Legislative Organization Under Separate Powers

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Existing theories of legislative organization attribute the strong committee system in the U.S. Congress to members' distributive, informational, or partisan needs. But legislators elsewhere share these same motivations, yet not all have chosen to organize themselves in a similar fashion. Therefore the strong committee system must derive to some extent from the larger constitutional context, including plurality winner elections, bicameralism, and our focus, the system of separate powers. In particular we argue that committees established in part to oversee executive agencies will have preferences biased against those of the executive. Thus committees serve as contrary outliers, acting as a counterweight to executive branch policy making. We find support for this prediction with data drawn from all standing committees from the 80th to 102nd Congresses. We also find that each of the seemingly incompatible theories of legislative organization predicts well patterns of committee composition in different issue areas.

1. Introduction

Three competing theories shape the current debate over legislative organization: the distributive, informational, and party approaches, each with its own predictions for the composition of legislative committees, the types of procedures invoked in passing legislation, and the policy that results from this collective choice process. Ultimately this debate is an argument over where power resides in Congress: with congressional committees, with the median floor voter, or with the majority-party caucus, respectively.[1]

1. Excellent explications of these views can be found in Weingast and Marshall (1988) for the distributive approach, Krehbiel (1991) for the informational view, and Rohde (1991) and Cox and McCubbins (1993) for the partisan approach. For an overview of this literature see the essays in Shepsle and Weingast (1995).

Although these previous approaches are sometimes portrayed as competing, mutually exclusive theories of legislative organization, they share much in common. All begin with a specification of members' core reelection needs and some collective action problem they face in achieving these aims: majority cycling on distributive issues, informational asymmetries, or team production problems within parties. Each then derives an explanation of how the prevailing set of institutional arrangements, namely the system of strong committees, satisfies these needs by solving the particular problem at hand.

It is clear, however, that even if each of these theories captures important aspects of congressional policy making, as stated they must be incomplete. Legislators in all political systems must satisfy both informational and distributive needs, as both are requisite for reelection, and incentives for coordinated action as a party team are not unique to the United States. Yet elected officials elsewhere have not chosen to organize themselves in the same way; Congress is unique in the degree to which it relies on committees for fashioning the fine points of legislation. And a quick glance at other democracies shows that the influence wielded by legislative parties varies across countries, from relatively weak and unorganized in the United States to highly centralized and resource-rich in Great Britain.

Basic legislative needs alone therefore cannot dictate the specific institutional structures that we find in Congress. The details of legislative organization must consequently derive to some degree from the larger political system within which they are embedded, including the electoral system of single-member plurality winner districts, bicameralism, and—our focus—the system of separate powers. Once viewed from this perspective, the question becomes, not whether committees solve informational, distributive, or partisan dilemmas, but rather why in the U.S. Congress these dilemmas are solved through committees rather than through some alternative institutional arrangement. That is, the question is not why congressional committees are *powerful*, but why *committees* are powerful.

We suggest that Congress relies on strong committees in part to offset executive branch agencies, both so that legislators can have their own competing source of expertise on complex issues and to direct resources to favored constituents. This counterpoise between committees and agencies works in two directions. On the one hand, committees check agencies through the oversight process, keeping agency regulations in concert with legislators' policy preferences. On the other hand, agencies provide Congress with an alternative source of policy making, thus breaking the monopoly power that committees would otherwise command over the production of legislation. This system serves Congress well: committees and agencies are made to compete to some degree for policy influence, albeit at the cost of some redundancy and duplication of effort, and this competition works to the advantage of relatively uninformed floor members.

We contend, then, that legislative organization in the United States must be understood within its broader governmental context, one in which policy production does not begin and end within Congress itself; rather, legislative

committees do their work in the shadow of delegation to the executive branch. Here we apply our approach to the specific controversy over whether committees are preference outliers with respect to the median floor voter. Whereas previous approaches to the committee outlier question assume that committees are either always outliers or always representative of the chamber as a whole, we note that if committees are formed in part to oversee delegated authority, then the median floor voter will rationally tilt committee preferences to be biased against those of the executive. So in contrast to theories founded on a Congress-centric view of legislative organization, we claim that committee preferences should vary predictably over time to serve as a counterweight to those of the executive: committees will therefore be composed of *contrary outliers*.

The next section reviews previous treatments of the committee outlier debate. We then outline our theoretical approach to legislative organization within a system of separate powers, where committees serve to check executive branch policy making. Next, we test the predictions of our contrary outliers theory with data drawn from postwar standing committees. We conclude with a discussion of the broader implications of our approach for the study of legislative organization.

2. Committee Preferences

The previous literature addressing the ideological makeup of committees can be divided into two major strands. The first speaks to the question of whether or not the policy preferences of committee members are broadly representative of the parent chamber as a whole. These studies identify some measure of individual preferences (or a set of such measures) and then determine if committee preferences are statistically different from floor preferences. The second tradition uses the degree to which committee members are preference outliers relative to the median floor voter in order to predict other variables of interest, such as the use of restrictive rules or multiple referrals.[2] It is the former tradition that we focus on here; elsewhere we address the question of whether committee outliers predict delegation to executive agencies (Epstein and O'Halloran, 1999).

Early studies on committee outliers (Ray, 1980; Weingast and Marshall, 1988) tended to focus on only a handful of committees and found some limited evidence for the prevalence of preference outliers. Krehbiel (1990) engaged in a broader study, analyzing all committees in the 99th Congress and relying on both ADA scores and interest-group ratings as measures of preferences. He employed a standard difference of means test of committee members versus noncommittee members and found that only a few committees emerge as statistical outliers. Krehbiel also compared the standard deviations of committees with that of the floor to identify bimodal outliers

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2. See, for example, the exchange between Dion, Huber, and Krehbiel (1997).

(extremes on both sides of the median), again finding little support for the outlier thesis.

Cox and McCubbins (1993) repeated this experiment using a Wilcoxon rank sum difference of medians test (instead of a difference of means test), examining all committees from the 86th through 97th Congresses. Employing a variety of preference measures (ACA and ADA ratings, conservative coalition scores, and Nominate scores), they again found few outliers, with the Agriculture, Education and Labor, and Armed Services Committees as regular exceptions. Cox and McCubbins also investigated differences in preferences between party contingents on committees and party caucuses and found a relatively higher incidence of outliers, especially among nonprestige committees.

Most recently, Londregan and Snyder (1994) investigated all committees from the 82nd through 98th Congresses using a sampling technique that treats observations of members' ideal points in each Congress (measured with Nominate scores) as random draws from a larger distribution, whose true mean is estimated from voting patterns across several Congresses. They then bootstrapped standard errors for committee ideal points drawn from these distributions for each Congress, comparing both differences in means and medians. The authors found significantly more support for the outliers hypothesis, claiming that on average about one-third of the committees in each Congress should be classified as preference outliers.

