considers the degree of that activism and subsequently measures the importance of the persisting national variations.

Most authors addressing the issue of judicial review from a comparative perspective have tried to explain national variations from either a cultural or a historical standpoint: traditional perceptions of the role of the judge, the latter's status and prestige in the respective societies, as well as prevailing attitudes towards the law and the state, have all usually been viewed as the factors which, above all, have influenced the judiciary's self-image and the role assigned to it by the respective constitutions. In the second part of this article, these interpretations will be revisited and an attempt will be made to supplement them. This will involve an assessment of the role of the judiciary from the angle of a number of independent variables, which may seem to have nothing to do with the constitutional status of the judiciary in the respective legal order. Without seeking to refute classical interpretations of the role of national judges, nor claiming any kind of exclusiveness, this approach will help in understanding why important differences still persist among countries, which for almost half a century, have constantly proclaimed a common adherence to the idea that the political branches of government are free to act so long as they do so in compliance with, or at least without violating, a number of binding supralegislative rules and principles of fundamental importance.

1. Measuring National Variations

1.1 In Search of Appropriate Criteria

In order to measure the political role of judges in any particular constitutional setting, the most promising indicator is to see *to what extent they influence the decision-making process*.

This influence may be either direct or indirect. As shown by Lochak (1972), and more recently assumed by Vallinder (1994), it is indirect whenever it is exercised through extra-judicial activities, such as participation on administrative boards and in agencies: sharing responsibility in the drafting of important statutes and regulatory decrees, or even - though rather exceptionally - through direct involvement in party activities. This influence is direct whenever judges are sought by interested parties (including interest groups, political parties and state

organs), to approve or disapprove of significant political decisions within their normal judicial function, and where their verdict is a prerequisite for the enforcement of such decisions.

In the case of a judicial approval of major political decisions, court rulings play an important legitimising role. Confirming contested political choices, especially whenever the latter have been made by weak majorities which have lost their initial legitimacy, may indeed prove extremely useful for the party or coalition in power. However, in these cases, judges do not intervene at their own liberty: they only validate decisions already taken by others.

Nevertheless, whenever courts invalidate important acts of Parliament and/or equally substantial administrative rules, their influence is more decisive. This is due to the fact that, unless overruled by an amendment of the constitution, their verdict cannot easily be by-passed by Parliament nor to an even lesser extent, by the executive: in the normal course of affairs, the latter would have to comply.[2] It is therefore not surprising that in this context, though in a much more reserved way than that of the Warren Court in the United States in the 1950s and 60s, European courts have imposed innovations that had never been anticipated by legislators.[3]

It is important to note that the power of the judges to invalidate major political decisions does not have to be formally proclaimed by the constitution nor explicitly recognised as such. It could also be implicit, in the sense that the courts, through a so-called "constructive" interpretation of statutes, can give the latter a different, if not plainly opposite, content to the one contemplated by the parliamentary majority which had adopted them, without leading to their formal invalidation. In legal systems with functionally rigid constitutions, typical of al-

2 To state two recent examples, the French and the German constitutions were both amended, in 1992 and 1993, in order to allow the passage of legislation on the issue of immigration, which had been either explicitly vetoed in the past or expected to be vetoed if adopted by the *Conseil constitutionnel* and the *Bundesverfassungsgericht* respectively.

3 I am not aware of any comparative European study on the methods Parliaments use to overcome unpleasant court rulings without resorting to constitutional amendments. President Roosevelt's "court-packing plan" in the 1930s is certainly the most notorious American precedent on this issue, see Alfred H. Kelly, Winfred A. Harbison and Herman Belz, *The American Constitution. Its Origins and Development*, 6th edition, New York-London, Norton & Co. (1983), 494. For the recent American practice see William N. Eskridge, Jr., *Overriding Supreme Court Statutory Interpretation Decisions*, in *The Yale Law Journal*, Vol. 101 (1991), 331-455.

most all continental European countries of today[4], this "implicit" method of constitutional adjudication has often been privileged over formal invalidation, to the extent that it is less challenging towards democratically elected majorities. As a general rule, it is achieved through the method of so-called "interpretation of statutes in conformity with the constitution" (verfassungskonforme Gesetzesauslegung), in which the federal Constitutional Court of Germany has excelled itself in the past forty years.[5]

Moreover, and even more significantly, the same result is obtained in legal systems which either do not recognise the supremacy of the constitution over acts of Parliament, such as the British system, or which explicitly exclude judicial review of statutes, such as the Dutch system. In this setting, although formally adhering to the rule of parliamentary sovereignty, courts do not hesitate to review important choices made by the legislators by means of a constructive statutory interpretation. To repeat a widely cited opinion of Lord Reid, "we often say that we are looking for the intention of Parliament, but this is not quite accurate; we are seeking the meaning of the words which Parliament used: we are seeking not what Parliament meant but the true meaning of what they said".[6]

Needless to say, in the past twenty years, this tendency has been both enhanced and increasingly legitimised through reference to either the European Convention for the Protection of Human Rights, as interpreted by the Commission and the Court of Strasbourg[7], or to community law, as enforced by the

4 As opposed to the *formally rigid, functionally rigid* constitutions are effectively enforced by the courts through judicial review of statutes. In the 19th century, if not as late as World War II, most continental European constitutions were formally rigid only. For more details from a non-European legal comparatist, see John Henry Merryman, *The Civil Law Tradition. An Introduction to the Legal Systems of Western Europe and Latin America*, 2nd edition, Stanford, Stanford University Press (1985), 135.

5 According to the data published by Kommers, from 1951 to 1985, 845 federal laws and 235 state laws have been sustained by the Federal Constitutional Court of Germany under this interpretative method; the relevance of these figures becomes more obvious, when compared to the grand total of 391 federal and state laws that the same Court has invalidated from 1951 to 1987, see Donald P. Kommers, *The Constitutional Jurisprudence of the Federal Republic of Germany*, with a forward by Roman Herzog, Durham and London, Duke University Press (1989), 59-61.

6 *Black-Clawson International v. Papierwerke Waldhof Aschaffenberg* (1975), cited by R. C. van Caenegem, *Judges, Legislators and Professors, Chapters in European Legal History*, Cambridge, New York, New Rochelle, Melbourne, Sydney, Cambridge University Press (1987), 20.

7 Though some with significant delays, all 18 countries here investigated have recognised both the competence of the Commission of Human Rights to receive petitions

European Court of Justice. Through the principles of direct effect and supremacy of community law over national legislation, as early as the 1960s, the latter has, indeed, assumed an extremely significant function, which can only be compared to the activist role anticipated by the U.S. Supreme Court in Marbury v. Madison (1803), in a young constitutional framework which, at the time, and exactly like the EEC founding treaties almost 200 years later, provided nothing about the review of legislation by the courts.[8]

Consequently, it is this power of the courts to veto major political decisions, be it constitutionally recognised or implicit, alongside the binding effect of these rulings and, moreover, the actual propensity of the courts to use this power, that seem to be the most appropriate criteria for measuring their political role. Although formal invalidation of statutes by the courts remains the archetypal, and at the same time typical paradigm of that power, the constructive interpretation of statutes is by no means less relevant. At the same time, as shown by the activist tradition of the French Conseil d'Etat, review by the courts of administrative action may have significant political consequences. In other words, for the purpose of measuring the political role of the courts in a specific constitutional system, judicial review of statutes is an important, but not the sole, indicator. Beyond formal rules, what counts is: first, the courts veto power per se, whether officially proclaimed or not; second, the binding effect of the rulings issued thereof; and third, the propensity of the courts to actually use that power in practice or not.

by individuals (article 25 of the ECPHR) and the compulsory jurisdiction of the Court of Strasbourg "in all matters concerning the interpretation and application of the [...]Convention"(article 46 of the ECPHR).

8 On the principle of direct effect, see the landmark case of *Van Gend en Loos* (26/62, 1963, ECR 1), and on the supremacy of community law over national legislation the widely commented *Costa v.ENEL* case (6/64, 1964, ECR 585), the *Simmenthal* case (106/77, 1978, ECR 629) and the *Internationale Handelsgesellschaft* case (11/1970, 1970, ECR 1125), with which the European Court of Justice has left open the issue of the supremacy of community law over national constitutions as well. With the *Francovich v.Italy* cases (9/90, 1991ECR I-5357), the European Court went one step further by holding that member state governments are also liable for non-implementation of community directives. For more details on this issue see T. C. Hartley, *The Foundations of European Community Law*, 3rd edition, Oxford, Clarendon Press (1994), 195 ff. and 238 ff., where the author reviews national courts' reaction to community law penetration in the member states.

1.2 Towards a Tentative "Grading"

Using the above criteria, I have attempted a tentative "grading" of the political role of the judiciary over the past 20 years in the 18 Western European countries investigated by this research project.

Firstly, I have divided all 18 countries into two categories, depending on whether or not they have a constitutional court. Thus, I have taken into consideration the first two criteria above for the assessment of their political role: that is their veto power as provided by the respective constitutions; and the binding effect of the verdicts they issue in adjudicating constitutional disputes.

As regards the courts' veto power, it is more than obvious that constitutional courts are, by definition, much more powerful than ordinary courts in decentralised systems of judicial review. This is due to the fact that contrary to these ordinary courts, which are empowered to not apply a law in the specific case where they deem it unconstitutional, constitutional courts are empowered to abrogate such law, that is to cancel it. In other words they are in a way legiferating, in the sense that they may openly veto acts of Parliament.

Accordingly, for the second criterion of the binding effect of court rulings in constitutional adjudication, while ordinary court verdicts are, in principle, obligatory only for the parties involved in the specific legal conflict (inter parties effect)[9], constitutional court verdicts have a general binding effect, i.e. they are obligatory for all, including Parliament, other state organs and individuals not involved in the specific dispute that gave rise to the verdict (erga omnes effect).

On the judicial politicisation scale of Table 17.1, I have therefore given a higher "grade" to countries with constitutional courts (CC countries) in comparison to countries adhering to the decentralised system of judicial review where, at least in theory, all courts of all ranks and jurisdictions are deemed to review the constitutionality of legislation (De countries).

I have then attempted to take into consideration the third and final criterion for measuring court politicisation mentioned , that is the actual exercise by the courts of their veto power in constitutional adjudication. For this purpose, I have subdivided "De" countries and then "CC" countries into two separate categories, depending on whether their courts have actually given unambiguous signs of judicial activism as opposed to judicial self-restraint in the period under consideration.

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9 The principle of *stare decisis* is foreign to civil law and, as observed by Cappelletti, the centralised system of judicial review in continental Europe reflects precisely this absence, see Mauro Cappelletti, *Judicial Review in the Contemporary World*, Indianapolis, Kansas City and New York, Bobbs-Merrill Co (1971), 55-58.

In proceeding to this subdivision, I have assumed that European judges are, in principle, more inclined toward self-restraint than toward judicial politicisation. As observed by Merryman (1985), in the world of civil law, contrary to their counterparts across the Channel and beyond the Atlantic, history, politics and above all their career status and perception of the law make judges less resemblant of culture heroes like Coke, Mansfield, Marshall, Story, Holmes, Brandeis and Cardozo, than of "civil servants", who are supposed to act as mere operators "of a machine designed and built by legislators".[10] For reasons that have to do with the doctrine of parliamentary sovereignty, the same presumption in favour of judicial self-restraint applies in principle to British judges as well. Therefore, my starting point was that courts, both ordinary and constitutional in the 18 countries investigated were to be presumed as being inclined towards judicial self-restraint, as long as they have not given unambiguous evidence to the contrary.

How then should that evidence - if any - be traced? In order to answer this question I considered it appropriate to rely on mainly empirical facts, that is on landmark rulings through which European judges have actually vetoed significant political decisions in the period under consideration. Consequently, I have focused my attention on issues such as immigration and aliens' rights, nationalisation/privatisation and property rights, the protection of the environment, industrial relations and the right to strike, gender discrimination, privacy and abortion, mass media law, police and rights of the accused which, in one way or another, have all given rise to significant constitutional conflicts in almost all of the 18 countries in the past twenty years. I have also taken into consideration constitutional rules which directly involve judges in the political decision making process prior to the adoption of the relevant rules by Parliament or the administration.[11] Based on these indicators, of "De" countries, I have considered the (ordi-

10 *The Civil Law Tradition* (1985), 34-38.

11 See, for instance, articles 37, 38 and 92 of the 1958 French Constitution, which provide that the government is obliged to consult - to obtain an *avis* - from the *Conseil d'Etat* not merely on (executive) *"réglements"* pending their adoption, but also on bills prior to their submission to Parliament. Although non-binding in theory, these *avis* (which do not formally refer to the substance of the relevant rules but are supposed to raise only questions of legality and constitutionality) are very seldom bypassed by the government, which also usually complies. On this non-judicial function of the French supreme administrative court, see Jean Gicquel, *Droit constitutionnel et institutions politiques*, 12th edition, Paris, Montchrestien (1993), 651 ff., 736. See also in this respect, article 26 of the 1937 Irish constitution, which empowers the President of the Republic to seek the opinion of the Supreme Court on pending bills (after they have been voted by Parliament), should he consider any provision as vio-

nary) judges of Ireland[12], Sweden[13], the United Kingdom[14], the Netherlands[15], Switzerland[16] and Greece[17] to be more inclined toward judicial activism. From

lating the constitution; provisions found unconstitutional are simply not enacted. On the Swedish Law Council, see note 13.

12 In Ireland, within the normal legislative process, the Constitution itself confers a significant veto power on the Supreme Court, should the President raise a constitutional question (see note 11). Although in practice exercised rather rarely (see M. Duverger, "Le concept de régime semi-présidentiel", in M. Duverger (sous la direction de), *Les régimes semi-présidentiels*, Paris, PUF (1986), 9), it is believed that this presidential prerogative dissuades radical legislative innovations on the part of the ruling parliamentary majority.

13 In Sweden, contrary to executive action which has been reviewed by the courts since the end of the 19th century, only in 1979 was judicial review of statutes officially proclaimed. This was done through a constitutional amendment to the 1974 Instrument of Government (§14, ch.11). However, parallel to the courts, preview of the constitutionality of pending bills, i.e. prior to their submission to the *Riksdag*, is exercised by the Law Council. This is an advisory body composed exclusively of Supreme Court justices, and which is involved in the normal legislative process; its position has been reinforced by the new Swedish Constitution. Since the end of the 1970s, both the courts and the Council have given significant signs of activism on issues such as property rights, see Barry Holmström, "The Judicialization of Politics in Sweden", *IPSR*, Vol. 15 (1994), 153-164.

14 As far as Britain is concerned, since the beginning of the 1980s, central and local government decisions have increasingly been contested before the courts. As observed, "the result is that the courts are now regularly drawn into areas of government that would have been regarded as beyond judicial competence even twenty or thirty years ago", Maurice Sunkin, "Judicialization of Politics in the U.K.", *IPSR*, Vol.15 (1994), 125-133. Topics such as social welfare, prisons, property rights and, significantly enough, the royal prerogative, have given rise to important constitutional conflicts and eventually to court rulings that directly challenged major political decisions. Although still reserved, if compared to the activism demonstrated by the courts elsewhere in Europe and in America (see K. D. Ewing and C. A. Gearty, *Freedom under Thatcher. Civil Liberties in Modern Britain*, Oxford, Clarendon Press (1990), 12 ff.), this new attitude of British judges contrasts with the self-restraint they have traditionally shown in the past and is said to be starting a new chapter in the country's legal history.

15 While traditionally in the self-restraint camp, the Netherlands has been undergoing important changes in the past two decades. Through the development of administrative law on the one hand (especially after the enactment of the *Administratieve Rechtspraak Overheidsbeschikkingen* of 1976) and through constructive statutory interpretation by the Supreme Court on the other, the judiciary is getting more and more involved in the decision-making process. Thus, in spite of article 120 of the 1814 constitution, which simply excludes judicial review of statutes, today acts of Parlia-

the "CC" countries, the (constitutional) judges of Italy, France and Germany[18] were also assumed to be so inclined.

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ment, older and more recent, are subject to new interpretations in view of European norms, so that new legislation becomes unnecessary "even on issues where a clear political majority in Parliament would have produced [new norms] rather swiftly", see Jan ten Kate, Peter J.van Koppen, "Judicialization of Politics in the Netherlands: Toward a Form of Judicial Review", *IPSR*, Vol. 15 (1994), 143-151.

16 Although judicial review of federal legislation is constitutionally prohibited, the Swiss Federal Tribunal has developed important constitutional jurisprudence through the control of cantonal legislation and administrative action (article 113-a of the 1874 constitution); in this sense, it functions as a quasi-constitutional court. Through its rulings, the Lausanne court has gone beyond enforcing rights proclaimed by the constitution and the ECPHR. It has also recognised a series of "unwritten rights", such as linguistic freedom and others, see Claude Rouiller, "Le contrôle de la constitutionnalité des lois par le Tribunal Fédéral suisse", Pouvoirs, 54/1990, 147-158, Jean-François Aubert, "Les droits fondamentaux dans la jurisprudence récente du tribunal fédéral suisse. Essai de synthèse", in *Mélanges Werner Kägi*, Zurich, (1979), 1-31.

17 In Greece, courts have been reviewing the constitutionality of legislation since the last quarter of the 19th century; the Council of State, on the other hand (and more recently ordinary administrative courts), has been controlling administrative action since its establishment, in 1929. However, both qualitatively and quantitatively, an important change has occurred after the fall of the colonels' junta, in 1974, in the sense that legislation is now scrutinised by the courts in a much more systematic way than in the past. This is mainly due to the activism demonstrated by the Council of State, whose rulings on crucial constitutional issues have had an unprecedented impact on the decision-making process, see Epaminondas Spiliotopoulos, "Judicial Review of Administrative Acts in Greece", *Temple Law Quarterly*, Vol. 56 (1983), 463-502, Wassilios Skouris, "Constitutional Disputes and Judicial Review in Greece", in Christine Landfried (ed.), *Constitutional Review and Legislation. An International Comparison*, Baden-Baden, Nomos Verlagsgesellschaft (1988), 177-200.

18 The opinion that the German and the Italian Constitutional Courts have been the most important and, at the same time, the most activist constitutional jurisdictions of Europe in the past twenty years goes practically uncontested. Both in depth and in range of adjudicated issues, these two typically Kelsenian courts have influenced more than any other of their counterparts the national decision-making process of the respective countries. It would therefore have been superfluous to argue further about their pre-eminent political role compared to other Western European constitutional jurisdictions. As for the French *Conseil constitutionnel*, after its landmark verdict of 1971 on the *liberté d'association* and the 1974 constitutional amendment, which in practice made the *Conseil* accessible to the parliamentary opposition, it has evolved into a typical and, I would add, activist constitutional court, though not originally designed as such. For an overall introduction to the three courts, see the contributions of Klaus Schlaich and Hans G. Rupp (on the *Bundesverfassungsgericht*), Alessandro

Table 17.1: Systems of Judicial Review and Degree of Judicial Politicisation (1975-1994)

	Country	*System of Judicial Review*	*Degree of Court Politicisation*
1.	Finland	De	1
2.	Luxembourg	De	1
3.	Iceland	De	1
4.	Denmark	De	1
5.	Norway	De	1
6.	Ireland	De	2
7.	Sweden	De	2
8.	United Kingdom	De	2
9.	The Netherlands	De	2
10.	Switzerland	De	2
11.	Greece	De	2
12.	Belgium	CC	3
13.	Austria	CC	3
14.	Spain	CC	3
15.	Portugal	CC	3
16.	Italy	CC	4
17.	France	CC	4
18.	Germany	CC	4

Note: De: decentralised system of judicial review; CC: centralised system of judicial review (constitutional courts); 1 to 4: degree of court politicisation (from self-restraint to judicial activism).

The second column of Table 17.1 shows these variations on a single scale. I have given "De" countries with rather self-restrained judges 1 point; "De" countries with rather activist judges 2 points; "CC" countries with rather self-restrained (constitutional) judges 3 points; and "CC" countries with rather activist (constitutional) judges 4 points. In principle, at this stage of my research project, for the ranking of countries on the judicial politicisation scale of Table 17.1, I have not searched for further possible variations. However, the ranking of each particular country "graded" with 1, 2, 3 and 4 respectively within each of these

Pizzorusso, Gustavo Zagrebelsky and Leopoldo Elia (on the *Corte Costituzionali*) and François Luchaire, François Goguel and Louis Favoreu (on the *Conseil constitutionnel*) in the classical (though in some respects outdated) Louis Favoreu (sous la direction de), *Cours constitutionnelles européennes et droits fondamentaux*, Paris, Aix-en-Provence, Economica-Presses Universitaires d'Aix-Marseille (1982).

politicisation categories has not been entirely fortuitous: it has taken into consideration general trends, in view of the criteria retained hereinbefore.

From the above table, a number of interesting conclusions can be drawn in view of the constitutional framework of the judiciary in each of the 18 countries investigated:

1. As already stated, countries with constitutional courts are accorded a higher grading on the judicial politicisation scale. As opposed to countries with decentralised systems of judicial review, that is countries where all judges, from the lowest to the highest court, have the explicit or implicit power to review the constitutionality of legislation on the occasion of any specific case brought before them, the constitutional courts of Belgium, Austria, Spain, Portugal, Italy, France and Germany, occupying the higher seven ranks on the judicial politicisation scale, are modelled either on the Kelsenian archetype of the 1920 Austrian constitution, or on a system of judicial review adapted to national particularities: an example of this would be the case of the Conseil constitutionnel in France and of the Cour d'arbitrage in Belgium.[19]

To the extent that constitutional courts were either originally created or, ultimately, reinforced to play a role beyond that of scrutiny through strict legal methods, the overall "overpoliticisation" of the judiciary in the respective countries is by no means unexpected, as shown in the second column of Table 17.1.

2. Contrary to this, the importance of the variations among countries that in principle practise the same system of judicial review seems rather strange on the judicial politicisation scale of Table 17.1.

a) Among the countries which adhere to a decentralised system of judicial review ("De" countries on Table 17.1), all but the United Kingdom, and to a lesser extent Switzerland, provide for quasi-exclusive career judges. The latter are appointed on merit, at an average age of about 30 and, thereafter, promoted and assigned with no direct interference from political bodies until they are eligible for appointment to their respective supreme courts. In general, promotion to the supreme courts and thereafter to the vice-presidency and ultimately to the presidency of these courts, is subject to political influence, which, however varies

19 The Belgian Cour d'arbitrage was created through an amendment to the 1831 constitution in 1980. It started functioning in 1983 and was eventually reinforced by a new constitutional amendment in 1988. For an overall presentation of its evolution and jurisprudence see R. Andersen, F. Delpérée et al., *La Cour d'arbitrage. Actualité et perspectives*, Bruxelles, Bruylant (1988), F. Delpérée, "La hiérarchie des normes constitutionnelles et sa fonction dans la protection des droits fondamentaux. Rapport belge", report at the 8th Conference of European Constitutional Courts (Ankara, 1990), in *Annuaire International de Justice Constitutionnelle*, Vol. 6 (1990), 61-97.

substantially from country to country.[20] As a general rule, after retiring, career judges do not seek political careers.

The extent to which education and culture may affect career judges to be more inclined towards judicial self-restraint than towards judicial activism, explains the overall lower degree of judicial politicisation in countries which practice the decentralised system of judicial review. On the other hand, the fact that important variations among the same countries on the politicisation scale cannot be explained by this parameter is more than obvious.

Nor can these variations be explained by judges` adherence to either civil law or common law legal traditions. British and Irish judges, though belonging to the first, are not by definition more activist than continental judges, who adhere to the second. In other words, contrary to a widely shared opinion - founded on the activism demonstrated by American federal judges in this century - British judges, although presumed to create law through precedents, are less inclined toward judicial activism than would appear at first sight from their common law approach to legal phenomena. Accordingly, in spite of their positivist, if not traditionally static, perception of the law and of the state, civil law judges are, by definition, not more inclined toward judicial self-restraint than their common law counterparts.

b) All countries practising centralised or almost centralised systems of judicial review ("CC" countries on Table 17.1), have constitutional courts or courts operating as such under various denominations. In almost all cases constitutional justices are selected and appointed by elected bodies on political grounds, that is in view of their political affiliations or sympathies prior to their confirmation. Nevertheless, a combination of formal and informal rules and practices exclude strong party activists from the list of potential nominees. This refers to persons who have openly demonstrated and widely publicised their ideological views on controversial political issues. As a consequence, moderates are favoured over fanatics. Though some may come from the judiciary, constitutional judges usually come from the non-judicial branches of the legal profession, for example, from the bar or university law faculties. They might also come from politics. Their average age is around 50 to 60 and their term, which is usually non-renewable, varies from 6 years (Portugal) to 12 years (Germany). They seldom seek political careers after retirement.

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20 Actually, the degree of independence of career judges varies from country to country since, in practice, the relevant constitutional rules are often disregarded by the executive on the occasion of crucial assignments and promotions. The inherent difficulties of measuring these hidden methods dissuaded me from using this indicator as an independent variable in the second part of this article.

However significant the differences in the legal framework of constitutional justice may be among the seven CC countries of Table 17.1, they are by no means so important as to justify the cleavage between Belgium and Austria on the one end of the upper part of the court politicisation scale and Germany on the other. Nor does this cleavage seem to be justified by the unitary (Portugal) or federal (all others) character of the relevant states, or their unicameral (Portugal) or bicameral (all others) Parliament. Finally, it seems that past experience also plays no decisive part, to the extent that, as shown by the example of Austria, a long-time record of exclusive constitutional adjudication through a constitutional court which benefits the highest esteem and reputation does not on its own enhance judicial activism by the same court.

To conclude this part, while obviously the centralised option in constitutional adjudication undeniably favours judicial politicisation as defined above, institutional diversity among countries adhering to the same system of judicial review does not suffice in explaining the important variations among the same countries, as shown on the judicial politicisation scale of Table 17.1. One must therefore turn to other independent variables for more reliable explanations.

2. Explaining National Variations

2.1 History and Legal Culture : Significant Though Insufficient

Traditionally, legal scholars tend to explain the place and role of the judiciary within specific social and political formations with reference to historical facts and cultural variables. For instance, in order to stress the different status of the civil law judge as opposed to his common law counterpart, legal comparativists go back as far as the Roman *judex*, whose subordinate role in the adjudication of legal conflicts prior to and during the imperial period is said to have decisively influenced the status of its modern-time successors in the civil law world (Merryman 1985). Accordingly, the famous French Law of 16-24 October 1790 and the equally famous Decree of 16 Fructidor of year III, both formally still in force, mark the attempt by the Revolution, under the influence of Montesquieu's ideas, to isolate the administrative function from the influence of civil courts. This Law and this Decree have traditionally been perceived by most authors as the foundations of the modern concept of the separation of powers that still prevails in France and in some other countries of continental Europe (Cappelletti 1971, Braibant 1984).

Cultural arguments have also been used to explain differences within each of the two main legal traditions. Deeply influenced by the Kantian conception of the law as an "ideal" embodied in the state, German positivism has, until very

recently, been perceived as favouring doctrinal solutions to pragmatic approaches in settling legal disputes (Kommers 1982). Hence, the age-old primacy of German law professors over legislators and judges (van Caenegem 1987). Being more sensitive towards societal pressures and political movements, French positivism is deemed as conceiving the law and the state in a less idealised way. Hence the catalytic influence of Rousseau's doctrine of the law as "the expression of the people's will" - whosoever that might be - the glorification of the legislator (provided he is democratically legitimised) and, as a consequence, the more pragmatic protection of the individual against arbitrary action (Pollis 1987).

Similarly, within the Anglo-Saxon legal family, the American rejection of Blackstone's theory of parliamentary sovereignty and, thereafter, the American distrust towards any omnicompetent and omnipotent ruling majority, however democratic the legitimisation thereof might be, is explained by the impact of Edward Coke's writings in the ex-British colonies of North America. Coke's criticism of Tudor rule is said to have become popular on the other side of the Atlantic because it was formulated at a time when colonial legislation was frequently invalidated by the King's Privy Council for infringing colonial charters and the laws of the kingdom (van Caenegem 1987). As Cappelletti (1971) observed, these important historical antecedents stood behind the classic enunciation by Chief Justice Marshall of the principle of constitutional supremacy over the law in Marbury v. Madison. This was the first attempt in modern times to officially admit judicial review of statutes as being the necessary sanction for the enforcement of the constitution.

Through this short and necessarily selective reference to mainstream explanations of national variations in the field of justice, I am not contesting the relevance of historical and cultural interpretations of legal phenomena. Nor do I consider that national specificities, such as the pre-eminence of German law professors and the prestige of the British judge, can be understood without a systematic study of the social and political history of the respective countries and without a profound knowledge of prevailing mentalities and their evolution over time. I merely claim that historical and cultural interpretations of judicial politicisation, as opposed to judicial self-restraint, do not allow detailed assessments of present variations: they only highlight general trends which, even if accurate in principle, have a limited analytic value.

