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CHAPTER 8

THE ORGANIZATION OF DEMOCRATIC LEGISLATURES

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1 INTRODUCTION

What are legislatures organized as they are? If one could use a time machine to drive steadily backward in the history of the world's longest-lived democratic assemblies, one would find fewer and simpler rules the further back one went. Extrapolating from these trends, one would eventually arrive at what I call the legislative state of nature—briefly, an assembly in which all business is conducted in the plenary session (no committees) and members' ability to talk and make motions is largely unrestricted and unregulated. In this chapter, I argue that certain universal features of modern democratic assemblies—namely specialized agenda-setting offices and parties—arise as a response to the scarcity of plenary time in the legislative state of nature.

One of the root problems is this: in the legislative state of nature, it is far easier to delay legislation in the plenary session (e.g. by filibustering, introducing endless amendments, and the like) than to accelerate it. Yet, each bill must be considered and voted on in the plenary session, before it can be enacted. Hence, a plenary bottleneck emerges.

To get anything done, members must regulate access to plenary time. The purpose of this chapter is to explore the range of legislative institutions used to regulate

3 THE LEGISLATIVE STATE OF NATURE

plenary time and their consequences. The necessity of regulating plenary time leads, I argue, to the universal creation of offices endowed with special agenda-setting powers. Thus, while legislators are everywhere equal in voting power, they are everywhere unequal in agenda-setting power.

The existence of powerful agenda-setting offices (e.g. cabinet ministers, committee chairs) raises two further questions, on which the bulk of the chapter focuses. First, who gets the offices? Here I argue that the lure of office promotes the formation of legislative parties and coalitions. Indeed, parties dominate the pursuit of intra-legislative office even more completely than they dominate the pursuit of office in general elections. Second, how do different structures of agenda power affect legislative processes and outputs? Here I note that much recent theorizing about legislatures begins by postulating a particular structure of agenda-setting powers and then derives conclusions about an array of legislative outcomes, such as legislative productivity, gridlock, overspending, and the direction of policy change.¹ I review literature in this vein, stressing differences between veto power and proposal power (the first risking gridlock, the second external costs), and between centralized and decentralized agenda power (again entailing a trade-off between gridlock and external costs).

2 PLENARY TIME

In order to introduce the legislative state of nature, it helps first to discuss plenary time. Although the details of legislative procedure differ widely across the world, democratic legislatures, one generalization holds universally: important bills can only pass pursuant to motions formally stated and voted upon in the plenary session. This legal requirement gives rise to the typical format of a legislative journal, which reads as a sequence of motions and votes on those motions, one after the other.

The necessity of acting pursuant to formally stated motions means that every bill must consume at least some plenary time, if it is to have a chance at enactment. Thus plenary time is the *sine qua non* of legislation. Yet, there are only twenty-four hours in a day and, hence, plenary time is also in limited supply.

In principle, one could get around the necessity of transacting bills in the plenary by delegating law-making authority—either to committees (e.g. *leggime*), or to chief executives (e.g. decree authority), or to bureaucratic agencies (e.g. rule-making authority), or to subsidiary legislatures (e.g. Stormont).² In practice, however, democratic legislatures retain an important core of legislative authority that is inalienable in the sense that the plenary retains (and cannot forswear) the ability to rescind any delegations it may choose to make.

¹ In Italy, *leggime* (little laws) can be passed directly by committees, without consideration in the plenary session. On executive decree authority, see Carey and Shugart 1998. On delegated rule-making authority in bureaucracies, see Haber and Shipan 2002. On the Stormont assembly, see Green 1979.

Because plenary time is essential to passing legislation and because the plenary cannot get around this simply by abdication, the management of plenary time has been the crucial battleground of most of the biggest fights over legislative procedure across the democratic world. In order to set the stage for a discussion of these fights over procedure—and where they lead—consider the following legislative “state of nature.” (a) bills can only pass pursuant to formal motions and votes in the plenary session; (b) motions pass if a majority of members vote for them;³ (3) the plenary session faces a hard budget constraint on time;⁴ and (4) access to plenary time is egalitarian and unregulated. By *egalitarian* I mean that every member has an equal probability of being recognized to make a motion at any stage of the legislative process. By *unregulated* I mean that, once a motion has been made to pass a bill, then (a) all who wish may speak; and (b) there are no limits on debate.

What is life in the legislative state of nature like? As soon as the aggregate demand for bills, hence plenary time, rises above a minimum threshold, a plenary bottleneck emerges. All bills must go through the plenary bottleneck in order to be enacted but only a subset can do so, leading to a coordination or bargaining problem to decide which subset it will be.

Several features of the plenary bottleneck are worth pointing out. First, in the legislative state of nature, each member’s power to delay or block legislation greatly exceeds his or her power to push legislation through to passage. On the one hand, any member can block any bill, simply by talking indefinitely (ignoring personal fatigue). On the other hand, no member or coalition of members can force an end to others’ filibusters. Thus, at least when the budget constraint on plenary time begins to bind, each member has a natural bargaining strategy—delay until one’s demands are met. Another way to put it is that the *de facto* decision rule in a state-of-nature legislature is closer to unanimity than to majority rule.