3. Committees as Biased Advisors

The evidence on the number of outlying committees, then, is decidedly mixed, ranging from "very few" to "a healthy proportion." It seems clear that the distributive prediction that all committees should be outliers in their policy areas finds very little support, but the alternative thesis of no outliers may not be quite right either. These competing predictions are rather stark, though, largely due to their Congress-centered perspective on policy making: the theories generating them predict either that committees should be representative or unrepresentative of the chamber as a whole.

Our approach starts instead with the premise that the systematic forces shaping committee composition, restrictive rule assignments, and ultimately the content of final legislation come not just from within Congress but from the larger political system as well. If committees both initiate legislation and oversee authority delegated to the executive branch, then their composition should not be constant over time, but rather should change predictably in response to changes in congressional-executive policy conflict. Committee medians, that is, should move counter to changes in the policy preferences of the president, so they become contrary outliers.

This proposition follows from a model of strategic oversight of executive agencies, in which agencies propose policy initiatives, oversight committees either support or oppose these initiatives, and the median floor voter can then pass a law overruling the initiative or not. Both the agency and the oversight

committee are assumed to have expertise on the issue that the floor voter lacks, and even though all actors are behaving strategically, in equilibrium the floor always follows the committee's recommendation.

We briefly outline the model here; formal equilibrium characterization and proofs are provided in the appendix. The actors in our game are a congressional committee (C), an executive agent (A), and the median floor voter (F). All actors have symmetric, single-peaked utility functions defined over the policy space, $X = \Re^1$. Assume that the floor's ideal point is $F = 0$, the agent has ideal point $A > 0$, and the committee has ideal point $C \leq 0$. Preferences for all players are assumed to be quadratic, and hence risk averse, in final policy outcomes $x \in X$:

$$U_F(x) = -(x - F)^2 = -x^2$$
$$U_C(x) = -(x - C)^2$$
$$U_A(x) = -(x - A)^2.$$

Outcomes depend on both policy (p) and a state of the world (ω) according to the equation $x = p + \omega$. Thus each actor has induced preferences in the policy space: the ideal policies given a particular value of ω are, respectively, $-\omega$, $C - \omega$, and $A - \omega$ for the floor, the committee, and the agency. Note that if no policy is enacted ($p = 0$), the final outcome is ω. While policy proposals are observable to all actors, the value of ω is initially unknown. Before the game begins ω has a cumulative distribution $F(\cdot)$ and corresponding density $f(\cdot)$, where $f(\cdot)$ is uniform on the $[-1, 1]$ interval; all ideal points and ex ante distributions are assumed to be common knowledge. Since $\omega \sim U[-1, 1]$, the floor will obtain its ideal point (0) in expectation if no further actions are taken.[3]

The game is played as follows. First, nature randomly draws a value of ω, which is observed by the agency and committee only. Thus the floor player begins with an informational disadvantage. After learning the value of ω, the agency chooses a policy proposal p. Next, the committee sends the floor a message (m) from the set $M = [-1, 1]$ of possible messages. This message could be thought of as a report, a bill, or any other means of communication between congressional committees and the floor. In costless signaling games one gains nothing by making the cardinality of the set of possible signals larger than the set of possible receiver actions, so without loss of generality we can restrict $M = \{Y, N\}$, meaning that the committee suggests that the floor accept or reject the proposed regulation, respectively. After seeing the agency's proposal and receiving the committee's message, the floor decides whether to exercise an ex post veto (V).[4] If Congress rejects the agency's

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3. This would be the case if, for instance, the policy in question had been rationally delegated to the agency. See Epstein and O'Halloran (1995).

4. We assume that the floor player can only block unwanted bureaucratic initiatives, based on the observation made by Aberbach (1990), among others, that legislators can often dissuade

proposal ($V = Y$), the outcome is ω; otherwise, $V = N$ and the outcome is $p + \omega$.

Strategies for each player can be defined as follows. The agency, after observing the value of ω, chooses $\pi \in \Delta X$, where for any set S, ΔS denotes the set of probability distributions over S. Thus $\pi(p; \omega)$ is the probability that the agency proposes policy p given that it has observed ω; if in equilibrium $\pi = 1$ for some $p \in X$, we denote this $p^*(\omega)$. Similarly the committee then chooses $\delta \in \Delta M$, so $\delta(m; \omega, p)$ is the probability that the committee sends message m given that it has observed ω and the agency proposed policy p. Finally, Congress sets $V = N$ with probability $r(p, m) \in [0, 1]$, so that $1 - r(p, m)$ is the probability Congress exercises its veto given proposal p and message m.

Proposition 1. All perfect Bayesian equilibria have the following properties:

1. $V = M$, so that the floor always follows the committee's recommendation.
2. EU_F is maximized when $C = -A$.
3. Let $X_0 = \{\omega | p^*(\omega) = 0\}$; then $\frac{\partial |X_0|}{\partial C} < 0$, so outlying committees are associated with fewer policy deviations from the status quo.

Note that in equilibrium, legislators always follow the committee's advice; in the terminology of Austen-Smith and Wright (1994), committees overseeing executive agencies are both "informative" and "influential." Furthermore, the committee truthfully endorses only those policies which it actually prefers to the status quo, even though we assumed no explicit penalty for lying; committees, that is, are being strategically truthful. Since the agency knows that it must garner the committee's endorsement, it takes care to submit a proposal that the committee prefers to the status quo. Thus the committee's preferences will be accommodated to some extent without its ever having to exercise its more obvious levers of control over the bureaucracy.

For our purposes, the relevant, and surprising, aspect of the equilibrium is that the floor player maximizes her utility by selecting a committee with preferences biased against those of the agency, rather than one whose preferences mirror her own. In particular, if the agency's ideal point is $A > 0$, then the floor prefers that the committee's ideal point be $-A$. Thus the floor prefers to balance committees and agencies symmetrically against each other. Over time, as the executive's preferences move in one direction, the floor should rationally adjust committee preferences in the opposite direction, making them *contrary outliers*. Our finding coincides with a similar result in Calvert

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agencies from implementing new policies by threatening to cut budgets, holding oversight hearings, and rallying constituents to lobby against the proposed changes. In contrast, passing a new policy of its own would require the assent of both houses of Congress and the executive, which is often politically infeasible.