To be more concrete, I claim that national variations, as indicated on the judicial politicisation scale of Table 17.1, can only be understood if analysed within their actual political and institutional setting. Since the end of World War II and with the exception of Greece, Portugal and Spain, who did not join the club until the mid-1970s, West European nations have shared, for the first time

in history, parallel if not similar views on a wide range of institutional issues which had separated them in the past. Parliamentary government, executive accountability, independence of the judiciary, proclamation and efficient protection of a minimum number of individual and social rights and the rule of law, all seem to form the pillars and, at the same time, the common denominator of a European constitutional civilisation. In the past two decades, both the Strasbourg and the Luxembourg Courts have increasingly referred to this civilisation in their task of formulating generally accepted principles and enforcing solutions, shared by the widest possible spectrum of the European legal community. It would be superfluous to say that, although there seems to be a general agreement on the goals, divergencies continue to persist. These divergencies, however, are connected more to the legal techniques developed for the attainment of these goals, than to the substance of the common goals themselves.

Along with the issue of the electoral system, on which very important divergencies persist, I consider judicial politicisation, as defined in this article, to be one of the very few issues where opposing arguments and views reflect different concepts of the essentials. The reason for this is that below the arguments of the judicial activism versus judicial self-restraint debate, conflicting ideas about an issue which is not just a technical question are evident. It is a question of substance, to the extent that it is connected with the binding force of the constitution and with the limits to the power of the democratically elected majority. To put it blatantly, it has to do with one of the pillars of the European constitutional civilisation.

However significant they might be, are the different legal traditions of the 18 countries under review a sufficient explanation of the significant variations that still persist in the legal framework and in the practical effects of constitutional adjudication? If this is the case, as is claimed by most legal comparativists who have addressed this question, why have the same traditions not hindered converging trends on other topics of equal if not more importance than judicial review concerning the constitutional organisation of the respective societies ?

2.2 Introducing Other Variables

The independent variables that may affect the degree of politicisation of the judiciary are many. I would include among them the independence of the judiciary, the quality of legislation, if not the degree of development of civil society in the respective nations. However, the inherent difficulty of quantifying these variables has made me turn to the following five, and by no means of lesser relevance to the issue discussed in this article.

(a) Degree of Decentralisation (DEC) of the Particular Countries

In all federal states, experience shows that a huge number of legal disputes arise from the conflict between federal laws and state legislation. In unitary states as well, depending on the degree of autonomy allocated to local authorities in the regulation and handling of local affairs, similar conflicts may occur. In both cases, courts are directly or indirectly involved in the settlement of those disputes. They are called upon either to say which of the conflicting legal rules prevails, or under which authority's power the issue falls, over which a conflict has arisen between federal or central organs on the one hand and local organs on the other.

Constitutional rules in force in each of the 18 countries reviewed and the extent to which such rules are actually enforced, provide a significant indicator of the degree of their decentralisation. They should therefore, be taken very seriously into consideration when making the quantification of this independent variable.

Consequently, on the DEC scale of Table 17.2, I have "graded" unitary states with 1 point and federal states with 3. In between the two, however, I have graded the United Kingdom and Italy with 2 points which, although unitary states, have recognised a high degree of autonomy to local regions. For the same reason, Spain which is actually a unitary state, has been "graded" with 3 points due to the importance of the Communidades Autonomas.[21]

(b) Degree of Polarisation (POL) of the Political Conflict in the Particular Countries on the Right Versus Left Pattern

It has been argued by constitutional scholars that the more politically and ideologically oriented significant parliamentary legislation is, the more the courts are likely to intervene through judicial review to "cut the edges" (Botopoulos 1993). Furthermore, the more consensual practices are followed in the lawmaking process and the more unanimous or quasi-unanimous solutions are adopted to pending societal issues, the less the courts are tempted by judicial activism. This in-

21 On the concept of the *Estado regional* which lies between the federal and the classical unitary state, see Frank Moderne and Pierre Bon, *Les autonomies régionales dans la constitution espagnole*, Paris, Economica (1981), 52, where reference is made to the works of J. Ferrando Badia; contrary to regions within the usual unitary state, the autonomous Spanish regions have the power to issue legislation on a wide variety of issues. They are not, however, allowed to vote for their own constitution. As far as France is concerned, after the enactment of the important 1982 laws on local government, it might have been more accurate to "grade" it with 2 instead of 1 point. This was not done, because the effects produced by these laws emerged at a much later date.

dependent variable could , therefore, prove extremely useful in the context of this study, to the extent that "important" laws, that is laws with an ambition to change the status quo, are more likely to be voted in politically polarised situations.

For the purpose of quantifying this independent variable on the POL scale of Table 17.2, I have divided the 18 countries into two categories: the first comprises those countries where political parties are more inclined toward a consensual-centrist mode of action. The second comprises countries more inclined toward polarised situations on the right versus left dimension. For this division, I have relied on the ideological complexion of government indicator as used by Woldendorp, Keman and Budge (1993), whose data have been updated by myself to the present. Countries which, according to these authors, have had "balanced situations" for a considerable period of time during the past two decades, that is a share of centre larger than 50% in government and in Parliament or coalition right and left governments not dominated by one side or the other have been classified in the "consensual" category and "graded" with 1 point. The remaining countries have been classified in the "polarised" category and "graded" with 2 points.[22]

(c) Number of Veto Players (VPs) in the Particular Countries

In recent years, experience has shown that, whenever subtle if not unpopular issues are at stake, political actors seek judicial solutions to the relevant constitutional disputes. This has been particularly true in Germany, and to a lesser extent in Italy, whose constitutional courts have been more than once deliberately invited by political decision makers to issue the last word on important societal, ideological and even foreign policy issues. Is there a lack of political will by those constitutionally presumed to make the relevant decisions behind this tendency? Or is there a genuine disagreement among political actors on the solutions to be adopted? Whatever these questions, the number of VPs independent

22 I have deviated somewhat from Woldendorp, Keman and Budge's *ideological complexion of government* indicator as used in their typology of the various European governments, and have classified countries in the "consensual" category: (a) Denmark, where the ideologically oriented governments in the period under consideration were all either single party or coalition minority governments and, therefore, obliged in practice to follow rather "centrist" policies (b) The Netherlands mainly due to the third Lubbers government (1989) which was supported by both the CDA and the PvdA parties (c) Switzerland in view of the marginal strength of the left in its party system and (d) Austria, mainly due to the second Vranitzky government (1987) which was supported by both the SPÖ and the ÖVP parties.

variable may prove very significant in explaining the degree of politicisation of the judiciary in the particular countries.

To show this independent variable on the number of VPs scale of Table 17.2, I have used Tsebelis' definition of veto players (1995), that is I have taken into consideration the mean number of parties in government in the 18 countries in the period under consideration (partisan VPs). I have also taken into account the potential veto power of institutions, such as the head of the state or the second Chamber, provided that these institutions are not politically dependent on the popularly elected lower Chamber (institutional VPs). Countries with single-party governments in the period under consideration have been "graded" with 1 point. Countries which have had either single-party or coalition governments were given 2 points. Finally, countries which have only had coalition governments have been graded with 3 points. However, in order to take into consideration institutional veto players as well, an additional point has been given to two countries: first to Portugal, in view of the president's veto power prior to the 1982 amendment of the constitution; and, second, to Germany, to account for the periods where the opposition controlled the Bundesrat.

(d) Degree of Parliamentary Anomaly (PA) in the Particular Countries since World War I

Traditionally, the creation of constitutional courts in Western Europe after World War II has been linked by legal historians to past political anomalies, that is to deviations from parliamentary rule, due either to open civil wars (Spain) or to deep political and constitutional crises (Italy, Portugal, Weimar Germany and the French IVth Republic). Viewed from this angle, twentieth century political history may prove significant in the evolution of present judicial politicisation.

To quantify the PA independent variable on Table 17.2, I have overvalued periods of open deviation from parliamentary government since World War I (dictatorships), and unconstitutional changes of regimes, such as the 1958 coup by the French military, which was instigational in bringing General de Gaulle to power. Foreign occupation has not been taken into consideration. Countries with substantial parliamentary anomalies have been "graded" with 2 points (Greece, Spain, Portugal, Italy, France and Germany), while all the others have been allotted with 1 point. For reasons of simplicity, "intermediate" cases, such as Austria of the 1930s, have been classified in the category of "parliamentary normalcy".

(e) Degree of Integration into Europe (EI) of the Particular Countries

As indicated in part 1, Community law and the European Convention for the Protection of Human Rights have enhanced judicial activism in most of the countries under review. From both a technical as well as a political standpoint, national judges can invoke binding European rules to which their countries must

officially adhere more comfortably than general supralegislative principles that they themselves have to invent.

Table 17.2: The Five Independent Variables

Country	*DEC*	*POL*	*VPs*	*PA*	*EI*
Austria	3	2	2	1	2
Belgium	3	1	3	1	3
Denmark	1	1	3	1	3
Finland	1	1	3	1	1
France	1	2	2	2	3
Germany	3	2	3	2	3
Greece	1	2	1	2	3
Iceland	1	1	3	1	1
Ireland	1	2	2	1	3
Italy	2	2	3	2	3
Luxembourg	1	1	2	1	3
Norway	1	2	2	1	2
Portugal	1	2	2	2	3
Spain	3	2	2	2	3
Sweden	1	2	2	1	2
Switzerland	3	1	3	1	2
The Netherlands	1	1	3	1	3
United Kingdom	2	2	1	1	3

Note: DEC: degree of decentralisation (from 1 to 3); POL: degree of polarisation (1 or 2); VPs: number of veto players (from 1 to 3); PA: degree of parliamentary anomaly since WW I (1 or 2); EI: degree of integration into Europe (from 1 to 3).

In the quantification of this variable, I have divided the 18 countries into three categories. Countries which have been, or have become, full members of the European Union in the period under consideration received 3 points on the EI scale of Table 17.2. Due to their rather small participation in the process of European integration, Iceland and Finland have been "graded" with 1 point.[23] Finally, the remaining 3 countries (Norway, Sweden and Switzerland) have been

23 Significantly enough, Finland, a full member of the European Union since 1 January 1995, made the declarations provided by articles 25 and 46 of the ECPHR (see note 7) as late as 1990.

"graded" with 2 points, due to their very active role within the judicial organs of Strasbourg.

On the basis of the data of Table 17.2, I have run two regressions. With the first regression, I have tried to assess the impact of independent variables DEC, POL, VPs, PA and EI on whether a country will have a constitutional court or a decentralised system of judicial review. The system of judicial review scale of Table 17.1 was therefore my dependent variable and I gave 1 point to "De" countries and 2 points to "CC" countries. With the second regression, I measured the impact of the same independent variables on the judicial politicisation scale of Table 17.1, that is on my second dependent variable.

Table 17.3: Explanation of Systems of Judicial Review and of Judicial Politicisation

Dependent Variables	*Independent Variables*					
	DEC	POL*	VPs	PA	EI	
Systems of Judicial Review (De or CC)	.22 (.036)	.29 (.274)	.24 (.176)	.44 (.071)	.07 (.590)	R^2 = .70 Adj. R^2 = .57 F = <.007 N = 18
Judicial Politicisation	.38 (.029)	1.03 (.034)	.62 (.046)	.79 (.058)	.36 (.125)	R^2 = .82 Adj. R^2 = .74 F = <.0004 N = 18

Note: unstandardised b-values, p-values in parenthesis; the author is indebted to G. Tsebelis for running these regressions on his behalf.

* Polarisation is defined in Table 17.2.

On the first of the regressions above, taking into consideration the p-value of all independent variables, decentralisation (DEC) and parliamentary anomaly (PA) are the variables for which a positive coefficient was least the result of chance. After these two come the veto players (VPs) and lagging far behind, polarisation (POL) and integration into Europe (EI). The conclusion is obvious: more than any of the other independent variables federalism and history weigh heavier on the constitutional framers' decision whether to create a constitutional court or not, and, thus, to enhance the veto power of the judges in the national decision-making process.

From the second regression, it is clear that decentralisation (DEC), polarisation (POL) and the number of veto players (VPs) as independent variables positively influence judicial politicisation as defined in part 1. As their p-value is below 5%, the positive effect of these variables did not result by chance. Moreover, taking into consideration the F-test on this regression, this model seems more reliable in contrast to the De or CC model. Consequently, it can be maintained that court activism is, in general, higher, the higher the degree of decentralisation, polarisation on the right versus left pattern and number of veto players in the respective countries. In other words, the chances that the courts of a country investigated are politicised, i.e. designed to exercise explicitly or implicitly their veto power whenever called upon to adjudicate in constitutional disputes, are higher if the same country has a high degree of decentralisation, if its party system is polarised and if it has numerous veto players.

Conclusions

The following general conclusions can be drawn from this article :

First: in the past two decades, although judicial review of statutes and of administrative action has been stressed as one of the most fundamental developments of parliamentary government in Western Europe, very important variations persist among particular countries as to the extent and degree to which national judges actually act as veto players. Taking the risk of using a quantitative scale to evaluate performances usually only assessed qualitatively by legal scholars, I sought to explain these variations through a single measuring unit, that is the veto power of the courts, the binding effect of their verdicts and, above all, their determination to exercise that power, either explicitly or implicitly.

Second: whilst it is true that the existence of a constitutional court in any particular country positively affects judicial politicisation, it is equally true that different constitutional rules regarding the method of recruitment and, more generally, on the status of national judges and also on the way judicial review is expected to be exercised, do not explain the important variations on the politicisation scale that still exist among countries which practice the same system of judicial review, be it centralised or decentralised.

Third: normally, history and legal traditions are accepted by most authors as being the decisive, if not exclusive foundations for the explanation of present variations in constitutional adjudication by national courts. Yet, fifty years of parliamentary normalcy in Western Europe and twenty in the southern part of the continent raise the question why important variations, regarding the status

and the political function of the judiciary, still persist among countries that have been practising the same system of judicial review for years. The question becomes more acute if one takes into account the fact that national legal traditions and past political particularities have not hindered convergence in the constitutional regulation and practice of other fundamental institutions, such as parliament, whose significance is no less important for constitutional government within a community of nations which claim parallel, if not similar, concepts on democracy and the rule of law.

Fourth: in order to supplement rather than replace these historical and cultural interpretations, I have sought to measure the potential influence on the system of judicial review and of the degree of judicial politicisation of five independent variables: degree of decentralisation, political polarisation on the right versus left pattern, the number of veto players, past parliamentary anomalies since the First World War and integration to European norms. Among these independent variables, the quantification of which is to be further scrutinised, it seems that decentralisation and past anomalies positively affect the crucial decision further to create a constitutional court. Moreover, decentralisation, polarisation on the right versus left pattern and the number of veto players in the specific countries all enhance judicial politicisation and the role of the judges as veto players, irrespective of the system of judicial review (decentralised or centralised) followed.

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Part V

Parliamentary Structures and Legislative Output

Introduction

An "institutional" research programme in legislative studies is characterised by the claim that institutions shape the outcome of policies evolving within them. Taking up the theoretical argument about parliamentary government acting as a "natural monopoly" developed in Chapter 1, Chapter 18 proceeds empirically to assess whether the predictions derived from this assumption are based on fact. As this preliminary empirical checking with aggregate data across countries yielded encouraging results, Christian Henning proceeds in Chapter 19 to check by formal modelling whether the intuitively plausible assumptions still hold true if subjected to rigorous mathematical scrutiny.

May we compare bills across countries? Is a legal instrument nominally called a bill pending approval roughly the same across all countries, or are quite different legal instruments hidden behind the same wording? In Chapter 20 Georgios Trantas, a comparative legal scholar takes account of what the notions of "law" and "decree-law" and quite a few other concepts in the legal world across Europe really mean. As it turns out, taking the total legislative output per country as the unit of analysis proves a hazardous enterprise to say the least. Chapter 21 therefore develops more specific measures of legislative output during the 1980s from a recoding of the underutilised database of the International Labour Organisation in Geneva.

As the degree of conflict and cooperation in the passage of bills varies even in a single country from one policy area to another, and again from period to period, we gain in scientific precision by narrowing the analysis to a single policy field, namely, legislation on social security benefits and on regulatory matters concerning working time and working conditions during the 1980s. What we lose in generality we gain in comparability, since we keep a narrow field constant and study the variation across countries.

The concluding Chapter 22 attempts to construct from the organisational and procedural chapters of Parts II to IV a composite measure of the average degree of agenda control enjoyed by governments in the 1980s across the 18 West European national parliaments. As the correlation between this summary measure for agenda control and average legislative output in the 1980s is encouraging and consonant with the theoretical predictions, it follows that this preliminary analysis at the aggregate level should be supplemented by more detailed studies in the next stage of the project. Here, the degree of conflict and cooperation in the course of the passage of individual bills in the 1980s will be taken as the unit of analysis.

18

Fewer Though Presumably more Conflictual Bills: Parliamentary Government Acting as a Monopolist[1]

Herbert Döring

Being of a pilot character, this chapter, as the title of Part V of the book suggests, begins to link institutional structures already analysed in Parts II to IV to a cross-national measure of legislative output in the 1980s. The purpose of this exercise is to ascertain to what extent government control of the legislative agenda is, indeed, as hypothesised in Part I, inversely correlated to the average number of bills passed per country in this period. The theory set out in Chapter 1 of this volume leads us to expect that, if parliamentary government is acting like a natural monopoly in law production, control of the legislative agenda is inversely correlated to the number of bills passed. For reasons already explained above, we expect to find the puzzling observation that a government, the more easily it could actually pass bills because of its command of the procedures for passing legislation, the fewer - though more conflictual - bills will be enacted on average per country.

How far is this contention based on fact rather than being an artefact of theoretical imagination coupled with, perhaps, measurement error? To find out, two variables (one for agenda control and the other one for number of bills passed) are in this chapter cross-tabulated, scatterplotted and scrutinised for possible pitfalls. However, only one of the two predictions can be assessed here. With the aggregate data available, only the hypothesis concerning the number of bills passed can be checked. The more interesting hypotheses as to the contents of these bills and the degree of conflict and cooperation in their passage must await checking in the next stage of the project. Even so the result is, as I hope the reader will agree, encouraging in that the inverse correlation of government

1 I am most grateful to all members of the project group who generously provided me with the materials used in this chapter. Additional information was sent by Dr. Hans Hirter (Universitiy of Bern) and by Helgi Bernodusson, the clerk to the Icelandic Althingi.

domination and legislative output is confirmed. Therefore this line of argument is in a few further pilot studies taken up and developed in Chapters 19 to 22. They provide us with formal modelling, reliable data and open questions to be followed up in the next stage of this project.

How to measure agenda control? As a preliminary "proxy" variable for the degree of government control of the agenda, the rank ordering of countries according to the government's ability to determine the timetable of the plenary is used. This variable, that was explained and documented in Table 7.1 of the present volume, did show, as the reader will remember, the highest correlations with most of the other aspects of agenda control (in terms of admissibility and timetable) discussed there (see Table 7.8). It has also already been used by Lieven De Winter in Figure 4.1 and by Thomas Saalfeld in Table 16.6 as an imaginative and exciting way to empirically assess and confirm some theoretical assumptions. The reader will remember that category I in Table 7.1 denotes highest and category VII lowest government control of the agenda. This table is now interpreted as an ordinal scale ranking countries along this "proxy" variable. To make a high value of this ordinal variable also denote a high degree of control, for the sake of a better interpretability, the coding is now reversed with I becoming VII and vice versa across the scale.

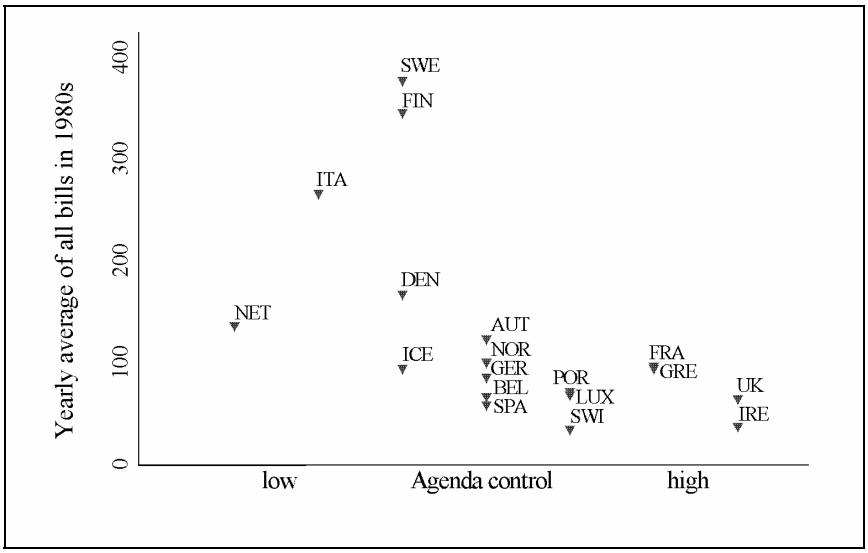
How to measure legislative output? As a "proxy" variable was used the average number of all bills passed annually. This mean was calculated from the national statistics.[2] These statistics were collected by the country specialists and, with their headings translated into English, sent to Mannheim. (These sources are listed in the appendix to this chapter). The periods for which national figures are reported are not identical. Some countries report yearly figures, other have available only figures for the full legislative term. To make the disparate units of reporting comparable, total figures for the 1980s (or equivalent legislative term

2 The average number of bills enacted 1978-1982 as reported by the Inter-Parliamentary Union (Parliaments of the World 1986:Table 31) contains a few flaws which were detected by the country specialists. In Belgium a private member bill ("called proposition de loi") is given the honorary name of a government bill and called "projet de loi") once it has been approved by one of the two chambers. IPU inflated the figures by inadvertently counting those "projets" as government bills thus inflating the figure of those passed well up above those actually introduced. In Sweden the number of bills passed is not the same as the number of enacted laws. Bills can also deal with the government's account for its administration of policy, or resolutions. The figure of about 1000 bills reported by the IPU therefore distorts the correlation. In the Netherlands, where pending bills "never die" (see Table 7.7 in this present volume), and a government inherits bills from many preceding cabinets, apparently there was a double counting inflating the figures far above the level reported by national statistics.

overlapping with this period) were divided by the number of years covered so that an annual mean per country serves as the unit of analysis.

Are agenda control and legislative output inversely correlated? Figure 18.1 yields an affirmative answer. As predicted, the rank ordering of countries according to the ability of government to control the plenary agenda (as set out in Table 7.1 but with the coding reversed here) is negatively correlated to the average number of bills enacted by the parliaments in those countries. Thus, the hypothesis about the reduction in output by a monopolist commanding over agenda control is confirmed. Of course, given the small number of cases, which do not represent a random sample but the totality of West European countries, no conclusive statistical analysis can be made. Yet the usual caveats known from descriptive statistics should be applied all the same.

Figure 18.1: Control of Plenary Agenda and Legislative Output



Sources: Authority to settle plenary agenda as in Table 7.1 (code reversed). For values of codes I-VII, see also Table 7.1. For the average number of bills with the value for each country, see the sources in the appendix to this chapter.

Correlation coefficients resulting from cross-tabulations of two variables assumed to be in a theoretically striking relationship with each other must, if the cases are few, always be inspected very carefully to decide whether or not an uncovered correlation originates exclusively from the influence of outliers which, when removed, would condemn the results to being nothing more than a

random constellation. Consequently, the objection instantly comes to mind that, were the two conspicuous outliers, Finland and Sweden, to be removed, the statistically significant rank order correlation of Spearman -.71 (0.001) or Pearson -.56 (0.015) would vanish. However, if the correlation is in fact repeated with the two outliers being excluded, the metric correlation grows even stronger to a Pearson of -.65 (.006), whereas the Spearman rank order correlation drops a little to equal the metric correlation at -.64 (.007). So it can be confidently assumed that the hypothesised pattern is a fact, and not an artefact resulting from the influence of outlying countries.

In Sweden a special legislative technique contributes to the rather high number of bills passed: "there appears to be no definite distinction between an amendment and a competing bill" (Lidderdale 1958:226). Actually, the number of "new acts", for which precise statistics are kept at the Riksdag, was fairly low at an average of only 50 per year, whereas it is the revision of, and amendment to, previous acts that brings the figure up to the high level of an annual average of 375 (information was generously checked again and collected from the original statistics kept at the Riksdag by Ingvar Mattson).

Furthermore, there are good reasons to explain why Finland predictably should not only in terms of a lack of agenda control witness a rather high number of bills but also because of the theory of veto players and law production as set out by George Tsebelis in Chapter 3 of the present volume. Taking up the arguments by George Tsebelis Matti Wiberg pinpoints to Finnish exceptionalism: "It has been politically very difficult to legally change the status quo in Finland as compared with other West European countries: The number of institutional veto players is typically smaller in other political systems than in Finland. In Finland both the Parliament and the President are institutional veto players, at least in the short run" (Wiberg 1994:236).

The Finnish experience, Matti Wiberg concludes, is in line with the theory of institutional veto players: the more institutional veto players, the less significant legislation (that is, legislation that makes significant departures from the status quo). "The Finnish legislative game is more complex than the corresponding games in the other Nordic political systems. The number of institutional veto players in the Nordic countries is largest in Finland. The number of institutional veto players seems to explain the total volume of new legislative output: there are many new laws with only minor modifications" (Wiberg 1994:237). Wiberg puts the argument in a nutshell: "If you can't have important new legislation, you will have many minor modifications. It seems to be the case that Finland is one of the most law producing parliaments in Western Europe!" (Wiberg 1994:236)

But to many readers it may seem a hazardous enterprise to compare the number of bills passed on average across countries. "One difficulty with these numbers is that bills vary greatly in their scope, complexity, and sheer number of pages. A 'bill' in the U.S. Congress, for example, can be either a half-page or can approximate the length and bulk of a city phone directory" (Olson 1980:174). This vexed problem is aggravated if we study bills not only within countries but across different legal cultures. Is a legal instrument nominally called a bill pending approval roughly the same across all countries? If not, we are comparing apples and oranges in the sense suggested by Prezworski and Teune who in reply to this classic objection that the intention of this exercise is to study their "pips" (Przeworksi and Teune 1970). Thus, no more than a central tendency can be revealed by this cross-national method.

The sheer number of laws, while clearly inadequate qualitatively, may form, cross-nationally, a valid gauge. It is no more than a pragmatic expedient. Given no better data source is available for truly cross-national research, we must compromise with the finding. Richard Rose put the empirical difficulties succinctly as follows: "Laws are not readily amenable to quantitative measurement. None the less, it is possible to marshall some quantitative measures" (Rose 1984:65). In the next stage of the project we will take up qualitative measures, too. In Chapter 20 Georgios Trantas will compare legislative instruments across countries so that we may get a feeling for the 'apples and oranges' in our basket. In Chapter 21 a more reliable measure for legislative output will be constructed from the cross-national database on social security legislation and labour law kept at the ILO offices at Geneva.

The purpose of this chapter was to empirically assess in a brief pilot project whether the puzzle of an observed inverse relationship between government control of the agenda and the total number of bills passed on average per parliament in the 1980s is a concrete fact and not just an artefact caused by measurement error or a figment of theoretical speculation. As a result, the hypothesised relationship between agenda control and a reduction of "legislative inflation" fares well. The subsequent chapters therefore take up and pursue this analysis further.

Chapter 19 formalises the model by using comparative statics to assure us that, what may appear intuitively plausible, is in fact logically and mathematically true after all. Chapters 20 and 21 refine the comparative measurements of legislative output across countries. Chapter 22 proceeds to develop a more complex and refined composite index of agenda control from many of the chapters in Parts II to IV and not just from the editor's own chapter. Armed with these instruments, the empirical assessment is then repeated and is once again convincingly confirmed and subsequently checked for the possibility of spurious correlations.

Yet, as a final note of caution, it must be added that the use of aggregate figures per country in the 1980s means that all results are still to be considered as preliminary. The final checking still remains to be done in the next stage of the project where the analysis will be based on the passage of a sample of actual bills as the units of measurement rather than average numbers of bills per country.