Second, the existence of the plenary bottleneck, when combined with the practical necessity of securing unanimous consent to traverse it and the inalienability of the plenary’s sovereignty over its core areas of legislative competence, means that gains from trade—either in bills or in labor—are unlikely to be realized. An ordinary logroll—we’ll vote later for your motion to pass your bill if you vote now for ours—is problematic in the legislative state of nature, as the promise can be broken (Weingast and Marshall 1988). An agreement to trade labor—we’ll specialize in this subject matter and reveal our findings if you reciprocate in another area—is also problematic, as neither side can be sure that any bills it reports to the plenary session, better informed though they may be, will actually be passed as reported (Gilligan and Krehbiel 1990; Krehbiel 1991).

² In fact, motions typically pass if a majority of voting members vote for them and the total number voting exceeds a minimum known as the quorum. I shall ignore this refinement.

³ No plenary could meet more than twenty-four hours per day, for example.

Third, if members wish to use plenary time for purposes other than legislating—e.g., to publicize their positions to their constituents—then the plenary bottleneck becomes even more difficult to traverse. Each member must forgo tapping into the common pool of plenary time, in order to conserve enough to pass a legislative program. Yet, each member has both motive and opportunity to consume plenary time in pursuit of local publicity. The result, as in analogous problems, is over-exploitation of the common-pool resource (Cox 1987, ch. 6).

Note that the primary problems of the state-of-nature assembly are coordination games (navigating the plenary bottleneck), trust games (arranging logrolls), and common-pool games (stemming from equal access to plenary time)—not cycling. Cycling does not arise, even as a theoretical problem, because the state-of-nature decision rule approximates unanimity rule.

4 LEGISLATIVE ORGANIZATION: DIMINISHING DELAY BUT CREATING INEQUALITY

In this section, I view legislative organization as designed—either intentionally or via evolutionary adaptation—to solve the problems that arise in the legislative state of nature. Of the four conditions characterizing the state of nature, I shall take the first (that bills can pass only pursuant to formally stated motions in the plenary session) and second (majority rule) as defining features of a democratic legislature. The third condition, that the plenary faces a hard budget constraint on time, is an exogenous constraint.

Given these stipulations, we have the following theoretical conjecture:

Busy legislatures are inequalitarian. All busy legislatures will evolve rules that create inequalities in members' access to plenary time and diminish ordinary members' ability to delay.

By a "busy" legislature, I mean one in which the marginal cost of plenary time—defined as the sum of the marginal opportunity costs borne by all the legislators when the session is extended by an additional day—is high. Put more colloquially, a legislature is busy, to the extent that its members are champing at the bit to get back to other activities (campaigning, private law practice, etc.) by the end of the session.⁴ The claim is that either a process of global optimization by a single coalition at a particular time, or a sequence of myopic and partial optimizations by differing

⁴ From this perspective, even legislatures that sit for relatively brief periods during the year, such as the Japanese Diet, can be considered "busy."

coalitions at different times, will lead to unequal proposal rights and a reduced default power of delay (in busy legislatures).

Before considering why this prediction might follow, note that it does jibe with what we observe. Looked at analytically, the rules of any given legislature can be read as setting up the following structures: (1) an array of legislative (and sometimes executive) offices, endowed with special agenda-setting powers and other resources (examples below); (2) an array of motions, specifying the available actions in the giant chess game of parliamentary maneuvering; and (3) a set of procedures for voting on offices and motions. In the state of nature, there are neither offices nor motions that endow members' power to delay. Yet, all busy real-world legislatures—I am thinking here of national assemblies—exhibit both offices and methods of curbing delay.

4.1 What Are the Offices and Their Endowments?

Offices endowed with special agenda-setting powers and other resources fall into two main categories: executive and legislative. The main types of executive office are presidents/premiers, senior (cabinet) ministers, and junior ministers, while legislative offices include presiding officers, members of directing boards, committee chairs, and appointee members.

By "special agenda-setting powers," or agenda power for short, I refer to any special ability to determine which bills are considered on the floor and under what procedures (cf. Cox and McCubbins 2005). Because any member in the US House can participate in an attempt to discharge a bill, I would not count "the ability to participate in a discharge attempt" as an "agenda power." Such an ability is not special; it is general. In contrast, only members of the Rules Committee can participate in fashioning special rules,⁵ and only chairs can delay bills merely by not scheduling them—to mention two proper examples of agenda power. Looking beyond the USA, several Latin American presidents exercise special agenda-setting powers, such as those enshrined in the urgency procedure in Brazil (Figueiredo and Limongi 1999; Mingim Neto, Cox, and McCubbins 2003) and Chile (Savelis 2002). Conference committees in various systems often exercise special agenda-setting powers, e.g. when they can make take-it-or-leave-it offers to the two legislative chambers (Tsebelis and Money 1997). Directing boards (e.g. the Rules Committee in the US House, the College of Leaders in Brazil's *Camara*, the presidium in the Polish *Sejm*) exercise various special powers to determine which bills, in what order, and under what terms of debate, will be considered on the floor (Döring 1995; Figueiredo and Limongi 1999). Many other examples exist but those given suffice to illustrate the concept.