(1985) that policy makers are often best off with biased advisors and contrasts with the theoretical result that in a policy formation setting, as opposed to oversight, the median floor voter prefers committees with preferences identical to her own.[5] In fact, the present model implies a strong form of "rational ignorance:" the floor player would rather not know the true value of the hidden variable, even if she could obtain it for free; rather, she is better served by forcing the agency to garner the committee's endorsement and approving the project only if the committee gives it a positive review.

This equilibrium has another interesting, testable implication. Assume for the moment that committee oversight hearings are correlated to some extent with an agency's proposing some new policy initiative or promulgating new regulations. This assumption is supported, for instance, by Aberbach's comprehensive study of congressional oversight activity, where he argues that oversight hearings are a key element of committees' "intelligence systems," triggered in particular by new agency policy proposals.[6] Then our theory predicts that more oversight hearings will be held as the preferences of the committee become more similar to those of the floor. In other words, the less of an outlier a committee is, the more oversight hearings it should conduct.

4. Contrary Outliers

Our theory of legislative organization under separate powers thus yields significant new insights, even in such a well-trodden area as the committee outlier debate. In particular, the theory predicts that (1) committee medians should move counter to changes in executive preferences, so that more conservative presidents beget more liberal committees and vice versa, and (2) outlying committees should hold fewer oversight hearings. We now proceed to test these predictions with data drawn from all postwar standing committees.

4.1 Data and Measures

From the model, U_F is maximized when $C = -A \equiv C^*(A)$. Assume that in any given Congress,

$$\widehat{A} = \alpha_E + \beta_E E \tag{1}$$

and

$$\widehat{C} = \alpha_C + \beta_C (C^*(\widehat{A})), \tag{2}$$

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5. The fact that informational rents that accrue to the floor increase with competition is also consistent with the intuition established in previous studies, including Austen-Smith and Wright (1994) (interest group lobbying of legislators), de Figueiredo et al. (1999) (interest group lobbying of agencies and legislators), and Milgrom and Roberts (1986) (opposite sides in a court case trying to influence the judge's decision).

6. See also Cooper (1970) and Jenkins and Stewart (1998), who show that the first standing committees established in the early part of the 19th century were oversight committees. For a similar application to the design of judicial review procedures, see Shipan (1997).

where $\widehat{A}$ is the actual agency position, $\widehat{C}$ is the actual committee position, and E is the president's (executive's) ideal point, so that β_E measures the responsiveness of agencies to presidential control and β_C indicates the degree to which floor voters are able to change committee preferences from one Congress to the next.[7] Furthermore, the propositions in the model are formulated relative to a baseline of $F = 0$, so that $\widehat{C} = \widehat{C} - F$ and $E = E - F$. Then

$$\widehat{C} = \alpha_C + \beta_C(C^*(\widehat{A}))$$
$$= \alpha_C + \beta_C(C^*(\alpha_E + \beta_E E))$$
$$= \alpha_C + \beta_C[-(\alpha_E + \beta_E E)]$$
$$= (\alpha_C - \beta_C \alpha_E) - \beta_C \beta_E E$$
$$\equiv \alpha_{\widehat{C}} - \beta_{\widehat{C}} E$$
$$\widehat{C} - F = \alpha_{\widehat{C}} - \beta_{\widehat{C}}(E - F). \tag{3}$$

Given that β_E and β_C are both positive, $\beta_{\widehat{C}}$ will be positive as well. Equation (3) thus implies that over time we should observe a negative relation between the committee-floor preference difference—that is, the degree and direction of committee outliers—and the president-floor preference difference.

The data to test this prediction were drawn from the Nelson (1993) dataset, from which we constructed a list of House committee assignments from the 80th to 102nd Congresses.[8] All data were checked against the relevant volumes of the *Congressional Directory*; committee rosters used were those as of the beginning of each Congress. We then combined these rosters with Poole and Rosenthal (1997) Nominate scores, which order members along a general liberal-conservative continuum, to calculate the median committee preferences as well as median party contingent preferences by committee and by Congress. This gave us a total of 478 committee-Congress observations.

From these data a number of variables were constructed. The first set of variables measure policy differences between committees and floor members. Committee-floor difference is defined as the median committee Nominate score less the median floor Nominate score. Committee-party difference is defined as the median Nominate score of the majority-party committee contingent less the median Nominate score of the majority-party caucus. Positive differences in both measures denote conservative outliers, while negative

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7. For instance, β_C would be higher with greater average rates of membership turnover and lower to the degree that a legislature adheres to a well-established seniority system.

8. As of the 102nd Congress, 22 standing committees composed the legislative machinery of the House of Representatives. Committees that changed name during this period were identified by their name as of the 102nd Congress. Only one committee was abolished completely, the Internal Security Committee, which from the 80th to 90th Congresses was the Committee on Un-American Activities.

scores indicate liberal outliers. The absolute values of these two variables are labeled committee-floor outlier and committee-party outlier, respectively.

Similarly, preference differences between the president and the median floor member, labeled president-floor difference, were calculated using real ADA scores from Groseclose, Levitt, and Snyder (1997), while president-party difference is defined as the gap between the real ADA scores of the president and the median majority party caucus member. These difference variables were coded consistently with the committee measures above, so that negative values indicate that the president is more liberal than the reference group and positive values indicate conservative outliers.

It is clear that the greater the variance of preferences within the chamber, the more likely it is that committee medians will vary from floor medians, a point emphasized by Londregan and Snyder (1994). Therefore we shall include a measure of party polarization as a control variable, calculated as the standard deviation of the Nominate scores within the majority party.[9] Table 1 provides a list of summary statistics for all variables.

4.2 Patterns of Committee Outliers

The first hypothesis to be tested is that the committee-floor difference variable should move opposite to president-floor difference. Once stated, this seems like a reasonable prediction. Finding it in the data, however, may pose some difficulties, as party leaders have little leeway in practice to alter committee composition. Given the general norm of a seniority system, very few opportunities exist for changing committee medians from one Congress to the next, except in the case of membership turnover or transfers and strategic appointment of new committee members. In terms of Equation (2), β_C may be low, resulting in a small value of $\beta_{\widehat{C}}$ in Equation (3). Therefore the effects predicted above will most likely be seen more as incremental responses to changes in congressional-executive conflict rather than abrupt departures from the previous committee lineups, and our test for a significant coefficient on $\beta_{\widehat{C}}$ will be a conservative one. To explicitly account for any autocorrelation present in the data, the results below employ autocorrelation-consistent standard errors for panel data, as described in Beck and Katz (1995).