Appendix

Table 18.1: Yearly Average of all Bills in the 1980s
(Sum total of years or legislative periods divided by the number of years covered)

AUT	**BEL**	**DEN**	**FIN**	**FRA**	**GER**
121	64	165	343	94	83
(1980-1989)	(1980-1989)	(1980-1989)	(1980-1989)	(1980-1989)	(1980-1989)
GRE	**ICE**	**IRE**	**ITA**	**LUX**	**NET**
88	92	35	264	66	134
(1981-1985)	(1980-1989)	(1980-1989)	(1980-1989)	(1980-1989)	(1980-1989)
NOR	**POR**	**SPA**	**SWE**	**SWI**	**UK**
98	69	56	375	32	62
(1980-1989)	(1980-1989)	(1980-1989)	(1981-85; 1987-91)	(1987-1991)	(1980-1989)

Sources:

AUT: Widder, Helmut (1980), 'Die Gesetzgebung', in Herbert Schambeck (ed.), *Das österreichische Bundes-Verfassungsgesetz und seine Entwicklung* (Berlin: Duncker und Humblot), 147 (1945-1990).
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Statistical Review of the Political Year 1992, 567.

DEN: Folketingets Praesidium (1993), *Folketingstidende. Årbog og Registre, Folketingsåret 1992-1993*: Informations- og Dokumentationsafdelingen), 12 f. (1953-1993).

FIN: Data file compiled by Matti Wiberg.

FRA: Liebert, Ulrike (1995), *Modelle demokratischer Konsolidierung. Parlamente und organisierte Interessen in der Bundesrepublik Deutschland, Italien und Spanien (1948-1990)* (Opladen: Leske+Budrich), table 4.2 (compiled from original sources for 1959-1993).

GER: Statistisches Bundesamt (ed.) (1993), *Statistisches Jahrbuch 1993 für die Bundesrepublik Deutschland*: Metzler-Poeschel), table 4.9 (3rd legislative term 1957-1961 to 11th legislative term 1987-1991 and for the year 1992).

GRE: Alivizatos, Nicos (1990), 'The Difficulties of 'Rationalization' in a Polarized Political System: The Greek Chamber of Deputies, in Ulrike Liebert and Maurizio Cotta (eds), *Parliament and Democratic Consolidation in Southern Europe: Greece, Italy, Portugal, Spain and Turkey* (London: Pinter), 141, table 5.5 (1974-1987).

ICE: Research in Althingi database by Helgi Bernodusson and Ragnar Kristjánsson.

IRE: *Returns Relating to Sittings and Business of Dáil Éireann. Various Issues* (Dublin: Government Publications Sale Office), compiled by Thomas Saalfeld from the oiginal sources (Public Bills promulgated as laws, 1945-1993).

ITA: Liebert, Ulrike (1995), *Modelle demokratischer Konsolidierung. Parlamente und organisierte Interessen in der Bundesrepublik Deutschland, Italien und Spanien (1948-1990)* (Opladen: Leske+Budrich), table 4.2 (compiled from original sources for 1948-1993).

LUX: Research by Thierry Laurent at the Chamber of Deputies (1969-1991).

NET: Visscher, G. (1994), *Parlementaire invloed op wetgeving* (Den Haag), 59, 177 tables 3.2 and 6.5 (1963-1989).

NOR: Published statistics from the Storting compiled by Bjørn Erik Rasch.

POR: Opello, Walter C. (1988), 'O Parlamento português: análise organizacional da actividade legislativa', *Análise Social* 24:100, 145 (1976-1984).
Bandeira, Cristina and Pedro Magalhães (1993), *As relações entre Parlamento e Governo na IV e V Legislaturas*. Political Sociology Degree Thesis (Lisboa: I.S.C.T.E.), (1985-1992).

SPA: Liebert, Ulrike (1995), *Modelle demokratischer Konsolidierung. Parlamente und organisierte Interessen in der Bundesrepublik Deutschland, Italien und Spanien (1948-1990)* (Opladen: Leske+Budrich), table 4.2 (compiled from original sources for I. To IV. Legilatures 1977-1989).

SWE: Research in *Rättsdatabanken* by Ingvar Mattson.

SWI: Special thanks go to Dr. Hans Hirter (Bern) for compiling data from the statistics contained in *Rückblick auf die 43. Legislaturperiode der Eidgenössischen Räte* (Wintersession 1987 bis Herbstsession 1991).

UK: Butler, David and Gareth Butler (1986), *British Political Facts 1900-1985. Sixth Edition* (London/Basingstoke: Macmillan), 181-183 (1945/46-1983/84).
House of Commons (1985-1994), *Sessional Information Digest* (London: HMSO) (1984/85-1992/93).

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19

A Formal Model of Law Production by Government as a Natural Monopoly

Christian H. C. A. Henning

1. Introduction

The empirical results of Herbert Döring's cross-national analysis of the impact of institutional rules on legislative policy outcomes in sixteen West European countries suggests an inverse relation between the degree of agenda control commanded by governments and the number of bills passed. In the preceding chapter Döring intuitively extends monopolistic models of government behaviour formulated in the political economy literature to explain this seeming paradox.

Following Döring's intuitive expositions, this section introduces a simple formalised model of law production which interprets legislative output as the result of political support maximisation by a government acting as a "monopolistic political entrepreneur" producing different types of laws. On the basis of the comparative statics of this simple model, a necessary and sufficient condition for the observed inverse relation between government's agenda control and absolute number of bills passed will be derived.

2. A Simplified Model of Law Production

General Assumptions

The relevant actor of the model derived here is a majority government which is a monopolistic supplier of public goods by means of laws. In democratic systems, any legislative monopoly held by a majority government can only last for a limited period, namely, until the next election. In this sense, the government is generally interested in mobilising the political support of voters to secure the continuation of its monopoly for successive legislative periods. Further, it is also as-

sumed that the laws passed by the government are a suitable instrument to give rise to a political support response by voters. At the same time, the passing of bills is not a costless activity for the government, in the sense that any legislative procedure makes demands on specific scarce resources like time or expert knowledge. Thus, the legislative outcome can generally be considered as the result of a political support seeking-government transforming its scare resources into laws. This transformation becomes a general allocation problem if, and only if, these scarce resources could be put to another alternative valuable use to the government, or if the laws are not homogenous as regards their implicit political response or resource requirements. Following Döring's assumptions, it seems reasonable to assume that at least the latter condition holds, i.e. when he distinguishes conflictual and nonconflictual laws. In particular, Döring argues that these types of laws differ both regarding their resultant political support response and their technical resource requirement due to given legislative transformation technology. Conflictual laws cause ceteris paribus (c.p. in the following) a higher political support response, and at the same time, passing such conflictual laws also requires c.p. a higher amount of resources. Conflictual laws can thus be considered as resource intensive. Contrary to this, nonconflictual laws can be considered as resource extensive and as a consequence do not give rise to much of a political support response. So, given the heterogeneity of laws, a government, being interested in maximising political support observes the general allocation problem as corresponding to the optimal inputs of scarce resources into the production process of two different types of laws[1].

To formalise the argument, let X_c and X_n denote the number of "conflictual" and "nonconflictual" laws respectively. Further, suppose for simplicity at this stage that time is the only scare resource of the government, i.e. L is a scalar corresponding to the amount of time possessed by the government.

Now, let $\Pi(X_c,X_n)$ denote the political support response function corresponding to the final political support received by the government supplying the amounts X_c and X_n of conflictual and nonconflictual laws respectively. $F(X_c,X_n,L,\alpha)$ denotes the legislative transformation technology of the government, where L denotes the fixed amount of a nonproducible resource, e.g. time, possessed by the government, and α denotes other quasi-fixed factors, particularly the relevant institutional rules determining the technical transformation process of resources (L) into laws. Since agenda control is the relevant variable in Döring's exposition, in the following α denotes a scalar measuring the degree

1 In general the main argumentation derived from the following would not change were we to assume the existence of more than two types of laws. However, most of the mathematical expositions stated below would become far more complicated.

of agenda control commanded by government. Regarding the legislative transformation technology, we assume that F is non-decreasing and convex in law outputs X_c and X_n and that F is non-increasing and concave in resource inputs. Given these assumptions, the following conditions hold in particular (for a discussion of the general properties of Multi-Input-Multi-Output-production functions, see Fuss and MacFadden 1978):

$$\text{(i)} \quad F_c = \frac{\partial F}{\partial X_c} \geq 0 \text{ and } F_n = \frac{\partial F}{\partial X_n} \geq 0$$

$$\text{(ii)} \quad F_{cc} = \frac{\partial^2 F}{\partial X_c^2} \geq 0 \text{ and } F_{nn} = \frac{\partial^2 F}{\partial X_n^2} \geq 0$$

$$\text{(iii)} \quad F_{cc}\, F_{nn} - F_{nc}\, F_{cn} \geq 0 \tag{1}$$

$$\text{(iv)} \quad F_\alpha = \frac{\partial F}{\partial \alpha} \leq 0 \quad \text{and} \quad F_L = \frac{\partial F}{\partial L} = -1$$

$$\text{(v)} \quad F_{c\alpha} = \frac{\partial^2 F}{\partial X_c \partial \alpha} \leq 0 \text{ and } F_{n\alpha} = \frac{\partial^2 F}{\partial X_n \partial \alpha} \leq 0$$

As regards content, assumptions (i-v) stated in equation (1) seem reasonable on the following grounds: Assumption (i) implies that any bill, conflictual or non-conflictual, passed by the government requires at least some scarce resources (time in our simplified model), while assumption (ii) implies that this resource requirement increases with the number of laws passed, i.e. the higher the number of laws of the same type already produced (passed) the higher the additional resource requirements will be for each additional law to be passed. Technically speaking, this corresponds to a decreasing marginal productivity of the scarce resource L, a well-known result in economic production theory (see Henderson and Quandt 1983; Varian 1989). Assumption (iii) is more technical since it implies a regular (convex) transformation surface and thus confirms that the maximisation problem stated below always has a unique solution (see Lancaster 1968:127). In our context, the convexity of F in law outputs corresponds to an increasing marginal rate of substitution (trade-off) between different types of laws. For example, holding all inputs constant, the number of nonconflictual laws that have to be given up in order to be able to produce one additional conflictual law increases, the further this substitution is carried out, and vice versa. Assumption (iv) is of intuitive relevance since it implies that a higher degree of agenda control reduces c.p. the resource (time) requirements of law production. The second part of assumption (iv) refers to the standard property of Multi-

Input-Multi-Output-technologies, i.e. that the level (scale) of outputs increases linearly with the level of the nonproducible input L (here, time)[2]. Similarly, assumption (v) can also be understood intuitively since it corresponds to the fact that the marginal resource requirements in producing both types of laws, conflictual and nonconflictual, will be reduced if the degree of agenda control is higher. This seems reasonable, especially if one focuses on the time needed to pass a law. The higher the agenda control of the government, the lower c.p. the ability of any non-governmental agent to delay the final adoption of a bill (see Döring in the preceding chapter).

Additionally, we assume that the political support response function is concave and non-decreasing in law outputs X_c and X_n. Therefore, the following conditions hold:

$$\text{(i)} \quad \Pi_c = \frac{\partial \Pi}{\partial X_c} \geq 0 \text{ and } \Pi_n = \frac{\partial \Pi}{\partial X_n} \geq 0$$

$$\text{(ii)} \quad \Pi_{cc} = \frac{\partial^2 \Pi}{\partial X_c^2} \leq 0 \text{ and } \Pi_{nn} = \frac{\partial^2 \Pi}{\partial X_n^2} \leq 0 \qquad (2)$$

$$\text{(iii)} \quad \Pi_{cc}\,\Pi_{nn} - \Pi_{nc}\,\Pi_{cn} \geq 0$$

As regards contents, assumption (i) in eq.(2) simply implies that any additional law, regardless of type, causes a non-negative additional political support response amongst voters, while assumption (ii) corresponds to the reasonable assumption of a declining marginal support response, e.g. the additional support response of the voters will be lower, the higher the number of bills of the same type already passed by the government. Assumption (iii) corresponds to the concavity of Π and is again more technical to ensure the existence of a unique solution of the support maximisation problem of the government. Contextually speaking, concavity implies convex contours (see Lancaster 1968:332) which in turn corresponds to a diminishing marginal rate of substitution between the two types of laws. Holding the level of absolute political support constant, the number of nonconflictual laws required in order to substitute one conflictual law in-

2 Generally, a Multi-Input-Multi-Output-technology $F(X_c,X_n,\alpha,L)$ can be written in the form: $F'(X_c,X_n,\alpha,)-L$, where F' corresponds to the amount of time (L) required to produce the outputs X_c and X_n given the amount of all other inputs α (see Fuss and MacFadden 1978).

creases in a progressive substitution of conflictual by nonconflictual laws, and vice versa[3].

A Monopolistic Equilibrium of Law Production

Given the above assumptions, the legislative output of a monopolistic support-seeking government is determined by the following maximisation model:

$$\underset{X_c, X_n}{\text{Max}} \quad \Pi(X_c, X_n)$$

s.t.

$$\begin{aligned} &F(X_c, X_n, \alpha, L) \equiv 0 && \text{Technological Constraint} \\ &L \leq \overline{L} && \text{Resource Constraint} \\ &X_c, X_n \geq 0 \end{aligned} \tag{3}$$

The corresponding Lagrangean function $M(X_c,X_n,L,\lambda)$ of the maximisation problem eq. (3) is given by the following:

$$M(X_c, X_n, \lambda) = \Pi(X_c, X_n) - \lambda\, F(X_c, X_n, \alpha, \overline{L}) \tag{4}$$

In eq. (4) λ denotes the Lagrangean multiplier which at the optimal solution point corresponds to the marginal support of an additional unit of the fixed non-producible resource L (here, time) (see for example, Varian 1989). Given the concavity of the political support function (Π) and the convexity of the legislative production function (F) it follows directly from the standard results of Quasi-Concave Programming (see Arrow and Enthoven 1961) that the maximisation problem (3) has an unique[4] solution (X^*_c, X^*_n, λ^*), which fulfils the well-

3 Note that, implicitly, all properties of the political support response function correspond to assumptions regarding aggregate voter behaviour, in particular regarding the evaluation of laws as public goods by voters. In this sense, the assumptions above correspond to the assumptions generally imposed on value functions (see Keeney and Raiffa 1993). Note that in this context recent theoretical approaches to voter behaviour (see Thurner 1995) seems to support the ad-hoc assumption of the model that, despite their specific contents, the passing of conflictual laws in comparison to nonconflictual laws c.p. results in higher political support measured in terms of a higher probability of the government being reelected.

4 To be correct, a sufficient condition for a unique solution requires that at least F is strictly convex or Π is strictly concave. Note further that in this context, the assumed concavity of Π is not necessary and could be replaced by the weaker assumption of (strict) quasi-concavity, yet still securing the existence of an unique solution (see Ar-

known Kuhn-Tucker-Lagrange conditions (KTL) (see Varian 1989). Assuming that the complementary slackness conditions hold for an inner solution X^*_c, X^*_n, $\lambda^* > 0$ (see Varian 1989) the KTL is reduced to the following first order Lagrange conditions:

$$\begin{aligned}
&\text{(i)}\ \frac{\partial M}{\partial X_c^*} = \Pi_c - \lambda^* F_c = 0 \\
&\text{(ii)}\ \frac{\partial M}{\partial X_n^*} = \Pi_n - \lambda^* F_n = 0 \qquad (5) \\
&\text{(iii)}\ \frac{\partial M}{\partial \lambda^*} = F(X_c^*, X_n^*, \alpha, \overline{L}) = 0
\end{aligned}$$

According to eq. (5) the equilibrium of the monopolistic law production by a support-seeking government implies that optimal legislative output is given where the marginal political support of each law type exactly equals its marginal resource requirements multiplied by the Lagrangean multiplier. As the final objective of the government is maximising political support, the marginal political support (Π_c or Π_n) of conflictual or nonconflictual types of laws respectively can be interpreted as the government's marginal evaluation of these types of laws. Since the Lagrangean multiplier corresponds to the marginal political support of an additional time unit (L), i.e. the government's evaluation of an additional unit of L, the second term [λF_c] or [λF_n] in eq. (5i) or (5ii), as the case may be, can be interpreted as the marginal cost (measured in terms of political support the government has to give up) of each type of law.

Overall, at the optimal legislative output mix of (X_c^*, X_n^*) the equilibrium conditions imply that (a) for each single type of law, marginal evaluation equals its marginal cost, (b) the ratio of marginal evaluation to marginal resource requirements is the same for both types of laws since: $\frac{\Pi_c}{F_c} = \lambda^* = \frac{\Pi_c}{F_c}$ and (c) the chosen output mix is technologically feasible, that is, for the given time endowment $\overline{L}$ and the given institutional framework (α), it is an element of the legislative transformation technology available to the government, e.g. $F(X_c^*, X_n^*, \alpha, L) = 0$.

Note that in formal terms these equilibrium conditions correspond perfectly to the standard equilibrium conditions of economic monopoly theory. Contrary

row and Enthoven 1961). Note also that, given these assumptions, the first order Lagrange conditions eq.(5) are necessary and sufficient conditions for the maximum.

to an economic monopolist, a monopolistic government produces different types of laws as public goods instead of different private consumer goods and is paid (receives) political support instead of money. Note further that, like money in the case of an economic monopoly, political support in the case of the legislative monopoly can also be used as a general unit of measurement. Taking political support as a general unit of measurement, the marginal political support of a type of law can be interpreted as its shadow price, i.e. its marginal value (utility) expressed in general measurement units. Similarly, the Lagrangean multiplier can be interpreted as the shadow price of the fixed resource L and thus the marginal costs of each type of laws are also expressed in units of political support.

For convenience we will use the term shadow price instead of marginal political support in the following expositions when referring to the definition given above which differs in the explained manner from the standard definition of shadow prices in economics (for the use and interpretation of shadow prices in economics, see, for example, Henning 1994c).

The Comparative Statics of Monopolistic Equilibrium

So far we have characterised the static equilibrium of monopolistic law production. But the important question in the context here is how the equilibrium point (X_c^*,X_n^*) would change if the institutional framework, in particular the degree of agenda control commanded by the government, were to change. Analytically, a change in the equilibrium point caused by a change in an exogenous variable is given by the comparative static of the model in eq. (3), i.e. by the total differential $\frac{dX_c^*}{d\alpha}$ and $\frac{dX_c^*}{d\alpha}$. Applying the generalised implicit function rule, the comparative statics can be derived by analytically differentiating the first order conditions with regard to agenda control α. At the optimal solution point (X^*_c,X^*_n,λ^*) this delivers the following linear equation system:

$$\begin{bmatrix} \left(\Pi_{cc}-\lambda^* F_{cc}\right) & \left(\Pi_{cn}-\lambda^* F_{cn}\right) & -F_c \\ \left(\Pi_{nc}-\lambda^* F_{nc}\right) & \left(\Pi_{nn}-\lambda^* F_{nn}\right) & -F_n \\ -F_c & -F_n & 0 \end{bmatrix} \begin{bmatrix} dX_c/d\alpha \\ dX_n/d\alpha \\ d\lambda/d\alpha \end{bmatrix} = \begin{bmatrix} \lambda^* F_{c\alpha} \\ \lambda^* F_{n\alpha} \\ F_\alpha \end{bmatrix} \qquad (6)$$

The left-hand matrix in eq. (6) is the Jacobian matrix [J] of the first order condition eq. (5), which is negative-definite according to the (strict) convexity and concavity assumptions made above. According to the negative-definiteness of the Jacobian matrix [J], the determinant J of the Jacobian matrix is strictly posi-

tive (J > 0) and thus the general implicit function rule can be applied. It follows directly for the relevant comparative statics that:

$$\text{(i)}\quad \frac{dX_c}{d\alpha} = \frac{\left[-\lambda^* F_{c\alpha} F_n^2 + \lambda^* F_{n\alpha} F_c F_n\right] + \left[F_\alpha \left(F_n \left(\Pi_{cn} - \lambda^* F_{cn}\right) - F_c\left(\Pi_{nn} - \lambda^* F_{nn}\right)\right)\right]}{J} \tag{7}$$

$$\text{(ii)}\quad \frac{dX_n}{d\alpha} = \frac{\left[-\lambda^* F_{n\alpha} F_c^2 + \lambda^* F_{c\alpha} F_c F_n\right] + \left[F_\alpha \left(F_n \left(\Pi_{cc} - \lambda^* F_{cc}\right) - F_c\left(\Pi_{nc} - \lambda^* F_{nc}\right)\right)\right]}{J}$$

Before we derive the necessary and sufficient conditions that guarantee the desired properties of the comparative statics in eq. (7) and corresponding to the empirically observed paradox of an inverse relation between degree of agenda control and total number of bills, we should briefly discuss the different terms in eq. (7). Doing this will help in interpreting the formal results derived below. Generally, the comparative statics of agenda control as a quasi-fixed input of law production can be separated into a substitution effect and a scale effect (see Figure 19.1). While the first bracket term of the numerator in eq. (7i and 7ii) corresponds to the substitution effect, the second bracket term corresponds to the scale effect of α. Generally speaking, a pure scale effect captures the change in the optimal legislative output mix that would result from an increase in the fixed resource L (point A to point C in Figure 19.1). This pure scale effect can again be separated into a direct scale effect (from point A to point B) assuming fixed shadow prices and an indirect scale effect, which takes the changed shadow price relation into account (from B to C in Figure 19.1). We do not, in fact, change the amount of the fixed resource L, but, instead, the amount of the quasi-fixed input α. Since an increase of α decreases c.p. the resource requirements, and therefore corresponds to an increase in the technical efficiency of L, any increase of α can be formally expressed by a corresponding increase of L, whilst holding the efficiency of L constant. It is obvious that the latter corresponding increase of L is simply equal to F_α. Therefore, to get the scale effect of a change in α, the pure scale effect dX_c/dL or dX_n/dL as the case may be, has to be multiplied by F_α, the equivalent change in L corresponding to a change in α. In doing this, we arrive exactly at the second terms in eq. (7i) and eq. (7ii) respectively.

The substitution effect (from point C to D in Figure 19.1) takes into account that the production of the different types of laws might be of different input intensities. Assuming this the transformation surface in Figure 19.1 is not only extended but also rotated. According to Döring's exposition, it seems reasonable to assume that the production of conflictual laws is more agenda control intensive than the production of nonconflictual laws. Different intensities of agenda control imply, in particular, that an increase of α will c.p. increase the relation of

marginal resource requirements (F_n/F_c), which, as regards content, simply implies that a higher degree of agenda control acts to relatively facilitate the passing of more conflictual laws[5].

Now, the observed empirical inverse relation between agenda control and the absolute number of laws ($X_c + X_n$) implies the following properties of the comparative static:

$$\frac{d(X_c + X_n)}{d\alpha} = \frac{dX_c}{d\alpha} + \frac{dX_n}{d\alpha} < 0 \tag{8}$$

As, according to Döring, we should also expect to find empirically that the relative share of conflictual laws increases with a higher degree of agenda control, condition (8) directly implies:

$$\frac{dX_c}{d\alpha} > 0 \text{ and } \frac{dX_n}{d\alpha} < 0 \tag{9}$$

Given the comparative statics in eq. (7) the inequalities in equation (9) necessarily require that for the conflictual (nonconflictual) type of laws, at least one effect, the substitution or scale effect, be positive (negative) and that the absolute value of the positive (negative) effect be higher than the absolute value of the other negative (positive) effect. A sufficient condition for eq. (9) would be that both substitution and scale effect are positive for the conflictual law-type and negative for the nonconflictual law-type. Note that the substitution effect will always be positive for the conflictual, and at the same time negative for the nonconflictual law-type if the following holds: $|F_{c\alpha}| / F_c > |F_{n\alpha}| / F_n$, e.g. if an increase in agenda control corresponds to a relative easing of the passing of conflictual laws.

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5 Note that one can easily rewrite the numerator of the substitution effect in eq. (7i) and eq. (7ii) to: $\lambda^* F_n (F_c F_{n\alpha} - F_n F_{c\alpha})$ and $-\lambda^* F_c (F_c F_{n\alpha} - F_n F_{c\alpha})$, where the substitution effect for conflictual (nonconflictual) laws is positive (negative) if, and only if, the term in brackets is positive. The term in brackets corresponds to the change of the relation of marginal resource requirements F_n/F_c caused by a change in α:

$$\frac{\partial\left(\frac{F_n}{F_c}\right)}{\partial\alpha} = \frac{(F_c F_{n\alpha} - F_n F_{c\alpha})}{F_c^2}$$

According to eq. (7) the scale effect depends on technological properties on the one hand and on properties of the political support response function on the other. Given the exposition by Döring it follows directly that at the solution point Fc >> Fn, which simply implies that the passing of conflictual laws requires c.p. far greater time resources as compared to nonconflictual laws. Further, it seems reasonable to assume that an increase in conflictual law production would result in a far more higher shift in the marginal resource response of the nonconflictual law-type than a similar increase in nonconflictual law production would do so. Thus:

$$F_{nc} >> F_{nn} > 0 \tag{10}$$

Note that due to the convexity of F, property (10) directly implies that:

$$F_{nc} = F_{cn} << F_{cc} \tag{11}$$

Therefore, from the purely technical viewpoint of legislative technology, the scale effect is higher (lower) for the conflictual (nonconflictual) law-type, the higher the direct increase of resource requirement for the nonconflictual (conflictual) law F_{nn} (F_{cc}) in relation to the corresponding indirect increase F_{nc} (F_{cn}). According to eq. (7) the scale effect also captures the change in the shadow price relation Π_c/Π_n (see also Figure 19.1). The more this relation increases due to an increase in agenda control, the higher c.p. the corresponding scale effect for the conflictual law-type and the lower c.p. the corresponding scale effect for nonconflictual law-type. This follows directly from eq. (7) since the shadow price relation increases more, the higher the absolute value of Π_{nn} and the lower the absolute value of Π_{cc} compared to the absolute value of $\Pi_{cn} = \Pi_{nc}$, while $\Pi_{cn} = \Pi_{nc}$ measures the cross changes of the shadow prices, e.g. the change of the shadow price of one law-type implied by an increase in the number of laws passed of the other law-type. Obviously, it seems reasonable to assume that $\Pi_{cn} = \Pi_{nc} < 0$.

Furthermore, the absolute value, and thus the relative impact, of the scale effect is lower when compared to the substitution effect, the lower the absolute value of $F\alpha$ (e.g., the lower the formally equivalent increases of the fixed resource L corresponding to an increase in the degree of agenda control).

Thus, under condition (9) it is necessary and sufficient for condition (8) to be true if the absolute change of conflictual law is lower than the absolute change of nonconflictual laws, e.g.:

$$\left\{ \frac{dX_c}{d\alpha} > 0 \wedge \frac{dX_n}{d\alpha} < 0 \wedge \left| \frac{dX_c}{d\alpha} \right| \leq \left| \frac{dX_n}{d\alpha} \right| \right\} \Rightarrow \frac{dX_c}{d\alpha} + \frac{dX_n}{d\alpha} < 0 \tag{12}$$

After some rearrangement, substituting eq. (7) into eq. (8) gives the following results:

$$\frac{d(X_c + X_n)}{d\alpha} = \frac{\left[\left(\Pi_c^* - \Pi_n^*\right)\left[F_{c\alpha}\, F_n - F_{n\alpha}\, F_c\right] + F_\alpha\left[\Pi_c^*\left(\left(\frac{\Pi_{nn}}{\lambda^*} - F_{nn}\right) - \left(\frac{\Pi_{nc}}{\lambda^*} - F_{nc}\right)\right) + \Pi_n^*\left(\left(\frac{\Pi_{cc}}{\lambda^*} - F_{cc}\right) - \left(\frac{\Pi_{cn}}{\lambda^*} - F_{cn}\right)\right)\right]\right]}{J} \tag{13}$$

Conclusions

From an overall viewpoint, it follows directly from eq. (13) that under condition (9) a decrease in the total number of laws (X_c+X_n) is more likely, the higher the relative shadow price of the conflictual law-type (Π_c/Π_n)[6]. Condition (9) is all the more likely, the more "agenda control intensive" the legislative technology of the government for conflictual as compared to nonconflictual laws is, and the faster the marginal political support of the voters decreases for nonconflictual as compared to conflictual laws.