In addition to special agenda-setting powers, offices may also be endowed with other resources, the prime example being staff. So far as I know, there is no comparative survey of legislative staff resources across the world's legislatures.

⁵ A "special rule" is a resolution reported by the Rules Committee that regulates the consideration of a bill on resolution.

4.2 Why Do Offices Rise and Defaults Sink?

Why do the agenda powers of office-holders rise and the delaying powers of ordinary (i.e. non-office-holding) members fall in busy legislatures? Why is voting power everywhere equal, while agenda power is everywhere unequal?

In the cases I know best, a central storyline runs as follows. At some point, the plenary time constraint binds when important and controversial issues are at stake. Members are willing to reduce ordinary members' powers of delay and enhance office-holders' special powers to expedite business. Eventually, the equilibrium reached is distinctly inegalitarian: there are office-holders with privileged access to the plenary agenda, who drive the important legislation, and there are non-office-holders with default access to the plenary agenda, who seek legislative accomplishment chiefly through alliance with office-holders (or by becoming office-holders themselves) and who exercise some residual but reduced power of delay.⁶

One case that fits the general storyline just sketched is the nineteenth-century UK House of Commons, in the crucial decades during which modern parliamentary norms of governance were established (Cox 1987, 1993; Dion 1997). Another is the late nineteenth-century US House of Representatives, when Reed's rules were brought in (Binder 1997; Dion 1997; Cox and McCubbins 2005). A third case is the transition from the Fourth to the Fifth Republic in France, when the package vote and a revamped confidence procedure were introduced (Huber 1996).

In all these stories, delay is curbed *and* special proposal powers are created. Is this just a coincidence or should we have expected it?

If we imagine a group seeking to pass controversial legislation in the state of nature, logically there are only two options they might explore (if some form of compromise with the opposition is rejected). One option is to endow some of the group's members with special abilities to make proposals (e.g. raise their recognition probabilities, necessarily lowering other members'). If, however, ordinary members' abilities to delay remain undisturbed, the *de facto* unanimity rule obtaining in the state of nature will render the improved proposal powers created by the group largely useless. Another option is to curb the ability of individuals to delay, by inventing something like the previous question motion (which ends debate and brings the matter at hand to a vote). Absent the creation of special proposal powers, such a reform would move the legislature from unanimity rule toward pure majority rule. However, the fundamental problems besetting the legislative process—the plenary bottleneck, reneging, lack of specialization, overuse of the common pool of time—can all appear under pure majority rule, too.⁷

Thus, in order to address the problems that plague legislation in the state of nature, it is necessary *both* to curb delay *and* to create special proposal powers. The default

powers wielded by ordinary members must fall, while the special powers wielded by office-holders must rise.⁸

5 LEGISLATIVE ORGANIZATION: PARTIES

If the typical democratic legislature possesses an array of offices endowed with special agenda-setting powers, then the question naturally arises as to which members will secure which offices. This is where political parties come in. Parties have "co-evolved" with electoral democracy, in the sense that they have both influenced the rules by which elective offices can be won and have in turn been influenced by those rules. Parties have also "co-evolved" with intra-legislative elections, such as investiture votes, votes to install committee members, votes to choose Speakers, and so on (Carroll, Cox, and Pachon 2004a). Indeed, one might say that modern democratic legislatures and modern democratic political parties are unthinkable without one another.

5.1 Parties Are the Only Viable Route to High Office

The role of parties is particularly clear when one focuses on how offices are allocated among legislators. The general rule is:

Offices (and factions) are the only viable route to high office, in virtually all democratic legislatures.

The exceptions to this rule appear even rarer than are the exceptions to the analogous rule in the electoral arena.

To clarify the point, note first that the presence of organized political groups—often called "factions" in the literature—is explicitly recognized in the rules of procedure in most democratic assemblies of the world.⁹ Typically, these groups correspond closely to the parties and alliances that have competed in elections, although in some cases (e.g. Italy and Spain) "mixed groups" of deputies can also form.

Another route to solving the problems of the state-of-nature legislature would be purely extra-parliamentary: if one could establish sufficient control over nominations and elections, so that one could command a majority of legislators to do one's bidding, then one need only curb delay. Offices are not necessary because by hypothesis one can dictate one's followers' actions using extra-parliamentary means and sticks. Such complete dominance of electoral payoffs is, however, confined to authoritarian regimes.