Model 1 from Table 2 tests our prediction in an ordinary least squares bivariate regression. As shown, the coefficient on president-floor difference is negative and significant, as predicted. Note also that the constant is negative and significant, indicating that throughout the period studied committees

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9. Note that we use the standard deviation of preferences within the majority party rather than the House as a whole to control for the initial dispersion of member ideal points. Since our analysis centers on median ideal points rather than means, the relevant distribution of medians will be drawn from majority party members. To put it another way, we can think of committee medians as the outcome of a game played by the two major parties at the beginning of each Congress. In equilibrium, the committee median will be under majority-party control, as minority parties can only change medians in a direction opposite to their own preferences. If we were to use means instead, then the minority-party appointments would matter as well, and the chamber-wide standard deviation would be used.

Table 1. Description of Variables and Summary Statistics

Variable	Description	Mean	Std. Dev.	Minimum	Maximum
Committee-floor difference	Median committee Nominate score – median floor Nominate score	−0.02	0.12	−0.44	0.57
Committee-party difference	Median majority party contingent Nominate score – median party caucus Nominate score	0.01	0.10	−0.32	0.42
Committee-floor outlier	Absolute value of committee-floor difference	0.09	0.08	0	0.57
Committee-party outlier	Absolute value of committee-party difference	0.08	0.07	0.001	0.42
President-floor difference	President's real ADA score – median house real ADA score	−0.025	0.395	−0.612	0.574
President-party difference	President's real ADA score – median majority party caucus ADA score	0.209	0.422	−0.678	0.792
Party polarization	Standard deviation of majority party Nominate scores	0.22	0.03	0.15	0.27
Total hearings	Number of hearings held by each reporting committee, by Congress	60.91	55.23	0	300
Total oversight hearings	Number of oversight hearings held by each reporting committee, by Congress	4.73	5.87	0	30
Percent oversight hearings (%)	Number of oversight hearings as a percent of total hearings held by each reporting committee, by Congress	9.10	12.76	0	100

Total observations = 478. The mean of percent oversight hearings is based on committees which held at least one hearing in the given Congress.
Sources: Nominate scores from Poole and Rosenthal (1997); real ADA scores from Groseclose, Levitt, and Snyder (1997); hearings data from Congressional Information Service, *Masterfile.*

Table 2. Ordinary Least Squares Estimates Predicting Committee Outliers

Dependent Variable	Committee-Floor Difference			Committee-Party Difference		
Independent Variable	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Constant	−0.020	0.056	−0.005	0.017	−0.10	0.010
	(−3.77)**	(1.40)	(−0.27)	(3.20)**	(−3.00)**	(0.58)
President-floor difference	−0.022	−0.029	−0.023			
	(−1.68)**	(−2.09)**	(−2.14)**			
President-party difference				−0.023	−0.022	−0.021
				(−2.01)**	(−1.83)**	(−2.33)**
Party polarization		−0.35			0.55	
		(−1.93)**			(3.53)**	
Prestige Committees						
Appropriations			−0.022			0.034
			(−0.80)			(1.44)
Budget			−0.044			−0.039
			(−1.26)			(−1.27)
Rules			−0.11			−0.033
			(−4.17)**			(−1.41)
Ways and Means			−0.042			−0.023
			(−1.54)			(−0.96)
Policy Committees						
Banking, Finance, and Urban Affairs			−0.081			−0.062
			(−2.95)**			(−2.65)**
Education and Labor			−0.14			−0.12
			(−5.25)**			(−5.11)**
Energy and Commerce			0.013			−0.01
			(0.46)			(−0.41)
Foreign Affairs			−0.12			−0.07
			(−4.43)**			(−2.96)**
Government Operations			−0.07			−0.049
			(−2.68)**			(−2.10)**
Judiciary			−0.033			−0.047
			(−1.20)			(−2.01)**
Constituency Committees						
Agriculture			0.088			0.14
			(3.22)**			(6.00)**
Armed Services			0.080			0.14
			(2.91)**			(5.97)**
Interior			0.010			−0.021
			(0.37)			(−0.92)
Internal Security			0.16			0.12
			(4.92)**			(4.48)**
Merchant Marine and Fisheries			0.005			0.003
			(0.19)			(0.15)

Table 2. *Continued*

Dependent Variable	Committee-Floor Difference			Committee-Party Difference		
Independent Variable	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Public Works						(0.029)
						(1.23)
Science, Space, and			0.016			0.045
Technology			(0.55)			(1.81)*
Small Business			0.012			0.027
			(0.33)			(0.86)
Veterans' Affairs			0.059			0.11
			(2.15)**			(4.70)**
Other Committees						
District of Columbia			−0.051			0.026
			(−1.85)*			(1.10)
House Administration			−0.023			
			(−0.84)			
Post Office and			−0.053			−0.045
Civil Service			(−1.94)*			(−1.90)*
Standards of			0.17			0.06
Official Conduct			(5.35)**			(2.18)**
F_{n-k}^{k}	2.80*	3.27**	13.59**	4.03**	8.30**	15.87**

t-statistics in parentheses; two-tailed test $* = \alpha < .10$; $** = \alpha < .05$. $N = 478$.
F-statistic with *n–k* degrees of freedom indicates a model's significance at the $* = \alpha < .10$ and $** = \alpha < .05$ level.

tended to have a liberal bias, which is not too surprising given Democratic control of the House throughout this period for all except the 80th and 83nd Congresses.

Model 4 repeats this analysis using committee-party difference as the dependent variable and president-party difference as the independent variable, testing if majority-party contingents also move counter to the preferences of the president. The negative and significant coefficient indicates that this is indeed the case. Note also that the constant here is positive, suggesting that party contingents are shaded toward the preferences of the median floor voter, a mirror image of the finding above that overall committee composition is tilted toward the majority party. Models 2 and 5 introduce party polarization as a control variable and show that these findings continue to hold even after accounting for the initial dispersion of preferences.

To look a little more closely at these results, the dataset was divided into two samples: those observations in which the president was a liberal outlier and those where the president was conservative relative to Congress. Rerunning our analysis on these two groups separately, the contrary outlier effect is most pronounced when the president is more conservative than the median House member. Once again, congressional-executive conflict seems to play a significant role in how legislators decide to organize themselves for collective action: congressional committees react most consistently to

conservative Republican presidents as opposed to more liberal Republicans. A time trend was also added to the model and proved to be insignificant, so our results reflect more than just an increasing trend toward policy conflict between Congress and the president. Thus our prediction of committees as contrary outliers is supported in the data.