The general logic of the model presented here is very straightforward. In its simplicity, the model neglects at least the following components of real-world legislative processes:

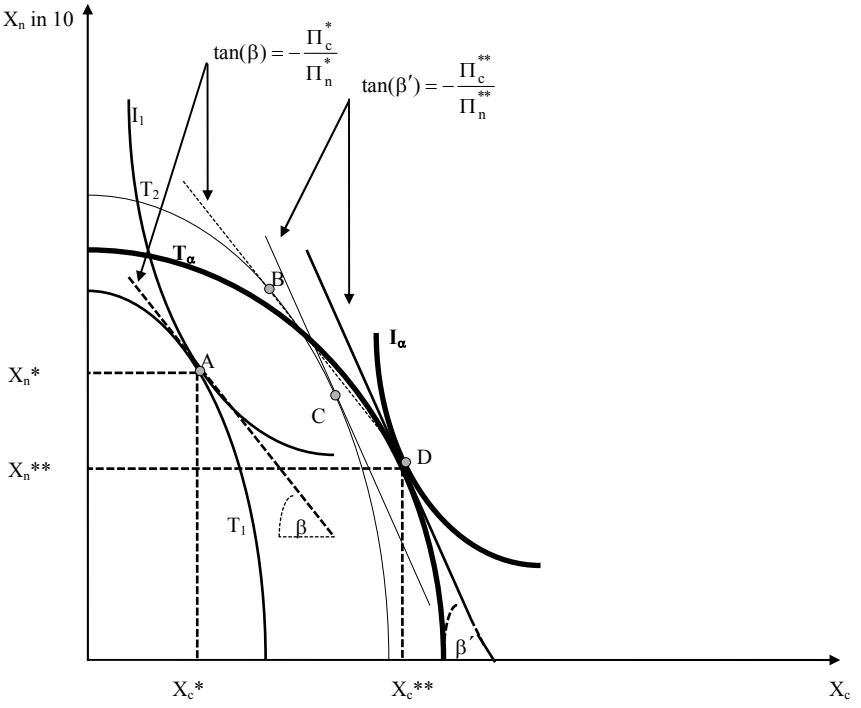
1. The model assumes that a government is a single actor and the sole supplier of public goods by means of laws. However, a majority government is generally a collective agent comprising of a set of different individual actors. This is especially true for of a coalition government. Furthermore, even a government holding the absolute majority in parliament often does not have a real monopoly to pass bills. For example, in a two chamber system the opposition might have some legislative control if the government does not command over a majority in both chambers. In both cases the problem of allocation of received political support arises which can be more realistically interpreted as a game-theoretical scenario with non-transferable utility.
2. One main feature defining a monopoly is that the supplier is faced with a set of many single actors on the demand side, who, due to their individual marginal importance, have no space for strategic bargaining. But in analysing

6 Note that the partial differential of eq.(13) with regard to the shadow price relation (Π_c/Π_n) is strictly negative as long as $F_c > F_n$ and ($\Pi_{cc} - \lambda\, F_{cc}$) > ($\Pi_{cn} - \lambda\, F_{cn}$) = ($\Pi_{nc} - \lambda\, F_{nc}$) > ($\Pi_{nn} - \lambda\, F_{nn}$), which, as explained above, simply corresponds to the conditions intuitively outlined by Döring.

real political systems, one often finds well-organised interest groups specialised in the mediation of interests of larger subsets of voters. In this sense, legislative output is more the outcome of a bargaining procedure among interest groups and government than the outcome of a unilateral optimisation process of a support-seeking government. In this case game-theoretical models seem more appropriate in analysing legislative outcomes as the equilibrium of a bargaining process between support-seeking government and rent-seeking interest groups (see, for example, Henning 1994b).

3. Although it seems indubitable that voters are interested in laws passed by the government and, thus, that laws can be interpreted as public goods, the question is raised as to whether the policy-blind, purely structural nesting of laws into conflictual and nonconflictual laws, as assumed by the model, really fits with the reality of voter behaviour. In this context it might be more reasonable to assume that voters are generally interested in different policy dimensions, like tax or environmental policy, while laws are only the instruments available to a government to reach a special position on each policy dimension which, in turn, raises political support among voters (see Henning 1994a, Thurner 1995). Following this approach, a structural nesting of laws no longer seems so straightforward. Although it might still be reasonable, it would most certainly be more complicated to arrive at.
4. The last component neglected by the model focuses on the assumed preferences of the government. According to the monopolistic model, government is only interested in political support which basically implies that government is purely an office-seeking actor. Intrinsic political preferences of the government over policy outcomes are not taken into account. In general, this is at least a limited approach to government behaviour (see Henning 1994b), especially if one takes into account revolutionary political agents like, for example, Nelson Mandela, who is certainly far more interested in actual policies made in South Africa than in maximising personal political support.

Figure 19.1: Graphical Presentation of Partial Comparative Static Effects



I_1 and I_α denote the contours of the political support response function at the equilibrium point before and, respectively, after the change of agenda control ($\Delta\alpha$).

T_1,T_2 and T_α denote the transformation surfaces:

$$T_1 = \left\{(X_c, X_n) \in R^2_{\geq 0} \,\middle|\, F(X_c, X_n, \alpha_1, \overline{L}) = 0\right\},$$

$$T_2 = \left\{(X_c, X_n) \in R^2_{\geq 0} \,\middle|\, F(X_c, X_n, \alpha_1, \overline{L} - F_\alpha) = 0\right\} \text{ and}$$

$$T_\alpha = \left\{(X_c, X_n) \in R^2_{\geq 0} \,\middle|\, F(X_c, X_n, (\alpha_1 + \Delta\alpha), \overline{L}) = 0\right\}$$

(X_c*,X_n*) and (X_c**, X_n**) are the optimal solution points before and, respectively, after the change of agenda control.

A to D = total comparative static effect of change in agenda control, with:

A to B = pure direct scale effect,

B to C = shadow price effect,

C to D = substitution effect.

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20

Comparing Legislative Instruments Across Nations

Georgios Trantas

I.

Comparing legislative outputs can be a particular source of misconceptions. The reasons seem obvious. Comparing law automatically lead us to the question of what a law actually is. A generally applicable notion of "law" seems impossible[1]. All states and all peoples have a different conception of what law is. This conception is the result of their own individual concrete evolution of some constitutional and democratic form of government. Beyond these concrete constitutional provisions, the structure of legislation is to a great extent predetermined by this historical dimension as well as the traditions of the legal class in each country (Mattei and Pulitini 1991:217). This means that the comparative researcher is forever at home in a minefield, where every wrong step can destroy the well-prepared equilibrium of his comparative work. This is perhaps the reason why the literature on comparative law has not developed a full systematisation of legislative instruments. However, cross-national research should try to overcome these obstacles when generalising, although one must always keep in mind what the pitfalls of the enterprise may be.

1 An example of the difficulties of arriving at a general definition is to be found in the consensus of the Autonomous Section of the Secretaries-General of Parliaments to define "law" as the "statement of principle" (see the bi-annual periodical Constitutional and Parliamentary Information 16, 1973:255). This definition leaves open the question of the difference between "law" and the other policy decisions of parliaments. The attempt to define law according to material criteria is not fruitful. Legislation is what the Constitution and legal tradition accept as such. See Starck 1970.

II.

The name of a law is of relatively small importance, except if the name lends the measure a distinct semantic character. Thus, one can distinguish, for example, between ordinary, "amelioration laws", "consolidation laws" or "reform laws".

Laws can be classified according to the matters they regulate. They can be truly rule-making instruments, e.g. setting the rules of economic, education, administrative, or penal legislation[2]. In these cases, laws are characterised by the active part played by parliament in their elaboration. Other laws, however, are limited to ratification only. This is true of the law ratifying the state budget[3] and the laws ratifying international treaties, executive decrees, and even law decrees. These legal distinctions are related with the distinction of legislation according to the policy aims they follow in distributive, redistributive and regulatory (Blondel 1990:193).

In the traditions of the rule of law, a law must be general and abstract. Despite this general claim, individual laws also exist[4]. General laws, however, should not become too general. So-called enabling bills (Ermächtigungsgesetze) that give the executive a completely freehand to regulate by decree, a common practice during the interwar period, is, after the misuse by fascism, generally condemned and no longer seen as a way to rationalise the legislative process[5].

The general character of a law can be challenged by the enactment of a dispensing law (Ausnahmegesetz). A special type of individual law is the law-measure (Maßnahmegesetz) which set rules for a particular case and thus defies the ideal of the general law-norm (Rechtsgesetz). The public interest is usually served by laws that discipline societal situations (Ordnungsgesetze), but also by

2 A special case is the amnesty law (Amnestiegesetz) and the law granting pardon. They can be seen as individual rule making.

3 There is a variation in the practice concerning ratification of state financial instruments (Budget, Entlastung). Due to the complexity of the matter, the relevant classifications are not to be discussed here. In Belgium, the budget is voted on in the form of two laws for example, the one dealing with state expenditure, and the other with state resources. In most cases, the budget is voted in the form of one law. In Greece, it is not allowed for other legislative clauses to be added to the budget law, something that is, indeed, a common occurrence in many other countries.

4 An example is the so-called citizenship laws in Belgium, used to make a foreign person a citizen of the state.

5 It seems that the only country where such a form of legislation is to be found nowadays is Belgium. This is the case for laws attributing special powers to the King, that is, in practice, the government.

Table 20.1: Special Types of Legislation

	Codification laws (special procedure)	*One-article laws* [1]	*"Article laws"* [2]	*Allocation of personal privilege only through individual laws*	*Influence of non-parliamentary organs on individual laws*
Austria			•		
Belgium				•	
Denmark			•		
Finland		•			
France			•		
Germany			•		
Greece	•		•	•	• [3]
Iceland		n.a.			
Ireland					
Italy					
Luxembourg					
Netherlands					
Norway		n.a.			
Portugal					
Spain					
Sweden		•	•		
Switzerland					
United Kingdom	•				

Notes:

1) Laws that have only one or very few articles.

2) Laws that simultaneously change many previous laws.

3) Opinion of Court of Auditors on pension legislation.

Table 20.2: Special Types of Legislative Activity

	Ratification of state contracts [1]	*Law-measures* [2]	*Execution laws* [3]	*Delegation laws for judicial reprieve*	*Legislation requiring special quorum*
Austria		•	•		
Belgium		•	•		•
Denmark		•	•		
Finland		•	•		
France		•	•		
Germany	•	•	•		
Greece	•	•	•		•
Iceland		•	•		
Ireland		•	•	•	
Italy		•	•		
Luxembourg		•	•		
Netherlands		•	•		•
Norway		•	•		
Portugal		•	•		•
Spain		•	•		•
Sweden		•	•		
Switzerland		•	•		
United Kingdom		•			

Notes:

1) The performances of a contract demands an enabling law.
2) Laws that regulate an individual situation.
3) Laws that enable the execution of constitutional provisions.

laws that stabilise relations between private parties (Gesetze zwischen Privaten). Another form is the law that ratifies administrative contracts between the state and a private party, tending to stabilise the relations between them, and to give an extra guarantee to the latter. The practice is particularly common in Greece. A special form of individual law is the law that execute a judicial decision, internal or international, or function instead of a judicial or administrative title of execution (Vollziehungsgesetz).

According to the criteria of legislative technique (Schulze-Fielitz 1988:50), one may distinguish between article laws (Artikelgesetze), which simultaneously change many other laws, and their opposite, that is, codification laws[6]. The German case of laws which regulate unclear points and systematise the provisions of other laws (Rechtsbereinigungsgesetze) are to be located somewhere between the two.

In connection with an existing principal law on the matter (Stammgesetz), one can also distinguish between amending laws (Änderungsgesetze), reform laws that change the wording; supplementary laws, that leave intact the existing law, but add new provisions (Ergänzungsgesetze); and laws that change a legislative decision that has proved to have been unsuccessful (Widerrufsgesetze).

Other distinctions can be found in the case of laws that are annexed to another law. They may follow that law (Folgegesetze), or be enacted at the same time so as to regulate its introduction in the legal order (Einführungsgesetze), or to regulate execution of a law (Ausführungsgesetze)[7], enlarge its time limit (Verlängerungsgesetze), or abrogate it by completely changing it (Ablösungsgesetze).

In terms of enforcement, most laws are conceived as regulating matters for the whole country. Nevertheless there are laws that are limited to only a part of the state (Ortsgesetze). Other laws can provide for the acceptance of the law in a part of the country originally excluded from its jurisdiction (Übernahmegesetze)[8], or coming into force in places which were excluded from the original space of enforcement (Erstreckungsgesetze).

Laws are thought to be eternal, if not changed in some way by new legislation. On the other hand, there are also laws so conceived as to remain in force

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6 Article Laws are to be distinguished from one-article laws. "One-article" laws are laws which only have one or very few articles. This case is to be found in Scandinavia mainly in the form of amendments to existing legislation, and in Sweden and Finland in particular (Wiberg 1994:227).

7 Here, the laws that regulate the execution of a ratified international treaty are also included.

8 This kind of legislation is used in federal states, when the enforcement of a particular law is conditioned on its acceptance by the regional assembly.

for a limited period only (sunset laws, Zeitgesetze). The reason is that sometimes, they are experimental laws, testing the effectiveness of a measure for a period of time and then, as planned, expiring. The short life span of these laws provides the opportunity for a preliminary evaluation of their results. Sometimes the law is thought of a transitional solution for the time between the abrogation of older legislation and the enactment of new legislation (transitional laws, Überbrückungsgesetze), or to moderate the consequences of new legislation (moderatory laws, Übergangsgesetze). Sometimes public interest may, for some reason or other, demand the enactment of provisional laws that are to expire after a given period (Auslaufsgesetze). Some of them are used to deal with a special situation, for example a law that guarantees amnesty to terrorists. Some other laws of this category are legally constructed in such a way as to enable a steady control by parliament. The so-called annual laws (Jahresgesetze) belong in this category, i.e. laws that expire at the end of a year after their enactment and needing to be re-enacted once again if they are to be continued[9].
The nature of the rule leads to the main distinction between substantive law and procedural law. The latter are laws that only set rules concerning a certain procedure[10]. Another important category is that of the so-called execution laws. These are laws that are seen as being necessary for the realisation of a specific constitutional provision. These laws are usually connected with legislation regulating constitutional rights and are foreseen in the constitutional text.

The category of financial laws is important as it is usually connected with procedural consequences. Modern constitutions are suspicious of the spending tendencies of Parliament. This sphere of legislation is thus reserved to governments (IPU 1986: 862).

Laws can vary according to their normative character. Thus there are prohibitive laws, that forbid something, laws that demand certain behaviour (Verhaltensgesetze), laws that mostly serve the delegation of powers (Rechtsgrundlagengesetze), laws that regulate in connection with the norms of another law (Blankettgesetze), laws that organise administrative units (Organisationsgesetze), and laws that sometime spell out the characteristics other laws ought to have (Modellgesetze).

The internal structure of the law can lead to certain classifications. There are laws with general clauses and laws with delegations to the executive. A special form of the latter is the loi-cadre, of France by which extensive delegation is al-

9 The most important is, of course, the budget which is usually enacted on an annual basis.

10 Procedural laws are, for example, laws that provide for the participation of citizens (Partizipationsgesetze) in administrative decision making.

lowed for a limited time period. This model has, in the meantime, also been incorporated in other countries[11].

Laws can limit rights (Eingriffsgesetze) or accord benefits (Leistungsgesetze). Laws can also regulate the intervention of the state in society and economy (Interventionsgesetze). Here, one meets with provisional or permanent laws that channel people towards showing a certain economic behaviour (Lenkungsgesetze). Other laws try to prevent future problems from arising in the first place (Steuerungsgesetze). Programmatic laws set the agenda of long-term state action (Programmgesetze). Impulse laws (Planungsgesetze) are more concrete as they also set the general measures and procedures necessary for their realisation. The most classic example is set by the budget. Plan laws are even more concrete as they practically issue a directive to the executive to act according to the targets set.

According to the specific federal structures of each part of state activity, federal laws are categorised into laws where powers belong exclusively to the federal government, laws where the powers of the federation are concurrent with those of the federal states, laws that set the special limits within which the federal states can use their legislative powers by co-ordinating them (Rahmengesetze), and laws that establish the essential preparations for further legislation by the federal states (Grundsatzgesetz).

Other laws accounting for sociological criteria (for example the distinction between conservatory and evolutionary rules of the *status quo*) and political criteria (for example the distinction between reform, compromise and crisis legislation), or the effectivity of the law[12] can be added to this classification. They do not, however, allow for clear cut distinctions and so are not to be analysed here[13].

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11 The loi-cadre should be distinguished from framework laws found in Belgium. Framework law is an *ordinary* law delegating extensive legislative powers and differs from the other laws attributing powers to the King only by the fact that it has a comparatively greater number of delegations, and describes a final program for the use of these delegations.

12 For example laws that are only a gesture of state interest (symbolic laws), or act as an apology to small interests (alibi laws), laws that secure the effectivity of legislation (Sicherungsgesetze), laws that are so abstract that they can only be implemented by lawyers (Juristengesetze).

13 They also cut across the dichotomy of parliamentary and executive legislation.

III.

Italy, Portugal and Spain all have a system of regional government which differs from the federal system in so far as the regions do not enjoy state quality. The devolution of powers to the regions is achieved through state law. In Italy and Portugal, a law empowers the creation of regions, a regional assembly then votes for a regional statute which is then passed as a state law. In Spain, the devolution of powers, in particular, follows a complex procedure, where both the regional parliament and the Cortes Generales participate. The creation of an autonomous community follows from an initiative taken by central government or local government after which a relevant law is passed that enables the constitution of an assembly to be enforced. The assembly votes on the statute of the autonomous community which is then passed through the Cortes Generales as a state law. This form of legislation is of constitutional importance as the regional Statutes regulate the future exercise of executive and legislative power within the state.

France and Spain recognise another form of legislation that is ranked higher than ordinary legislation. This is the case of organic laws which regulate the function of a constitutional organ or a procedure in the case of France, or the fundamental rights, the autonomy statutes and electoral law in the case of Spain[14]. Although they are not part of the constitution, they occupy a position higher than that of other laws. Their special position is based on the special majority required for their enactment and amendment, the special status given to them by the Constitution, the materials they deal with and their role in the judicial review of constitutionality.

IV.

The distinction between legislation passed by the central parliament and legislation passed by regional assemblies is a constitutionally related matter. The importance of the latter is connected with the question of who has the "competence-competence", that is to the question of who has the power to legislate when there is no provision in the constitution. *Federal* structures leave the presumption of legislative powers to regional assemblies, while in the case of *re-*

14 Organic laws should be distinguished from organisational laws. The latter are laws that organise the function of a constitutional organ and cannot simply be abrogated. Instead, they may only be changed by new legislation. The reason being that a constitutional function should not depend upon the goodwill of a particular parliament. Organic laws are organisational laws, but not all organisational laws are organic laws. Most organisational laws are part of ordinary parliamentary legislation.

gional structures the presumption lies with the federal parliament. This means that there is always a core of exclusive powers for regional parliaments in federal states. Regions have exclusive powers to legislate only when this is provided for in the constitution. A practical consequence is that while both types of decentralised legislative powers lead to a multiplication of the total legislation in comparison with unitary states, this is more true of the regional as of the federal structures. The reason is that in regional states central parliament has a more extensive legislative competence.

Of the eighteen countries researched in the project seven have federal or regional structures. The German federalist layer (Germany, Switzerland and Austria), the South European regionalist layer (Italy, Spain and Portugal) and the special case of Belgium. The distinction between different layers is of importance as it is related to different political philosophies that, in turn, influence the competences of "meso-government". While the German federalism is related to the historical evolution of these states and is an inherent element of their character as "Kulturstaaten", Mediterranean regionalism mirrors not so much pre-existent regional differences as the influence of Roman Catholic doctrine. This is also true in the case of Spain where regionalism evolved also because of autonomous tendencies of some of its regions. Belgium is a special case because the devolution of power follows two distinct forms of regionalism, one cultural and one territorial.

Three legislative types can be found in federal/regional structures concerning the division of power between central and regional assemblies[15]. There are cases where legislative materials fall within the exclusive competences of either the regional or the central assembly. Then there are cases where both the regional and central assembly can legislate, creating the structure of so-called concurring legislative powers. In this case the constitution provides for collision norms to solve the problems of possible conflicts between the two distinct sets of rules. A usual collision norm is that the legislation of the central government, when existent, is accorded a higher position than regional legislation. A third possibility is when the central parliament only has the power to set the general framework of legislation, while the actual implementation will is left to the regional assemblies. Two alternatives fall within this type of division of legislative powers. The one is the delegation of powers by a central parliament to a regional parliament. The second alternative is where legislative materials fall within the normal exclusive powers of the regions, but are bound by general instructions of central

15 A German speciality is the existence of common competences (Gemeinschaftsaufgaben) where the Bundestag can legislate in order to assist the implementation of policies that belong to the regional level.

parliament, usually in order to guarantee a certain homogeneity of rules in the whole country.

In the Federal Republic of Germany, Austria and Switzerland the general competence to legislate lies with the Länder but the fields given to the exclusive or concurrent competence of the Bund are so extensive that only a few fields remain where a Land can legislate exclusively. The Bund also has the power to legislate even in the case of the Framework Laws (Rahmengesetze) that coordinate the legislation of the different Länder. In Italy, regions can enact concurrent legislation inside the framework set by state law. They can also enact implementation legislation, that is legislation for enforcement of state laws. Only the regions with special status have primary or exclusive competence to legislate in certain fields and these powers can only be limited by international law or rules set in view of the national interest. Essentially the same model also exist in Portugal. In Spain the three special autonomous communities have exclusive competences to legislate on matters that are not reserved to the central state by the Constitution. It is not clear whether the "normal" autonomous communities also have some exclusive competences. The reason is that regional legislation is either concurrent legislation where the central state can set the general principles, or implementation legislation in order for the autonomous communities to enforce the provisions of state law. Belgium is a special case as two sets of regional government exist. There are three linguistic communities which have exclusive competences on culture and education and also three regions with many exclusive competences. In some cases though the regions are to follow the principles set on the matter by central parliament.

V.

Norms are usually set by Parliaments, but, in an extensive way, are nowadays also set by the executive[16]. The executive, either in exercising its own normative power, or after parliamentary delegation is, today, a partner of parliament in legislative activity (Olsen 1957).

The old distinction between formal laws and material laws takes on a new importance in the analysis of the relation between parliamentary and executive

16 A third form of legislation, namely referendum after a people's initiative in Switzerland, Italy and some German Länder or after a government initiative as in France, shall not to be discussed here. People's initiative could have a positive character, or could have the character of abrogating existing legislation. Certain matters, usually of financial character, can also be excluded from the procedure of referendum.

legislation[17]. Formal laws are laws passed in the *form* of law by parliament. They are not necessarily substantive laws, as substantive laws are understood as laws which set rules. Substantive laws can be formal laws or executive norms. The importance of the distinction lies in the level of legitimation of each rule[18]. Usually, a formal act of Parliament is required for the regulation of the most important state matters or of the rights of the citizens.

The distinction between parliamentary and executive legislation is based on a formal organic criterion, that is, which organ is responsible for the enactment. In some cases, however, the distinction can become unclear, as is the case when legislation is passed in the form of legislative decrees by the executive after consultation with a parliamentary organ or with the condition of ratification by parliament within a given period. The latter case is a well-known practice in Italy (Kreppel 1994) and Portugal (Tavares de Almeida).

Almost all constitutions provide special legislative powers for the executive in emergency situations. Germany has the most strict system. The Basic Law requires that a special commission be established comprising of members of the Federal Parliament (Deutscher Bundestag) and the second "chamber", the Federal Council (Bundesrat), which can enact emergency legislation in the event of attack. An analogous constitutional position exists in Sweden. In France, it is the President of the Republic who can act and take legislative measures in the event of an emergency. In other countries, this usually falls within the jurisdiction of the Head of State. As these powers are mainly formal, emergency legislation, in practice, stems from the government responsible to parliament.

17 The distinction dates back to the great German constitutional lawyer Paul Laband who, in this way, tried to legitimise the position of Bismarck in the so called budget conflict. If the budget was only a formal, and not a substantive law, it was not necessarily important that it be enacted by parliament.

18 Retroactive rules without expressed delegation, or taxes cannot be imposed by executive decrees.

Table 20.3: The Constitutional Predominance of the Executive

	The preeminence of Executive in special circumstances			
	Decree laws	*Emergency laws (Executive)*	*Emergency laws (Executive plus special legislative body)*	*Not provided in the Constitution, but practiced*
Austria		•		
Belgium				•
Denmark		•		
Finland		•		
France		•		
Germany			•	
Greece		•		
Iceland		•		
Ireland		•		
Italy	•	•		
Luxembourg				•
Netherlands				•
Norway		•		
Portugal	•	•		
Spain		•		
Sweden		•		
Switzerland		•		
United Kingdom		•		

VI.

When considering the great variety in the normative activities of the executive the question arises of what a norm actually is. Executive legislation, which sets binding rules, usually follows a delegation from Parliament, or is part of the autonomous constitutional powers of the executive.

What is to be considered as executive legislation greatly depends on how the principle of the legality of administrative action is understood in each country. It is within these bounds that the main considerations of the relation between the

administration, the public and parliamentary legislation fall. This leaves aside all those normative phenomena that arise within the administration because, as they are not related in any way with parliament, they are denied their binding force.

One can distinguish between several types of "internal" norms of the administration. In the first place, there are circulars which interpret enacted legislation. There are also circulars and directives on how administrative discretion is to be exercised. Furthermore, there are also circulars which regulate the organisation or the procedure of an administrative unit. In Germany, when legislation is not provided, or is not considered as necessary, administrative circulars are even considered to be of a sufficient legal base for administrative decisions.

Distinguishing the phenomena observed in these cases from what is strictly termed executive legislation becomes so difficult that the need for a mediatory classification of "pararegulation" becomes acute.

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21

Legislation on "Benefits" and on Regulatory Matters: Social Security and Labour Market[1]

Evi Scholz and Georgios Trantas

The reasons for writing this research note lie in recognition of the simple fact that patterns of conflict and cooperation in parliament vary not only cross-nationally but also within the same country according to particular policy fields. The idea is, principally, a simple one, but at the same time difficult to test empirically. For a comparative research design focusing on differences across countries, one would normally keep one single narrow policy field constant and then study its varied treatment in the eighteen parliaments of Western Europe. This would demand a solid base of empirical data which is difficult to find, as such data is usually scarce or incomplete or open to unsystematic subjective decisions of the researchers. It was a stroke of luck for the project that the editor of the present volume hit upon a source of important legislative instruments - underused by social scientists - covering all the countries involved in the project and giving the opportunity for exactly the kind of research described above. The source is the legal database of the International Labour Organisation (ILO) in Geneva, known as NATLEX.

This note describes the way the research team of the project in the Mannheim Centre for European Social Research processed the data provided by NATLEX, and how we used it to prepare the empirical base required by the project.

1. Why ILO?

The increasing organisation of the international community is one of the most important developments of the post-war period. Today, international organisations are important actors in international relations alongside the states themselves. This is due to the role they play as instruments of coordination and coop-

1 The authors would like to thank the editor for his suggestions and guidance.

eration between states, by which they have become involved in state policy making. This means that international organisations are on the receiving end of a flood of information which is important for the social scientist for three reasons: Firstly, this information is mostly the result of reports made by state authorities (official sources). Secondly, it is usually published or open to the public. Thirdly, as this information is used for coordinating state activities, it appears in a form that allows comparisons to be made. This comparative information is based on the work of the legal or other experts of the academic staff of certain international organisations and is based on common research ground that has developed in the *scientific community* related to a particular subject.

Three of the international organisations could have been of particular interest to the project as sources of information enabling a comparison of disparate materials from eighteen different parliamentary and legal cultures. All countries covered by the project are members of the OECD, of the Inter-Parliamentary Union and of the ILO[2]. All these organisations have specialised scientific staffs and a well-established expertise in their relevant fields, which in the case of OECD and ILO is reinforced by investigatory powers and often reports on particular states.

As the IPU information only extends to brief summary statistics on legislative output in total, it is the statistical and other information of the OECD and ILO that is of interest for a comparative study of policy fields. The OECD is not particularly interested in the formal part of the implementation of regulatory regimes, namely their parliamentary and legal aspect. As a consequence this information is not reported in its statistical data. Although the information is not available at present, in the not too distant future OECD data could become a promising source of dependent variables to be correlated with institutional structures. On the other hand, the ILO is a unique source of material as far as two policy fields are concerned, i.e. labour legislation and social security.

The statutory mission of the ILO is the development of international standards for the protection of workers. This is done through the preparation of numerous international law conventions and an inspection of their implementation in the ratifying states. National states are also obliged to inform the ILO on any

2 While it seems that the European Commission and the Council of Europe are also in possession of large national legislative materials, this data is not open to research but is used for internal use only. Concerning the ratification of international treaties, the UN could be also a good source for information. International treaties are usually the object of particular forms of legislative procedures and were not to be taken as central for the identification of different styles of parliamentary legislating.
A collection of national instruments in the field of labour law is included in Blanpain's Encyclopaedia of Labour Law, but up to now has been restricted to only some of the countries of the project.

legislative changes concerning labour or social security matters. Based on these reporting procedures, the ILO has at its disposal an enormous number of legislative instruments from all over the world. Some of this material used to be reported by the ILO in their specialised publications. The bulk of the information, however, remained unreported and was only used by the experts assigned to report on the conformity of state legislation with the international standards. NATLEX was born as an instrument to help these experts find the information they needed via a collection of abstracts on the reported material, coded by specialists according to different categories. Moreover, NATLEX was also conceived as a database providing a worldwide on-line service for the interested public.