Even when the standing orders do not explicitly mention factions—as in the USA—they still exist (the two parties' caucuses), and still are essential to the process by which intra-legislative elections are conducted. In the US House, for example, the majority party leadership decides the allocation of committee seats and chairs between the two parties and informs the minority party of its decision. Each party then, through internal procedures, produces a slate of nominations stipulating which of its members will occupy each committee position allocated to it. These two slates are then combined into a single omnibus resolution that is voted up or down (no amendments allowed) on the floor of the House.

⁶ This is not to say that ordinary members are reduced everywhere to nonentities. The office-holders may be more powerful but how much more powerful is a variable.

⁷ Another theoretical problem arises when the decision rule is majority rather than unanimity: cycling. See e.g. Andrews 2002; Aldrich 1995; Laver and Shepsle 1996.

Having made this initial point, note next that there are two main ways in which legislative offices are allocated. First, some offices are allocated directly to party fractions. For example, fraction heads automatically qualify for a seat on the directing boards in Austria, Belgium, France, and Germany (Somogyvári 1994, 165). Committee seats too are often allocated directly to fractions, with each fraction then determining which of their members get the fraction's allotted posts (Shaw 1979; Carroll, Cox, and Pachón 2004a).¹⁰ Second, some offices are allocated by an electoral process within the legislature. For example, Speakers are often directly elected by the assembly; committee chairs are often elected by the relevant committee; slates of nominees for cabinet portfolios are sometimes approved in investiture votes, and so forth.

Regardless of whether posts are directly allocated to fractions or fractions compete for them in intra-legislative elections, it is extremely difficult for the analog of winning candidates or independents to make any headway in the competition for offices. A member's nomination by a party group is essential. Even in systems, such as Russia, with large numbers of independents, party groups still quickly become the only viable route to intra-legislative office (cf. Remington and Smith 1995; Remington 1998).

If any single legislator could form a viable party group at any time, then the necessity of a party nomination would be less constraining. However, two widespread features of intra-legislative office allocations erect clear barriers to entry. First, would-be fractions must typically prove that they have some minimum number of members before they can be officially recognized. This threshold, expressed as a percentage of the total number of members in the assembly, varies from country to country: Austria (2.7 per cent), Belgium (1.4 per cent), Chile (7.5 per cent), France (5.2 per cent), Germany (5 per cent), Italy (3.2 per cent), Spain (4.3 per cent).¹¹ Second, the fraction that succeed in getting into government typically get a larger-than-proportional share of key offices (Carroll, Cox, and Pachón 2004a). In the case of committee chairs, for example, the governing coalition's percentage exceeded its seat percentage by 45 points in Australia, 31.3 in Belgium, 27.0 in Chile, 38.0 in Luxembourg, and 12.3 in the Netherlands—to cite some figures from 2003.¹²

5.2 Party-rule Symbiosis

Not only are legislative parties the only viable route to legislative office, but they often set up (or at least influence) the rules of the intra-legislative electoral game. Making legislative rules can be compared to making electoral rules. In both cases, scholars typically assume that parties seek rules that will help them win and that different rules favor different parties. Given these assumptions, the successful parties in a political system should support the rules and the rules should in turn help those parties. Although

¹⁰ Relatedly, staff allocations are often made directly to fractions (with individual members then dependent on their fractions for certain kinds of staff support).

¹¹ See Somogyvári 1994, 165; and the rules posted on the parliamentary websites for Chile (www.camara.cl) and Spain (www.congreso.es).

¹² Author's calculations from information provided on the official websites of each assembly.

the literature does not use this term, a convenient analogy is that parties and rules are symbiosis.

Within the legislative arena, one finds a strong correlation between the effective number of parties in a system and the proportionality of the rules used to allocate intra-legislative (e.g., committee) and executive (e.g., cabinet) posts (Carroll, Cox, and Pachón 2004a). This is consistent with either rules affecting the number of parties, parties rewriting the rules, or both, per the metaphor of symbiosis.

6 THE TYPES OF AGENDA POWER

I have stressed that legislatures are, in good part, electoral arenas that elect an array of offices endowed with special agenda powers. In this section, I consider what those agenda powers are and how they are structured. Agenda powers can be classified in various ways. Here, I focus on the ability to prevent proposals from being considered in the plenary session, or ensure that they are considered. Much of the literature focuses instead on "downstream" agenda power, such as the ability to control the terms of debate or the nature of amendments on the floor (e.g., Dion and Huber 1996 for the USA; Rasch 2000 for the European parliaments).

6.1 Positive Versus Negative Agenda Power

One way to categorize agenda power is in terms of whether it is negative or positive. Negative agenda powers allow their wielders to delay or, in the extreme, veto the placement of bills on the plenary agenda. For example, the US House Rules Committee has at times had the right to refuse to report a special rule for a bill, thereby preventing its appearance on the floor. Positive agenda powers allow their wielders to hasten or, in the extreme, ensure the placement of bills on the plenary agenda. For example, the US House Rules Committee can report a special rule which, if adopted by the House, hastens a given bill off the calendars and onto the floor for consideration.