We can also test these findings against two competing models of legislative organization, the informational and party models. The former of these two maintains that committees should reflect the preferences of the median floor voter; the latter, that majority-party contingents are representative of the majority-party caucus. Were these hypotheses correct, the variables committee-floor difference and committee-party difference would be statistically indistinguishable from zero, on average. A t-test of these predictions, however, shows that both can be rejected.[10] On the other hand, these differences, while statistically significant, are not so great as to lend much support to the distributive hypothesis that outliers are the norm; their average values are considerably less than one standard deviation of either the committee-floor difference or committee-party difference variables.

Furthermore, the coefficients on the difference variables in our estimations are significant, as are the overall models, as shown by the F-statistics reported at the bottom of Table 2. Our specifications thus outperform simple models predicting that the difference between committee and floor preferences should be constant across all observations. This is not to imply that the former models tell us nothing about legislative organization—we shall argue below that they all contribute to understanding different types of policy making—but rather to state that extra leverage is gained by placing committees within the larger context of our separation of powers system.

4.3 Committee-Specific Effects

The regressions including committee-specific dummy variables are also quite revealing. By carefully selecting the reference group for this analysis, we can derive relative committee outliers. In Model 3 of Table 2, the omitted category is Public Works and Transportation, the committee whose median was closest to the overall floor median throughout the period studied. In Model 6, the omitted category is the House Administration Committee, whose majority-party contingent median was closest to that of the majority-party caucus on average. Committees with positive coefficients, then, were conservative outliers relative to the composition of the House or majority party, and those with negative coefficients were liberal outliers.

The committees have also been divided into the four categories suggested by Bach and Smith (1988): prestige committees, policy committees, constituency committees, and other committees. The first category includes Appropriations, Rules, Ways and Means, and Budget; members with assignments

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10. A null hypothesis that the committee-floor difference is equal to zero can be rejected at the 0.0003 significance level in a two-tailed test. Similarly, a null hypothesis that the committee-party difference is equal to zero can also be rejected at the 0.010 significance level in a two-tailed test.

to any one of the first three of these committees cannot sit on any other committee simultaneously, except for the Budget Committee.[11] These committees consider a wealth of major legislation, including core taxing and spending issues, and are consistently the most highly sought after by House members for their ability to sway important policy.

Slightly less general, but nevertheless quite influential are Bach and Smith's (1988) policy committees: Banking, Education and Labor, Energy and Commerce, Foreign Affairs, Judiciary, and Government Operations. These committees tend to deal with more narrowly tailored issues, which nonetheless generate intense interest from all sides of the political spectrum. On the other hand, the constituency committees—Agriculture, Armed Services, Interior, Merchant Marine, Public Works, Science, Space and Technology, Small Business, and Veterans' Affairs—all cater to specific policy areas in which one side (the constituency) is mobilized but usually faces no organized counterweight on the opposite side of the issue.

The patterns revealed in the outlier analysis from Models 3 and 6 are, in fact, quite striking. Of the four prestige committees, three (Appropriations, Budget, and Ways and Means) have insignificant coefficients, meaning that they are representative of the floor median. The only prestige committee with a significant coefficient is the Rules Committee, which is a liberal outlier in Model 3 but not Model 6; it is overall more liberal than the median floor voter, but its majority-party contingent is broadly representative of the party as a whole. This finding is in line with previous descriptions of the Rules Committee (including Bach and Smith's own account) as being tilted toward the preferences of the majority-party caucus. Otherwise the preferences of all prestige committees mirror those of the floor, in line with the predictions of the informational approach that, in the most important policy matters, where committee expertise is essential, floor members gain the most utility from representative committees.

The policy committees, on the other hand, have a uniformly negative or liberal leaning. In four of these committees (Banking, Education and Labor, Foreign Affairs, and Government Operations) this leftward bias is significant in both models. For the Judiciary Committee the sign is also negative, but the coefficient is significant only in Model 6. And for Energy and Commerce the coefficient is positive in Model 3, negative in Model 6, and insignificant in both cases. The policy committees, like prestige committees, are all involved with the shaping of important legislation, although their policy jurisdictions are not quite as broad. Therefore committee members will face pressures from interest groups on either side of an issue: pro-labor and pro-business for Education and Labor, fiscal conservatives and welfare activists on Banking, Finance, and Urban Affairs, and so on. The liberal bias indicates that the

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11. Membership of the Budget Committee is restricted to 5 each from Appropriations and Ways and Means, and 17 from other committees. No member can serve on the Budget Committee for more than 6 years in any 10-year period. For a discussion of these committees and their status within the House, see Smith and Deering (1990: 86–95).

Democrats, the majority party throughout most of our study, stacked these committees with partisans willing to pursue the party line in these policy battles.

The constituent committees show a similar pattern, but with a uniformly positive or conservative sway. Again in four committees—Agriculture, Armed Services, Internal Security, and Veterans Affairs—this conservative bias is consistently significant, while for Science, Space, and Technology it is significant in Model 6 only.[12] In all other cases but one, the sign is positive but not significant at the 10% level. The positive bias here may very likely reflect a tendency for certain types of legislators to self-select onto these committees: members on the Agriculture Committee tend to come from more conservative midwestern and southern states, and similarly, members of the Armed Services, Internal Security, and Veterans' Affairs Committees tend to be promilitary. In both cases, the end result is that the members on the committee are supporters of the narrow constituency which the committee serves, favoring the distribution of benefits to those groups.

The bottom line is that, within a broader framework of legislative organization under separate powers, these results are more or less consistent with the informational, partisan, *and* distributive theories. Constituency committees are outliers in the direction of their area of distribution, policy committees have a partisan bent, and prestige committees, which require the highest levels of expertise, are representative of the median floor voter. Thus each of the three seemingly incompatible major theories of legislative organization seems to apply well within its own distinct sphere.

5. Committee Outliers and Oversight

We next investigate the prediction that the less of an outlier a given committee is, the greater the number of oversight hearings it conducts. We base our analysis on committee hearings data available in the Congressional Information Service's Congressional Masterfile.[13] This source lists all congressional hearings, by committee, with a subject description of the hearing, witnesses, and dates held.[14] We develop two measures of oversight hearings: (1) total oversight hearings by committee and Congress, and (2) percent oversight hearings.

These data were obtained by tabulating the number of published hearings per committee held between the 80th and 102nd Congresses, eliminating those hearings from special, joint, or select committees. Isolating oversight hearings was made difficult by changes in the procedure for coding the hearings adopted by the Congressional Information Service. To account for these differences, oversight hearings from the 80th through 91st Congresses were

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12. As noted above, the Agriculture and Armed Services Committees also emerged as univariate outliers in previous analyses of committee composition.