2. A Description of NATLEX

2.1 Content

NATLEX is the labour and social security law database of the International Labour Office (ILO) in Geneva concerning all ILO member countries.

NATLEX provides data on the policy field of regulation, deregulation and reregulation of labour policy and the labour market. Subject scopes are, for example, national and provincial legislation and regulation of labour contracts, conditions of work, labour administration, occupational safety and so on. The ILO aims to cover as much labour and social security legislation as possible: "NATLEX is the only legislative database in the labour field that endeavours to cover as many legal systems as possible throughout the world" (description of NATLEX by ILO).

"For this purpose, (ILO) receives official publications, periodicals and legal monographs of all member countries, consults national legislative databases, and has access to information collected by the ILO regional offices and national correspondents. In addition, it maintains contact with the competent public services and with universities in order to complete sources of information and to be in a position to keep the information contained in NATLEX up to date". NATLEX is not a fixed dataset. Instead, it is updated monthly by 200 to 300 records. In 1992 the database contained about 26,000 records.

The database was launched in 1970 as a supplement to the printed Legislative Series[3], but as we were informed, and noticed ourselves, it did not come into full

3 There is only a partial correlation between the Legislative Series and NATLEX. The Legislative Series publishes not only abstracts of the new legislative instruments but, in some cases, the whole or great excerpts of a document. On the other hand not all

operation until the 1980s. This set a limit to our research and as a consequence we decided to use the database only for the period after 1980.

2.2 The Methodology Behind the NATLEX Entries

The ILO receives legal documents in more than 40 languages. These are then processed individually by the ILO legal staff. All these legal documents are then catalogued with an abstract by the ILO legal staff and held at the International Labour Standards Documentation Centre. The analytical summaries and indexing is carried out in the three working languages: English, French and Spanish.

The official national legislation is held in the ILO library in full text versions of the legislation passed. All legal acts are classified according to a number of data fields which give information on the content of a legal instrument in a short abstract or information referring to the country, to the year of adoption, to its subject matter on freedom of association and industrial relations, employment and working conditions, social security, etc., and to the types of legislation the record belongs to.

3. Working with NATLEX

3.1 In General

According to NATLEX itself, users of the database are manifold: "National government administrations, employers' and workers' organisations, as well as related institutions such as legislative bodies, justice administrations, tripartite economic and social councils, human rights organisations, and universities have access to NATLEX."

Further, the ILO describes one of the most important resources offered by NATLEX as follows: "NATLEX is a very flexible research instrument. The large variety of recorded information permits different research strategies. In order to respond to a consultation, information can be presented according to the legal hierarchy of the texts (constitutions, general acts and codes, implementing laws, and administrative regulations), and according to the scope of their territorial application (international) agreements, European Community texts, national or provincial legislation)."

With regard to the type of legislation of the data research and analyses presented later in this chapter, we decided to distinguish between the types of legis-

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the documents reported in NATLEX find their place in the Legislative Series. Indeed, as we were told, perhaps about a tenth of the material of NATLEX is published in the Legislative Series.

lation: “bills enacted”, “decrees” and “miscellanies”. In the terminology of ILO, the category “bills enacted” or “textes législatifs” includes: acts, codes, dahirs, laws etc. The category “decrees” or “textes réglementaires” contains cabinet orders, decisions, executive decisions, ministerial or government orders etc. The residual category “miscellanies” or “autres textes” consists of circulars, government notices, instructions or proclamations etc.

Our experience with the database is documented by the following: NATLEX provides us with a very rich source of material concerning actual legislative acts. In fact, the database can also help correct some false information given in the standard literature. One further advantage of working with the database is that NATLEX includes administrative decrees. This means that the actual implementation of a law by the administrative machine can also be followed. It must be constantly kept in mind that sometimes important changes are rather to be found at the implementation stage via decrees and other executive rules than in the parliamentary process itself. For comparative legislative history NATLEX thus offers the possibility to follow parallel legislative movements in different states at the same time. Unfortunately, on the other side of the coin, a very useful source of material for labour law, i.e. collective agreements, are not usually reported in NATLEX, not even in the category “miscellanies”.

3.2 How to Work and Recode On-Line

Working on-line means using the facilities offered by the ILO to interested institutions via network connection. This means working with the ILO computer itself, guided by menus and sub-menus until you have reached the NATLEX database. Once logged in to the database, the Query Processor provides interactive retrieval operations via simple commands. The basic idea of a search is to obtain the specific information of interest via step by step reduction from a broader set of legal instruments.

This normal simple command structure can also be enhanced by using Boolean expressions like “AND”, “OR” or “AND NOT” to carry out more complex searches using more than one data field. This offers the researcher several possibilities for recoding data. “Recode” in this case means aggregating different sets of legal instruments. These sets of legal instruments can be defined by the type of legal instruments, the content of the short abstract, or by a time period using the information on the year the legal instrument came into force. Another important possibility of recoding is offered by the LABORLEX classification which distinguishes between 13 main categories of labour legislation, ranging from “general provisions” over “human rights” and “conditions of employment” to the last category “special provisions” (for a complete list of the main categories of

LABORLEX, see Appendix Table 21.7). Most categories have subcategories, which often have subcategories themselves.

The ability to aggregate data, especially data in different categories, is very important indeed. NATLEX has a special structure which does not always profess a clear classification of legislative acts in one single category but with multiple entries in different categories, if the bill or the decree concerns several questions. Therefore, a simple sum of the results of research of single categories to a total number of bills in a global category would yield a higher number of bills or decrees than actually exist as, in some cases, one would count certain bills several times over. Applying a selection filter aggregating different categories would give the correct numbers of hits as in this way each legal document is counted only once.

Another problem arose after country specialists, having checked the ILO typology of legislation, warned of the dangers from a misclassification of legal instruments. According to their advice, we have controlled and adjusted our results for Belgium, France, Greece, Italy , Portugal and Spain.[4] To document the amount of corrections all tables in this chapter include the pure ILO numbers and the adjusted numbers as well.

4. Constructing a Research Strategy

4.1 The Legal Framework

4.1.1 The Special Features of the Fields

The character of NATLEX as a legal field database demands the sort of analysis appropriate to the material reported. Each legal field has its own systematic and its own distinct characteristics. This is true of all the branches of the legal system, but is especially true in the case of labour law and social security law, the two fields reported in NATLEX.

Labour and social security legislation are two essentially neighbouring policy fields. Both are oriented towards the protection of the employed. The difference between them is essentially to be found in the instruments they use and the kind

4 Misclassified legal instruments are in particular: "legislative decree, legislative order, legislative ordinance, décret-loi, décret législatif, arrêté législatif, ordonnance législative, decreto-ley, decreto legislativo, orden legislativa und ordenanza legislativa", which are coded as textes législatifs but in fact belong to textes réglementaires.

of protection they offer. While labour law is a regulatory regime, social security law is essentially a benefit giving kind of legislation[5].

Labour law is a classical field of the changing role of state regulation. A highly dense system of rules both binding on employment contracts and setting obligations for the employers was developed to protect the workers from interventions. Labour law creates a complex of regulatory rules, though few of these rules set absolute standards. "Absolute" means that these standards can neither be changed by collective agreements nor by an individual labour contract. Most labour law rules set minimum standards which means that labour legislation only regulates the absolute essentials of protection. The development of further protective instruments is not prohibited, but is left to private autonomy. Collective agreements and individual labour contracts can then develop better conditions. The difference between the two sets of rules can be seen in the way labour law develops. While absolute standards are rare and tend to change due to changing circumstances, minimum standards remain stable as they are more flexible. The regulation of working hours is a well-known example of minimum standard regulation in labour law. Regulating working hours faces the difficulty of compromising the health interest of the employee with the economic necessities of the employer. The regulatory solution is to set some general applicable minimum standards and to leave the concrete regulation of working hours to collective agreements and individual labour contracts. Working hours regulations thus tend to have some stability because there is no need for the different interests to demand a change. When a change comes, its impact is substantial because the change of the legislation affects many of the established collective agreements[6].

Social security legislation is mostly concerned with entitlements. Social security developed as a system of compensation for labourers, and as a mechanism of redistributing the benefits of free economy. Social security legislation is organised in two sets of rules. On the one hand, there are the administrative rules used

5 Regulation and entitlements make - with planning - the core of today's state activity and consequently of parliamentary legislation. Regulation has evolved from the traditional police role of the state, i.e. the security of life and property, to a highly complex system of state intervention in economic and societal life. The same interventions were followed by the growing welfare state. State legislation became thus the base of all sorts of entitlements for great parts of the population in Western Democracies. Planning follows the finality of a loose coordination between the different regulatory instruments or entitlements. As state intervention reached its limits modern parliaments and the administration faced another very difficult role as arbitrers between groups competing for the same limited resources.

6 Such changes thus tend to have a greater impact on the status quo as expected, with the result that special interests try to defend the status quo.

to regulate the social security system. The other set of rules concerns benefits legislation[7].

In summing up, labour law deals mostly with the protection of workers through the creation of a regulatory net. Object of the regulation is the individual working contract and the collective relations between employers and employees. Labour legislation is thus divided according to many different criteria: between individual and collective labour law, between general and special regulatory fields, between remuneration and protective as well as material and procedural rules. Labour legislation is regulatory in character, meaning that it sets limits to the autonomy of private actors within the labour market. Social Security law does not deal with the regulation of private incentives, but guarantees the employed certain entitlements (benefits), and develops the organisational and procedural structures needed for the administration of these benefits. Social security legislation can thus be divided into two categories: Firstly, there are the rules on the categories of the protected persons and the types of benefits/entitlements given to them. Secondly, the administrative legislation required for the functioning of the extensive administrative machines that modern universal social security systems demand.

While the structure of the legal relations is different between the two fields, it must also be pointed out that, at the same time, they are closely related. It is not surprising, therefore, that the ILO does not restrict observations to social security for workers, but has extended its interest to other branches of social security legislation as well.

4.1.2 The Importance of the Legal Families

Comparative legislative studies are conditioned by the way legal systems are structured. Each legal system has its own particular characteristics that determine the way *law* is understood and developed. In other words, each country has its own legal culture, its special way of approaching legal notions, and specific legislative instruments, the frequency of which is predetermined by existing legislative-institutional structures. As has been shown by Trantas in Chapter 20 in this volume, different types of legislative instruments offer a variety of options in relation to the political needs of each situation and the legislative material in question.

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7 Social security systems developed in a homogenous way in the period of rapid economic development after the Second World War. The economic problems and the crisis of the welfare state made the evolution more amorphous. As the resources needed for new benefits became scarce, new benefits were given in an asystematic way to particular groups and interests.

Legal systems tend to differ in the way they usually go about setting new rules. Common law countries (UK, Ireland) tend to legislate with parliamentary statutes and to have longer and more detailed legislative instruments. In France, the executive has its own extensive autonomous rule-making power. In addition, the French Parliament tends to give extensive delegated powers to the administration. The tendency for government by decree is not restricted to France. Belgium, Italy, Spain, Portugal and Greece are countries where executive rule making, either as delegation or as (pseudo-) emergency legislation, is very common. Germany is still a country where parliamentary legislation is the rule, but laws have also become fragmented, a phenomenon also to be found in the Scandinavian countries. These peculiarities could have an impact on the frequency of use of the particular legislative instruments.

Using the typology of legal families used in comparative law as an orientation (Zweigert and Kötz 1992:63 ff.), we can thus distinguish between the common law countries with the traditional role of statutes, the Nordic countries where parliamentary rule making is combined with rule making by independent agencies and a strong autonomy of societal institutions, then France with a tradition of the administrative state, followed by the Mediterranean layer (Portugal, Spain, Italy, Greece), as well as Belgium and Luxembourg, i.e. countries with strong executive rule making, and Germany, Austria, Switzerland and the Netherlands with a strong use of general clauses in predominantly parliamentary legislation.

The specifics of the legal families should be expected to influence the distribution and frequency of the legislative instruments to be found in NATLEX. It is a logical conclusion, for example, that France should be represented by a much higher number of executive rules than Britain. As labour relations fall into the exclusive powers of the French parliamentary legislator, these executive rules will be a result of delegation and not of autonomous rule making. The Nordic countries should tend to have many small parliamentary statutes, while executive orders will be comparatively few.

The structure of the legal system in a particular field is also of importance for the kinds of instruments to be found in NATLEX. Labour law is characterised by a strong relation between state legislation and private autonomy. This structure of labour law is, fortunately, common to all West European countries. The expectancy was thus that a great number of materials be regulated not by state legislative instruments but by collective agreements. This can, however, lead to some distortions in the frequency of the legislative instruments reported in NATLEX. The Nordic countries, especially Denmark, tend to leave the regulation of the labour market extensively to collective agreements. As a consequence, the number of state legislative instruments dealing with labour law matters will tend to be smaller in comparison with other countries.

4.2 Socioeconomic Interest

The extensive coverage by NATLEX and the various themes that arise in labour law makes the concentration on certain policy areas that have gained political importance in the period after the 1970s particularly expedient. Regulation of working hours and labour contracts was an obvious selection because these have been the hottest areas of the regulatory-deregulatory debate of the last twenty years.

Labour law regulation did not become an important issue in policy discussions until the 1970s (for a recent documentation see Bode, Brose and Voswinkel 1994). The reason for this may be traced back to the state of West European economies until then. In the period after the Second World War they witnessed a period of economic recovery. The steady growth of the economy facilitated the relative peace in relations between employers and trade unions. The same situation allowed the state to abstain from deep-reaching intervention in the labour market. The economy grew in strength at a rate far faster than expansion of the employment market. The state was left in the role of guarantor of the existing situation, having set up a framework of stable rules of the game in the labour market during the 1950s. The situation changed in the 1970s due to two major events. The two oil-shocks brought the economy into deep recession, where the classical macroeconomic interventionist instruments of the state seemed no longer to work. This led to serious disturbances in the employment market. The number of unemployed rose so dramatically that the whole concept of normal employment was questioned (Bode, Brose and Voswinkel 1994:12). While the trade unions had been a powerful lobby until then, the great number of the unemployed and demands from employers created an environment of pressure for a far-reaching reform of the existing labour market regulation. The second important change was the economic dynamism of Japan. An analysis of the Japanese phenomenon signified a close relation between the growth of the economy and the way labour was regulated in that country.

The first reaction to this new situation was a recourse to more intervention and a move towards a more restrictive regulatory framework. The late 1970s saw the growth of regulatory intervention in labour contracts and working hours. Part-time jobbing and overtime were strictly regulated. Even during the first period of Socialist government in France, it had became clear that regulatory policy was not working. The Thatcher Government led the way in reversing existing policies, and thus setting the stage for the deregulation debate.

The deregulation of the labour market touches on two main issues. The first is the deregulation of labour contracting so as to allow for more flexible forms of employment (Bode, Brose and Voswinkel 1994:13). Not only did "normal" labour contracts continue to exist but now limited period employment contracts and

part-time working contracts were also allowed. New employment techniques (seasonal contracts, job-sharing) were also brought into the deregulation discussion. The second issue of the deregulatory process was the deregulation of working hours, usually referred to as the flexibilisation of working hours, meaning that deregulation does not breach the 40 hour working week but, instead, the way working hours are divided up during the week. Flexibilisation allows an employer to use his employees according to production demands, promoting better productivity with the use of the same personnel.

Both deregulation issues represent the minimum demands of employers so as to guarantee the productivity of national economies in a global world economy. On the other hand they touch on essential positions of the trade unions. Part-time or short-time workers cannot be unionised and they tend to work in positions which used to be held by union members. In this sense, working hours has both historical importance and touches on ideological bases.

4.3 Validating the Data

Before proceeding with the operationalisation of the NATLEX data it was important to find independent sources in order to validate their representability and to identify the most important legislative instruments among the materials reported. The problem was sorted out by the use of another independent source as suggested by the project director, namely the Encyclopaedia of Labour Law and International Relations edited as a loose-leaf work by Roger Blanpain.

4.3.1 A Description of the Encyclopaedia of Labour Law and Industrial Relations

This loose-leaf Encyclopaedia covers all the countries of the project except Iceland and Norway. In addition to this, it also covers the other OECD countries, namely the USA, Canada, Australia, New Zealand, Japan and Israel, and many more East European and Latin American countries. The Encyclopaedia is structured in the form of country reports. The reports vary in length from 150 to 250 pages and are of a monographic character. Various reports have been published as separate books and some of these, indeed, in many editions. A comparison of the books with the Encyclopaedia's reports yields identical results, although in most cases the Encyclopaedia's reports are more up-to-date. This is a consequence of the purpose of the Encyclopaedia, intended as a loose-leaf guide for international lawyers. The national reports are the result of the well-researched and informative work of country specialists (law professors and judges). These re-

ports are sufficiently well-documented as to allow us to identify important legislative instruments[8].

The use of the Encyclopaedia is facilitated by the fact that all national reports follow a common pattern of analysis. This allows us to easily identify the relevant material in each national report[9]. It also helps to avoid the misunderstandings that may arise in the comparison of common law and civil law countries.

4.3.2 Working with the Encyclopaedia

One of the authors of this research note, Georgios Trantas, a trained lawyer was provided with a complete list of the instruments, which the ILO experts have systematised in NATLEX, concerning part-time and seasonal labour contracts, working hours, dismissals and industrial action. He read the relevant chapters concerning part-time and seasonal labour contracts (Part I, Chapter 1) dismissals (Part I, Chapter 6), working hours (Part I, Chapter 3) and industrial conflicts (Part II, Chapter 5) in each of the national reports and identified the legislative instruments mentioned there. He then marked all those instruments mentioned by the country experts in Blanpain's Encyclopaedia as being important changes to the status quo documented in NATLEX.

The task was not always a simple one as sometimes in the Encyclopaedia a law was only reported by implication and not by the exact name of the law. This meant that, at times, research had to be flanked by a recourse to the published materials of ILO, or an identification by implication (e.g. the name is not correctly reported, but on the same day only one law was published).

Fortunately, the results of the enterprise proved very satisfactory as we were able to validate the accuracy of the information provided by Blanpain and his collaborators in comparison with Natlex and vice versa. What is all the more interesting is that not only are parliamentary laws and decrees reported in Blanpain, there are also many important collective agreements which are not usually reported to ILO and thus by implication are not to be found in NATLEX.

During the procedure described above we were also able to assess the validity of the information in the NATLEX database. The obvious question to be addressed was whether all important legislative instruments really were reported in NATLEX. This indeed proved to be the case for the 1980s, but not for the 1970s

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8 The Encyclopaedia also contains three appendices. The first covers selected judicial decisions of international organs. The second covers some important international standards. The third was of relative importance to the project, as it is a collection of some important legislative instruments. However, the collection does not cover all the countries involved in the project and it is not always as up-to-date as the national reports themselves.

9 The analysis of the contents of all national reports is to be found in the Appendix.

which seems to corroborate the information given by the NATLEX administration staff themselves, i.e. that the database is generally good for the 1980s, but that documentation may not yet have been extended back well-enough for the 1970s.

If we leave out Iceland and Norway (missing from the Encyclopaedia), only two countries do not seem to fit into this general conclusion. The first one is the United Kingdom under the Thatcher Government, the other being Italy. For these countries the correlation between the Encyclopaedia and NATLEX has not proved totally satisfactory.

5. Operationalising the NATLEX Data

5.1 Important Bills Concerning Regulation of Working Hours and Working Conditions

We consider all bills found worth mentioning by the legal experts in Blanpain's Encyclopaedia to be the significant legislative changes in the field of the regulation of working hours and working conditions in the 1980s. This assessment forms an "expert rating" of the important legislative instruments of those days. The frequency distribution by country is shown in Table 21.1. For additional information, see Appendix Table 21.8.

5.2 Regulatory Bills Concerning Working Hours and Working Conditions

The sample concerning working hours and working conditions was constructed in several steps. We started with the exclusion of all provincial and territorial legislation. The result was then limited to the period 1981-1991. The next step included the reduction of all legislation in 1981-1991 to that dealing with "working hours and working conditions".

Table 21.1: Expert Rating Concerning Working Time and Working Conditions: Bills Passed 1981-1991

	expert rating on "important" bills passed	
	ILO	corrected
Austria	3	3
Belgium	4	4
Denmark	5	5
Finland	4	4
France	4	4
Germany (West)	2	2
Greece	10	8
Ireland	2	2
Italy	1	1
Luxembourg	5	5
Netherlands	2	2
Norway	0	0
Portugal	5	0
Spain	3	2
Sweden	9	9
Switzerland	3	3
United Kingdom	5	5

To get at this special sample, we followed suggestions from project participants: It was felt necessary to not only include legal instruments concerning working hours and dismissal, but also those concerning the right to strike (properly speaking: collective bargaining in the broadest sense). Furthermore, to avoid losing potentially misclassified records, the sample was not only limited on the laborlex classification category 03 (conditions of employment) and 04 (conditions of work) and their subcategories. Using records of these two categories was necessary but would not have been sufficient to arrive at the special sample concerning collective bargaining in the broadest sense. In order to be exhaustive, the records of LABORLEX classification 03@ and 04@ had to be complemented by a keyword search. By keyword search - which not only covers the titles of legal instruments but also abstracts and related terms - we also mean including the important instruments of other LABORLEX categories. The recodes used here made sure that overlaps were excluded, and multiple entries in different categories counted only once. Keywords were chosen in response to communication with the project participants and cover the terms in column 2 of Table 21.2, which offers a check on the LABORLEX classification 03@ and 04@, the latter only given in category and subcategory titles.

Table 21.2: Keywords Concerning Working Time and Working Conditions

titles of LABORLEX categories 03@ and 04@	supplementary keywords
arrangement of working time	collective agreement
conditions of employment	collective bargaining
conditions of work	collective bargaining and agreements
contracts of employment	dismissal
hours of work	freedom of association
minimum wage	layoff
night work	overtime
paid leave	right to strike
personnel management	short time working
protection of wages	strike
quality of working life	termination of employment
rest and leave	trade union recognition
termination of employment dismissal	trade union rights
wages. wage payment systems	trade union structure
weekly rest	
work organisation	
working time	

In a further step, the resulting legislation on "working hours and working conditions, supplemented by keyword search" for 1981-1991 was classified according to the different countries of Western Europe. We then reduced the result of this search to all bills enacted between 1981-1991 concerning this special working conditions sample. In a last step we split the results for the West European countries. Table 21.3 shows the results obtained. For further information see Appendix Table 21.9.

5.3 Amending Existing Legislation by Subsequent Bills Concerning Working Hours and Working Conditions

As NATLEX includes information on the recorded basic legal acts and their amendments (or repeals), it is also possible to search for amendments concerning our special sample on working hours and working conditions. Based on this sample, we undertook an additional keyword search for "amendments" (please see footnote to Table 21.4) and restricted the sample concerning working hours and working conditions to those bills enacted which are amendments to existing bills. The frequency distribution on amending bills passed is shown in Table 21.4, for further information see Appendix Table 21.10.

Table 21.3: LABORLEX Classification 03@ and 04@ Collapsed and Supplementary Keyword Search: Bills Passed 1981-1991 (Database NATLEX)

	bills passed	
	ILO	corrected
Austria	53	53
Belgium	45	20
Denmark	33	33
Finland	72	72
France	39	37
Germany (West)	20	20
Greece	10	8
Ireland	11	11
Italy	13	10
Luxembourg	29	29
Netherlands	37	37
Norway	41	41
Portugal	36	11
Spain	18	12
Sweden	67	67
Switzerland	8	8
United Kingdom	31	31

5.4 An Indicator of the Frequency of Repeals Concerning Working Hours and Working Conditions

In a way similar to the search for amendments concerning working hours and working conditions, the indicator of the frequency of repeals in that policy field was also constructed. To receive the "repeals", a list of terms in English, French and Spanish was collated (see list in the footnote of Table 21.5). Then we undertook an additional keyword search for "repeals". We reduced the repeal-sample concerning working hours and working conditions to the bills enacted. The final results, distinguished by country, are shown in Table 21.5. Additional information is given in the Appendix Table 21.11.

5.5 "Benefits" Legislation

The category "benefits" was also constructed in several steps: We first excluded all provincial legislation and legislation on dependent territories. Then, again,

Table 21.4: LABORLEX Classification 03@ and 04@ Collapsed and Supplementary Keyword Search: Amending* Bills Passed 1981-1991 (Database NATLEX)

	amending bills passed	
	ILO	corrected
Austria	45	45
Belgium	28	17
Denmark	17	17
Finland	62	62
France	19	19
Germany (West)	17	17
Greece	3	2
Ireland	6	6
Italy	5	5
Luxembourg	18	18
Netherlands	24	24
Norway	28	28
Portugal	8	0
Spain	2	2
Sweden	60	60
Switzerland	8	8
United Kingdom	16	16

* search for terms and related terms concerning "amendments" (resulting research in NATLEX concerning datafields title, abstract, keyword and related terms) based on: adjonction, amendment, complement, correcion, enmienda, modifie, modificacion, modificar, modification, modificateur, rectificacion, supplement revocar (terms used truncated for research to ensure complete inclusion).

the result was limited to the period from 1981-1991. The next step included the reduction of all legislation in 1981-1991 to that handling “benefits”. To get these “benefits”, we combined the search in the LABORLEX Code for “social security” with a supplementary keyword search in an extended list of terms which are connected to what “benefit” may mean in detail (see list in the footnote of Table 21.6). In a further step we then distinguished the resulting legislation on “benefits” for 1981-1991 concerning the different countries of Western Europe. Additionally, we reduced this sample of legal acts to achieve all bills enacted in 1981-1991 concerning “benefits”. In a last step we splitted the results for the West European countries. Table 21.6 shows the results obtained. Additional information concerning the number of decrees and miscellanies is given in Appendix Table 21.12.

Table 21.5: LABORLEX Classification 03@ and 04@ Collapsed and Supplementary Keyword Search: Repealing * Bills Passed 1981-1991 (Database NATLEX)

	repealing bills passed	
	ILO	corrected
Austria	3	3
Belgium	7	1
Denmark	1	1
Finland	11	11
France	7	7
Germany (West)	2	2
Greece	1	1
Ireland	2	2
Italy	0	0
Luxembourg	6	6
Netherlands	7	7
Norway	3	3
Portugal	6	0
Spain	1	0
Sweden	4	4
Switzerland	1	1
United Kingdom	14	14

* search for terms and related terms concerning "repeals" (resulting research in NATLEX concerning datafields title, abstract, keyword and related terms) based on: abolition, abolir, abrogacion, abrogar, abrogation, abroger, annulation, annuler, derogacion, derogar, remplacer, revocacion, revocar (terms used truncated for research to ensure complete inclusion).