Distributing veto powers to more legislators implies a smaller (no larger) set of bills that all veto players can agree on, leading to frustration of various sorts and eventually to gridlock. Distributing proposal powers to more legislators implies a larger (no smaller) set of bills that the floor must decide upon, leading to external costs of various sorts and possibly to cycling (McKelvey 1976; Schofield 1978). There is thus a trade-off between increasing veto power and increasing proposal power.¹³ Formal and informal models of legislative parties differ in whether they depict parties as controlling the agenda via the allocation of proposal rights (positive agenda power) or

¹³ Such a trade-off was noted long ago, in connection with the question of how large a majority (bare, 3/5, 2/3, etc.) would be optimal, by Buchanan and Tullock (1962).

veto rights (negative agenda power); they hence implicitly or explicitly posit different resolutions of the positive/negative trade-off.

Two examples of theories in which proposal rights are the key resource allocated by parties to their members are Laver and Shepsle's (1996) model of ministerial government and Diemerer and Feddersen's (1998) model of the vote of confidence. In a common interpretation of Laver and Shepsle's model, multiparty coalition governments allocate ministerial portfolios to their various member parties, with each minister then possessing both positive and negative agenda power in his or her respective jurisdiction. Thus, each minister can make proposals directly to the assembly, without needing cabinet clearance. In Diemerer and Feddersen's model (which builds on the seminal work of Baron and Ferejohn 1989), coalitions of legislators allocate increased "recognition probabilities" to their members, thereby increasing their ability to make proposals. Once recognized, a given member of a coalition again needs no pre-clearance for his or her proposals.

An alternative view of coalitions is that they allocate negative agenda power, or veto rights, among their members. Tsebelis (2002) takes this view of parliamentary coalitions, viewing each member party as possessing a general veto over the entire range of issues the coalition must face. Similarly, Cox and McCubbins (2002) view majority parties primarily as allocating veto (or delaying) power to various offices held by their senior partners, such as committee chairs and Speakers.

6.2 General Versus Jurisdiction-specific Agenda Power

Some offices—such as presiding officers and directing boards—exercise general control over the flow of bills to the plenary. Other offices—such as permanent or conference committees—exercise control over the flow of bills only within specialized or even bill-specific jurisdictions. There is a trade-off between these sorts of agenda power, too. For example, if the directing board is given the right to block any bill from reaching the floor, then necessarily no policy committee can be given jurisdiction-specific proposal power. In the US case, committees that do have the right to put their bills directly on the floor are called "privileged," while those whose handiwork must pass muster with the Rules Committee or Speaker to gain access to the floor are "non-privileged."

6.3 Early Versus Late Agenda Power

Some offices have early influence over bills; others have late influence. For example, non-privileged committees in the US House have mostly negative agenda power, and they exert it early in the legislative process. In contrast, conference committees have both negative and positive agenda power and they exert it late in the legislative process.

In general, assemblies that allocate a lot of early negative agenda power are analogous to filtration systems: bills must pass through several filters (veto gates) before they can reach the floor. In contrast, assemblies that allocate a lot of late positive agenda power are analogous to rapid response teams: whatever else has happened previously in the legislative process, the last-mover is given a chance to make a full take-it-or-leave-it offer. Models of this sort include Weingast (1992), analyzing the power of committees in the US House; Heller (2001), analyzing the power of governments in European parliaments; and Krehbiel and Meirowitz (2002), analyzing the power of the minority party in the US House.

6.4 Decentralized Versus Centralized Agenda Power

A final distinction is between centralized and decentralized agenda power. Are both positive and negative agenda powers for all jurisdictions concentrated in a single minister's or body's hands? Are jurisdiction-specific vetoes and proposal rights delegated to a variety of committees (as in the committee government model familiar in US studies; cf. Cox and McCubbins 1993 for a review) or ministers (Laver and Shepsle 1996)?

7 THE CONSEQUENCES OF NEGATIVE AGENDA POWER

Many models in legislative studies posit a set of players with varying combinations of veto and proposal power, and then derive conclusions about legislative output, given the postulated distribution of agenda power. In this section, I consider studies in which the main assumptions are about which actors possess vetoes. There are three main legislative outputs on which such studies focus: the sheer volume of bills enacted by the assembly; reactions to gridlock; and the rate at which posted agenda setters are defeated.

7.1 Gridlock and the Volume of Legislation

Cox and McCubbins (2001) focus on the trade-off between making political systems more resolute (able to stick with decisions once made) and making them more decisive (able to make decisions to begin with). They define the "effective" number of vetoes in a system as a function of the number of institutional veto points and the diversity of preferences of the agents controlling those veto points, noting that "changing policy becomes increasingly costly as the number of parties to a negotiation [veto players], or as the diversity of their preferences, increases" (p. 27).

Tsebelis (2002) also stresses that both the ability and the desire to veto must be considered. He argues in particular that, the more veto players there are, and the more divergent their preferences are, the fewer bills (i.e. changes to the status quo) they will be able to agree upon—hence the lower will be the number of bills produced by the assembly.