13. Copyright Congressional Information Service, Inc., 1997. Used by permission.

14. Committee hearings are published at the discretion of the chairman, with all hearings not vital to national security published no later than 30 years after the original hearing.

identified by the appearance of the word "review" in the content description of the committee hearing. Oversight hearings from the 92nd through 102nd Congresses were identified by the appearance of the word "oversight" (all lowercase) in the content description of committee hearings. The percentage of oversight hearings was calculated as the ratio between these two.

Before turning to the statistical analysis, we first proceed to examine the committee hearing data in a little more detail. Summary data by committee for the average number of oversight hearings and percentage of oversight hearings per Congress are shown in Figure 1. As illustrated in the figure, Appropriations, Energy and Commerce, and Armed Services rank at the top in terms of number of hearings per Congress. Further down on the list are more traditionally distributive-based committees, such as Agriculture, Post Office, Merchant Marines, and Veterans' Affairs. Thus the categorization seems to capture general committee-based policy activity.

Oversight as a percentage of total hearings, indicated by the darkened bars in the chart, seems to reflect other aspects of committee activity. This category is headed by Veterans' Affairs and Government Operations, the former of which troubleshoots sticky government bureaucracies for its well-organized clientele, and the latter of which is an oversight committee almost by definition, dedicated as it is to eliminating the ever-present unholy trinity of waste, fraud, and abuse. It seems, then, that oversight hearings capture a different dimension of committee activity, one dealing more with policy implementation than with policy formation.

As a quick check on our approach, Table 3 presents robust ordinary least squares estimates of the total oversight hearings and percent oversight hearings regressed on committee-floor preference differences. Models 1 and 3 use the difference between the median committee member and the median floor member as an outlier measure, while Models 2 and 4 use a party-based measure of outliers. Each model contains a time trend for the Congress from which an observation was drawn, as well as committee-specific fixed effects (not displayed).

Note first that the time trend is significant in the first two models but not the latter two; this indicates that while the number of oversight hearings per Congress generally increased over time, this increase was proportional to the increase in the total number of hearings. In fact, the percentage of oversight hearings across all committees was relatively high between the 80th and 88th Congresses, averaging 13.4%, then falling to an average of 3.9% between the 89th and 94th Congresses, and then recovering from the 95th Congress on to an average of 8.9%. Thus the period containing both the Great Society and the Vietnam War had relatively low oversight activity, whereas congressional oversight of the executive surged once again in the post-Watergate era.

Finally, all the outlier variables are significant and in the predicted direction, indicating that committees with preferences closer to the floor do conduct more oversight hearings consistently throughout the period studied. This finding accords with our theoretical prediction based on a model of contrary committee outliers, and thus lends support to our view of legislative
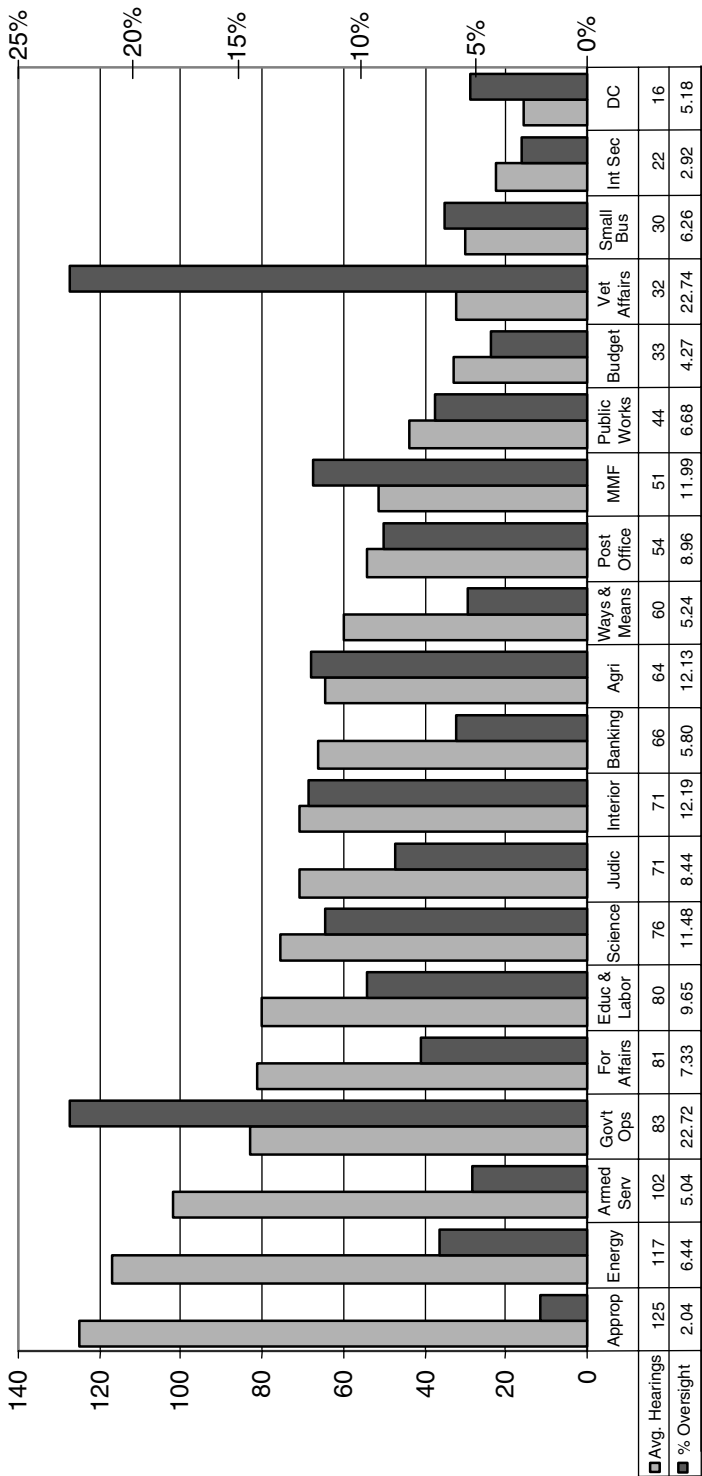
	Approp	Energy	Armed Serv	Govt Ops	For Affairs	Educ & Labor	Science	Judic	Interior	Banking	Agri	Ways & Means	Post Office	MMF	Public Works	Budget	Vet Affairs	Small Bus	Int Sec	DC
Avg. Hearings	125	117	102	83	81	80	76	71	71	66	64	60	54	51	44	33	32	30	22	16
% Oversight	2.04	6.44	5.04	22.72	7.33	9.65	11.48	8.44	12.19	5.80	12.13	5.24	8.96	11.99	6.68	4.27	22.74	6.26	2.92	5.18

Figure 1. Average number of hearings and percentage of oversight hearings, by committee, 1947–1992.