Table 21.6: LABORLEX Classification 10@ and Supplementary Keyword Search "Benefits"*: Bills Passed 1981-1991 (Database NATLEX)

	bills passed	
	ILO	corrected
Austria	77	77
Belgium	147	41
Denmark	132	132
Finland	222	222
France	73	71
Germany (West)	45	45
Greece	14	11
Ireland	22	22
Italy	47	29
Luxembourg	25	25
Netherlands	144	144
Norway	88	88
Portugal	71	6
Spain	34	15
Sweden	246	246
Switzerland	13	13
United Kingdom	26	26

* terms and related terms concerning "benefits" (resulting research in NATLEX concerning datafields title, abstract, keyword and related terms) after care; assessment of disability; benefit; benefit adjustment; benefiting; benefits; benefitsection; care of the disabled; cash benefit; cash sickness benefit; clandestine employment; commuting accident; contingency fund; disability; disability benefit; disabled person; employment accident benefit; employment service; family; family benefit; family policy; funeral grant; guaranteed income; health insurance; liability; maintenance payment; maternity; maternity benefit; maternity leave; mutual benefit society; occupational accident; occupational injury; old age; old age benefit; older people; older worker; overlapping of benefits; partial unemployment; payment of benefits; pension scheme; pregnancy; promotion of employment; retired worker; retirement; sick leave; social security; social security administration; survivors benefit; unemployed; unemployment; unemployment benefit; universal benefit scheme; woman worker; women; work incentive

Appendix

Table 21.7: Main Categories of LABORLEX Classification

01	General Provisions
02	Human Rights
03	Conditions of Employment
04	Conditions of Work
05	Economic and Social Development
06	Employment
07	Industrial Relations
08	Labour Administration
09	Occupational Safety and Health
10	Social Security
11	Training
12	Special Provisions by Category of Persons
13	Special Provisions by Sector of Economic Activity

Table 21.8: Expert Rating Concerning Working Time and Working Conditions: Bills Passed and Decrees 1981-1991

	expert rating on "important" bills passed		expert rating on "important" decrees		total expert rating
	ILO	corrected	ILO	corrected	
Austria	3	3	0	0	3
Belgium	4	4	3	3	7
Denmark	5	5	0	0	5
Finland	4	4	0	0	4
France	4	4	4	4	8
Germany (West)	2	2	0	0	2
Greece	10	8	1	3	11
Ireland	2	2	0	0	2
Italy	1	1	0	0	1
Luxembourg	5	5	1	1	6
Netherlands	2	2	0	0	2
Norway	0	0	0	0	0
Portugal	5	0	0	5	5
Spain	3	2	0	1	3
Sweden	9	9	0	0	9
Switzerland	3	3	0	0	3
United Kingdom	5	5	1	1	6
total number	67	59	10	18	77

Table 21.9: LABORLEX Classification 03@ and 04@ Collapsed and Supplementary Keyword Search: Bills Passed, Decrees and Other Legal Instruments 1981-1991 (Database NATLEX)

	bills passed		decrees		other*		total
	ILO	corrected	ILO	corrected	ILO	corrected	
Austria	53	53	8	8	0	0	61
Belgium	45	20	89	114	0	0	134
Denmark	33	33	0	0	29	29	62
Finland	72	72	33	33	0	0	105
France	39	37	149	150	8	9	196
Germany (West)	20	20	8	8	1	1	29
Greece	10	8	1	3	0	0	11
Ireland	11	11	27	27	0	0	38
Italy	13	10	13	16	0	0	26
Luxembourg	29	29	19	19	1	1	49
Netherlands	37	37	28	28	0	0	65
Norway	41	41	16	16	20	20	77
Portugal	36	11	6	31	1	1	43
Spain	18	12	53	59	2	2	73
Sweden	67	67	66	66	0	0	133
Switzerland	8	8	24	24	12	12	44
United Kingdom	31	31	48	48	0	0	79
total number	563	500	588	650	74	75	1225

* mainly collective agreements

Table 21.10: LABORLEX Classification 03@ and 04@ Collapsed and Supplementary Keyword Search: Amending * Legislation 1981-1991 (Database NATLEX)

	amending bills passed		amending decrees		other amendments**		total amendments
	ILO	corrected	ILO	corrected	ILO	corrected	
Austria	45	45	6	6	0	0	51
Belgium	28	17	54	65	0	0	82
Denmark	17	17	0	0	8	8	25
Finland	62	62	20	20	0	0	82
France	19	19	57	57	0	0	76
Germany (West)	17	17	7	7	1	1	25
Greece	3	2	0	1	0	0	3
Ireland	6	6	3	3	0	0	9
Italy	5	5	2	2	0	0	7
Luxembourg	18	18	8	8	1	1	27
Netherlands	24	24	19	19	0	0	43
Norway	28	28	7	7	11	11	46
Portugal	8	0	0	8	0	0	8
Spain	2	2	4	4	0	0	6
Sweden	60	60	49	49	0	0	109
Switzerland	8	8	14	14	11	11	33
United Kingdom	16	16	28	28	0	0	44
total number	366	346	278	298	32	32	676

* search for terms and related terms concerning "amendments" (resulting research in NATLEX concerning datafields title, abstract, keyword and related terms) based on: adjonction, amendment, complement, correcion, enmienda, modifie, modificacion, modificar, modification, modificateur, rectificacion, supplement revocar (terms used truncated for research to ensure complete inclusion)

** mainly collective agreements

Table 21.11: LABORLEX Classification 03@ and 04@ Collapsed and Supplementary Keyword Search: Repealing * Legislation 1981-1991 (Database NATLEX)

	repealing bills passed		repealing decrees		other repeals**		total repeals
	ILO	corrected	ILO	corrected	ILO	corrected	
Austria	3	3	2	2	0	0	5
Belgium	7	1	14	20	0	0	21
Denmark	1	1	0	0	4	4	5
Finland	11	11	8	8	0	0	19
France	7	7	17	17	1	1	25
Germany (West)	2	2	0	0	0	0	2
Greece	1	1	0	0	0	0	1
Ireland	2	2	0	0	0	0	2
Italy	0	0	1	1	0	0	1
Luxembourg	6	6	2	2	0	0	8
Netherlands	7	7	1	1	0	0	8
Norway	3	3	3	3	6	6	12
Portugal	6	0	1	7	0	0	7
Spain	1	0	5	6	0	0	6
Sweden	4	4	13	13	0	0	17
Switzerland	1	1	5	5	1	1	7
United Kingdom	14	14	1	1	0	0	15
total number	76	63	73	86	12	12	161

* search for terms and related terms concerning "repeals" (resulting research in NATLEX concerning datafields title, abstract, keyword and related terms) based on: abolition, abolir, abrogacion, abrogar, abrogation, abroger, annulation, annuler, derogacion, derogar, remplacer, revocacion, revocar (terms used truncated for research to ensure complete inclusion)

** mainly collective agreements

Table 21.12: LABORLEX Classification 10@ and Supplementary Keyword Search "Benefit": Bills Passed, Decrees and Other Legal Instruments 1981-1991 (Data base NATLEX)

	bills passed		decrees		other*		total
	ILO	corrected	ILO	corrected	ILO	corrected	
Austria	77	77	5	5	4	4	86
Belgium	147	41	303	413	6	2	456
Denmark	132	132	2	2	50	50	184
Finland	222	222	63	63	1	1	286
France	73	71	314	317	8	7	395
Germany (West)	45	45	11	11	1	1	57
Greece	14	11	4	7	0	0	18
Ireland	22	22	36	36	6	6	64
Italy	47	29	10	28	0	0	57
Luxembourg	25	25	40	40	0	0	65
Netherlands	144	144	101	101	0	0	245
Norway	88	88	52	52	13	13	153
Portugal	71	6	34	98	9	10	114
Spain	34	15	143	162	2	2	179
Sweden	246	246	144	144	2	2	392
Switzerland	13	13	50	50	12	12	75
United Kingdom	26	26	241	241	7	7	274
total number	1426	1213	1553	1770	121	117	3100

* mainly collective agreements

Table 21.13: Encyclopaedia of Labour Law: Basic Diagram of the Contents of the National Reports

The common pattern used in the national reports in Blanpain can be summarised as follows[1]:

Introduction
I. General Background
II. Definitions and Concepts
III. History
IV. The role of government in labour relations
V. Sources
VI. Bibliography

Additional Chapters deal with the political system (Luxembourg), international private labour law (Switzerland, Sweden, Austria) and the labour movement (Canada).

Part I. Individual Employment Regulation
- Ch. 1. Definitions and Concepts (Employer, employee, labour contract)
- Ch. 2. Rights and obligations of employers and employees
- Ch. 3. Working hours, rest days, holiday
- Ch. 4. Wages and other benefits
- Ch. 5. Suspension and interruption of labour contract (due to non performance of contract)
- Ch. 6. Termination of employment and job security
- Ch. 7. Employee inventions
- Ch. 8. Restraints of trade and covenants of non-competition
- Ch. 9. Dispute settlement (not for Israel)

Additional Chapters deal with incapacity of work (Ireland, Austria, Luxembourg, New Zealand, Spain), discrimination (Ireland, Luxembourg, Portugal, Japan).

Part. II. Collective Labour Law
- Ch. 1. Freedom of Association
- Ch. 2. Employee and employer organisations
- Ch. 3. Institutionalised relations between employees and employers
- Ch. 4. Collective agreements
- Ch. 5. Strikes and lockouts
- Ch. 6. Dispute settlement

Additional chapters deal with institutional participation (The Netherlands, Luxembourg, Italy, Portugal, USA, Austria), unfair labour practices (Japan), the reform of collective labour law (New Zealand), profit-sharing agreements (France).

1 See also R. Blanpain, Introducing the Encyclopedia.

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22

Is Government Control of the Agenda Likely to Keep "Legislative Inflation" at Bay?[1]

Herbert Döring

Acting as a pilot study for the next stage of this project, this concluding chapter will proceed in four steps:

1. We will briefly survey the reasons for "legislative inflation" most commonly referred to in the comparative literature.

It is against these explanations of why there should have been an increase in the number of bills enacted that the hypothesised impact of agenda control will be later assessed. Only if the correlation already reported in Chapter 18 stands up well, will the proof on circumstantial evidence be valid that parliament and parliamentary procedure do, indeed, matter for legislation even if most of it is initiated by government and not parliament.

2. The two empirical measures already used in Chapter 18, i.e. the "proxy" for agenda control and the national statistics on total legislative output in the 1980s, will be refined and validated.

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1 A great deal of the inspiration for this chapter came from many members of the research group. Special thanks go to the critical encouragement and judicious theoretical advice given by George Tsebelis throughout the course of the project. Georgios Trantas continuously interpreted the findings in the context of his comparative legal knowledge of law-making styles across Europe. Once again the highly efficient data management of Evi Scholz made the empirical assessment of my theoretical thoughts an exciting experience. The ever-helpful linguistic editing of Mark Williams made me confident that the final work as it is phrased here may even appeal to common sense. I was also lucky to benefit from the comments made by participants of the workshop on "Party Discipline and the Organisation of Parliaments" conducted by Shaun Bowler and Bob Farrell at the ECPR Joint Sessions in Bordeaux. Shortly before completion, Hans Gerhard Strohe (Potsdam) and Ulrich Widmaier (Bochum) gave prudent advice on how to bypass some of the pitfalls of multivariate descriptive statistical analyses based on a small number of cases.

Our independent variable in Chapter 18 was a rank ordering of countries according to the procedural prerogatives conferred to government in setting the timetable in the plenary (Table 7.1). This gauge will be re-examined in the context of all other possible dimensions of agenda control documented by the tables and figures of all the chapters of Parts II to IV of this book. Is there an underlying pattern clearly structuring the legislative agenda in many different aspects? To find out, an exploratory factor analysis will be performed on the interaction of timetable control with other important facets of agenda control.

Our dependent variable in Chapter 18 was the average number of all bills per country during the 1980s (reported from the national statistics and documented in the appendix to Chapter 18). This aggregate figure of the sum total of legislative enactments will be checked against and validated by a comparison with the more detailed measures of legislation in the two limited fields of social security and the regulation of working time and working conditions (recoded from the Natlex data base of the ILO and documented in the previous Chapter 21).

3. Armed with these refined measures for both agenda control and legislative output, some of the theoretical predictions outlined in Part I of this book will be empirically assessed with aggregate data across the 18 countries covered by this book.

Doubt will be cast on the provocative contention by Landes and Posner that increased difficulties in passing legislation will attract, rather than deter, demands from well-organised groups for particular-benefit legislation and, hence, eventually contribute to further legislative inflation.

It will be ascertained here whether the correlation already found in Chapter 18 is wholly or partly upheld or totally vanishes if controlled for the influence of additional variables. A number of most plausible objections will be raised and checked in multivariate analysis to allay the suspicion that the inverse correlation of agenda control and legislative output shown is a spurious by-product of another hidden influence.

4. The dramatic decline in the number of public general Acts in Britain after 1867 will be explained in terms of the theory entertained here, i.e. the rise of party discipline and procedural agenda control in the House of Commons.

This diachronic excursion into the development in a single country over time is a slight diversion in a book strictly devoted to cross-national analysis. But the historical aside is warranted by theoretical considerations: if the variables the theory predicts as being crucial for legislative output changed in the past, the hypothesised effect should be just as visible than as it is now.

I. The Causes of "Legislative Inflation": Reasons Other than Agenda Control

For the informed reader, it may seem implausible or, to say the least, rather surprising to reckon with a strong correlation between procedural prerogatives of government that enable it to control the passage of legislation and an actual shrinkage rather than an increase in legislative output. There are, of course, many reasons that are perhaps far more plausible than agenda control for a possible rise or decline in laws enacted by parliament. Let us first briefly outline those other more plausible reasons likely to help explain "legislative inflation" against which the impact of agenda control must be empirically assessed. Extant generalisations on reasons for the presumed phenomenon of legislative inflation have been summarised and empirically assessed in the comparative case studies of European countries published under the telling title of "The Inflation of Legislative and Regulatory Measures in Europe" by Debbasch (1986).

However, the authors arrived at a partly inconclusive account. Difficult as legislation is to compare across countries, they were not sure whether a rise in parliamentary acts can really be observed in most countries, but were agreed that government regulations showed a steep rise everywhere, contributing not so much to legislative as to "regulatory inflation" (Debbasch 1986:265). On recognition of this, our analysis of the impact of agenda control on "legislative inflation" can not only be limited to bills enacted by parliament, but must also take the issuing of government decrees into account.

The reasons identified by the authors as causes of an "inflation of regulatory norms", were both of a long-term structural and short-term political nature. Structural causes of a rise in laws were: 1. industrialisation and urbanisation substituting new ground rules on town life and work in industrial plants for ancient custom in rural life; 2. scientific progress necessitating the regulation of the possible negative external effects of new technologies; 3. the rise of the interventionist state providing social security for its citizens and regulating the economy in a mixture of free market and state activities; 4. the proliferation of interest groups concomitant to increasing economic and social activities of the state, with interest organisations trying to extract particular benefits from government via legislation and regulations.

Among the most prominent short-term reasons named figured the change of governments of a widely diverging party political complexion, where a new majority after a general election, as speculatively though plausibly argued by the authors, could be thought to initiative alternative policies via an increase of legislative enactments. Examples proving this to be a valid tendency for at least a

few cases will later on require us to check agenda control against the left-right party political composition of governments during the 1980s.

Economic crises, unemployment and nature catastrophes have also contributed to an increase in legislative measures. Indeed, a great deal of the most important legislation changing the status quo in a decisive way, and even against the vested interests of powerful organisations, have been enacted after a period of crisis or scandal (Wilson 1980).

Apart from socioeconomic reasons, legal techniques, which are themselves quite unrelated to both social structure and parliamentary procedure, may also either enhance or curb legislative inflation. Only some of them, such as the law-making capacity of regional assemblies issuing bills in place of the central parliament and thus reducing the number of national enactments, will be controlled for later on. Others cannot be considered in this study. Where civil servants are allowed to link their name to a bill subsequently enacted by parliament, even the human desire to achieve immortality may contribute as a form of 'vanity fair' to an increase of laws in a given country (Debbasch 1986:270). Technical instruments of different legal cultures, not controlled for yet, may contribute to wide fluctuations in the number and length of bills passed. In some countries bills may be very small and almost indistinguishable from amendments tabled (Grey 1982:109). We must however forego analysing this aspect.

In other countries there may be a habit of changing many different laws by a single Consolidation Act. To quote just one German peculiarity not related to any conceivable agenda control argument, but likely to reduce the number of bills passed, is the technique of so-called "Artikelgesetze", i.e. bills changing many clauses of quite a few previous bills at the same time. For example, between 1978 and 1982, a period for which a special study was conducted, altogether 798 previous acts and 4333 of their clauses were changed by only 208 "Änderungs- und Anpassungsgesetze" (Ismayr 1992:153).

Quite a few other influences in no way related to the chain of causality hypothesised in this chapter, predictably contribute to a dramatic increase in legislation. In Italy, where standing committees in both houses may enact bills without referring them back to the plenary assembly for final voting, we must reckon with a multiplication of legislative centres to many instead of just one plenary (Lanfranchi 1993:note 94). Thus, there is bound to be an increase in legislative enactments even if the government has a strong control over the agenda, which in Italy, however, it does not.

Reasons for legislative inflation similar to those found by Debbasch were independently identified, thus, corroborating the overall analysis in two research articles by Wolfgang Müller (1983, 1984), who put Austrian findings into the broadest possible international perspective. In an in-depth examination of differ-

ent kinds of bills in Austria, he was able to demonstrate that whilst the overall number of laws in Austria rose only slightly, those concerning economic, but not social security, matters had risen the most (Müller 1983:35 f.). In keeping with the findings by Debbasch's team, Müller reports that in the United States the number of bills enacted during early industrialisation was almost three times higher than in agrarian times; and in the course of developing into a full industrial state, legislation rose again by more than 60% (Eilenstine et al. 1978 quoted by Müller 1984:134).

Population growth, urbanisation and industrialisation were found to have a strong and positive impact on law production in a quantitative study across all state legislatures of the USA (Rosenthal and Forth 1978:283 table 3). As one of the most important reasons for legislative growth in different countries and cultures seems to be urbanisation, industrialisation and the concomitant growth of the population, later on in this chapter population size must be checked against agenda control as a possible falsification of the correlation.

II. Validating the Two Key Variables: Number of Bills and Agenda Control

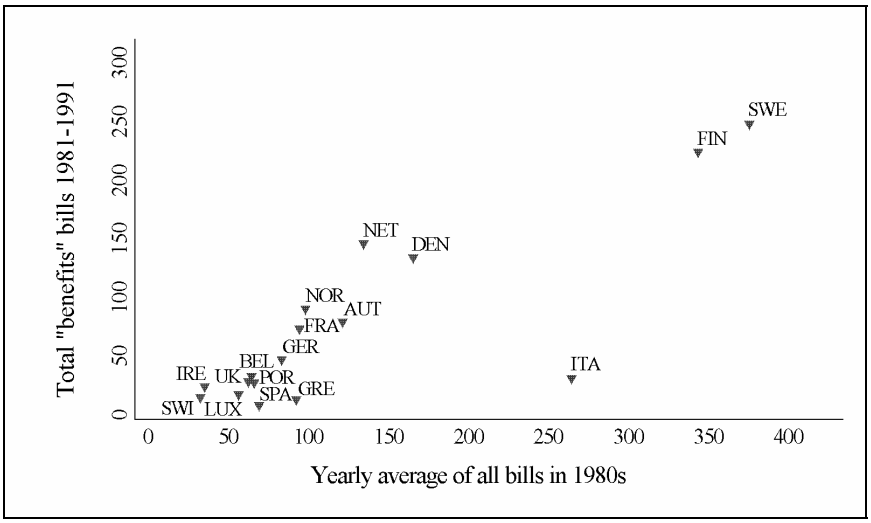
Before empirically checking the correlation between agenda control and legislative output established in Chapter 18 for the possibility of it being no more than a treacherous spurious correlation, let us first validate the measures used in this aggregate analysis.

1. A Striking Correspondence Between Statistics on all Bills and on "Benefits" Bills in the 1980s

The total number of bills in Chapter 18 are taken from national statistics reported by the country specialists (for the sources, see the appendix to Chapter 18), and are not broken down into any specific policy fields. The measures recoded by Evi Scholz from online searches in the ILO's Natlex database in Chapter 21, are based on the individual assessments of national reports made by specialists at the International Labour Organisation. Whilst we do not know what particular bills are contained in the sum total of the national statistics, we can identify each single legislative instrument contained in the figures reported in the tables of Chapter 21. But this precision comes at the expense of generality. The ILO database covers just two policy areas. Are these narrow areas representative of the total volume of legislation in each country? Scatterplotting the annual average of bills passed in the 1980s (appendix to Chapter 18) with the total number of "benefits"

bills passed between 1981 and 1991 (documented in Table 21.6), yields a surprising and rewarding affirmative answer to the question.

Figure 22.1: Total Number of "Benefits" Bills and Yearly Average of All Bills: A Strong Correspondence



Sources: "Benefits" bills Table 21.6. All bills: national statistics reported by project participants (for values, see the appendix to Chapter 18).

Without the one conspicuous outlier, Italy, the correlation between the two measures is a Pearson correlation of 0.95 (0.000), or a Spearman rank correlation of 0.82 (0.000). With Italy included in the correlation, it stills stands at r = 0.82 (0.000) and rho = 0.77 (0.000). As we do not know what bills are in the figures for total legislative output but can easily identify each single bill registered by the ILO experts, the close correspondence of the two serves as a safeguard, mutually validating both measures collected completely independently from each other. Given the peculiarities of the legislative process in Italy, there is no cause for surprise that this country should widely deviate from the overall pattern.[2]

2 Kreppel 1994:10 f. summarises: "there are three different ways for bills to become law in Italy. The most difficult, and that reserved for more controversial issues is through passage by the assembly as a whole (normal procedure, not including decrees). The second, and most common, is passage by the committees in legislative session. This method is most often used for bills which inspire little controversy and impose few external costs. The final procedure for creating law in Italy, is through

Admittedly, a slight distortion must be taken into account as "benefits" bills are also counted in the total number of bills. But only a fraction of the latter (ranging from 1% to 10%) is included in the measure of the total number of bills. (The number of all bills is an annual mean for each country, whereas the "benefits" variable renders the total number of bills passed between 1981 and 1991.)

National statistics used here can, in contrast to the ILO data base, not be disaggregated by policy areas due to the incompatibilities of units of measurement between the countries. Still, the high correspondence of total national law statistics with the figures taken from the disaggregated two groups of "benefits" and "working time" legislation shows we are not dealing with a figment of counting but with average figures anchored in reality. Given the high correspondence between the two measures that have been collected independently of each other, it is advisable to continue using in this pilot chapter as the dependent variable the average annual number of bills enacted in the 1980s (documented in the appendix to Chapter 18 of this book).

2. *Putting the "Proxy" Variable for Agenda Control in Perspective with the Other Devices in Parts II to IV*

Agenda control is a key theoretical concept of social choice theory as explained in Chapter 1. Empirically speaking, it consists of two quite distinct dimensions: a) party discipline in parliament when taking a vote on a proposed motion and b) sessional or standing orders or cases of precedence stipulating rules of procedure which may or may not be invoked by way of a vote or which may even be unilaterally imposed by the government. The reader should be reminded again here that only the latter dimension, i.e. the procedural rules, are covered in this chapter. It is important to distinguish between the political elements of agenda control exercised perhaps from day to day by interpreting the rules through majority decisions, and the relatively invariant arsenal of measures made available in the rules of procedure.

One variable from Chapter 7, i.e. the government prerogatives in setting the timetable in the plenary, has already been used as a "proxy variable" in Chapter 18. Is this one key variable consonant with the other aspects of agenda control covered in the chapters of Parts II to IV? Or are there other dimensions perhaps

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use of decree laws". Once the government issues a decree, the law immediately goes into effect and remains in effect for sixty days. It lapses if not "converted" by parliament into a regular law. "Decree laws have priority in terms of the legislative agenda, while no priority is given to regular government legislation. [...] The government may re-issue decree laws which fail to get converted any number of times. This type of reiteration (*iterazione*) has become increasingly more common as the number of decree laws has grown" (Kreppel 1994: 9 f.).

more important than control of the timetable in the plenary? To find out, it is desirable to take into account all of the components of the procedure for passing legislation covered in Parts II to IV and to subject them to an exploratory factor analysis. Given the many variables covered in Parts II to IV and small number of altogether only 18 cases, i.e. West European first chambers, not all of the scores can be included into this multivariate analysis. Yet, the benefit of the doubt must be given to variables likely to falsify the "proxy" used so far.

Let us first review which variables will not be included. In Chapter 4, Lieven De Winter has already shown the existence of a strong correlation between the lack of procedural instruments for agenda control and a high average number of days between a general election and a government being sworn into office (Figure 8.1). This correlation will not be included so as not to weight the result in favour of the "proxy" variable to be assessed here. Instead, we will return to this correlation later on in the chapter where it will be checked for possible spuriousness. The classifications in Chapter 5 by Rudy Andeweg and Lia Nijzink may be excluded because they study the overall framework of relations between ministers and MPs in which agenda setting procedures are embedded without focusing on rules of procedure in the strict sense. Chapter 6 by Matti Wiberg will also not be included because the rules of procedure governing parliamentary questioning constitute their own agenda. In a similar vein to the passing of the budget law (not covered in this book but dealt with in the next stage of the project) the procedures involved here are quite different from the rules establishing the legislative agenda. As here only the agenda setting-prerogatives of the government in the first chamber are analysed, the cross-national indicators on the veto powers of second chambers used to overcome blockade, documented by George Tsebelis and Bjørn Erik Rasch in Chapter 11, are also excluded for the sake of reducing the number of variables but will be checked in the next stage of this project.

Let us now turn to the variables that will be included. From the author's previous Chapter 7 it already emerged that control of the plenary timetable by the government (or the lack of it as documented in Table 7.1) is the variable most strongly linked to the other dimensions of admissibility and timetable prerogatives studied there. It appears advisable not to insert too many variables from Chapter 7 into this summary factor analysis so as not to weight the result unduly in favour of this "proxy" variable. As a consequence, only one further variable from Chapter 7, i.e. government prerogatives in setting the timetable also in committees (Table 7.5) will be included.

Concerning the committee variables, Chapter 8 by Ingvar Mattson and Kaare Strøm has already provided us with two factor analyses (Tables 8.6 and 8.6) upon which to build. Two of the three variables loading high on the first factor in Table 8.6 will be included. These are the rights of committees to split bills and

even to initiate legislation and their authority to send for persons and papers (Tables 8.2 and 8.6), an authority normally enjoyed only by committees of enquiry but also possessed by a few legislative committees in Western Europe. Again, not to weight in favour of the author's Chapter 7, the authority of legislative committees to rewrite government bills (Table 7.4), which also loads strongly on the factor of *drafting authority* in Chapter 8 (Table 8.6), is not included in the following analysis. It will stay excluded for the reasons already mentioned. One key variable in Erik Damgaard's Chapter 9 on "How Parties Control Committee Members" i.e. the procedural possibility conferred upon party leaders to remove recalcitrant committee members or strip them of their tasks (Table 9.3), forms an element of the parties' capacity to control the legislative process and should therefore be considered.

Whether or not the president of the chamber is an important agenda setter depends on the instruments made available to him by the standing orders. The summary index of the "President's rights" developed in Table 10.1 by Marcelo Jenny and Wolfgang C. Müller is a suitable measure, but will only be correlated to the dimensions emerging from the factor analysis in a second step of our analysis. It is not included in the first place on the grounds that it can be reasonably expected that the rights of Presidents, in most cases conceived as neutral arbiters, will not load strongly on any of the emerging factors of agenda control. Concerning demands for legislation forthcoming from interest organisations and individual MPs outside the party line, Ulrike Liebert develops indices of how parliaments and governments try to contain and channel the influence of lobbyists. Already summarising the pattern in her own factor analysis, one item in particular on her first factor that emerged, i.e. the possibility to arrange hearings in committees (Table 13.4), touches upon and opens up a special aspect of agenda setting (Sinclair 1986), and as such will be included in our factor analysis here. As a suitable "proxy" for private members' initiatives the summary measure developed by Ingvar Mattson will be used (Table 14.2).

One key aspect of agenda control is the order of voting. Shepsle and Weingast demonstrated that "institutions using majority rule are best studied as a game among agenda setters constrained both by rules governing agenda formation (access and admissibility) and by the underlying majority dominance relation among alternatives" (Shepsle and Weingast 1982:369). This "dominance relation" is being studied in detail for the European parliaments by Bjørn Erik Rasch. Hence two of his variables are included: the question of whether the status quo is always voted last or not (Table 15.5 column 2) and the crucial issue of whether the plenary majority is entitled to reverse the voting order suggested by the President or directing authority of parliament (Table 15.6 column 2). Finally, the capacity of the whips to monitor their back-benchers' behaviour by

means of recorded votes is, as pinpointed by Thomas Saalfeld, an important element of agenda control. Hence, both the technical instrument of electronic voting machines when used in conducting recorded votes (Table 16.1) and the average frequency of these recorded votes across West European chambers (Table 16.2) should be included. But given the many variables worth checking and the small number of altogether only 18 cases, i.e. the universe of the Western European countries, we will again postpone analysis of these two variables and check them later against the emerging factors.

3. Dimensions of Agenda Control: Government Priorities and Conditional Drafting Authority of Committees

How are the many facets of agenda control listed in the previous section linked to each other? Does a congruent or contradictory pattern emerge across Western Europe? Does government control of the timetable in the plenary so far used as a "proxy" variable hold up well or pale into insignificance when checked against all the other aspects of agenda control? To find out, the variables selected in the previous section were subjected to an obliquely rotated exploratory factor analysis.[3] Given the limits of the data, one must read the results documented in Table 22.1 with caution. Still, factor analysis is an elementary statistical device sufficiently robust to produce sensible results even if some of the strict preconditions for statistical analysis proper are violated. Thus, some clear underlying patterns in keeping with theoretical reasoning and practical knowledge are disclosed.

Three factors are easily distinguishable and lend themselves to a fairly straightforward interpretation. I interpret the first factor to represent *government priorities* on the legislative agenda both in the plenary and in committees. Where systems strive at agenda control, they uncompromisingly do so at both the plenary and committee level as shown by the high loadings (printed in bold) of the two variables on factor 1. As we can see, inhibitions on private members'

3 Oblique rotation of the factor matrix, as documented in Table 21.1, is the more severe assessment because unlike varimax rotation it does not assume that the factors are uncorrelated. As it is "unlikely that influences in nature are uncorrelated, [...] oblique rotations have often been found to yield substantively meaningful factors" (SPSSX Advanced Statistics Guide 1988:145 f.). In practice there was little difference here, as well as in the factors extracted by Ingvar Mattson and Kaare Strøm (Tables 8.6 and 8.7) and by Ulrike Liebert (Table 13.7) between varimax and oblique rotation.