There are various empirical studies that use this basic “veto player” logic to explain varying legislative outputs. To cite just three examples: Tsebelis (1995, 2002) focuses on law production in European parliaments; Alt and Lowry (1994) focus on how divided government in the American states affects the rapidity with which those states respond to fiscal crises; and Heller (1997) considers how bicameralism affects fiscal deficits in a variety of European states.

7.2 Reactions to Gridlock

What happens when veto players with diverse preferences can agree on no (or few) changes to the status quo, yet each believes that some changes are crucial? Several scholars have noted that this is a recipe for frustration, with several possible outlets for that frustration. For example, when policy committees’ bills were blocked by the Rules Committee in the US House during the “textbook Congress” era, the policy committees attempted to end run Rules in a variety of ways: Calendar Wednesday, allowing discharge of special rules, the twenty-one-day rule, and so forth (cf. Cox and McCubbins 2005, ch. 4).

It is not just bi- or multilateral vetoes that produce frustration. The opposition in any assembly will, if the government controls the agenda, typically be shut out of the legislative process, in the sense that its bills will not be advanced, its issues will receive short shrift, and so on. Thus, oppositions worldwide seek ways to “go public,” to appeal to the electorate. As Maltzman and Sigelman (1996, 82) argue regarding the US House, the majority party firmly controls the agenda, hence “minority party leaders routinely seek to use publicity to advance an alternative agenda.”¹⁴

What specific techniques are used to “go public”? There are many. Some are embedded in the legislative process—bones tossed to the opposition by the government. In this category would be question time in many parliamentary systems, one- and five-minute morning speeches in the US House (Maltzman and Sigelman 1996), and time reserved for opposition motions in many assemblies. Other techniques of “going public” are extra-legislative. Included here are press conferences, demonstrations on the steps of the assembly, rallies, marches, and the like (Evans 2004; Thompson 1986; Cook 1989). For the most part, these various techniques of “going public” are tools wielded by the intra-legislative losers. The winners are too busy legislating.

¹⁴ Similar points have been made previously by Jones 1970 and Cook 1989, again in the US context.

7.3 Roll Rates

The most direct implication of any model positing that a specific body has a veto is that this body should never lose, in the particular sense of having an unwanted policy change forced upon them. Note that veto players can be *disappointed*: they can want to change the status quo but be unable to do so. In contrast, they should never be *frustrated*: that is, they should never want to preserve the status quo but be unable to do so, as this gives the lie to the assumption that they are a veto player. Cox and McCubbins make the distinction between a roll and a disappointment central to both their theoretical and empirical analysis of legislatures. Thus, rather than examine the number of actions taken (e.g. bills passed), they examine the roll rates of posited veto players.

In particular, they investigate the rates at which governing parties in a variety of systems observably oppose, yet fail to stop, bills. Tsebelis (2002), formalizing traditional views, pictures coalition governments in parliamentary systems as composed of parties each of which wields a veto over placing bills on the plenary agenda. In broad conformity with this notion, Cox, Masuyama, and McCubbins (2001) find that the roll rates for parties in several *majority* governments in parliamentary systems are generally below 5 per cent. Some Latin American presidents also choose to form parliamentary-style *majority* support coalitions and, when they choose this route in Brazil, the result is similar to that in parliamentary systems, with governing parties’ roll rates generally below 5 per cent (Anorim Neto, Cox, and McCubbins 2004). In the US, the “governing party”—the majority party in either the US House (Cox and McCubbins 2002) or the US Senate (Campbell, Cox, and McCubbins 2002)—has a roll rate well below 5 per cent from the 1890s to the present. The only cases in which governing parties are rolled at high rates occur when *minority* governments, under either parliamentary or presidential conditions, form (and then only when those *minority* governments did not have a majority support coalition). This occurred, for example, in Denmark under minority government during the 1970s and 1980s (Daugaard and Svensson 1989) and in Brazil under the minority government of Collor (Anorim Neto, Cox, and McCubbins 2003). Thus, as an empirical matter, there is some support for the thesis that, when majority governments form, they distribute vetoes among their pivotal components.

8 THE CONSEQUENCES OF POSITIVE AGENDA POWER

The previous section discussed veto players. The more and more diverse are the veto players, the smaller the volume of bills that can be enacted, and the greater is the incentive to “end run” the veto of one or more players. Even when there is only one veto player, those disagreeing with the ensuing vetoes still have incentives to

"go public" or otherwise get around the veto player blocking advancement of their interests. Finally, true veto players should never be rolled, although they can be disappointed.

In this section, rather than focus on vetoes and the problem of gridlock with which they are associated, I consider proposal power and the external costs that such power entails. Thus, I examine the other side of the trade-off noted above between gridlock and external costs (cf. Buchanan and Tullock 1962).