Table 3. Oversight and Contrary Outliers

Dependent Variable	Total Oversight Hearings		Percent Oversight Hearings	
Independent Variable	Model 1	Model 2	Model 3	Model 4
Constant	−13.82	−12.05	0.06	0.094
	(−6.34)**	(−5.46)**	(1.58)	(2.31)**
Committee-floor outlier	−8.90		−0.11	
	(−3.67)**		(−2.31)**	
Committee-party outlier		−7.64		−0.17
		(−2.65)**		(−3.23)**
Congress	0.22	0.21	0.0002	0.0001
	(9.57)**	(8.98)**	(0.55)	(0.29)
F^k_{n-k}	10.67**	9.83**	10.67**	12.26**
Number of observations	467	467	455	455

t-statistics in parentheses, calculated from robust standard errors; one tailed test ** $= \alpha < .05$. Committee fixed effects not shown.
F-statistic with *n–k* degrees of freedom indicates a model's significance at the * $= \alpha < .10$ and ** $= \alpha < .05$ level.

organization being influenced by its broader political environment. If committees play a dual role, both developing new legislation and overseeing delegated authority, then rational floor voters will systematically tilt committee composition to offset changes in executive branch policy preferences.

6. Conclusion

This essay placed the discussion of legislative organization within the institutional context of our separation of powers system. Since policy making does not begin and end within Congress, we argued, the manner in which legislators organize themselves will reflect the preferences of other actors within the governmental system, including the executive branch. Working from this premise, we derived a series of hypotheses relating committee outliers to interbranch policy conflict. The results presented above support our hypotheses in all cases. Committee medians move contrary to changes in executive preferences, and we observe fewer oversight hearings held by extreme committees.

Our findings highlight the important and complex linkages between congressional committees and executive branch agencies, the two work engines of policy production. Committees and agencies may at times implicitly collude with each other, as in the classic iron triangle story. Rational floor voters will anticipate this, though, and our results indicate that legislative organization reflects to some degree their desire to limit interbranch collusion. Committees and agencies can also check each other's power: committees restrain agencies through the oversight process and by serving as an alternative source of expertise in policy production, and agencies provide legislative majorities with a substitute for policy making through committees. Whereas committees have sometimes been portrayed as monopolists in their policy jurisdictions,

then our approach makes it clear that they face credible competition from executive bureaus, and vice versa.

We also address the literature on legislative organization and the committee system. Theories that explain strong committees as a rational response to legislators' reelection needs must necessarily be incomplete, we argue, as legislators from all political systems share the same basic goals, yet few have instituted a division of labor as complete as that found in the United States. This decentralization of authority must therefore derive from the institutions of governance exterior to Congress, which include first-past-the-post elections, bicameralism, and separate powers.

Taking this perspective on the problem immediately casts new light on some long-standing debates. First, rather than argue over which specific needs committees serve, the question becomes, why fulfill these needs by vesting power in committees rather than elsewhere? Concerning the measurement of committee outliers rather than ask whether committees are representative of the floor, the majority party, both, or neither, our approach leads us to ask which factors outside of Congress will influence the degree to which committees are preference outliers? We found support for the proposition that executive branch preferences exert a systematic effect on committee composition, producing contrary outliers.

In passing, we also noted that different categories of committees gave rise to different patterns of committee outliers: informationally intense issue areas generated representative committees; broad policy committees were given a partisan tilt; and constituency committees were slanted in favor of the narrow groups they served. This division of committees corresponds to the collective action problems highlighted by each theory: the difficulties in incorporating the specialized knowledge possessed by committee members, the breakdown of attempts to formulate and implement the majority party's agenda, and the inability to create and maintain distributive programs, respectively. It may be, then, that each of the distributive, informational, and partisan theories predicts outcomes accurately in its own relevant domain; different policies, that is, generate different politics, so alternative explanations should be seen as complements rather than substitutes. These areas, of course, need not be mutually exclusive or operate in neatly separable spheres. Still, our approach emphasizes that theories of legislative organization should be brought out of the legislature and seen as part of our larger constitutional system of policy making.

Finally, we make explicit some of the implications of our work for comparative political systems. Our theory predicts that actors overseeing bureaucrats should have preferences opposed to the agencies they oversee; in fact, Swank, Letterie, and van Dalen (1999) reach the same conclusion starting from a model somewhat similar to the one that we employ. Thus the notion of biased advisors for oversight problems may well be quite general. But whereas Swank, Letterie, and van Dalen base their predictions on a scenario in which one executive actor (the finance minister) oversees another (the "spending" minister), our enterprise is closer in spirit to that of

Palmer (1995), who compares issues in bureaucratic implementation in both parliamentary and separate powers systems. Palmer emphasizes the potentially fractured governing coalition in a parliament, and we agree; further, the greater the extent of the policy differences in this ruling coalition, the more oppositional should be the oversight bodies. These hypotheses await empirical tests.

Appendix

A.1 Equilibrium Definition
In specifying equilibria, we will always refer to the most informative equilibrium. This usage of the Pareto criterion to reduce the number of equilibria is common in cheap talk games [see Rabin (1994)], as there always exist equilibria in which no information at all is transmitted ("babbling equilibria"). In the present context, the more informative equilibria make all three players better off, thus eliminating any potential conflict between the players over which equilibrium is superior. That is, all players would agree ex ante to play the Pareto superior equilibrium if given a choice.

Let $\mu(\omega; m, p)$ be Congress's posterior beliefs over ω after observing policy proposal p and receiving committee message m. Given beliefs μ,

1. The floor has expected utility

$$EU_F = r \int_\omega U_F(p+\omega)\mu(\omega; m, p)d\omega + (1-r) \int_\omega U_C(\omega)\mu(\omega; m, p)d\omega.$$

2. The committee has expected utility

$$EU_C = \int_\omega [r(m, p)U_C(p+\omega) + (1-r(m, p))U_C(\omega)]\pi(p; \omega)f(\omega)d\omega.$$

3. The agency has expected utility

$$EU_A = \sum_{m \in M} \delta(m)[r(m, p)U_A(p+\omega) + (1-r(m, p))U_A(\omega)].$$

The first equation says that Congress will receive its expected utility of $p+\omega$ with probability r and its expected utility of ω with probability $1-r$, all taken with respect to its updated beliefs μ. Note that Congress bases its decisions on the message received and the policy proposed only; it cannot directly observe ω. The committee does observe both p and ω, as does the agency. Both their utilities are calculated with respect to the various messages the committee can send, weighted by the probability distribution δ, and the various policies the agency can propose, weighted by π. Using these results, we can state:

Definition 2. A perfect Bayesian equilibrium is characterized by strategies π^*, δ^*, and r^*, and beliefs μ^* that satisfy

1. $\pi^*(p; \omega) > 0 \iff p \in \arg\max_p EU_A$ given δ^* and r^*,

2. $\delta^*(m; \omega, p) > 0 \Longleftrightarrow m \in \arg\max_m EU_C$ given π^* and r^*,

3. $r^*(p, m; \mu) \in \arg\max_r EU_F(m; \pi^*, r^*)$ given π^* and δ^*, and

4. Beliefs μ^* are consistent with Bayes's rule, p^*, and δ^*: $\forall p$ such that $\int_\omega \pi^*(p; \omega) f(\omega) d\omega > 0$ and $\forall m$ such that $\int_\omega \delta^*(m; \omega, \pi^*) f(\omega) > 0$,

$$\mu^*(\omega; p, m) = \frac{f(\omega)\pi^*(p; \omega)\delta^*(m; \omega, p)}{\int_\omega \pi^*(p; \hat{\omega})\delta^*(m; \hat{\omega}, p) f(\hat{\omega}) d\hat{\omega}}.$$

These conditions require that each player's equilibrium strategy be optimal given all other players' equilibrium strategies, and that Congress update its beliefs over ω rationally according to Bayes' rule. Note that this updating only applies to those messages that might be sent in equilibrium; Congress' interpretation of out-of-equilibrium messages is not constrained in a perfect Bayesian equilibrium.

A.2 Equilibrium Actions
We now formally state and prove the main propositions in the text.

Proposition 3. Let the message space be $M = \{Y, N\}$. The Pareto optimal perfect Bayesian equilibrium is

$$p^*(\omega) = \begin{cases} A - \omega & \text{for } \omega \leq 2C - A \text{ and } \omega \geq A \\ 2C - 2\omega & \text{for } 2C - A \leq \omega \leq C \\ 0 & \text{for } C \leq \omega \leq A \end{cases}$$

$$\delta^*(Y; \omega, p) = \begin{cases} 1 & \text{if } p > 0 \text{ and } p \leq 2C - 2\omega \\ 0 & \text{if } p > 0 \text{ and } p > 2C - 2\omega \\ [0, 1] & \text{otherwise} \end{cases}$$

$$r^*(p, m) = \begin{cases} 1 & \text{if } p \leq 0 \text{ or if } p \geq 0 \text{ and } m = Y \\ 0 & \text{if } p > 0 \text{ and } m = N. \end{cases}$$

Proof. We show that each strategy in turn is optimal given other players' strategies.

Let $P_C = \{(\omega, p), |p - (C - \omega)| \leq |0 - (C - \omega)|\}$ be the endorsement region for committees of type C,

$$P_F = \{(\omega, p), |p - (-\omega)| \leq |0 - (-\omega)|\} \text{ be Congress' acceptance region,}$$

$$P_A = \{(\omega, p), |p - (A - \omega)| \leq |0 - (A - \omega)|\}$$

be the agency's proposal region, and

$A^*(\omega) = A - \omega$ be the agency's preferred policy for any value of ω.

  i. Given δ^* and r^*, proposing $p \notin P_C$ is equivalent to proposing 0. $A^*(\omega) \leq 2C - 2\omega$ implies

$$A - \omega \leq 2C - 2\omega$$

$$\omega \leq 2C - A.$$

Thus for $\omega < 2C - A$, $p^* = A^*(\omega)$. Similarly for $\omega > A$, $A - \omega > 2C - 2\omega \Longrightarrow p^* = A^*(\omega)$.

For $2C - A \leq \omega \leq C$, A must solve

$$\max_p U_A(p; \omega),$$

s.t. $p \leq 2C - 2\omega$.

We form the Lagrangean $\mathcal{L} = -[p - (A - \omega)]^2 - \lambda(2C - 2\omega - p)$. Then

$$\frac{\partial \mathcal{L}}{\partial p} = -2(p - A + \omega) + \lambda = 0$$

$$\frac{\partial \mathcal{L}}{\partial \lambda} = -2C + 2\omega + p \leq 0.$$

Together, these imply that $p^* = 2C - 2\omega$ when $2C - A \leq \omega \leq C$. Further, $C < \omega < A \Longrightarrow P_C \cap P_A = \varnothing \Longrightarrow p^* = 0$.

ii. Given r^*, $\delta^*(Y; \omega, p) = 1 \Longleftrightarrow (\omega, p) \in P_C$, which is the equilibrium strategy given in the proposition.

iii. $C < 0 \Longrightarrow P_C \subset P_F, \forall \omega < 0$. Thus $m = Y \Longrightarrow (\omega, p) \in P_F \Longrightarrow r^* = 1$. So Congress will rationally follow the committee's advice for any equilibrium proposal $p < 0$.

Expected outcomes are

$$E(x) = \int_{-1}^{2C-A} (A - \omega) f(\omega) d\omega + \int_{2C-A}^{C} (2C - 2\omega) f(\omega) d\omega$$

$$+ \int_{C}^{A} (0) f(\omega) d\omega + \int_{A}^{1} (A - \omega) f(\omega) d\omega$$

$$= A - \frac{A^2}{2} + AC - \frac{C^2}{2}$$

where $C < 0 \Longrightarrow E(X) < A$. Similar calculations show that $\mathrm{Var}(X) < (4A)^3, \forall C$. The agency's expected utility is

$$EU_A = -\int_{-1}^{2C-A} (0)^2 f(\omega) d\omega + \int_{2C-A}^{C} (A - 2C + \omega)^2 f(\omega) d\omega$$

$$- \int_{C}^{A} (A - \omega) f(\omega) d\omega + \int_{A}^{1} (0)^2 f(\omega) d\omega$$

$$= \frac{2}{3}(C - A)^3$$

The floor's expected utility is

$$EU_F = -\int_{-1}^{2C-A} (F-A)^2 f(\omega)d\omega + \int_{2C-A}^{C} (F-2C+\omega)^2 f(\omega)d\omega$$

$$-\int_{C}^{A} (F-\omega)f(\omega)d\omega + \int_{A}^{1} (F-A)^2 f(\omega)d\omega$$

$$= \frac{2}{3}(-3A^2 + 2A^3 - 3A^2C + C^3).$$

$\frac{\partial EU_F}{\partial C} = 0 \implies C = -A$, so Congress' utility is maximized when $C = -A$. Note also that $p = 0$ when $C < \omega < A$, implying that $|X_0| = A - C$, so $\frac{\partial |X_0|}{\partial C} < 0$. ∎

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