Table 22.1: Factor Analysis of Selected Agenda-Setting Devices in Parts II to IV

	Obliquely Rotated Factor Pattern Matrix (PC Extraction)		
	Factor 1: Government priorities	*Factor 2: Committee drafting*	*Factor 3: Whips´ power*
Plenary timetable (Table 7.1)	**.73**	.17	- .32
Timetable committee (Table 7.5)	**.73**	- .10	- .17
Initiative committee (Tables 8.4 and 8.6)	.29	**- .75**	.04
Summon documents (Tables 8.4 and 8.6)	- .14	**- .73**	.06
Recall committee MPs (Table 9.3)	.07	- .06	**.96**
Arrange hearings (Table 13.4)	**.72**	.17	.18
Restrictions on MPs (Table 14.2)	**.76**	- .25	.03
Status quo last (Table 15.5)	- .08	**- .63**	- .27
Reverse voting order (Table 15.6)	- .22	.18	**.81**
Eigenvalue	3.20	1.73	1.11
% Variance	35.5	19.2	12.3

	Factor 1	Factor 2
Factor 2	-.05	
Factor 3	-.21	.25

Note: Entries are factor loadings. N=18. For the coding of the variables, see the respective tables named with each variable. High government prerogatives are consistently coded with the value of 1.
For a listing of the factor scores assigned to each country on the three factors, see the appendix to this chapter.

law initiatives (from Table 14.2) also load strongly on this first factor. Lack of "frequency and the publicity of hearings" also load strongly on the first factor of *government priorities*. Hearings are coded in Table 13.4 in such a way that low

values signal infrequent hearings behind closed doors and high values infer frequent and public hearings. Similarly, restrictions on private members' rights of initiative were coded as "1" in Table 14.2. Positive coefficients in Table 22.1 signal relative government control, negative coefficients the relative weakness of government prerogatives in agenda setting. As the coefficient for hearings on the factor for *government priorities* shows in the same direction as timetable control in the plenary and in committees, it denotes a congruence to the government's capacity to speed up the passage of legislation. Hence the factor loading tells us that where government control over the agenda is high, hearings tend to be infrequent and not public.

The second factor can easily be interpreted as *drafting authority* by committees in the procedure for passing legislation. This factor had already emerged in Table 8.6 of the chapter by Ingvar Mattson and Kaare Strøm. Their finding is now corroborated with many more aspects of agenda control other than those exclusively devoted to committee power being included into the analysis. Where committees approach an authority to make their emphasis felt, their power (as far as we can tell from the cross-national pattern) is not concerned with timetabling and speeding up the passage of legislation nor a capacity to withhold a bill by not reporting it to the plenary, but with their authority to initiate legislation and to call for documents during legislative business. *Drafting authority* does not covary, as the negative coefficient testifies, in the majority of cases with control of committees over their own agenda. The dimension of *agenda control* in Ingvar Mattson and Kaare Strøm's factor analysis (Table 8.6) must be distinguished from the overarching factor for *government priorities*, because the former addresses only the committee agenda, whereas the latter extends to the whole legislative process both in plenary and committees.

The third factor comes as a surprise, but with hindsight lends itself to a plausible interpretation. Surprising is that the right of the party whips (of both government and opposition parties) to strip recalcitrant committee members of their tasks and recall them, is related to no other variable of agenda control whatsoever except the right of the plenary majority on the floor of the chamber to reverse the voting order. As the sequence of voting may influence the policy outcome and open up possibilities for manipulation, this right is a strong last resort for the government relying on its floor leaders. This gives the government majority and its whips leeway to try and determine the policy result by choosing a voting order that fits their tactical expectations. Since recall of committee members is also a highly unpopular ultimate sanction of the whips, but nevertheless practised in quite a few countries, we interpret this third factor to represent the *whips' power*. Why does the rule to vote on the status quo not load on this factor but on the committees' *drafting authority*? This lack of consistency may reflect

the fact that, as noted by Bjørn Erik Rasch, in less than half of the European countries the rules prescribe that the status quo must be voted last (Table 15.5). In the majority of countries the rule is not anchored in invariant procedural norms but dependent on short-term considerations and as such loads only weakly on the structural dimension for agenda control.

4. Agenda Control and the President's Rights

How are the three factors related to two further dimensions of agenda control mentioned above but not included in the factor analysis, i.e. the president's rights and the calling of recorded votes? There is no correlation whatsoever between the index of the president's rights as developed by Marcelo Jenny and Wolfgang Müller (Table 10.1) and the three factors of *government priorities*, *drafting authority* and *whips' power*.[4] This negative result is in keeping not only with the conclusions of the two authors, strongly corroborating their analysis by putting it into the context of other chapters, but also, for a quite different continent, with the finding made by Krehbiel in the American context that the Speaker is not a faithful agent of the majority party rather than the House (Krehbiel 1992:285 f.). Hence, the negative correlation allows the positive generalisation that in contemporary parliaments, the president is in most cases designed to act as a neutral chairman and not an asset of the majority.

5. Agenda Control and Frequency of Recorded Votes

How is the frequent use of recorded votes related to the two factors of *government priorities* and *whips' power*? From Thomas Saalfeld's analysis we should expect strong correlations because he argues recorded votes form not only an instrument of minorities trying to delay business but also of being used as an instrument of the whips to monitor their backbenchers. If we inspect the correlations, we are at first in for a surprise. The frequency of recorded votes shows only a weak positive correlation with *government priorities* and even a negatively weak correlation with *whips' power*.[5] This puzzling observation can, however, be resolved and turned into a fairly strong correlation for *government*

4 The correlations (Pearson's r) between the "President's rights" (Table 10.1) and the three factors are: factor 1 0.11 (0.654); factor 2 0.00 and factor 3 -0.14 (0.572);

5 The correlations (Pearson's r) between the frequency of recorded votes (Table 16.2) and the three factors are: factor 1 0.28 (0.259); factor 2 0.05 (0.845); and factor 3 -0.28 (0.258). It also is worth noting that the frequency of recorded votes shows in the cross-national pattern of variation only weak correlations with the rules governing the voting order and the sequence of voting but is fairly strongly (r = 0.66) correlated to the use of voting machines.

priorities and recorded votes. Saalfeld also showed that the use of electronic voting machines predictably increases the frequency of recorded votes (Table 16.6). Now, given that only one out of the four systems showing the highest *government priorities* on factor 1, i.e. Britain, France, Greece and Ireland, actually employs an electronic voting machine, namely France, this intervening technical variable explains why the correlation is so weak. In partial correlation controlled for electronic voting, the correlation between the factor of *government priorities* and the frequency of recorded votes rises from an r of 0.28 (0.259) to a partial r of 0.51 (0.036).

Let us now return to the question from which this chapter started out. How representative is the "proxy" variable for agenda control used in Chapter 18? As this dimension of timetable control (from Table 7.1) loads strongly and positively on the first factor of *government priorities*, it is consonant with other features of guaranteeing a government speedy passage of legislation, such as controlling the committees' timetable, including the right to reallocate bills to a different committees as the plenary majority thinks fit (from Table 7.5), or restricting private members' rights of legislative initiative (from Table 14.2). Our "proxy" therefore serves as a good approximation of the construct of *government priorities* in agenda control and we may continue using it. Any reader wary of complicated statistical techniques may perhaps prefer to continue using this scale as an intuitively plausible measure instead of taking to the less intelligible "factor scores" assigned to each country.[6] Armed with a validation of this key variable in the context of a multicomponent measure for agenda control, we now proceed to assess the theoretical predictions.

III. An Evaluation of Landes and Posner: Agenda Setting Powers and the Ratio of Laws Repealed

Starting out from Stigler's "Interest-Group Theory of Government", Landes and Posner, two scholars renowned for their appetite for trenchant public choice hypotheses, excitingly though controversially assumed the following line of reasoning explained in Chapter 1.3.1 above. By increasing the transaction costs of getting the bill voted onto the statute books, rigid procedural rules for passing legislation diminish the likelihood of an easy repeal of this legislation by a new majority following a general election. Hence, with difficult procedures for passing legislation such as the absence of agenda control by government, the com-

6 Lijphart and Crepaz 1991:240 discuss the advantages and pitfalls of using factor scores as employed by Lijphart 1984:216 Table 16.2.

pound interest extracted by a lobby group from special benefits is higher because, due to the possibility of it being quickly repealed being lower, the particular legislation would last for many more legislatures.

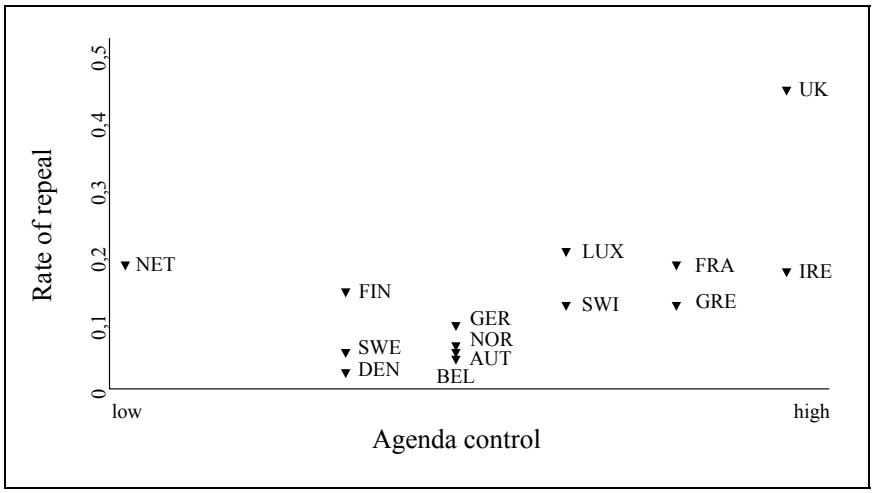
We are not in the position to empirically check the sweeping argument that the law of demand and supply is overruled by the strategic behaviour of well-organised interest groups lobbying for more specific bills, the more difficult it is to get them enacted by parliament. What we can do, however, is to prove the first link in the chain of argument by Landes and Posner as hardly existent. Let us therefore check the hypothesised correlation between transaction costs resulting from the procedures for passing legislation, namely, agenda control, and the ratio of laws repealed measured as the total number of repeals in percent of all bills passed in a policy area. Such a check was made possible by recourse to the Natlex database of the ILO used extensively by this research project.

It is advisable not to focus on the "money-intensive" legislation conferring "benefits" here, but on the rather "norm-intensive" bills regulating working time and working conditions documented in Table 21.3. The reason is that one of the basic tenets of public choice analysis of regulation achieved by legislative means is that it will confer concentrated benefits at either widely dispersed costs or that lobbyists will strive for special regulatory privileges that do not appear on the annual budget and, hence, carry a semblance of producing no costs at all. Repeals in the field of how to regulate working time and working conditions neatly suit this requirement. Evi Scholz reports the results of a search for both repeals (Table 21.5) and the total number of bills to which these repeals related (Table 21.3). The "rate of repeal" shown in Figure 22.2 was calculated as a percentage.

As we can see from Figure 22.2, there is no correlation worth reporting (or at best only a highly insignificant one) where a strong one should be expected if Landes and Posner are right. With only the one conspicuous outlier of the U.K., the dotted pattern of countries grouped (almost) horizontally shows that there is hardly a large impact of agenda control on the rate of repeal of laws studied across countries in the 1980s. Even with Britain included, the Spearman rank order correlation between agenda control and the rate of repeal of bills is no more than 0.43 (0.082). Now let us check what proportion of repeals is explained by the sheer amount of legislation in this field and what additional amount is attributable to agenda control. To this intent a multiple regression was run of the combined impact of agenda control (from Table 7.1 with the coding reversed) and the number of "regulatory" bills (from Table 21.3) on the number of repeals in this policy area (from Table 21.5). Its result shows that (with the "influential case" of Britain excluded) the number of repeals is almost exclusively - with a beta coefficient of 0.78 (0.002) - explained by the proportion of bills enacted,

whereas agenda control shows a negligible influence of a beta no more than 0.12 (0.57).

Figure 22.2: Almost no Correlation Between Agenda Control and Rate of Repeal: Casting Doubt on Landes and Posner



Sources: Agenda control Table 7.1 (coding reversed). Rate of repeal: total number of repeals (Table 21.5) divided by the total number of bills (Table 21.3).

These findings can, of course, do no more than cast doubt on the theory of Landes and Posner which, as they state, is valid for the U. S. and not for Europe. Furthermore, the policy field on which the empirical assessment was based is fairly narrow. In most countries working time and working conditions are contested by strong trade unions and employers' and business organisations and thus may be untypical of the situation in other policy areas. Even so, the excitingly provocative argument made by Landes and Posner may prove to be no more than a figment of theoretical imagination. More suitable than the excessive concern with the "demand side" argument explaining legislation as being "sold" to narrowly interested groups, is the "supply side" argument of an electoral support seeking government acting as a monopolist. It is to the finding of an inverse correlation of government control of the agenda and legislative output already established in Chapter 18 that we now finally return.

IV. Does the Inverse Correlation Between Agenda Control and Legislative Output Survive Charges of Spuriousness?

Will the correlation between agenda control and the average number of bills already proven in Chapter 18 disappear partly or fully if controlled for the effect of a hidden third or fourth variable? To rule out such treacherous correlations, the multivariate techniques of partial correlations and, in one instance, multiple regression, are used. As the number of cases is small, the technique employed is the "comparative method of control". Giovanni Sartori points to the very simple, yet "seemingly forgotten answer" that "comparisons control - they control (verify or falsify) whether generalisations hold across the cases to which they apply" (Sartori 1991:244). He also emphasises what we may call the guiding principle of the analyses to follow: "Granted, comparative control is but *one* method of control. It is not even a strong one. Surely experimental controls and, presumably, statistical controls are more powerful 'controllers'. But the experimental method has limited applicability in the social sciences, and the statistical one requires many cases. We are often faced, instead, with the 'many variables, small N' problem, as Lijphart (1971:686) felicitously encapsulates it; and when this is the case our best option is to have recourse to the comparative method of control" (Sartori 1991:245). In this spirit the analyses employed here are not intended for any ambitious statistical inferences. Rather, our cautious awareness of the ever-present dangers of spurious correlations generic in aggregate analysis prompts us to apply the tools of multivariate descriptive statistics.

1. Does the Impact of Agenda Control on Legislation Vanish if Controlled for Population Size?

There are vast discrepancies in population size across the 18 countries of Western Europe. From this range alone one should take care to check for the influence this may have on the number of bills. The reader will also recall from the introductory section to this chapter that in historical analysis population growth was proven a cause for more legislative enactments. Does this impact also show in aggregate analysis across nations in the 1980s? Table 22.2 shows this not to be the case. In cross-national aggregate analysis population size does not impair the influence of agenda control on legislative volume.

2. Are Barriers of Entry Resulting from the Electoral System more Important than Agenda Control?

A further objection that could ruin the overall empirical success of the theoretical argument lies in the suspicion that agenda control is an accidental by- products of a single party government created by a majoritarian electoral system. Anderson and Tollison argue with regard to law production by government as a monopoly that its monopoly "franchise" is "awarded competitively" in that "elections can be viewed as periodic auctions in which the franchise is put up for bid" and that the behaviour of a monopoly franchisee (government) will be dependent on the "degree of effective entry barriers facing potential entrants" (Anderson and Tollison 1988:530). Does agenda control matter after all? Is disproportionality of elections (parliamentary seats in relation to valid votes) perhaps far more important than agenda control? Table 22.3 rejects this argument.

Table 22.2: Controlling Agenda and Bills for Population Size
Bivariate Correlations and Partial Correlations

	all countries	*without FIN, SWE*	*without FIN, ITA, SWE*
r agenda	- .56 **	- .65 ***	-.62 **
partial r agenda *controlling for population*	-.56 **	-.69 ***	-.62 **
r population	-.04	.26	-.11
partial r population *controlling for agenda*	.03	.41	.08

N = 18. Significances: *** p < .01, ** p < .05. * p < .10.
Sources: Agenda control Table 7.1 (coding reversed).
Annual average of bills, see appendix to Chapter 18.
Population for 1985 Lane, McKay and Newton 1991:8, Table 1.1.

The reason why no effect shows at all could be explained by the fact that the premisses of the theoretical argument used by Anderson and Tollison were false in the first place. They exclusively focus on the demand side of legislation, stating that, "Government extracts resources from taxpayers and redistributes them to interest groups" (Anderson and Tollison 1988:530). Thus, they only see the price government seeks and takes in exchange for transferring wealth to interest organisations. They state their case bluntly: "From the perspective of the interest-group theory of government, government is analogous to criminal theft"; but

government, "unlike criminal firms, generates public goods as a by-product of some parts of this production process" (Anderson and Tollison 1988:530). Against this argument, in Chapter 19 Christian Henning works under the assumption that governments do not look for money but for political support. On this premiss, the observed inverse correlation can be defended both theoretically and empirically against the "barriers of entry" argument.

Table 22.3: Controlling Agenda and Bills for Electoral Barriers
Bivariate Correlations and Partial Correlations

	all countries	*without FIN, SWE*	*without FIN, ITA, SWE*
r agenda	- .56 **	- .65 ***	-.62 **
partial r agenda *controlling for barriers*	-.45 *	-.62 **	-.58 **
r barriers	.40 *	.27	.28
partial r barriers *controlling for agenda*	.16	-.06	-.01

N = 18. Significances: *** p < .01, ** p < .05. * p < .10.
Sources: Agenda control Table 7.1 (coding reversed).
Annual average of bills, see appendix to Chapter 18.
Barrier of entry measured by disproportionality of elections in Lane, McKay and Newton 1991:109, Table 6.2.

3. *Is "Legislative Inflation" More Dependent on Ideological Complexion of Governments than on a Lack of Agenda Control?*

Another objection most likely to damage the whole theoretical argument pursued here would consist of the hypothesis that agenda control has little or nothing at all to do with the amount of bills produced. Rather, the variance might be totally and more plausibly explained in terms of the ideological complexion of the parties forming a government. The whole notion of "legislative inflation" was launched by the inventors of this concept against social democratic governments allegedly more inclined to an oversupply of "benefits" legislation than their conservative counterparts, since distribution was thought to be the rationale of the social democratic consensus of the decades of prosperity after the Second World War.

Now, whilst with our data available only for the 1980s we cannot measure the impact of social democratic parties in government on legislative output in the decades of prosperity, the basic contention, if true, should still show in a period of relative austerity in the 1980s. The argument would be falsified if the left-right political complexion of governments were to explain much more variance than agenda control. But the theoretical prediction, again, remains unscathed. If party political complexion in interaction with agenda control would reduce the latter to an insignificant effect in multivariate analysis, then the conventional wisdom would be confirmed that it is political and not structural variables that explain most of legislative output. Fortunately, the opposite turns out to be true. Both the effects of party political complexion and agenda control are weakened in interaction with each other. But agenda control remains the stronger explanatory variable.

Table 22.4: Controlling Agenda and Bills for Left-Right Cabinets
Bivariate Correlations and Partial Correlations

	all countries	*without FIN, SWE*	*without FIN, ITA, SWE*
r agenda	- .56 **	- .65 ***	-.62 **
partial r agenda *controlling for left-right* [1)]	-.54 **	-.69 ***	-.72 **
r left-right	.35	.03	.30
partial r left-right *controlling for agenda*	.31	-.04	.26

N = 14. Significances: *** p < .01, ** p < .05. * p < .10.
1) Right-wing government coded as 1 so that positive coefficients signify more bills being passed by social democratic governments.
Sources: Agenda control Table 7.1 (coding reversed).
Annual average of bills, see appendix to Chapter 18.
Left-right complexion of governments: Woldendorp, Keman and Budge 1993.

4. Controlling the Impact of Agenda for the Number of Parties in Parliament

In the real world, actors will tend to create an environment of parliamentary procedure conducive to the number of effective parties in the chamber. A great many relevant parties will necessitate a more amicable agreement to expedite business and vice versa. If there are consistently many party groups in the chamber, the rules of procedure should in the long run be modelled after consensual

rather than majoritarian devices. In contrast, if there are consistently few parties in the chamber they will tend to reform the standing orders in such a way as to establish strong agenda control by government. It could, therefore, be argued that the proven inverse correlation of agenda control and average number of bills is a spurious by-product of the fragmentation of parliament in terms of the number of parties. Table 22.5 shows this not to be the case and not to invalidate the hypothesised relationship. Even if the proportionality of elections is taken into additional account and a multiple regression run (not shown here) on the combined impact of agenda, barriers of entry and number of parties as independent variables on the average number of bills, agenda control stays high at a beta of 0.51 (0.076) for all countries and even rises to a beta of 0.73 (0.014) with Finland and Sweden excluded.

Table 22.5: Controlling Agenda and Bills for Number of Parties (Chamber) Bivariate Correlations and Partial Correlations

	all countries	*without FIN, SWE*	*without FIN, ITA, SWE*
r agenda	- .56 **	- .65 ***	-.62 **
partial r agenda *controlling for N parties*	-.54 **	-.66 ***	-.64 **
r N parties	.21	.14	.11
partial r N parties *controlling for agenda*	-.06	-.20	-.22

N = 18. Significances: *** p < .01, ** p < .05. * p < .10.
Sources: Agenda control Table 7.1 (coding reversed).
Annual average of bills, see appendix to Chapter 18.
Effective number of parties in 1985, see Taagepera and Shugart 1989:82 f.

To the reader who still has Chapter 3 on veto players and law production by George Tsebelis ringing in his or her ears, it comes as no surprise at all that the number of parties in parliament should show such little impact on the number of bills passed [7]. The point was already made that it is not so much the number of

[7] With respect to the number of parties in government, this is also the appropriate place to take up and assess the objection raised against Lieven De Winter's conjecture that there is a trade-off between a lack of procedural rules assuring the government control of the legislative agenda and the average number of days required before a coalition agreement is reached (see Chapter 4:note 74 in this volume). One of the early empiri-

parties in the chamber as the number of parties in a coalition that counts because in parliamentary democracies it is governments and not parliaments that initiate legislation. Legislative proposals may be effectively vetoed and, thus, blocked in government long before they enter the legislative process in parliament. However, the idea of veto players, as used by George Tsebelis, is a sophisticated concept that cannot be empirically assessed by the sheer average number of parties in cabinets during the 1980s. Not only is the concept defined in terms of the number of parties in government, it also includes their ideological distances from one another and the internal homogeneity of their supporters in parliament. It does not make sense, therefore, to correlate the average number of parties in government with the number of bills passed without also taking into consideration at least the additional dimensions of ideological distance and the important distinction between the two classes of significant or insignificant bills passed by government.

George Tsebelis predicts that, theoretically, a large number of incongruent parties in government is able to pass a great many insignificant bills, whereas the ability to initiate significant changes via legislation is substantially hindered. Our analytical design to assess the theory of veto players and law production cannot be pursued further until the next stage of this project. Here the impact of veto players on law production will be analysed not on mere average figures per country for the 1980s, but on disaggregated data based on actual governments, number of parties and ideological distance in coalitions as the units of analysis.

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cal findings of coalition theory was that the time required for coalition building tends to rise with the number of coalition partners involved (Leiserson 1966). So, does this most plausible objection invalidate the argument made by Lieven De Winter? As far as the aggregated evidence with average number of parties for the whole period under consideration is able to tell, this is not the case. Both influences retain their effect independently of each other. Calculating the mean number of parties in government per country for the same period for which Lieven De Winter's average days of duration of government formation are computed, and controlling the correlation for the impact of parties in government graphically documented by Lieven De Winter in Figure 4.1, the Pearson correlation of -0.64 (0.003) is only reduced to a partial coefficient of partial r of -0.44 (0.088), whereas the correlation of number of parties in government (source: Woldendorp, Keman and Budge 1993) with formation days is also reduced from r -0.64 (0.003) to a partial r of -0.44 (0.087) with all 17 countries included.

Having ruled out the fragmentation of the legislature in terms of seats, i.e. the number of parties in the chamber, as a crucial variable invalidating the shown empirical impact of agenda control on the quantity of legislative output, further suspicions of the possibly dubious nature of this correlation arise from a quite different angle.

5. A Further Check for Spuriousness: Controlling for Regional Law-Making Bodies

Could it not be the case that the average number of bills passed depends far more on different legal styles? Is, for example, the number of bills passed by central parliament considerably lower in countries where there are regional parliaments authorised to make laws? It immediately springs to mind that all of the four countries where agenda control is most strongly entrenched in the rules of procedure, i.e. Britain, France, Greece and Ireland (category I in Table 7.1), know no regional law-making bodies which could in some way relieve parliament of its law-making task. Do we perhaps rather measure the spurious dimension of the decentralisation of law-making when we find an apparently negative correlation between agenda control and legislative output? Richard Rose has already noted that "the national legislatures of federal systems enact nearly one third fewer laws [...] than the national parliaments of unitary states" (Rose 1984:78 with Table 3.1). But if we control our "proxy" variable for the existence of regional bodies, the hypothesised relationship between agenda control and legislative output is not impaired.

For the purpose of the analysis reported in Table 22.6, countries were rank ordered according to their regional law-making capacity as assessed in the account given by Georgios Trantas in section IV of Chapter 21 in this book. Score 1 is given to countries with no federal or regional structures in law making. Score 2 is allotted to the "German federalist layer (Germany, Switzerland and Austria)". Score 3 consists of, the "South European regionalist layer (Italy, Spain and Portugal)". Finally, score 4 is reserved for "the special case of Belgium". Predictably a negative, but only weak correlation between regional law-making bodies and total number of bill emerges for all 18 countries. Only if the outlying cases of Finland, Italy and Sweden (already well-known from previous paragraphs) are excluded, does the negative relationship show up a little more strongly. No matter which of the outlying countries are excluded, agenda control, even if controlled for regional law making, shows an equally high impact on all counts. This particular assessment is far more stringent than controlling only for federalist countries because not only in federal systems do bodies other than a national parliament issue legislation.

Table 22.6: Controlling Agenda and Bills for Regional Law Making
Bivariate Correlations and Partial Correlations

	all countries	*without FIN, SWE*	*without FIN, ITA, SWE*
r agenda	- .56 **	- .65 ***	-.62 **
partial r agenda *controlling for region*	-.60 ***	-.66 ***	-.70 ***
r regional law making	-.18	.07	-.33
partial r region *controlling for agenda*	-.31	-.10	-.51 *

N = 18. Significances: *** p < .01, ** p < .05. * p < .10.
Sources: Agenda control Table 7.1 (coding reversed).
Annual average of bills, see appendix to Chapter 18.
Regional law making, see Trantas, Section IV in Chapter 20 of this volume.

A final objection most likely to damage the finding that the procedure for passing legislation, and hence parliamentary institutions matter for the quantity of legislative output, is legislation by government decrees. Can governments in command of the agenda simply afford to substitute decrees for bills? If so, rather than being a true finding, the low number of bills would be a treacherous accidental by-product of more decrees. Hence we would fall victim to a spurious correlation of bills being inverse to decrees. "Legislative inflation" would not be kept at bay by a government with agenda control. On the contrary, it would take place not in terms of enacted bills (counted so far in our analysis) but in terms of a steep rise of government decrees. This is indeed what conventional wisdom holds to be true: "increasing number of executive acts - shrinking role of parliament" (Delage 1990:13).

6. A Final Check for Spuriousness: Do Governments in Command of the Agenda Substitute Decrees for Bills

Undoubtedly, the number of government decrees is substantial across Western democracies. Is it not, then, fairly likely that instead of getting bills enacted through parliament, a government acting as a monopolist takes to regulating a policy area not by the time-consuming procedure of passing legislation but by government decrees? This objection is in keeping with the argument employed in Chapter 1 of this book that parliamentary government as a natural monopoly in law production has, indeed, many different legislative instruments other than

parliamentary bills at its disposal. If so, a low average of bills passed by parliament may be a spurious by-product of a government having shifted its legislative activity away from parliament to legal instruments other than legislative enactments. It is normally difficult or quite impossible to assess the relative proportion of government decrees and of bills enacted by parliament .[8]

Fortunately for our research group, this difficulty can be bypassed by using the under-utilised Natlex database kept by the ILO at Geneva which contains all legislative instruments in the fields of labour law and social security. The Geneva staff, comprising of country specialists, not only register bills enacted by parliament but also government regulations and other legal instruments. We can be reassured that the ILO specialists would not register matters peripheral to policy impact, which inflate the statistics kept at the national level.[9] As such we have a cross-nationally valid database available that allows us to establish the relative shares of legislative enactments and of government regulations from the early 1980s onwards. In order to establish a measure for "decree activity" in each country, we compute from Table 21.12 the ratio of decrees to bills with respect to the social security policy field of "benefits".[10] This ratio will be used in two ways.