8.1 Decentralization of Positive Agenda Power and Overspending

A convenient starting point is a model in which several distinct committees (e.g. Weingast and Marshall 1988) or ministries (Laver and Shepsle 1996) have positive agenda control in their respective jurisdictions. Thus, each can ensure floor consideration of any bill it chooses. Given this assumption, each committee or ministry can impose external costs on other members of the governing coalition. In particular, spending will be greater than it would be, were all bills forced to pass a consequential central screening by an agent internalizing the broader interests of the governing coalition.

In comparative studies, the model of decentralized positive agenda power has appeared in examinations of fiscal policy. For example, in an examination of developing democracies, Bawn and Rosenbluth (2004) find systematically greater spending in multiparty governing coalitions than in single-party governments (and argue that spending ministers do not as fully internalize the reputational costs imposed on their coalition partners by their expenditures, when those partners are in other parties). (See Inman and Ingberman 1988; Poterba and von Hagen 1999; and Persson, Roland, and Tabellini 2003 for similar analyses.)

In US studies, the model of decentralized agenda power is commonly known under the rubric of "committee government" (cf. Cox and McCubbins 1993, chs. 1-3). In its pure form of this model, each congressional committee could veto bills without fear of being overturned by the chamber, and could secure a hearing on the floor for any bill it favored. The hypothesized results of this decentralization of power include overspending, as each committee pushed programs sought by powerful special interests relevant to its particular jurisdiction (cf. Weingast and Marshall 1988).

8.2 Counterbalancing Positive Agenda Power

Another vein in the literature accepts that external costs would arise, were positive agenda power decentralized, but then argues that legislators anticipate and take steps to ameliorate this problem. The argument is thus similar to those reviewed above, in which agents do not meekly accept the consequences of veto power but seek ways to avoid such consequences.

One argument in which agents seek to counterbalance the anticipated effects of positive agenda power runs as follows. Suppose that the majority party in the US House is able to grant positive agenda power to, or withhold it from, committees. Those to which such grants are made, known as "privileged" committees in the US literature, expose the party to greater risks of external costs. Simply put, these committees may put legislation on the floor that will displease large segments of, or even roll, the majority. Two methods of mitigating this risk are to stack the committee with additional majority party members; and to demand a higher standard of party loyalty from those placed on privileged committees. Cox and McCubbins (1993) provide evidence that both these methods are employed in the US House.

A second argument in which agents counterbalance the effects of positive agenda power has to do with partners in coalition governments. Several recent studies have pointed to different possible mechanisms by which partners in coalition governments can monitor each other: by the appointment of junior ministers of different party from their seniors (Hies 2001); by the appointment of committee chairs of different party from their corresponding ministers (Hagevi 2000, 238; Carroll, Cox, and Palfon 2004); or more generally by the necessity of pushing ministerial bills through the legislative process in the assembly (Martin and Vanberg 2004).

9 THE CONSEQUENCES OF CENTRALIZED AGENDA POWER

Thus far, I have separately considered the consequences of negative and positive agenda power. What if a given agent possesses both positive and negative agenda power across all jurisdictions? The best-known formal models illustrating the consequences of such power are McKelvey (1976), for the case of multidimensional choice spaces, and Romer and Rosenthal (1978, 1979), for the case of unidimensional choice spaces. Both models show that the agenda-setting agent has considerable influence over the ultimate policy choice made by the assembly, especially when the reversalary policy is "bad." That is, the more distasteful the policy outcome absent further legislative action will be, the wider the range of proposals that the agenda-setter can offer that the assembly will accept.

Consider three prominent illustrations of how "bad" reversions can arise, thus enhancing the agenda-setter's influence. First, on a single dimension of fiscal policy, the reversion may be zero spending. Since zero spending, or the utter abolition of the program in question, is usually far from the favored outcome of the bulk of legislators, a monopoly agenda-setter can find lots of alternatives that are favored by a majority (cf. Romer and Rosenthal 1978, 1979). Second, even if the reversion considered dimension by dimension is not extreme, the agenda-setter may be able to find a combination of issues on which the reversion is relatively more extreme,

again widening the set of feasible alternatives that she can propose. McKelvey (1996) entertained the further possibility that the agenda-setter might be able strategically to worsen the revisionary policy, in opening legislative gambits, before offering a final bill. Third, even if the revisionary policy is not *ideologically* extreme, it may simply be dysfunctional. Londregan (2000) shows how agenda-setters can exploit low-valence revisionary policies to move policy ideologically in their favor, even when facing entrenched veto players with opposed ideological preferences.

In the work just reviewed, centralized agenda control is valuable essentially because it allows the agenda-setter to resolve a coordination game (namely which of the many policies jointly preferable to the revision shall we choose?) promptly and on terms of its own choosing. Empirical studies of centralized agenda power resonate to some extent with this central insight. I consider two such studies in particular.