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8 This difficulty to distinguish between the two was again brought to light when an international group led by Debbasch (1986) set about to assess trends of the "inflation of legislative and regulatory measures in Europe". The same obstacle was recognised and acknowledged by the recently founded "European Association for Legislation" when they comparatively tried to asses the phenomenon of the so-called "Normenflut", i.e. a presumably ever increasing tide of regulatory measures (Karpen 1992:). The reasons are twofold. Firstly, there is in many countries a lack of reliable statistics distinguishing between the two. Secondly, even if the statistics are kept, many, but not all, decrees are so unimportant as to border trifling matters.

9 When a German research group recently gave an exhaustive account of one policy area in order to be able to conduct a network analysis of the impact of political actors on legislative output, they found that of 911 government regulations only one was important for policy making. Many dealt with matters important in certain walks of life other than policy making, such as the right of trade guilds to award gender-specific titles in their certificates of craftsmanship (König 1992:66-68 and note 106).

10 If we compute from Table 21.12 the ratio of decrees to bills the emerging picture corresponds (with the exception of Italy) to what comparative legal scholars would have us expect. Thus, not only is the validity of this database shown once more, the figures upon which the subsequent aggregate analysis is based may also be trusted. The ratio for decree activity is as follows: AUT 0.06; BEL 9.98; DEN 0.02; FIN 0.28; FRA 4.45; GER 0.24; GRE 0.64; IRE 1.64; ITA 0.97; LUX 1.60; NET 0.70; NOR 0.59; POR 16.33; SPA 10.73; SWE 0.59; SWI 3.85; UK 9.27. In Belgium, France and Portugal, the legal culture gives preference to government regulations. In Belgium these

Table 22.7: Controlling Agenda and Bills for "Decree Activity" (Ratio) Bivariate Correlations and Partial Correlations

	all countries	*without FIN, SWE*	*without FIN, ITA, SWE*
r agenda	- .56 **	- .65 ***	-.62 **
partial r agenda *controlling for decrees*	-.53 **	-.64 **	-.61 **
r ratio decrees to bills	-.42 *	-.41	-.43 *
partial r decrees *controlling for agenda*	-.30	-.32	-.41

N = 18
Sources: Agenda control Table 7.1 (coding reversed).
Annual average of bills, see appendix to Chapter 18.
"Decree Activity" = Ratio of decrees to bills, calculated from Table 21.12.

In bivariate correlation between the ratio of "decree activity" and the "proxy" index for agenda control (from Table 7.1 with the reversed coding), we firstly assess the extent to which agenda control in aggregate cross-national analysis is linked to decree activity. Secondly, we control the correlation between agenda control and total legislative output per country (over and above social security)

are based on specific statutes by parliament enabling the administration to issue decrees. In France and Portugal the government, as set out in the constitution, enjoys the exclusive right to legislate in a "domain of government regulation" without parliament. It comes as no surprise that Britain is also represented by a high ratio because statutory instruments based on Acts of parliament are quite important. Italy, once more, is a country where this ratio seems inexplicable. Italy is known to use decreti-leggi, nevertheless the proportion of decrees does not exceed that for bills. Furthermore, as the reader may recollect from Figure 21.1, Italy was the single and most conspicuous outlier where the number of bills registered by the ILO did not equal the proportion of total bills as reported independently by national statistics. On consulting Georgios Trantas, he pointed out to me that, "Italy seems to be an over-regulated country. Besides the many leggi passed by Parliament each year and the decreti-leggi of the government there are many Decrees of the President of the Republic, of the Government and of Ministers all making use of powers delegated by laws or decree-laws. Regional legislation in the form of regional laws or regional decrees might also intervene, either after state delegation or autonomously. And one should not forget the bylaws made by local authorities or public bodies, including public social security and which are not published in the official Gazette - perhaps already the longest in Western Europe - and thus are not counted here".

for the intervening effect of decree activity. Will the inverse correlation between agenda control and legislative output that has so far managed to withstand all plausible objections finally vanish when the substitution effect of government decrees is brought into play? Let us consider the two analytical questions step by step.

If the ratio of decrees to bills were to rise across countries in covariation with agenda control, this would indicate a substitution effect of a government issuing more decrees relative to enacting bills, the more agenda control it enjoys. The theory that has so far resisted all attempts at falsification escapes almost unhurt. For all 17 countries (Iceland is missing in the sample of "benefits" decrees and bills) the Spearman rank correlation between agenda control and decree activity, i.e. the ratio of decrees to bills (computed from Table 21.12) is positive as predicted but not larger than 0.49 (0.047) with a Pearson correlation of only 0.32 (0.209). Let us now use this ratio of decrees to bills in "benefits" legislation as a control variable for checking the stability and validity of the theoretically predicted inverse correlation between agenda control and total legislative output per country as we did in Tables 22.2 to 22.6. Given the close correspondence, documented in Figure 22.1, between "benefits" bills and all bills per country, it is suitable to check "all" legislation with the help of the ratio calculated from "benefits" only.

As we can see from Table 22.7, the correlation between government control of the agenda and total legislative output does not vanish even if controlled for the substitution effect (decrees for bills) open to parliamentary government acting as a monopolist. For all countries the crucial relation between agenda control and total output stays high at almost the same rate as in bivariate correlation even if the pertinent impact of decree activity is controlled for. These findings tend to refute conventional wisdom that government regulations replace bills enacted by parliament at least with respect to the important area of "benefits" legislation as the intervening variable. This may be an impression derived from the British experience, that forms an outlier, unduly generalising this singular case to hold true for all countries.

It is worth reporting here that with drafting authority of committees,i.e. the second of the two factors extracted (Table 22.1 and Appendix to this Chapter), there emerged no correlation whatsoever with the number of bills. Nor were there any mentionable correlations with the various dimensions analysed by Ulrike Liebert concerning "lobby regimes" trying to channel the influence of interest organisations on law production (Table 13.8 and Figure 13.2). This should come as no surprise since if, and when, committees have power to change government projects as they think fit, then this should be visible not at the level of the sheer number of bills at all but with respect to the length and contents of bills

and the number of amendments the enacted bill carries. If interest groups try to influence bills at the parliamentary stage they, too, will do so by trying to prevent or amend a bill they could not stop at government level. Both influences cannot be measured by the rough and preliminary indicator used here, i.e. the average number of bills passed per country during the 1980s, but must be studied in the next stage of this project with the passage if individual bills as the unit of analysis.

Given the negative correlation between agenda control and legislative inflation established in Chapter 18 holds up well, it is reasonable to argue that this inverse relation represents neither a measurement error nor a transient phenomenon of the 1980s but is rather based on a theory turning a puzzling observation into an empirical regularity. A theory turning a puzzle into a regularity, this is precisely how Imre Lakatos defines his key concept of a "novel" finding. For a research programme to be scientific it should, in the spirit of Imre Lakatos, be able to interpret perplexingly irregular observations in such a way that not only may the existing observation but also a general regularity be explained as "some novel, hitherto unexpected fact" (Lakatos 1970:118).

V. Supporting the Prediction About Agenda Control with a "Post-Diction" for British Legislation After 1867

If the theory employed here is sound, wherever a substantial change in agenda control may occur it ought to have a predictable and negative effect on the number of bills passed. Thus, a government in control of the agenda is likely to act as a "natural monopoly" keeping "legislative inflation" at bay. Agenda control consists, as said before, of two analytically distinct components. Firstly, the sometimes relatively fragile party discipline of the government's followers in the chamber by which the single-party or coalition government may assert its will in majoritarian decisions during the passage of legislation. Secondly, the relatively invariant procedural features of the admissibility of motions, restrictions on alternatives and speeding up the timetable of legislative decisions. If either, or both components change, the predicted effect should show up.

From a historical perspective, both dimensions conspicuously changed in the British House of Commons in the second half of the nineteenth century. It thus appears to be a crucial test case. Behaviourally speaking, party discipline rose dramatically. Party votes in the House of Commons, as defined by Berrington (1967) and Cox (1987), rose. "True two-party votes" climbed steeply from a low of only 15% in 1850 and 5% in 1860 to a high of 75% in 1899 and 86% in 1903 (Berrington 1967:344 table 4). On the procedural front, agenda control was es-

tablished in the secular reforms of the standing orders under Speaker Brand after 1881. His move to break obstruction by the Irish MPs merely put the finishing touches to a trend towards more government control that had been under way since 1867 (Döring 1981; Kluxen 1969). Thus, both components of agenda control showed a long-term rise in Britain over the second half of the nineteenth century.

If the theoretical expectation is right, the conventional contention of ever-increasing legislative output should be wrong, and were we only to look for this now theoretically significant phenomenon, we should find a rather drastic reduction in the volume of legislation brought onto the statute book. This is, indeed, what we observe if we bring two sources together in a combined perspective. Unnoticed even by the seminal book by Cox on the rise of the "efficient secret" in Victorian England (1987), there was a considerable reduction in the volume of statute law. By 1900 the number of "Public General Acts" had fallen to about a third of that of around 1866. Even more important, not only the number but also the length of statute laws fell by that amount (see statistics published by Greenleaf 1983:40).

We may note in passing that, with the advent of wider-ranging social policy under the Liberal administration before the First World War (the conflict about the veto powers of the House of Lords), the average number of statute book pages began to rise at a threefold rate, whereas the number of statutes remained steady (see the figures quoted by Greenleaf 1983:40 f.) Moreover, the number of statutory instruments more than doubled in the same period between 1900 and 1920. But it is an important qualification for my argument, that, concomitant to the rise of party government from the 1870s to the turn of the century, not only did the average number of statutes decline, but also the average number of statute book pages per year shrank to a fraction of what it had been in the "Golden Age" of Parliament.

At first sight the decline in the number of bills passed in Britain between 1867 and the 1890s seems highly implausible, particularly as in this period state activity rose due to the build-up of a more formal empire and the beginnings of social policy, both necessitating more legislative activity. But such a puzzling decline in public general Acts may be confidently predicted - or rather: post-dicted - as logical according to the theory developed in this book. To be sure, the observed rise in agenda control and decline in public general Acts is no more than a coincidence, but it is a coincidence of a very strong and rarely observed kind. Its logic may be explained by a theory of law production by parliamentary government acting as a natural monopoly.

Two testable predictions were derived from this theory as suggested in Chapter 1 and formalised in Chapter 19. These two predictions expect that in any de-

mocratic setting a government acting as a natural monopoly will be likely, firstly, to produce fewer bills and, secondly, more conflictual bills. Law production by government as a natural monopoly comes, of course, as something of a mixed blessing. As in economics, monopolies in politics have both their advantages and disadvantages. Albert O. Hirschman (1970) thus argued, that competition at the polls between political parties may even lead to collusion establishing a monopoly averse to any innovation. The point to be made here is not whether monopoly law production is "good" or "bad". Whether monopolies (in economics as in politics) act innovatively, as envisaged by Schumpeter ([1942] 1950:Chapter VII), or in directionless stagnation, as suspected by Hirschman (1970) in his chapter on "How Competition May Comfort Monopoly", depends on the specific circumstances which are beyond the logic of monopoly law production being developed here. But what we can say for sure is that there is likely to be a trade-off between monopoly law production and the number of bills enacted. If one is set on fighting "legislative inflation", monopoly control of the parliamentary agenda by a democratically elected government could be a suitable cure. On the other hand, however, if lively debates in parliament and private members' right of initiative and amendment are valued more highly, one would, if the theory is correct, have to put up with more bills being passed.

Strong support was found for the first of the two predictions mentioned above. It assumes that, against conventional wisdom, a high degree of agenda control by government or, in another parlance, its ability to push through almost any measure it thinks fit correlates not with a high level, but with a low level of legislation passed. This first prediction, already reasonably empirically confirmed in Chapter 18, held up in this last chapter cross-nationally fairly well in multivariate analyses against most plausible charges for spuriousness. Agenda control, thus, has been proven to be a crucial explanatory, yet empirically neglected, variable to be taken into account more than in the past by theorists and empiricists of legislative research alike. The second prediction hypothesising that parliamentary government enjoying a natural monopoly tends to substitute conflictual for nonconflictual bills, awaits empricial checking in the next stage of the project when we will change from aggregate analysis across countries to a sample of individual bills as the unit of analysis.

Wherever either procedural agenda control, party discipline, or both (as the two normally interact) changed decisively within a single country over a period of time, the predicted effects of government control of the agenda on legislative output and the level of conflict between government and opposition should also have shown. There are certainly few countries that in recent times have experienced such a dramatic shift as Britain in the second half of the nineteenth century. Nevertheless, post-Franco Spain that developed from "Consociationalism

to a Majoritarian Parliamentary System" (Capo Giol et al. 1990) serves as a suitable test case. In spite of the cross-national approach of the project, for good "new institutionalist" theoretical reasons a forthcoming contribution by a Spanish participant of the project will study the change of legislation within this single country over time since the 1970s to see whether these "institutionalist" predictions in fact hold true.

Appendix

Table 22.8: Factor Scores Assigned to Each Country from Table 22.1

	Factor 1 *Government priorities*	*Factor 2* *Committee drafting*	*Factor 3* *Whips' power*
AUT	-.76	-1.19	-.87
BEL	.37	-1.38	-.57
DEN	.26	.33	-1.26
FIN	.43	.20	-.33
FRA	-1.16	.53	1.37
GER	.52	1.03	-.48
GRE	-1.03	.60	-.64
ICE	1.21	-.65	-.77
IRE	-1.32	1.18	1.50
ITA	.13	1.66	1.13
LUX	-.98	-1.25	-.70
NET	1.88	1.60	-.72
NOR	.26	-.32	.29
POR	.10	-.16	-.63
SPA	-.90	-.60	-.97
SWE	1.73	-1.31	.60
SWI	.47	-.81	1.71
UK	-1.23	.53	1.35

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Prospects

Herbert Döring

This volume on West European parliaments is the first step in an ongoing research programme. The first was to map, cross-nationally, institutional structures, procedural rules and, in many cases, also patterns of behaviour. With the aid of the descriptive classifications established and documented in this volume, the second task was, and still is, to exemplify the importance of new theoretical instruments developed in the various strands of "institutional theory" in legislative research. The first task of this long-term project has now been completed, the second task still needs further elaboration in the next stage of this project. This outlook will briefly explain how the achievements of this present volume fit in with the plans for research that is still to be finalised.

I.

Addressing themselves to the task of constructing gauges with which to compare all countries of Western Europe, the authors of this book have established various classifications that have been made readily accessible to the reader in tables and figures in each chapter. The many classifications presented here show specific patterns in their own rights that need not be commented on nor repeated here. Some additional patterns emerged in the concluding Chapter 22 from a summary analysis of possible links between many of the previous chapters.

Our cross-national evidence lends no support to the facile generalisations purported by the distinction between so-called "cabinet parliamentarianism" and "committee parliamentarianism". In the former there is a presumed dominance of the executive over the legislature as contrasted to an alleged preponderance of the chamber's committees over the government in the latter (Lane and Ersson 1987:234). However, government control in both plenary and committee actually forms an overarching dimension. Where committees enjoy more autonomy is in the redrafting of government bills under close supervision of the whips controlling the timetable. In only four of the eighteen countries, Denmark, Iceland, the Netherlands and Sweden, may bills not be reallocated to a different committee by the plenary majority if and when the committee hesitates in meeting the agenda desired by the majority of the legislature.

Contrary to conventional wisdom, in the cross-national pattern procedural prerogatives of the floor majority, i.e. the whips' power to recall recalcitrant committee members and reverse the order of voting, do not correspond with government prerogatives in setting the timetable. This at first puzzling observation, that the two dimensions should show independent variation, may, on second thoughts, be commonsensical after all. We may recall that in Britain the whips may neither recall committee members nor censure private members' questions. As the voting order also cannot be determined by the government but is arranged by the independent Speaker, the resulting pattern of low procedural prerogatives for whips goes against rumours of their all-pervasive practical power. The British peculiarity is actually in accord with a general pattern of the two uncorrelated factor scores for *government priorities* and *whips' power*.

II.

Observations such as the one above give rise to further thoughts that may materialise out of the patterns of distribution across Western Europe. Far more patterns than those observed in Chapter 22 could easily be disclosed. Let me provide just two examples. Is the surprising dimension of the power of the whips uncovered by the exploratory factor analysis in Table 22.1 related to any other instruments of party discipline exercised by the party leadership over party group members? As one such indicator, the reader may welcome the information given in Matti Wiberg's Tables 6.5 and 6.6 on whether or not parliamentary questions by rank-and-file MPs are only accepted by the presidents of parliament if countersigned by the party group whip, or in other words, if "party censorship" of questions is practised.[1]

Future inspiring hypotheses could be assessed with the help of the comparative quantitative gauges this volume provides. In the parliamentary systems of Western Europe, parliament is no longer the counterpart to government. Instead, governments are more often than not recruited from the ranks of seasoned parliamentarians. Political theorist Hugo Preuß, the framer of the constitution of the German Weimar Republic of 1919, predicted the dualism between executive and legislature inherited from the history of absolutism in Continental Europe to be no more than a "temporary resting place" on the long way to a fusion of the

1 If we code the two categories "yes, party censorship is in practice" and "no, it is not" as a dichotomous variable, and correlate this elementary measure with the countries' factor scores for *whips' power* (see Appendix Table 22.8), the resulting correlation confirms the suspicion of an underlying dimension of whips' power adding up to a consistent pattern (Spearman's rank correlation 0.46 and Pearson 0.51 or, with the 4 outliers from 18 cases excluded, Spearman 0.87 and Pearson 0.84).

powers of the two. In a parliamentary system, he stated, the executive, far from being an antagonist of the legislature, tends to become "flesh and blood of the legislature" (Preuß 1915; see also Döring 1975:166 ff.).

His vision appears to have come true. In all the parliamentary systems of Western Europe recently studied in the Florentine comparative research project of Jean Blondel on cabinet ministers, the proportion of ministers having served a long apprenticeship in the legislature, rather than having been trained in other walks of life, has risen. In spite of there being much talk of the decline of political parties, let alone parliaments, the role of parliament as a "training ground of political leaders" (Max Weber [1918] 1984) has actually increased (De Winter 1991).

Assuming institutional patterns shape behaviour, it may be predicted, or rather "post-dicted", that the following generalisation will be confirmed upon analysis of the available data. The more ministers were previously deputies, the more likely it is that the legislature, elected in name to make laws, will see its main task in forming and sustaining a government. Recruitment patterns should thus correspond to legislative output; and a high percentage of parliamentary ministers be negatively correlated to the lawmaking activity of the chambers. This is indeed what we find when we cross-tabulate the percentage of ministers who had previously been parliamentarians (documented by Lieven De Winter in Table 4.3 and also used by Rudy Andeweg and Lia Nijzink in Table 5.1) with the average number of bills passed per country in the 1980s (documented in the appendix to Chapter 18).[2]

III.

The institutional structures of assemblies across Western Europe are a surprisingly underresearched area of the now flourishing cross-national study of West European politics. The knowledge gap was so large that when searching for a summary measure of the "relative power of the executive and the legislature" in his analysis of contemporary democracies, Arend Lijphart could find no more than a "proxy" variable rather remote from power structures, namely the "average cabinet durability", measured in the months a government was in office

2 Excluding the three countries producing very many small bills, i. e. Finland, Italy and Sweden that were also excluded from all previous checks in Chapter 18 and in Tables 22.3 to 22.7, the Pearson correlation is - 0.70 (0.008). It retains its "post-dictive" power of prediction at a partial r of - 0.73 (0.016) even when checked against the number of parties in the chamber; and a partial r of - 0.61 (0.064) if controlled for decree activity of government (i.e. the ratio of decrees to bills in "benefits" legislation documented in Table 21.12).

between 1945 and 1980. His conclusion that this was "a rough indicator - but the best one available" (Lijphart 1984:80) is testimony to the lack of cross-national as opposed to country-specific data on parliaments a decade ago.

This gap has now been filled. How are the classifications enriched with institutional detail developed in the various chapters of this book linked to more conventional instruments of comparison? To find out whether the classifications of this book show patterns congruent or contradictory to established indices of democratic structures across the universe of contemporary systems, let us compare indices constructed from two independent multivariate analyses. The one indicates majoritarianism within the subsystem parliament and is the first factor of *government priorities* extracted in the factor analysis of Table 22.1. The other is Arend Lijphart's composite index of majoritarian and consensual democracies. Ingvar Mattson already indicated in Table 14.4 a strong correspondence between his findings at the subsystem level and Lijphart's gauge at the system level. In the comparison made here, a rewarding correspondence is once again revealed.[3]

Lijphart improved the validity of his index by adding the rather rarefied, and thus debatable, construct of "neo-corporatism" as a variable to increase the empirical fit. Without "corporatism" as an additional ingredient, the Lijphart and Crepaz index shows a less satisfactory fit.[4] In striving to enrich summary measures, the findings reported in this volume put flesh on the bones of this kind of

3 The measure for *government priorities* in the procedure for passing legislation (i.e. the Standardised Factor Scores for each country listed in the appendix to this chapter) and the Six-Item-Measure of Majoritarian and Consensual Democracies by Lijphart and Crepaz (1991:245 table 3) shows a fair degree of correspondence amounting to a Pearson correlation of 0.74 (0.004). In short, although the two measures are different, a certain congruence is found to exist between the patterns discovered at the subsystem level and at the system level at large. I am aware of the fact that two variables for parliament were already included in Lijphart's original "Varimax Rotated Factor Matrix of the Nine Variables Distinguishing Majoritarian from Consensus Democracy" (Lijphart 1984:214 Table 13.1), namely executive dominance over the chamber and the form of unicameralism versus bicameralism. All the same, the comparison is not marred by a potential overlap between the two measures as bicameralism was not included in the factor analysis in Table 22.1. Furthermore, as already mentioned Arend Lijphart did not base his "measure of the relative power of the executive and the legislature" on any institutional detail but, instead, took the average length of cabinet tenure in months.

4 The Pearson Correlation between the "Five-Item-Measure" of Majoritarian and Consensual Democracies by Lijphart (Lijphart and Crepaz 1991:245) and the Index of Government Priorities on the Parliamentary Agenda (Factor Analysis in Table 22.1 of this book with the factor scores documented in Table 22.8) is only 0.68 (0.011). Taking the "Six-Item-Measure" deployed by Lijphart and Crepaz that includes the "Degree of Corporatism", the correlation rises to r= 0.76 (0.002), N=13.

comparative research and fill analytical gaps with institutional detail consonant with macropolitical findings. The cross-national gauges documented in this volume reveal a pattern not only valid for parliamentary research proper but also useful for political science and macrosociology at large.

IV.

Most political scientists will agree in principle to the desirability of seeing "Ideas, Institutions and the Policies of Governments" (King 1973) closely intertwined. Yet, as Lieven De Winter (Chapter 4, note 2) pinpoints in a review of the comparative literature on cabinet structures, "emphasis remains to be based on outcomes, rather than on process". Although not yet in a position to be able to study these processes, this volume explored in depth the institutional nuts and bolts of parliamentary organisation and procedure, the necessary precondition for a future analysis of how parliamentary structures and legislative outcomes are linked.

As indicated in the introduction, legislation is commonly held to be the least important of the tasks performed by today's parliaments. If we are actually able to show that, independent of whether bills are initiated outside or inside parliament, it is the transaction costs of the parliamentary procedure proper that influence the quantity and quality of legislative policy output, then we will have mustered strong circumstantial evidence for the importance of parliament in a domain where it is least expected. Chapter 22 of this first volume could only give a rather limited answer to the question on the basis of narrow data, i.e. aggregate averages of the number of bills passed per year in the 1980s. Nevertheless, the predictions derived from a theory of law production by government as a natural monopoly, originally set out in Chapter 1 and formally modelled in Chapter 19, could be defended in Chapter 22 against a great many charges of spuriousness. This first preliminary finding lends support to the confident assumption that the theoretical expectations are indeed based on fact and are not merely the artefact of speculative imagination. Parliament, and institutional procedures, do matter after all.

In the next stage we take up a lead given by Michael L. Mezey who in his "state of the art" survey stated that, "More research needs to be done on the question of what difference the legislature makes for the political system and for the policies that it pursues. [...] Do stronger legislative parties and more centralized legislative power lead to more efficient and effective policy performance by the legislature?" (Mezey 1993:355 f.). Admittedly, Mezey had the U.S. Congress in mind when he wrote these paradigmatic sentences, but his admonition is of general significance reaching far beyond the bounds of Capitol Hill. The pertinent question of how far policy choices are shaped by organisational characteris-

tics of parliament was applied by Di Palma to the Italian "Camera dei Deputati" (see the chapter on "Institutional Rules and Legislative Outcomes" in his book "Surviving without Governing" 1977, also published separately in "Legislative Studies Quarterly" 1976). The new institutionalism approach in legislative studies adhered to throughout this present book bestows on Di Palma's specific question a more universal significance for the whole of Europe.

V.

At the next stage will we turn our attention to the study of the passage of selected individual bills over the legislative terms of the 1980s and 1990s and thus increase the number of cases on which the theoretically exciting generalisations may be checked more conclusively.

We will focus on two different policy fields. The one is the legislative regulation of working hours and working conditions, the other, social security matters dealing with "benefits" to various groups of citizens. For both fields we are in possession of all individual legislative policy instruments from which to make a comparatively valid selection by drawing samples (see Chapter 21). The choice of the first group, i.e. not money-intensive but norm-intensive parliamentary enactments concerning the regulation of the policy area, targets a key concern of institutional economics. It is hypothesised that interest organisations wanting to extract special benefits from the government do so by asking for regulatory privileges at widely dispersed costs, or with no visible costs appearing in the annual budget at all, but in the long run imposing invisible costs by hampering future economic growth (Krehbiel 1992:25; La Spina 1987:60 ff.).

The second group of "benefits" bills targets the key concern of institutional rational choice analyses predicting that most legislative activity is concerned with "distributional" benefits. Narrow as the two groups of bills are, they nevertheless show a striking congruence with the pattern of the total number of bills enacted in each country (see Figure 22.1). This correspondence makes us confident that in focusing on just two narrow policy fields we are not actually dealing with uncharacteristic policy areas but with a selection fairly representative of the overall pattern of legislative output.

VI.

From each of the two groups of bills, i.e. the regulatory enactments and the benefits measures passed by parliament, two samples will be drawn. The first sample deals with "significant" changes of the legal status quo. The second sample covers routine legislation that might possibly have been passed by parliaments "on the nod" with little party conflict. Comparing the scope and contents

of bills across nations means returning to a method first employed by Blondel et al. ([1970] 1990). We will also examine the voting patterns during the passage of these bills as a measure for the crucial variable of conflict or cooperation in legislative policy making.

This design serves the purpose of assessing different yet commensurate theories from "new institutionalism". George Tsebelis' theory on veto players and law production (Chapter 3) expects that many veto players at government level are unlikely to pass significant and contested bills changing the status quo in a decisive way, but will rather opt for a large number of "insignificant" and presumably uncontroversial bills. Sartori's "Decision-Making Theory of Democracy" (1987:chapter 8) leads us to expect that the division of labour between plenary and committees in contemporary parliaments predictably influences policy making in either an adversarial (plenary dominance) or consensual style (committee preponderance) of decision making. The degree of majoritarian conflict and unanimous cooperation likely to influence economic policy making (Heidenheimer 1990:170 ff.) depends, in this view, not only on the contents of the question at stake but also on the decision-making structure through which it is processed.

Thus, the next stage of this project will continue exploring the exciting question of how institutions and policies are linked. Taking the passage of the individually sampled bills as the dependent variable, we will study the impact of government formation (coalition agreements), veto players (parties in government and their ideological distances), rules of procedure (agenda control) and organisational constraints (committee powers, structures and procedure) on legislative policy outputs. As ambitious as this research design may appear, given the many contributors specialising on all eighteen West European countries, it is a feasible enterprise worth undertaking.

Following such a longer-term research programme we would be able to live up to the "view of political science in general and legislative research in particular as a field where scholars strive to achieve a better and more generalised understanding of the phenomena" by applying similar theories to equivalent phenomena "across political systems as well as over time, thus increasing cumulative knowledge within the field of study" (Pedersen 1984:525). This quote reasserts the rationale behind any intriguing long-term research programme as spelled out in Imre Lakatos' methodology of scientific research programmes (1970). In continuing to follow such an approach, the research group is confident that the next steps to be taken will prove as productive as the first.

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