9.1 Policy Directions

Suppose that agent X has the power to block or propose any bill and is considering a sequence of single-issue bills. The further left (right) is X's ideal point along the conventional left-right political spectrum, the larger will be the proportion of bills that X proposes which move policy leftward (rightward). This prediction, which follows from a simple adaptation of the setter model (Cox and McCubbins 2005), catches only part of the agenda-setter's advantage (her ability to dictate the direction of policy change, rather than her ability to leverage a "bad" revision). However, it has the advantage of being testable (because the direction in which a given bill proposes to move policy is easily determined, when there is a recorded vote on final passage of that bill).

Cox and McCubbins (2005) test such a model in the context of the US House of Representatives, assuming that the agenda-setter corresponds to the majority party median. They find that the model accurately predicts policy directions in the House, whereas competing models based on other assumptions about who sets the agenda (e.g. the floor median) do not.

9.2 Omnibus Bills

Döring (1995) and Henning (1995) also consider a model in which the government is a monopoly supplier of legislation. The government can choose either to produce simple bills, whose passage will not require the use of agenda power, or to produce more complex and conflictual bills, whose passage will be facilitated by agenda power. They argue that increasing the government's agenda power lowers the "price" of the more complex and conflictual bills, while leaving the price of simple/non-conflictual bills unchanged. Accordingly, a government will increase its "purchase" of complex/conflictual bills when its agenda power increases, assuming that complex/conflictual bills are normal goods (in the economist's sense). Since

complex/conflictual bills always require more time to process, even when the government has strong agenda powers, and (2) the government faces a hard time increasing the volume of legislation overall. Thus, all told, one expects fewer but more complex/conflictual bills when the government's agenda power is greater. Döring (1995) provides some cross-national evidence for part of this story in a study of west European legislatures.

10 THE CHOICE OF AGENDA POWER

Thus far, I have reviewed research that analyzes the consequences of a given structure of agenda power. Another line of research has begun to emerge, in which the distribution of agenda power is itself an endogenous choice. Formal theoretical studies of this sort include several based on the seminal Baron and Ferejohn (1989) model. For example, Muthoo and Shepsle (2004) consider the optimal allocation of recognition probabilities between generations of legislators, while Diemer and Feldman (1998) and Baron (1998) allow a restricted choice of recognition probabilities in forming a government. Another line of argument is that associated with the theory of conditional party government in the USA, which posits that members of the majority party will be more willing to delegate agenda powers to their central leaders, when the majority is more homogeneous internally and more polarized from the minority (Aldrich and Rohde 2000). Relatedly, Cox and McCubbins (2005) argue that the majority party will adjust the mix of positive and negative agenda powers it delegates, in favor of the former, when it becomes more internally homogeneous. Empirical studies of changing structures of agenda power are many and beyond the scope of this review (for the US case, see e.g. Binder 1997; Dion 1997; Cox and McCubbins 2005).

11 CONCLUSION

Democratic legislatures can pass bills only pursuant to motions formally stated and adopted in their plenary sessions. Plenary time is thus the *sine qua non* of legislation. In the legislative state of nature, access to plenary time is egalitarian and unregulated. This leads to difficulties in accruing gains from trade, either in bills or in legislative labor, and to common-pool problems in the use of plenary time.

Because the problems that arise in the legislative state of nature are severe, at least when the legislature is busy, no current democratic legislature exists in such a state. While voting power remains equal everywhere, special power to propose to the

plenary and to block proposals to the plenary has been delegated to various offices, such as presiding officers, members of directing boards, and members and chairs of permanent and conference committees.

The existence of offices endowed with special agenda-setting powers has in turn profoundly affected the character and functioning of legislatures. First, legislative parties have emerged as the only viable routes to the high offices in the gift of the legislature, and have been actively involved in choosing and adapting the rules regulating accession to such offices. Second, different structures of delegated agenda powers have led to different legislative processes and outputs. While fleshing that spare statement out remains a central task of comparative legislative studies, one can note what is perhaps the most fundamental distinction: that between positive and negative agenda power. Delegating negative agenda power—the power to delay or prevent bills from reaching the plenary session—can lead to veto politics, gridlock, and the costs of inaction. Delegating positive agenda power—the power to hasten or ensure bills reaching the plenary session—can lead to overspending and other (external) costs of action. Both kinds of problem can sometimes be ameliorated by political parties (as they can control access to high offices, hence impose fiduciary standards on their occupants; see Wittman 1995, ch. 6; Cox and McCubbins 1993, 2005).

It is important to note the difference between the perspective on legislatures offered here, in which endogenously created offices are key to securing control of the agenda, and the perspective offered by the theory of responsible party government, in which the emphasis is on discipline producing cohesion, with cohesive voting then controlling control of the agenda. It is true that control over the agenda could in principle be secured purely through control of a majority of votes in the assembly, without the need of special offices occupied by party leaders. However, there is no democratic legislature in which governing parties rely solely on their own internal discipline, in order to control the legislative agenda. It is only when the control of leaders over their followers exceeds that usually found in democracies that parties might be able to dispense with the institutional mechanisms emphasized here.

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